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ELECTRONICALLY FILED
Superior Court of California
County of Alameda
02/09/2022

Chad Fiske, Executive Officer / Clerk of the Court

By: A. Dhir Deputy

FILED

Superior Court of California
County of Alameda

02/10/2022

Chad Fiske, Executive Officer / Clerk of the Court

By: Daniel F. Gaines Deputy

D. Labrecque

8 Attorneys for Plaintiff Alshaya Banks, on behalf of herself and all "aggrieved employees" pursuant
to Labor Code § 2698 *et seq.*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

12 ALSHAYA BANKS, on behalf of herself and
13 all "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

14 Plaintiff,

15 v.

16 CASINO 580, LLC, a California limited
17 liability company, and DOES 1 through 10,
18 inclusive,

19 Defendants.
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Case No. HG20081213

Assigned to the Hon. Julia Spain, Dept. 520

**STIPULATION AND ~~PROPOSED~~
ORDER DISMISSING ACTION**

[Filed Concurrently with Declaration of
Daniel F. Gaines]

Complaint Filed: November 3, 2020

STIPULATION

WHEREAS, on November 3, 2020, Plaintiff Alshaya Banks, on behalf of herself and all similarly situated individuals, filed a representative action complaint against Casino 580, LLC, a California limited liability company pursuant to Labor Code § 2699(f) for violations of Labor Code §§ 201, 202, 204, and 226(a), and Labor Code § 2699(a) for violations of Labor Code §§ 210, 226.3, and 558 ("Complaint"). See Declaration of Daniel F. Gaines ("Gaines Decl."), at ¶ 2.

WHEREAS, on or about December 29, 2020, Defendant filed its Answer to Plaintiff's Complaint. Gaines Decl. at ¶ 3.

WHEREAS, Plaintiff and Defendant (hereinafter collectively, the "Parties") engaged in informal discovery, followed by extensive discussions of Plaintiff's claims and Defendant's defenses. Gaines Decl. at ¶ 4.

WHEREAS, thereafter the Parties engaged in direct, arms-length negotiations in an effort to reach a settlement. Gaines Decl. at ¶ 5.

WHEREAS, Plaintiff assessed the claims based on the information provided and determined that they were weak claims which affected very few employees since the global pandemic had shut down Defendant's operations for the vast majority of the PAGA period. Gaines Decl. at ¶ 6.

WHEREAS, based thereon, the Parties agreed to resolve Plaintiff's claims individually, in exchange for a dismissal of Plaintiff's individual PAGA claims with prejudice, and the dismissal of the claims of all other "aggrieved employees" without prejudice. The Parties further agreed to exclude from the settlement and release in this matter, Plaintiff's separate action which alleges violations of the Fair Employment and Housing Act styled as *Alshaya Banks v. Casino 58, LLC, et al.*, Alameda Superior Court, Case No. HG21085149 (the "FEHA Action"). Gaines Decl. at ¶ 6.

WHEREAS, the Parties have agreed that Defendant shall pay Plaintiff \$16,000 in exchange for the release and dismissal with prejudice of all of her individual claims except for the claims asserted in the FEHA Action. The Parties entered into a Confidential Settlement Agreement and General Release of All Claims, but upon request, the Parties will provide a copy *in camera* for the Court's review. Gaines Decl. at ¶ 7.

1 WHEREAS, the settlement between Plaintiff and Defendant does not contemplate the waiver
2 of any claims by anyone other than Plaintiff and does not provide for the waiver of the PAGA claims
3 asserted on behalf of any employee, such that there is no allocation to PAGA penalties in the
4 settlement. Gaines Decl. at ¶ 8.

5 WHEREAS, the absent employees will not be prejudiced, no notice of the pendency of this
6 Action has been given to them, and this settlement preserves their rights and promotes judicial
7 efficiency and economy by curtailing costly litigation and resolving an action in the best manner
8 possible. Gaines Decl., ¶ 9.

9 WHEREAS, concurrent with the filing of this Stipulation, the Parties have submitted the
10 Settlement Agreement to the LWDA in compliance with Labor Code section 2699(1)(2). Gaines
11 Decl., ¶ 10.

12 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties hereto and
13 through their respective attorneys of record that Plaintiff's individual PAGA claims and all individual
14 claims not covered by the FEHA Action shall be dismissed *with* prejudice, and the PAGA claims and
15 claims asserted on behalf of other employees in the Action shall be dismissed *without* prejudice.

16 **IT IS SO STIPULATED.**

17 Dated: February 9, 2021

18 For Plaintiff:

19 GAINES & GAINES, APLC

20
21 By: Daniel F. Gaines
22 Daniel F. Gaines, Esq.

For Defendant:

JACKSON LEWIS, P.C.

23
24 By: 
25 Shannon B. Nakabayashi, Esq.

26 **ORDER**

27 The Court, having reviewed the Parties' stipulation and any and all supporting papers, hereby
28 ORDERS that Plaintiff Alshaya Banks' individual PAGA claims, and all individual claims not
asserted in the action titled *Alshaya Banks v. Casino 58, LLC, et al.*, Alameda Superior Court, Case

No. HG21085149, shall be DISMISSED WITH PREJUDICE, and the PAGA claims and claims asserted on behalf of other employees in the Action shall be DISMISSED WITHOUT PREJUDICE.

IT IS SO ORDERED.

Dated: 02-10-22



JUDGE OF THE SUPERIOR COURT

Julia Spain / Judge

1 **PROOF OF SERVICE AND CERTIFICATION**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to
3 the within action. My business address is 27200 Agoura Road, Suite 101, Calabasas, CA 91301.

4 _____ (For messenger) my business address is:

5 On February 9, 2022, I served the foregoing document described as **STIPULATION AND [PROPOSED]**
6 **ORDER DISMISSING ACTION** on the interested parties in this action by placing a true copy thereof enclosed in
7 sealed envelopes addressed as follows:

8 **Shannon B. Nakabayashi, Esq.**
9 **Julie Y. Zong, Esq.**
10 **Jackson Lewis P.C.**
11 **50 California Street, 9th Floor**
12 **San Francisco, CA 94111**

13 On the above date:

14 X (BY X U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was
15 mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing
16 correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of
17 business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage
18 meter date is more that one day after date of deposit for mailing in affidavit.

19 _____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or
20 other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized
21 carrier or driver authorized by the express carrier to receive documents.

22 _____ (BY FACSIMILE TRANSMISSION) On August 3, 2015, at _____ a.m./p.m., at Calabasas, California, I
23 served the above-referenced document on the above-stated addressee by facsimile transmission pursuant to Rule 2008
24 of the California Rules of Court. The telephone number of the sending facsimile machine was (818)703-8984 and the
25 telephone number(s) of the receiving facsimile machine was () _____. A transmission report was properly
26 issued by the sending facsimile machine, and the transmission was reported as complete and without error. Copies of
27 the facsimile transmission cover sheet and the transmission report are attached to this proof of service.

28 X (ONLINE TO THE LWDA): I caused the above-described document to be delivered to the Labor Workforce
Development Agency via online process at the PAGA Filing website in accordance with the procedure imposed by the
LWDA.

_____ (BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 9, 2022, at Calabasas, California.

24 
25 JEREMY REYES

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Hayward Hall of Justice 24405 Amador Street, Hayward, CA 94544		FILED Superior Court of California County of Alameda 02/10/2022 Chad Finke, Executive Officer / Clerk of the Court By: <u><i>Danielle Labrecque</i></u> Deputy D. Labrecque
PLAINTIFF/PETITIONER: Alshaya Banks		
DEFENDANT/RESPONDENT: Casino 580 LLC		
CERTIFICATE OF MAILING		CASE NUMBER: HG20081213

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Hayward, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Alex P. Katofsky
Gaines & Gaines, APLC
27200 Agoura Road
Suite 101
Calabasas, CA 91301-

Shannon B Nakabayashi
JACKSON LEWIS P.C.
50 California Street
9th Floor
San Francisco, CA 94111-

Chad Finke, Executive Officer / Clerk of the Court

Dated: 02/10/2022

By:

Chad Finke, Executive Officer / Clerk of the Court

Danielle Labrecque

D. Labrecque, Deputy Clerk

CERTIFICATE OF MAILING