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Attorneys for Defendant, HENIN SERVICES LIMITED

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
[UNLIMITED CIVIL]

ESMERALDA BELTRAN, an individual, and
as a proxy for the State of California,

Plaintiff,

vs.

HENIN SERVICES LIMITED, a corporation;
and DOES 1 through 5, inclusive,

Defendants.

Case No.: 21STCV41784

*Assigned for All Purposes to the Hon. Judge
Gregory Keosian in Dept. 61*

**JOINT STIPULATION AND ~~PROPOSED~~
ORDER DISMISSING PAGA CLAIM**

Complaint Filed: November 12, 2021
Trial Date: None Set

TO THE COURT:

IT IS HEREBY STIPULATED, by and between Defendant HENIN SERVICES LIMITED
("Henin" or "Defendant") and Plaintiff ESMERALDA BELTRAN ("Plaintiff") (the "Parties"), through

FILED
Superior Court of California
County of Los Angeles
03/08/2023
David W. Slayton, Executive Officer / Clerk of Court
By: D. Toure Deputy

their respective counsel of record, as follows:

WHEREAS, Plaintiff submitted a Notice of alleged Labor Code sections 98.6 and 1102.5 violations to the California Labor and Workforce Development Agency (“LWDA”), case no. LWDA-CM-840990-21 (“LWDA” Notice).

WHEREAS, on November 12, 2021, Plaintiff filed a lawsuit in Los Angeles Superior Court which was captioned *Esmeralda Beltran v. Henin Services Limited et al.*, Case No. 21STCV41784. Plaintiff alleged violations of California Business & Professions Code § 17200 *et. seq.*, California Labor Code Section 510 and federal law for failing to pay all overtime wages owed (“Overtime Claims”), and alleged Defendant retaliated against her in violation of Labor Code sections 98.6 and 1102.5 (“PAGA Claim”) (collectively referred to as the “Lawsuit”).

WHEREAS, the PAGA Claim is based solely on alleged violations of Labor Code sections 98.6 and 1102.5.

WHEREAS, the aggrieved employees to the PAGA Claim, as defined by the operative Complaint, are limited to “other employees who complained about violations of the Labor Code and were terminated within two weeks” and “employees who exercised rights afforded to them on behalf of himself, herself, or others and were discharged or constructively discharged.” (Compl. ¶¶ 17, 19)

WHEREAS, in response to the Lawsuit, Defendant filed a Motion to Compel Arbitration. On April 6, 2022, the Court issued an order that stated: “The parties stipulate to arbitration and to stay the case pending arbitration. The case is ordered stayed pending binding arbitration as to the entire action.” Thereafter, Plaintiff filed a Demand for Arbitration of the Overtime Claims with the American Arbitration Association, which is captioned *Beltran v. Henin Services Limited*, Case No. 01-22-0001-5711.

WHEREAS, Defendant denies all PAGA and Overtime allegations in the Lawsuit,

WHEREAS, on or about February 9, 2023, the Parties reached a resolution and settlement in principle of Plaintiff’s individual PAGA Claim.

WHEREAS, on March 2, 2023, the Parties memorialized the terms of the resolution of Plaintiff’s individual PAGA Claim contingent upon the Court dismissing with prejudice Plaintiff’s *individual* PAGA Claim and the Court dismissing without prejudice the remainder of Plaintiff’s PAGA Claim (“PAGA Settlement”).

1 **WHEREAS**, the release of the PAGA Claim is limited to “Plaintiff, on behalf of herself and no
2 other aggrieved employees.” (PAGA Settlement ¶ 6.)

3 **WHEREAS**, Labor Code section 2699(1)(2) requires the “superior court” to approve settlement
4 of PAGA claims.

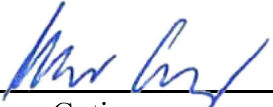
5 **WHEREAS**, the attached confirmation page from the LWDA shows the PAGA Settlement has
6 been submitted to the LWDA, pursuant to Labor Code section 2699(1)(2).

7 **WHEREFORE**, the Parties hereby submit the PAGA Settlement to the Court for approval and
8 dismissal of the PAGA Claim.

9 **SO STIPULATED.**

10 Dated: March 3, 2023

GUTIERREZ DERHAM LAW FIRM LLP

11
12 By: 

13 Matthew Gutierrez
14 Attorneys for Plaintiff, ESMERALDA
15 BELTRAN, individually and as a proxy for the
16 State of California

16 Dated: March 3, 2023

LEWIS BAACH KAUFMANN MIDDLEMISS PLLC

17
18 By: 

19 Jessica R. Lobis Buckwalter
20 Attorneys for Defendant, HENIN SERVICES
21 LIMITED
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ORDER

The Court, based on good cause shown, hereby adopts the terms of the foregoing Stipulation as the Order of the Court.

- The PAGA Settlement is approved. Defendant shall pay 75% of the settlement amount to the LWDA.
- Plaintiff's *individual* PAGA Claim is dismissed with prejudice.
- The remainder representative portion of Plaintiff's PAGA Claim is dismissed without prejudice.

IT IS SO ORDERED.

DATED: 03/08/2023



Gregory Keosian

Honorable *Gregory Keosian*
Judge of the Superior Court
Gregory Keosian / Judge

EXHIBIT A

PAGA SETTLEMENT AGREEMENT AND GENERAL RELEASE

PARTIES

This Settlement Agreement and General Release (hereinafter referred to as “Agreement”) is made and entered into between Esmeralda Beltran (hereinafter referred to as “Plaintiff”) and Henin Services Limited (“Defendant”) (Plaintiff and Defendant, collectively referred to as the “Parties”) as of the date last set forth below.

RECITALS

WHEREAS, a dispute has arisen between Plaintiff and Defendant with respect to various matters arising out of and related to Plaintiff’s employment with Defendant.

WHEREAS, Plaintiff filed various claims, complaints and actions against Defendant as follows:

- a. Plaintiff submitted a Notice of alleged Labor Code section 1102.5 violations to the California Labor and Workforce Development Agency (“LWDA”), case no. LWDA-CM-840990-21 (“LWDA” Notice”).
- b. Plaintiff filed a complaint with the California Department of Fair Employment of Housing (now called the California Civil Rights Division (“CRD”)), case no. 202110-15182725, alleging that Defendant harassed her and subjected her to a hostile work environment in violation of the Fair Employment and Housing Act (“FEHA Claims”).
- c. Plaintiff filed a complaint with the California Labor Commissioner, case no. CM-857572, wherein Plaintiff alleged that she was not provided meal/rest breaks and alleged reporting time pay and final wages were owed (“DLSE Claims”).
- d. On November 12, 2021, Plaintiff filed a lawsuit in Los Angeles Superior Court which was captioned *Esmeralda Beltran v. Henin Services Limited et al.*, Case No. 21STCV41784. Plaintiff alleged violations of California Business & Professions Code § 17200 *et. seq.*, California Labor Code Section 510 and federal law for failing to pay all overtime wages owed (“Overtime Claims”), and alleged Defendant retaliated against her in violation of Labor Code section 1102.5 (“PAGA Claim”) (collectively referred to as the “Lawsuit”).
- e. In response to the Lawsuit, Defendant filed a Motion to Compel Arbitration. On April 6, 2022, the Court issued an order that stated: “The parties stipulate to arbitration and to stay the case pending arbitration. The case is ordered stayed pending binding arbitration as to the entire action.” Thereafter, Plaintiff filed a Demand for Arbitration of the Overtime Claims with the American Arbitration Association (“AAA”), which is captioned *Beltran v. Henin Services Limited*, Case No. 01-22-0001-5711 (the “Arbitration”).

WHEREAS, Defendant denies and continues to deny that Plaintiff had/has any valid claim against it. Defendant asserts that it had enforced written policies and procedures in place that fully complied with California and federal law and that it provided Plaintiff with meal and rest breaks in accordance with California law and that it paid Plaintiff all overtime, reporting time and other wages owed. Defendant further denies all allegations of harassment/hostile work environment and retaliation under California Labor Code § 1102.5 and asserts that Plaintiff, an at-will employee, was terminated for cause in accordance with California law.

WHEREAS, on or about February 9, 2023, the Parties reached a resolution and settlement in principle of the Overtime Claims, DLSE Claims, FEHA Claims and Plaintiff's Individual PAGA Claim.

WHEREAS, without any admission of fault or liability on the part of Defendant, the Parties have memorialized the terms of the settlement, which include: (a) a separate Confidential Settlement Agreement and Release (the "Confidential Settlement Agreement") that resolve Plaintiff's non-PAGA claims; and (b) this Agreement to resolve Plaintiff's *individual* PAGA Claim by dismissal with prejudice upon the Court's approval of this Agreement and to have the remainder of Plaintiff's PAGA Claim dismissed without prejudice upon the Court's approval of this Agreement (collectively, the "Settlement");

WHEREAS, this Agreement effects the settlement of the PAGA Claim between the parties to this Agreement that are denied and contested, and nothing contained herein should be construed as an admission by Defendant of any liability of any kind with respect thereto, such liability being explicitly denied.

WHEREAS, the Parties reached the Settlement after discovery and investigation;

WHEREAS, the Settlement is contingent upon the Court dismissing with prejudice Plaintiff's *individual* PAGA Claim and the Court dismissing without prejudice the remainder of Plaintiff's PAGA Claim; and

CONSIDERATION

1. In consideration of the promises and releases contained in this Agreement, Defendant promises to pay a total maximum amount of One-Thousand Dollars (**\$1,000.00**) ("Gross PAGA Settlement Amount") of which the entire amount shall be allocated as payment for alleged civil penalties to settle the PAGA claim. As required by Labor Code § 2699(i), in accordance with the terms of this Agreement, the Parties will ask the Court to order that seventy five percent (75%) of the PAGA Settlement Amount be paid to the LWDA.

2. The Settlement Payments shall be delivered to Plaintiff's Counsel (and the LWDA) within thirty (30) days from the Court's approval of the settlement related to the PAGA Claim and dismissal of the PAGA Claim as set forth in Paragraph 4 below. Wiring instructions for the Gutierrez Derham Law Firm will be emailed to Jessica Lobis Buckwalter, which shall be confirmed telephonically.

GENERAL REPRESENTATIONS AND ADDITIONAL AGREEMENTS

3. Agreement is Not An Admission: This Agreement shall in no event be construed as or deemed to be evidence of any admission or concession on the part of Defendant of any liability or damages. The Parties understand and acknowledge that this is a compromise settlement without any admission of liability or error or bad faith on the part of Defendant or any of its agents, attorneys, predecessors, successors, and assigns.

DISMISSALS AND CONTINGENCY

4. Court Approval and Dismissal: The dismissal of the PAGA Claim is, by law, conditioned upon Court approval. For this Agreement to be effective, the Court must: (i) approve this Agreement; (ii) dismiss Plaintiff's *individual* PAGA Claim with prejudice; (iii) dismiss the remainder of Plaintiff's PAGA Claim with respect her own standing and no other aggrieved employees.

5. Non-Approval of the Agreement: If the Court does not approve this Agreement *or* fails to enter an order as set forth in Paragraph 4, then this Agreement shall be considered null and void, and neither this Settlement Agreement, nor any of the related negotiations or proceedings, shall be of any force or effect and shall be inadmissible for any purpose in any proceeding, and all Parties to this of Agreement shall stand in the same position, without prejudice, as if the Settlement Agreement had been neither entered into.

RELEASES

6. Individual Release of PAGA Claims: In exchange for the consideration provided to Plaintiff in Paragraph 1 of the Agreement, and subject to and contingent upon the Court's approval of this release, Plaintiff, on behalf of herself and no other aggrieved employees, and on behalf of her grantees, agents, attorneys, representatives, heirs, devisees, trustees, assigns, assignors, or any other entities in which Plaintiff has an interest, (collectively "Plaintiff Releasers"), hereby agrees to release and forever discharge by this Agreement, Defendant as well as each of its past and present agents, employees, representatives, officers, directors, shareholders, attorneys, accountants, insurers, reinsurers, receivers, advisors, consultants, partners, partnerships, parents, divisions, subsidiaries, affiliates, assigns, successors, heirs, predecessors in interest, joint venturers, commonly controlled corporations and related entities as well as any third parties who interacted with Plaintiff in any way while on the premises of Plaintiff's employment or otherwise, including without limitation, any residents of or visitors to the residence at 9434 Cherokee Lane, Beverly Hills, California (collectively "Defendant Releasees") from all PAGA claims that she has, that were asserted in the Lawsuit, that were asserted in any the LWDA Notice sent by Plaintiff, and/or that could have asserted in the Lawsuit based on any of the facts and/or allegations in the Lawsuit or LWDA Notice ("Released Claims").

TAX OBLIGATIONS

7. No Tax Advice Provided: Neither counsel for the Parties, Plaintiff, or Defendant intend anything contained herein (or in any other document pertaining to the Lawsuit,

Arbitration, DLSE Claims, or FEHA Claim) to constitute legal advice regarding the taxability of any amount paid hereunder, nor shall it be relied upon as such. The Parties should rely exclusively upon, his, her, or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement and any payments resulting from this Settlement. Plaintiff acknowledges that she is solely responsible for all tax obligations which may arise as a consequence of receipt of the settlement payments to her or her counsel, and will pay any taxes, penalties, or other costs assessed in connection with the payment of the Settlement Payments. Defendant and Defendant Releasees as defined in Paragraph 6 above, have no duty to defend or indemnify Plaintiff against any tax claim or assessment associated with the Settlement Payments to her or her attorneys. Plaintiff shall cooperate in the defense of any tax claims brought against Defendant Releasees, and shall defend, indemnify and hold harmless Defendant Releasees in the event any taxing authority seeks payment of taxes, interest, penalties, or other assessments from Defendant Releasees in connection with the payment Settlement Payments to her or her attorneys.

CONSTRUCTION

8. **BINDING AGREEMENT.** This Agreement shall be binding upon the signatories and upon their heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of Defendant Releasees, and each of them, and to their heirs, administrators, representatives, executors, successors, and assigns, upon whom this Agreement shall also be binding.

9. **CHOICE OF LAW.** This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

10. **INVALID AGREEMENT PROVISIONS.** Should any provision of this Agreement become legally unenforceable, no other provision of this Agreement shall be affected, and this Agreement shall be construed as if the Agreement had never included the unenforceable provision.

11. **NO MODIFICATIONS UNLESS IN WRITING.** The parties to this Agreement agree that any modification of this Agreement must be in writing, signed by Plaintiff and Defendant, and must refer specifically to this Agreement and the provisions modified. No other modifications will be valid.

12. **ENTIRE AGREEMENT.** This Agreement and the separate Confidential Settlement Agreement set forth the entire agreement between the Parties as to the subject matter of this Agreement and the separate Confidential Settlement Agreement, and fully supersedes any prior agreements or understandings between the Parties as to the subject matter of this Agreement and the separate Confidential Settlement Agreement. The Parties acknowledge that they have not relied on any representations, promises, or agreements of any kind made to any of them in connection with the decision to accept the Agreement and/or the separate Confidential Settlement Agreement, except for those set forth in this Agreement and in the separate Confidential Settlement Agreement. This Agreement and the separate Confidential Settlement Agreement shall be binding upon the Parties, their heirs, executors, successors, and assigns.

13. EXECUTION IN COUNTERPARTS. This Agreement may be executed and delivered in two or more counterparts, each of which shall be the original, but such counterparts together shall constitute but one and the same instrument. A signature made on a faxed or electronically mailed copy of the Agreement or a signature transmitted by facsimile or electronic mail shall have the same effect as the original signature. This Agreement is not effective until both Plaintiff and the Defendant have signed it.

14. ATTORNEYS' FEES. The prevailing party in any action to enforce this Agreement, or for any breach thereof shall be entitled to costs and reasonable attorneys' fees.

15. FULL AND INDEPENDENT KNOWLEDGE. Plaintiff represents that she has thoroughly read this Agreement; that she fully understands all of the provisions of this Agreement; that she agrees to the terms of this Agreement; and that she is voluntarily entering into this Agreement.

ENFORCEMENT

16. Pursuant to Code of Civil Procedure section 664.6, the Parties agree that the Court shall retain jurisdiction over the parties to enforce the Agreement until performance in full of the terms of the Agreement. The Parties may file a motion to enforce this Agreement and the Court, upon motion, may enter judgment pursuant to the terms of the Agreement. The prevailing party on such motion, or action, to enforce this Agreement shall be entitled to reasonable attorney's fees. The Agreement shall be enforceable, binding, and admissible or subject to disclosure for purposes of seeking enforcement.

The Parties as signatories hereto hereby represent that they are fully authorized to enter into this Agreement and bind the Parties to the terms and conditions hereof. IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

PARTIES' SIGNATURES TO BE BOUND:

Date: 03 / 02 / 2023



Esmeralda Beltran

Date: 03/02/2023

HENIN SERVICES LIMITED

By: 

Authorized Representative

EXHIBIT B

Rachel Morgan

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Friday, March 3, 2023 1:31 PM
To: Matthew Gutierrez
Subject: Thank you for your Proposed Settlement Submission

03/03/2023 01:30:58 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm