

BURROWS LAW FIRM
Christopher L. Burrows (SBN 222301)
Email: cburrows@cburrowslaw.com
8383 Wilshire Blvd., Suite 634
Beverly Hills, CA 90211
Tel: (310) 526-9998
Fax: (424) 644-2446

Attorneys for Plaintiff
ASHLYN SCHWARTZ

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

ASHLYN SCHWARZ, on behalf of herself
and all others similarly situated

Plaintiff,

vs.

MUTESIX GROUP, INC., a California
Corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **21STCV28719**

*[Assigned for all purposes to Hon. Kenneth R.
Freeman, Dept.: 14, Spring Street Courthouse]*

**DECLARATION OF CHRISTOPHER L.
BURROWS, ESQ. IN SUPPORT OF REQUEST
TO DISMISS ENTIRE COMPLAINT
INCLUDING DISMISSAL OF PLAINTIFF'S
INDIVIDUAL PAGA CLAIMS WITH
PREJUDICE TO PLAINTIFF AND
WITHOUT PREJUDICE TO UNNAMED
AGGREIVED EMPLOYEES**

Complaint Filed: August 4, 2021

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DECLARATION OF CHRISTOPHER L. BURROWS

I, Christopher L. Burrows, declare as follows:

1. I am a fully qualified, adult resident of the State of California, and if called as a witness, I would testify truthfully to the matters set forth herein. All of the matters set forth are within my personal knowledge, except those that are stated to be upon information and belief. As to such matters, I believe them to be true.

2. I am an attorney duly admitted to practice law before the courts in the State of California. I am Principal of Burrows Law Firm, counsel of record for Plaintiff Ashlyn Schwartz ("Plaintiff"), in the instant action, *Schwartz v. Mutesix Group, Inc., et al.*, Los Angeles Superior Court Case No. 21STCV28719.

3. This Declaration is submitted in support of Plaintiff's Request to Dismiss Entire Complaint Including Dismissal of Plaintiff's Individual PAGA Claims with Prejudice to Plaintiff and Without Prejudice to Alleged Unnamed Aggrieved Employees and [Proposed] Order, concurrently filed herewith, wherein Plaintiff requests that the Court dismiss her claims with prejudice, without notice and without prejudice to unnamed putative aggrieved employees in the above captioned action, pursuant to an executed individual Settlement Agreement, for the reasons set forth below.

4. On August 4, 2021, Plaintiff Ashlyn Schwartz, on behalf of herself and all others similarly situated, filed the instant Class and Representative Action Complaint ("Complaint") against Defendant Mutesix Group, Inc., et al., and DOES 1 through 100. Plaintiff filed a Class and Representative Action Complaint alleging the following claims against Defendant Mutesix Group, Inc. ("Defendant"): (1) failure to pay all overtime wages; (2) failure to pay minimum wages; (3) failure to reimburse necessary business expenses; (4) failure to provide meal periods; (5) failure to provide rest periods; (6) waiting time penalties; (7) failure to provide accurately itemized wage statements; (8) unfair business competition; and (9) civil penalties under the Private Attorneys General Act ("PAGA"). Plaintiff also alleges Defendant misclassified her and putative class members as independent contractors. Plaintiff was employed by Defendant as an independent contractor and/or non-exempt employee for Defendant's primary business specializing in digital

1 marketing and advertising from in or about January 2019, to in or about April 2020.

2 5. On August 17, 2021, the Court entered and served on Plaintiff's Counsel its Order
3 re Newly Filed Class Action and Initial Status Conference Order, which ultimately set the initial
4 status conference on October 22, 2021, at 10:00 a.m., in Department 14.

5 6. Pursuant to the Court's Initial Status Conference Order the Parties met and conferred
6 with respect to the Initial Status Conference and filed their Joint Initial Status Conference Class
7 Action Response Statement on October 8, 2021, notifying the Court of Defendant belief that on
8 March 7, 2019, Plaintiff entered into a binding Arbitration agreement with Defendant that required
9 Plaintiff to arbitrate any and all claims arising from her employment with Defendant. Defendant
10 produced the purported Agreement to Plaintiff's Counsel for review and confirmation. The Parties
11 requested that the Court continue the Initial Status Conference sixty (60) days, to permit the Parties
12 time to sort out the scope of the putative class and whether this matter is governed by the Arbitration
13 Agreement. Plaintiff's counsel confirmed the existence of the executed Arbitration Agreement.

14 7. Thereafter, the Parties met and conferred regarding the applicability of the
15 Arbitration Agreement. Per pertinent terms of the Arbitration Agreement, "[y]ou and the Company
16 agree to submit to mandatory binding arbitration, in Los Angeles County, California, any and all
17 claims arising out of or related to this Agreement and your employment with the Company and the
18 termination thereof." Because of the existence of an arbitration agreement, Plaintiff dismissed the
19 class and individual allegations in the Complaint so she could proceed under PAGA only. The
20 Parties subsequently exchanged material information concerning the action and engaged in
21 substantive arms' length negotiations for months regarding Plaintiff's representative allegations.
22 The Parties also had an in-depth discussion regarding the impact of *Viking River Cruises v. Moriana*
23 (2022) 142 S.Ct. 1906, 2022 WL 2135491 ("Viking River"). In response to confirmation of the
24 binding Arbitration Agreement that included a Class Action Waiver, on or about February 25, 2022,
25 Plaintiff filed a Request to Dismiss Plaintiff's Individual Allegations with Prejudice; Dismiss Class
26 Allegations Without Prejudice Pursuant to California Rule of Court 3.770; And Stay PAGA Claim
27 Pending Private Mediation, scheduled for June 22, 2022, with experienced mediator Lou Marlin.
28 On April 27, 2022, the Court entered an Order granting Plaintiff's request to dismiss claims
identified above. A true and correct copy of Court's Minute Order is attached hereto as **Exhibit A**.

1 8. Thereafter, the Parties actively engaged in settlement discussions in an effort to
2 resolve this matter individually, on behalf of Plaintiff Schwartz. Following an analysis of the
3 material exchanged between the Parties, Plaintiff and her counsel determined that settlement of this
4 matter on an individual basis was proper. Considering the information provided by Defendant and
5 the facts as obtained by counsel, Plaintiff's counsel engaged in individual settlement discussions
6 with Defendant's counsel, and a confidential settlement agreement was reached, memorialized, and
7 fully signed. Pursuant to the fully signed settlement agreement, Plaintiff will dismiss her individual
8 PAGA action, with prejudice. However, this dismissal has no impact on the rights of other aggrieved
9 employees. The settlement is subject to a confidential settlement agreement, but Plaintiff's counsel
10 will provide a copy to the Court for in camera review if the Court so requests.

11 9. Through the meet and confer process and by way of voluntary exchange of relevant
12 data and information, Plaintiff Schwartz and Defendant Mutesix Group, Inc., engaged in good faith
13 meaningful informal discovery on Schwartz's claims, which obviated the need for an experienced
14 wage and hour class action mediator. In consideration of, among other things, Plaintiff's alleged
15 employment claims (that Defendant vehemently denies have any merit), the Parties have reached a
16 resolution of this matter on an individual basis for Plaintiff.

17 10. On or about June 2022, the Parties agreed to the total amount of Thirty-Five
18 Thousand Dollars and Zero Cents (\$35,000.00), to be paid as consideration for Plaintiff's request
19 for dismissal with prejudice as to Plaintiff's claims, and settlement of all claims whether actually
20 alleged or not, against Defendant, on behalf of Plaintiff. Thereafter, on or about August 24, 2022,
21 the Parties executed a written Confidential Settlement Agreement.

22 11. Pursuant to the Settlement Agreement executed by the Parties, the \$35,000.00
23 consideration will be allocated as follows:

Plaintiff:	\$12,611.00
LWDA/PAGA:	\$750.00 (\$750 to LWDA; \$250 Plaintiff)
Burrows Law Firm (fees):	\$11,665.00 (1/3 of Settlement Amt.)
Burrows Law Firm (costs):	\$9,974.00

	<u>\$35,000.00</u>

26 12. A true and correct copy of my firm's cost summary is attached hereto as **Exhibit B**.

27 13. In order to preserve the confidentiality of the specific terms of settlement, the
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1 Parties are willing to provide the Court with a copy of the Settlement Agreement for review, *in-*
2 *camera*, if required by the Court.

3 14. Dismissal under these terms, on an individual basis for only Plaintiff Schwartz,
4 without notice to the unnamed putative aggrieved employees will not prejudice the putative
5 unnamed aggrieved employees because this case has not been certified as a class or representative
6 action by the Court, this action has not become widely known to the public generally or to the
7 members of the putative aggrieved employees, and the members of the representative PAGA
8 action will not be prejudiced, given that discovery has been conducted confidentially by and
9 between the Parties, only affects Plaintiff's rights, and does not impact any aggrieved employee's
10 right to bring his or her separate action.

11 15. Currently, no putative PAGA aggrieved employee members in the instant matter
12 have been individually provided notice of the case (or of the dismissal of class claims) and I am
13 unaware of any other putative class member or aggrieved employee who intends to bring a claim
14 or who, in reliance on the Complaint, has refrained from bringing a claim similar to any of the
15 claims in the Complaint and therefore might be prejudiced by dismissal of the action under
16 California rule of Court 3.770 or otherwise.

17 16. On September 22, 2022, at approximately 3:00 p.m., I uploaded a copy of the
18 request for dismissal and this supporting declaration to the LWDA through electronic upload to
19 the LWDA. (Lab. Code, § 2699, subd. (l)(2)). A true and correct copy of confirmation of
20 submission is attached hereto as **Exhibit C**.

21 17. Based on my knowledge and experience as outlined below, I believe the terms of
22 the proposed settlement and corresponding dismissal of Plaintiff's claims only, are in the best
23 interest of all involved, including Plaintiff, the former putative class and/or unnamed aggrieved
24 employees, and Defendant.

25 QUALIFICATIONS OF COUNSEL

26 18. I received my Juris Doctor from Howard University School of Law in 2002, where
27 I was the Notes & Comments Editor of the Howard Law Journal. The summer after my first year
28 of law school I served as the sole law school clerk for the Honorable J. Robert Brame, III,
Member, National Labor Relations Board in Washington, D.C. The following summer I worked

1 as a summer associate in the New York office of Kaye Scholer, LLP. I was employed as an
2 associate in the Los Angeles office of Kaye Scholer, LLP, from 2002-2007. From 2007-2009, I
3 worked as a senior associate in the Los Angeles office of Littler Mendelson PC. From August
4 2009 to January 2012, I held the position of Partner at the law firm of Mahoney & Burrows, LLP.
5 From January 2012, to the present, I have served as Principal of the Burrows Law Firm, in
6 Beverly Hills, California.

7 EXPERIENCE AS COUNSEL IN CLASS/PAGA ACTIONS

8 19. To date, I have been appointed as Class Counsel in the following matters which
9 have been granted final approval including PAGA claims, among others not listed here: *Oliver et*
10 *al., v. College Hospital, Inc. et al.*, Los Angeles Superior Court, Case No. BC406481, the
11 Honorable Carl J. West, Presiding, for work performed in 2009-2011; *Albiar et al. v. Spectrum*
12 *Athletics et al.*, Los Angeles County Superior Court, Case No. BC413860, for work performed in
13 2009-2011; *Wilcox v. Presbyterian Intercommunity Hospital, et al.*, Los Angeles Superior Court,
14 Case No. BC424796; Honorable Mary H. Strobel, Presiding, for work performed in 2009-2011;
15 *Velasquez v. New Vista Health Services, Inc.*, Los Angeles Superior Court, Case No. BC424797,
16 for work performed in 2009-2011; *Branch v. The Plumbers Warehouse*, Los Angeles County
17 Superior Court, Case No. BC425627, the Honorable Carl J. West, Presiding, for work performed
18 in 2009-2012; *Teyuca v. Pacific Alliance Medical Center*, Los Angeles Superior Court, Case No.
19 BC459422, for work performed in 2011-2014; *Harvey Holt v. Parsec Inc., et al.*, United States
20 District Court for the Central District of California, Case No. 2:10-CV-09540-VBF(PJWx), Hon.
21 Valerie Baker Fairbank, Presiding, for work performed in 2010-2012; *Yamamoto v. The Ocean*
22 *Group, Inc.*, Los Angeles Superior Court, Case No. BC469970, for work performed in 2011-2013;
23 *Santimateo v. Sun Healthcare Group, Inc., et al.*, Los Angeles Superior Court, Case No.
24 BC471884 (consolidated with *Jones v. Sun Healthcare Group, Inc., et al.*, Case No. BC476917),
25 for work performed in 2011-2014; *Hilberger et al., v. Eisenhower Medical Center*, Riverside
26 County Superior Court, Case No. INC1204915, in which I was approved for an hourly rate of
27 \$550 for work performed in 2012-2014; *Myles et al., v. College Hospital, Inc., et al.*, Los
28 Angeles Superior Court, Case No. BC492125; (consolidated for limited purpose with BC487206
& BC498361), for work performed in 2012-2014; *Hugo Rodas v. Gateways Hospital and Mental*

1 *Health Center, Inc., et al.*, Los Angeles Superior Court, Case No. BC503179, for work performed
2 in 2013-15; *Dull v. Episcopal Communities and Services for Seniors, et al.*, Los Angeles Superior
3 Court, Case No. BC512551, for work performed in 2013-15; *Bradescu et al., v. Hillstone*
4 *Restaurant Group, Inc.*, United States District Court for the Central District of California, Case
5 No. SACV 13-1289-GW(RZx) for work performed in 2013-16; *King v. Exodus Recovery, Inc., et*
6 *al.*, Los Angeles Superior Court, Case No. BC519640, for work performed in 2013-15; *Delgado v.*
7 *Stars Behavioral Health Group, Inc., et al.*, Los Angeles Superior Court, Case No. BC531008, for
8 work performed in 2013-15; *Torres v. Fashion Furniture Rental, Inc., et al.*, Los Angeles Superior
9 Court, Case No. BC659190, for work performed in 2017-18; *Hernandez v. Molina Healthcare of*
10 *California, et al.*, Los Angeles Superior Court, Case No. BC679784, for work performed in 2017-
11 19; *Rodolfo Saucedo v. Building Materials Manufacturing Corp., et al.*, Los Angeles Superior
12 Court, Case No. BC686304, for work performed in 2017-19; *Shasta Williams v. Diamond Wipes*
13 *International, Inc., et al.*, Los Angeles Superior Court, Case No. BC673319, for work performed
14 in 2017-19; *Lasha Cobbs v. Davlyn Investments, Inc.*, Los Angeles Superior Court, Case No.
15 BC675226, for work performed in 2017-2020; *Christie v. Trademango Solutions, LLC.*, Los
16 Angeles Superior Court, Case No. 18STCV07426, for work performed in 2018-2021; *Joshua*
17 *Lane and Jeffrey Boller v. Vestas American Wind Technology, Inc., et al.*, Kern County Superior
18 Court Case No.: BCV-18-101494, for work performed in 2018-2021.

18 20. Since in or about 2002, I have, among representation of numerous clients in varied
19 areas of law, represented corporate Defendants in Class Action litigation, including wage and hour
20 class actions. In the 2002 Phenylpropanolamine (PPA) products liability litigation, I worked on a
21 daily basis with the co-chair of the PPA joint defense team on experts and science issues, and
22 helped defeat a multi-party action seeking refunds on millions of dollars of pharmaceutical
23 product containing the chemical compound PPA that had been withdrawn from the market. As a
24 member of the daily trial team in the four-month jury trial at Los Angeles County's Central Civil
25 West – Complex Courthouse, the Honorable Anthony J. Mohr, Presiding, I assisted in winning the
26 first-in-the-nation PPA trial, *O'Neill, et al. v. Novartis Consumer Health, Inc.*, JCCP-4166 (L.A.
27 Super. Ct. Jan. 22, 2004), as well as defending the Plaintiff's unsuccessful appeal thereto. Both the
28 Los Angeles Daily Journal and the National Law Journal selected this verdict as one of the "Top

1 10 Verdicts of 2004.” This experience helped established my diligence in the practice of law,
2 generally, and my current management of class actions, specifically. While a significant portion
3 of my practice at Kaye Scholer consisted of mass tort Pharmaceutical Products Liability, I also
4 served as a key member of the employment law team that, from conception to settlement,
5 successfully litigated wage an hour class actions. In addition to the aforementioned examples, at
6 Kaye Scholer I had the opportunity to work on, and participate in the settlement of numerous class
7 action and multi-party matters, both in state and federal court.

8 21. In 2007, in pursuit of specializing in employment law, I accepted a senior associate
9 position at Littler Mendelson PC, a large defense-side labor and employment firm that, according
10 to their website is has “more than 75 U.S. and global offices,” and represents a plethora of the
11 world's leading corporations. While at Littler Mendelson, among other labor and employment
12 litigation experience, I had the opportunity to serve as the most senior associate on numerous
13 wage and hour class actions, in both state and Federal Court. I worked with experts, served as
14 primary case contact to General Counsel, and actively participated in the highest-level analysis
15 and decision making with regard to cases involving Fortune 500 companies and thousands of class
16 members. I played an integral role in cases that, on the merits, were certified as class actions, as
17 well as denied certification. I estimate that I was actively involved in more than a dozen wage and
18 hour class actions in the two years while at the firm.

19 22. In July of 2009, I voluntarily resigned from Littler Mendelson and co-cofounded
20 Mahoney, Perry & Burrows, in Long Beach, California. The firm (later re-named Mahoney &
21 Burrows, LLP) served as lead counsel in no less than a dozen wage and hour class actions in Los
22 Angeles Superior Court, San Diego Superior Court, Orange County Superior Court, and United
23 States District Court for the Central District of California between 2009-2011. These cases
24 involved a broad range of industry, including but not limited to, retail, healthcare, textiles,
25 hospitality and manufacturing. I have personally served as lead counsel for wage and hour class
26 actions that have been granted final approval in varying amounts ranging from approximately
27 \$140,000 to over \$4,000,000.

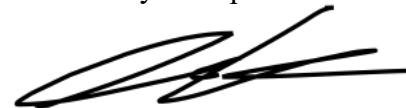
28 23. In December 2011, Mahoney & Burrows, LLP dissolved, and I founded Burrows
Law Firm. Throughout my experience working at large international law firms on class actions

1 generally, and wage and hour class actions with PAGA claims specifically, I have gained the skill
2 and experience necessary to successfully litigate these cases. During my career, I have had the
3 opportunity to work closely with and against some of the most accomplished Defense and
4 Plaintiff-side wage and hour litigators in the State. In the approximately eighteen years I have
5 been practicing employment law, I have both witnessed and personally experienced the best
6 practices of litigation in these cases.

7 24. From 2009 to the present 2022, on an annual basis, Thomson Reuters and Los
8 Angeles Magazine have recognized me first, as a Top Young Attorney in Southern California in
9 the annual Rising Star Edition of Super Lawyer, and subsequently as a Southern California Super
10 Lawyer, an honor awarded to no more than five percent (5%) of all attorneys in Southern
11 California each year.

12 25. In addition to the above-referenced matters, Burrows Law Firm handles general
13 civil litigation matters, with a focus on counseling and litigation of employment issues.

14 I declare under penalty of perjury under the laws of the state of California and the United
15 States that the foregoing is true and correct. Executed this 22nd day of September 2022, at Beverly
16 Hills, California.



17 Christopher L. Burrows
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EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 14

21STCV28719

ASHLYN SCHWARZ vs MUTESIX GROUP INC.

April 27, 2022

10:45 AM

Judge: Honorable Kenneth R. Freeman

Judicial Assistant: B. Guerrero

Courtroom Assistant: C. Gomez

CSR: None

ERM: None

Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Court Order Re: Request To Dismiss Plaintiff's Individual Allegations With Prejudice and Dismiss Class Allegations Without Prejudice Pursuant to CRC 3.770;

The Court is in receipt of the following documents:

- 1) Declaration of Christopher L. Burrows In Support of Request to Dismiss Plaintiff's Individual Allegations With Prejudice and Dismiss Class Allegations Without Prejudice Pursuant to CRC 3.770;
- 2) Proof of Service; and
- 3) Request to Dismiss Plaintiff's Individual Allegations With Prejudice and Dismiss Class Allegations Without Prejudice Pursuant to CRC 3.770;

Upon considering the declaration provided by the Plaintiff, the Court finds that dismissal will not prejudice the class.

Accordingly, the Court dismisses Plaintiff's individual wage and hour claims with prejudice, and Plaintiff's class allegations without prejudice.

Request to Dismiss is signed and filed this date.

PAGA cause of action is stayed pending mediation.

Post-Mediation Status Conference is scheduled for 07/28/2022 at 11:00 AM in Department 14 at Spring Street Courthouse.

A joint status report is to be filed by 7/21/2022.

On the Court's own motion, the Non-Appearance Case Review Re: Filing of Motion for Class

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 14

21STCV28719

ASHLYN SCHWARZ vs MUTESIX GROUP INC.

April 27, 2022

10:45 AM

Judge: Honorable Kenneth R. Freeman

Judicial Assistant: B. Guerrero

Courtroom Assistant: C. Gomez

CSR: None

ERM: None

Deputy Sheriff: None

Certification scheduled for 12/02/2022 is advanced to this date and vacated .

Judicial Assistant is to give notice.

Clerk's Certificate of Service By Electronic Service is attached.

EXHIBIT B

Schwartz v. Mutesix et al

Last Updated on 09-22-22

[illegible]

EXHIBIT C