

07/02/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: J. Marquez Deputy

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Attorneys for Plaintiff,
ESTEFANIA DOMINGUEZ

**SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

ESTEFANIA DOMINGUEZ, an individual,

Plaintiff,

v.

HORIZON PERSONNEL SERVICES, INC.,
a California corporation; FRESHMEX USA, a
California corporation; and DOES 1 through
20, inclusive,

Defendants.

Case No. 20STCV29647

*Assigned to the Honorable Judge Mel Red Recana;
Department 45*

**JOINT STIPULATION OF DISMISSAL OF
PLAINTIFF'S PAGA CLAIMS WITHOUT
PREJUDICE; AND ~~PROPOSED~~ ORDER**

State Action Filed: August 6, 2020
Arb. Trial Date: None Set

Plaintiff ESTEFANIA DOMINGUEZ ("Plaintiff"), by and through their attorneys of record,
Law Offices of Ramin R. Younessi, a Professional Law Corporation, and Defendant HORIZON
PERSONNEL SERVICES, INC. ("Defendant") (collectively referred to as "the parties"), hereby
stipulate and agree as follows:

WHEREAS, a settlement in this case was reached on May 17, 2021 pursuant to formal mediation
between the parties;

WHEREAS the parties reached an agreement to resolve Plaintiff's individual claims for a
confidential amount which does not include any resolution of Plaintiff's Private Attorney General Act
("PAGA") claims. As such, Plaintiff no longer wishes to pursue the PAGA causes of action.

WHEREAS, Plaintiff did not receive any discovery to identify other aggrieved employees or
notify other aggrieved employees as to this lawsuit.

1 WHEREAS, Plaintiff has not sought the express consent of other aggrieved employees to pursue
2 this lawsuit on their behalf.

3 WHEREAS, Plaintiff has not given other aggrieved employees the opportunity to opt-out of
4 Plaintiff's representation in this matter.

5 WHEREAS, this stipulation to dismiss the PAGA claims without prejudice shall be served to the
6 California Labor Workforce ("LWDA") at the same time that it is submitted to this Court.

7 WHEREAS, this Court may determine that the rights of other aggrieved employees will not be
8 prejudiced for two significant reasons. *First*, unlike class actions where the class Plaintiff prosecutes the
9 action on behalf of the putative class members, Plaintiff here did *not* prosecute the action on behalf of
10 the similarly-aggrieved employees. In PAGA claims, the Plaintiff employee prosecutes on behalf of the
11 Labor Commission; the similarly-aggrieved employees have no private right of action in those penalties
12 and no entitlement to them. *Rope v. Auto-Chlor System of Washington, Inc.* (2013) 220 Cal.App.4th
13 635, 650¹ ["In PAGA, the Legislature created an enforcement mechanism for aggrieved employees to
14 file representative actions to recover penalties in cases in which there is no private cause of action as an
15 alternative to enforcement by the Labor Commissioner"]; *Arias v. Superior Court* (2009) 46 Cal.4th
16 969, 980–987, 95 Cal.Rptr.3d 588, 209 P.3d 923 [PAGA suit is a representative action and need not be
17 brought as a class action]. *Second*, there has been no discovery as to the identities of other aggrieved
18 employees, nor has notice of this action been provided to other aggrieved employees. Thus, the parties
19 are not aware of any other aggrieved employees who have any expectations of recovery of any kind in
20 this case, and to the extent any of them wish, in the future, to pursue their own claims, they have the
21 right to do that.

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28 ¹ Superseded by statute on unrelated ground.

1 THE PARTIES THEREFORE stipulate and jointly request that the Court dismiss Plaintiff's
2 Thirteenth cause of action of the complaint for PAGA penalties without prejudice.

3
4 DATED: June 22, 2021

**LAW OFFICES OF RAMIN R. YOUNESSI
A PROFESSIONAL LAW CORPORATION**

6 By:


Ramin R. Younessi, Esq.
Jason J. Buccat, Esq.
Irina Aleksanyan, Esq.
Attorney for Plaintiff,
ESTEFANIA DOMINGUEZ

10
11 DATED: June 22, 2021

**OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.**

14 By:


Christian Keeney, Esq.
Patricia A. Matias, Esq.
Robert R. Vorhees, Esq.
Attorneys for Defendant,
HORIZON PERSONNEL SERVICES,
INC.

[PROPOSED] ORDER

The Court, having considered the Parties' Joint Stipulation, and all legal authorities in support thereof, and good cause appearing therefore, **HEREBY ORDERS** that Plaintiff's thirteenth cause of action of the complaint for penalties pursuant to the Private Attorneys General Act ("PAGA") is dismissed without prejudice.

IT IS SO ORDERED.

DATED: 07/02/2021



A handwritten signature in black ink, appearing to read "Mel Red Recana", is written over the printed name.

Mel Red Recana / Judge
THE HONORABLE MEL RED RECANA

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
4 not a party to the within action. My business address is 3435 Wilshire Boulevard, Suite 2200, Los
Angeles, California 90010.

5 On June 22, 2021, I served the foregoing document described as **JOINT STIPULATION OF**
6 **DISMISSAL OF PLAINTIFF'S PAGA CLAIMS WITHOUT PREJUDICE; AND [PROPOSED]**
7 **ORDER** on the interested parties in this action as follows:

8 Christian Keeney, Esq.
9 Patricia A. Matias, Esq.
10 Ogletree, Deaskins, Nash, Smoak
& Stewart, P.C.
11 Park Tower, Fifteenth Floor
12 695 Town Center Drive
Costa Mesa, CA 92626
Christian.keeney@ogletree.com
Patricia.matias@ogletree.com

Attorneys for Defendant,
HORIZON PERSONNEL SERVICES, INC.

13 ☒ ONLY BY ELECTRONIC TRANSMISSION. Only by e-mailing the document(s) to the persons
14 at the e-mail address(es) listed. During the Coronavirus (COVID-19) pandemic, this office will be
working remotely, not able to send physical mail as usual, and is therefore using only electronic mail.
15 No electronic message or other indication that the transmission was unsuccessful was received within a
reasonable time after the transmission.

16 ☒ BY ELECTRONIC SERVICE: Pursuant to SB 836, I electronically filed a copy of the
document with California Labor & Workforce Development Agency Only.

17 Executed on June 22, 2021, at Los Angeles, California.

18 ☒ STATE I declare under penalty of perjury under the laws of the State of California
19 that the foregoing is true and correct.

20 ☐ FEDERAL I declare that I am employed in the office of a member of the bar of this
21 Court at whose direction the service was made.

22 Raphael Moreno

