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Attorneys for Plaintiff James Neal, 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 LOS ANGELES

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

Plaintiffs,

v.

EDITION MANAGEMENT, LLC, a
Delaware limited liability company, and
DOES 1 through 10, inclusive,

Defendants.

CASE NO. 21SMCV00503

*Assigned to the Honorable Mark H. Epstein,
Dept. R*

**DECLARATION OF DANIEL F. GAINES
IN SUPPORT OF REQUEST FOR
DISMISSAL OF CLASS AND
REPRESENTATIVE ACTION**

[Filed Concurrently: Request for Dismissal]

*Complaint Filed: March 17, 2021
FAC Filed: June 4, 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 JAMES NEAL
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 March 17, 2021, Plaintiff filed the instant Action seeking damages on a
7 representative basis, on behalf of himself and all “aggrieved employees,” for Defendant EDITION
8 MANAGEMENT, LLC’s (“Defendant”) alleged violations of the California Labor Code and the
9 Private Attorneys’ General Act of 2004 (“PAGA”), codified as § 2698, *et seq.* by allegedly failing to
10 pay all wages due by failing to provide meal and rest periods, or compensation in lieu thereof, issue
11 complete and accurate wage statements, and pay all wages due at separation of employment. The
12 alleged violations occurred when Plaintiff worked for Defendant in Los Angeles County, California.

13 3. On June 4, 2021, Plaintiff filed a First Amended Class and Representative Action
14 Complaint seeking damages on a class wide and representative basis, on behalf of himself and
15 similarly situated individuals, for Defendant’s alleged violations of California Labor Code, Business
16 & Professions Code, codified as § 17200, *et seq.*, and PAGA by allegedly failing to pay all wages due
17 by failing to provide meal and rest periods, or compensation in lieu thereof, issue complete and
18 accurate wage statements, and pay all wages due at separation of employment.

19 4. Following extensive discovery, my office has ascertained that Plaintiff’s claims are
20 quite individual. Furthermore, liability is disputed. This determination is based on information
21 provided by Defendant through discovery in this matter.

22 5. The Parties have negotiated a settlement of Plaintiff’s individual claims only, and the
23 Class and PAGA claims will be dismissed without prejudice, as set forth in the concurrently-filed
24 request for dismissal¹.

25 6. The settlement of this Action does not provide for any consideration to any putative
26 class member in the Action nor does it provide for the waiver, settlement, or release of any class
27

28 ¹ Plaintiff’s Counsel is prepared to communicate with the Court *in camera* regarding all facts relating
to the confidential settlement, should the Court request further information.

1 claims asserted on behalf of any putative class member in the Action other than Plaintiff. Further,
2 the settlement does not contemplate the waiver of any claims by anyone other than Plaintiff and does
3 not provide for the waiver of PAGA claims asserted on behalf of any employee or the State, such that
4 there is no allocation of civil penalties in the Settlement.

5 7. No notice is required to be given to the putative class because no notice of the pending
6 Action was ever given; there has been no publicity of which the Parties are aware; neither Plaintiff
7 nor my office have communicated with any absent class members about the Action; there is no other
8 pending action, of which the Parties are aware, brought by a member of the putative class or including
9 an overlapping putative class; and the putative class is not reasonably ascertainable at the present
10 time; consequently, no absent putative class member will suffer prejudice as a result of this dismissal.

11 8. Plaintiff, therefore, requests that the Court enter a dismissal of this action *with*
12 *prejudice* as to Plaintiff's individual claims and dismissal *without prejudice* of the class and
13 representative action claims, pursuant to the request submitted concurrently herewith.

14 9. Concurrent with the filing of this Request for Dismissal, the Parties have submitted
15 the full Settlement Agreement to the LWDA (under confidential designation) in compliance with
16 Labor Code section 2699(1)(2).

17 I declare under penalty of perjury under the laws of the State of California that the foregoing
18 is true and correct and was executed on December 14, 2022, at Westlake Village, California.

19
20 
21 _____
22 DANIEL F. GAINES
23
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1
2 **PROOF OF SERVICE AND CERTIFICATION**

3 I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the
4 within action; my business address is 4550 East Thousand Oaks Boulevard, Suite 100, Westlake Village, CA 91362.

5 _____ (For messenger) my business address is:

6 On December 14, 2022, I served the foregoing document described as **DECLARATION OF DANIEL F.**
7 **GAINES IN SUPPORT OF REQUEST FOR DISMISSAL OF CLASS AND REPRESENTAIVE ACTION** on the
8 interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

9 **Joseph W. Ozmer II, Esq.**
10 **Kristapor Vartanian, Esq.**
11 **KABAT CHAPMAN & OZMER LLP**
12 **333 S. Grand Avenue, Suite 2225**
13 **Los Angeles, CA 90071**

14 ☒ (BY ☒ 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
16 and processing correspondence for mailing. It is deposited with United States postal service on that same
17 day in the ordinary course of business. I am aware that on motion of party served, service is presumed
18 invalid if postal cancellation date or postage meter date is more that one day after date of deposit for
19 mailing in affidavit.

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

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

_____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-
delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

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

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

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

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

27 Executed on December 14, 2022, at Westlake Village, California.

28 Amelia Booth
AMELIA BOOTH