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PRESS RELEASE

For Immediate Release

Date: January 13, 2010
Re: People v. Hershey

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Modesto, California - Stanislaus County District Attorney Birgit Fladager announced today that a resolution was reached with Hershey Chocolate and Confectionery Corporation ("Hershey") arising from a March 24, 2007, incident at their Oakdale factory. The People agreed to dismiss the pending criminal case against Hershey in which Hershey was charged with violating Labor Code Section 6425(a), in exchange for a civil resolution pursuant to California's Unfair Competition Law, Business and Professions Code Sections 17200, et seq..

In the civil resolution, without admitting fault, Hershey agreed to pay a penalty of \$125,000 to the Stanislaus County District Attorney's Office for consumer protection and pay direct restitution to Erica Domen. Ms. Domen is the Hershey employee whose left arm was amputated while she was cleaning a machine whose energy source had not been locked and tagged out as required by Title 8 of the California Code of Regulations and by Hershey's own Injury and Illness Prevention Program. Hershey is also permanently enjoined from intentionally violating the pertinent Title 8 regulations involved in the case. Per the stipulated judgment, signed by the Honorable William A. Mayhew, Judge of the Superior Court, and entered on December 30, 2009, Hershey has 30 days from the date of entry of judgment to pay the penalty and restitution.

This resolution was arrived at in conjunction with a resolution of the related Cal-OSHA administrative action then pending against Hershey. Following the injury to Ms. Domen, Cal-OSHA cited Hershey for two willful violations of Title 8 and fined Hershey \$70,000 for each of the violations. Hershey appealed these fines to the Occupational Safety and Health Appeals Board and a hearing date was scheduled for January 12, 2010. Cal-OSHA and Hershey reached a resolution wherein Hershey admitted one willful violation for a fine of \$70,000 and admitted one serious, but non-willful, violation for an additional fine of \$18,000.

Thus, Hershey has agreed to pay a total of \$313,000 in fines, penalty, and restitution. Previously, Ms. Domen reached a settlement of her workers compensation claim. Terms of the settlement included an immediate, lump sum payment of almost \$300,000, a monthly payment of \$5,000 for the rest of her life, and three prostheses.