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10 *Attorneys for Plaintiff and the Proposed Class*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **FOR THE COUNTY OF LOS ANGELES**

13 **CENTRAL JUDICIAL DISTRICT**

14 ANGEL RIVERA, individually, in his
15 representative capacity, and on behalf of all
16 others similarly situated,

17 Plaintiff,

18 v.

19 L'OREAL USA S/D, INC. a foreign
20 corporation; INDUSTRIAL COLOR
PRODUCTIONS, INC., a foreign corporation;
and DOES 1 through 50, inclusive,

21 Defendants.

Case No.: 21STCV12548

Judge: Hon. Kenneth R. Freeman, Dept 14

**PLAINTIFF ANGEL RIVERA'S
REQUEST TO DISMISS DEFENDANT
L'OREAL USA S/D, INC. WITHOUT
PREJUDICE; DECLARATION OF
FRANK H. KIM IN SUPPORT**

[Concurrently filed with Proposed Order]

Complaint Filed: April 1, 2021

Trial Date: None Set

REQUEST FOR DIMISSAL

Pursuant to California Rules of Court, Rule 3.770, Plaintiff Angel Rivera (“Plaintiff”) hereby requests to dismiss Defendant L’Oreal USA S/D, Inc. without prejudice.

On April 1, 2021, Plaintiff filed the instant class action lawsuit against Defendants L’Oreal USA S/D, Inc. (“L’Oreal”) and Industrial Color Productions, Inc. (“Industrial Color Productions”) (together, “Defendants”) for Labor Code violations arising from a photo shoot for L’Oreal that was produced by Industrial Color Productions. (Declaration of Frank H. Kim (“Kim Decl.”), ¶ 3.) In the lawsuit, Plaintiff alleges that he was misclassified as an independent contractor and alleges that Defendants are his employer and/or joint employer. (*Id.*)

On September 14, 2021, Plaintiff filed a First Amended Complaint against Defendants to add a PAGA claim. (Kim Decl., ¶ 4.)

On November 3, 2021, Plaintiff served multiple sets of written discovery on Defendants. (Kim Decl., ¶ 5.) In response to Plaintiff’s requests, Defendants produced documents related to the photo shoot in question, including internal emails and an agreement between L’Oreal and Industrial Color Productions. (*Id.*)

In addition, Defendant Industrial Color Production informally produced a declaration from Mtthieu Guerin, Vice President of Digital and Ecommerce for L’Oreal, wherein Mr. Guerin states that L’Oreal did not recruit or hire Plaintiff, communicate with Plaintiff about the shoot or during the shoot, or pay Plaintiff for the shoot. (Kim Decl. ¶ 6.)

In light of Defendants’ document production and L’Oreal’s informal production of Mr. Guerin’s declaration, Plaintiff and L’Oreal entered into a settlement agreement whereby Plaintiff agreed to dismiss L’Oreal without prejudice in exchange for a waiver of costs. (Kim Decl., ¶ 7.) Plaintiff continues to pursue his claims against Defendant Industrial Color Productions. (*Id.*)

Except for the foregoing, no consideration, direct or indirect, was given in exchange for Plaintiff’s dismissal without prejudice. (Kim Decl., ¶ 8.)

On August 25, 2022, Plaintiff served a copy of this Request For Dismissal by uploading it to the LWDA website. (Kim Decl., ¶ 9; Ex. A.)

Plaintiff submits that the instant settlement does not prejudice any putative class member,

1 so there is no need for any sort of notice to be given under California Rules of Court, Rule
2 3.770(c). The following factors are persuasive in this regard: (a) no class was certified; and (b)
3 no notice was ever provided to any potential class members about this action. (Kim Decl., ¶ 8.)

4
5 DATED: August 25, 2022

KIM LEGAL, APC
HELEN KIM LAW, APC

6
7 By: /s/ Frank H. Kim
8 FRANK H. KIM
9 Attorneys for Plaintiff
10 and the Proposed Class
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I, Frank H. Kim, hereby declare as follows:

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

2. This declaration is submitted pursuant to California Rules of Court, rule 3.770(a), which requires approval for “a dismissal of an entire class action, or of any party or cause of action in a class action[.]” Plaintiff hereby requests dismissal of Defendant L’Oreal USA S/D, Inc. without prejudice as to Plaintiff and without prejudice as to the Class.

3. On April 1, 2021, Plaintiff filed the instant class action lawsuit against Defendants L’Oreal USA S/D, Inc. (“L’Oreal”) and Industrial Color Productions, Inc. (“Industrial Color Productions”) for Labor Code violations arising from a photo shoot for L’Oreal that was produced by Industrial Color Productions. In the lawsuit, Plaintiff alleges that he was misclassified as an independent contractor and alleges that Defendants are his employer and/or joint employer.

4. On September 14, 2021, Plaintiff filed a First Amended Complaint against Defendants to add a PAGA claim.

5 On November 3, 2021, Plaintiff served multiple sets of written discovery on Defendants. In response to Plaintiff's requests, Defendants produced documents related to the photo shoot in question, including internal emails and an agreement between L'Oreal and Industrial Color Productions.

6. In addition, Defendant Industrial Color Production informally produced a declaration from Mthieu Guerin, Vice President of Digital and Ecommerce for L'Oreal, wherein Mr. Guerin states that L'Oreal did not recruit or hire Plaintiff, communicate with Plaintiff about the shoot or during the shoot, or pay Plaintiff for the shoot.

7. In light of Defendants' document production and L'Oreal's informal production of Mr. Guerin's declaration, Plaintiff and L'Oreal entered into a settlement agreement whereby

1 Plaintiff agreed to dismiss L’Oreal without prejudice in exchange for a waiver of costs. Plaintiff
2 continues to pursue his claims against Defendant Industrial Color Productions.

3 8. Except for the foregoing, no other consideration, direct or indirect, was given in
4 exchange for Plaintiff’s dismissal without prejudice.

5 9. On August 25, 2022, Plaintiff submitted a copy of this Request For Dismissal of
6 L’Oreal Without Prejudice by uploading it to the LWDA website. Attached as **Exhibit A** is a true
7 and correct copy of an email from the LWDA confirming Plaintiff’s submission.

8 10. A Proposed Order Granting Plaintiff’s Request to Dismiss L’Oreal Without
9 Prejudice is being filed concurrently with this declaration.

10 Executed this 25th day of August 2022 in Los Angeles, California.

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12 /s/ Frank H. Kim
13 FRANK H. KIM
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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 25, 2022, I served all interested parties in this action the following documents described as: **PLAINTIFF ANGEL RIVERA'S REQUEST TO DISMISS DEFENDANT L'OREAL USA S/D, INC. WITHOUT PREJUDICE; DECLARATION OF FRANK H. KIM IN SUPPORT**, on the interested parties below as follows:

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Attorneys for Plaintiff

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be uploaded via Case Anywhere per the Court's Order Authorizing Electronic Service.

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

Executed on August 25, 2022, at Los Angeles, California.

/s/ Frank H. Kim
Frank H. Kim