

**COMMONWEALTH OF MASSACHUSETTS  
SUPREME JUDICIAL COURT**

APPEALS COURT NO. 2018-P-0635

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ANA ARIAS-VILLANO, ADRIAN CERVANTES-ACOSTA, NOELIA  
GOMEZ-GARCIA, BEATRIZ PEREZ-HERNANDEZ, EDILMAR  
MORALES-MATIAS and DAVID PACHECO-HERRERA,

Plaintiffs-Appellants

v.

CHANG & SON ENTERPRISES, SIDNEY CHANG AND TSO-CHENG  
CHANG,

Defendants-Appellees

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**Application by Appellants**

**Ana Arias-Villano, Adrian Cervantes-Acosta, Noelia Gomez-  
Garcia, Beatriz Perez-Hernandez, Edilmar Morales-Matias  
and David Pacheco-Herrera**

**for Direct Appellate Review**

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## **I. REQUEST FOR DIRECT APPELLATE REVIEW**

Pursuant to Mass. R. A. P. 11, Plaintiffs-Appellants Ana Arias-Villano, Adrian Cervantes-Acosta, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Edilmar Morales-Matias and David Pacheco-Herrera request that the Supreme Judicial Court grant direct appellate review.

## **II. PRIOR PROCEEDINGS**

The Plaintiffs-Appellants brought this action for overtime pay for the hours they worked in excess of forty hours per week, pursuant to G.L. c. 151, §1A. The parties filed cross-motions for summary judgment on the question of whether the employees are entitled to overtime pay or are exempt from overtime pursuant to the agricultural exemption at G.L. c. 151, §1A(19). After a hearing, the trial court concluded that the exemption applies, granted the Defendants-Appellees' Motion for Summary Judgment and denied the Plaintiffs-Appellants' Motion for Summary Judgment.

## **III. STATEMENT OF FACTS**

The Plaintiffs-Appellants ("employees") were employed full-time, year-round by Defendants-Appellees Chang & Son Enterprises Inc., et al. ("Chang"). The employees worked at Chang's indoor, 44,000-plus square foot facility licensed by the

Commonwealth of Massachusetts pursuant to G.L. c. 94, §305C "to process or distribute food for wholesale," to wit, bean sprouts. [See attached License, Ex.H to Plaintiffs' Motion for Partial Summary Judgment.]

The Chang facility sprouts the beans exclusively indoors in carefully controlled, sanitized conditions. [Decision at 2]. The sprouting takes place in ten 15x50 square foot "growing rooms" in the 44,000-plus square foot facility.[Decision at 2]. The sprouting process is automated; only one or two workers are needed to feed the beans into the hopper of the pasteurization machine and hit the "start" button on the program to initiate the process. [Decision at 2]. The machinery automatically discharges the beans into the containers where they sprout. [Decision at 2].

The employees did not work in the growing rooms and never fed the beans into the hopper of the pasteurization machine or operated the program that initiated the sprouting process. [Decision at 2]. Rather, their workplace was the "packaging and palletizing area" of the facility where they

cleaned, inspected, sorted, weighed and packaged the bean sprouts. [Decision at 2. See attached Floor Plan, Ex. E to Plaintiffs' Motion for Summary Judgment]. These tasks required that the employees feed the already-sprouted beans onto a conveyer belt, package the bean sprouts into bags, box up bags of bean sprouts, and stack boxes onto pallets. [Decision at 2]. They brought the pallets to the shipping docks and loaded them into the trucks. [Decision at 2] The employees' duties also included cleaning and maintenance. [Decision at 2].

The Chang facility operated all twelve months of the year, six days a week, fifteen hours a day. [Decision at 2]. The employees worked for Chang year round, often in excess of forty hours per week, and sometimes as many as seventy hours per week. [Decision at 2]. Chang did not pay them the overtime rate of one-and-a-half times their regular rate of pay for hours worked in excess of 40 per week. [Decision at 3].

#### **IV. STATEMENT OF THE ISSUES**

1. Massachusetts employees engaged in "agriculture and farming on a farm" are exempt from overtime. G.L. c. 151,

§1A(19). The Plaintiffs-Appellants cleaned and packaged bean sprouts in the packaging area of the automated facility where the sprouts were produced, but they did not grow bean sprouts nor were they engaged in their production. Were they "engaged in agriculture and farming" within the meaning of G.L. c. 151, §1A(19)?

2. The Plaintiffs-Appellants worked year-round in a facility licensed to "process or distribute food for wholesale" under G.L. c. 94, §305C. Section §305C specifically exempts farmers producing and selling raw farm products from the licensing requirement. Are employees working at a facility regulated by the Commonwealth as a food processor or distributor working "on a farm" within the meaning of G.L. c. 151, §1A(19)?

The foregoing issues were raised and properly preserved in the lower court.

## **V. ARGUMENT**

This case raises issues of first impression, as the Massachusetts agricultural exemption, G.L. c. 151, §1A(19), has not previously been interpreted by the courts. Chapter 151, including its overtime provision, is a remedial statute enacted to "correct inequities and to create a floor below which no employer may go in payment of wages. . . ." Swift v. AutoZone, Inc., 441 Mass. 443, 448 (2004)

(citing 1959 House Doc. No. 2666, at 6). An employer claiming the benefit of an overtime exemption, has the burden of showing that it is entitled to it. Goodrow v. Lane Bryant, Inc., 432 Mass. 165, 170 (2000). Subsection 19 of G.L. c. 151, §1A exempts "any employee who is employed . . . as a laborer engaged in agriculture and farming on a farm." Chang has not met its burden of establishing either (1) that the employees were engaged in agriculture and farming; and (2) that they worked on a farm.

A. The Plaintiffs-Appellants Were Not Engaged in Agriculture and Farming.

The trial court erred as a matter of law when it failed to recognize that the type of work performed by the employees does not fall within Chapter 151's agricultural exemption. "Some exemptions to the overtime statute turn on the nature of an individual employee's work. . . [o]thers define exempted employees by reference to their employer. Casseus v. Eastern Bus Co., 478 Mass. 786, 795-796 (February 8, 2018). Unlike the common carrier exemption at issue in Casseus, the agricultural exemption requires an examination of the individual employee's work: it is not a blanket exemption that excuses a particular type of employer from paying overtime to all of its employees. See 478 Mass. at 795-

796. Being physically located "on a farm" is insufficient, as a matter of law, to establish that an employee is "engaged in farming and agriculture . . . ." G.L. c. 151, §1A(19).

Indeed, it is undisputed that the employees in this case did not grow bean sprouts, which are produced via a highly automated process not involving the employees. [Decision at 2]. Their job duties began after growing the sprouts was over and were limited to feeding the finished product onto a conveyer belt, packaging the product, loading the packaged product into trucks and performing cleaning and maintenance. [Decision at 2].

In interpreting "agriculture and farming" the trial court misapplied the law when stating it could not "draw an artificial and potentially confusing line in the sand for exemption between actions taken to grow and harvest produce, and cleaning and packing it for sale; at the same location". [Decision at 8]. A distinction between the act of growing and harvesting produce, versus preparing harvested produce for market, is embedded in the development of Chapter 151 and has been recognized in wage and hour law since Congress enacted the Fair Labor Standards Act (FLSA) in 1938:

Agriculture includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities. . . and any practices. . . performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparing for market, delivery to storage or to market or to carriers for transportation to market.

(Emphasis added) 29 U.S.C. § 203(f).

In defining "agriculture" in this broad way for purposes of FLSA, Congress made a policy decision to exempt two distinct classes of workers. The exemption itself differentiates between actual farming, on the one hand, and work that is merely incidental to farming, such as preparing the product for market, on the other. FLSA's implementing regulations refer to this distinction as "primary agriculture" and "secondary agriculture", 29 C.F.R. § 780.128, 29 C.F.R. §780.129, as have the courts:

The Supreme Court has compartmentalized this statutory definition into "primary agriculture" and "secondary." Activities that comprise primary agriculture are those that traditionally are considered agricultural: tillage, cultivation, growing, and harvesting. . . Secondary agriculture describes those practices "performed whether by a farmer or on a farm as an incident to or in conjunction with such [primary] farming operations." Farmers Res. & Irrig. Co. v. McComb, 337 U.S. 755, 762-63, 69 S.Ct. 1274, 1278, 93 L.Ed. 1672 (1949).

Gulf & Western Industries, Inc., 552 F.2d 124, 126

(1977). Thus, the line between growing and harvesting



versus cleaning and packing is not confusing but has long been recognized.

While Congress elected to exempt workers on both sides of the line, Massachusetts made a different choice. Instead of mirroring FLSA's broad language, Massachusetts enacted its own exemption that is concise, narrowly drawn, and does not exempt employees whose work is limited to preparation for market.

As it has in other areas of wage and hour law, Massachusetts opted to provide greater protection for its workers. When Massachusetts enacted its own agricultural exemption in 1967, the legislature had the benefit of nearly thirty years of case law interpreting FLSA as exempting packing workers because they worked in "secondary agriculture". When the legislature enacts new laws, it is presumed to be "aware of cognate provisions of the Federal . . . statute and how those provisions had been interpreted by Federal courts." Commonwealth. v. Agosto, 428 Mass. 31, 37 (1998) The Massachusetts legislature could have adopted an exemption that used language identical to the federal agriculture exemption, as it did with other exemptions. Compare, e.g., G. L. c. 151, § 1A(10) and 29 U.S.C. § 213(b)(6) (overtime

exemptions for seamen); and G. L. c. 151 § 1A(3) and 29 U.S.C. § 213(a)(1) (overtime exemptions for bona fide executive or administrative employees).

The legislative history reveals that Massachusetts considered and then rejected an expansive, FLSA-like definition of agriculture that would have included secondary agriculture. The original House bill proposed an agricultural exemption that incorporated the broad definition of agriculture found in section 1A of Chapter 128<sup>1</sup>, which is nearly identical to the FLSA language. [See attached House Doc. No. 4653, at 3, April 24, 1967]. The subsequent substitute House Bill No. 5036 removed the reference to the expansive Chapter 128 definition and substituted the simple language "as a laborer engaged in agriculture and farming on a farm" [See attached House Doc. No. 5036, at 1, July 12, 1967].

This is the version that was enacted and remains unchanged today. In rejecting the legal standard in FLSA, the Massachusetts legislature rejected the notion that workers engaged in secondary agriculture and preparation for market should be exempt from overtime. Thus, the

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<sup>1</sup>Chapter 128 contains the enabling statute for the Massachusetts Department of Agriculture - which does not regulate Chang's facility - and other statutes that are not relevant to these proceedings.

trial court correctly held that the expansive definitions of "farming" and "agriculture" from Chapter 128 should not be applied to Chapter 151 and that FLSA case law is not applicable in this instance. [Decision at 7]. The trial court also correctly concluded that the legislature had the opportunity to adopt the broad language found in FLSA and Chapter 128 and its choice not to do so appears to have been purposeful. [Decision at 7, citing Casseus v. Eastern Bus Co. at 797 ("Without a clear indication that the Legislature based the. . . exemption on the Federal . . . overtime exemptions, Federal construction of those exemptions cannot be imported into Massachusetts law"); see also Globe Newspaper Co. v. Boston Retirement Bd., 388 Mass. 427, 432-433 (1983) ("[I]f the language of a statute differs in material respects from a previously enacted analogous Federal statute which the Legislature appears to have considered, a decision to reject the legal standards embodied or implicit in the language of the Federal statute may be inferred").

Despite the trial court's recognition of the more protective framework of Chapter 151 crafted by the Massachusetts legislature, the trial court nevertheless erred in interpreting 'agriculture' to include secondary agriculture and preparation for market.

Nothing in the plain language of G.L. c. 151, §1A(19) exempts employees whose job duties are limited to preparation for market. The legislative history reveals that this was a purposeful omission: the reference to secondary agriculture language, including "preparation for market", was considered and then removed before the overtime exemption was enacted. Because the employees' job duties were limited to preparation for market, they were not engaged in farming and are not exempt within the meaning of G.L. c. 151, §1A(19).

B. The Plaintiffs-Appellants Worked in a Food Processing Facility, Not a Farm

Chang's facility is licensed by the Commonwealth of Massachusetts to process or distribute food at wholesale, pursuant to G.L. c 94, § 305C. [See attached License, Ex. H to Plaintiffs' Motion for Partial Summary Judgment]. The Department of Public Health inspects Chang's facility for, and enforces compliance with, the standards set forth in 105 Code Mass. Regs. § 500, "Good Manufacturing Processes for Food". [See attached Inspection Report, page 1, Ex. I to Plaintiffs' Motion for Summary Judgment]. In its inspection report, the Department of Public Health

identifies the facility type as "food processors".  
[See attached Inspection Report, page 1, Ex. I to  
Plaintiffs' Motion for Summary Judgment].

This licensing requirement does not apply to any  
"farmer who produces and sells raw farm products".  
G.L. c 94, § 305C. Thus, if Chang were a farm  
producing a raw product it would not be subject to  
the licensing requirement or regulation by the  
Department of Public Health pursuant to G.L. c 94, §  
305C.

In Casseus v. Eastern Bus Co., when interpreting the  
common carrier exemption at G.L. c. 151, §1A(11), this  
Court began by considering the common carrier licensing  
statute, G. L. c. 159A. "[W]e consider the several  
statutes in question, not in isolation but in  
relation to each other." Id. at 792, citing Pereira  
v. New England LNG Co., 364 Mass. 109, 115(1973).  
"Accordingly, we must read the overtime and common  
carrier statutes together and 'give rise to a  
consistent body of law.'" Id., citing Boswell v.  
Zephyr Lines, Inc., 414 Mass. 241, 247 (1993).

While the agriculture exemption does not  
explicitly reference a licensing statute, the manner  
in which Chang's Facility is licensed and regulated

is instructive in interpreting whether Chang's facility is a "farm" within the meaning of G.L. c. 151, §1A(19). In issuing the license and regulating Chang's Facility, the Massachusetts Department of Public Health necessarily determined that it was not a farm selling raw farm products pursuant to G.L. c. 94, § 305C. An administrative agency's interpretation of a statute it administers is generally entitled to deference. Energy Express, Inc. v. Department of Public Utilities, 477 Mass. 571, 574 (2017) (deferring to agency interpretation of "customer" as excluding marketers).

Chapter 94 and Chapter 151 are both protective statutes. The purpose of Chapter 94 is to protect consumers. Grocery Mfrs. of America, Inc. v. Department of Public Health, 379 Mass. 70, 85 (1979). The purpose of Chapter 151 is to protect workers. Casseus at 788, quoting Mullally v. Waste Mgt. of Mass., Inc., 452 Mass. 526, 531(2008), see also Swift v. AutoZone, Inc. at 448. The trial court's decision offers no justification for treating a facility the Commonwealth has already determined is not a farm under G.L. c. 94, §305C, as a farm for purposes of G.L. c. 151, §1A(19), a remedial statute. As in

Casseus, the overtime statute and the licensing statute to which the employer is subject should be read together and interpreted consistently.

#### **IV. DIRECT APPELLATE REVIEW IS APPROPRIATE**

Direct appellate review is appropriate because this matter raises questions of first impression. The interpretation of G.L. c. 151, §1A(19), as it applies to the relationship between the industrial processing, packaging of farm products and the automated production of agricultural products, also raises questions of public interest.

#### **VII. CONCLUSION**

The Plaintiffs-Appellants hereby request that the Court grant their request for direct appellate review, pursuant to Rule 11 of the Massachusetts Rules of Appellate Procedure.

ANA ARIAS-VILLANO, ADRIAN  
CERVANTES-ACOSTA, NOELIA  
GOMEZ-GARCIA, BEATRIZ  
PEREZ-HERNANDEZ, EDILMAR  
MORALES-MATIAS and DAVID  
PACHECO-HERRERA

By their attorneys,

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Dated: May 15, 2018



CERTIFICATE OF SERVICE

I, Susan Garcia Nofi, state under the penalties of perjury that on May 15, 2018, I caused a copy of the foregoing to be served upon David G. Gabor, counsel for the Defendants-Appellees, by sending by first class mail to him at The Wagner Law Group 99 Summer St. 13th Floor Boston, MA 02110.

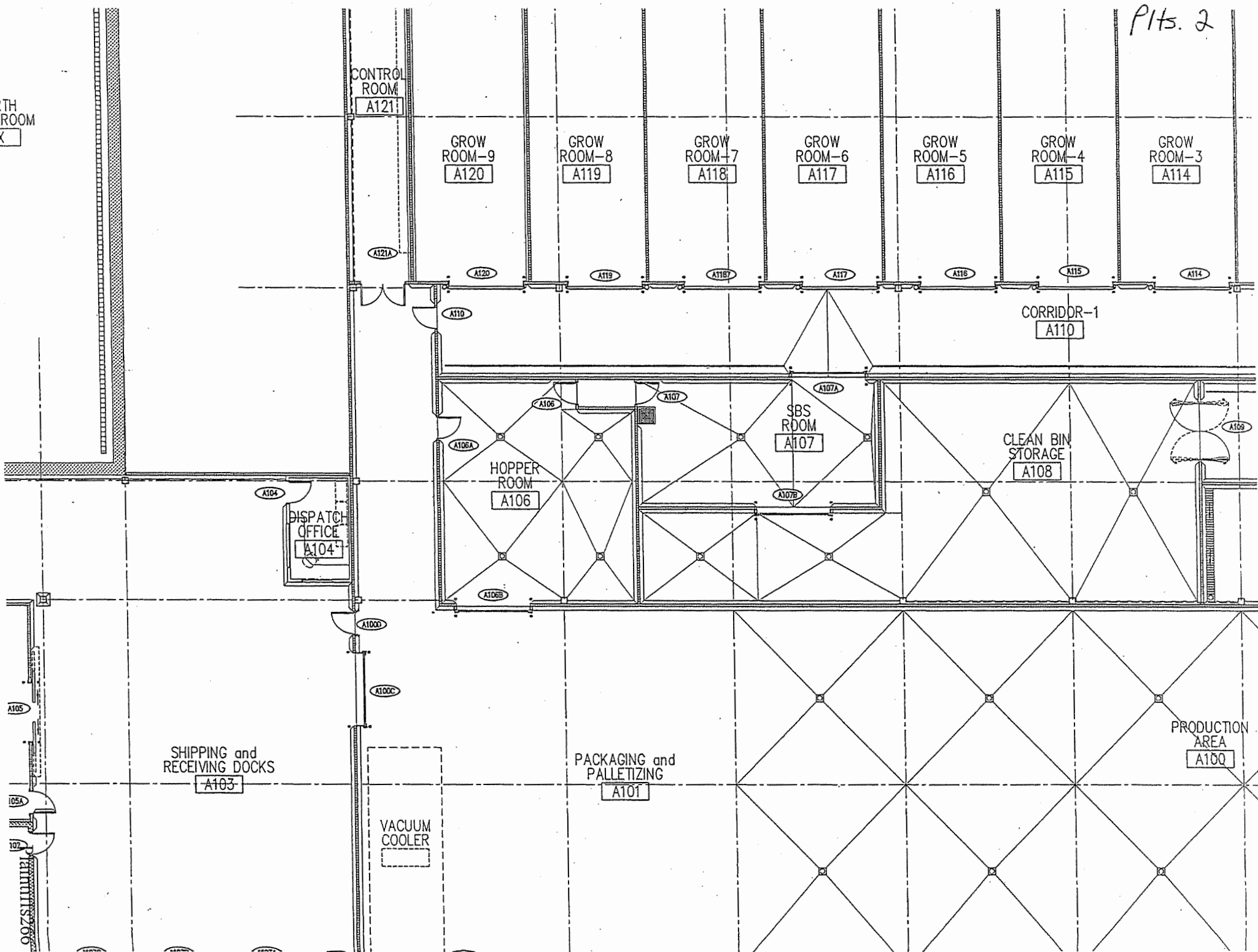
/s/Susan Garcia Nofi  
Susan Garcia Nofi

EXHIBIT

E

P115. 2

TH ROOM  
X



EXHIBIT

H

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH, DIVISION OF FOOD AND DRUGS  
305 SOUTH STREET, JAMAICA PLAIN, MA 02130

LICENSE

In Accordance with Massachusetts General Laws Chapter 94 Section 305C

NUMBER  
MA-1866

ISSUED  
11/08/2011

EXPIRES  
11/08/2012

TYPE  
Process or Distribute Food for Sale at Wholesale



ISSUED TO

CHANG & SON ENTERPRISES, INC.  
CHANG FARM INC.  
301 RIVER ROAD  
WHATELY, MA 01093

*John A. Arceneaux*

COMMISSIONER OF PUBLIC HEALTH

POST IN A CONSPICUOUS PLACE

FILE COPY

560672

LICENSE

The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC HEALTH, DIVISION OF FOOD AND DRUGS  
305 SOUTH STREET, JAMAICA PLAIN, MA 02130

In Accordance with Massachusetts General Laws Chapter 94 Section 305C

NUMBER  
MA-1866

ISSUED  
11/08/2011

EXPIRES  
11/08/2012

TYPE  
Process or Distribute Food for Sale at Wholesale



ISSUED TO CHANG & SON ENTERPRISES, INC.

CHANG FARM INC.  
301 RIVER ROAD  
WHATELY, MA 01093 USA

*John A. Arceneaux*

COMMISSIONER OF PUBLIC HEALTH

POST IN A CONSPICUOUS PLACE

VERIFICATION COPY

560672

Tso-Cheng Chang President 27 Crestview Dr So. Deerfield MA 01373  
Sidney Chang VP 25 Crestview Dr So. Deerfield MA 01373

I hereby certify that the above information is true to the best of my knowledge and that I will comply with all applicable laws and regulations of the Commonwealth of Massachusetts and the Department of Public Health pertaining to the activity for which I am applying. In addition, pursuant to M.G.L. C. 62C, § 49A, I certify under the penalties of perjury that, to my best knowledge and belief, have filed all state tax returns and paid all state taxes required under law.

RECEIVED

NOV 29 2011

signed under the pains and penalties of perjury.

Print Name and Title of Applicant Sidney Chang VP

Signature of Applicant *[Signature]*

DEPT OF PUBLIC HEALTH  
DIVISION OF FOOD AND DRUGS

Date 11/21/11

# EXHIBIT

## I

Pits. Ex. 5

409276 CHANG & SON ENTERPRISES, INC. Insp ID: YS000211 Inspector: 24 Sun Insp Date: 6/16/2016

Commonwealth of Massachusetts  
Department of Public Health Bureau of Environmental Health  
**Food Protection Program**  
305 South Street  
Jamaica Plain, MA 02130  
Telephone: (617) 983-6712 Fax: (617) 983-6770  
http://www.mass.gov/dph/fpp

FPU Facility Baseline and Inspection Report

Insp Date: 6/16/2016 Business ID: 409276  
Business: CHANG & SON ENTERPRISES, INC.  
301 RIVER ROAD  
  
WHATELY, MA 01093

Inspection: YS000211  
FDA Fiscal Year:  
Phone: 4136653341  
Inspector: 24 Yan Sun  
Reason: Re-inspection  
Results: Order to Correct Issued

FDA Assignment ID: 0

FACILITY CONTACT AND LICENSE INFORMATION

FPP License # MA-1866 Expiration Date 11/08/2014 Facility Type Food Processors

Contact Person Sidney Chang Phone 4136653341 Email msprout888@aol.com

FACILITY

Facility Information Verified ☒ Facility Operation(s) Verified ☒ Food Product(s) Verified ☒

DBA CHANG FARM INC. Business Type Food Processors

(DMF) Permit # \_\_\_\_\_ Repeat Debts \_\_\_\_\_ Sq. Feet 46,000

Water Supply Private Date(s) of Testing 05/25/2016

Telephone Number 4136653341 FAX Number 4136657297 Emergency Number \_\_\_\_\_

# of Employees 12 Days of Operation Sun-Fri Hours of Operation 8:00 am - 1:00 am

INSTRUCTIONS

INSTRUCTIONS: Rate each of the following criteria by checking the appropriate box. Detail all "V" ratings in the narrative section. All explanations must describe the violation in detail. The regulations and statute that apply to this establishment are 105 CMR 500.000, 21 CFR 110 (the federal regulations are adopted by reference) and Massachusetts General Law Chapter 94 Section 305 (A) and (C).

STATUS: S = Item is satisfactory at time of inspection V = Item is in violation at time of inspection N/A = Item is not applicable at the time of inspection.

RATINGS: C = Critical = Immediate correction timeline NC= Non-Critical = < 14

PERSONNEL	S	V	N/A	C	NC
1 Personnel with sores, infections, etc., are restricted from handling food products.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
2 Employees wear clean outer garments and gloves, use adequate hair restraints and remove excess jewelry when handling food.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>		<input checked="" type="checkbox"/>

## FPU Facility Baseline and Inspection Report

PERSONNEL	S	V	N/A	C	NC
3 Employees thoroughly wash and sanitize hands as necessary.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4 Employees refrain from eating, drinking, and smoking and practice good food handling techniques in food processing areas.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Employee's personal belongings are stored in areas other than where food is exposed or where equipment or utensils are washed.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
6a Personnel responsible for identifying sanitation failures or food contamination have education or experience to provide a level of competency in the production of clean and safe food.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
6b Staff has received appropriate training in proper food handling techniques and food-protection principles.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Sufficient supervision exercised to assure compliance by all personnel with proper food protection practices.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
GROUPS	S	V	N/A	C	NC
8 Outside premises are free from spillage, trash, etc., and are free of harborages and breeding places for rodents, insects, and other pests.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
9 Roads, yards, and parking lots do not constitute a source of contamination.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
10 Adequate drainage to avoid contamination of facilities and products.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
11 Waste treatment and disposal systems do not constitute a source of contamination.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
PLANT CONSTRUCTION AND DESIGN	S	V	N/A	C	NC
12 Facility is of suitable size, construction, and design to facilitate sanitary operations for food manufacturing.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
13 Food processing areas are effectively separated from other operations that may cause contamination of food by means of location, time, partition, airflow, enclosed systems or other effective means.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 Floors, walls and ceilings are constructed of easily cleanable materials and are kept clean and in good repair.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 Food and food contact surfaces are protected from contamination from drip or condensate (condensation) from fixtures, ducts, and pipes, etc.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
16 Aisles and workspaces are provided between equipment and walls to allow employees to perform their duties without contaminating food or food-contact surfaces.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
17 The interior lighting is sufficient to allow adequate inspection and cleaning of premises.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
18 Food products and processing areas are protected against contamination from breakage of light bulbs and other glass fixtures.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
19 Air quality and ventilation are adequate to prevent contamination by dust, and/or other airborne substances.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
20 Open windows are screened and loading dock doors are kept closed when not in use.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
SANITARY OPERATIONS	S	V	N/A	C	NC
21a The facility has a cleaning program that includes at least weekly inspections of the premises by qualified employees.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
21b The facility is maintained in good physical repair.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
22 The cleaning of facilities and equipment is conducted in such a manner as to avoid contamination of food products.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
23 Detergents, sanitizers and other cleaning supplies are used in a safe, effective manner.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>



## FPU Facility Baseline and Inspection Report

## SANITARY OPERATIONS

	S	V	N/A	C	NC
24 Cleaning compounds and hazardous materials are kept in their original containers, stored separate from raw materials and used in a safe, effective manner.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
25 All areas of the plant are maintained free of insects, rodents, and other pests.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
26 Insecticides and rodenticides are used and stored so as to prevent contamination of food items.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
27 All utensils and equipment are cleaned and sanitized at intervals that are frequent enough to avoid contamination of food products.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
28 Single service articles are from an approved source, are stored, handled, dispensed, used and disposed of in a manner that prevents contamination.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
29 Utensils and portable equipment are stored in such a way as to protect them from splash, dust and other contamination.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## SANITARY FACILITIES AND CONTROLS

30a Water supply is from an approved source (if private well – complete appropriate form).

## Water Supply Source

Public Water Supply ☐Private Well ☒

	S	V	N/A	C	NC
30b Water supply is sufficient for the operations intended.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
31 Water temperature and pressure is maintained at suitable levels for its intended uses.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
32 Plumbing is adequately sized, designed, installed, and maintained in a manner to prevent contamination.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
33 There is adequate floor drainage in all areas where floors are subject to flooding-type cleaning or where normal operations release or discharge water or other liquid waste on the floor.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
34a There is adequate back-flow prevention.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
34b There is no illegal cross-connection.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
35 Sewage disposal system is adequate.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	
36 Toilets and dressing rooms are maintained in good physical repair, properly equipped and properly ventilated.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="checkbox"/>	<input type="checkbox"/>
37 Toilet facilities have self-closing doors and doors do not open into areas where food is exposed to airborne contamination and are adequately separated from food processing and storage areas.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>
38 Adequate and properly supplied hand washing and/or sanitizing facilities are provided within the production area.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
39 All refuse is properly stored and protected from insects, rodents, and other pests and disposed of in an adequate manner.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>

## EQUIPMENT AND UTENSILS

	S	V	N/A	C	NC
40 All utensils, food storage containers and equipment are constructed of smooth, easily cleanable materials and suitable for their intended uses.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>
41 Equipment is designed and used in a manner that precludes contamination with lubricants, contaminated water, metal fragments etc.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>
42 Equipment is installed and maintained so as to facilitate the cleaning of equipment and adjacent areas.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>
43 Food-contact surfaces are corrosion-resistant when in contact with food.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>
44 Instruments and controls used for measuring, regulating, or recording temperature, pH, acidity, water activity, or other conditions are accurate and adequately maintained.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>		<input type="checkbox"/>

## FPU Facility Baseline and Inspection Report

EQUIPMENT AND UTENSILS		S	V	N/A	C	NC
45	Compressed air or other gases do not contaminate food with unlawful indirect food additives.	⊙	○	○	□	□
PROCESS AND CONTROLS		S	V	N/A	C	NC
46	Where the firm has established appropriate control operations, i.e. HACCP, ISO, SOPs, SSOPs, etc. the procedures are being followed and adhered too.	○	⊙	○	☑	□
47	Responsibility for overall plant sanitation is specifically assigned to one management individual.	⊙	○	○		□
48	Incoming lots are examined visually for damage or contamination prior to placement in storage.	⊙	○	○		□
49a	Ice is manufactured from potable water or purchased from an approved source.	⊙	○	○	□	
49b	Ice is stored and handled in a sanitary manner.	⊙	○	○	□	□
50a	Raw materials and other ingredients are purchased from an approved source.	⊙	○	○	□	
50b	Raw materials, other ingredients, and rework are held in a manner to protect against contamination.	○	⊙	○	☑	□
51	Food processing is conducted in a manner to prevent contamination and harmful microbiological growth.	○	⊙	○	☑	□
52	Chemical, microbiological or extraneous material testing procedures are used where necessary to identify sanitation failures or food contamination.	⊙	○	○		□
53	Packaging processes and materials are adequate to prevent contamination.	⊙	○	○		□
54	Weighing and measuring practices are adequate to insure the declared quantity of contents.	⊙	○	○		□
LABELING		S	V	N/A	C	NC
55	Only approved food and/or color additives are used, and are they properly declared on the product label as applicable.	⊙	○	○	□	
56	Products are coded to enable positive lot identification and records maintained in excess of expected shelf life.	⊙	○	○		□
57	Labels of products covered during this inspection are in compliance with all applicable state and federal labeling laws and regulations (submit copies of all violate labels as exhibit(s)).	⊙	○	○		□
58	Products requiring open-dating labeling are in compliance.	⊙	○	○		□
TEMPERATURE CONTROL		S	V	N/A	C	NC
61	Freezer and/or cooler are fitted with a temperature-recording device, an automatic temperature control, an automatic alarm system, or a thermometer.	⊙	○	○	□	
62	Storage of finished food products are under conditions that will protect food against physical, chemical, and microbial contamination [ 0°F (-18°C) for frozen and 45°F (7.2°C) or lower for refrigerated foods].	⊙	○	○	□	□
63	Vehicles transporting frozen and or refrigerated foods must be equipped with a combination of insulation and mechanical refrigeration, capable of maintaining an internal product temperature of 0°F (-18°C) or lower for frozen foods and 45°F (7.2°C) or lower for refrigerated foods.	⊙	○	○	□	
64	Refrigerated and frozen foods delivery vehicles shall be equipped with a thermometer or other appropriate means of temperature measurement indicating air temperature at the warmest area of the vehicle's storage compartment.	⊙	○	○		□
LICENSURE		S	V	N/A	C	NC
65	Firm is currently licensed by the Department of Public Health to process and or distribute food for sale at wholesale in accordance with M.G.L. C. 94 d 305C.	⊙	○	○		□
66	Firm allowed inspector entry to any part of the facility.	⊙	○	○		□
67	Firm answered inspector's questions related to its operation.	⊙	○	○		□

## FPU Facility Baseline and Inspection Report

## LICENSURE

S    V    N/A    C    NC

68 Firm allowed inspector access to any records or to copy any records.

☐ ☐ ☐ ☐

! SAMPLES:

If any samples were collected, list the sample numbers and briefly describe the samples here.

<sup>1</sup>See the notes at the end of the report.

***This Item has Notes. See Footnote 1 at end of questionnaire.***

CORRECTIONS:

If any corrections were made during this inspection or noted from previous reports, note the corrections here.

See the notes at the end of the report.

***This item has Notes. See Footnote 2 at end of questionnaire.***

## DETAILS OF MANUFACTURING PROCEDURES AND CONTROLS

Obtain from management the names and locations (city/state) of the firm's primary suppliers, customers, and a list of the most common products manufactured and provide a brief description of the manufacturing processes and controls for the product(s) inspected. Where appropriate, report times, temperatures, and other critical processing steps. If microbiological or any other type of contamination is suspected or encountered, fully describe the relationship between the routes of contamination and the process. Use flow charts where appropriate. If more space is needed, use the narrative section.

Supplier Tongyu Xinyu Agricultural City Dalian, China State: \_\_\_\_\_

Supplier Caudill Sprouting City Louisville State: KY

Supplier \_\_\_\_\_ City \_\_\_\_\_ State: \_\_\_\_\_

Customer Kirin Produce City Boston State: MA

Customer CJ Market City Flushing State: NY

Customer Wakefern City Elizabeth State: NJ

Customer \_\_\_\_\_ City \_\_\_\_\_ State: \_\_\_\_\_

Product Mung Bean Sprouts

Product Soybean Sprouts

Product \_\_\_\_\_

## FLOW CHARTING

## FPU Facility Baseline and Inspection Report

### FLOW CHARTING

Flow Chart (mung bean sprouts):

Receive Seeds > Store > Seed Wash > Heat Treatment (119 F 10 sec -> 185 F 10 sec -> 60 F 10 sec) > Bean Soak (with 200 ppm Calcium Hypochlorite, 7 hours) > Sprouting (7 days) > Husk Removal (Vibration Conveyor) > Weigh > Pack > Box > Store (in Cooler) > Ship.

### DISCUSSION WITH MANAGEMENT & NARRATIVE

Indicate the name and title of individual(s) with whom this inspection was conducted and discussed. Record any recommendations and/or warnings as well as management's responses. List all violations with the Item number first and then a full description of the violation.

On 6/14/16, we (Yan Sun, David Mitchell) arrived at this firm and introduced ourselves to Sidney Chang, President, and indicated the purpose of this visit was to conduct a re-inspection to follow up the 5/16/16 inspection. Firm has not submitted a Plan of Correction for the formal inspection of 5/16/2016 to the Department of Health. We were given full access to the facility and accompanied by Sidney Chang. The following deficiencies were observed.

This report and the report of 5/16/2016 were reviewed with Sidney Chang and a copy was provided.

*This item has Notes. See Footnote 3 at end of questionnaire.*

### SIGNATURES

Sign Digitally ☒

Sign After Printed ☐

Signature of Plant Official  
Who Received Copy:

Date Signed 06/16/2016

Signature of Inspector:

## FPU Facility Baseline and Inspection Report

### Fail Notes Summary

**Fail Code**

**Fail Text**

2 Employees wear clean outer garments and gloves, use adequate hair restraints and remove excess jewelry when handling food.

105 CMR 500.005 & 21 CFR 110.10

Addl Notes: *[Employees working with finished product observed wearing jewelry such as ear rings and watches.]*

3 Employees thoroughly wash and sanitize hands as necessary.

105 CMR 500.005 & 21 CFR 110.10

Addl Notes: *[Inadequate employee hand washing, several employees observed changing task from cleaning to handling ingredients and finished products and/or employees changing gloves without hand washing.]*

7 Sufficient supervision exercised to assure compliance by all personnel with proper food protection practices.

105 CMR 500.005 & 21 CFR 110.10

Addl Notes: *[There is inadequate supervision based on the number and type of violations: hand wash sinks blocked, employees wearing jewelry, records not maintained.]*

11 Waste treatment and disposal systems do not constitute a source of contamination.

105 CMR 500.005 21 CFR 110.20

Addl Notes: *[1) We observed two pushing carts were wheeled by an employee to remove wastes from the mung bean sprout production room onto a tractor trailer located outside of the facility. The employee used white shovels to move the wastes around on the trailer. He returned back into mung bean sprout processing line without cleaning and sanitizing the equipment (see pictures).  
2) The wheels of the pushing carts were observed contaminated by the filth of the trailer. An uncovered drain well was located approximately 2-3 feet away from the loading ramp. Birds, flying insects, dirt, and manure like substances were observed on trailer (see pictures).  
3) Two overflowed dumpsters were located near the front entrance of the firm. An uncovered trailer was placed at the loading dock to collect wastes from the soybean production room. Flying insects were noted on the wastes. The overhead loading dock door was left open, flying insects were noted inside the loading dock area (see pictures).]*

29 Utensils and portable equipment are stored in such a way as to protect them from splash, dust and other contamination.

105 CMR 500.005 21 CFR 110.35

Addl Notes: *[We observed white pitchforks (white utensils designated for food and food contact surfaces, as firm specified) were soaked in water inside a tote with floor brushes and scrapers in the mung bean sprout production room (see pictures).]*

38 Adequate and properly supplied hand washing and/or sanitizing facilities are provided within the production area.

105 CMR 500.005 21 CFR 110.37

Addl Notes: *[Hand sinks in soybean sprout production areas was used to store a pitchfork (direct food contact utensil), a colander (rusty), a measuring cup, and a black dust pan. Two canisters of lithium grease, a water bottle (labeled as "Water for Batteries"), and two cloth towels were resting on hand wash sink in the mung bean sprout production room (see pictures).]*

46 Where the firm has established appropriate control operations, i.e. HACCP, ISO, SOPs, SSOPs, etc. the procedures are being followed and adhered too.

105 CMR 500.005 21 CFR 110.80

Addl Notes: *[For at least the last two years, the firm has not maintained monitoring, verification or other records as required by their HACCP and SOPs.]*

## FPU Facility Baseline and Inspection Report

### Fail Code

### Fail Text

50b Raw materials, other ingredients, and rework are held in a manner to protect against contamination.

105 CMR 500.005 21 CFR 110.80

Addl Notes: *[We observed mung bean sprouts directly contact with an employee's personal footwear when he was standing on a sprout holding table to handle unpacked sprouts (see pictures).]*

*(which is a food contact surface)*

51 Food processing is conducted in a manner to prevent contamination and harmful microbiological growth.

105 CMR 500.005 21 CFR 110.80

Addl Notes: *[Piles of overflowed mung bean sprouts were observed on the floor under the processing machine. An employee used a white shovel to pick mung bean sprouts which had been contacted with the floor up and loaded into the processing machine to continue processing (see picture).]*

### Samples

*[The item has notes. See Footnote 1 at end of questionnaire.]*

### Corrections

*[The item has notes. See Footnote 2 at end of questionnaire.]*

### DISCUSSION WITH MANAGEMENT

*[The item has notes. See Footnote 3 at end of questionnaire.]*

# HOUSE . . . . . No. 4653

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, April 24, 1967.

The committee on Labor and Industries, to whom were referred the petition (accompanied by bill, Senate, No. 485) of Beryl W. Cohen and Mario Umana for legislation to amend the minimum wage law to extend coverage to farm laborers; the petition (accompanied by bill, Senate, No. 487) of Beryl W. Cohen, Maurice A. Donahue, William I. Randall, Oliver F. Ames and Mario Umana for legislation to regulate migratory farm labor camps; the petition (accompanied by bill, House, No. 368) of the Massachusetts State Labor Council, AFL-CIO, and William F. Hogan relative to the safety and sanitary conditions of housing provided for migrant laborers and farm workers; and the petition (accompanied by bill, House, No. 1255) of the Massachusetts Selectmen's Association, Inc., for legislation to require licensing by local boards of health of farm labor camps for farm labor workers, report the accompanying bill (House, No. 4653).

For the committee,

CHARLES J. BUFFONE.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Seven.

### AN ACT ESTABLISHING MINIMUM WAGE FOR FARM WORKERS AND PROVIDING FOR THE ANNUAL INSPECTION OF FARM LABOR CAMPS.

*Be it enacted by the Senate and House of Representatives in  
General Court assembled, and by the authority of the same, as  
follows:*

1 SECTION 1. Section 1 of chapter 151 of the General Laws is  
2 hereby amended by adding at the end thereof the following:  
3 —minimum wage for employees engaged in agriculture and  
4 farming as defined in section one A of chapter one hundred  
5 and twenty-eight shall be no less than one dollar and twenty  
6 cents per hour effective June first, nineteen hundred and  
7 sixty-seven and one dollar and thirty-five cents per hour  
8 effective February first, nineteen hundred and sixty-eight and  
9 one dollar and fifty cents per hour effective February first,  
10 nineteen hundred and sixty-nine, and except children sixteen  
11 years of age and under employed in said agriculture and farm-  
12 ing, and except the parent, spouse, child or other member of  
13 the employer's immediate family. The cost of board, lodging,  
14 or other facilities shall not be included as a part of the wage  
15 paid to any employee to the extent it is excluded therefrom.  
16 Provided further, that the commissioner is authorized to  
17 determine the fair value of such board, lodging, or other  
18 facilities for defined classes of employees and in defined areas,  
19 based on average cost to the employer or to groups of  
20 employers similarly situated, or average value to groups of  
21 employees, or other appropriate measures of fair value. Such  
22 evaluations, where applicable and pertinent shall be used in  
23 lieu of actual measure of cost in determining the wage paid to  
24 any employee.

1 SECTION 2. Section 1A of chapter 151 of the General Laws  
2 is hereby amended by adding the following new paragraph  
3 (19):—



4 (19) as a laborer on a farm engaged in agriculture and  
5 farming as defined in section one A of chapter one hundred  
6 and twenty-eight.

1 SECTION 3. The second paragraph of section 7 of chapter  
2 151 of the General Laws is hereby amended by adding at the  
3 end thereof the following:—the minimum wage for em-  
4 ployees engaged in agriculture and farming as defined in  
5 section one A of chapter one hundred and twenty-eight shall  
6 be no less than one dollar and twenty cents per hour effective  
7 June first, nineteen hundred and sixty-seven and one dollar  
8 and thirty-five cents per hour effective February first, nine-  
9 teen hundred and sixty-eight and one dollar and fifty cents  
10 per hour effective February first, nineteen hundred and sixty-  
11 nine and except children sixteen years of age and under em-  
12 ployed in said agriculture and farming, and except the parent,  
13 spouse, child or other member of the employer's immediate  
14 family. The cost of board, lodging, or other facilities shall not  
15 be included as a part of the wage paid to any employee to the  
16 extent it is excluded therefrom. Provided further, that the  
17 commissioner is authorized to determine the fair value of  
18 such board, lodging, or other facilities for defined classes of  
19 employees and in defined areas, based on average cost to the  
20 employer or to groups of employees, or other appropriate  
21 measures of fair value. Such evaluations, where applicable  
22 and pertinent shall be used in lieu of actual measure of cost in  
23 determining the wage paid to any employee,—so that said  
24 second paragraph shall read as follows:—

25 No wage board, however, can recommend minimum fair  
26 wage rates below one dollar and forty cents per hour, except  
27 for learners and apprentices, and except for ushers, ticket  
28 sellers and ticket takers whose minimum fair wage rates shall  
29 not be below one dollar, and except for service people who  
30 regularly receive gratuities and whose minimum fair wage  
31 rates shall not be below ninety-three cents per hour, and  
32 except for janitors and caretakers of residential property,  
33 who, when furnished with living quarters, shall be paid a  
34 wage of not less than thirty-six dollars per week, and except  
35 for services as golf caddies, the minimum wage for employees  
36 engaged in agriculture and farming as defined in section one

37. A of chapter one hundred and twenty-eight shall be no less than one dollar and twenty cents per hour effective June first, 39 nineteen hundred and sixty-seven and one dollar and thirty-four cents per hour effective February first, nineteen hundred and sixty-nine, and 40 five cents per hour effective February first, nineteen hundred and sixty-nine, and 41 and sixty-eight and one dollar and fifty cents per hour 42 effective February first, nineteen hundred and sixty-nine, and 43 except children sixteen years of age and under employed in 44 said agriculture and farming, and except the parent, spouse, 45 child or other member of the employer's immediate family. 46 The cost of board, lodging, or other facilities shall not be 47 included as a part of the wage paid to any employee to the 48 extent it is excluded therefrom. Provided further, that the 49 commissioner is authorized to determine the fair value of 50 such board, lodging, or other facilities for defined classes of 51 employees and in defined areas, based on average cost to the 52 employer or to groups of employers similarly situated, or 53 average value to groups of employees, or other appropriate 54 measures of fair value. Such evaluations, where applicable 55 and pertinent shall be used in lieu of actual measure of cost in 56 determining the wage paid to any employee.

1 Section 4. Chapter 111 of the General Laws is hereby 2 amended by inserting after section 127J the following new 3 section:—

4 Section 127K. The department shall enforce section three 5 of the sanitary code, and shall be responsible for the annual 6 inspection of all farm labor camps. If a farm labor camp after 7 inspection meets the approval of the department it shall issue 8 a certificate of occupancy which shall be posted prior to the 9 opening of the labor camp.

10 The department may delegate the power to inspect farm 11 labor camps to local boards of health. When the department 12 delegates the power to inspect farm labor camps to a local 13 board of health, the local board of health shall make its 14 inspection and file a report in writing with the department 15 within seven days from notice of the delegation of power of 16 inspection.

17 All complaints of violations of section three of the sanitary 18 code shall be investigated by the department within ten days

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Substituted by the House, on motion of Mr. Buffone of Worcester, for a Bill establishing minimum wage for farm workers and providing for the annual inspection of farm labor camps (House, No. 4653). July 12.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Sixty-Seven.

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AN ACT ESTABLISHING MINIMUM WAGE FOR FARM WORKERS AND  
PROVIDING FOR THE ANNUAL INSPECTION OF FARM LABOR CAMPS.

1 *Whereas*, The deferred operation of this act would tend to  
2 defeat its purpose, which is to provide forthwith for a  
3 minimum wage rate for persons employed in agriculture and  
4 farming, therefore it is hereby declared to be an emergency  
5 law, necessary for the immediate preservation of the public  
6 convenience.

*Be it enacted by the Senate and House of Representatives in  
General Court assembled, and by the authority of the same, as  
follows:*

1 SECTION 1. Section 1A of chapter 151 of the General Laws  
2 is hereby amended by adding after clause (18), added by  
3 chapter 153 of the acts of 1962, the following clause:—(19)  
4 as a laborer engaged in agriculture and farming on a farm.

1 SECTION 2. Section 2 of said chapter 151 is hereby amended  
2 by striking out the definition of "Occupation", as most re-  
3 cently amended by chapter 190 of the acts of 1959, and insert-  
4 ing in place thereof the following two definitions:—"Occupation",  
5 an industry, trade or business or branch thereof or class  
6 of work therein, whether operated for profit or otherwise, and  
7 any other class of work in which persons are gainfully em-  
8 ployed, but shall not include professional service, domestic  
9 service in the home of the employer, labor in agriculture and  
10 farming, work by persons being rehabilitated or trained under

11 rehabilitation or training programs in charitable, educational  
12 or religious institutions, or work by members of religious  
13 orders. Occupation shall also not include outside sales work  
14 regularly performed by outside salesmen who regularly sell  
15 a product or products away from their employer's place of  
16 business and who do not make daily reports or visits to the  
17 office or plant of their employer.

18 "Agricultural and farming", labor on a farm and the  
19 growing and harvesting of agricultural, floricultural and  
20 horticultural commodities.

1 SECTION 3. Said chapter 151 is hereby further amended by  
2 inserting after section 2 the following section:—

3 *Section 2A.* It is hereby declared to be against public policy  
4 for any employer to employ any person in agriculture and  
5 farming, as defined in section two, in this commonwealth at  
6 an oppressive and unreasonable wage, as defined in said  
7 section two, and any contract, agreement or understanding  
8 for or in relation to such employment shall be null and void.  
9 A wage of less than one dollar and twenty cents per hour in  
10 agriculture and farming shall be conclusively presumed to be  
11 oppressive and unreasonable, wherever the term "minimum  
12 wage" is used in this chapter, except when such wage is paid  
13 to a child seventeen years of age or under, or to a parent,  
14 spouse, child or other member of the employer's immediate  
15 family. The cost of board, lodging, or other facilities shall not  
16 be included as a part of the wage paid to any employee to the  
17 extent it is excluded therefrom; provided, however, that the  
18 commissioner may determine the fair value of such board,  
19 lodging, or other facilities for defined classes of employees  
20 and in defined areas, based on average cost to the employer or  
21 to groups of employers similarly situated, or average value to  
22 groups of employees, or other appropriate measures of fair  
23 value. Such evaluations, where applicable and pertinent shall  
24 be used in lieu of actual measure of cost in determining the  
25 wage paid to any employee.

1 SECTION 4. Section 19 of said chapter 151 is hereby further  
2 amended by inserting after paragraph (2) the following  
3 paragraph:—

4 (2A) Any employer or the officer or agent of any corpora-  
5 tion who knowingly pays or agrees to pay to any employee in  
6 agriculture and farming less than one dollar and twenty cents  
7 per hour, shall be punished by a fine of not less than fifty nor  
8 more than two hundred dollars or by imprisonment for not  
9 less than ten nor more than ninety days, or by both such fine  
10 and imprisonment, and each employee so paid less, shall  
11 constitute a separate offense.

1 SECTION 5. Chapter 111 of the General Laws is hereby  
2 amended by inserting after section 127J the following sec-  
3 tion:—

4 *Section 127K.* The state sanitary code adopted under the  
5 provisions of section one hundred and twenty-seven A shall  
6 apply to farm labor camps and shall be enforced with respect  
7 to such camps by the department. The department shall be  
8 responsible for the annual inspection of all farm labor camps.  
9 If a farm labor camp after inspection meets the approval of  
10 the department it shall issue a certificate of occupancy which  
11 shall be posted prior to the opening of the labor camp.

12 The department may delegate the power to inspect farm  
13 labor camps to local boards of health. When the department  
14 delegates the power to inspect farm labor camps to a local  
15 board of health, the local board of health shall make its  
16 inspection and file a report in writing with the department  
17 within seven days from notice of the delegation of power of  
18 inspection.

19 All complaints of violations of the sanitary code shall be  
20 investigated by the department within ten days of the filing  
21 of said complaint in writing. The department may revoke its  
22 certificate of occupancy for any violation of the sanitary code  
23 that the department after inspection may determine exists.

24 This section in no way may impair the normal powers of  
25 local boards of health except that any complaints in writing  
26 of a violation of the sanitary code shall be referred to the  
27 department.

1 SECTION 6. Section 2A of chapter 151 of the General Laws,  
2 inserted by section 3 of this act, is hereby amended by strik-

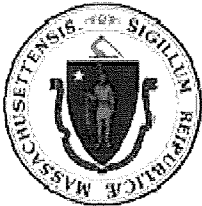
3 ing out the words "one dollar and twenty cents" and inserting  
4 in place thereof the words:—one dollar and thirty-five cents.

1 SECTION 7. Paragraph (2A) of section 19 of said chapter  
2 151, inserted by section 4 of this act, is hereby amended by  
3 striking out the words "one dollar and twenty cents" and  
4 inserting in place thereof the words:—one dollar and thirty-  
5 five cents.

1 SECTION 8. Section 2A of said chapter 151, as amended by  
2 section 6 of this act, is hereby further amended by striking  
3 out the words "one dollar and thirty-five cents" and insert-  
4 ing in place thereof the words:—one dollar and fifty cents.

1 SECTION 9. Paragraph (2A) of section 19 of said chapter  
2 151, as amended by section 7 of this act, is hereby further  
3 amended by striking out the words "one dollar and thirty-  
4 five cents" and inserting in place thereof the following words:  
5 —one dollar and fifty cents.

1 SECTION 10. Sections one, two, three and four of this act  
2 shall take effect on September first, nineteen hundred and  
3 sixty-seven; section five of this act shall take effect on  
4 January first, nineteen hundred and sixty-eight; sections six  
5 and seven of this act shall take effect on February first,  
6 nineteen hundred and sixty-eight; and sections eight and  
7 nine of this act shall take effect on February first, nineteen  
8 hundred and sixty-nine.



**COMMONWEALTH OF MASSACHUSETTS  
FRANKLIN COUNTY  
Docket Report**

**1578CV00088 Arias-Villano, Ana et al vs. Chang & Sons Enterprises Inc et al**

<b>CASE TYPE:</b>	Equitable Remedies	<b>FILE DATE:</b>	11/17/2015
<b>ACTION CODE:</b>	D13	<b>CASE TRACK:</b>	A - Average
<b>DESCRIPTION:</b>	Declaratory Judgment G.L. c. 231A	<b>CASE STATUS:</b>	Open
<b>CASE DISPOSITION DATE</b>	02/13/2018	<b>STATUS DATE :</b>	11/30/2015
<b>CASE DISPOSITION:</b>	Summary Judgment	<b>CASE SESSION:</b>	Civil A
<b>CASE JUDGE:</b>			

**LINKED CASE**

**PARTIES**

**Plaintiff**

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33 Hebron Street  
Springfield, MA 01107

**Private Counsel**

**637620**

Leticia Medina-Richman  
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Added Date: 09/16/2016

**Private Counsel**

**569302**

Susan E Garcia Nofi  
Central West Justice Center  
Central West Justice Center  
One Monarch Place  
Suite 350  
Springfield, MA 01144  
Work Phone (413) 686-9050  
Added Date: 08/31/2017

**Plaintiff**

Alvarado-Argueta, Rolando

**Private Counsel**

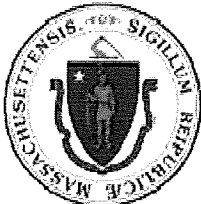
**569302**

Susan E Garcia Nofi  
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Central West Justice Center  
One Monarch Place  
Suite 350  
Springfield, MA 01144  
Work Phone (413) 686-9050  
Added Date: 08/31/2017

**A TRUE COPY ATTEST**

*Susan K. Frond*

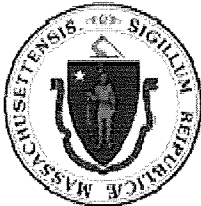
**Clerk of Courts**



**COMMONWEALTH OF MASSACHUSETTS  
FRANKLIN COUNTY  
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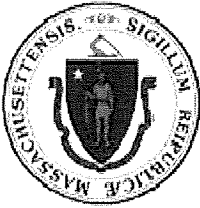
<b>Plaintiff</b> Alvarez, Jorge 5 Elm Street South Deerfield, MA 01373	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Arias-Villano, Ana 461 Armory St Apt 3 Springfield, MA 01104	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Carrillo-Funes, Ronaldo	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017





**COMMONWEALTH OF MASSACHUSETTS  
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<b>Plaintiff</b> Cervantes-Acosta, Adrian 42 Phoenix St First Floor Springfield, MA 01104	<b>Private Counsel</b> <b>637620</b> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <b>569302</b> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Chaparro-Bravo, Paulino	<b>Private Counsel</b> <b>569302</b> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Gomez-Garcia, Noelia 106 Third Street, 2nd Floor Turners Falls, MA 01376	<b>Private Counsel</b> <b>637620</b> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <b>569302</b> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017



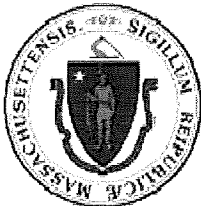
**COMMONWEALTH OF MASSACHUSETTS  
FRANKLIN COUNTY  
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<b>Plaintiff</b> Lopez-Funes, Jacobo 118 Massasoit St Springfield, MA 01107	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Merida-Lopez, Edwin 20 Eaton St Apt 2 Hartford, CT 06114	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Morales--Matias, Edilmar	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017



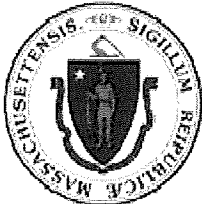
**COMMONWEALTH OF MASSACHUSETTS  
FRANKLIN COUNTY  
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<b>Plaintiff</b> Morales-Morales, Reynaldo	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Pacheco-Herrera, David 526 Plainfield St #3 Springfield, MA 01107	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016
	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Perez-Hernandez, Beatriz 1116 Fretz Road Knoxville, TN 37932	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016
	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017



**COMMONWEALTH OF MASSACHUSETTS  
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<b>Plaintiff</b> Sosa-Saucedo, Marlyn 106 Third St 2nd Floor Turners Falls, MA 01376	<b>Private Counsel</b> <span style="float: right;"><b>637620</b></span> Leticia Medina-Richman Central West Justice Center Central West Justice Center 405 Main St 3rd Floor Worcester, MA 01608 Work Phone (508) 425-2886 Added Date: 09/16/2016  <b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Plaintiff</b> Soto-Aguilera, Maria	<b>Private Counsel</b> <span style="float: right;"><b>569302</b></span> Susan E Garcia Nofi Central West Justice Center Central West Justice Center One Monarch Place Suite 350 Springfield, MA 01144 Work Phone (413) 686-9050 Added Date: 08/31/2017
<b>Defendant</b> Chang & Sons Enterprises Inc 415 River Road Whately, MA 01093	<b>Private Counsel</b> <span style="float: right;"><b>667926</b></span> Alexander Olsen The Wagner Law Group The Wagner Law Group 99 Summer St 13th Floor Littleton, MA 01460 Work Phone (617) 357-5200 Added Date: 12/28/2015  <b>Private Counsel</b> <span style="float: right;"><b>624971</b></span> David G Gabor The Wagner Law Group The Wagner Law Group 99 Summer St Boston, MA 02110 Work Phone (617) 357-5200 Added Date: 12/28/2015



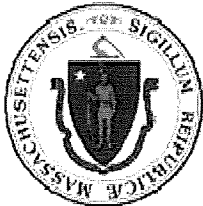
COMMONWEALTH OF MASSACHUSETTS  
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<b>Defendant</b> Chang, Sidney 25 Crestview Drive South Deerfield, MA 01373	<b>Private Counsel</b> David G Gabor The Wagner Law Group The Wagner Law Group 99 Summer St Boston, MA 02110 Work Phone (617) 357-5200 Added Date: 08/05/2016	<b>624971</b>
<b>Defendant</b> Chang, Tso-Cheng 27 Crestview Drive South Deerfield, MA 01373	<b>Private Counsel</b> David G Gabor The Wagner Law Group The Wagner Law Group 99 Summer St Boston, MA 02110 Work Phone (617) 357-5200 Added Date: 08/05/2016	<b>624971</b>



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FINANCIAL DETAILS					
Date	Fees/Fines/Costs	Assessed	Paid	Dismissed	Balance
11/30/2015	Civil Filing Fee (per Plaintiff)	240.00	0.00	240.00	0.00
	Dismissed Type: Fee/Fine remitted due to finding of indigency. Dismissed Date: 11/30/2015 Dismissed Amount: 240.00 Dismissing Judge: Josephson, Hon. Bertha D Comments: Affidavit of indigency allowed by Judge Josephson Dismissed By: HBBOOK78				
11/30/2015	Civil Security Fee (G.L. c. 262, § 4A)	20.00	0.00	20.00	0.00
	Dismissed Type: Fee/Fine remitted due to finding of indigency. Dismissed Date: 11/30/2015 Dismissed Amount: 20.00 Dismissing Judge: Josephson, Hon. Bertha D Comments: Affidavit of indigency allowed by Judge Josephson Dismissed By: HBBOOK78				
11/30/2015	Civil Surcharge (G.L. c. 262, § 4C)	15.00	0.00	15.00	0.00
	Dismissed Type: Fee/Fine remitted due to finding of indigency. Dismissed Date: 11/30/2015 Dismissed Amount: 15.00 Dismissing Judge: Josephson, Hon. Bertha D Comments: Affidavit of indigency allowed by Judge Josephson Dismissed By: HBBOOK78				
<b>Total</b>		<b>275.00</b>	<b>0.00</b>	<b>275.00</b>	<b>0.00</b>
Deposit Account(s) Summary		Received	Applied	Checks Paid	Balance
<b>Total</b>					



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INFORMATIONAL DOCKET ENTRIES			
Date	Ref	Description	Judge
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Ana Arias-Villano	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Jorge Alvarez	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Noelia Gomez-Garcia	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Beatriz Perez-Hernandez	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Marilyn Sosa-Saucedo	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Edwin Merida-Lopez	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Jacobo Lopez-Funes	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Adrian Cervantes-Acosta	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff Florindo Alvarado-Argueta	
11/17/2015		Appearance entered On this date William Peard, Esq. added as Private Counsel for Plaintiff David Pacheco-Herrera	
11/17/2015	1	Original civil complaint filed.	
11/17/2015	2	Civil action cover sheet filed.	
11/17/2015	3	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit	
11/25/2015		Endorsement on Application  Affidavit of indigency allowed, filing fee waived. Service costs to be paid by the Commonwealth.  Applies To: Peard, Esq., William (Attorney) on behalf of Alvarado-Argueta, Florindo, Alvarez, Jorge, Arias-Villano, Ana, Cervantes-Acosta, Adrian, Gomez-Garcia, Noelia, Lopez-Funes, Jacobo, Merida-Lopez, Edwin, Pacheco-Herrera, David, Perez-Hernandez, Beatriz, Sosa-Saucedo, Marilyn (Plaintiff)	Josephson



**COMMONWEALTH OF MASSACHUSETTS  
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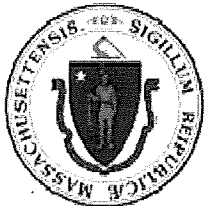
11/30/2015		Case assigned to: DCM Track A - Average was added on 11/30/2015	
12/01/2015		Plaintiff's attorney called and stated he did not want the court to pay for certified mail and that they would pay for the sheriff to serve the defendants.	
12/24/2015	4	Service Returned for Defendant Chang, Sidney: Service made at last and usual; on 12/15/2015 attested copy of the summons & complaint, civil action coversheet, and clerks notice.	
12/24/2015	5	Service Returned for Defendant Chang & Sons Enterprises Inc: Service made in hand; on 12/16/15 an attested copy of the summons & complaint, civil action coversheet, and clerks notice	
12/24/2015	6	Service Returned for Defendant Chang, Tso-Cheng: Service made at last and usual; on 12/15/15 an attested copy of the summons & complaint, civil action coversheet, and clerks notice.	
12/28/2015	7	Appearance entered On this date David G. Gabor, Esq. added as Private Counsel for Defendant Chang & Sons Enterprises Inc	
12/28/2015	8	Appearance entered On this date Alexander Olsen, Esq. added as Private Counsel for Defendant Chang & Sons Enterprises Inc	
12/30/2015	9	Party(s) file Stipulation  Applies To: Olsen, Esq., Alexander (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant); Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant); Peard, Esq., William (Attorney) on behalf of Alvarado-Argueta, Florindo, Alvarez, Jorge, Arias-Villano, Ana, Cervantes-Acosta, Adrian, Gomez-Garcia, Noelia, Lopez-Funes, Jacobo, Merida-Lopez, Edwin, Pacheco-Herrera, David, Perez-Hernandez, Beatriz, Sosa-Saucedo, Marlyn (Plaintiff)	
12/30/2015		Endorsement on Stipulation of the Parties (#9.0): ALLOWED	Agostini
02/05/2016	10	Defendant's motion to dismiss plaintiff's complaint MRCP 12(b)	
02/11/2016	11	Party(s) file Stipulation  Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant); Peard, Esq., William (Attorney) on behalf of Alvarado-Argueta, Florindo, Alvarez, Jorge, Arias-Villano, Ana, Cervantes-Acosta, Adrian, Gomez-Garcia, Noelia, Lopez-Funes, Jacobo, Merida-Lopez, Edwin, Pacheco-Herrera, David, Perez-Hernandez, Beatriz, Sosa-Saucedo, Marlyn (Plaintiff)	
02/18/2016		Endorsement on Stipulation of the parties (#10.0): ALLOWED	McDonough





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03/22/2016	12	Party(s) file Stipulation	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant); Peard, Esq., William (Attorney) on behalf of Alvarado-Argueta, Florindo, Alvarez, Jorge, Arias-Villano, Ana, Cervantes-Acosta, Adrian, Gomez-Garcia, Noelia, Lopez-Funes, Jacobo, Merida-Lopez, Edwin, Pacheco-Herrera, David, Perez-Hernandez, Beatriz, Sosa-Saucedo, Marlyn (Plaintiff)	
03/25/2016		Endorsement on Stipulation of the parties (#12.0): ALLOWED	Ferrara
04/04/2016	14	Affidavit of compliance with Superior Court Rule 9A	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/04/2016	15	Affidavit of David G Gabor	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/04/2016	13	Rule 9A list of documents filed.	
04/04/2016	16	Chang & Sons Enterprises Inc, Sidney Chang, Tso-Cheng Chang's Memorandum in support of of their motion to dismiss.	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/04/2016	17	Defendant Chang & Sons Enterprises Inc, Sidney Chang, Tso-Cheng Chang's Motion to dismiss all counts	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/04/2016	18	Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Memorandum in opposition to defendants' motion to dismiss.	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/04/2016	19	Chang & Sons Enterprises Inc, Sidney Chang, Tso-Cheng Chang's Reply Memorandum	
		Applies To: Gabor, Esq., David G. (Attorney) on behalf of Chang & Sons Enterprises Inc (Defendant)	
04/05/2016		The following form was generated:	
		Notice to Appear Sent On: 04/05/2016 09:22:36	
04/07/2016	20	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Joint Motion to continue / reschedule an event 04/25/2016 09:00 AM Rule 12 Hearing	



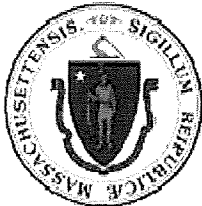
**COMMONWEALTH OF MASSACHUSETTS  
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04/07/2016	Endorsement on Motion to continue / reschedule an event motion hearing (#20.0): ALLOWED	McDonough
04/07/2016	Event Result: The following event: Rule 12 Hearing scheduled for 04/25/2016 09:00 AM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties	McDonough
04/07/2016	The following form was generated:  Notice to Appear Sent On: 04/07/2016 09:44:43	
04/20/2016	Event Result: The following event: Rule 12 Hearing scheduled for 05/11/2016 02:00 PM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date	McDonough
04/20/2016	The following form was generated:  Notice to Appear Sent On: 04/20/2016 13:56:08	
05/03/2016	The following form was generated:  Notice to Appear Sent On: 05/03/2016 11:59:27	
05/03/2016	Event Result: The following event: Rule 12 Hearing scheduled for 05/18/2016 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties	Rup
05/03/2016	The following form was generated:  Notice to Appear Sent On: 05/03/2016 14:02:47	
06/08/2016	Event Result: The following event: Rule 12 Hearing scheduled for 06/08/2016 02:00 PM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date	Ford
06/08/2016	The following form was generated:  Notice to Appear Sent On: 06/08/2016 08:58:12	
06/17/2016	Note: The parties appeared for the previously scheduled M.R.C.P. 12(b)(6) motion hearing. The parties made argument in support of their respective position. The Court heard argument and took the matter under advisement. (Ford, J., Simanski, JAVS).	
06/17/2016	Event Result: The following event: Rule 12 Hearing scheduled for 06/17/2016 02:00 PM has been resulted as follows: Result: Held as Scheduled	Ford



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06/24/2016		Endorsement on Motion to dismiss all counts (#10.0): pursuant to Superior Court Rule 9E DENIED	Ford
06/24/2016		The following form was generated:  Notice to Appear Sent On: 06/24/2016 09:43:08	
07/19/2016	21	Plaintiff Beatriz Perez-Hernandez's Motion to waive costs.	
07/19/2016	22	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit	
07/20/2016		Endorsement on Motion to waive cost (#21.0): ALLOWED	Carey
07/20/2016	23	Determination regarding normal fees and costs ALLOWED by judge , pursuant to G. L. c. 261, § 27C(2).	Carey
07/27/2016	24	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Adrian Cervantes-Acosta, Jacobo Lopez-Funes, Florindo Alvarado-Argueta, David Pacheco-Herrera's Stipulation of the parties.	
07/28/2016	25	Amended: amended complaint filed by Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera  Applies To: Peard, Esq., William (Attorney) on behalf of Alvarado-Argueta, Florindo, Alvarez, Jorge, Arias-Villano, Ana, Cervantes-Acosta, Adrian, Gomez-Garcia, Noelia, Lopez-Funes, Jacobo, Merida-Lopez, Edwin, Pacheco-Herrera, David, Perez-Hernandez, Beatriz, Sosa-Saucedo, Marlyn (Plaintiff)	
08/05/2016	26	Received from Defendant Chang & Sons Enterprises Inc: Answer to amended complaint;	
08/05/2016	26	Received from Defendant Chang, Sidney: Answer to amended complaint;	
08/05/2016		Attorney appearance On this date David G. Gabor, Esq. added as Private Counsel for Defendant Sidney Chang	
08/05/2016	26	Received from Defendant Chang, Tso-Cheng: Answer to amended complaint;	
08/05/2016		Attorney appearance On this date David G. Gabor, Esq. added as Private Counsel for Defendant Tso-Cheng Chang	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Ana Arias-Villano	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Jorge Alvarez	



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09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Noelia Gomez-Garcia	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Beatriz Perez-Hernandez	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Marlyn Sosa-Saucedo	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Edwin Merida-Lopez	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Jacobo Lopez-Funes	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Adrian Cervantes-Acosta	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff Florindo Alvarado-Argueta	
09/16/2016		Attorney appearance On this date Leticia Medina-Richman, Esq. added as Private Counsel for Plaintiff David Pacheco-Herrera	
09/16/2016	27	Leticia Medina-Richman, Esq.'s MOTION to admit counsel pro hac vice: Attorney William B Peard	
09/29/2016		Endorsement on Motion for admission pro hac vice (#27.0): ALLOWED Defendants have assented.	McDonough
11/14/2016	28	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Notice of filing of plaintiffs' second amended complaint and stipulation of the parties.	
11/18/2016		Endorsement on Notice of filing of plaintiffs' second amended complaint and stipulation of the parties (#28.0): ALLOWED	Agostini
11/18/2016	29	Amended: Second amended complaint filed by Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera	
11/25/2016	30	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Joint Motion to continue / reschedule an event 12/07/2016 02:00 PM Pre-Trial Conference	
12/05/2016		Endorsement on Motion to continue / reschedule an event pretrial conference (#30.0): ALLOWED	McDonough



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12/06/2016		Event Result: The following event: Pre-Trial Conference scheduled for 12/07/2016 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties	McDonough
12/06/2016		The following form was generated:  Notice to Appear for Final Pre-Trial Conference Sent On: 12/06/2016 15:29:04	
12/06/2016		The following form was generated:  Notice to Appear Sent On: 12/06/2016 15:29:42	
12/08/2016	31	Received from Defendant Chang & Sons Enterprises Inc: Answer to amended complaint;second  Applies To: Chang & Sons Enterprises Inc (Defendant); Chang, Sidney (Defendant); Chang, Tso-Cheng (Defendant)	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Ana Arias-Villano	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Jorge Alvarez	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Noelia Gomez-Garcia	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Beatriz Perez-Hernandez	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Marilyn Sosa-Saucedo	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Edwin Merida-Lopez	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Jacobo Lopez-Funes	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Adrian Cervantes-Acosta	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff Florindo Alvarado-Argueta	
02/24/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. added as Private Counsel for Plaintiff David Pacheco-Herrera	



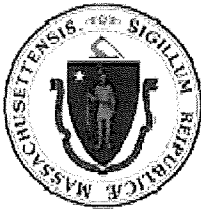
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02/24/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Ana Arias-Villano	
03/06/2017	32	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Joint Motion to continue / reschedule an event 03/15/2017 02:00 PM Pre-Trial Conference	
03/07/2017		Endorsement on Motion to continue / reschedule an event (#32.0): ALLOWED	Mason
03/08/2017		Event Result: The following event: Pre-Trial Conference scheduled for 03/15/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties	Mason
03/08/2017		The following form was generated:  Notice to Appear Sent On: 03/08/2017 15:05:05	
08/16/2017	33	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Joint Motion to continue pre-trial conference	
08/16/2017		Endorsement on Motion to continue pre-trial conference (#33.0): ALLOWED Summary Judgment proposed schedule is adopted. Clerk shall schedule PTC in December 2017.	McDonough
08/16/2017		Event Result: The following event: Pre-Trial Conference scheduled for 09/14/2017 02:00 PM has been resulted as follows: Result: Canceled Reason: By Court prior to date	McDonough
08/16/2017		The following form was generated:  Notice to Appear Sent On: 08/16/2017 16:21:06	
08/16/2017	34	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Adrian Cervantes-Acosta, Jacobo Lopez-Funes, Florindo Alvarado-Argueta, David Pacheco-Herrera's Joint Motion to Extend time to file Rule 9A package	
08/16/2017		Endorsement on Motion to Extend time to file Rule 9A package (#34.0): ALLOWED	McDonough
08/23/2017		The following form was generated:  Notice to Appear Sent On: 08/23/2017 15:38:03	



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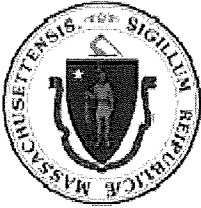
08/23/2017		The following form was generated:  Notice to Appear Sent On: 08/23/2017 15:58:23
08/25/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Ana Arias-Villano
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Ana Arias-Villano
08/31/2017	35	List of exhibits
08/31/2017	35.1	Affidavit of Susan Garcia Nofi
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Ana Arias-Villano
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Ana Arias-Villano
08/31/2017		Statement of Undisputed Facts  (Material)  Applies To: Arias-Villano, Ana (Plaintiff)
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Jorge Alvarez
08/31/2017	36	Plaintiff Ana Arias-Villano's Motion for summary judgment, MRCP 56 (Partial)
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Jorge Alvarez
08/31/2017	37	Ana Arias-Villano's Memorandum in support of Their Motion for Partial Summary Judgment
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Jorge Alvarez
08/31/2017	38	Chang & Sons Enterprises Inc's Memorandum in opposition to Plaintiffs' Motion for Partial Summary Judgment
08/31/2017	38.1	Plaintiff Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera's Response to defendants' supplemental state of material facts.
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Noelia Gomez-Garcia



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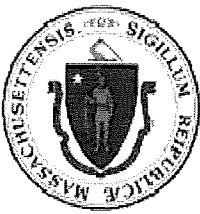
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Noelia Gomez-Garcia
08/31/2017	39	List of exhibits
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Noelia Gomez-Garcia
08/31/2017	40	Defendant Chang & Sons Enterprises Inc's Motion for summary judgment, MRCP 56
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Beatriz Perez-Hernandez
08/31/2017	41	Chang & Sons Enterprises Inc's Memorandum in support of Motion for Summary Judgment
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Beatriz Perez-Hernandez
08/31/2017		Statement of Undisputed Facts  Material
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Beatriz Perez-Hernandez
08/31/2017	42	Ana Arias-Villano's Memorandum in opposition to Defendant's Motion for Summary Judgment
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Edwin Merida-Lopez
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Edwin Merida-Lopez
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Edwin Merida-Lopez
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Marlyn Sosa-Saucedo
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Marlyn Sosa-Saucedo
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Marlyn Sosa-Saucedo
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Jacobo Lopez-Funes





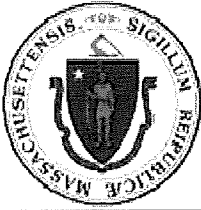
**COMMONWEALTH OF MASSACHUSETTS  
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08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Jacobo Lopez-Funes
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Jacobo Lopez-Funes
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Adrian Cervantes-Acosta
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Adrian Cervantes-Acosta
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Adrian Cervantes-Acosta
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff Florindo Alvarado-Argueta
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff Florindo Alvarado-Argueta
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Florindo Alvarado-Argueta
08/31/2017		Attorney appearance On this date Susan Garcia Nofi, Esq. dismissed/withdrawn as Private Counsel for Plaintiff David Pacheco-Herrera
08/31/2017		Attorney appearance On this date William Peard, Esq. dismissed/withdrawn as Pro Hac Vice (SJC 3:15) for Plaintiff David Pacheco-Herrera
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff David Pacheco-Herrera
08/31/2017	43	Affidavit of Thomas Harrison
08/31/2017	44	Affidavit of Sidney Chang
08/31/2017	45	Affidavit of David G Gabor
08/31/2017	46	Brief filed: of Amicus Curiae American Mushroom Institute
		Applies To: Chang & Sons Enterprises Inc (Defendant)
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Maria Soto-Aguilera
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Ronaldo Carrillo-Fuines



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08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Edlimar Morales-Matias	
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Reynaldo Morales-Morales	
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Rolando Alvarado-Argueta	
08/31/2017		Attorney appearance On this date Susan E Garcia Nofi, Esq. added as Private Counsel for Plaintiff Paulino Chaparro-Bravo	
09/11/2017		Event Result: The following event: Motion Hearing scheduled for 09/11/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Request of Defendant	Rup
09/12/2017		The following form was generated:  Notice to Appear Sent On: 09/12/2017 15:21:24	
09/18/2017	47	Defendant Chang & Sons Enterprises Inc's Assented to Motion to continue / reschedule an event 12/08/2017 02:00 PM Pre-Trial Conference, 12/08/2017 02:00 PM Motion Hearing	
09/19/2017		Endorsement on Motion to continue / reschedule an event motion hearing date (#47.0): ALLOWED	Rup
09/20/2017		Event Result: The following event: Pre-Trial Conference scheduled for 12/08/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Request of Defendant	Agostini
09/20/2017		Event Result: The following event: Motion Hearing scheduled for 12/08/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Request of Defendant	Rup
09/20/2017		The following form was generated:  Notice to Appear Sent On: 09/20/2017 10:10:50	
09/20/2017		The following form was generated:  Notice to Appear Sent On: 09/20/2017 10:12:31	
10/16/2017	48	Plaintiff Jorge Alvarez, Ana Arias-Villano, Jacobo Lopez-Funes, David Pacheco-Herrera's Motion for payment of costs.	



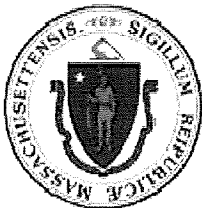
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10/16/2017	49	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit  Applies To: Arias-Villano, Ana (Plaintiff)	
10/16/2017	50	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit  Applies To: Alvarez, Jorge (Plaintiff)	
10/16/2017	51	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit  Applies To: Lopez-Funes, Jacobo (Plaintiff)	
10/16/2017	52	RESTRICTED INFORMATION - Affidavit of Indigency and request for waiver substitution of state payment of fees and costs filed without Supplemental affidavit  Applies To: Pacheco-Herrera, David (Plaintiff)	
10/20/2017		Endorsement on Motion for payment of costs (#48.0): ALLOWED  Judge: Ricciardone, Hon. David	Ricciardone
12/21/2017		Event Result: Judge: Agostini, Hon. John A The following event: Motion Hearing scheduled for 12/21/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date	Agostini
12/21/2017		Event Result: Judge: Agostini, Hon. John A The following event: Pre-Trial Conference scheduled for 12/21/2017 02:00 PM has been resulted as follows: Result: Rescheduled Reason: By Court prior to date	Agostini
12/21/2017		The following form was generated:  Notice to Appear Sent On: 12/21/2017 16:28:30	
01/03/2018	53	Defendant Chang & Sons Enterprises Inc's Assented to Motion to continue / reschedule an event 01/05/2018 02:00 PM Motion Hearing	
01/03/2018		Endorsement on Motion to continue / reschedule an event motion hearing date (#53.0): ALLOWED  Judge: Callan, Hon. Michael K	Callan
01/03/2018		Event Result: Judge: Callan, Hon. Michael K The following event: Motion Hearing scheduled for 01/05/2018 02:00 PM has been resulted as follows: Result: Rescheduled Reason: Joint request of parties	Callan



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01/03/2018		The following form was generated:  Notice to Appear Sent On: 01/03/2018 15:14:58	
01/25/2018		Event Result: Judge: Callan, Hon. Michael K The following event: Motion Hearing scheduled for 01/25/2018 02:00 PM has been resulted as follows: Result: Held as Scheduled	Callan
02/12/2018	54	MEMORANDUM & ORDER:  on the Parties' Cross Motions for Summary Judgment.  Judge: Callan, Hon. Michael K  Certified copies mailed to parties on 02/12/18  Judge: Callan, Hon. Michael K	Callan
02/12/2018	55	SUMMARY JUDGMENT for Defendants(s), Chang & Sons Enterprises Inc, Sidney Chang, Tso-Cheng Chang against Plaintiffs(s), Ana Arias-Villano, Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta, David Pacheco-Herrera, Maria Soto-Aguilera, Ronaldo Carrillo-Funes, Edilmar Morales--Matias, Reynaldo Morales-Morales, Rolando Alvarado-Argueta, Paulino Chaparro-Bravo, without statutory costs. It is ORDERED and ADJUDGED: The Defendants' Motion for Summary Judgment is ALLOWED and the Plaintiffs' Motion for Summary Judgment is DENIED. Certified copies mailed to parties on 2/13/18.  Judge: Callan, Hon. Michael K	Callan
02/13/2018		Disposed for statistical purposes	
03/14/2018	56	Appeal Review by Appeals Court filed on 03/14/2018 by Arias-Villano, Ana : Perez-Hernandez, Beatriz : Cervantes-Acosta, Adrian : Pacheco-Herrera, David  Applies To: Gomez-Garcia, Noelia (Plaintiff); Morales-Matias, Edilmar (Plaintiff); Morales-Morales, Reynaldo (Plaintiff)	
03/14/2018	56	Notice of appeal filed.  Applies To: Arias-Villano, Ana (Plaintiff); Gomez-Garcia, Noelia (Plaintiff); Perez-Hernandez, Beatriz (Plaintiff); Cervantes-Acosta, Adrian (Plaintiff); Pacheco-Herrera, David (Plaintiff); Morales-Matias, Edilmar (Plaintiff); Morales-Morales, Reynaldo (Plaintiff)	
04/05/2018	57	Notice to Court RE: NO transcript ordered	
04/11/2018	58	Appeal: Statement of the Case on Appeal (Cover Sheet).	
04/11/2018	59	Appeal: notice of assembly of record sent to Counsel	



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04/11/2018	60	Notice to Clerk of the Appeals Court of Assembly of Record . The record is assembled and emailed to the appeals court on 4/11/18 which includes a certified copy of the Docket Sheet, a copy of the Notice of Appeal, Notice of assembly of record and Statement of the Case.
04/26/2018	61	Party(s) file Stipulation for dismissal as to Plaintiff-Appellant Reynaldo Morales-Morales.  Applies To: Morales-Morales, Reynaldo (Plaintiff)
05/01/2018	62	Notice of Entry of appeal received from the Appeals Court

COMMONWEALTH OF MASSACHUSETTS

FRANKLIN, ss.

SUPERIOR COURT  
CIVIL ACTION  
No. 1578-CV-00088

ANA ARIAS-VILLANO, et. al.<sup>1</sup>

vs.

CHANG & SONS ENTERPRISES INC. & others<sup>2</sup>

**MEMORANDUM OF DECISION AND ORDER ON THE  
PARTIES' CROSS MOTIONS FOR SUMMARY JUDGMENT**

This is an action for declaratory judgment brought by the plaintiffs, ten workers previously employed by Chang & Sons Enterprises Inc., against the defendants, Chang & Sons Enterprises Inc. and its officers, Sidney Chang and Tso-Cheng Chang. The plaintiffs claim that the defendants failed to pay them overtime wages required by G. L. c. 151, §1A, for hours that the plaintiffs worked in excess of forty hours a week at the defendants' bean sprout growing facility. Both parties now move for summary judgment on the statutory interpretation of the agricultural exemption for payment of overtime wages, G. L. c. 151, §1A (19). For the reasons that follow, the defendants' Motion for Summary Judgment is **ALLOWED**, and the plaintiffs' Motion for Summary Judgment is **DENIED**.

**UNDISPUTED MATERIAL FACTS**

Chang & Sons Enterprises Inc. ("Chang") operates an indoor facility where bean sprouts are grown, cleaned, packaged, and loaded into trucks for distribution. More than 95% of Chang's annual revenue derives from the sale of bean sprouts. The bean sprouts grown on Chang's

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<sup>1</sup> Jorge Alvarez, Noelia Gomez-Garcia, Beatriz Perez-Hernandez, Marlyn Sosa-Saucedo, Edwin Merida-Lopez, Jacobo Lopez-Funes, Adrian Cervantes-Acosta, Florindo Alvarado-Argueta & David Pacheco-Herrera.

<sup>2</sup> Sidney Chang & Tso-Cheng Chang.

A TRUE COPY ATTEST

*Juan R. Mond*

Clerk of Courts

property are sold as bean sprouts. After the bean sprouts are grown, the bean sprouts are cleaned, packaged and taken to market on the Chang property. The sprouts are grown without the use of soil. The bean sprouts are unaltered before sale, aside from being cleaned. During the relevant time period, the facility operated all twelve months of the year, typically six days a week and fifteen hours a day. Tso-Cheng Chang is an officer of Chang and Sidney Chang is an officer of the company and the day-to-day manager of operations.

Chang bean sprouts are all grown indoors. The sprouts are grown in carefully controlled conditions, and the growing environment is sanitized. Sprouting took place in ten 15 x 50 square foot "growing rooms" in the 44,000-plus square foot facility. The sprouting process is automated so that only one or two workers are needed to feed the beans into the hopper of the pasteurization machine and hit the "start" button on the program to initiate the process. The machinery automatically discharges the beans into the containers where they sprout. None of the Plaintiffs ever fed the beans into the hopper of the pasteurization machine or operated the program that initiated the sprouting process.

The plaintiffs worked at Chang over differing periods of time between 2012 and 2015. They worked year round, often in excess of forty hours a week, and sometimes as much as seventy hours a week. The plaintiffs cleaned, inspected, sorted, weighed, and packaged bean sprouts. Almost all of their work was performed indoors.

The Plaintiffs did not work in the "growing rooms". The Plaintiffs fed bean sprouts onto a conveyer belt, packaged the bean sprouts into bags, boxed up bags of bean sprouts, and built boxes into pallets. Plaintiffs brought the pallets to the shipping docks and loaded them into the trucks. The Plaintiffs' duties included cleaning and maintenance.

The Plaintiffs worked in a “sanitized building”, and were required to change from their own shoes to wear work-issued footwear, and were required to wear disposable latex or plastic gloves when handling food products. The Plaintiffs worked year-round without seasonal variation in the number or hours worked or the nature of the tasks they performed for Defendants. The Plaintiffs never planted crops, applied fertilizers or cultivated soil. The Plaintiffs cleaned, inspected, sorted, weighed and packaged bean sprouts.

The outdoor tasks that Plaintiffs performed were limited to cleaning up after the growing and cleaning of bean sprouts which included discarding rotten and unusable bean sprouts in designated outdoor dump sites on Chang’s property.

The defendants paid the plaintiffs for every hour of work performed, but did not pay the plaintiffs an overtime rate of one-and-a-half times their normal rate of pay for hours worked in excess of forty a week.

## **DISCUSSION**

### **I. Standard of Review**

Summary judgment is appropriate when the material facts are undisputed and “the moving party is entitled to judgment as a matter of law.” Mass. R. Civ. P. 56 (c); *Godfrey v. Globe Newspaper Co., Inc.*, 457 Mass. 113, 118-119 (2010). To be successful, the moving party must either submit affirmative evidence that negates one or more elements of the other party’s claim or demonstrate that the opposing party has no reasonable expectation of proving an essential element of its case. See *Kourouvacilis v. General Motors Corp.*, 410 Mass. 706, 716 (1991). “[I]f the moving party shows that there is no issue for trial, the opposing party must respond and allege specific facts which establish that there is a genuine, triable issue, or summary judgment (if



appropriate in all other respects) will be entered against him.” *Community Nat’l Bank v. Dawes*, 369 Mass. 550, 554 (1976).

## **II. Overtime Wages and Exemptions Under G. L. c. 151, § 1A**

The plaintiffs assert that when they worked in excess of forty hours a week, the defendants did not pay them overtime wages as required under G. L. c. 151, § 1A. They further argue that they were not exempt employees under the overtime exemptions in the statute. The defendants contend that the plaintiffs were in fact exempt employees under the exemption for agriculture and farm laborers, G. L. c. 151, § 1A (19).

G.L. c. 151 addresses “Minimum Fair Wages.”. G.L. c. 151 § 1A specifically requires employers to pay employees who work over forty hours in a week at a rate of not less than one and a half their regular rate of pay for the hours worked over forty. G. L. c. 151, § 1A.

There are exemptions to this requirement for employees working in certain types of jobs. See *id.* One such exemption is for “any employee who is employed . . . as a laborer engaged in agriculture and farming on a farm.” G. L. c. 151, § 1A (19). “Generally, the party claiming an exemption from the provisions of a statute has the burden to show that it is entitled to the exemption.” *Goodrow v. Lane Bryant, Inc.*, 432 Mass. 165, 170 (2000). The parties agree that the only issue before the court on their cross motions for summary judgment is how to interpret the exemption language “engaged in agriculture and farming on a farm.”

## **III. Statutory Interpretation Standards**

“In interpreting a statute, we begin with its plain language, as the best indication of legislative intent.” *135 Wells Avenue, LLC v. Housing Appeals Committee*, 478 Mass. 346, 354 (2017) (quotations and citations omitted). “Where the language of a statute is inconclusive, courts must look to extrinsic sources for assistance in determining the correct interpretation of the statute,

including legislative history, analogous statutory material, and relevant case law.” *Commonwealth v. McLeod*, 437 Mass. 286, 290 (2002).

In particular, when a “statute does not effectively define [terms] . . . the Legislature should be supposed to have adopted the common meaning of the word, as assisted by a consideration of the historical origins of the enactment.” *Jancey v. School Comm. of Everett*, 421 Mass. 482, 490 (1995). “Where a term is not defined in a statute, the dictionary definition is helpful, but it should not be dispositive.” *135 Wells Avenue, LLC*, 478 Mass. at 354 (quotations and citations omitted). Ultimately, the court must “ascertain the intent of a statute from all of its parts, from the subject matter to which it relates, and . . . construe it so as to render the legislation effective, consonant with reason and common sense.” *Bay Colony Mktg. Co. v. Fruit Salad, Inc.*, 41 Mass. App. Ct. 662, 664–665 (1996). The parties have presented various arguments for how to interpret the language of this exemption, and what tools I should use to do so, which I address in turn.

#### **A. Application of G. L. c. 128, § 1A, and Cases Under the Fair Labor Standards Act**

The defendants urge the court to adopt an interpretation of “farming” and “agriculture” that incorporates the expansive definition of those terms in G. L. c. 128, § 1A,<sup>3</sup> a chapter of the General Law that concerns the regulation of various industries by the Department of Agriculture. They argue further that because this language in G. L. c. 128, § 1A, largely mirrors that in the overtime exemptions for agricultural workers under Federal law in the Fair Labor Standards Act (FLSA),<sup>4</sup>

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<sup>3</sup> “‘Farming’ or ‘agriculture’ shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, the raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.” G. L. c. 128, § 1A.

<sup>4</sup> “‘Agriculture’ includes farming in all its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural

the court should look to the extensive body of case law concerning the FLSA agriculture exemption.

The plaintiffs respond that the G. L. c. 128, § 1A, definition should not be applied to the language in the overtime payment statute because the two address non-analogous areas of law. They also assert that the legislative history of the overtime wages exemptions shows that the definition of agriculture from G. L. c. 128 was considered and explicitly left out from the final exemption language in G.L. c. 151. They contend that FLSA does not mirror the actual language of G.L. c. 151 and thus case law related to it should not be considered.

When a statute lacks definition of its terms, the court may look to “analogous statutory material” to assist in understanding their meaning. See *McLeod*, 437 Mass. at 290. G.L. c. 128 is broadly aimed at a variety of industries and activities, not all of which would necessarily be considered part of a traditional definition of “farming.” See G. L. c. 128, § 1A. Its purpose in defining “farming” and “agriculture” to further the regulation of activities these industries is conceivably different than that intended by G.L. c. 151 in requiring overtime payment and exempting a narrow set of professions from the requirements.

Furthermore, the agriculture exemption in Chapter 151 was enacted after both Chapter 128 and the nearly mirror image language of FLSA. See St. 1967, c. 0718, An Act Establishing Minimum Wage for Farm Workers and Providing for the Annual Inspection of Labor Camps (adding agriculture overtime exemption to c. 151); St. 1952, c. 0386, An Act Defining “Agriculture” and “Farming” (adding agriculture definition to c. 128); Fair Labor Standards Act

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commodities (including commodities defined as agricultural commodities in section 1141j(g) [2] of title 12), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market.” 29 U. S. C. § 203 (f).

of 1938, c. 676, 52 Stat. 1060 (1938) (defining agriculture for overtime exemption). The Legislature had the opportunity to adopt this language in G.L. c. 151 and its choice not to do so appears to have been purposeful. See *Casseus v. Eastern Bus Company, Inc.*, No. SJC-12315, slip op. at 20 (Sup. Jud. Ct. February 9, 2018) (“Without a clear indication that the Legislature based the [ ] exemption on the Federal [ ] overtime exemptions, Federal construction of these exemptions cannot be imported into Massachusetts law”); *Globe Newspaper Co. v. Boston Retirement Bd.* 388 Mass. 427, 432-433 (1983) (“[I]f the language of a statute differs in material respects from a previously enacted analogous Federal statute which the Legislature appears to have considered, a decision to reject the legal standards embodied or implicit in the language of the Federal statute may be inferred”).

The plain language in the agriculture exemption in G.L. c. 151 is very different from that in FLSA, unlike the provisions of G.L. c. 151 at issue in past cases where courts applied FLSA regulations and case law. See, e.g., *Goodrow v. Lane Bryant*, 432 Mass. 165, 171-172 (2000) (examining federal regulations because exemption for “executive” identical to federal exemption). When the language in FLSA and a Massachusetts overtime exemption is not “nearly identical,” Massachusetts courts need not interpret the Massachusetts exemption according to Federal law under FLSA. See *Casseus*, No. SJC-12315 at 25-26.

For all the above reasons, the court is not persuaded that the expansive definitions of “farming” and “agriculture” from Chapter 128 should be applied to Chapter 151 or that the application of FLSA case law is appropriate in this instance. As noted below, this does not change the outcome for this case.

## **B. Statutory Interpretation of G. L. c. 151, § 1A (19)**

The question facing the court is whether the plain meanings of “farming” and “agriculture” in Chapter 151 include activities like cleaning and packaging produce for market, and whether indoor non-soil based growing facilities can constitute “farms” under the statute. The plaintiffs contend that the definitions do not include these tasks and that the facility at issue does not fall under a common understanding of a “farm.” The defendants respond that defining “engaged in farming or agriculture on a farm” not to include activities preparing produce to leave the farm for sale would be a confusing and unreasonable conclusion.

The exclusion of these activities from the overtime exemption cannot be justified under the common meaning and understanding of “agriculture.” See *Jancey*, 421 Mass. at 490 (“when a statute does not effectively define [terms] the Legislature should be supposed to have adopted the common meaning of the word . . .”). Merriam-Webster Dictionary defines agriculture as “the science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products.” Merriam-Webster’s Collegiate Dictionary (11<sup>th</sup> ed. 2005).

The court declines to draw an artificial and potentially confusing line in the sand for exemptions between actions taken to grow and harvest produce, and cleaning and packaging it for sale; at the same location. See *Bay Colony Mktg. Co.*, 41 Mass. App. Ct. at 664-665 (court must construe statute “so as to render the legislation effective, consonant with reason and common sense”).

As to whether the plaintiffs were working on a “farm,” Merriam-Webster Dictionary defines a farm, in part, as “a tract of land devoted to agricultural purposes.” Merriam-Webster’s Collegiate Dictionary (11<sup>th</sup> ed. 2005). Utilizing this literal interpretation, however, would

potentially exclude producers of a number of crops not grown in traditional fields from overtime exemptions, a result that is not consonant with the clear purpose of the statute. See *135 Wells Avenue, LLC* 478 Mass. at 354 (“Where a term is not defined in a statute, the dictionary definition is helpful, but it should not be dispositive”).

Here, the plaintiffs engaged in agriculture on the premises where the rest of the agricultural activities took place, rather than at a removed processing location. Working on a farm (i.e. to be “farming”) entails far more than scratching in the dirt and physically removing crops from live plants in a field under the sun. Farmers in the true sense of the word are responsible for everything from planning the crop, selecting the seeds, operating complex machinery, deciding when and how much to plant, fertilizing, growing, harvesting, transporting the harvested crops to a central location, and preparing the crops for distribution and everything conceivable in between. From the language of the statute, the terms “farming” and “agriculture” are broad, and intentionally so.


The court is not convinced that the Legislature intended to preclude new and innovative farming techniques, like those employed by Chang, from the broad and inclusive words “farming,” “agriculture,” and “farm.” Indeed, by using such broad language it can reasonably be concluded that the Legislature foresaw advances in farming. The field of farming, like much else in our society, has changed over the years and will continue to do so in the future.

The court concludes that the plaintiffs were working “on a farm” within the meaning and intent of the statute. See G. L. c. 151, § 1A (19). Accordingly, the plaintiffs were subject to the overtime wages exemption in G. L. c. 151, § 1A (19) and are not entitled to payment of overtime wages by the defendants.

**ORDER FOR JUDGMENT**

For the foregoing reasons, the Defendants' Motion for Summary Judgment is  
**ALLOWED** and the Plaintiffs' Motion for Summary Judgment is **DENIED**.

Dated: February 12, 2018

  
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Michael K. Callan  
Justice of the Superior Court