

Kane Moon (SBN 249834)
E-mail: kane.moon@moonyanglaw.com
Allen Feghali (SBN 301080)
E-mail: allen.feghali@moonyanglaw.com
Charlotte Mikat-Stevens (SBN 327047)
E-mail: charlotte.mikat-stevens@moonyanglaw.com

MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff ALEC NYGARD

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO

ALEC NYGARD, individually, and on behalf
of all others similarly situated,

Plaintiff,

vs.

RENESON HOTELS, INC., a California
corporation; and DOES 1 through 10,
inclusive,

Defendants

Case No.: 22CIV00272

*[Assigned for all purposes to the Honorable
Marie S. Weiner]*

**PLAINTIFF'S NOTICE OF ENTRY OF
JUDGMENT OF DISMISSAL AND PROOF
OF SERVICE**

Complaint filed: January 28, 2022
Trial date: Not set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD HEREIN:**

2 PLEASE TAKE NOTICE that the Court has issued an entry of judgment of dismissal in the above-
3 captioned lawsuit. A true and correct copy of the judgment of dismissal is attached hereto as “**Exhibit**
4 **A.**”

5
6 Respectfully Submitted,

7 Dated: June 2, 2023

MOON & YANG, APC

8 *Charlotte Mikat-Stevens*

9
10 Kane Moon
Allen Feghali
Charlotte Mikat-Stevens

11 *Attorneys for Plaintiff*
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EXHIBIT A

Electronically

FILED

By Superior Court of California, County of San Mateo

ON 5/19/2023

By /s/ Coroneel, Maria

Deputy Clerk

Kane Moon (SBN 249834)
kane.moon@moonyanglaw.com
Allen Feghali (SBN 301080)
allen.feghali@moonyanglaw.com
Edwin Kamarzarian (SBN 327830)
edwin.kamarzarian@moonyanglaw.com

MOON & YANG, APC
1055 W. Seventh St., Suite 1880
Los Angeles, California 90017
Telephone: (213) 232-3128
Facsimile: (213) 232-3125

Attorneys for Plaintiff Alec Nygard

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RECEIVED

5/16/2023

CLERK OF THE SUPERIOR COURT
SAN MATEO COUNTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN MATEO**

ALEC NYGARD, individually, and on behalf of
all others similarly situated,

Plaintiff,

vs.

RENESON HOTELS, INC., a California
corporation; and DOES 1 through 10, inclusive,

Defendants

CASE NO.: 22CIV00272

*[Assigned for all purposes to the Honorable
Marie S. Weiner]*

**REQUEST FOR DISMISSAL OF CLASS
ALLEGATIONS WITHOUT PREJUDICE
AND INDIVIDUAL AND PAGA
ALLEGATIONS WITH PREJUDICE;
DECLARATION OF EDWIN
KAMARZARIAN; !
and JUDGMENT OF DISMISSAL**

Complaint filed: January 28, 2022
Trial date: Not set

REQUEST FOR DISMISSAL

1. Plaintiff Alec Nygard submits this request for dismissal of allegations made under Labor Code §2699 et, seq. (PAGA) without prejudice, and allegations made in his individual capacity with prejudice, so that he may fulfill his obligations under a settlement agreement with Defendant, pursuant to California Rule of Court 3.770 et seq. and based on the following facts:

2. On January 28, 2022, Plaintiff filed a class action complaint against Defendant Reneson Hotels, Inc. entitled *Nygard v. Reneson Hotels, Inc. et al*, San Mateo County Case Number 22CIV00272 (“the instant action”), alleging violations of the Labor Code and Unfair Competition Law for: (1) failure to pay minimum and regular rate 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 upon termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On April 11, 2022, Plaintiff added a ninth cause of action for civil penalties PAGA (*Cal. Lab. Code § 2699, et seq.*)

3. Following service of the complaint, Defendant’s counsel provided Plaintiff with a copy of a signed arbitration agreement, which did not explicitly permit arbitration on class-wide basis. After reviewing the arbitration clause, Plaintiff’s counsel determined that it would likely be enforced if Plaintiff opposed arbitrating this matter. Plaintiff’s counsel also determined that the class action waiver would likely be found enforceable under *Epic Systems Corp. v. Lewis* (2018) 138 S.Ct. 1612. Plaintiff’s counsel notified Defendant’s counsel that Plaintiff would seek this dismissal so that he could proceed under PAGA only because PAGA claims are not subject to mandatory arbitration.

4. No consideration, direct or indirect, is being provided in exchange for dismissal of the class allegations, as dismissal is premised upon a valid arbitration agreement as detailed above.

5. On May 31, 2022, Plaintiff and Defendant, and Plaintiff in a prior filed action with overlapping claims – *Maria Osorio v. Reneson Hotels, Inc.*, Marin County Case No. CIV2104377, Complaint filed December 13, 2021 (collectively the “Plaintiffs”)– mediated and

1 reached a global settlement of all claims in both actions.

2 5. On April 21, 2023, the Honorable James T. Chou of the Marin County Superior
3 Court signed a final order granting approval of the settlement between Plaintiffs and Defendant.

4 6. Based on the above, Plaintiff is requesting that the Court dismiss his individual
5 and PAGA allegations with prejudice, and dismiss his class allegations without prejudice.

6 7. The Court has not certified a class and notice of the pendency of a class or PAGA
7 action has not been provided to putative class members or aggrieved employees.

8
9 Dated: May 16, 2023

Respectfully submitted,

10 MOON & YANG, APC

11 By: Edwin Kamarzarian
12 Kane Moon
13 Allen Feghali
14 Edwin Kamarzarian
15 Attorneys for Plaintiff
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5. Based on the above, Plaintiff is requesting that the Court dismiss his individual and PAGA allegations with prejudice, and dismiss his class allegations without prejudice.

6. The Court has not certified a class and notice of the pendency of a class or PAGA action has not been provided to putative class members or aggrieved employees.

Executed this May 16, 2023 at Los Angeles, California.

Edwin Kamarzarian
Edwin Kamarzarian

1 **[PROPOSED] ORDER**

2 The Court, having considered Plaintiff's Request For Dismissal and the Declaration of
3 Edwin Kamarzarian, pursuant to California Rule of Court 3.770 *et seq.*, orders that

- 4 1. The class allegations are dismissed without prejudice;
5 2. The PAGA allegations are dismissed with prejudice, and
6 3. Plaintiff's individual allegations are dismissed with prejudice.
7 4. Plaintiff shall file and serve formal Notice of Entry of Judgment of Dismissal,
8 and file a proof of service thereof, including LWDA.

9 DATE: _____

Electronically
SIGNED
By /s/Weiner, Marie
05/17/2023
Hon. Marie S. Weiner
Judge of the San Mateo Superior Court

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I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the action; my business address is 1055 West Seventh Street, Suite 1880, Los Angeles, California 90017. On **May 16, 2023**, I served the foregoing document described as:

 X by placing the original X a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Attorneys for Defendant Reneson Hotels, Inc.

X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on **May 16, 2023**, at Los Angeles, California.

/S/ *Ximena Reyes*

Signature



SUPERIOR COURT OF SAN MATEO COUNTY

Civil Department
400 County Center, Redwood City, CA 94063
(650) 261-5100
www.sanmateocourt.org

CLERK'S CERTIFICATE OF SERVICE BY MAIL

Date: 5/19/2023

In the Matter of: ALEC NYGARD vs RENESON HOTELS, INC., a California corporation
Case No.: 22-CIV-00272

Documents: REQUEST FOR DISMISSAL OF CLASS ALLEGATIONS WITHOUT PREJUDICE AND INDIVIDUAL AND PAGA
ALLEGATIONS WITH PREJUDICE; DECLARATION OF EDWIN KAMARZARIAN

I certify that I am a Deputy Clerk of the San Mateo County Superior Court, that I am not a party to this cause, and that the above-listed documents were served upon the persons whose names and addresses are set forth below, on this date in San Mateo County, California, by placing the documents for collection and mailing so as to cause it to be mailed with the United States Postal Service by first class mail in a sealed addressed envelope with postage fully prepaid, following standard court practices. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on: 5/19/2023

Neal I Taniguchi, Court Executive Officer/Clerk

By: /s/ Maria Coronel

Maria Coronel, Deputy Clerk

Copies Mailed To:

☞ KANE MOON
MOON & YANG, APC
1055 WEST SEVENTH STREET
SUITE 1880
LOS ANGELES, CA 90017

KATHERINE S CATLOS
425 CALIFORNIA STREET
SUITE 2100
SAN FRANCISCO, CA 94104

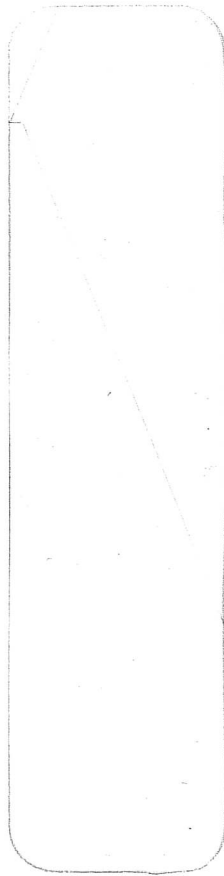
ARTHUR GAUS
425 CALIFORNIA STREET SUITE 2100
SAN FRANCISCO, CA 94104

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO
400 COUNTY CENTER, 1st FLOOR
REDWOOD CITY, CALIFORNIA 94063

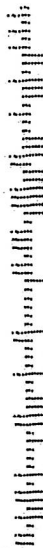
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05/19/2023 AUTO
US POSTAGE \$000.531



ZIP 94063
041L12203326



4 ENCLOSURE 90017



1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss
4 COUNTY OF LOS ANGELES)

5 I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not
6 a party to the within action; my business address is 1055 West Seventh Street, Suite 1880, Los Angeles,
California 90017. On April 29, 2021, I served the foregoing document described as:

7 **PLAINTIFF'S NOTICE OF ENTRY OF JUDGMENT OF DISMISSAL AND PROOF OF**
8 **SERVICE**

9 X by placing ___ the original X a true copy thereof as follows:

10 Katherine Catlos
11 Arthus S. Gaus
12 KAUFMAN DOLOWICH & VOLUCK, LLP
13 425 California Street, Ste. 2100
14 San Francisco, CA 94104
15 kcatlos@kdvlawa.com
16 aguas@kdvlaw.com

17 *Attorneys for Defendant Reneson Hotels, Inc.*

18 [✓] **BY E-MAIL:** I hereby certify that this document was served from Los Angeles, California,
19 by e-mail delivery on the parties listed herein at their most recent known e-mail address or e-
20 mail of record in this action.

21 Additionally, X by placing ___ the original X a true copy thereof as follows:

22 Labor and Workforce Development Agency
23 California Department of Industrial Relations
24 455 Golden Gate Avenue, 10th Floor
25 San Francisco, CA 94102

26 [✓] **BY ELECTRONIC SERVICE:** By using the Department of Industrial Relations' "Private
27 Attorneys General Act (PAGA) – Filing" online system for submitting documents, including
28 Court Order or Judgment in PAGA case. I did not receive an error message.

29 X (State) I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

30 Executed on **June 2, 2023**, at Los Angeles, California.

31 Ximena Reyes
32 Name

33 /s/Ximena Reyes
34 Signature