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**WHATCOM COUNTY DISTRICT COURT
STATE OF WASHINGTON**

In re: SARBANAND FARMS, LLC
Infraction No. I00014502

Docket No. L&I I00014502
DEPARTMENT'S BRIEF IN
OPPOSITION TO FURTHER
PENALTY REDUCTION

I. INTRODUCTION

The Department files this brief to explain the penalty amount assessed and asks this Court to decline a further reduction in penalties. The penalties are correctly calculated and should not be further reduced given the nature of the violations and because, consistent with long-standing Department policy, the Department took Sarbanand Farms, LLC's cooperation into account when it assessed the penalties.

II. ARGUMENT

The agricultural meal and rest period regulation, WAC 296-131-020, has a number of requirements built into the rule—two are at issue here. Workers must receive a 10-minute rest period in each four-hour period of work, requiring a 3rd rest period if they work 12 hours or more. Workers must also receive a meal period of at least 30 minutes for each five hours worked beginning no later than the end of the 5th working hour. WAC 296-131-020(1), (2); *see also* Administrative Policy

1 ES.D.2 (“The meal and rest period requirement found in WAC 296-131-020 require a 30-minute
2 meal period no later than the end of the 5th Working hour, and a 10-minute rest period in each four-
3 hour period of work.”). Here, the penalties assessed were based on these two types of violations for
4 each worker. Sarbanand Farms does not dispute the meal and rest break violations.

5
6 The Department recognizes that agricultural work is one of the most dangerous and arduous
7 types of work in the modern economy and therefore wants to ensure that all agricultural workers
8 receive their required breaks and receive them on time. The Department considered the following
9 factors when it assessed the penalties:

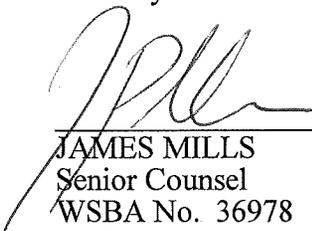
- 10
- 11 1. The nature of the violations. The workers here each experienced both a meal and a rest break
12 violation on the day of the infraction. The Department cited only one combined penalty for
13 a violation of the rule though it could have issued two separate infractions for each violation.
 - 14 2. The Department understood that under RCW 3.62.090, the Court must assess a public safety
15 and education assessment that would more than double the penalty.
 - 16 3. Sarbanand Farms, LLC was cooperative during the course of the investigation and
17 willingly provided the information used to conduct the investigation. The company has
18 updated its policies to comply with state rules prospectively.

19 III. CONCLUSION

20 For the reasons stated above, the Court should affirm the infraction amounts as cited.

21 DATED this 11th day of June, 2018.

22 ROBERT W. FERGUSON
23 Attorney General

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25 JAMES MILLS
26 Senior Counsel
WSBA No. 36978

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PROOF OF SERVICE

I certify that I served a copy of the Department's Brief in Opposition to Further Penalty Reduction on all parties or their counsel of record on the date below as follows:

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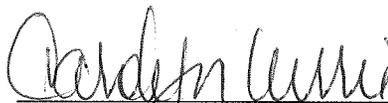
Whatcom County District Court

State Campus Delivery

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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 11 day of June, 2018, at Tacoma, Washington.



CAROLYN CURRIE
Legal Assistant