

1 Thomas D. Rutledge, (SBN 200497)
2 Law Office of Thomas D. Rutledge
3 500 West Harbor Drive, Suite 1113
4 San Diego, California 92101
5 Telephone: (619) 886-7224
6 Facsimile: (619) 259-5455

7 Alex Asil Mashiri, Esq. (SBN 283798)

MASHIRI LAW FIRM

8 A Professional Corporation
9 11251 Rancho Carmel Drive #500694
10 San Diego, California 92150
11 Telephone: (858) 348-4938
12 Facsimile: (858) 348-4939

13 Attorneys for Plaintiffs
14 JAHANBAKHSN NEMAT

15 Michael Ungar, Esq.
16 715 Silver Spur Road, # 209
17 Rolling Hills Est., CA 90274
18 Telephone: (310) 377-9500

19 Attorney for Defendants
20 SILVER SPUR SERVICES, INC. and
21 DAVID HASHEMI

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

22 JAHANBAKHSN NEMAT, an individual,
23 individually and on behalf of himself and on
24 behalf of others similarly situated,

25 Plaintiffs,

26 vs.

27 SILVER SPUR SERVICES, INC., an
28 unknown business entity; DAVID HASHEMI,
an individual; and DOES 1 through 50
inclusive

Defendants.

) Case No. YC071117

)
) Judge: Hon. Ramona G. See
) Dept: M

)
) **JOINT STIPULATION FOR APPROVAL**
) **OF PARTIES' SETTLEMENT PURSUANT**
) **TO CALIFORNIA LABOR CODE § 2699**
) **AND CONDITIONAL SETTLEMENT PER**
) **C.C.P. § 664.6 AND [PROPOSED] ORDER**
) **THEREON**

) Complaint Filed: February 4, 2016
) First Amended Complaint Filed: April 5, 2016

TO THE HONORABLE COURT:

Plaintiff Jahanbakhsh Nemait ("Plaintiff") and Defendants Silver Spur Services, Inc. and David Hashemi (collectively, "Defendants"), via respective counsel, hereby stipulate as follows:

RECITALS

1. WHEREAS, Defendants employed Plaintiff from approximately January 2013 to June 2015, as a smog technician.

2. WHEREAS, Plaintiff alleges that he was a non-exempt employee paid on a weekly basis during all times relevant who alleges he was paid in violation of the California Labor Code;

3. WHEREAS, Defendants employed Plaintiff from approximately January 2013 to June 2015, as a smog technician;

4. WHEREAS, on February 4, 2016, Plaintiff commenced a lawsuit individually and on behalf of others similarly situated, entitled *Nemati v. Silver Spur Services, Inc. et al.* in the Superior Court of the State of California, County of Los Angeles – Torrance Courthouse, Case Number YC071117 (this case is hereinafter referred to as "Action"). By the Action, Plaintiff asserted 8 causes of action: (1) Failure to Pay Overtime, (2) Failure to Pay State Minimum Wages, (3) Failure to Make Payments within the Required Time, (4) Failure to Provide Accurate Itemized Wage Statements, (5) Failure to Maintain Required Records, (6) PAGA Claim for Civil Penalties, (7) Violation of Business & Professions Code § 17200, *et seq.*, and (8) Conversion.

5. WHEREAS, on or about February 5, 2016, Plaintiff, via the MASHIRI LAW FIRM and the LAW OFFICES OF THOMAS D. RUTLEDGE ("Plaintiff's Counsel") submitted a Notice to the Labor Workforce Development Agency ("LWDA"), pursuant to section 2699.3 of the Labor Code, alleging a variety of Labor Code violations against Defendants (the "LWDA Notice"), which alleged violations the LWDA declined to investigate.

6. WHEREAS, on April 5, 2016, Plaintiff filed his First Amended Complaint ("FAC") asserting 8 causes of action: (1) Failure to Pay Overtime, (2) Failure to Pay State Minimum Wages, (3) Failure to Make Payments within the Required Time, (4) Failure to Provide Accurate Itemized Wage Statements, (5) Failure to Maintain Required Records, (6) PAGA Claim for Civil Penalties, (7) Violation of Business & Professions Code § 17200, *et seq.*, and (8) Conversion.

7. WHEREAS, Defendants dispute all allegations of purported wrongdoing set forth by Plaintiff in his LWDA Notice and the Action.

8. WHEREAS, since the filing of Plaintiff's Action in February 2016, the Parties have conducted discovery, and have engaged in meaningful settlement negotiations and based thereon, have reached an agreement in principal.

1 9. WHEREAS, pursuant to Labor Code section 2699(l), “[t]he superior court . . . [must]
2 review and approve any penalties sought as part of a proposed settlement agreement pursuant to” the
3 PAGA under Labor Code § 2698, *et seq.*

4 10. WHEREAS, “[a]n employee plaintiff suing, . . . [under PAGA], does so as the proxy
5 or agent of the state’s labor law enforcement agencies,” *Arias v. Superior Court* (2009) 46 Cal. 4th
6 969, 986, and a PAGA claim brought by a private plaintiff is brought on behalf of the Labor
7 Workforce Development Agency, which could have brought the enforcement action to protect the
8 people of the State of California. (*Iskanian v. CLS Transp. L.A., LLC* (2014) 59 Cal. 4th 348.)

9 11. WHEREAS, PAGA penalties are in the nature of a law enforcement penalty, and are
10 designed to penalize an employer for its failure to comply with California’s wage and hour laws and
11 regulations, and are not designed to compensate employees. (*See e.g. Ochoa-Hernandez v.*
12 *CJADERS Foods, Inc.* (E.D. Cal. Apr. 2, 2010) 2010 U.S. Dist. LEXIS 32774, at *12-13)
13 [“Unnamed employees need not be given notice of the PAGA claim, nor do they have the ability to
14 opt-out of the representative PAGA claim. There is no indication that the unnamed plaintiffs can
15 contest a settlement, if any, reached between the parties.”].).

16 12. WHEREAS, the Parties recognize there is a genuine, good faith dispute as to the
17 merit of the PAGA claims, with Defendants vigorously contesting the merits of Plaintiff’s
18 allegations in the Action such as, for example, that Plaintiff was non-exempt, Plaintiff’s claims for
19 unpaid overtime and unpaid state minimum wages, failure to make timely payments, and defective
20 wage statements, among other claimed violations under the Labor Code, as well as whether there are
21 any damages for said claimed violations.

22 13. WHEREAS, Defendants contend that Plaintiff is not entitled to any unpaid wages or
23 penalties.

24 14. WHEREAS, Defendants have represented to Plaintiff that Defendants is enduring
25 great financial hardship and is forced to set up a payment plan.

26 15. WHEREAS, Defendants have represented to Plaintiff that there are no other non-
27 exempt employees.

28 16. WHEREAS, this Action is a single Plaintiff PAGA claim.

 17. WHEREAS, given Defendants’ position that there is no validity to the PAGA claims,
including lack of any damages, and Defendants are enduring great financial hardship, the Parties are
settling the PAGA claims for a sum deemed reasonable to Plaintiff’s counsel.

 18. WHEREAS, to avoid the expense, difficulties, and uncertainties of litigation with
respect to the Action and any other contentions stemming from this dispute, the Parties now

wish to settle and resolve all existing or potential claims or disputes between them, which were asserted or could have been asserted in the Action and the LWDA Notice.

19. WHEREAS, all Parties agree and wish to settle all claims between them.

20. WHEREAS, except as otherwise provided herein, it is the desire of the Parties to this Agreement to finally, fully and forever terminate and cancel all controversies, claims, debts, obligations and other matters whatsoever existing between them which in any way arise out of, or relate to the Parties, or which may hereafter arise between the Parties by reason of the facts and alleged facts of this controversy and dispute.

21. WHEREAS, contingent on this Court's approval of the Parties' settlement of the PAGA claims, the Parties have fully and finally settled all claims that were or could have been asserted against Defendants by Plaintiff and wish to enter this Stipulation pursuant to Code of Civil Procedure § 664.6 and Labor Code § 2698, *et seq.* and by this Stipulation, seek Court approval of the same.

STIPULATION AND AGREEMENT

NOW, THEREFORE, the Parties hereby agree and further stipulate as follows:

1. In consideration of Plaintiff's full and final settlement and release of all of Plaintiff's individual and/or representative claims, including without limitation his claims for unpaid overtime wages, failure to pay wages semi-monthly, and defective wage statements, the Parties have entered a Stipulation for Entry of Judgment, a true and correct copy of which is attached hereto and marked as Exhibit 1 and incorporated herein by reference as though set forth herein.

2. Pursuant to the provisions of PAGA and the terms of the Parties' Stipulation for Entry of Judgment, the Parties have agreed that \$3,000 shall be allocated to fully and finally resolve the PAGA claims, which were or could have been asserted in the Action and/or the LWDA Notices, including but not limited to all claims for civil penalties for alleged violations of §§ 201, 202, 203, 204, 226, 226.7, 510, 512, 1174, 1194, and 1198 of the California Labor Code.

3. Pursuant to section 2699(i) of the California Labor Code, Defendants shall pay seventy-five percent (75%) of the Total PAGA amount to the LWDA (i.e., the sum of \$2,250), and the remaining twenty-five percent (25%) (i.e. \$750.00) to the Plaintiff pursuant to the terms set forth in the Stipulation for Entry of Judgment.

4. Pursuant to Code of Civil Procedure § 664.6, the parties agree this Court shall retain

1 jurisdiction over the parties to enforce the Stipulation for Judgment until full and final performance
2 of all terms and conditions of the Stipulation for Judgment.

3 5. Plaintiff's Counsel shall notify the Court upon full and final performance of all terms
4 and conditions of the Stipulation for Judgment, in which case this matter will be dismissed with
5 prejudice.

6 6. All matters on calendar in this matter shall be taken off calendar.

7
8 Dated: August 1, 2017

MASHIRI LAW FIRM
A Professional Corporation

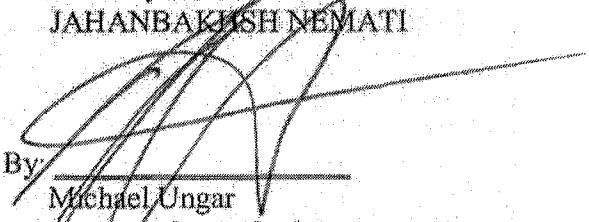
9 By: 
10 Alex Asil Mashiri
11 Attorney for Plaintiff
12 JAHANBAKHS NEMATI

13 Dated: 8-2-17

Law Offices of Thomas D. Rutledge

14 By: 
15 Thomas D. Rutledge
16 Attorney for Plaintiff
17 JAHANBAKHS NEMATI

18 Dated: 8/1/17

19 By: 
20 Michael Ungar
21 Attorney for Defendants
22 SILVER SPUR SERVICES, INC. and
23 DAVID HASHEMI
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EXHIBIT 1

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Attorneys for Plaintiffs
JAHANBAKHS NEMATI

Michael Ungar, Esq.
715 Silver Spur Road, # 209
Rolling Hills Est., CA 90274
Telephone: (310) 377-9500

Attorney for Defendants
SILVER SPUR SERVICES, INC. and
DAVID HASHEMI

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

JAHANBAKHS NEMATI, an individual,
individually and on behalf of himself and on
behalf of others similarly situated,

Plaintiffs,

vs.

SILVER SPUR SERVICES, INC., an
unknown business entity; DAVID HASHEMI,
an individual; and DOES 1 through 50
inclusive

Defendants.

) Case No. YC071117

)
) Judge: Hon. Ramona G. See
) Dept: M

) **STIPULATION FOR ENTRY OF**
) **JUDGMENT**

)
) Complaint Filed: February 4, 2016
) First Amended Complaint Filed: April 5, 2016
) Trial Date: August 23, 2017

1 IT IS HEREBY STIPULATED by and between Plaintiff JAHANBAKHS NEMATI
2 (“Plaintiff”) and Defendants SILVER SPUR SERVICES, INC. and DAVID HASHEMI
3 (“Defendants”), as follows:

4 1. Subject to the Court’s approval of the Parties’ Joint Stipulation for Court Approval of
5 the Parties’ Settlement Pursuant to California Labor Code § 2699 and Conditional Settlement
6 pursuant to Code of Civil Procedure § 664.6 and Plaintiff’s *Ex Parte* Application to dismiss all
7 claims in the foregoing action, Plaintiff shall have judgment against Defendants in the gross sum of
8 \$47,500.00 in full satisfaction of all claims asserted in the First Amended Complaint (“FAC”) on
9 file herein.

10 2. The Parties agree that \$30,000.00 of the gross sum shall be for payment of Plaintiff’s
11 attorneys’ fees and costs for his employment of Plaintiff’s Counsel (Mashiri Law Firm and the Law
12 Offices of Thomas D. Rutledge), \$14,500.00 of the gross sum shall be to Plaintiff for unpaid wages,
13 \$3,000.00 should be attributed to PAGA penalties.

14 3. Of the \$3,000 of the gross settlement attributed to PAGA penalties, \$2,250.00 (i.e.,
15 75% of the \$3,000) is payable in the manner and amount as specified in this Stipulation below to the
16 LWDA and \$750.00 (i.e., 25% of the \$3,000) is payable in the manner and amount as specified in
17 this Stipulation below to the Plaintiff.

18 4. The amount required by paragraph 1 hereof shall be paid by Defendants to Plaintiff
19 as follows:

- 20 a. The sum of \$2,250 shall be paid by means of a check payable to the
21 LWDA within 10 days from the Court’s approval of the Parties’ Joint
22 Stipulation for Court Approval of the Parties’ Settlement Pursuant to
23 California Labor Code § 2699 and Conditional Settlement Per C.C.P. §
24 664.6 and Plaintiff’s *Ex Parte* Application to dismiss all claims in the
25 foregoing action. This sum shall constitute payment for the 75% PAGA
26 penalties. This check must be mailed to the Mashiri Law Firm, A
27 Professional Corporation at 11251 Rancho Carmel Drive # 500694, San
28 Diego, CA 92150 who, in turn, will send it to the LWDA;

- b. The sum of \$750.00 shall be paid by means of a check payable to the JAHANBAKHSN NEMATl within 10 days from the Court's approval of the Parties' Joint Stipulation for Court Approval of the Parties' Settlement Pursuant to California Labor Code § 2699 and Conditional Settlement per C.C.P. § 664.6 and Plaintiff's *Ex Parte* Application to dismiss all claims in the foregoing action. This sum shall constitute payment for the 25% PAGA penalties. This check must be mailed to the Mashiri Law Firm, A Professional Corporation at 11251 Rancho Carmel Drive # 500694, San Diego, CA 92150;
- c. The sum of \$4,500.00 shall be paid by means of a check or wire transfer payable to the Mashiri Law Firm, A Professional Corporation Trust Account, within 10 days from the Court's approval of the Parties' Joint Stipulation for Court Approval of the Parties' Settlement Pursuant to California Labor Code § 2699 and Conditional Settlement Per C.C.P. § 664.6 and Plaintiff's *Ex Parte* Application to dismiss all claims in the foregoing action. This check constitutes Defendants' first payment. This check must be mailed to the Mashiri Law Firm, A Professional Corporation at 11251 Rancho Carmel Drive # 500694, San Diego, CA 92150;
- d. The sum of \$2,500 shall be paid by means of a check or wire transfer payable to the Mashiri Law Firm, A Professional Corporation Trust Account, within 30 days from the Court's approval of the Parties' Joint Stipulation for Court Approval of the Parties' Settlement Pursuant to California Labor Code § 2699 and Conditional Settlement Per C.C.P. § 664.6 and Plaintiff's *Ex Parte* Application to dismiss all claims in the foregoing action and thereafter on or before the first of every month until the full amount of \$40,000.00 is paid (e.g. 16 payments). The checks must be mailed to the Mashiri Law Firm, A Professional

Corporation at 11251 Rancho Carmel Drive # 500694, San Diego, CA
92150.

5. In the event of a failure of Defendants to pay any of the amounts owed hereunder in a timely manner, Plaintiff shall notify Defendants' attorney, Michael T. Ungar, of such failure in writing by facsimile transmission at (310) 544-1829 and email to michaelungar@verizon.net.

6. In the event that all then-delinquent payments are not delivered to the payee within five (5) days after the writing notice provided to Defendants' attorney, the remaining principal amount owed to Plaintiff under this Stipulation for Judgment shall be due and payable immediately. Plaintiff may thereafter obtain a judgment for all principal owed pursuant to the provisions of this Stipulation for Judgment plus costs and attorneys' fees. An affidavit or declaration of Plaintiff or an attorney for Plaintiff setting forth the payments made, if any, pursuant to this Stipulation for Judgment and the balance due and owing as of the date of default, if any, shall be sufficient to secure the entry of judgment.

7. Plaintiff shall file this Stipulation for Judgment with the Court but not cause judgment to be entered herein, provided he receives all installment payments within the time set forth in this Stipulation.

8. In the event Defendants pay all amounts provided for herein in a timely manner or earlier, whichever the case may be, Plaintiff shall dismiss the above-captioned action with prejudice.

9. In the event Plaintiff does not receive the payments specified herein, and after the written notice described in this Stipulation has been provided, Plaintiff shall be entitled to file this Stipulation for Judgment with the court and have judgment entered hereon as specified in this Stipulation for Judgment in favor of Plaintiff and against Defendants, together with Plaintiff's collections costs and reasonable attorneys' fees. Defendants waive further hearing or notice with regard to the entry of any such judgment and agree that in the event of default hereunder, judgment may be entered against Defendants upon the filing of this Stipulation for Judgment with the court on an ex-parte basis without notice. Upon entry, the judgment entered upon this Stipulation for Judgment shall become final, a writ of execution may be issued and execution may be levied on it immediately and/or any lawful collection efforts can be made by the Plaintiff to collect on the

1 judgment.

2 10. Defendants waive any right to appeal or otherwise contest any judgment entered in
3 accordance with the provisions of this Stipulation for Judgment.

4 11. It is further stipulated that in the event Plaintiff incurs additional costs and attorneys'
5 fees in enforcing his right to enter, execute, and levy upon the judgment, Plaintiff may recover, in
6 addition to the amount set forth in this Stipulation, all such costs and reasonable attorneys' fees.

7 12. Plaintiff may apply to the court for a modification of any judgment entered herein by
8 filing a declaration with the court setting forth the amount of any such costs and reasonable
9 attorneys' fees. Defendants waive further hearing or notice with regard to any such modification.

10 13. Pursuant to Code of Civil Procedure Section 664.6, Defendants submit and agree this
11 Court shall retain jurisdiction over Defendants to enforce this Stipulation for Judgment and with
12 respect to all proceedings arising therefrom, and further consent to the issuance by this Court of any
13 orders, judgments, writ of execution, or any other judicial action until the Stipulation for Judgment
14 and its terms have been performed in full.

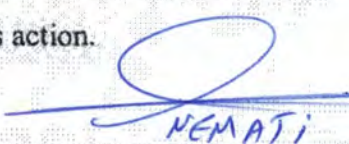
15 14. The parties warrant and represent they have had the opportunity to review this
16 Stipulation for Judgment with an attorney, and they understand the significance and consequence of
17 this Stipulation.

18 15. If any provision of this Stipulation for Judgment or the application hereof to any
19 party or circumstances is held invalid or unenforceable, the remaining provisions of this Stipulation
20 for Judgment shall not be affected thereby, the provisions of this Stipulation being severable in such
21 instance.

22 16. This Stipulation for Judgment may be signed in counterparts. A facsimile signature
23 shall have the same force and effect as an original signature.

24 17. Plaintiff and Defendants have executed, concurrently herewith, a mutual general
25 release providing for a complete, mutual release of all known and unknown rights and claims
26 relating to the facts and circumstances set forth in this action.

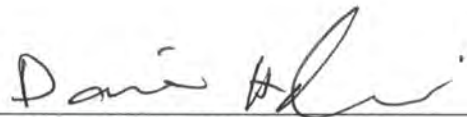
27 Dated: 08/02/2017

28 
By: JAHANBAKHS NEMATI, Plaintiff

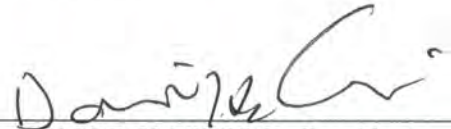
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Dated: 8/1, 2017


By: DAVID HASHEMI

Dated: 8/1, 2017


By: DAVID HASHEMI, President
Defendant Silver Spur Services, Inc.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

JAHANBAKSH NEMATI, an individual,
individually and on behalf of himself and on
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Plaintiffs,

vs.

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an individual; and DOES 1 through 50
inclusive

Defendants.

) Case No. YC071117

) Judge: Hon. Ramona G. See
) Dept: M

) **[PROPOSED] ORDER**

) Complaint Filed: February 4, 2016

) First Amended Complaint Filed: April 5, 2016

1. The parties having so stipulated, and having reviewed and considered the materials on file, and good cause appearing in this matter, THE COURT hereby ORDERS that the Joint Stipulation for Approval of Settlement is APPROVED.

2. All scheduling entries in this matter are vacated.

3. This Court shall retain jurisdiction over this matter until advised otherwise.

IT IS SO ORDERED.

Date: _____

Hon. Judge Ramona G. See