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Attorneys for Plaintiff Johnathon Fausto, on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 et seq.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

JONATHAN FAUSTO, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 et seq.,

Plaintiff,

vs.

HIGH PERFORMANCE LOGISTICS LLC,
a California limited liability company, and
DOES 1 through 10, inclusive,

Defendants.

Case No. CIVSB2115097

Assigned to the Hon. Stephanie Tanada, Dept. S33

**DECLARATION OF DANIEL F. GAINES IN
SUPPORT OF REQUEST FOR DISMISSAL**

[Filed Concurrently: Request for Dismissal]

Complaint Filed: May 25, 2021

1 I, Daniel F. Gaines, declare as follows:

2 1. I am an attorney duly admitted to practice law in the State of California and I am a
3 managing shareholder at Gaines & Gaines, APLC, counsel of record for Plaintiff Jonathan Fausto
4 (“Plaintiff”) in this matter. The matters set forth herein are of my own personal knowledge, and if
5 sworn as a witness, I could and would testify competently thereto.

6 2. On May 25, 2021, Plaintiff filed the instant Action seeking penalties on a
7 representative basis, on behalf of himself and all “aggrieved employees,” for Defendant HIGH
8 PERFORMANCE LOGISTICS LLC’s (“Defendant”) violations of the California Labor Code’s
9 Private Attorneys General Act of 2004 (“PAGA”), codified at § 2698, *et seq.*, by failing to pay all
10 wages due, failing to provide meal and rest periods, or compensation in lieu thereof, failing to issue
11 complete and accurate wage statements, and failing to timely pay all wages due at separation of
12 employment. The alleged violations occurred when Plaintiff worked for Defendant in San Bernardino
13 County, California.

14 3. Following conversations with Defendant’s counsel, my office has ascertained that
15 liability is disputed and Defendant is having financial hardship. This determination is based on
16 information provided by Defendant’s counsel through discussions in this matter.

17 4. The Parties have negotiated a settlement of Plaintiff’s individual claims only, and the
18 PAGA representative claims will be dismissed without prejudice, as set forth in the concurrently-filed
19 request for dismissal. The Parties entered into a confidential settlement agreement.

20 5. The settlement does not contemplate the waiver of any claims by anyone other than
21 Plaintiff and does not provide for the waiver of PAGA representative claims asserted on behalf of any
22 employee or the State, such that there is no allocation of civil penalties therein.

23 6. Plaintiff, therefore, requests that the Court enter a dismissal of this action ***with***
24 ***prejudice*** as to Plaintiff’s individual claims and ***without prejudice*** as to the PAGA representative
25 claims, pursuant to the request submitted concurrently herewith.

26 7. Concurrent with the filing of this declaration and the request for dismissal, Plaintiff
27 has submitted the confidential settlement agreement to the LWDA in compliance with Labor Code
28 section 2699(1)(2).

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct and was executed on August 19, 2024, at Westlake Village, California.

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4 *Daniel F. Gaines*
5 DANIEL F. GAINES
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_____ (For messenger) my business address is:

Tim L. Johnson, Esq.
Nikolas T. Djordjevski, Esq.
Yousaf M. Jafri, Esq.
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____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

 X (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

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

Executed on August 19, 2024, at Westlake Village, California.

Amelia Booth
AMELIA BOOTH