

March 23, 2020

Mayor Sam Liccardo and Councilmembers City of San Jose, City Council 200 East Santa Clara Street San Jose, CA 95113

Re: Paid Sick Leave Proposal

Dear Mayor Liccardo and City Councilmembers,

The California Restaurant Association is the definitive voice of the food service community in California and the oldest restaurant trade association in the nation. On behalf of the restaurants in San Jose, we must express our opposition to the proposal to mandate 80 hours of paid sick leave. California and the federal government already have requirements for paid sick leave programs in place. Creating any new additional program at the local level would be a costly burden for restaurants already struggling with financial hardship due to the loss of customers during the COVID-19 pandemic.

Under existing California law, all employers are already providing their employees who have worked in California for 30 or more days with 24 hours of paid sick leave, at an accrual rate of one hour for every thirty hours worked. This leave applies to all employees including temporary, seasonal and part-time employees. California has a myriad of protective leave programs including the Paid Family Leave program, which allows an employee to obtain partial wage replacement for up to six weeks to care for an immediate family member or to bond with a new child entering the family.

Additionally, Congress passed, and the President signed into law the Emergency Paid Sick Leave Act which creates new emergency paid sick leave obligations for employers across the United State in response to the coronavirus. The Act applies to employers with fewer than 500 employees and an employee is immediately eligible for this leave. Full time employees are provided with 80 hours of paid leave and part time employees a two-week average of paid sick leave, on top of any other existing paid leave program, to quarantine or seek a diagnosis or preventative care for COVID-19. If the employee is absent to care for a sick family member or a child unable to attend school, they are compensated at two-thirds of the rate they would otherwise receive. Employers will receive a 100% tax credit for all wages that are paid. As we respond to COVID-19 with measures to protect the public health and mitigate the spread of the virus, restaurants are experiencing the unprecedented financial impacts of these measures. In response to the Governor's Emergency Orders restaurants have closed their doors, closed their dining rooms and moved what operations they can to delivery and carry out. As a result, customer traffic and sales have plummeted. The impact of these changes to restaurant operations have been devastating in an industry that is uniquely characterized by razor-thin economic margins. A restaurant owner typically only keeps about five cents to every dollar they make in sales. That means an owner earns about \$50,000 for every \$1 million in sales. Restaurants in today's crisis environment will not have revenue matching costs.

Restaurants need help from their local governments to survive these financially perilous time. Instead of creating new unnecessary sick paid leave employment mandates, we urge you to consider measures to help restaurants, such as eviction protections and delayed licensing and fee payments. These and other local policies could help the restaurant community "hibernate" during this crisis and, hopefully, emerge as local employers and continue as the fabric of the San Jose community. Please feel free to contact me with any questions at (

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Sincerely	7	
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Katie Hansen Senior Legislative Director California Restaurant Association



From: Constaneda Const

[External Email]

Dear District 8 City Council Member Sylvia Arenas,

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

During a public health emergency such as the one we're experiencing now, it is critical that all workers have access to paid sick leave, regardless of how much they have accrued, in order to protect our communities. Having access to adequate paid sick leave is not only good for workers – it's a critical component to protecting public health. Many of those who don't have access to paid sick leave work in service jobs that commonly interact with the public, such as food service and grocery workers.

Cities across California—from Oakland and San Francisco to Los Angeles and San Diego—have passed common-sense paid sick leave protections for all workers with minimal disruptions for businesses. As recent events have taught us, it is essential that everyone has access to robust paid sick leave benefits before the next public health emergency strikes. Doing so limits interruptions to essential services and infrastructure during a critical time.

Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Doreen Castaneda From: ron benson

Sent: Tuesday, March 24, 2020 8:50 PM

To: The Office of Mayor Sam Liccardo <TheOfficeofMayorSamLiccardo@sanjoseca.gov>; Agendadesk <Agendadesk@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District1 <district1@sanjoseca.gov> Cc: ron benson

Subject: Proposed GX sick leave mandate

Dear Mayor Liccardo, Vice Mayor Chappie Jones , Councilmember Dev Davis, Councilmember Sylvia Arenas, Councilmember Johnny Khamis ,

I am very concerned that at this time where small businesses are struggled with shutdowns and big losses of income, that many small businesses will most likely not survive, the the city council is moving to have businesses pay for 2 weeks of sick pay for employees.

I thank you for your concern of people, and their potential loss of income, should they become sick and I ask that you also consider these small businesses that employ them.

Small businesses are the backbone of our country. Many of them struggle to meet their overhead and simply stay open. Even without this mandate, I fear you will see the downtown dead again for who knows how long as the restaurants, bars, gyms, store may simply fold from the financial burden that this closure is causing. There are many businesses in Berryessa that are closed and may never return if this continues for even a short while. Do you feel these small business owners have huge profits that will see them through?

Your efforts right now might be better placed at helping us find funding that allows us to simply survive at this time so we can continue to operate and employ the very people you are trying to help.

My employees and I pay for unemployment insurance and disability insurance for my employees for this reason. I am doing everything I can to keep them employed. As I said, this will be the last straw for many small businesses. I urge you to think about the impact on small businesses this mandate will have.

Thank you. Dr. Ron Benson DC Berryessa Chiropractic From: Hopkins & Carley
Sent: Friday, March 20, 2020 4:00 PM
To: Connolly, Shane Patrick <shane.connolly@sanjoseca.gov>
Subject: COVID-19 Update: Recent Legal Developments Impacting Employers



March 20, 2020

COVID-19 Update: Recent Legal Developments Impacting Employers

As employers continue to brace for the full impact of COVID-19 on their operations, Hopkins & Carley is working diligently to track recent developments and changes in the law that will affect your workplace. This update addresses the following: (1) Governor Newsom's March 19, 2020 Executive Order restricting business operations; (2) Changes to the Cal-WARN Act requirements for advance notice of mass layoffs, relocations, or termination; (3) Guidance from the EEOC addressing employee wellness concerns; and (4) The Emergency Paid Sick Leave Act and the Emergency Family Medical Leave Act signed by President Trump on March 18, 2020.

Please keep in mind that the legal landscape is changing daily, and those changes will likely affect the information provided below. Our Employment Law Department is here to help.

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California's "Stay Home" Order:

On March 19, 2020, Governor Newsom signed Executive Order N-33-20, ordering that all residents to stay home except as needed to maintain continuity of operations of 16 designated federal critical infrastructure sectors because of the importance of these sectors on Californians' health and wellbeing. Individuals working in these 16 sectors may continue their work, but all others are advised to stay home. The 16 sectors are identified as:

- Chemical Sector
- Commercial Facilities Sector
- Communications Sector
- Critical Manufacturing Sector
- Dams Sector
- Defense Industrial Base Sector
- Emergency Services Sector
- Energy Sector

- Financial Services Sector
- Food and Agriculture Sector
- Government Facilities Sector
- Healthcare and Public Health Sector
- Information Technology Sector
- Nuclear Reactors, Materials, and Waste Sector
- Transportation Systems Sector
- Water and Wastewater Systems Sector

More information about the scope of each sector can be found <u>here</u>. It is imperative for employers to determine whether their current business operations fall within one of the designated sectors, and if not, begin planning for either telecommuting work (where feasible) or a reduction in operations. Employers should also continue to abide by local quarantine/shelter-in-place orders, which are more restrictive than the Governor's order in some respects.

Cal-WARN Act and Reducing Operations:

On March 17, 2020, Governor Newsom signed Executive Order N-31-20, suspending advance notice provisions under California law for mass layoffs, relocations, or terminations (the "Action"). Under the Executive Order, employers are not required to give 60 days' advance notice of an Action, provided the following conditions are satisfied:

 The employer gives written notice of the layoff, relocation, or termination to (a) employees affected by the Action, (b) the Employment Development Department (EDD), (c) the local workforce investment board, and (d) the chief elected official of each city and county government within which the Action occurred.

- 2. The employer gives as much notice as practicable and, at the time notice is given, provides a brief statement of the basis for reducing the notification period.
- 3. The Action must be caused by COVID-19 related "business circumstances that were not reasonably foreseeable as of the time that notice would have been required."
- 4. The written notice of the Action provided to the individuals in section 1.(a) above (if issued after March 17, 2020) must include the following statement: "If you have lost your job or been laid off temporarily, you may be eligible for Unemployment Insurance (UI). More information on UI and other resources available for workers is available at labor.ca.gov/coronavirus2019."

Addressing Employee Wellness Concerns:

The EEOC has clarified that although the Americans with Disabilities Act (ADA) and Rehabilitation Act continue to apply, they do not interfere with or prevent employers from following the CDC guidelines, or those of state/local public health authorities. The EEOC answered the following specific questions. Note, however, that this is based on current CDC guidance, and thus is subject to change if the CDC guidance changes.

- How much information may an employer request for an employee who calls in sick? The employer may ask if the employee is experiencing symptoms of COVID-19. All medical information must be kept confidential.
- Can an employer take the body temperature of an employee? Yes, but it is limited to the COVID-19 pandemic.
- Can an employer require an employee with symptoms to stay home? Yes.
- Can the employer require a doctor's note certifying fitness for duty before allowing the employee to return? Yes, but given health care professionals are operating over capacity and it may be difficult for an employee to obtain a doctor's note, employers may consider alternate options such as reliance on local clinics to provide a form, a stamp, or an e-mail.
- If an employer is hiring, can it screen applicants for symptoms of COVID-19? Yes, as long as it does so for all entering employees in the same type of job.
- Can the employer delay the start date or rescind the offer if the employee has COVID-19 or symptoms of it? Yes.

Emergency Paid Sick Leave Act:

On March 18, 2020, President Trump signed into law the Emergency Paid Sick Leave Act. The Act requires **employers who have fewer than 500 employees** and who are subject to the Fair Labor Standards Act (which includes most employers) to provide **every employee** (no matter how long they have been employed) with **two weeks of paid sick leave** that can be used when the employee is unable to work **for any of the following 6 reasons**:

- 1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- 2. The employee has been advised by a health care provider to selfquarantine due to concerns related to COVID-19;
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2);
- The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions; or
- 6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

At present, the Act takes effect on April 2, 2020, and expires on December 31, 2020.

The Act places monetary caps on compensation for certain uses of paid sick leave. For employees using sick leave under reasons (1), (2), or (3), employers can cap payments at \$511 per day and \$5,110 in the aggregate. For employees using sick leave under reasons (4), (5), or (6), employers can cap payments at \$200 per day and \$2,000 in the aggregate.

Employers will be required to post a Secretary-of-Labor-approved notice, which is expected to be available by March 25, 2020.

Emergency Family Medical Leave Expansion Act:

On March 18, 2020, President Trump also signed into law the Emergency Family Medical Leave Expansion Act. The Act requires **employers who have fewer than 500 employees** and who are subject to the Fair Labor Standards Act (which includes most employers) to provide certain employees with 12 weeks paid, job-protection leave. The leave is limited to situations where the employee is unable to work (or telework) due to a need to care for their son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

At present, the Act takes effect on April 2, 2020, and expires on December 31, 2020.

Only employees who have been employed for at least 30 calendar days may take leave under this Act.

The first 10 days of this leave can be unpaid, although an employee may elect to substitute accrued vacation leave, personal leave, or medical or sick leave for this initial unpaid leave period if they desire. After the initial 10-day period, the employer must pay the employee at a rate of not less than two-thirds of the employee's "regular rate of pay" for an amount of hours the employee would otherwise normally be scheduled to work. Compensation for the paid leave required by this Act is capped at \$200 per day, and \$10,000 in the aggregate.

The Secretary of Labor has the authority to exempt small businesses (defined as those with fewer than 50 employees) if the required leave would jeopardize the viability of their business. Employers of health care providers or emergency responders may elect to exclude such employees from the provisions of the Act.

<u>Click here for a comprehensive summary of both the **Emergency Paid Sick** Leave Act and Emergency Family Medical Leave Expansion Act.</u>

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Ernest M. Malaspina Richard M. Noack Daniel F. Pyne III Associates Shirley Jackson Sean Bothamley



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PRESIDENT & CEO Matthew R. Mahood The Silicon Valley Organization March 25, 2020

Mayor Sam Liccardo and City Council City of San Jose 200 East Santa Clara Street San Jose, CA 95113

RE: Paid Sick Leave Ordinance

Dear Mayor Liccardo and Members of the City Council:

On behalf of The Silicon Valley Organization (The SVO), I am writing to support Mayor Liccardo's memorandum to strengthen existing paid sick leave policies that will protect both workers and small businesses. By way of background, we are the Silicon Valley's premier business advocacy organization representing nearly 1,200 local companies that employ nearly 300,000 local workers. We represent our membership as the region's largest Chamber of Commerce.

In order to comply with necessary "shelter at home" orders to stem the tide of a global pandemic, many restaurants and small businesses have seen their customer base disappear overnight. Without a holistic public policy approach to protect both small businesses and workers, we will approach the brink of a deep economic recession with no end in sight. Restaurants and small businesses simply cannot handle costly new mandates in this time of crisis. Without a pragmatic paid sick leave policy, we will see more mass layoffs and jobs eliminated, which will ultimately hurt workers over the long term.

Mayor Liccardo's proposal is a pragmatic and sensible solution to keep sick workers at home, without forcing them to choose between their wages or slowing the spread of COVID-19; yet avoids crushing small businesses at the same time. The Mayor's memorandum clearly defines that the enhanced paid sick leave ordinance would only apply during the City's state of emergency declaration and would apply to essential businesses that are legally allowed to operate. Furthermore, the policy approach is complimentary to federal assistance packages for small businesses, such as: refundable business tax credits, low-interest SBA loans, and other federal stimulus funding efforts.

As you move forward with this policy, we urge you to clearly define small business exemptions of the ordinance to employers with 50 FTE equivalent or less positions. Furthermore, small restaurants should be exempted from the ordinance, as they would be unable to pay for the costly mandate given that their customer base has essentially dried up. Thank you for the consideration of our comments. If you have any questions about The SVO's position on this policy issue, please contact Eddie Truong, Director of Government & Community Relations, at (408) 291-5267.

Sincerely,

Matthew R. Mahood President & CEO

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

During a public health emergency such as the one we're experiencing now, it is critical that all workers have access to paid sick leave, regardless of how much they have accrued, in order to protect our communities. Having access to adequate paid sick leave is not only good for workers – it's a critical component to protecting public health. Many of those who don't have access to paid sick leave work in service jobs that commonly interact with the public, such as food service and grocery workers.

Cities across California—from Oakland and San Francisco to Los Angeles and San Diego have passed common-sense paid sick leave protections for all workers with minimal disruptions for businesses. As recent events have taught us, it is essential that everyone has access to robust paid sick leave benefits before the next public health emergency strikes. Doing so limits interruptions to essential services and infrastructure during a critical time.

Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Mary Bianchi

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Victor Pastrana

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Sally Lieber

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Georgina Guevara

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Alejandro Elo

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, christina venegas

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

During a public health emergency such as the one we're experiencing now, it is critical that all workers have access to paid sick leave, regardless of how much they have accrued, in order to protect our communities. Having access to adequate paid sick leave is not only good for workers – it's a critical component to protecting public health. Many of those who don't have access to paid sick leave work in service jobs that commonly interact with the public, such as food service and grocery workers.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Lionel Narvaez

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Shelby Medrano

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Fi Kazi

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Stacey Silva

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, MILA YBARRA

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Ryan ThurwachterKing

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Candice Paredez

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, julie yracheta

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Madison Rubia

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

During a public health emergency such as the one we're experiencing now, it is critical that all workers have access to paid sick leave, regardless of how much they have accrued, in order to protect our communities. Having access to adequate paid sick leave is not only good for workers – it's a critical component to protecting public health. Many of those who don't have access to paid sick leave work in service jobs that commonly interact with the public, such as food service and grocery workers.

Cities across California—from Oakland and San Francisco to Los Angeles and San Diego—have passed common-sense paid sick leave protections for all workers with minimal disruptions for businesses. As recent events have taught us, it is essential that everyone has access to robust paid sick leave benefits before the next public health emergency strikes. Doing so limits interruptions to essential services and infrastructure during a critical time.

Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Ajay Parmanand

I am writing to urge the San José City Council to approve the Paid Sick Leave Ordinance proposed by Councilmembers Arenas, Carrasco, and Esparza.

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Please pass the Paid Sick Leave Ordinance for the good of our entire community.

Sincerely, Lisa Buuck

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Sincerely, Katrina Lalowski

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Sincerely, Glenn Morton

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Sincerely, Lydia Torres

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Sincerely, Kimberly Krueger

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Sincerely, Jovanna Ponco

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Sincerely, Andrea Elisondo Guizar

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Sincerely, Erika Aldama

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Sincerely, Kathleen Harrison

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Sincerely, Ruben Armas

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Sincerely, Monica Jacoby

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Sincerely, Rachel Jung

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Sincerely, Fabiola Yvonne Fernandez

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Sincerely, MARIBEL BALIZA

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Sincerely, Leonardo Foster

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Sincerely, Ryan Oyama

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Sincerely, irma perez

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Sincerely, Kristina Escobar

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Sincerely, teresa silveira

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Sincerely, Jennifer Couture

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Sincerely, valerie padilla

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Sincerely, Tania Herrera

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Sincerely, Jessica Neideffer

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Sincerely, Cindy Rodriguez

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Sincerely, Nicole Jorgensen

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Sincerely, Diana Gomez