

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

GIZELLE RIVERA.,

Plaintiff,

v.

VEGA-ALBELA, INC., dba
HACIENDA DE VEGA, and ALONSO VEGA-
ALBELA, and DOES 1 through 100, inclusive,

Defendants.

Case No.: 37-2020-00000626-CU-OE-NC

[UNLIMITED CIVIL]

**STIPULATION AND ~~[PROPOSED]~~ ORDER
APPROVING OF PAGA SETTLEMENT**

Judge: Jacqueline M. Stern
Dept: N-27
Complaint Filed: January 6, 2020
Trial Date: None Set

Plaintiff, Gizelle Rivera, and Defendants, Vega-Albela, Inc. and Alonso Vega-Albela,
stipulate as follows:

Whereas, on January 6, 2020, Plaintiff Gizelle Rivera filed the Complaint alleging claims under the Private Attorney General Act (PAGA), failure to pay minimum wage, failure to pay overtime wages, failure to provide rest and meal breaks, unlawful deduction of wages, unlawful taking of gratuity, failure to provide proper wage statements and keep records, waiting time penalties and unfair business practices. Defendants, though they have not answered the complaint, deny all liability, and dispute all claims made by Plaintiff on her own behalf and on behalf of the alleged aggrieved class of previous and current employees. Regardless of this denial and in light of the

1 current global pandemic situation which leaves Defendants in a very precarious financial position,
2 the parties believe that it is best to settle this matter fully and completely at this time.

3 Whereas, Labor Code § 2699, subdivision (l), provides that [t]he superior court shall review
4 and approve any penalties sought as part of a proposed settlement agreement pursuant to [PAGA].
5 The relief provided in a PAGA settlement must be genuine and meaningful, consistent with the
6 underlying purpose of the statute to benefit the public. (*Villalobos v. Calandri Sunrise Farm LP* (C.D.
7 Cal., July 22, 2015, No. CV122615PSGJEMX) 2015 WL 12732709, at *13.) A settlement may be
8 substantially discounted, however, given that courts often exercise their discretion to award PAGA
9 penalties below the statutory maximum even when a claim succeeds a trial. (See *Viceral v. Mistras*
10 *Group, Inc.* (N.D. Cal., Oct. 11, 2016, No.15-CV-02198-EMC) 2016 WL 5907869, at *8-9) and
11 *Matter of Nordstrom Com. Cases* (2010) 186 Cal.App.4th 576, 590.)

12 Whereas, the Parties have entered into an agreement to resolve the disputes between them and
13 dismiss the lawsuit without prejudice (the "Settlement Agreement.") The settlement terms include
14 \$7,000.00 to Plaintiff, Gizelle Rivera, \$10,000.00 to Plaintiff's counsel in statutory attorneys' fees
15 and costs, and \$4,000.00 in penalties to be paid \$3,000.00 to the LWDA and \$1,000.00 to the putative
16 aggrieved employees. Defendants have also raised all employees to the minimum wage for an
17 employer with 26 or more employees and reimbursed all employees underpaid in 2019. A copy of
18 the Settlement Agreement was provided with the moving papers for the court's review.

19 Whereas, in light of the current COVID-19 pandemic that caused the closure of Defendants'
20 dining room business and left it with only a partial takeout and delivery business, a settlement or
21 judgment in excess of this amount could conceivably cause the shutdown of two restaurants in San
22 Diego County and the permanent loss of jobs to dozens of employees.

23 **IT IS HEREBY STIPULATED AND AGREED THAT:**

24 1. Based on the foregoing, the Settlement Agreement sets forth a fair and equitable
25 compromise of Plaintiff's claims against Defendants.

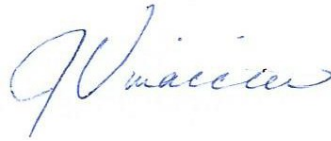
26 2. Given the economic realities, it would be unjust, arbitrary, and oppressive, or
27 confiscatory to require Defendants to pay more than \$4,000.00 in PAGA civil penalties to the to
28 resolve the PAGA claim.

1 3. That the continued costs of litigating and proving Plaintiff's claims could force
2 Defendants into bankruptcy as a result of the destruction COVID-19 restrictions have caused to the
3 restaurant industry.

4 4. The parties jointly submit the Settlement Agreement at Exhibit 1 of the Declaration of
5 Jacqueline S. Vinaccia for approval by this court in compliance with Labor Code § 2699, subdivision
6 (l).

9 DATED: June 4, 2020

VANST LAW, LLP



By: _____

JACQUELINE S. VINACCIA
Attorneys for Defendants
VEGA-ALBELA, INC., dba HACIENDA DE
VEGA, and ALONSO VEGA-ALBELA

16 DATED: June 4, 2020

W LAW



By: _____

JASON WHOOPER
Attorneys for Plaintiff GIZELLE RIVERA

ORDER

IT IS HEREBY ORDERED THAT:

1. Based on the foregoing stipulation and in exercise of the court's discretion in this matter, the Court approves the PAGA Settlement.

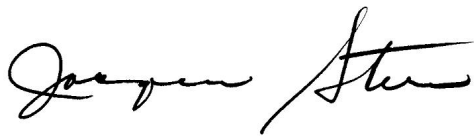
2. As set forth in Section V(D) of the Settlement Agreement, Plaintiff shall provide Defense Counsel a fully-executed Request for Dismissal with prejudice of the Action as to all parties and all causes of action and Defendant may file the Request for Dismissal after paying the Settlement Sum.

3. The parties agree that Court retains jurisdiction over the execution of the settlement pursuant to Code of Civil Procedure § 664.6.

4. Counsel for Defendants' shall file a declaration with the Court no later than October 1, 2020 confirming that Defendants sent a \$3,000 PAGA civil penalties payment to the Labor and Workforce Development Agency ("LWDA") and \$1,000 in PAGA civil penalties payments to allegedly aggrieved employees, totaling \$4,000.

IT IS SO ORDERED.

DATED: 6/18/20

By: 
HON. JACQUELINE M. STERN
Judge of the Superior Court