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Attorneys for CESIA ABIGAIL VEGA
PERDOMO individually, and on behalf of
others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

CESIA ABIGAIL VEGA PERDOMO,
individually, and on behalf of others
similarly situated

Plaintiffs,

v.

KELLERMEYER BERGENSONS
SERVICES, LLC, a Delaware Corporation;
and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 21STCV37344

[Assigned for all purposes to the Honorable
Elihu M. Berle, Dept. 6]

**JOINT STIPULATION FOR AND
~~PROPOSED~~ ORDER REQUESTING
DISMISSAL PURSUANT TO CRC 3.770**

Action Filed: October 8, 2021
Trial Date: None Set

FILED
Superior Court of California
County of Los Angeles

11/14/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: D. Wortham Deputy

Pursuant to California Rules of Court, rule 3.770, Plaintiff Cesia Abigail Perdomo (“Plaintiff” or “Perdomo”) and Defendant Kellermeyer Bergensons Services, LLC, (“Defendant” or “KBS”) (collectively, “Parties”) through their undersigned counsel, hereby agree and stipulate to request that the Court enter an order dismissing Plaintiff’s individual claims with prejudice and the class or representative claims without prejudice.

JOINT STIPULATION

WHEREAS, on or about June 28, 2021, Plaintiff gave written notice to the California Labor and Workforce Development Agency (“LWDA”) and Defendant of the specific provisions of the California Labor Code and IWC Wage Orders alleged to have been violated;

WHEREAS, on or about October 8, 2021, Plaintiff filed a Class and Representative Action Complaint in Los Angeles County Superior Court, Case No. 21STCV37344, against KBS, including claims for (1) failure to provide required meal periods; (2) failure to provide required rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to pay all wages due to discharged and quitting employees; (6) failure to maintain required records; (7) failure to furnish accurate itemized wage statements; (8) failure to indemnify employees for necessary expenditures incurred in discharge of duties; (9) unfair and unlawful business practices; and (10) penalties pursuant to the Private Attorneys General Act, California Labor Code section 2699(f);

WHEREAS, on November 19, 2021, Defendant filed a Notice of Related Cases in connection with *Blasa Reyes v. Kellermeyer Bergensons Services, LLC* (LASC Case No. BC680525) consolidated with *Wendy Flores v. Kellermeyer Bergensons Services, LLC* (LASC Case No. BC696127) pending before Judge Cunningham in Department 11. Defendant claimed it released Plaintiff’s PAGA Claims;

WHEREAS, on December 9, 2021, this matter was reassigned to this Court in Department 6;

WHEREAS, on or about December 22, 2021, the Court issued a Minute Order and Status Conference Order setting an initial status conference for January 25, 2022 at 1:30 p.m.;

1 WHEREAS, on or about January 18, 2022, the Parties submitted a Joint Status Report in
2 advance of the January 25, 2022 status conference. The Parties reported that they were
3 discussing a potential settlement of Plaintiff's claims;

4 WHEREAS, on or about January 25, 2022, the Parties attended the Status Conference
5 and the Court set a briefing schedule for Defendant's to file its Motion to Compel Arbitration by
6 March 1, 2022. Plaintiff's opposition was due on March 15, 2022 and Defendant's reply was
7 due on March 22, 2022. The hearing was set for April 6, 2022 at 11:00 a.m.;

8 WHEREAS, on March 1, 2022, Defendant's filed their Motion to Compel Arbitration
9 requesting that Plaintiff's class action claims be compelled on an individual basis pursuant to an
10 alleged arbitration agreement;

11 WHEREAS, on March 15, 2022, Plaintiff filed an Opposition to Defendant's Motion to
12 Compel Arbitration;

13 WHEREAS, on March 22, 2022, Defendant filed a Reply in support of its arbitration
14 motion;

15 WHEREAS, on or about April 1, 2022, KBS filed a Notice of Related Cases for
16 *Magdaleno Cruz v. Kellermeyer Bergensons, LLC* (LASC Case No. 22STCV03119, Department
17 52), a PAGA-only matter;

18 WHEREAS, during the April 6, 2022 hearing on Defendant's motion, the Court
19 instructed the Parties to provide supplemental briefing limited solely to the delegation
20 provisions contained in the Arbitration Agreement;

21 WHEREAS, on or about April 7, 2022, the Parties filed a Joint Stipulation requesting
22 that the Court continue the Supplemental Briefing schedule in connection with Defendant's
23 Motion to Compel Arbitration;

24 WHEREAS, on or about April 20, 2022, Defendant filed supplemental briefing in
25 support of its Motion to Compel Arbitration;

26 WHEREAS, on May 4, 2022, Plaintiff filed supplemental briefing in support of
27 Plaintiff's Opposition to Defendant's Motion to Compel Arbitration;

1 WHEREAS, on May 27, 2022, the Court granted Defendant's Motion to Compel
2 Arbitration and stayed Plaintiff's PAGA cause of action pending completion of arbitration,
3 unless and until it is dismissed. A true and correct copy of the Court's order is attached hereto as
4 **Exhibit A;**

5 WHEREAS, on September 13, 2022, the Parties filed a Joint Stipulation and order
6 continuing the Post Arbitration Conference;

7 WHEREAS, on September 20, 2022, the Court continued the September 22, 2022 post-
8 arbitration conference to January 10, 2023 at 8:30 am in Department 6;

9 WHEREAS, on or about October 5, 2022, the Parties reached a settlement covering
10 Plaintiff's individual claims and not for any other putative class members;

11 WHEREAS, the Parties have executed a written settlement agreement;

12 WHEREAS, in light of the foregoing, Plaintiff requests that this Court dismiss Plaintiff's
13 class claims without prejudice, and Plaintiff's individual claims with prejudice under the terms
14 of the settlement agreement;

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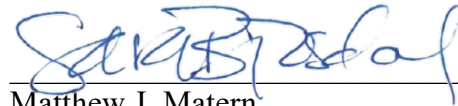
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1 NOW, THEREFORE, the Parties, by and through their counsel of record, HEREBY
2 STIUPLATE AND AGREE, and respectfully request that the Court, pursuant to California Rule
3 of Court 3.770, order and enter the dismissal of Plaintiff's individual claims WITH prejudice
4 and the class or representative claims WITHOUT prejudice in the above-captioned matter.

5
6 DATED: November 9, 2022

MATERN LAW GROUP, PC

7
8 By:



Matthew J. Matern

Sara B. Tosdal

Beatriz Alfaro

Attorneys for Plaintiff CESIA ABIGAIL VEGA
PERDOMO

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11
12 DATED: November 9, 2022

**CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP**



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14
15
16 By:

Kenneth D. Sulzer

Regina A. Musolino

Matthew D. Gurnick

Attorneys for Defendant

KELLERMEYER BERGENSONS SERVICES,
LLC

[PROPOSED] ORDER

Having reviewed the Parties' Joint Stipulation for and [Proposed] Order Requesting Dismissal Pursuant to CRC 3.770, and the supporting declaration of counsel, the Court rules as follows:

The Parties' request for dismissal is **GRANTED** as follows:

1. Plaintiff's class and PAGA claims alleged in the Complaint against Defendant Kellermeyer Bergensons Services, LLC, are DISMISSED WITHOUT PREJUDICE.
2. Plaintiff's individual claims alleged in the Complaint against Defendant are DISMISSED WITH PREJUDICE.

IT IS SO ORDERED.

DATED: 11/14/22



Elihu M. Berle

Elihu M. Berle / Judge

HON. ELIHU M. BERLE
LOS ANGELES COUNTY SUPERIOR COURT

EXHIBIT A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 6

21STCV37344

**CESIA ABIGAIL VEGA PERDOMO vs KELLERMEYER
BERGENSONS SERVICES, LLC**

May 27, 2022

10:00 AM

Judge: Honorable Elihu M. Berle
Judicial Assistant: N. Navarro
Courtroom Assistant: M. Molinar

CSR: D. Haaker, CSR#10309
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Beatriz E. Alfaro via LACC; Mikael Stahle via LACC

For Defendant(s): Matthew D. Gurnick via LACC; Regina Anne Musolino via LACC

NATURE OF PROCEEDINGS: Hearing on Motion to Compel Arbitration

The matter is called for hearing.

Pursuant to Government Code sections 68086, 70044, California Rules of Court, rule 2.956, and the stipulation of appearing parties, Deanna Z. Haaker, CSR#10309, certified shorthand reporter is appointed as an official Court reporter pro tempore in these proceedings, and is ordered to comply with the terms of the Court Reporter Agreement. The Order is signed and filed this date.

The matter is argued.

For the reasons stated on the record and fully reflected in the notes of the Official Court Reporter and incorporated herein by reference, the Court rules as follows:

The Notice of Motion and Motion to Compel Arbitration; Memorandum of Points and Authorities in Support Thereof filed by Kellermeyer Bergensons Services, LLC on 03/01/2022 is Granted.

The PAGA cause of action is ordered stayed pending completion of arbitration, unless and until it is dismissed.

Post-Arbitration Status Conference is scheduled for 09/22/2022 at 11:00 AM in Department 6 at Spring Street Courthouse.

The parties are ordered to meet and confer and file a joint status report by 9/15/2022, advising the Court of the following:

1. Identity of arbitrator; and

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Spring Street Courthouse, Department 6

21STCV37344

**CESIA ABIGAIL VEGA PERDOMO vs KELLERMEYER
BERGENSONS SERVICES, LLC**

May 27, 2022

10:00 AM

Judge: Honorable Elihu M. Berle
Judicial Assistant: N. Navarro
Courtroom Assistant: M. Molinar

CSR: D. Haaker, CSR#10309
ERM: None
Deputy Sheriff: None

2. Proposed dates for arbitration hearings.

Plaintiff is directed to give notice and post a copy of same on the parties' electronic service website.

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 years, and not a party to this action. My business address is 1230 Rosecrans Avenue, Suite 200,
4 Manhattan Beach, California 90266.

5 On November 9, 2022, I served the following document described as:

6 **JOINT STIPULATION FOR AND [PROPOSED] ORDER REQUESTING
7 DISMISSAL PURSUANT TO CRC 3.770**

8 ☒ **By electronic service (via electronic filing service provider).** I caused the document or
9 documents to be electronically transmitted to Case Anywhere, an electronic filing service
10 provider, at www.caseanywhere.com pursuant to the Court's Electronic Case Management
11 Order governing the matter titled *Cesia Abigail Vega Perdomo v. Kellermeyer Bergensons
Services, LLC* LASC Case No.: 21STCV37344 mandating electronic service. The
transmission was reported as complete and without error to the addresses as stated on the
attached service list.

12 Matthew D. Gurnick, Esq.
13 Kenneth Sulzer, Esq.
14 Regina Musolino, Esq.
15 **CONSTANGY, BROOKS, SMITH &
16 PROPHETE LLP**
17 2029 Century Park East, Suite 110
18 Los Angeles, CA 90067
19 Tel.: (310) 909-7775
20 Email: mgurnick@constangy.com
21 ksulzer@constangy.com
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Letty Toscano
Lisa Sles
aheatherly@constangy.com
ltoscano@constangy.com
lsles@constangy.com

Attorneys for Defendant
KELLERMEYER BERGENSONS
SERVICES, LLC.

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

24 Executed on November 9, 2022, at Manhattan Beach, California.

25 
26 _____
27 Arinda Ocampo
28