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 CARLOS TENORIO HERNANDEZ

FILED
 Superior Court of California
 County of Los Angeles
11/29/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: M. De Luna Deputy

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 9 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

10 CARLOS TENORIO HERNANDEZ, an
 11 individual,
 12 Plaintiff,

13 v.

14 BELLA + CANVAS, LLC, a California limited
 liability company; BARONHR WEST, INC., a
 15 Delaware Corporation; and DOES 1 through 20,
 inclusive,

16 Defendants.
 17

Case No.: 21STCV22730

*[Assigned for All Purposes to the
 Honorable Armen Tamzarian, Dept. 52]*

**JOINT STIPULATION TO DISMISS
 PAGA CLAIM AND ~~PROPOSED~~
 ORDER THEREON**

Action Filed: June 24, 2020
 Trial Date: None Set

18 **TO THE HONORABLE COURT:**

19 Plaintiff Carlos Tenorio Hernandez ("Plaintiff") and Defendants Bella + Canvas, LLC;
 20 BaronHR West, Inc.; BaronHR, LLC; and Color Image Apparel, Inc. (collectively, "Defendants"), by
 21 and through their counsel of record, hereby stipulate as follows:

22 WHEREAS, Plaintiff provided the LWDA with notice of his intent to assert a PAGA claim and
 23 the basis for that claim in accordance with Labor Code section 2699.3 on December 2, 2020. Plaintiff
 24 filed his Complaint after not receiving a response from the LWDA.

25 WHEREAS, Plaintiff filed his Complaint on June 17, 2021 against Defendants alleging the
 26 following causes of action: (1) Failure to Pay Wages (Cal. Labor Code §§ 201, 226.7, 246); (2) Failure
 27 to Provide Meal and Rest Periods (Cal. Labor Code §§ 226.7, 512); (3) Failure to Provide Itemized
 28 Wage and Hour Statements (Cal. Labor Code §§ 226, et seq.); (4) Waiting Time Penalties (Cal. Labor

1 Code §§ 201-203); (5) Private Attorney General Act (Cal. Labor Code §§ 2699, et seq.) ; (6) Unfair
2 Competition (Bus. & Prof. Code § 17200, et seq.); and (7) Failure to Permit Inspection of Personnel and
3 Payroll Records (Cal. Labor Code §§ 226, et seq., 1198.5).

4 WHEREAS, on September 9, 2021, Plaintiff filed Amendments to his Complaint after
5 discovering the true names of other Defendants and amended to add the following Parties: 1) Color
6 Image Apparel, Inc.; and 2) BaronHR LLC;

7 WHEREAS, the Parties reached a settlement of Plaintiff's individual claims only against
8 Defendants, and entered into a confidential settlement and general release on November 17, 2021;

9 WHEREAS, the settlement between the Parties is not a "PAGA settlement" requiring court
10 approval under Labor Code § 2699(1)(2) because the Parties did not seek to release any claims on a
11 representative basis;

12 WHEREAS, Plaintiff wishes to settle for himself on the terms reached with Defendants with
13 regard to the Action. The amount of the confidential settlement agreement was negotiated for Plaintiff's
14 individual claims only;

15 WHEREAS, Plaintiff is limited to facts within his own knowledge, and Plaintiff did not receive
16 any PAGA discovery from Defendants and will not be able to identify other alleged aggrieved
17 employees;

18 WHEREAS, Plaintiff has not sought the express consent of other alleged aggrieved employees to
19 pursue this Action on their behalf;

20 WHEREAS, Plaintiff is not required to give other alleged aggrieved employees the opportunity to
21 opt-out of Plaintiff's representation in this Action;

22 WHEREAS, a claim under the California Labor Code Private Attorney General Act of 2004
23 ("PAGA"), California Labor Code §§ 2699, et seq. was part of the Complaint in this Action;

24 WHEREAS, the rights of other alleged aggrieved employees will not be prejudiced, as Plaintiff
25 seeks dismissal without prejudice as to the other allegedly aggrieved employees. No consideration has
26 been or will be provided for the dismissal without prejudice of Plaintiff's PAGA claim with respect to
27 these other allegedly aggrieved employees, and the Parties did not seek or enter into a release of PAGA
28 claims on behalf of any allegedly aggrieved employees. Thus, dismissal of this PAGA claim does not

1 affect the rights or abilities of any other allegedly aggrieved employees to bring subsequent individual
2 actions, class actions, or representative PAGA actions because this claim is to be dismissed without
3 prejudice only as to any other allegedly aggrieved employees;

4 WHEREAS, this request for dismissal of the PAGA claim without prejudice shall be served to the
5 California Labor Workforce (“LWDA”) after Court approval;

6 WHEREAS, any other allegedly aggrieved employees will not be prejudiced without notice of the
7 settlement or the requested dismissal. Discovery as to the identities of other aggrieved employees was
8 not completed based on the Parties’ desire to resolve the Action after protracted discussions,
9 investigation, and negotiations, nor has notice of this Action been provided to other alleged aggrieved
10 employees. Thus, the Parties are not aware of any other allegedly aggrieved employees who have any
11 expectations of recovery of any kind in this Action, and to the extent any of them wish, in the future, to
12 pursue their own claims, they have the right to do that; and

13 WHEREAS, Plaintiff wishes to dismiss his PAGA cause of action without prejudice.
14

15 **NOW, THEREFORE**, the parties stipulate and jointly request that:

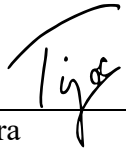
16 The Court dismiss Plaintiff’s fifth cause of action under the Private Attorney General Act of
17 2004 (“PAGA”), Labor Code §§2699 et seq., without prejudice.
18

19 **IT IS SO STIPULATED** between the parties.
20

21 DATED: November 18, 2021

GUERRA & CASILLAS LLP

22
23
24 By:



Ruben Guerra
Tizoc Perez-Casillas
Attorneys for Plaintiff
CARLOS TENORIO HERNANDEZ

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28 ///

1 DATED: November 18, 2021

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

2
3
4 By:



Christian Keeney, Esq.
Patricia A. Matias, Esq.
Alis M. Moon, Esq.
Attorneys for Defendants,
BARONHRWEST, INC.

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10 DATED: November 18, 2021

THOITS LAW

11
12
13 By:



Andrew P. Holland, Esq.
Maureen Duffy, Esq.
Austin G. Dieter, Esq.
Attorneys for Defendants,
BELLA + CANVAS, LLC

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[PROPOSED] ORDER

The Court, having considered the Parties' Joint Stipulation, and all legal authorities in support thereof, and good cause appearing therefore,

IT IS HEREBY ORDERED that

1. Plaintiff's fifth cause of action under the California Labor Code, Private Attorney General Act, Labor Code §§ 2699, et seq., is dismissed without prejudice; and

2. Plaintiff shall submit a copy of this Court Order to the Labor and Workforce Development Agency within 10 days after entry of this order.

IT IS SO ORDERED.

Date: 11/29/2021



Arman Tamzarian

Arman Tamzarian / Judge
Judge of the Superior Court