

1 SHORTLEGAL, APC
Brian R. Short (SBN 236140)
2 Email: Brian@ShortLegal.com
Dorota A. James (SBN 309933)
3 Email: Dorota@ShortLegal.com
350 10th Avenue, Suite 1000
4 San Diego, CA 92101
Telephone: 619.272.0720
5 Fax: 619.839.3129

6 Attorneys for Plaintiff JOSHUA LARA

7 MORGAN, LEWIS & BOCKIUS LLP
Kathy H. Gao (SBN 259019)
8 Daniel R. Rodriguez (SBN 323955)
300 South Grand Avenue
9 Twenty-Second Floor
Los Angeles, CA 90071-3132
10 Tel: +1.213.612.2500
Fax: +1.213.612.2501
11 kathy.gao@morganlewis.com
daniel.rodriguez@morganlewis.com

12 Attorneys for Defendant
13 THE PEP BOYS MANNY MOE & JACK OF
CALIFORNIA
14

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
16 COUNTY OF SAN DIEGO
17

18 JOSHUA LARA, Individually and on behalf of
all similarly-situated employees of Defendants
19 in the State of California,

20 Plaintiffs,

21 vs.

22 THE PEP BOYS MANNY MOE & JACK OF
CALIFORNIA, a Corporation; and DOES 1
23 through 50, inclusive,

24 Defendants.
25
26
27
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/30/2020 at 12:08:00 PM

Clerk of the Superior Court
By Connie Hines, Deputy Clerk

Case No. 37-2020-00016784-CU-OE-CTL

Hon. Randa Trapp

**JOINT STIPULATION AND REQUEST
REGARDING DISMISSAL OF
REPRESENTATIVE PAGA ACTION
WITHOUT PREJUDICE AND
PLAINTIFF'S INDIVIDUAL CLAIMS
WITH PREJUDICE**

Date Action Filed: May 26, 2020

1 Plaintiff Joshua Lara (“Plaintiff”) and Defendant The Pep Boys Manny Moe & Jack of
2 California (“Defendant”) (Plaintiff and Defendant collectively, the “Parties”), by and through
3 their respective counsel of record, hereby submit this Joint Stipulation and [Proposed] Order for
4 the Court’s review and approval of the Parties’ request that the Court grant the Parties’
5 [Proposed] Order dismissing (1) Plaintiff’s individual wage and hour claims *with prejudice* and
6 (2) the representative PAGA allegations asserted by Plaintiff on behalf of all current and former
7 employees of Defendants and the State of California pursuant to the California Private Attorney
8 General Act of 2004 (the “PAGA”) regarding alleged wage and hour violations pertaining to
9 employees, *without prejudice*:

10 STIPULATION

11 WHEREAS, on May 26, 2020, Plaintiff filed a putative class action lawsuit against
12 Defendant The Pep Boys Manny Moe & Jack of California in the Superior Court of the State of
13 California for the County of San Diego, captioned *Joshua Lara, v. The Pep Boys Manny Moe &*
14 *Jack of California*, Case No. 37-2020-00016784-CU-OE-CTL, alleging the following class action
15 causes of action: (1) failure to pay minimum and regular wages; (2) failure to pay overtime
16 wages; (3) failure to authorize and permit rest periods; (4) failure to provide meal periods; (5)
17 failure to indemnify/reimburse expenses; (6) failure to provide and maintain accurate itemized
18 wage statements; (7) failure to timely pay wages due upon separation of employment; (8) failure
19 to pay vested vacation wages; and (9) unfair business practices (the “Complaint”);

20 WHEREAS, on June 12, 2020, Plaintiff filed a First Amended Complaint alleging a sole
21 cause of action for violation of PAGA (“FAC”) seeking to represent all current and former non-
22 exempt aggrieved employees who suffered one or more violations of the California Labor Code
23 alleged in original complaint;

24 WHEREAS, Defendant reserves any right to challenge Plaintiff’s FAC on any grounds, or
25 to otherwise seek appropriate relief from the Court, including moving to compel arbitration of
26 Plaintiff’s individual claims or demurring on the grounds that there are multiple pending earlier-
27 filed actions that partially or completely overlap with Plaintiff’s claims;

28 WHEREAS, the Parties have agreed to resolve this action on an individual basis;

1 WHEREAS, PAGA requires court approval of any settlement of a civil action filed
2 pursuant to PAGA (*see* Cal. Lab. Code § 2699(1)(2));

3 WHEREAS, the Parties' confidential settlement agreement provides, *inter alia*, that:

- 4 • Plaintiff will dismiss the above-captioned action in its entirety with prejudice as to
5 Plaintiff's individual claims in exchange for a confidential settlement payment,
6 and without prejudice as to any other PAGA members;
- 7 • Plaintiff's release of his PAGA claims against Defendant only applies to Plaintiff
8 himself, and does not bar any other current or former allegedly aggrieved persons
9 from prosecuting another representative action against Defendant or from seeking
10 to recover civil penalties in such an action;
- 11 • No notice of Plaintiff's representative PAGA claims has been provided to "the
12 other current and former aggrieved employees," such that they cannot have been
13 dissuaded from pursuing any potential claims of their own by relying on Plaintiff's
14 representative PAGA claims;
- 15 • No PAGA penalties are being paid to the California Labor and Workforce
16 Development Agency ("LWDA") or to Plaintiff as part of the Parties' settlement
17 of this action; and
- 18 • Plaintiff's individual release includes a release of his potential claims under the
19 Fair Labor Standards Act ("FLSA");

20 WHEREAS, the Parties' confidential settlement agreement is being submitted at the same
21 time as the filing of this Joint Stipulation to the LWDA;

22 WHEREAS, the Parties believe that this individual settlement is fair and reasonable given
23 the settlement payment to Plaintiff and the fact that the settlement will not affect any other
24 pending or future claims that may be brought against Defendant by any allegedly aggrieved
25 person other than Plaintiff under PAGA;

26 THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and through the
27 Parties' respective counsel, that this Court should enter an order approving the settlement of
28 Plaintiff's PAGA action and Plaintiff's release of FLSA claims; and subsequently dismiss the

1 PAGA representative claims alleged in Plaintiff's operative complaint *without prejudice* and
2 Plaintiff's individual claims with prejudice.

3 **IT IS SO STIPULATED.**

4 Dated: September 17, 2020

SHORTLEGAL, APC

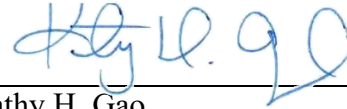
5
6 

7 By

Brian R. Short
Dorota A. James
Attorneys for Plaintiff
JOSHUA LARA

10 Dated: September 29, 2020

MORGAN, LEWIS & BOCKIUS LLP

11
12 

By

Kathy H. Gao
Attorneys for Defendant
THE PEP BOYS MANNY MOE & JACK
OF CALIFORNIA

16 It is so Ordered:

18 10/2/2020

17
18 

19 Judge Randa Trapp

1 **PROOF OF SERVICE**

2 I, Lucy Mata, declare:

3 I am a citizen of the United States and employed in Los Angeles County, California. I am
4 over the age of eighteen years and not a party to the within entitled action. My business address
is 300 South Grand Avenue, Twenty-Second Floor, Los Angeles, CA 90071-3132.

5 On **September 30, 2020**, I served a copy of the within document(s):

6 **JOINT STIPULATION AND REQUEST REGARDING DISMISSAL OF**
7 **REPRESENTATIVE PAGA ACTION WITHOUT PREJUDICE AND**
8 **PLAINTIFF'S INDIVIDUAL CLAIMS WITH PREJUDICE**



by placing the document(s) listed above in a sealed envelope with postage thereon
fully prepaid, the United States mail at Los Angeles, California addressed as set
forth below.

11 SHORTLEGAL, APC
12 Brian R. Short
Dorota A. James
350 10th Avenue, Suite 1000
13 San Diego, CA 92101
Tel: 619.272.0720
14 Fax: 619.839.3129

Attorneys for Plaintiff
JOSHUA LARA

15 I am readily familiar with the firm's practice of collection and processing correspondence
16 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same
day with postage thereon fully prepaid in the ordinary course of business. I am aware that on
17 motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

18 Executed on **September 30, 2020**, at Los Angeles, California.

19 I declare under penalty of perjury under the laws of the State of California that the above
20 is true and correct.

21
22 

23 _____
24 Lucy Mata
25
26
27
28