

1 **MOUTON LAW**
2 STACEY Y. MOUTON (SB# 324959)
3 Stacey@mouton.law
4 2150 Comstock St. #710754
5 San Diego, California 92111
6 Telephone: (760) 927-0647

7 Attorney for Plaintiff
8 DUSTIN CHARLES REED

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11
12 FOR THE COUNTY OF SAN DIEGO
13
14 CENTRAL DIVISION

15 DUSTIN CHARLES REED, an individual, on
16 behalf of himself, all others similarly situated,
17 and all other aggrieved employees,

18 Plaintiff,

19 vs.

20 LUCIA PAINTING, INC., a California
21 Corporation, DAVID LUCIA, an individual,
22 and DOES 1-20, inclusive.

23 Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
05/22/2023 at 02:55:00 PM
Clerk of the Superior Court
By Mariejo Guyot, Deputy Clerk

CASE NO.: 37-2022-00030071-CU-OE-CTL

**PLAINTIFF'S REQUEST DISMISS
ACTION; DECLARATION OF STACEY
MOUTON IN SUPPORT THEREOF;
~~PROPOSED~~ ORDER**

Dep't: C-68
Judge: Hon. Richard S. Whitney
Complaint Filed: July 29, 2022
Trial Date: Not set

1 Plaintiff Dustin Charles Reed (“Plaintiff”), by and through his counsel, hereby requests as
2 follows:

3 WHEREAS, on July 29, 2022, Plaintiff filed a complaint against Defendants in the
4 Superior Court of California, County of San Diego (the “Action”);

5 WHEREAS, on or about October 6, 2022, Defendants Lucia Painting, Inc., and David
6 Lucia (“Defendants”) answered Plaintiff’s complaint denying the allegations therein;

7 WHEREAS, Plaintiff’s complaint asserts causes of action on behalf of (1) himself, (2) a
8 putative class, and (3) the State of California through the Private Attorneys General Act;

9 WHEREAS, the Parties have resolved Plaintiff’s individual claims only, and agreed to
10 dismiss the Class claims and PAGA claims without prejudice;

11 WHEREAS, no consideration is being provided to Plaintiff for the dismissal of the Class or
12 PAGA claims;

13 WHEREAS, neither the putative class members, nor any aggrieved employees, have been
14 provided any notice regarding the pendency of this Action, and there has been no publication or
15 other press coverage of the claims at issue in this Action;

16 WHEREAS, the dismissal of the Action will not prejudice the rights and remedies of any
17 of the putative class members or aggrieved employees as no notice been provided to either;

18 WHEREAS, Plaintiff notified California’s Labor Workforce and Development Agency that
19 Plaintiff has (1) requested this Court dismiss his PAGA claim without prejudice, and (2)
20 relinquished his status as California’s authorized representative for LWDA Case Number LWDA-
21 CM-898458-22;

22 WHEREAS, the dismissal of the Action will thus not prejudice the rights and remedies of
23 the State of California.

24 NOW, THEREFORE, Plaintiff hereby requests that:

- 25 1. Plaintiff’s individual claims shall be dismissed with prejudice;
- 26 2. Plaintiff’s class claims shall be dismissed without prejudice; *and*
- 27 3. Plaintiff’s PAGA action shall be dismissed without prejudice.

1 DATED: May 22, 2023

MOUTON LAW
STACEY Y. MOUTON

2
3
4 By: /s/ Stacey Y. Mouton

5 STACEY MOUTON
6 2150 Comstock #710754
7 San Diego, California 92111
8 Telephone: (760) 927-0647

9 Attorney for Plaintiff
10 DUSTIN CHARLES REED
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 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

1. I am Partner at Mouton Law, which is counsel of record for Plaintiff Dustin Charles Reed. I am admitted to practice law in the state of California. I make this declaration in support of the above Request to Dismiss Action. The facts set forth herein are of my own personal knowledge, or based upon my review of the case file, and if sworn I could and would competently testify thereto.

3. On or about October 6, 2022, Defendants answered Plaintiff's complaint, denying the validity of Plaintiff's claims and denies that it is subject to liability.

5. Neither the putative class members, nor any aggrieved employees, have been provided any notice regarding the pendency of this Action. Additionally, to my knowledge, there has been no publication or other press coverage of the claims at issue in this Action. As a result, no notice to the putative class members or aggrieved employees is required.

6. On May 22, 2023, Plaintiff notified California's Labor Workforce and Development Agency that he has (1) requested this Court dismiss his PAGA claim without prejudice, and (2) relinquished his status as California's authorized representative for LWDA Case Number LWDA-CM-898458-22.

///

1 I declare under penalty of perjury under the laws of California, that the foregoing is true
2 and correct, and that this declaration was executed on this 22nd day of May, 2023, at San Diego,
3 California.

4
5 By: /s/ Stacey Y. Mouton

6 Stacey Y. Mouton
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **~~PROPOSED~~ ORDER**

2 THE COURT, having received and reviewed Plaintiff's Request to Dismiss this Action, the
3 declaration of Stacey Mouton in support thereof, and finding GOOD CAUSE appearing therein,
4 orders as follows:

5 1. Upon entry of this Order, Plaintiff's individual claims within the Action shall be
6 dismissed in their entirety and **with prejudice**;

7 2. Upon entry of this Order, the putative class claims and the representative claim
8 under California's Private Attorneys General Act shall be dismissed in their entirety and **without**
9 **prejudice**;

10 3. As permitted by California Rule of Court, Rule 3.770(c), no notice shall be required
11 to the putative class of the dismissal;

12 4. Each Party shall bear his/its own costs and attorneys' fees, except as otherwise
13 agreed.

14 **IT IS SO ORDERED**

15
16
17 DATED: 06/07/2023

18 
19
20
21
22
23
24
25
26
27
28
HON. RICHARD S. WHITNEY
JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I am employed in the City of San Diego and County of San Diego, State of California. I am over the age of 18, and not a party to the within action. My business address 2150 Comstock St., #710754, San Diego, CA 92111.

On January 6, 2023, I served the foregoing document(s) described as:

1. **PLAINTIFF DUSTIN CHARLES REED'S REQUEST TO DISMISS ACTION;**
2. **DECLARATION OF STACEY MOUTON IN SUPPORT OF PLAINTIFF'S REQUEST TO DISMISS ACTION;**
3. **[PROPOSED] ORDER.**

on the interested parties by placing a true and correct copy thereof in a sealed envelope(s) addressed as follows:

BERGER & WILLIAM LLP
HARVEY C. BERGER (SBN: 102973)
berger@bergerwilliams.com
ELIZABETH DIMAANO (SBN: 332983)
dimaano@bergerwilliams.com
401 B. Street, Suite 2000
San Diego, CA 92101-4240
Telephone: (619) 234-1222
Facsimile: (619) 236-9677

Attorneys for Defendants
LUCIA PAINTING, INC. and DAVID LUCIA

☐	VIA OVERNIGHT MAIL: VIA UPS: By delivering such document(s) to an overnight mail service or an authorized courier in a sealed envelope or package designated by the express service courier addressed to the person(s) on whom it is to be served on January 13, 2022.
☐	VIA U.S. MAIL: I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice such sealed envelope(s) would be deposited with the U.S. postal service on May 22, 2023 with postage thereon fully prepaid, at San Diego, California.
☐	VIA PERSONAL DELIVERY: I caused to be personally delivered such sealed envelope(s) by hand to the offices of the addressee(s) pursuant to CCP § 1011.



VIA ELECTRONIC TRANSMISSION: The Parties to this action have both filed pleadings electronically. Accordingly—per Code of Civil Procedure section 1010.6 and California Rules of Court, Rule 2.251(b)(1)(B)—they have manifested affirmative consent to service through electronic means. All documents served in this matter will thus be done by electronic means consistent with other provisions of the Code of Civil Procedure.

2
3
4
5 I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 22, 2023, at San Diego, CA.
6

7 /s/ Stacey Mouton

8 Stacey Mouton
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28