

David D. Cardone, Esq. (SBN 254954)
DUNN DESANTIS WALT & KENDRICK, LLP
750 B Street, Suite 2620
San Diego, CA 92101
Telephone: (619) 573-4488
Facsimile: (619) 255-4868
DCardone@ddwkllaw.com

Attorneys for Plaintiff ROBERT MISKA, individually
and on behalf of all other Aggrieved Employees

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ROBERT MISKA, individually and
on behalf of all other Aggrieved
Employees,

Plaintiff,

vs.

ENGINEERING AUTOMATION &
DESIGN, INC. dba EAD
MANAGEMENT SERVICES, INC.,
a Nebraska corporation, SMITH
SECKMAN REID, INC., a Tennessee
corporation, CONAGRA BRANDS,
INC., a Delaware corporation, and
DOES 1 to 50,

Defendants.

CASE NO. 1:20-cv-01183-AWI-BAM

**JOINT STIPULATION AND
REQUEST FOR APPROVAL OF
SETTLEMENT**

1 Plaintiff ROBERT MISKA (“Plaintiff”) and Defendants SMITH SECKMAN
2 REID, INC. (“SSR”) and CONAGRA BRANDS, INC. (“CONAGRA”), by and
3 through their respective counsel of record, hereby jointly apply to the Court for the
4 following relief pursuant to this Stipulation:

5 WHEREAS, on July 14, 2020, Plaintiff filed a Complaint against SSR,
6 CONAGRA, and Defendant ENGINEERING AUTOMATION & DESIGN, INC.
7 (“EAD”) in the Superior Court of the State of California, County of Stanislaus, Case
8 No. CV-20-003027, alleging claims for: (1) failure to pay minimum wages, (2) failure
9 to pay overtime wages, (3) failure to provide meal and rest breaks, (4) failure to pay
10 all wages due at time of discharge, (5) failure to make timely payments, (6) failure to
11 provide itemized wage statements, (7) failure to provide one day’s rest in seven, (8)
12 failure to timely produce personnel and payroll records and (9) unfair competition.

13 WHEREAS, on August 17, 2020, Plaintiff filed a First Amended Complaint
14 (“FAC”), adding a California Labor Code Private Attorneys General Act (“PAGA”)
15 claim against SSR and CONAGRA;

16 WHEREAS, on August 19, 2020, EAD filed an Answer to Plaintiff’s FAC;

17 WHEREAS, on August 20, 2020, SSR and CONAGRA filed an Answer to
18 Plaintiff’s FAC;

19 WHEREAS, on August 21, 2020, this action was removed to the United States
20 District Court, Eastern District of California;

21 WHEREAS, on October 20, 2020, per the parties’ stipulation, this action was
22 referred to the Court’s Voluntary Dispute Resolution Program (“VDRP”);

23 WHEREAS, the parties participated in, and completed, their VDRP session
24 with David Cheit, Esq. on February 11, 2021, but the action did not settle;

25 WHEREAS, the parties continued informal settlement discussions following
26 the VDRP session and this Court set a Settlement Conference for May 26, 2021;

1 WHEREAS, Plaintiff entered into an agreement to settle his claims with EAD
2 prior to the May 26, 2021 Settlement Conference;

3 WHEREAS, Plaintiff has since finalized a settlement agreement with EAD;

4 WHEREAS, on February 12, 2021, Defendants filed a Notice of Related Cases
5 notifying this Court that the consolidated case *Moises Negrete, et al., on behalf of*
6 *themselves and other similarly situated v. Conagra Brands, Inc. (f/k/a ConAgra*
7 *Foods, Inc.), et al.*, Case No. 2:16-cv-631-FMO-AJW (“Consolidated *Negrete*
8 *Action*”) is currently pending in the United States District Court for the Central
9 District of California, Courtroom 6D;

10 WHEREAS, the Consolidated *Negrete Action* covers employees that worked
11 at the Conagra facility in Oakdale, California;

12 WHEREAS, Conagra, a defendant in both cases, has owned and operated the
13 Oakdale facility during the entire relevant period in both the Consolidated *Negrete*
14 *Action* and the instant action;

15 WHEREAS, in the Consolidated *Negrete Action* the Oakdale plaintiffs sought
16 to represent all persons employed as non-exempt employees at various facilities,
17 including the Oakdale facility that Plaintiff worked at;

18 WHEREAS, on March 29, 2019, the Consolidated *Negrete Action* Court
19 certified a class in Oakdale that included several Labor Code claims alleged in the
20 instant action;

21 WHEREAS, the parties in the Consolidated *Negrete Action* reached a
22 settlement of all claims that extends for the Oakdale facility to January 15, 2021;

23 WHEREAS, based, in part, on SSR and Conagra’s position that the *Negrete*
24 *Action*, and the settlement thereof, effectively resolved the PAGA claim in this action,
25 at the May 26, 2021 Settlement Conference, with the assistance of this Court, Plaintiff
26 resolved his individual claims with Conagra and SSR, and agreed to the terms of a
27 settlement that would result in the dismissal of all claims against Conagra and SSR,
28 including the PAGA claim;

1 WHEREAS, as set forth above, Plaintiff has not been compensated, and does
2 not stand to be compensated, in any manner with respect to his representative
3 allegations against SSR/CONAGRA;

4 WHEREAS, Plaintiff's resolution with EAD and SSR and CONAGRA will
5 result in the dismissal of Plaintiff's complaint in its entirety;

6 WHEREAS, despite resolving Plaintiff's claims on an individual basis, due to
7 the inclusion of the PAGA claim in Plaintiff's FAC against SSR and CONAGRA,
8 Plaintiff, SSR, and CONAGRA seek approval of their settlement agreement;

9 NOW THEREFORE, the Parties stipulate and request as follows:

10 The Parties request that the Court approve the settlement between Plaintiff and
11 Defendants SSR and CONAGRA to allow for the dismissal of Plaintiff's complaint
12 in its entirety with prejudice.

13
14 Respectfully submitted.

15
16
17 Dated: August 5, 2021

DUNN DESANTIS WALT & KENDRICK, LLP

18 By: /s/ David D. Cardone
19 David D. Cardone
20 Attorneys for Plaintiff ROBERT MISKA

21 Dated: August 5, 2021

LITTLER MENDELSON, P.C.

22
23 By: /s/ Karimah J. Lamar (as authorized)
24 Karimah J. Lamar
25 Attorneys for Defendants
SMITH SECKMAN REID, INC. and
CONAGRA BRANDS, INC.