

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the “Agreement”) encompasses the full and complete agreement by and between Plaintiffs Stephen Dalyai, Madison Ford, Mia Ford, Bryan Greenberg, Jason Griffiths, Yushi Kinoshita, Michelle McGhan, Mayra Rodriguez, James Thornton, Scott Kiefer, James Flynn, Jenna Larson, and Rhona Rubio (collectively, “Plaintiffs”) and Marcelo Cantu and Mauricio Cantu (collectively, the “Cantu Defendants”). Plaintiffs and the Cantu Defendants are referred to in this Agreement as the “Parties” or individually as a “Party.” The “Lawsuit” to which reference is made herein is limited to the lawsuit against the Cantu Defendants. The Parties anticipate that this lawsuit will continue as against the remaining Defendants. Broken Cage, LLC, Ava Ismaiylva and Abylay Zhakashov are herein referred to as the “Remaining Defendants.” The Agreement is entered into as of the eighth (8th) day after Plaintiffs’ signature on this Agreement (the “Effective Date”).

RECITALS

WHEREAS, on September 28, 2020, Plaintiffs filed a complaint in the Superior Court of the State of California for the County of Los Angeles against, *inter alia*, the Cantu Defendants (Case No. 20STCV37201), alleging various violations of the California Labor Code (the “Lawsuit”);

WHEREAS, the Cantu Defendants contest the allegations asserted in the Lawsuit;

WHEREAS, the Parties wish to avoid the expense of continuing litigation and seek to secure a final settlement and resolution of any and all claims, causes of action, controversies and disputes that exist or may exist between or among the Parties, whether known or unknown, as of the Effective Date.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises and undertakings set forth herein, the receipt and adequacy of which the Parties hereby acknowledge, the Parties agree as follows:

(1) **Consideration and Settlement.**

- (a) **Monetary Payment.** The Cantu Defendants shall pay to Plaintiffs the total sum of \$45,000 as follows: (1) \$11,000 within 30 days of the Effective Date; (2) \$11,000 within 60 days after the Effective Date; (3) \$11,000 within 90 days after the Effective Date; and (4) \$12,000 within 120 days after the Effective Date. Pending the court approvals required by Paragraphs 2(a) and 2(b), the payments shall be made to the Reuben Raucher & Blum Client Trust Account. Following the court approvals required by Paragraphs 2(a) and 2(b), the settlement payments made into the Reuben Raucher & Blum Client Trust Account pursuant to this paragraph shall be paid over to the Harris & Ruble Client Trust Account,

Tax I.D. No. 36-3692728, and any remaining payments due under this paragraph shall be paid to the Harris & Ruble Client Trust Account.

- (b) Exchange of Releases. The mutual releases set forth in Paragraph 2 shall go into effect immediately upon the date of the last Party's signature on this Agreement.
- (c) Acknowledgement of Payment. Upon the Cantu Defendants' payment to Plaintiffs, Plaintiffs acknowledge and affirm that they have been paid any and all sums due to them by the Cantu Defendants.
- (d) Costs of Dispute. The Parties shall assume and bear their own costs and attorneys' fees incurred in connection with the dispute, including but not limited to the negotiation of this settlement.
- (e) Labor Commissioner Claims. Immediately following the court approvals required by Paragraphs 2(a) and 2(b), Plaintiffs Kiefer, Thornton, Greenberg and Kinoshita shall use their best efforts to withdraw their pending Labor Commissioner claims.

(2) Court Approval

- (a) Immediately following the Effective Date of this Agreement, the Parties shall submit a Stipulation in the form attached hereto as Exhibit A, seeking approval by the Court to dismiss (1) Plaintiff Michelle McGhan's PAGA claim against the Cantus with prejudice as to her individual claims and without prejudice as to the claims of any other allegedly aggrieved employees, with no portion of the Settlement proceeds being allocated to the PAGA claim; and (2) the remainder of the Lawsuit against the Cantus with prejudice as to Plaintiff's individual claims and without prejudice as to the class claims, with a reservation of jurisdiction pursuant to Code of Civil Procedure §664.6. Court approval of the Stipulation is a condition to the effectiveness of this Agreement. Should the Court decline to approve the Stipulation or this Agreement, the Parties will attempt to reach agreement on new settlement terms so as to secure the necessary Court approval. Should the Parties be unable to secure Court approval, no payments will be due to Plaintiffs and this Agreement shall be null and void.

(3) Mutual Release of Claims.

- (a) Upon fulfillment of the conditions in Paragraph 1(a) of this Agreement and in consideration of the commitments made herein by the Cantu Defendants, Plaintiffs, as well as their agents, successors, assigns, beneficiaries, and affiliates (collectively, the "Plaintiffs Releasing Parties"), waive, release, acquit and forever discharge the Cantu

Defendants and their agents, successors, assigns, beneficiaries, and affiliates (collectively, the “Cantu Defendant Releasees”) from any and all claims, counterclaims, cross-claims, charges, complaints, rights, demands, actions, causes of action, whether based in federal, state, local, statutory, contract, tort, equity, common law or any other law, controversies, disputes, liabilities, losses, damages, attorney fees, mediation costs, or any other form of claim for compensation, including, without limitation, any claims under the Age Discrimination in Employment Act, as amended, 29 U.S.C. section 621, et seq.; the Older Workers Benefit Protection Act, 29 U.S.C. §626(f), as amended Title VII of the Civil Rights Act of 1964, as amended by the Civil Rights Act of 1991, 42 U.S.C. § 2000 et seq.; Equal Pay Act, as amended, 29 U.S.C. § 206(d); the Civil Rights Act of 1866, 42 U.S.C. § 1981; the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq.; the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; the False Claims Act, 31 U.S.C. § 3729 et seq.; the Employee Retirement Income Security Act, as amended, 29 U.S.C. § 1001 et seq.; the Worker Adjustment and Retraining Notification Act, as amended, 29 U.S.C. § 2101 et seq.; the California Fair Employment and Housing Act, as amended, Cal. Lab. Code § 12940 et seq.; the California Equal Pay Law, as amended, Cal. Lab. Code §§ 1197.5(a), 1199.5; the Moore-Brown-Roberti Family Rights Act of 1991, as amended, Cal. Gov’t Code §§ 12945.2, 19702.3; California Labor Code; the California WARN Act, Cal. Lab. Code § 1400 et seq.; the California False Claims Act, Cal. Gov’t Code § 12650 et seq.; or under the California Labor Code, which such Plaintiffs Releasing Party has, may have, or claims to have had against any of them, prior to the Effective Date, whether known or unknown (collectively, the “Plaintiffs Released Claims”). Each of the Plaintiffs Releasing Parties further agrees not to initiate any action, including any legal, administrative or other proceeding, to assert any Plaintiffs Released Claims against any Cantu Defendant Releasee.

- (b) Upon fulfillment of the conditions in Paragraph 1(a) of this Agreement and in consideration of the commitments made herein by Plaintiffs, the Cantu Defendants, as well as their agents, successors, assigns, beneficiaries, and affiliates (collectively, the “Cantu Defendant Releasing Parties”), waive, release, acquit and forever discharge Plaintiffs and his agents, successors, assigns, beneficiaries, and affiliates (collectively, the “Plaintiffs Releasees”) from any and all claims, counterclaims, cross-claims, charges, complaints, rights, demands, actions, causes of action, whether based in federal, state, local, statutory, contract, tort, equity, common law or any other law, controversies, disputes, liabilities, losses, damages, attorney fees, mediation costs, or any other form of claim for compensation, which such Cantu Defendant Releasing Party has, may have, or claims to have had against any of them, prior to the Effective Date, whether known or unknown (collectively, the “Cantu Defendant Released Claims”). Each of the Cantu Defendant Releasing Parties further agrees not to initiate any action, including any legal, administrative or

other proceeding, to assert any Cantu Defendant Released Claims against any Plaintiffs Releasee.

- (c) Nothing herein shall be deemed to release the “Remaining Defendants.”
- (d) Waiver of Unknown Claims. The foregoing mutual releases extend to and include claims that the Parties do not know or suspect to exist in their favor, which if known by them would have materially affected their decision to enter into this Agreement. The Parties acknowledge that they have negotiated this Agreement taking into account all released claims and further acknowledge that they are familiar with California Civil Code section 1542, and have specifically been advised by legal counsel as to its provisions. Section 1542 provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND
TO CLAIMS THAT THE CREDITOR OR
RELEASING PARTY DOES NOT KNOW OR
SUSPECT TO EXIST IN HIS OR HER FAVOR
AT THE TIME OF EXECUTING THE
RELEASE AND THAT, IF KNOWN BY HIM
OR HER, WOULD HAVE MATERIALLY
AFFECTED HIS OR HER SETTLEMENT
WITH THE DEBTOR OR RELEASED PARTY.**

The Parties voluntarily and with full knowledge of its significance, expressly waive and relinquish any and all rights they may have under Section 1542, as well as under any other similar federal or state statute, rule or common law principle, in law or equity, relating to limitations on general releases. In connection with such waiver and relinquishment, each of the Parties acknowledges that they are aware that they may hereafter discover claims or facts in addition to or different from those which they now know or believe to exist with respect to the subject matter of this Agreement, but that it is the Parties’ mutual intention hereby fully, finally and forever to settle disputes and differences known or unknown, suspected or unsuspected, which now exist, may exist or heretofore have existed between the Parties pertaining to the specific releases in this Agreement notwithstanding the discovery or existence of any such additional or different claims or facts. The Parties affirm that this waiver of Section 1542 is not a mere recital. Rather, by their signatures to this Agreement, the Parties acknowledge and agree that this waiver under Section 1542 is an essential and material term of this Agreement that was separately and independently bargained for, without which this Agreement would not have been made, and which was included by the Parties in this Agreement in order to procure certainty in their affairs.

- (e) Review and Consideration of Release. Plaintiffs understand that under the Older Workers Benefit Protection Act, Plaintiffs have a right to review

and revoke this agreement as follows. Plaintiffs agree and acknowledge that this Agreement includes a waiver and release of all claims that Plaintiffs have or may have under the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621, et seq. (“ADEA”). The following terms and conditions apply to and are part of the waiver and release of the ADEA claims under this general release:

- (i) This Agreement is written in a manner calculated to be understood by Plaintiffs and Plaintiffs understand it.
 - (ii) The waiver and release of claims under the ADEA contained in this Agreement does not cover rights or claims that may arise after the date on which Plaintiffs sign this Agreement.
 - (iii) This Agreement provides for consideration in addition to anything of value to which Plaintiffs are already entitled.
 - (iv) Plaintiffs are hereby advised to consult an attorney before signing this Agreement, and has done so.
 - (v) Plaintiffs have been granted twenty-one (21) days after receiving this Agreement to decide whether or not to sign this Agreement. If Plaintiffs sign this Agreement prior to the expiration of the twenty-one (21) day period, Plaintiffs do so voluntarily and after having had the opportunity to consult with an attorney, and Plaintiffs thereby waive the remainder of the twenty-one (21) day period.
 - (vi) Plaintiffs have the right to revoke this Agreement within seven (7) days of signing this Agreement, and this Agreement shall not be enforceable or effective until the expiration of that period. In the event this Agreement is revoked, this Agreement will be null and void in its entirety, and Plaintiffs will not be entitled to the payment specified in Section (1)(a). If Plaintiffs wish to revoke this Agreement, Plaintiffs must deliver written notice stating Plaintiffs’ intent to revoke this Agreement to counsel for Cantu Defendants, on or before 5:00 p.m. on the seventh (7th) Day after the date on which Plaintiffs signed this Agreement.
 - (f) For the avoidance of doubt, nothing in the foregoing mutual releases shall operate to prevent a Party from enforcing its rights under this Agreement or release any claims that may not be released by private agreement.
- (4) Representations and Warranties. The Parties and their respective signatories each represent and warrant as follows:
- (a) Such Party is authorized to enter into this Agreement (and all the releases, representations and warranties contained in this Agreement) and to fully perform such Party’s duties and obligations under this Agreement, and

such Party shall indemnify all other Parties from and against a third party asserting a lack of such authorization; and the Party's signatory is competent to, and has the full right, power and authority to execute this Agreement on behalf of such Party, and fully to commit and bind such Party to this Agreement without the consent or approval of any other individual, corporation or other legal entity, and such Party shall indemnify all other Parties from and against a third party asserting a lack of such competence, right, power, or authority;

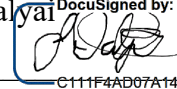
- (b) Such Party has not pledged, transferred or assigned to any third party any right, interest, or claim being transferred, conveyed, released or compromised pursuant to this Agreement, and such Party shall indemnify all other Parties from and against a third party asserting such a pledge, transfer or assignment of any such right, interest or claim;
 - (c) Such Party has thoroughly read and reviewed the terms and provisions of this Agreement, and in executing this Agreement it has relied solely upon its own knowledge and judgment, and the advice and recommendations of its own independently selected counsel concerning the nature, extent and duration of the Party's rights and claims, and the advisability of making the settlement provided for in this Agreement and of executing this Agreement;
 - (d) Such Party has not been subjected to any duress, undue influence or inequality of bargaining power in connection with the negotiation or execution of this Agreement;
 - (e) Such Party has made such investigation of the facts pertaining to the Parties' actual and potential disputes as such Party deems necessary or desirable;
 - (f) Such Party enters into this Agreement at arm's length, in good faith, voluntarily and without reliance upon any statements, actions or promises of any kind by any other Party, except the definitions, terms and conditions set forth in this Agreement; and
 - (g) The consideration received by the Party under this Agreement is actual and adequate.
- (5) Entire Agreement. This Agreement: (a) constitutes the entire agreement between the Parties concerning the subject matter hereof, (b) supersedes any previous oral or written agreements concerning the subject matter hereof, and (c) shall not be modified except by a writing executed by the Party or Parties to be bound thereby.
- (6) Execution of Additional Documents: The Parties hereto agree to execute all further and additional documents, and undertake such further acts, as shall be reasonable, convenient, necessary or desirable to implement or affect the provisions contained in this Agreement.

- (7) Severability. In the event that any provision of this Agreement, or the application of any such provision, is held by a court of competent jurisdiction to be unenforceable, the remaining provisions of this Agreement will remain in full force and effect, and this Agreement will be interpreted as if said invalid provision was omitted.
- (8) Successors Bound. This Agreement shall be binding upon and inure to the benefit of each of the Parties and their respective affiliates, representatives, heirs, devisees, successors and assigns.
- (9) Venue. Any dispute arising out of or relating to this Agreement shall take place in an appropriate state or federal court in Los Angeles, California. The Court may award the prevailing party its or their reasonable attorneys' fees and the costs associated with resolving any dispute arising out of or relating to this Agreement.
- (10) Construction, Choice of Law and Venue. The terms of this Agreement are the product of arms-length negotiations between the Parties, through their respective counsel of choice, and no provision shall be construed against the drafter thereof. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- (11) Counterparts and Electronic Execution. This Agreement may be executed in counterparts which, taken together, shall constitute one and the same agreement. This Agreement may also be executed and/or delivered by facsimile and/or email transmission and in such event all facsimile and/or email signatures shall be deemed originals for all purposes hereof.
- (12) Non-Disparagement. The Parties represent, covenant, and agree that, as of the date of this Agreement or any time after its execution, they will not make, publish, or issue any statement, directly or indirectly, privately or publicly, whether on or off the record, through any medium, either orally, in writing, or otherwise, including, but not limited to, electronic mail, television or radio, computer networks or Internet bulletin boards, blogs, social media, such as Facebook, LinkedIn, Instagram, Snapchat or Twitter, or any other form of communication, that could be deemed to disparage, defame, impugn, damage, or assail the reputation of, or cause or tend to cause the recipient of a communication to question the reputation, name, business condition, integrity, competence, good character, professionalism, goodwill, practices, or business of any of the Parties, or any of their family, counsel, agents, companies, affiliates, business associates, or investors

AGREED TO AND ACCEPTED AS OF THE EFFECTIVE DATE:

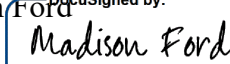
Date: 10/6/2021

Stephen Dalyai DocuSigned by:



C111F4AD07A14BF...

Date: 10/12/2021 _____

Madison Ford DocuSigned by:

_____ 857A83390A5647D...

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yushi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Scott Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: 10/11/2021

Mia Ford

DocuSigned by:

Mia Ford

393C2EC091004F9...

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yushi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Scott Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: 10/6/2021

Bryan Greenberg

DocuSigned by:

Bryan Greenberg

69B12F4911884E6...

Date: _____

Jason Griffiths

Date: _____

Yushi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Scott Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: 10/6/2021

Jason Griffin

DocuSigned by:

B89FABC69391438...

Date: _____

Yushi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Scott Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

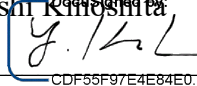
Bryan Greenberg

Date: _____

Jason Griffiths

Date: 10/7/2021

Yoshi Kinoshita



CDF55F97E4E84E0...

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Thomas Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

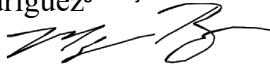
Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: 10/14/2021

Mayra Rodriguez

DocuSigned by:

5C29D7C9BC12420...

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Thomas Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

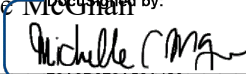
Yoshi Kinoshita

Date: _____

Mayra Rodriguez

Date: 10/8/2021

Michelle McGinnis

DocuSigned by:

73A8D373A50A423...

Date: _____

James Thornton

Date: _____

Thomas Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: _____

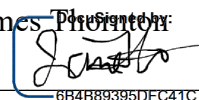
Mayra Rodriguez

Date: _____

Michelle McGhan

Date: 10/12/2021

James Thornton


6B4B89395DFC41C...

Date: _____

Thomas Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: 10/6/2021

DocuSigned by:
Scott Kiefer

Scott Thomas Kiefer

2340C8AE1BA34A9...

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

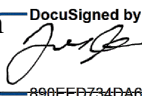
James Thornton

Date: _____

Thomas Kiefer

Date: 10/6/2021

James Flynn

DocuSigned by:


890EED734DA6416...

Date: _____

Jenna Larson

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

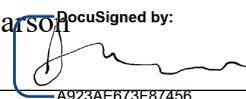
Thomas Kiefer

Date: _____

James Flynn

Date: 10/6/2021

Jenna Larson DocuSigned by:


A923AE673F87456...

Date: _____

Ronna Rubio

Date: _____

Madison Ford

Date: _____

Mia Ford

Date: _____

Bryan Greenberg

Date: _____

Jason Griffiths

Date: _____

Yoshi Kinoshita

Date: _____

Mayra Rodriguez

Date: _____

Michelle McGhan

Date: _____

James Thornton

Date: _____

Scott Kiefer

Date: _____

James Flynn

Date: _____

Jenna Larson

Date: 10/7/2021

Rhona Rubio
DocuSigned by:
Rhona Rubio
3664260ED4C94C7...

Date: 10/18/21

Marcelo Cantu

Marcelo Cantu

Date: 10/18/21

Mauricio Cantu

Mauricio Cantu

Date: 10/18/21

Marcelo Cantu

Marcelo Cantu

Date: 10/18/21

Mauricio Cantu

Mauricio Cantu

EXHIBIT A

HARRIS & RUBLE
ALAN HARRIS (SBN 146079)
harrisa@harrisandruble.com
DAVID GARRETT (SBN 160274)
dgarrett@harrisandruble.com
LIN ZHAN (SBN 317087)
lzhane@harrisandruble.com
655 North Central Avenue 17th Floor
Glendale California 91203
Tel: 323.962.3777
Fax: 323.962.3004

Attorneys for Plaintiff Michelle McGhan

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

MICHELLE MCGHAN, individually and on
behalf of those similarly situated,

Plaintiff,

vs.

BROKEN CAGE, LLC, a California Limited
Liability Company; ABYLAY
ZHAKASHOV, an individual; AVA
ISMAIYLOVA, an individual; MARCELO
CANTU, an individual; MAURICIO
CANTU, an individual; DOE 1 through and
including DOE 10,

Defendants.

Case No.: 20STCV37201

[Assigned for all purposes to the Hon. Daniel
J. Buckley, Spring Street Courthouse Dept. 1]

**STIPULATION FOR DISMISSAL OF
CANTU DEFENDANTS AND
[PROPOSED] ORDER FOR COURT TO
RETAIN JURISDICTION PURSUANT
TO C.C.P. § 664.6**

[Declaration of Alan Harris pursuant to
California Rule of Court 3.770(a) filed
concurrently]

Complaint Filed:	September 28, 2020
Cross-Complaint:	March 26, 2021
Trial Date:	Not Set

AND RELATED CROSS-COMPLAINT

**STIPULATION FOR DISMISSAL OF CANTU DEFENDANTS PURSUANT TO CCP
§664.6; [PROPOSED] ORDER**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1. On September 28, 2020, Plaintiff, individually and on behalf of those similarly situated, filed a complaint for damages and other relief against BROKEN CAGE, LLC, a California Limited Liability Company; ABYLAY ZHAKASHOV, an individual; AVA ISMAIYLOVA, an individual; MARCELO CANTU, an individual; MAURICIO CANTU, an individual; alleging the following claims: (1) Continuing Wages (Labor Code §203); (2) Failure To Provide Meal Breaks (Labor Code); (3) Failure to Provide Rest Breaks (Labor Code); (4) Unpaid Minimum Wages and Overtime (Labor Code); (5) Failure to Provide Information on Pay Stubs (Labor Code); (6) Reimbursement of Expenses (Labor Code §2802); (7) Unfair Business Practices (Business & Professions Code §17200); (8) Failure to Provide Employment Records Upon Request (Labor Code §226(b)); (9) Failure to Provide Employment Records Upon Request (Labor Code §1198.5); (10) Civil Enforcement under the Private Attorneys General Act (“PAGA”), Labor Code sections 2698, et seq..

3. BROKEN CAGE, LLC, ABYLAY ZHAKASHOV, and AVA ISMAIYLOVA
 “(the Producer Defendants”) are in default as to both the Complaint and Cross-Complaint.

4. During the time period at issue in the Complaint, Plaintiff was hired by the Producer Defendants. Liability against the Cantu Defendants is alleged based on joint employer theories.

1 5. The Cantu Defendants have represented that they have no information or
2 documentation, such as timesheets and wage statements, relating to either Plaintiff or any other
3 potentially aggrieved employees. In most cases, the Cantu Defendants represent that they do not
4 even have contact information for the individuals hired by the Producer Defendants to work on
5 the subject production.

6 6. On or about October 6, 2021, the Parties finalized and fully executed a Settlement
7 and Mutual Release Agreement (the "Settlement") regarding Plaintiff's individual claims only, as
8 well as the individual claims of twelve other individuals who worked on the production.
9 Pursuant to Labor Code section 2699(1)(2), a true and correct copy of the Settlement is attached
10 as Exhibit 1 to the Declaration of Alan Harris submitted concurrently with this Stipulation and
11 written notice of the Settlement has been submitted to the California LWDA. A copy of the
12 LWDA Acknowledgment of Receipt of same is attached to the Harris Declaration as Exhibit 2.
13 The Parties, each recognizing the economic cost of litigation and that the dispute between them
14 should be amenable to settlement, desire to compromise all claims and liabilities of any nature,
15 kind or character between them.

16 7. The lack of documents relating to any other employees makes it difficult to value
17 or allocate settlement amounts to the representative PAGA claim at this time. However, Plaintiff
18 retains her PAGA claim against the Producer Defendants.

19 8. No notice of the lawsuit has been sent to any potentially aggrieved employees.
20 The Parties are unaware of any aggrieved employee who refrained from bringing a similar claim
21 in reliance on the existence of the lawsuit. Also, there is no prejudice to any other potentially
22 aggrieved employees because their claims under the PAGA are being dismissed without
23 prejudice.

24 9. Pursuant to the Settlement, the Parties have agreed to dismiss Plaintiff's PAGA
25 claim with prejudice against the Cantu Defendants as to Plaintiff's individual claims and without
26 prejudice as to the claims of any other allegedly aggrieved employees. No portion of the
27 Settlement proceeds shall be allocated to the representative PAGA claim. The effectiveness of
28 the Settlement is conditioned on this dismissal.

1 10. Pursuant to the Settlement, the Parties have agreed to dismiss the remainder of the
2 Action as to the Cantu Defendants with prejudice as to Plaintiff's individual claims and without
3 prejudice as to the class claims, with a reservation of jurisdiction pursuant to Code of Civil
4 Procedure §664.6.

5 THEREFORE, the Parties hereby stipulate to dismiss, as to the Cantu Defendants,
6 Plaintiff's individual claims set forth in the Complaint with prejudice, the class claims without
7 prejudice, , and to dismiss Plaintiff's Tenth Cause of Action for Civil Enforcement under the
8 PAGA with prejudice as to Plaintiff's individual claims and without prejudice as to the claims of
9 any other aggrieved employees. The Parties respectfully request that the Court enter the
10 proposed order lodged concurrently herewith dismissing, as to the Cantu Defendants, Plaintiff's
11 individual claims set forth in the Complaint with prejudice, dismissing the class claims without
12 prejudice, and dismissing, pursuant to Labor Code section 2699(1)(2), Plaintiff's Tenth Cause of
13 Action for civil enforcement under the PAGA with prejudice as to Plaintiff's individual claims
14 and without prejudice as to the claims of any other aggrieved employees.

15 **IT IS SO STIPULATED.**

16 DATED: October 28, 2021

HARRIS & RUBLE

17 /s/ Alan Harris

18 Alan Harris

19 Attorneys for Plaintiff

20 DATED: October 28, 2021

REUBEN RAUCHER & BLUM

21 /s/ Stephen L. Raucher

22 Stephen L. Raucher

23 Attorneys for Defendants

24 Marcelo Cantu and Mauricio Cantu

1 [PROPOSED] ORDER

2 Good cause appearing therefor, it is hereby ordered, adjudged, and decreed that , as to the
3 Defendants MARCELO CANTU and MAURICIO CANTU, Plaintiff's individual claims, class
4 claims, and PAGA representative claims are dismissed with prejudice as to MARCELO CANTU
5 AND MAURICIO CANTO. These claims are not dismissed with respect to the remaining
6 Defendants, all without prejudice as to the claims of any other aggrieved employees.

7 The Court reserves jurisdiction to resolve any disputes arising under the Settlement
8 Agreement or to enforce the terms thereof pursuant to California Code of Civil Procedure
9 §664.6.

10 **IT IS SO ORDERED.**

11
12
13 DATED: _____, 2021

HON. DANIEL J. BUCKLEY