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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: PACKAGED SEAFOOD
ANTITRUST LITIGATION

Case No.: 15-MD-2670 JLS (MDD)

This Document Relates To:

Commercial Food Preparer Class
Action Track

**COMMERCIAL FOOD
PREPARER PLAINTIFFS’
NOTICE OF MOTION AND
MOTION FOR CLASS
CERTIFICATION AND
APPOINTMENT OF LEAD
COUNSEL**

JUDGE: Hon. Janis L. Sammartino

1 **TO ALL PARTIES AND COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that Commercial Food Preparer Plaintiffs
3 (“CFPs”) hereby move the Court pursuant to Rule 23 of the Federal Rules of Civil
4 Procedure for an order (i) certifying this action as a class action pursuant to Rule
5 23(b)(3); (ii) appointing certain CFPs as class representatives; and (iii) appointing
6 Cuneo Gilbert & LaDuca, LLP as Class Counsel.

7 **Proposed Class Definitions and Class Representatives**

8 CFPs seek certification of a damages class pursuant to Rule 23(b)(3) comprised
9 of the following persons and entities: All persons and entities in 27 named states and
10 D.C., that indirectly purchased packaged tuna products produced in packages of 40
11 ounces or more that were manufactured by any Defendant (or any current or former
12 subsidiary or any affiliate thereof) and that were purchased directly from DOT Foods,
13 Sysco, US Foods, Sam’s Club, Wal-Mart, or Costco¹ (other than inter-company
14 purchases among these distributors) from June, 2011 through December, 2016 (the
15 “Class Period”). To represent these classes, CFPs seek the appointment of the
16 following entities to serve as class representatives: Thyme Café & Market, Simon-
17 Hindi LLC, d/b/a Simon’s, Capitol Hill Supermarket, Confetti’s, Maquoketa Care
18 Center, Inc., A-1 Diner, Francis T. Enterprises d/b/a Erbert & Gerbert’s, Groucho’s
19 Deli of Raleigh, Sandee’s Catering, Groucho’s Deli of Five Points, Rushin Gold d/b/a
20 the Gold Rush, and Erbert & Gerbert’s.²

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23 ¹ DOT Foods, Sysco, US Foods, Sam’s Club, Wal-Mart, and Costco are the “Large
24 Distributors.”

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² CFPs have entered into a stipulation with defendants to add Groucho’s Deli of
Raleigh, Sandee’s Catering, Groucho’s Deli of Five Points, and Confetti’s as named
plaintiffs. CFPs plan to add these entities as named plaintiffs to the operative
complaint if a motion to amend the complaint is granted. CFPs plan to make a

1 In support of this Motion for Class Certification, CFPs submit the
2 accompanying Memorandum in Support of Commercial Food Preparer Plaintiffs'
3 Motion for Class Certification and Appointment of Lead Counsel, the Declaration of
4 Peter Gil-Montllor in Support of Motion For Class Certification and Appointment of
5 Lead Counsel, the Expert Report of Michael A. Williams, Ph.D., and a Proposed
6 Order Granting Commercial Food Preparer Plaintiffs' Motion for Class Certification
7 and Appointment of Lead Counsel, together with such exhibits and appendices as are
8 attached thereto. The CFPs also rely upon the pleadings and papers on file in this
9 action, and such other materials as the Court may consider in hearing this motion

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11 DATED: May 29, 2018

CUNEO GILBERT & LADUCA, LLP

12 By: /s/ Jonathan W. Cuneo

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_____ motion to amend their complaint to add former Bumble Bee CEO Christopher
Lischewski, who has recently been indicted, as a defendant.

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CERTIFICATE OF SERVICE

I certify that on May 29, 2018, I filed the foregoing document with the Clerk of the Court for the United States District Court, Southern District of California, by using the Court’s CM/ECF system, and also served counsel of record via this Court’s CM/ECF system.

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