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Attorneys for Defendants
 DMS FACILITY SERVICES, INC. and
 DMS FACILITY SERVICES, LLC

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

RAMON FLORES, an individual,

 Plaintiff,

 vs.

DMS FACILITY SERVICES, INC., a
 California corporation; DMS FACILITY
 SERVICES, LLC, a California limited liability
 company; and DOES 1 through 20, inclusive,

 Defendants.

Case No. 20STCV43607

*Assigned for all purposes to the Honorable
 Judge Theresa M. Traber, Dept. 47*

**JOINT STIPULATION OF DISMISSAL OF
 PLAINTIFF'S PAGA CLAIMS; AND
~~PROPOSED~~ ORDER**

Action filed: November 12, 2020
 Trial date: vacated

Plaintiff Ramon Flores ("Plaintiff"), and Defendants DMS FACILITY SERVICES, INC., and
 DMS FACILITY SERVICES, LLC ("Defendants"), by and through their respective counsel of record
 (collectively the "Parties"), hereby stipulate and agree as follows:

1 WHEREAS, a settlement in this case was reached on June 10, 2022 by way of a private
2 mediation with Phillip Cha.

3 WHEREAS the parties reached an agreement to resolve Plaintiff's individual claims for a
4 confidential amount which does not include any resolution of Plaintiff's Private Attorney General Act
5 ("PAGA") claims.
6

7 WHEREAS, Plaintiff's Complaint for Damages was filed on November 12, 2020. Pursuant to
8 Labor Code §2698 et seq. and Code of Civil Procedure §340(a), the statute of limitations for a PAGA
9 claim is one year from the last day of the violation suffered by an employee. This time is tolled during
10 the mandatory notice period proscribed in Labor Code §2699(d) for a total of 65 days. Thus, based on
11 the November 12, 2020 filing of the Complaint, Plaintiff's PAGA claim would likely be time-barred by
12 the fact that his last day worked, and thus the last possible day he could have suffered a violation, was
13 May 16, 2019. There are 546 days between Plaintiff's last day worked and the date of the filing of his
14 Complaint that included the PAGA claim.

15 WHEREAS, Defendants deny wrongdoing and liability for Plaintiff's individual and PAGA
16 claims.
17

18 WHEREAS, Plaintiff no longer wishes to pursue the PAGA cause of action on his own behalf or
19 on behalf of the Labor and Workforce Development Agency ("LWDA").

20 WHEREAS, Plaintiff did not receive any discovery to identify other aggrieved employees, if
21 any, or notify other aggrieved employees, if any, of this lawsuit.
22

23 WHEREAS, Plaintiff has not sought the express consent of other aggrieved employees to pursue
24 this lawsuit on their behalf nor has the LWDA sought to intervene in this lawsuit.

25 WHEREAS, this stipulation to dismiss the PAGA claims without prejudice shall be served to the
26 LWDA at the same time that it is submitted to this Court.
27
28

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

16 WHEREAS, even if Plaintiff wanted to pursue the PAGA claim, the claim will face significant
17 challenge by Defendants on account of the statute of limitations having lapsed before Plaintiff’s
18 Complaint was filed.

19
20 THE PARTIES THEREFORE stipulate and jointly request that the Court dismiss Plaintiff’s
21 thirteenth cause of action of the complaint for PAGA penalties without prejudice as to any other
22 potentially aggrieved employee and with prejudice as to Plaintiff only.

23 ///

24 ///

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26 ///

27 ///

28 ¹ Superseded by statute on unrelated ground.

1 DATED: August 26, 2022

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

2
3 By: /s/ Jason Buccat
4 Ramin R. Younessi, Esq.
5 Jason Buccat, Esq.
6 Attorneys for Plaintiff,
7 RAMON FLORES

8 DATED: August 26, 2022

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

9
10 By: 
11 Betsy Johnson, Esq.
12 Emily K. Harvin, Esq.
13 Attorneys for Defendant,
14 DMS FACILITY SERVICES, INC and
15 DMS FACILITY SERVICES, LLC
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~~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 as to any other potentially aggrieved employee and with prejudice as to Plaintiff only.

IT IS SO ORDERED.

DATED: 08/30/2022



THE HONORABLE THERESA M. TRABER
JUDGE OF THE SUPERIOR COURT

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
5 Angeles, California 90010.

6 On August 26, 2022, I served the foregoing document described as **JOINT STIPULATION OF**
7 **DISMISSAL OF PLAINTIFF'S PAGA CLAIMS; AND [PROPOSED] ORDER** on the interested
8 parties in this action as follows:

9 ☒ By emailing true copies addressed to each addressee as follows:

10 Betsy Johnson, Esq. *Defendant*
11 Emily K. Harvin, Esq.
12 OGLETREE, DEAKINS, NASH, SMOAK &
13 STEWART, P.C.
14 400 South Hope Street, Suite 1200
15 Los Angeles, CA 90071
16 betsy.johnson@ogletree.com
17 emily.harvin@ogletree.com

18 California Labor & Workforce Development
19 Agency
20 Attn. PAGA Administrator
21 1515 Clay Street, Ste. 801
22 Oakland, CA 94612
23 (VIA ELECTRONIC SERVICE ONLY)

24 ☒ BY ELECTRONIC MAIL: Pursuant to Code of Civil Procedure §§ 1010.6(a)(2), 1010.6(e), and
25 1013(g), and/or California Rules of Court 2.251(b)(1)-(2), I transmitted a copy of the aforementioned
26 document to each addressee above to the email address(es) indicated.

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

Executed on August 26, 2022, at Los Angeles, California.

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

Ashley Reveles

