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SUPERIOR COURT

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DEPUTY

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7 Attorneys for Defendant,
VARNI BROTHERS CORPORATION

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 IN AND FOR THE COUNTY OF SAN JOAQUIN

12 DAVID TAFOYA, individually, and on behalf
of all others similarly situated,

13 Plaintiff,

14 v.

15 VARNI BROTHERS CORPORATION, a
16 California Corporation; and DOES 1 through
50

17 Defendants.

Case No. STK-CV-UOE-2020-3066

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**STIPULATION AND ~~PROPOSED~~ ORDER
RE DISMISSAL OF PLAINTIFF'S TENTH
CAUSE OF ACTION AND DEFENDANT'S
MOTION FOR JUDGMENT ON THE
PLEADINGS**

Date: January 13, 2022

Time: 9:00 a.m.

Judge: Honorable Jayne Lee

Dept.: 10C

Complaint Filed: March 2, 2020

Trial Date: None Set

FILE BY FAX

1 **TO THE COURT:**

2 Plaintiff David Tafoya ("Plaintiff") and Defendant Varni Brothers Corporation ("Defendant"),
3 (collectively, the "Parties") hereby submit the following stipulation by and through their counsel of record.

4 **RECITALS**

5 WHEREAS, Plaintiff filed a putative class action complaint against Defendant on March 2,
6 2020;

7 WHEREAS, Plaintiff filed a first amended complaint against Defendant on June 5, 2020, which
8 asserted a tenth cause of action seeking civil penalties under the California Private Attorneys General
9 Act of 2004 ("PAGA");

10 WHEREAS, Defendant filed a motion for judgment on the pleadings on October 28, 2021, on
11 the ground that an approved PAGA settlement and judgment in the action *Stephen Silva v. Varni*
12 *Brothers Corporation*, Case No. CV-18-004355 (Cal. Supr. Ct., Stanislaus Cty.) bars Plaintiff's tenth
13 cause of action;

14 WHEREAS, the Parties' counsel met and conferred and agreed that the *Silva* settlement and
15 judgment is dispositive as to Plaintiff's tenth cause of action;

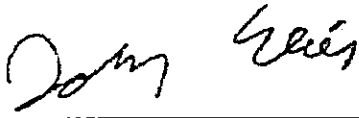
16 WHEREAS, Defendant's October 28, 2021 motion for judgment on the pleadings is scheduled to
17 be heard on January 13, 2022.

18 **STIPULATION**

19 **IT IS HEREBY STIPULATED**, by and between the Parties, by and through their respective
20 counsel of record, that the tenth cause of action alleged in Plaintiff's first amended complaint asserting
21 claims under PAGA be dismissed with prejudice as to Plaintiff and dismissed without prejudice as to the
22 California Labor & Workforce Development Agency and alleged "aggrieved employees" on whose
23 behalf the tenth cause of action is asserted. It is further stipulated by the Parties that Defendant's
24 October 28, 2021, motion for judgment on the pleadings scheduled to be heard on January 13, 2022, be
25 taken off calendar as moot.
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1 Dated: December 30, 2021

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

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3
4 By: 

BROOKE S. PURCELL
JOHN D. ELLIS

5
6 Attorneys for Defendant
VARNI BROTHERS CORPORATION
7

8 Dated: December 30, 2021

THE KICK LAW FIRM, APC

9
10 By: /s/ Taras Kick

TARAS KICK
ROY K. SUH
JEFFREY BILS

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12 Attorneys for Plaintiff
DAVID TAFOYA
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~~Proposed~~ ORDER

The Court, having considered the stipulation of Plaintiff David Tafoya ("Plaintiff") and Defendant Varni Brothers Corporation ("Defendant"), finds good cause exists for entry of the following order:

1. The tenth cause of action alleged in Plaintiff's first amended complaint asserting claims under the California Private Attorneys General Act of 2004 is DISMISSED WITH PREJUDICE as to Plaintiff and DISMISSED WITHOUT PREJUDICE as to the California Labor & Workforce Development Agency and alleged "aggrieved employees" on whose behalf the tenth cause of action is asserted;

2. Defendant's October 28, 2021, motion for judgment on the pleadings scheduled to be heard on January 13, 2022, is taken off calendar as moot.

IT IS SO ORDERED.

DATED: 1/4/22, 2022


HON. JAYNE LEE
JUDGE OF THE SUPERIOR COURT