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Martin Zurada (SBN 218235)
VENARDI ZURADA LLP
25 Orinda Way, Suite 250
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Telephone: (925) 937-3900
Facsimile: (925) 937-3905

Attorneys for Plaintiff
JEYAKANTH SELVARANJAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA – UNLIMITED CIVIL CASE**

**JEYAKANTH SELVARANJAN, an
individual,**

Plaintiff,

vs.

**MADURAI APPU, INC., a California
corporation; and DOES 1 through 100,
inclusive,**

Defendants.

) **Case No. 16-CV-295346**

)

) **NOTICE OF UNOPPOSED MOTION AND
MOTION FOR APPROVAL OF DISMISSAL
OF PAGA CLAIMS**

)

) Date: October 25, 2018

) Time: 9:00 a.m.

) Dept: 19

) Judge: Hon. Peter Kirwan

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1 TO DEFENDANTS and their attorneys of record:

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3 **NOTICE IS HEREBY GIVEN** that on October 25, 2018 at 9:00 a.m. or as soon
4 thereafter as the matter can be heard, in Department 19 of this court located at 191 N. First
5 Street, San Jose, California 95113, Plaintiff JEYAKANTH SELVARANJAN will move for an
6 Order approving dismissal of claims pursuant to the Labor Code Private Attorneys General Act
7 of 2004 ("PAGA"). This motion is made pursuant to *Labor Code* § 2699(1)(2).

8 The case originally had Plaintiff SELVARANJAN and another individual as Plaintiffs,
9 but only the other individual worked for Defendants within the one-year statute of limitations
10 to bring a PAGA claim. The other Plaintiff informed counsel for Plaintiffs, Venardi Zurada
11 LLP, in writing that he no longer wanted to participate in the litigation which caused Venardi
12 Zurada LLP to file an amended complaint that removed the second Plaintiff from the action.
13 During the course of subsequent discovery and mediation, the parties determined that Plaintiff
14 SELVARANJAN did not have a viable PAGA claim because he had filed the complaint more
15 than a year after the termination of his employment with Defendant, and thus Plaintiff
16 SELVARANJAN lacked standing to pursue a PAGA claim due to the expiration of the one-
17 year PAGA statute of limitations.

18 The parties settled the matter and now seek stipulated approval of the dismissal of the
19 PAGA claims on the ground that Plaintiff SELVARANJAN is barred by the statute of
20 limitations from bringing such claims.

21 This motion is based on this notice of motion, the memorandum of points and
22 authorities, the declaration of attorney Zurada, and on the records and file herein and such
23 evidence as may be presented at the hearing of the motion. Defendants do not oppose this
24 motion and executed a stipulation in support of the Dismissal of PAGA claims.

1 Dated: August 31, 2018

VENARDI ZURADA LLP

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5 Martin Zurada
6 Attorneys for Plaintiff
7 JEYAKANTH SELVARANJAN
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1 **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION**

2 Plaintiff JEYAKANTH SELVARANJAN ("Plaintiff") seeks approval of the dismissal of
3 claims pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"). PAGA
4 permits an aggrieved employee to sue an employer for civil penalties associated with the
5 employer's alleged violation of various California Labor Code provisions. *Labor Code* §
6 2699(a). Pursuant to the statute, of the amount paid to settle a claim for PAGA penalties,
7 twenty-five percent (25%) is payable to the employee prosecuting the action and seventy-five
8 percent (75%) is payable to the California Labor and Workforce Development Agency (LWDA).
9 *Labor Code* §2699(i). Under Labor Code § 2699(1)(2), "[t]he Superior Court shall review and
10 approve any settlement of any civil action filed pursuant to this part."

11 The case originally had Plaintiff SELVARANJAN and another individual as Plaintiffs,
12 but only the other individual worked for Defendants within the one-year statute of limitations
13 to bring a PAGA claim. The other Plaintiff informed counsel for Plaintiffs, Venardi Zurada
14 LLP, in writing that he no longer wanted to participate in the litigation which caused Venardi
15 Zurada LLP to file an amended complaint that removed the second Plaintiff from the action.
16 During the course of subsequent discovery and mediation, the parties determined that Plaintiff
17 SELVARANJAN did not have a viable PAGA claim because he had filed the complaint more
18 than a year after the termination of his employment with Defendant, and thus Plaintiff
19 SELVARANJAN lacked standing to pursue a PAGA claim due to the expiration of the one-
20 year PAGA statute of limitations.

21 The parties settled the matter and now seek stipulated approval of the dismissal of the
22 PAGA claims on the ground that Plaintiff SELVARANJAN is barred by the statute of
23 limitations from bringing such claims.

24 The parties previously submitted a Stipulation and Order to the Court on May 3, 2018 but
25 the Court has not had the opportunity to rule on the Stipulation. Plaintiffs now bring this Motion
26 to properly put the matter before the Court. Notice to the LWDA was given on September 7,
27 2018 via the LWDA's website, and the LWDA was served with the motion, supporting
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1 documents, and proposed order. Defendant does not oppose this motion and executed a
2 stipulation in support of the Dismissal of PAGA claims.

3 The Stipulation of the Parties including the detailed grounds for dismissal, is attached
4 hereto as **Exhibit A** to the accompanying Declaration of Martin Zurada.

5 Plaintiff respectfully requests the Court **GRANT** Plaintiffs' Motion.

6 Respectfully submitted,

7 Dated: September 7, 2018

8 VENARDI ZURADA LLP

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11 Martin Zurada
12 Attorneys for Plaintiff
13 JEYAKANTH SELVARANJAN
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Attorneys for Plaintiff
JEYAKANTH SELVARANJAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA – UNLIMITED CIVIL CASE**

**JEYAKANTH SELVARANJAN, an
individual,**

Plaintiff,

vs.

**MADURAI APPU, INC., a California
corporation; and DOES 1 through 100,
inclusive,**

Defendants.

) **Case No. 16-CV-295346**

)

) **DECLARATION OF MARTIN ZURADA IN**

) **SUPPORT OF MOTION FOR APPROVAL**

) **OF DISMISSAL OF PAGA CLAIMS**

)

) **Date: October 25, 2018**

) **Time: 9:00 a.m.**

) **Dept: 19**

) **Judge: Hon. Peter Kirwan**

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DECLARATION OF MARTIN ZURADA IN SUPPORT OF MOTION FOR APPROVAL OF DISMISSAL OF
PAGA CLAIMS

Case No.: 16-CV-295346

1 I, MARTIN ZURADA, declare as follows:

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3 1. I am a principal at Venardi Zurada LLP, and attorney of record for Plaintiff
4 JEYAKANTH SELVARANJAN in this case.

5 2. The matters stated in this declaration are true to my own personal knowledge and
6 if called upon to testify I would and could competently testify thereto.

7 3. The case originally had Plaintiff SELVARANJAN and another individual as
8 Plaintiffs, but only the other individual worked for Defendants within the one-year statute of
9 limitations to bring a PAGA claim. The other Plaintiff informed my firm in writing that he no
10 longer wanted to participate in the litigation which caused my firm to file an amended
11 complaint that removed the second Plaintiff from the action. During the course of subsequent
12 discovery and mediation, the parties determined that Plaintiff SELVARANJAN did not have a
13 viable PAGA claim because he had filed the complaint more than a year after the termination
14 of his employment with Defendant, and thus Plaintiff SELVARANJAN lacked standing to
15 pursue a PAGA claim due to the expiration of the one-year PAGA statute of limitations.

16 4. The parties settled the matter and now seek stipulated approval of the dismissal
17 of the PAGA claims on the ground that Plaintiff SELVARANJAN is barred by the statute of
18 limitations from bringing such claims.

19 5. The parties previously submitted a Stipulation and Order to the Court on May 3,
20 2018 but the Court has not had the opportunity to rule on the Stipulation. Plaintiffs now bring
21 this Motion to properly put the matter before the Court. Plaintiffs now bring this Motion to
22 properly put the matter before the Court. Notice to the LWDA was given on September 7, 2018
23 via the LWDA's website, and the LWDA was served with the motion, supporting documents,
24 and proposed order.ss Defendant does not oppose this motion and executed a stipulation in
25 support of the Dismissal of PAGA claims.

26 6. The Stipulation of the Parties including the detailed grounds for dismissal, is
27 attached hereto as **Exhibit A** to the accompanying Declaration of Martin Zurada.

28
DECLARATION OF MARTIN ZURADA IN SUPPORT OF MOTION FOR APPROVAL OF DISMISSAL OF
PAGA CLAIMS

Case No.: 16-CV-295346

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct. Executed on September 7, 2018 at Orinda, California.

3 Respectfully submitted,

4 VENARDI ZURADA LLP

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8 _____
9 Martin Zurada
10 Attorneys for Plaintiff
11 JEYAKANTH SELVARANJAN
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EXHIBIT A

VENARDI ZURADA LLP
700 Ygnacio Valley Road, Suite 300
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Fax: (925) 937-3905

Mark L. Venardi (SBN 173140)
Martin Zurada (SBN 218235)
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Telephone: (925) 937-3900
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Attorneys for Plaintiff
JEYAKANTH SELVARANJAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA – UNLIMITED CIVIL CASE**

**JEYAKANTH SELVARANJAN, an
individual,**

Plaintiff,

vs.

**MADURAI APPU, INC., a California
corporation; and DOES 1 through 100,
inclusive,**

Defendants.

) Case No. 16-CV-295346

)

) **STIPULATION AND [PROPOSED] ORDER**
) **APPROVING VOLUNTARY DISMISSAL OF**
) **PAGA CLAIMS**

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STIPULATION AND [PROPOSED] ORDER APPROVING VOLUNTARY DISMISSAL OF PAGA CLAIMS
Case No.: 16-CV-295346

1 Plaintiff JEYAKANTH SELVARANJAN and MADURAI APPU, INC. hereby stipulate
2 as follows:

- 3 1. This case was originally filed on May 19, 2016. The case originally had two named
4 Plaintiffs, Jeyakanth Selvaranjan and Nirupan Aminthalingam ("Mr. Aminthalingam").
- 5 2. In late 2016, Mr. Aminthalingam informed his counsel that he wished to withdraw from
6 this lawsuit. Plaintiffs' counsel did not know, and still does not know, why Mr.
7 Aminthalingam requested to withdraw from the lawsuit.
- 8 3. After an unopposed motion to amend, Plaintiff filed a First Amended Complaint to add
9 PAGA claims on October 18, 2016. The FAC added PAGA claims and removed
10 Mr. Aminthalingam from this matter thus honoring his request.
- 11 4. After the filing of the FAC and during the course of discovery and mediation, the parties
12 determined that Mr. Selvaranjan did not have a viable PAGA claim because he had left
13 more than 12 months prior to the filing of this action. Mr. Selvaranjan thus did not have
14 standing to pursue a PAGA claim because his 12-month statute of limitations had expired
15 prior to the sending of the PAGA letter and filing of the lawsuit. Mr. Aminthalingam,
16 who was within the statute of limitations on the PAGA claim, because he was a current
17 employee at the time the lawsuit was filed, was no longer a plaintiff in the matter. Thus,
18 the only remaining plaintiff, Mr. Selvaranjan, could not maintain a viable PAGA claim.
- 19 5. The parties respectfully request the Court dismiss the PAGA claim in this litigation with
20 prejudice as to Mr. Selvaranjan.
- 21 6. A copy of this Stipulation and Order will be sent concurrently to the LWDA.

22 IT IS SO STIPULATED.

23 Dated: ^{Msy} April 3, 2018

VENARDI ZURADA LLP

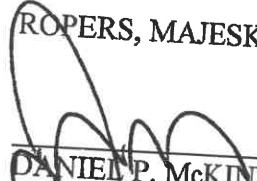


Martin Zurada
Attorneys for Plaintiffs
JEYAKANTH SELVARANJAN and
K. MAYURAN

VENARDI ZUKADA LLP
700 Ygnacio Valley Road, Suite 300
Walnut Creek, CA 94596
Tel: (925) 937-3900
Fax: (925) 937-3905

1 Dated: ^{May 1} April __, 2018

2 ROPERS, MAJESKI, KOHN & BENTLEY

3
4 
5 DANIEL P. McKINNON
6 Attorneys for Defendant,
7 MADURAI APPU, INC.
8
9

10 **[PROPOSED] ORDER**

11 The Court has reviewed the Stipulation of the Parties. After full consideration of the
12 Stipulation and all papers and records on file herein, IT IS HEREBY ORDERED that the
13 Fourteenth Cause of Action of Plaintiff's First Amended Complaint (claims under the Labor
14 Code Private Attorneys General Act of 2004) is DISMISSED with prejudice. Plaintiff shall
15 provide the LWDA with a copy of this Order.

16 IT IS SO ORDERED.

17 Dated: _____

18 _____
19 JUDGE OF THE SUPERIOR COURT
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Martin Zurada (SBN 218235)
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Attorneys for Plaintiff
JEYAKANTH SELVARANJAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA – UNLIMITED CIVIL CASE**

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individual,**

Plaintiff,

vs.

**MADURAI APPU, INC., a California
corporation; and DOES 1 through 100,
inclusive,**

Defendants.

) **Case No. 16-CV-295346**

)

) **[PROPOSED] ORDER DISMISSING PAGA
CLAIMS**

)

) **Date: October 25, 2018**

) **Time: 9:00 a.m.**

) **Dept: 19**

) **Judge: Hon. Peter Kirwan**

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[PROPOSED] ORDER

The Court has reviewed the Stipulation of the Parties. After full consideration of the Stipulation and all papers and records on file herein, IT IS HEREBY ORDERED that the Fourteenth Cause of Action of Plaintiff's First Amended Complaint (claims under the Labor Code Private Attorneys General Act of 2004) is DISMISSED with prejudice. Plaintiff shall provide the LWDA with a copy of this Order.

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT

Mark L. Venardi (SBN 173140)
Martin Zurada (SBN 218235)
VENARDI ZURADA LLP
25 Orinda Way, Suite 250
Orinda, California 94563
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Attorneys for Plaintiff
JEYAKANTH SELVARANJAN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SANTA CLARA – UNLIMITED CIVIL CASE**

**JEYAKANTH SELVARANJAN, an
individual,**

Plaintiff,

vs.

**MADURAI APPU, INC., a California
corporation; and DOES 1 through 100,
inclusive,**

Defendants.

) **Case No. 16-CV-295346**

)

) **PROOF OF SERVICE OF NOTICE OF
UNOPPOSED MOTION AND MOTION FOR
APPROVAL OF DISMISSAL OF PAGA
CLAIMS; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
THEREOF; DECLARATION OF MARTIN
ZURADA; AND PROPOSED ORDER**

)

) **Date: October 25, 2018**

) **Time: 9:00 a.m.**

) **Dept: 19**

) **Judge: Hon. Peter Kirwan**

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1 I, the undersigned, hereby declare that I am over the age of 18 years and not a party to the
2 above-captioned action; that my business address is Venardi Zurada LLP, 25 Orinda Way, Suite
3 250, Orinda, CA 94563.

4 On the date below I served the following document(s):

- 5 • **NOTICE OF UNOPPOSED MOTION AND MOTION FOR APPROVAL OF**
- 6 **DISMISSAL OF PAGA CLAIMS;**
- 7 • **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**
- 8 **MOTION;**
- 9 • **DECLARATION OF MARTIN ZURADA IN SUPPORT OF MOTION FOR**
- 10 **APPROVAL OF DISMISSAL OF PAGA CLAIMS; and**
- 11 • **[PROPOSED] ORDER DISMISSING PAGA CLAIMS**

12 on the parties to this action at the following address(es):

13 Daniel P. McKinnon, Esq.
14 Ropers, Majeski, Kohn & Bentley
15 50 West San Fernando Street, Suite
16 1400
17 San Jose, CA 95113-2429

18 (X) (BY MAIL) I caused a true copy of each document(s) to be placed in a sealed envelope
19 with first-class postage affixed and placed the envelope for collection. Mail is collected daily at
20 my office and placed in a United States Postal Service collection box for pickup and delivery that
21 same day.

22 I declare under penalty of perjury under the laws of the State of California that the
23 foregoing is true and correct. Executed on September 7, 2018 at Walnut Creek, California.



24 _____
25 Julie Goodfield
26
27
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