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8 individuals

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN JOAQUIN**

11 AMRITPAL HUNDAL, on behalf of himself
12 and on behalf of all similarly situated
individuals,

13 Plaintiff,

14 v.

15 QFS TRANSPORTATION LLC, a Nevada
limited liability company, MMG GROUP, a
16 California corporation d/b/a GREATWIDE
TRUCK LOAD MANAGEMENT,
17 CONTRACTOR MANAGEMENT
SERVICES LLC, a California limited liability
18 company d/b/a OPENFORCE, and DOES 1
through 10, inclusive,

19 Defendants.
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BRANDON E. RILEY, CLERK

BY *Brandon Riley*
DEPUTY

CASE NO: STK-CV-UOE-2022-5694

*Assigned to the Honorable Robert T. Waters,
Dept. 11B*

**STIPULATION AND [PROPOSED]
ORDER DISMISSING CLASS AND
REPRESENTATIVE PRIVATE
ATTORNEYS GENERAL ACT ACTION**

[CRC 3.769, Labor Code § 2698 et seq.]

[Filed Concurrently with Declaration of Evan
S. Gaines]

Complaint Filed: July 8, 2022

STIPULATION

WHEREAS, on July 8, 2022, Plaintiff, on behalf of himself and on behalf of all similarly situated individuals, filed a class action complaint against Defendants QFS Transportation, LLC, MMG Group, and Contractor Management Services, LLC d/b/a Openforce (collectively, "Defendants") (the "Action") (Declaration of Evan S. Gaines ["Gaines Decl."], ¶ 2);

WHEREAS, on November 2, 2022, Plaintiff amended his complaint to include representative claims pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code § 2698 et seq., seeking civil penalties for violations of the California Labor Code. The First Amended Complaint is the operative complaint in this Action. (Gaines Decl., ¶ 3);

WHEREAS, after a review of the claims and defenses to the Action, and considering Defendants' contentions: (1) that Plaintiff signed a valid and enforceable arbitration agreement, which also contains an enforceable class action waiver; (2) that Defendants properly classified Plaintiff as an independent contractor; (3) that the amount paid to Plaintiff for his services under Plaintiff's agreement with Defendants covered all of the work necessary to complete pick-up and delivery of any load Plaintiff hauled and any reasonable and necessary business expenses Plaintiff incurred in performance of those services; (4) that class certification would be a difficult, if not impossible hurdle; and (5) that one or more of the Defendants are suffering financial difficulties that could greatly hinder their ability to pay any class settlement or further defend this Action, Plaintiff and his counsel have concluded that it is in all Parties' best interest to resolve Plaintiff's individual claims only (Gaines Decl., ¶ 4);

WHEREAS, the Parties have negotiated a settlement of Plaintiff's individual claims only, and the class and PAGA claims will be dismissed *without* prejudice (the "Settlement") (Gaines Decl., ¶ 5);

WHEREAS, the Settlement between Plaintiff and Defendants does not contemplate the waiver of any claims by anyone other than Plaintiff and does not provide for the waiver of class and PAGA claims asserted on behalf of any employee or the state, such that there is no allocation of civil penalties in the Settlement. (Gaines Decl. ¶ 6);

1 WHEREAS, concurrent to the filing of this Stipulation, the Parties have submitted the
2 Settlement Agreement to the Labor and Workforce Development Agency in compliance with Labor
3 Code section 2699(1)(2) (Gaines Decl. ¶ 7); and

4 WHEREAS, no notice is required to be given to the putative class because no notice of the
5 pending Action was ever given; there has been no publicity of which the Parties are aware; neither
6 Plaintiff nor his counsel have communicated with any absent class members about the Action; there
7 is no other pending action, of which the Parties are aware, brought by a member of the putative
8 class or including an overlapping putative class; and the putative class is not reasonably
9 ascertainable at the present time; consequently, no absent putative class member will suffer
10 prejudice as a result of this dismissal. (Gaines Decl. ¶ 8).

11 NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties hereto
12 and through their respective attorneys of record that Plaintiff's individual claims shall be dismissed
13 with prejudice, the claims of all putative class members (except Plaintiff) and claims of all allegedly
14 aggrieved employees shall be dismissed without prejudice, and the Court shall retain jurisdiction
15 pursuant to Code of Civil Procedure Section 664.6 with respect to all matters related to the
16 consummation of the settlement, including to enforce the Settlement.

17 IT IS SO STIPULATED.

18 Dated: January 6, 2023

19 For Plaintiff:

20 GAINES & GAINES, APC

21 By: Evan S. Gaines
22 Evan S. Gaines, Esq.

For Defendant MMC Group:

23 1/12/2023
24 By: [Signature]
25 Laura C. McElroy

26 For Defendant QFS Transportation, LLC:

27 1/6/2023
28 By: [Signature]
Christopher J. Eckhart

ORDER

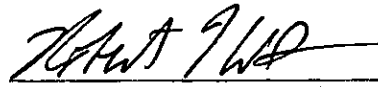
The Court, having reviewed the Parties' stipulation and any and all supporting papers, hereby ORDERS that:

1. The action is hereby DISMISSED WITH PREJUDICE as to Amritpal Hundal's individual claims, and DISMISSED WITHOUT PREJUDICE as to claims under PAGA asserted on behalf of all allegedly aggrieved employees and as to the class action claims asserted on behalf of all similarly situated individuals; and

2. The Court shall retain jurisdiction pursuant to Code of Civil Procedure Section 664.6 with respect to all matters related to the consummation of the settlement, including to enforce the Settlement.

IT IS SO ORDERED.

Dated: February 6, 2023



JUDGE OF THE SUPERIOR COURT

ROBERT T. WATERS

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PROOF OF SERVICE AND CERTIFICATION

I am employed in the County of Ventura, State of California. I am over the age of 18 and not a party to the within action. My business address is 4550 E. Thousand Oaks Blvd., Suite 100 Westlake Village, CA 91362.

____ (For messenger) my business address is:

On January 6, 2023, I served the foregoing documents described as (1) **STIPULATION AND [PROPOSED] ORDER DISMISSING CLASS AND REPRESENTATIVE PRIVATE ATTORNEYS GENERAL ACT ACTION** and (2) **DECLARATION OF EVAN S. GAINES IN SUPPORT OF STIPULATION RE: DISMISSING CLASS AND REPRESENTATIVE PRIVATE ATTORNEYS GENERAL ACT ACTION** on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Christopher J. Eckhart, Esq.
Karen Butler Reisinger, Esq.
SCOPELITIS, GARVIN, LIGHT, HANSON &
FEARY, P.C.
10 West Market Street, Suite 1400
Indianapolis, IN 46204
Attorneys for Defendant QFS Transportation LLC

Laura C. McHugh, Esq.
DUGGAN McHUGH LAW CORPORATION
641 Fulton Avenue, Suite 100
Sacramento, CA 95825
Attorneys for Defendant MMG Group

On the above date:

☒ (BY ☒ U.S. MAIL/ BY ☐ CERTIFIED MAIL, RETURN RECEIPT REQUESTED) The sealed envelope was mailed with postage thereon fully prepaid. I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with United States postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more that one day after date of deposit for mailing in affidavit.

____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

____ (BY PERSONAL DELIVERY) By causing a true copy of the within document(s) to be personally hand-delivered to the office(s) of the addressee(s) set forth above, on the date set forth above.

☒ (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

I certify that the above document was printed on recycled paper.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 6, 2023, at Westlake Village, California.



AMELIA BOOTH