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Attorneys for Plaintiffs JOSE VELAZQUEZ, and
HAROUTIOUN D. TUFENKJIAN

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JOSE VELAZQUEZ, and HAROUTIOUN D.
TUFENKJIAN, and on behalf of the general
public as private attorneys general,

Plaintiffs,

v.

KERMANIG, INC., a California Corporation,
and KERMANIG, LLC, a California Limited
Liability Company, HK STAFFING
AGENCY, INC., and DOES 1-50, inclusive,

Defendants.

Case No. 20STCV17127
Assigned for all Purposes to:
Hon. Armen Tamzarian
Dept. 52

**[PROPOSED] ORDER AND
STIPULATION APPROVING
SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS,
DISMISSING ACTION WITH
PREJUDICE, AND ENTERING
JUDGMENT THEREON;
DECLARATION OF JAMES HAWKINS
IN SUPPORT THEREOF**

STIPULATION

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. On February 26, 2020, Plaintiffs sent their LWDA Letter asserting claims for civil penalties pursuant to PAGA stemming from Defendants' alleged: Failure to Pay Minimum Wages; Failure to Pay Wages and Overtime; Failure to Provide Meal Periods or Meal Period Premiums; Failure to Provide Rest Periods of Rest Period Premiums; Failure to Reimburse for Necessary Business Expenditures; Failure to Issue Accurate and Itemized Wage Statements; Failure to Issue Semimonthly Payments; Failure to Keep Records; Failure to Provide Seating; and Waiting Time Penalties for Failure to Pay Wages When Employment Ends. (Hawkins Decl. at ¶ 2).

2. On June 09, 2020, Plaintiff sent their Amended Notice to the LWDA clarifying the PAGA claims. (Hawkins Decl. at ¶ 2).

3. On May 1, 2020, Plaintiffs filed their PAGA complaint in the Superior Court of California, County of Los Angeles, Case No. 20STCV17127, entitled *Jose Velazquez, et. al. vs HK Staffing, Agency, Inc., et. al.*, alleging violations of PAGA for violations of the PAGA statute for Labor Code violations for Failure to Pay Minimum Wages; Failure to Pay Wages and Overtime; Failure to Provide Meal Periods or Meal Period Premiums; Failure to Provide Rest Periods of Rest Period Premiums; Failure to Reimburse for Necessary Business Expenditures; Failure to Issue Accurate and Itemized Wage Statements; Failure to Issue Semimonthly Payments; Failure to Keep Records; Failure to Provide Seating; and Waiting Time Penalties for Failure to Pay Wages When Employment Ends. (Hawkins Decl. at ¶ 3).

3. On or about October 26, 2020, Plaintiffs filed an Amended Complaint clarifying the scope of the claims. (Hawkins Decl. at ¶ 3).

4. On November 12, 2021, the Parties engaged in mediation before mediator Kelly Knight. The Parties were able to agree to settle the claims following a full day of mediation. In preparation for the mediation, Plaintiff's counsel requested and Defendant's counsel provided sample time and payroll data for the purported Aggrieved Employees, personnel and employment documents. With Mr. Knight's assistance, the Parties agreed to fully and finally resolve the

1 Action and the PAGA Released Claims as to Plaintiff, the State of California, the LWDA and the
2 Aggrieved Employees. (Hawkins Decl. at ¶ 4).

3 5. Defendant disputes and denies the allegations and claims asserted in the
4 Complaints, and the LWDA notices. It was also Defendant's position that Plaintiffs could not
5 maintain their PAGA Complaints because of defenses relating to exemptions for outside sales
6 persons as well as being no evidence of a common policy or practice that makes a trial
7 manageable. (Hawkins Decl. at ¶ 5, 6.)

8 6. During the course of the litigation, Plaintiff and Defendant (hereinafter, Plaintiff
9 and Defendant are collectively referred to as the "Parties") engaged in formal and informal
10 discovery and fully shared the information necessary for all sides to conduct a legitimate
11 investigation into the allegations of the action and potential defenses thereto. The Parties have
12 reached this settlement only after discovery and investigation was performed. (Hawkins Decl. at ¶
13 7.)

14 7. Being fully apprised of the value and strength of Plaintiffs' claims, counsel for
15 Plaintiffs and Defendant successfully negotiated a settlement of Plaintiffs' claims asserted in the
16 action through arm's-length negotiations assisted by mediator Kelly Knight, Esq. The terms and
17 conditions of the settlement are set forth in the Private Attorneys General Act (Labor Code § 2698
18 *et seq.*) Settlement Agreement. (Hawkins Decl. at ¶ 7, Exhibit A). The Settlement Agreement
19 resolves all claims asserted in the Complaints and contemplates that the Court will enter judgment
20 on the terms and conditions of the Settlement Agreement. (Hawkins Decl. at ¶ 7.)

21 8. Counsel for Plaintiffs and Defendant also considered the fact that the existence of
22 numerous disputes of fact in this case make the outcome uncertain. In the estimation of counsel for
23 the Parties, the delay, inconvenience, distraction, and uncertainty imposed by the litigation
24 demands would far outweigh the potential benefits of additional litigation. (Hawkins Decl. at ¶ 9.)

25 9. Based on the information and documents obtained through both formal and informal
26 discovery, Plaintiffs assessed the maximum value of the limited PAGA claims to be released by
27 the settlement to be approximately \$240,000 (at the rate of a \$200.00 penalty for approximately
28 1,200 pay periods at issue for approximately 39 Aggrieved Employees). (Hawkins Decl. at ¶ 10.)

1 10. Plaintiffs' Counsel also took into account that even if Plaintiffs prevailed on the
2 merits of the PAGA claim, Defendant could persuasively argue that the Court should exercise its
3 discretion, under Labor Code § 2699(e), to reduce the amount of civil penalties assessed. A court
4 in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner
5 would have, as well as complete discretion to "award a lesser amount than the maximum civil
6 penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular
7 case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or
8 confiscatory." And indeed, it is common for courts to reduce the penalties. *See e.g., Ghrdilyan v.*
9 *RJ Financial, et al.*, Los Angeles Superior Court, Case No. BC430633 (94% reduction); *Parr v.*
10 *Golden State Overnight Delivery Service, Inc.*, Alameda County Superior Court, Case No. RG12-
11 618103 (94% reduction); *Fleming v. Covidien, Inc.*, 2011 U.S. Dist. LEXIS 154590 (C.D. Cal.
12 Aug. 12, 2011) (82% reduction); *Gola v. University of San Francisco*, Case No. CGC-18-565018
13 (Sup. Ct. Decision dates July 21, 2020) (85% reduction of PAGA penalties).

14 11. As set forth in the Settlement Agreement, the amount of the Settlement Sum is
15 \$190,000, or approximately 78% of the maximum discretionary recoverable penalties, and
16 includes an apportionment of attorneys' fees and costs, payment to the settlement administrator,
17 and a general release payment/enhancement award to Plaintiff. (Hawkins Decl. at ¶¶ 11-24).

18 12. Based on their extensive experience litigating over 200 representative actions,
19 counsel for Plaintiff believes the settlement here is fair and reasonable and warrants approval by
20 the Court. (Hawkins Decl. at ¶¶ 29-33).

21 13. The parties agree that upon entry of the Order approving this settlement, Plaintiffs
22 and all Aggrieved Employees, as defined in the Settlement Agreement will be forever barred from
23 pursuing against Defendant, and any of the Released Parties, any of the PAGA Released Claims as
24 defined in the Settlement Agreement. "PAGA Released Claims" with respect to the State of
25 California and Participating PAGA Group Members (other than Plaintiff) means penalties related
26 to wage and hour claims, rights, demands, liabilities and causes of action, whether known or
27 unknown, arising during the PAGA Period, that were asserted or could have been asserted in the
28 Action against Defendants based on the facts alleged or ascertained during the pendency of the

1 Action, based on the alleged Labor Code violations alleged in the Action, including, the following
2 categories: (a) any and all claims involving any alleged failure to pay overtime wages; (b) any and
3 all claims involving any alleged failure to pay minimum wage; (c) any and all claims involving
4 any alleged failure to keep accurate records or to issue proper wage statements to employees; (d)
5 meal and rest periods; (e) failure to provide suitable seating; (f) failure to timely pay wages; and
6 (g) failure to reimburse business expenses. This release excludes the release of claims not
7 permitted by law. The PAGA Released Claims expressly exclude all PAGA claims outside the
8 PAGA Period and those not alleged in the Action. The PAGA Periods is February 26, 2019
9 through November 11, 2021.

10 14. The Parties agree that this stipulation should be sufficient for purposes of
11 approving the PAGA Settlement of the Complaints as set out in the Settlement Agreement
12 pursuant to the requirements set out in Labor Code section 2699(1)(2).

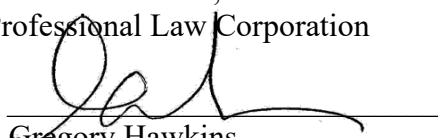
13 15. The Parties request that the Court enter the accompanying order, approving the
14 Settlement (attached to the Hawkins Declaration as Exhibit "A"), as permitted by Labor Code §
15 2699(1), and entering Judgment in accordance with the terms and conditions of the Settlement
16 Agreement.

17 **IT IS SO STIPULATED.**

18 **ATTORNEYS FOR PLAINTIFFS:**

19 Dated: March 16, 2022

Respectfully submitted,
JAMES HAWKINS, APLC
A Professional Law Corporation

21 By: 

22 Gregory Hawkins

24 **ATTORNEYS FOR DEFENDANT:**

25 Dated: March 16, 2022

LAW OFFICE OF VAHE HOVANESSIAN

26 By: 

27 Vahe Hovanesian, Esq.
28 Attorneys for Defendant, HK Staffing Agency, Inc.

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- **[PROPOSED] ORDER AND STIPULATION APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, DISMISSING ACTION WITH PREJUDICE, AND ENTERING JUDGMENT THEREON**
- **DECLARATION OF JAMES HAWKINS IN SUPPORT OF STIPULATION APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, DISMISSING ACTION WITH PREJUDICE, AND ENTERING JUDGMENT THEREON**
- **[PROPOSED] ORDER RE STIPULATION APPROVING SETTLEMENT OF PRIVATE ATTORNEYS GENERAL ACT CLAIMS, DISMISSING ACTION WITH PREJUDICE, AND ENTERING JUDGMENT THEREON**

[XX] by placing [] the original [XX] a true copy thereof attached to email addressed as follows:

Attorney for Defendants
KERMANIG, INC. and KERMANIG, LLC.

[XX] STATE: I declare under penalty of perjury, under the laws of the State of California, that the above is true and correct.

Sheila Gonzales