

BRUCE J. HIGHMAN, CBN 101760
HIGHMAN & HIGHMAN
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Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO

UNLIMITED CIVIL JURISDICTION

RONNA S. DIGERLANDO, an individual,

Plaintiff,

-v-

PRIDE INDUSTRIES, a corporation, and
DOES 1-10, inclusive,

Defendants.

No. FCS056787

PLAINTIFF'S APPLICATION FOR
ORDER TO DISMISS PURSUANT
TO STIPULATION THE ELEVENTH
CAUSE OF ACTION UNDER THE
LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT
(PAGA) WITH PREJUDICE AS TO
PLAINTIFF, AND WITHOUT
PREJUDICE AS TO OTHER
EMPLOYEES; DECLARATION OF
BRUCE HIGHMAN RE NOTICE
AND IN SUPPORT OF
APPLICATION; MEMORANDUM
OF POINTS AND AUTHORITIES

Dept.: 4

Date Action Filed: July 2, 2021

Trial Date: None set

Plaintiff hereby applies for an order to dismiss, pursuant to the parties' stipulation attached hereto as Exhibit 1, the eleventh cause of action under the Labor Code Private Attorneys General Act (PAGA) with prejudice as to plaintiff and without prejudice as to other employees. The attorney for the plaintiff in this action is Bruce J. Highman whose address, email address and telephone number is set forth above. The attorneys for Pride Industries, the named defendant in this action, are:

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Benjamin L. Webster, Esq.
Email: BWebster@littler.com
Nicholas W. McKinney, Esq.
Email: NMckinney@littler.com
Littler Mendelson
500 Capitol Mall, Suite 2000
Sacramento, CA 95814
Telephone: (916) 830-7200

DATED: April 20, 2023

HIGHMAN & HIGHMAN
A PROFESSIONAL LAW ASSOCIATION

By Bruce J. Highman
Bruce J. Highman
Attorneys for Plaintiff

DECLARATION OF BRUCE HIGHMAN RE
NOTICE AND IN SUPPORT OF APPLICATION

I, Bruce J. Highman, hereby declare:

1. I am plaintiff's attorney of record in the present action.

2. The current operative complaint is the third amended complaint. It contains eleven causes of action. The first ten causes of action are plaintiff's individual causes of action in which plaintiff seeks damages and other relief for herself. Plaintiff brings the eleventh cause of action under the Labor Code Private Attorneys General Act (PAGA) on behalf of herself and other employees in which she seeks the penalties provided by PAGA for defendant Pride Industries' alleged violations of Labor Code § 2802 in allegedly failing to reimburse employees for expenses incurred in using their own cars to drive on Pride business and their own internet service providers when working for Pride remotely.

3. Plaintiff has reached an individual settlement in this matter with Pride which is contingent on the Court granting this requested dismissal of the PAGA cause of action pursuant to the parties' stipulation attached hereto as Exhibit 1. The dismissal in no way affects the rights and claims of the other employees on whose behalf plaintiff has brought the PAGA claim. The other employees will not be prejudiced as dismissal of the PAGA claim as to them will be without prejudice.

4. The dismissal of the PAGA claim pursuant to the parties' stipulation might be argued to be a settlement of a PAGA action requiring Court approval under Labor Code § 2699, subdivision

1 (1)(2). Therefore, in an abundance of caution, plaintiff is seeking a Court order to dismiss the PAGA
2 cause of action. Plaintiff is seeking this order via ex parte application because: (1) this is pursuant
3 to an agreement between the parties rather than an adversarial proceeding; and (2) plaintiff is 68
4 years old, has been unable find a job since Pride terminated her on July 2, 2020, lives on a limited
5 income with her totally disabled husband, and should have her case resolved as soon as possible.
6 While Labor Code § 2699, subdivision (1)(2), says that settlement of a PAGA action must be
7 approved by the Court, it does not say the approval has to be obtained by noticed motion or any other
8 particular means. If the Court grants this application and signs the proposed order submitted
9 concurrently herewith dismissing the PAGA cause of action, then plaintiff expects to be able to file
10 a request to dismiss the entire case in May 2023.

11 5. I initially emailed defendant Pride's attorney Ben Webster on April 14, 2023 that I planned
12 to submit an ex parte application to dismiss the PAGA cause of action with prejudice as to plaintiff
13 and without prejudice as to other employees. On April 16, 2023, Pride's attorney Ben Webster
14 emailed back that Pride was fine with my seeking the dismissal through an ex parte application. The
15 settlement agreement for plaintiff's individual claims was signed by plaintiff on April 18, 2023, and
16 by Pride on April 20, 2023. After Pride signed the settlement agreement of the individual claims,
17 I spoke with the Court's civil calendar clerk who informed me that ex parte applications are
18 submitted to the Court on the papers, the Court sometimes rules on the application just based on the
19 papers, and sometimes it schedules a hearing on the application. I emailed this information to Pride
20 on April 20, 2023. I also emailed a true and correct copy of this application and supporting
21 declaration and memorandum to Pride's attorneys on April 20, 2023, and said in my cover email that
22 I was going to fedex the application to the Court in the afternoon on April 21, 2023, so that the Court
23 would receive it on April 24, 2023. I electronically served a true and correct copy of this application
24 and supporting declaration and memorandum on Pride by emailing it from my email,
25 bruce.highman@highmanlaw.com, to their attorneys' emails on April 20, 2023 as follows:

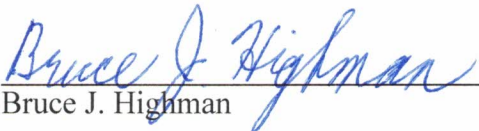
26 Benjamin L. Webster, Esq.
27 Email: BWebster@littler.com
28 Nicholas W. McKinney, Esq.
Email: NMckinney@littler.com

6. Also on April 20, 2023, I electronically served a copy of these application papers on the

1 California Labor and Workforce Development Agency (LWDA) by electronically submitting the
2 papers to the LWDA through its webpage, <https://dir.tfaforms.net/315>, as its website instructs parties
3 to do when they are seeking Court approval of a PAGA settlement agreement.

4 7. Defendant Pride supports granting this application. The LWDA has not informed me of
5 their position on the Application. I believe there is virtually no chance the LWDA will take a
6 position on this application. They never have taken a position on any of my requests in other cases
7 to obtain Court approval of a settlement or dismissal of a PAGA cause of action. I am informed and
8 believe that the LWDA almost never takes a position on whether a PAGA settlement or dismissal
9 should or should not be approved.

10 I declare under penalty of perjury under the laws of the State of California that the foregoing
11 is true and correct, and that this declaration was executed on April 20, 2023.

12
13 
14 Bruce J. Highman

15 MEMORANDUM OF POINTS AND AUTHORITIES

16 For the reasons set forth in the above Declaration of Bruce Highman, this Application should
17 be granted.

18 DATED: April 20, 2023

19 HIGHMAN & HIGHMAN
20 A PROFESSIONAL LAW ASSOCIATION

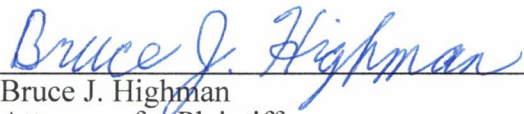
21 By 
22 Bruce J. Highman
23 Attorneys for Plaintiff
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EXHIBIT 1

BRUCE J. HIGHMAN, CBN 101760
HIGHMAN & HIGHMAN
A Professional Law Association
582 Market Street, Suite 1212
San Francisco, CA 94104
Telephone: (415) 982-5563
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Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO

UNLIMITED CIVIL JURISDICTION

RONNA S. DIGERLANDO, an individual,

Plaintiff,

-v-

PRIDE INDUSTRIES, a corporation, and
DOES 1-10, inclusive,

Defendants.

No. FCS056787

STIPULATION TO DISMISS
ELEVENTH CAUSE OF ACTION
UNDER THE LABOR CODE
PRIVATE ATTORNEYS GENERAL
ACT (PAGA) WITH PREJUDICE AS
TO PLAINTIFF, AND WITHOUT
PREJUDICE AS TO OTHER
EMPLOYEES

The parties hereto, by and through their respective attorneys, hereby stipulate to dismissal of the eleventh cause of action which is a representative cause of action under the California Labor Code Private Attorneys General Act ("PAGA") which plaintiff Ronna S. DiGerlando has brought on behalf of herself and other employees of defendant Pride Industries for violations of Labor Code § 2802 allegedly committed against plaintiff and the other employees. This dismissal is with prejudice as to plaintiff, and without prejudice as to the other employees on whose behalf it has been

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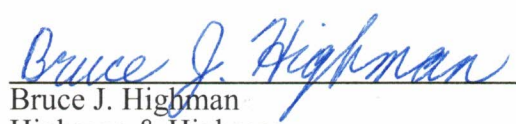
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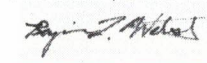
brought.

DATED: April 20, 2023

DATED: April 18, 2023



Bruce J. Highman
Highman & Highman
Attorneys for Plaintiff



Benjamin L. Webster
Littler Mendelson, P.C.

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I am employed in the county of San Francisco, California. I am over the age of eighteen years and not a party to the within cause; my business address is 582 Market Street, Suite 1212, San Francisco, California 94104. On April 20, 2023, I electronically served the PLAINTIFF'S APPLICATION FOR ORDER TO DISMISS PURSUANT TO STIPULATION THE ELEVENTH CAUSE OF ACTION UNDER THE LABOR CODE PRIVATE ATTORNEYS GENERAL ACT (PAGA) WITH PREJUDICE AS TO PLAINTIFF, AND WITHOUT PREJUDICE AS TO OTHER EMPLOYEES; DECLARATION OF BRUCE HIGHMAN RE NOTICE AND IN SUPPORT OF APPLICATION; MEMORANDUM OF POINTS AND AUTHORITIES on the defendant in said cause, by emailing a true copy thereof from my email address, bruce.highman@highmanlaw.com, to:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 20, 2023.

Bruce J. Highman
Bruce J. Highman