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Electronically Filed
Superior Court of California
County of Santa Cruz
January 31, 2024
Clerk of the Court by Deputy,
Hanson, Helena

Helena J. Hanson

Kane Moon (SBN 249834)
Lilit Ter-Astvatsatryan (SBN 320389)
Linh H. Tran (SBN 349486)
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Attorneys for Plaintiff Jhonathan Moore

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ**

JHONATHAN MOORE, individually, and on
behalf of all others similarly situated,

Plaintiff,

vs.

SPRINKLES CUPCAKES CA, LLC, a limited
liability company, SPRINKLES CUPCAKES,
LLC, a limited liability company; and DOES 1
through 10, inclusive,

Defendants.

Case No.: 21CV03082

For All Purposes Assigned to the Honorable
Timothy Volkmann, Dept. 5

**REQUEST FOR DISMISSAL OF CLASS
AND REPRESENTATIVE ACTION
WITHOUT PREJUDICE; DECLARATION
OF LINH H. TRAN; [PROPOSED]
ORDER THEREON**

Complaint Filed: December 28, 2021
FAC Filed: March 29, 2022
Trial Date: Not Set

REQUEST FOR DISMISSAL

1. Plaintiff Jhonathan Moore (“Plaintiff”) submits this Request for Dismissal of Class and Representative Action Without Prejudice, pursuant to California Rules of Court 3.770, *et seq.* and based on the following facts:

2. On December 28, 2021, Plaintiff filed a class action complaint against Defendants Sprinkles Cupcakes CA, LLC and Sprinkles Cupcakes, LLC (“Defendants”) (collectively with Plaintiff, the “Parties”) entitled *Jhonathan Moore v. Sprinkles Cupcakes CA, LLC, et al*, with Case Number 21CV03082, alleging violations of the California Labor Code and Unfair Competition Law, including: (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices (the “Complaint”).

3. On March 29, 2022, Plaintiff amended the Complaint to add a ninth cause of action for Civil Penalties under the California Private Attorneys’ General Act (“PAGA”).

4. Earlier in the litigation, the Parties met and conferred on a variety of issues, specifically including the informal resolution of this matter. Defendants’ counsel advised Plaintiff’s counsel that Defendants’ financial condition prevented them from resolving this matter on a class-wide basis.

5. Subsequently, as part of the Parties’ ongoing mediation-privileged efforts to informally resolve the matter, Defendants produced the various financial records requested by Plaintiff in support of Defendants’ position.

6. On or around late October 2023, Plaintiff’s expert concluded his evaluation of Defendants’ records and confirmed Defendants’ destitute financial condition. After review of Plaintiff’s expert’s opinion and exercise of its due diligence via multiple meet and confer efforts with Defendants’ counsel, Plaintiff’s counsel determined that there was no way to proceed on a class or representative basis, and agreed to seek dismissal of those claims.

1 7. Based on the above, Plaintiff is requesting that Plaintiff's class and representative
2 claims be dismissed without prejudice, and that his individual claims remain.

3 8. The Court has not certified a class and notice of the pendency of a class or PAGA
4 action has not been provided to putative class members or aggrieved employees. Thus, there is no
5 prejudice to the putative class members and aggrieved employees. Moreover, the dismissal of the
6 class and representative claims is without prejudice.

7 9. No consideration, direct or indirect, is being given in exchange for this dismissal of
8 class and representative claims. Specifically, Plaintiff's counsel is not receiving any consideration,
9 nor is Plaintiff receiving any consideration, in exchange for this dismissal.

10 10. The Parties have engaged in negotiations to settle Plaintiff's individual claims.
11 Thus, Plaintiff is requesting his individual claims remain. Should the Court request, terms of the
12 pending confidential individual settlement agreement could be provided to the Court for in camera
13 review.

14
15 Dated: January 30, 2024

Respectfully submitted,

16 MOON LAW GROUP, PC

17
18 By: 

Kane Moon

Lilit Ter-Astvatsatryan

Linh H. Tran

Attorneys for Plaintiff Jhonathan Moore

DECLARATION OF LINH H. TRAN

I, LINH H. TRAN, declare as follows:

1. I am an attorney at law duly licensed to practice as such before all of the Courts of the State of California and am one of the attorneys of record for Plaintiff. This declaration is made in support of the Request for Dismissal of Class and Representative Action Without Prejudice. I have personal knowledge of the matters set forth herein and could competently testify to the facts described herein.

2. Plaintiff Jhonathan Moore (“Plaintiff”) submits this Request for Dismissal of Class and Representative Action Without Prejudice, pursuant to California Rules of Court 3.770, *et seq.* and based on the following facts:

3. On December 28, 2021, Plaintiff filed a class action complaint against Defendants Sprinkles Cupcakes CA, LLC and Sprinkles Cupcakes, LLC (“Defendants”) (collectively with Plaintiff, the “Parties”) entitled *Jhonathan Moore v. Sprinkles Cupcakes CA, LLC, et al*, with Case Number 21CV03082, alleging violations of the California Labor Code and Unfair Competition Law, including: (1) failure to pay minimum wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices (the “Complaint”).

4. On March 29, 2022, Plaintiff amended the Complaint to add a ninth cause of action for Civil Penalties under the California Private Attorneys’ General Act (“PAGA”).

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6. On or around late October 2023, Plaintiff’s expert concluded his evaluation of Defendants’ records and confirmed Defendants’ destitute financial condition. After review of Plaintiff’s expert’s opinion and exercise of its due diligence via multiple meet and confer efforts

1 with Defendants' counsel, Plaintiff's counsel determined that there was no way to proceed on a
2 class or representative basis, and agreed to seek dismissal of those claims.

3 7. Based on the above, Plaintiff is requesting that Plaintiff's class and representative
4 claims be dismissed without prejudice, and that his individual claims remain.

5 8. The Court has not certified a class and notice of the pendency of a class or PAGA
6 action has not been provided to putative class members or aggrieved employees. Thus, there is no
7 prejudice to the putative class members and aggrieved employees. Moreover, the dismissal of the
8 class and representative claims is without prejudice.

9 9. No consideration, direct or indirect, is being given in exchange for this dismissal of
10 class and representative claims. Specifically, Plaintiff's counsel is not receiving any consideration,
11 nor is Plaintiff receiving any consideration, in exchange for this dismissal.

12 10. The Parties have engaged in negotiations to settle Plaintiff's individual claims.
13 Thus, Plaintiff is requesting his individual claims remain. Should the Court request, terms of the
14 pending confidential individual settlement agreement could be provided to the Court for in camera
15 review.

16 I declare under penalty of perjury, under the laws of the State of California, that the
17 foregoing is true and correct.

18 Executed this January 30, 2024 at Los Angeles, California.

19
20 
21 _____
Linh H. Tran, "Declarant"

[PROPOSED] ORDER

The Court, having considered Plaintiff's Request for Dismissal of Class and Representative Action Without Prejudice and the Declaration of Linh H. Tran, pursuant to California Rules of Court 3.770, *et seq.*, orders that Plaintiff's class and representative claims be dismissed without prejudice while Plaintiff's individual claims remain.

Date: 1/30/2024 2:51:59 PM



Honorable Timothy Volkmann
Judge of the Santa Cruz Superior Court

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not
a party to the within suit; my business address is 1055 W. 7th Street, Suite 1880, Los Angeles, CA 90017.

4 On the date indicated below, I served the document described as: **REQUEST FOR DISMISSAL**
5 **OF CLASS AND REPRESENTATIVE ACTION WITHOUT PREJUDICE; DECLARATION OF**
6 **LINH H. TRAN; [PROPOSED] ORDER THEREON** on the interested parties in this action by sending
[] the original [or] [✓] a true copy thereof [✓] to interested parties as follows [or] [] as stated on the
attached service list:

7 Michael J. O'Connor, Jr.
8 Sarkis A. Atoyan
ATKINSON, ANDELSON, LOYA, RUUD & ROMO
9 4275 Executive Square, Suite 700
La Jolla, California 92037-1477
10 Telephone: (858) 485-9526
Fax: (858) 485-94 12
11 Michael.OConnor@aalrr.com
Sarkis.Atoyan@aalrr.com

12 *Attorneys for Defendants Sprinkles Cupcakes CA, LLC and Sprinkles Cupcakes, LLC*

13 [✓] **BY U.S. MAIL:** I deposited such envelope in the mail at Los Angeles, California. The
14 envelope was mailed with postage thereon fully prepaid. I am “readily familiar” with the
15 firm’s practice of collection and processing correspondence for mailing. Under that practice
16 it would be deposited with U.S. postal service on that same day with postage thereon fully
17 prepaid at Los Angeles, California in the ordinary course of business. I am aware that on
18 motion of the party served, service is presumed invalid if postal cancellation date or postage
meter date is more than one day after date of deposit for mailing in affidavit.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and correct. Executed this **January 30, 2024** at Los Angeles, California.

21 Karen Castillo
22 _____
Type or Print Name

23 /s/ Karen Castillo
24 _____
Signature