



### 1. Discovery Control Plan

1.1 Discovery is intended to be conducted under Level 3 as provided for by Rule 190 of the Texas Rules of Civil Procedure.

1.2 Plaintiffs request that this Court enter an Order that discovery be conducted in accordance with a discovery control plan tailored to the circumstances of this specific case.

### 2. Parties

2.1 Plaintiff Emanuel Diaz de Leon is a citizen of the United States and a legal resident of Smith County, Texas.

2.2 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.015, Plaintiff Emanuel Diaz de Leon discloses that his address is 402 Lakeview, Whitehouse, Texas 75791.

2.3 In accordance with TEX. CIV. PRAC. & REM. Code ANN. § 30.014, Plaintiff Emanuel Diaz de Leon discloses that the last three (3) numbers of his driver's license number are 763 and that the last three (3) numbers of his Social Security number are 458.

2.4 Plaintiff Ignacio Garcia is a citizen of the United States and a legal resident of Smith County, Texas.

2.5 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.015, Plaintiff Ignacio Garcia discloses that his address is 507 E. Queen Street, Tyler, Texas 75702.

2.6 In accordance with TEX. CIV. PRAC. & REM. Code ANN. § 30.014, Plaintiff Ignacio Garcia discloses that the last three (3) numbers of his driver's license number are 881 and that the last three (3) numbers of his Social Security number are 909.

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2.7 Plaintiff Julysabel Cerda is a legal resident of Smith County, Texas.

2.8 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.015, Plaintiff Julysabel Cerda discloses that her address is 903 Chickadee Drive, Whitehouse, Texas 75791.

2.9 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.014, Plaintiff Julysabel Cerda discloses that the last three (3) numbers of her driver's license number are 643 and that the last three (3) numbers of her Social Security number are 684.

2.10 Plaintiff Silvia Guzman is a legal resident of Smith County, Texas.

2.11 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.015, Plaintiff Silvia Guzman discloses that her address is 3400 NNE Loop 323, No. 20, Tyler, Texas 75702.

2.12 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.014, Plaintiff discloses that the last three (3) numbers of her driver's license number are 443 and that the last three (3) numbers of her Social Security number are 877.

2.13 Plaintiff Jose Anaya is a legal resident of Smith County, Texas.

2.14 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.015, Plaintiff Jose Anaya discloses that his address is 1315 Powers Drive, Tyler, Texas 75701.

2.15 In accordance with TEX. CIV. PRAC. & REM. CODE ANN. § 30.014, Plaintiff Jose Anaya discloses that the last three (3) numbers of his driver's license number are 676 and that the last three (3) numbers of his Social Security number are 290.

2.16 Defendant Flavor & Fragrance Specialties, Inc. is a New Jersey corporation doing business in Texas.

2.17 Defendant Flavor & Fragrance Specialties, Inc. may be served with process through its registered agent for service of process, Michael Bloom, President, at 3 Industrial Avenue, Mahwah, Bergen County, New Jersey 07430 (Telephone: 201-825-2025), or wherever said agent may be found.

2.18 Defendant Firmenich, Incorporated is a Delaware corporation doing business in Texas.

2.19 Defendant Firmenich, Incorporated may be served with process through its registered agent for service of process, Corporation Service Company, at 830 Bear Tavern Road, Trenton, Mercer County, New Jersey 08628 (Telephone: 609-771-1800), or wherever said agent may be found.

2.20 Defendant Carmi Flavor and Fragrance Company, Inc. is a California corporation doing business in Texas.

2.21 Defendant Carmi Flavor and Fragrance Company, Inc. may be served with process through its registered agent for service of process, Eliot Carmi, at 6030 Scott Way, Commerce, Los Angeles County, California 91301 (Telephone: 323-888-9240), or wherever said agent may be found.

2.22 Defendant Mission Flavors & Fragrances, Inc. is a California corporation doing business in Texas.

2.23 Defendant Mission Flavors & Fragrances, Inc. may be served with process through its registered agent for service of process, Patrick S. Imburgia, 25882 Wright Circle, Foothill Ranch, Orange County, California 92610-3503 (Telephone: 949-461-3344), or wherever said agent may be found.

### 3. Jurisdiction

3.1 Defendants Flavor & Fragrance Specialties, Inc., Firmenich, Incorporated, Carmi Flavor and Fragrance Company, Inc., and Mission Flavors & Fragrances, Inc. do business in Texas and are subject to the jurisdiction of this Court.

3.2 Plaintiffs' damages are within the jurisdictional limits of this Court.

### 4. Venue

4.1 All or a substantial part of the events or omissions giving rise to Plaintiffs' causes of action occurred in Smith County, Texas.

4.2 As set forth below, Plaintiffs' causes of action arise out of their chemical exposure at their workplace in Smith County, Texas wherein Defendants' defective products or Defendants' negligent conduct were a proximate or producing cause in Smith County, Texas of Plaintiffs' chemical exposure and their damages resulting from the occurrences in question.

4.3 Venue is therefore proper in Smith County, Texas pursuant to TEX. CIV. PRAC. & REM. CODE ANN. § 15.002(a)(1).

### 5. Facts of Case

5.1 Plaintiffs worked in the "flavor room" of a coffee production facility known as Distant Lands Coffee in Tyler, Smith County, Texas. More specifically:

(a) Plaintiff Emanuel Diaz de Leon worked in this flavor room from approximately 2010 until 2012;

(b) Plaintiff Ignacio Garcia worked in this flavor room from approximately 2006 until 2007;

(c) Plaintiff Julysabel Cerda worked in this flavor room from approximately 2008 until 2010;

(d) Plaintiff Silvia Guzman worked in this flavor room from approximately 2010 until 2012; and

(e) Plaintiff Jose Anaya worked in this flavor room from approximately 2009 until 2011.

5.2 Based on information and belief, Defendants Flavor & Fragrance Specialties, Inc., Firmenich, Incorporated, Carmi Flavor and Fragrance, Inc., and Mission Flavors & Fragrances, Inc. supplied the flavoring agents used in this coffee flavoring room during some or all of the relevant time periods.

5.3 Based on information and belief, some of these flavoring agents contained a chemical component known as "diacetyl."

5.4 Exposure to diacetyl can cause severe and permanent lung disease.

5.5 Defendants failed to disclose or otherwise give Plaintiffs adequate warnings about the dangers of diacetyl or to give Plaintiffs adequate instructions for avoiding such dangers.

5.6 Plaintiffs have sustained lung or pulmonary injuries as a result of their exposure to this diacetyl.

5.7 Plaintiffs invoke the "discovery rule" for the applicable statutes of limitation because it has been less than two years since Plaintiffs had notice that they were injured and that their injuries were work-related.

## 6. Causes of Action

6.1 Plaintiffs base their causes of action upon strict products liability, negligence, and misrepresentation as these terms are defined under the common law and statutes of Texas.

6.2 Plaintiffs would show that the defective condition of Defendants' products, which rendered them unreasonably dangerous, as well as Defendants' conduct, as set forth herein and otherwise, were each and all a proximate or producing cause of the occurrences or injuries in question and Plaintiffs' damages resulting from the occurrences or injuries in question.

6.3 All conditions precedent to the filing of this lawsuit and bringing said causes of action have been performed or have occurred.

## 7. Damages

7.1 Plaintiffs have suffered damages in the past as well as in the future.

7.2 These damages include those damages resulting to Plaintiffs conditioned as they were at the time of the occurrence in question, or which resulted from the activation of any condition which may have existed at the time of the occurrence in question.

7.3 These damages include physical pain, mental anguish, loss of earnings or earning capacity, physical impairment, and reasonable expenses for necessary health care resulting from the injuries sustained in the occurrences in question.

8. Prayer for Relief

8.1 WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray for judgment against Defendants, jointly and severally, for all damages to which Plaintiffs are entitled by law, prejudgment as well as postjudgment interest, costs of court, and such other and further relief, general and special, legal and equitable, to which Plaintiffs are justly entitled.

Respectfully submitted,

ROBERTS & ROBERTS

BY: 

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