

Ruben Guerra, Esq. (SBN 291446)
Tizoc Perez-Casillas, Esq. (SBN 309981)
GUERRA & CASILLAS LLP
617 South Olive Street, Suite 1206
Los Angeles, California 90014
Telephone: (213) 437-9495
Facsimile: (213) 342-5503
ruben@guerracasillas.com
tizoc@guerracasillas.com

Attorneys for Plaintiff,
ROBERT BENNETT

FILED
KERN COUNTY SUPERIOR COURT
02/18/2022
BY Griffith, Kasey
DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

ROBERT BENNETT, an individual,
Plaintiff,

v.

HYDROCHEM, LLC, a Delaware limited liability company; HYDROCHEMPSC, a business entity of unknown format; AQUILEX, LLC, a Delaware limited liability company; MARK DOE, an individual; and DOES 1 through 20, inclusive,
Defendants.

Case No. BCV-21-102351

[Assigned to the Honorable Judge Bernard C. Barmann, Jr., Dept. 10]

**JOINT STIPULATION TO DISMISS
PAGA CLAIM AND ~~[PROPOSED]~~
ORDER THEREON**

Action Filed: October 6, 2021
Trial Date: None Set

TO THE HONORABLE COURT:

Plaintiff Robert Bennett ("Plaintiff") and Defendants Hydrochem LLC d/b/a HydrochemPSC and Mark Doe (collectively, "Defendants"), by and through their counsel of record, hereby stipulate as follows:

WHEREAS, Plaintiff provided the California Labor and Workforce Development Agency ("LWDA") with notice of his intent to assert a Private Attorneys General Act ("PAGA") claim and the basis for that claim in accordance with Labor Code section 2699.3 on October 6, 2021. Plaintiff filed his Complaint after not receiving a response from the LWDA;

WHEREAS, Plaintiff filed his Complaint on October 6, 2021 against Defendants alleging the following causes of action:

1 (1) Discrimination in Violation of Gov't Code §§ 12940, *et. seq.*, (2) Harassment in Violation
2 of Gov't Code §§ 12940, *et. seq.*, (3) Retaliation in Violation of Gov't Code §§ 12940, *et. seq.*, (4)
3 Failure to prevent Discrimination, Harassment, and Retaliation in Violation of Gov't Code §§
4 12940(k), (5) Failure to Provide Reasonable Accommodation in Violation of Gov't Code §§ 12940,
5 *et. seq.*, (6) Failure to Engage in Good Faith Interactive Process in Violation of Gov't Code §§
6 12940, *et. seq.*, (7) For Declaratory Judgment, (8) Retaliation (Labor Code § 98.6), (9) Retaliation
7 (Labor Code §§ 1102.5, 1102.6, 6310, 6400), (10) Wrongful Termination in Violation of Public
8 Policy, (11) Assault, (12) Negligent Supervision and Retention, (13) Failure to Pay Wages and
9 Improper Deductions (Labor Code §§ 201, 204, 221-223, 226.7, 246), (14) Failure to Provide Meal
10 and Rest Periods, (15) Failure to Indemnify For Necessary Business Expenses (Labor Code § 2802);
11 (16) Failure to provide Itemized Wage and Hour Statements (Labor Code §§ 226, *et. seq.*), (17)
12 Waiting Time Penalties (Labor Code §§ 201-203), and (18) Unfair Competition (Bus. & Prof. Code §
17200, *et. seq.*

13 WHEREAS, on December 1, 2021, Plaintiff filed his First Amended Complaint ("FAC"), and
14 included a PAGA cause of action as his eighteenth cause of action;

15 WHEREAS, on January 4, 2022, Defendants filed a Motion to Compel Arbitration and
16 Demurrer to Plaintiff's FAC. Defendants rescheduled their Motion and Demurrer to March 2, 2022.

17 WHEREAS, the Parties agreed to a private mediation with Jeffrey Owensby, Esq. which took
18 place on January 24, 2022, and the Parties were unable to reach a resolution on that day;

19 WHEREAS, after the unsuccessful mediation, the Parties, through the mediator, continued
20 negotiations;

21 WHEREAS, in order to avoid the expense and uncertainty of further proceedings, the Parties
22 reached a settlement of Plaintiff's individual claims only against Defendants, and entered into a
23 confidential settlement and general release on February 17, 2022;

24 WHEREAS, the settlement between the Parties is not a "PAGA settlement" requiring court
25 approval under Labor Code § 2699(1)(2) because the Parties did not seek to release any claims on a
26 representative basis;

27 //

28 //

1 WHEREAS, Plaintiff wishes to settle for himself on the terms reached with Defendants with
2 regard to the Action. The amount of the confidential settlement agreement was negotiated for the
3 individual claims based on the wrongful termination, and retaliation under the Labor Code §§ 98.6,
4 1102.5, and 6310;

5 WHEREAS, Plaintiff is limited to facts within his own knowledge, and Plaintiff did not receive
6 any PAGA discovery from Defendants and will not be able to identify other alleged aggrieved
7 employees;

8 WHEREAS, Plaintiff has not sought the express consent of other alleged aggrieved employees
9 to pursue this Action on their behalf;

10 WHEREAS, Plaintiff is not required to give other alleged aggrieved employees the opportunity
11 to opt-out of Plaintiff's representation in this Action;

12 WHEREAS, a claim under the California Labor Code Private Attorney General Act of 2004,
13 California Labor Code §§ 2699, et seq. was part of the Complaint in this Action;

14 WHEREAS, the rights of other alleged aggrieved employees will not be prejudiced, as Plaintiff
15 seeks dismissal without prejudice as to the other allegedly aggrieved employees. No consideration
16 has been or will be provided for the dismissal without prejudice of Plaintiff's PAGA claim with
17 respect to these other allegedly aggrieved employees, and the Parties did not seek or enter into a
18 release of PAGA claims on behalf of any allegedly aggrieved employees. Thus, dismissal of this
19 PAGA claim does not affect the rights or abilities of any other allegedly aggrieved employees to
20 bring subsequent individual actions, class actions, or representative PAGA actions because this claim
is to be dismissed without prejudice only as to any other allegedly aggrieved employees;

21 WHEREAS, this request for dismissal of the PAGA claim without prejudice shall be served to
22 the LWDA after Court approval;

23 WHEREAS, any other allegedly aggrieved employees will not be prejudiced without notice of
24 the settlement or the requested dismissal. Discovery as to the identities of other aggrieved employees
25 was not completed based on the Parties' desire to resolve the Action after protracted discussions,
26 investigation, and negotiations, nor has notice of this Action been provided to other alleged aggrieved
27 employees. Thus, the Parties are not aware of any other allegedly aggrieved employees who have
28 any expectations of recovery of any kind in this Action, and to the extent any of them wish, in the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

future, to pursue their own claims, they have the right to do that; and

WHEREAS, Plaintiff wishes to dismiss his PAGA cause of action without prejudice.

NOW, THEREFORE, the parties stipulate and jointly request that:

The Court dismiss Plaintiff’s eighteenth cause of action under the Private Attorney General Act of 2004 (“PAGA”), Labor Code §2699 et seq., without prejudice.

IT IS SO STIPULATED between the parties.

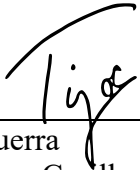
[SIGNATURES ON FOLLOWING PAGE]

1 DATED: February 17, 2021

GUERRA & CASILLAS LLP

2

3

By: 

4

Ruben Guerra

5

Tizoc Perez-Casillas

6

Attorneys for Plaintiff

Robert Bennett

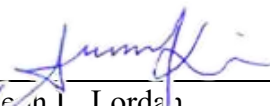
7

DATED: February 17, 2022

LEWIS BRISBOIS BISGAARD & SMITH

8

9

By: 

10

Joseph L. Lordan

11

Sumy Kim

12

Ciara M. Dineen

13

Attorneys for Defendants,

Hydrochem LLC d/b/a HydrochemPSC and Mark
Doe

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

[PROPOSED] ORDER

The Court, having considered the Parties' Joint Stipulation, and all legal authorities in support thereof, and good cause appearing therefore,

IT IS HEREBY ORDERED that

1. Plaintiff's eighteenth cause of action under the California Labor Code, Private Attorney General Act, Labor Code § 2699, et seq., is dismissed without prejudice; and

2. Plaintiff shall submit a copy of this Court Order to the Labor and Workforce Development Agency within 10 days after entry of this order.

IT IS SO ORDERED.

Date: Signed: 2/18/2022 12:50 PM



Judge of the Superior Court
Bernard C. Barmann, Jr.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4
56
7

8
9
10
11

8
9

13
14
15

17

18
19

10

22

24
25
26
27
28