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Attorneys for Plaintiff CHARAN MACIAS

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

CHARAN MACIAS, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

UMG RECORDINGS, INC., a Delaware
corporation; OPERATOR MEDIA, LLC, a
foreign limited liability company; KATHLEEN
HEFFERNAN, an individual; and DOES 1
through 50, inclusive,

Defendants.

Case No: 20STCV39494
Related to Case No. 21STCV06050
*Assigned to the Hon. Stuart Rice
Dept. 1*

**REQUEST FOR DISMISSAL PURSUANT
TO CALIFORNIA RULE OF COURT
3.770; DECLARATION OF FRANK H.
KIM IN SUPPORT**

Complaint Filed: October 15, 2020
FAC: June 7, 2021
SAC: December 30, 2021
Trial Date: None Set

1 **REQUEST FOR DISMISSAL**

2 Pursuant to California Rules of Court, Rule 3.770, Plaintiff Charan Macias ("Plaintiff")
3 hereby requests dismissal the entire complaint with prejudice as to Plaintiff and without
4 prejudice as to the Class.

5 On October 15, 2020, Plaintiff filed the instant class action lawsuit against Universal
6 Music Group, Inc., Interscope Records, and Operator Media, LLC for Labor Code violations
7 arising from Defendants' failure to send Plaintiff payment for Plaintiff's work as background
8 talent for a music video on February 27, 2020. (Declaration of Frank H. Kim ("Kim Decl."), ¶
9 3.)

10 In the Complaint, Plaintiff sought to represent the following class: "All of Defendants'
11 current and former non-exempt employees in California within four years from the filing of this
12 lawsuit through the final disposition of this action (the "Class Period") who were compensated
13 by Defendants a fixed daily wage." ("Kim Decl."), ¶ 4.)

14 On June 7, 2021, Plaintiff filed a First Amended Complaint ("FAC") to add defendants
15 UMG Recordings, Inc. and Kathleen Heffernan and a PAGA claim. ("Kim Decl."), ¶ 5.) The
16 FAC had the same class definition. (*Id.*)

17 On October 20, 2021, Plaintiff requested dismissal of Universal Music Group, Inc. and
18 Interscope Records without prejudice, which the Court granted. ("Kim Decl."), ¶ 6.)

19 On December 30, 2021, Plaintiff filed a Second Amended Complaint against defendants
20 UMG Recordings, Inc., Operator Media, LLC, and Kathleen Heffernan (the sole member of
21 Operator Media, LLC) with the same class definition. ("Kim Decl."), ¶ 7.)

22 Based on formal discovery, informal investigation, and discussions with counsel,
23 Plaintiff believes it would be difficult to establish that UMG Recordings, Inc. employed him.
24 ("Kim Decl."), ¶ 8.) Plaintiff also believes that Operator Media, LLC and Kathleen Heffernan
25 have been adversely impacted by the COVID-19 pandemic and it would face insolvency issues
26 if Plaintiff prevailed on all of the claims in this action. ("Kim Decl."), ¶ 9.)

27 Based on the foregoing, on or about August 9, 2023, Plaintiff and Operator Media, LLC
entered into a confidential settlement agreement whereby Plaintiff settled his individual claims

1 and agreed to dismiss with prejudice his individual claims in the action, dismiss without
2 prejudice his class claims, and dismiss without prejudice his PAGA representative claim. (Kim
3 Decl., ¶ 10.)

4 The individual settlement consideration is not being given for the dismissal of class and
5 PAGA claims, but the dismissal without prejudice is necessary and agreed to as part of the
6 settlement because the settlement releases all of Plaintiff's individual claims that would be
7 necessary for the class claims to continue in this action. (Kim Decl., ¶ 11.)

8 On August 4, 2023, Plaintiff served a copy of this Request For Dismissal by uploading
9 it to the LWDA website. (Kim Decl., ¶ 12.)

10 Plaintiff submits that the instant settlement does not prejudice any putative class
11 member, so there is no need for any sort of notice to be given under California Rules of Court,
12 Rule 3.770(c). The following factors are persuasive in this regard: (a) no class was certified;
13 and (b) no notice was ever provided to any potential class members about this action. (Kim
14 Decl., ¶ 13.)

15 DATED: August 31, 2023

KIM LEGAL, APC

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17 By: /s/ Frank H. Kim
FRANK H. KIM
18 Attorneys for Plaintiff
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I, Frank H. Kim, declare as follows:

1. I am an attorney admitted before all courts of the State of California. I am the
of Kim Legal, APC, counsel of record for Plaintiff Charan Macias (“Plaintiff”) in this
I make this declaration from my own personal knowledge, and, if called upon, I would
uld competently testify to the following matters.

2. This declaration is submitted pursuant to California Rules of Court, rule 37.7, which requires approval for “a dismissal of an entire class action, or of any party or class member from an entire class action, or of any party or class member from a class action in a class action[.]” Plaintiff hereby requests that his individual claims are dismissed with prejudice and his class and PAGA representative claims are dismissed without prejudice.

3. On October 15, 2020, Plaintiff filed the instant class action lawsuit against Universal Music Group, Inc., Interscope Records, and Operator Media, LLC for Labor Code violations arising from Defendants' failure to send Plaintiff payment for Plaintiff's work as a background talent for a music video on February 27, 2020.

4. In the Complaint, Plaintiff sought to represent the following class: “All of Plaintiffs’ current and former non-exempt employees in California within four years from the filing of this lawsuit through the final disposition of this action (the “Class Period”) who were compensated by Defendants a fixed daily wage.”

5. On June 7, 2021, Plaintiff filed a First Amended Complaint (“FAC”) to add UMG Recordings, Inc. and Kathleen Heffernan and a PAGA claim. The FAC has amended the class definition.

6. On October 20, 2021, Plaintiff requested dismissal of Universal Music Group, and Interscope Records without prejudice, which the Court granted.

7. On December 30, 2021, Plaintiff filed a Second Amended Complaint against UMG Recordings, Inc., Operator Media, LLC, and Kathleen Heffernan (the sole owner of Operator Media, LLC) with the same class definition.

8. Based on formal discovery, informal investigation, and discussions with counsel, Plaintiff believes it would be difficult to establish that UMG Recordings, Inc. employed him.

9. Plaintiff also believes that Operator Media, LLC and Kathleen Heffernan have been adversely impacted by the COVID-19 pandemic and it would face insolvency issues if Plaintiff prevailed on all of the claims in this action.

10. Based on the foregoing, on or about August 9, 2023, Plaintiff and Operator Media, LLC entered into a settlement agreement whereby Plaintiff settled his individual claims in the gross amount of \$14,000 and agreed to dismiss with prejudice his individual claims in the action, dismiss without prejudice his class claims, and dismiss without prejudice his PAGA representative claim.

11. The individual settlement consideration is not being given for the dismissal of class and PAGA claims, but the dismissal without prejudice is necessary and agreed to as part of the settlement because the settlement releases all of Plaintiff's individual claims that would be necessary for the class claims to continue in this action.

12. On August 4, 2023, Plaintiff served a copy of this Request For Dismissal by uploading it to the LWDA website. (Ex. A.)

13. Plaintiff submits that the instant settlement does not prejudice any putative class member, so there is no need for any sort of notice to be given under California Rules of Court, Rule 3.770(c). The following factors are persuasive in this regard: (a) no class was certified; and (b) no notice was ever provided to any potential class members about this action.

14. A Proposed Order Granting Plaintiff's Request for Dismissal With Prejudice as to Plaintiff and Without Prejudice to the Class is being filed concurrently with this declaration.

Executed this 31st day of August 2023 in Los Angeles, California.

/s/ *Frank H. Kim*
FRANK H. KIM

PROOF OF SERVICE
[CCP 1013(a)(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 years and not a party to the within action. My business address is 3435 Wilshire Blvd., Suite 2700, Los Angeles, CA 90010.

On August 31, 2023, I served all interested parties in this action the following documents described as: **REQUEST FOR DISMISSAL; DECLARATION OF FRANK H. KIM IN SUPPORT** on the interested parties below as follows:

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Attorneys for Defendant Operator Media, LLC
and Kathleen Heffernan

[X] (BY ELECTRONIC TRANSMISSION) I caused a copy of the document(s) to be uploaded via Case Anywhere per the Court's Order Authorizing Electronic Service and/or emailed to the parties listed above.

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

Executed on August 31, 2023, at Los Angeles, California.

/s/ Frank H. Kim
Frank H. Kim