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BRINKER INTERNATIONAL PAYROLL CO LP

SUPERIOR COURT OF THE STATE OF CALIFORNIA

LOS ANGELES COUNTY – CENTRAL DISTRICT

ARMANDO MARVIN AGUIRRE, as an
individual and on behalf of all similarly
situated employees,

Plaintiff.

v.

BRINKER RESTAURANT
CORPORATION dba CHILI'S; BRINKER
INTERNATIONAL PAYROLL CO LP; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 20STCV28260

**JOINT STIPULATION FOR
DISMISSAL OF PLAINTIFF
ARMANDO MARVIN AGUIRRE'S
PRIVATE ATTORNEYS GENERAL
ACT CLAIMS WITHOUT
PREJUDICE; [PROPOSED] ORDER**

Assigned for all purposes to:
Hon. Ruth Ann Kwan, Dept 72

Trial Date: None Yet Set
Complain filed: July 27, 2020

**TO THE HONORABLE COURT AND ALL PARTIES AND THEIR ATTORNEYS OF
RECORD:**

Plaintiff ARMANDO MARVIN AGUIRRE (“Plaintiff”) and Defendants BRINKER RESTAURANT CORPORATION dba CHILI’S; BRINKER INTERNATIONAL PAYROLL CO LP (“Defendants”) hereby stipulate and agree as follows:

1. Plaintiff filed this action on July 27, 2020, alleging failure to pay wages, failure to provide meal and rest periods, failure to pay all wages upon termination, failure to provide accurate itemized wage statements, and failure to indemnify business expenses. The complaint was filed on behalf of all non-exempt employees of Defendants Brinker Restaurant Corporation dba Chili’s and Brinker International Payroll Co LP (“Defendants”). In response, Defendants denied all of Plaintiff’s claims in an answer filed on October 9, 2020.

2. In or about October 2020, Defendants’ counsel contacted Plaintiff’s counsel regarding prior filed PAGA action against Defendants and provided Plaintiff with pleadings and executed settlement agreement of prior filed PAGA action with overlapping claims covering the liability of Defendant for claims filed in the instant action by Plaintiff (*Chinchilla v. Brinker Restaurant Corporation, et al*, Case No. BC700237 filed in the Superior Court of Los Angeles).

3. Due to the prior PAGA action and settlement with overlapping claims, the Parties agreed to settle the individual claims of Plaintiff with prejudice. The terms of the settlement are confidential. However, the Parties are willing to divulge the terms to the Court in camera, if requested.

4. Due to the PAGA causes of action being dismissed without prejudice, any current or former employee of Defendants except for Plaintiff still has the ability to pursue PAGA claims in a subsequent litigation. Further, there has been no published or widely disseminated notice to the alleged aggrieved employees of this pending action. For the aforementioned reasons, the Parties

1 have determined that it is in the best interests of the alleged aggrieved employees to dismiss the
2 PAGA allegations while preserving their right to pursue any individual claims they may have.

3
4 5. Per Rule of Court, rule 3.770, subdivision (c), there is no requirement to give notice to alleged
5 aggrieved employees regarding the dismissal, because this matter is a representative action under
6 the Private Attorneys General Act (2004) ("PAGA") and not a class action. Further, the Court
7 has not certified any class and notice of pendency of the action has not been provided to alleged
8 aggrieved employees and dismissal of the representative claims will in no way prejudice any
9 alleged aggrieved employees.

10
11 6. Code of Civil Procedure section 581 allows a plaintiff to dismiss "his or her complaint, or any
12 cause of action asserted in it, in its entirety, or as to any defendant or defendants, with or without
13 prejudice prior to the actual commencement of trial." Here, no trial has commenced in this action.

14
15 THEREFORE, IT IS HEREBY STIPULATED AND AGREED TO by and between the parties
16 that:

17 To respectfully request the Court to dismiss Plaintiff's Private Attorneys General Act of
18 2004 ("PAGA") allegations pursuant to Rules of Court, rule 3.770, subdivision (a) and California
19 Code of Civil Procedure section 581 in Plaintiff's operative complaint without prejudice.

20
21
22 Dated: February 25, 2021

MAHONEY LAW GROUP, APC

23 By:  _____

24 Kevin Mahoney
25 Lilit Tunyan
26 Attorneys for Plaintiff
27 ARMANDO MARVIN AGUIRRE
28

1 Dated: February 25, 2021

JACKSON LEWIS P.C.

2 By: 

3 Joel P. Kelly

4 Mia Farber

Attorneys for Defendant

BRINKER RESTAURANT CORPORATION

5 dba CHILI'S; BRINKER INTERNATIONAL

6 PAYROLL CO LP

1 **[PROPOSED] ORDER**

2 Upon consideration of Parties Joint Stipulation for Dismissal of Plaintiff Armando Marvin
3 Aguirre's Private Attorneys General Act of 2004 ("PAGA") allegations, and good cause being
4 shown pursuant to California Rules of Court, rule 3.770(a), it is HEREBY ORDERED:

5 This entire action is hereby dismissed. All of the PAGA allegations in the Complaint are
6 hereby dismissed without prejudice.

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8 **IT IS SO ORDERED.**

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11 Dated: _____

12 HONORABLE RUTH ANN KWAN

13 JUDGE OF THE SUPERIOR COURT
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PROOF OF SERVICE
Code of Civ. Proc. § 1013a, subd. (3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 249 East Ocean Boulevard, Suite 814, Long Beach, California, 90802.

On **February 25, 2021**, I served true copies of the following document(s): **JOINT STIPULATION FOR DISMISSAL OF PLAINTFF ARMANDO MARVIN AGUIRRE'S PRIVATE ATTORNEYS GENERAL ACT CLAIMS WITHOUT PREJUDICE; [PROPOSED] ORDER**. I served the document(s) on the person(s) below as follows:

Joel P. Kelly, Esq. Mia Farber, Esq. JACKSON LEWIS P.C. 725 South Figueroa Street, Suite 2500 Los Angeles, CA 90017-5408	Attorneys for Defendant BRINKER RESTAURANT CORPORATION dba CHILI'S Telephone: (213) 689-0404 Facsimile: (213) 689-0430 Email: Joel.kelly@jacksonlewis.com Mia.farber@jacksonlewis.com
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The document(s) were served by the following means:

☒ **By e-mail:** Based upon court order or an agreement of the parties to accept service by e-mail, I caused the document(s) to be sent to the persons at the electronic service addresses listed above from the email address rcastilla@mahoney-law.net. Within a reasonable time after the transmission, no error, electronic message or any other indication that the transmission was unsuccessful was received.

☒ **(State):** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **February 25, 2021**, at Long Beach, California.

/s/ Rosa Castilla
Rosa Castilla