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David W. Slayton, Executive Officer / Clerk of Court

By: T. Lewis Deputy

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

DANIEL MITCHELL, individually and on)
behalf of all current and former similarly situated)
employees in the State of California,)

Plaintiffs,)

v.)

BELLA SERA TRATTORIA, INC.; JULIE)
LYNN GENTILE-SOLDI, an individual;)
JOSEPH VINCENT BORRELLI; and DOES 1 to)
50, inclusive,)

Defendants.)

CASE NO.: 23STCV01758

ASSIGNED FOR ALL PURPOSES TO:

David S. Cunningham III

Dept.: 11

**~~[PROPOSED]~~ ORDER GRANTING JOINT
STIPULATION TO DISMISS CLASS AND
PAGA CLAIMS WITHOUT PREJUDICE
PURSUANT TO CRC 3.770**

Complaint Filed: January 26, 2023

1 The Court, having reviewed the Parties' Joint Stipulation, the Declaration of Natalie
2 Mirzayan, and the other papers on file in this action, and for good cause appearing, **HEREBY**
3 **ORDERS** as follows:

4 1. Plaintiff's Class and PAGA claims alleged in causes of action 1 through 7, and 12 through
5 14 filed in the above referenced action shall be dismissed, without prejudice, as to the putative class
6 members, Aggrieved Employees, and the LWDA. Dismissal of the Class and PAGA Claims shall
7 have no res judicata or collateral estoppel effect on the putative class members, Aggrieved,
8 Employees, or the LWDA.

9 2. No notice to the putative class members is necessary, and none shall be sent, regarding the
10 dismissal of Plaintiff's Class and PAGA Claims. The Court finds that notice is not required
11 because no class has been certified, notice of the pendency of the action has not been provided to
12 class members, and dismissal does not prejudice the class members. CRC 3.770(c). The dismissal
13 of the Class and PAGA claims pursuant to the Parties' Stipulation is intended solely to facilitate the
14 Parties' settlement in the light of the bankruptcies filed by Defendants since no class settlement can
15 be reached in the light of the financial circumstances of the Defendants and the closure of the
16 business on July 19, 2024. Therefore, in the event the Plaintiff's individual settlement does not
17 become effective in accordance with the terms of the Parties' settlement, or the Defendants breach
18 the terms of the settlement, Plaintiff may refile with the Court Plaintiff's Class and PAGA Claims
19 without leave of Court.

20 3. If this Court finds that Defendants breached the individual settlement agreement or caused
21 the settlement agreement to not become effective, Defendants may not assert any statute of
22 limitations or other defenses (whether equitable or legal) to oppose the refile of the Class and
23 PAGA Claims by Plaintiff based on the fact that Plaintiff dismissed the Class and PAGA Claims
24 pursuant to the individual settlement agreement. The refile of the Class and PAGA Claims by
25 Plaintiff pursuant to a finding of a breach by Defendants will have the same effect as if the Class
26 and PAGA Claims were not dismissed pursuant to this Order. Defendant retains all legal and
27 equitable defenses that existed prior to the dismissal by the Court of the Class and PAGA Claims.
28

1 4. Pursuant to Code of Civil Procedure section 664.6, the Court retains jurisdiction over the
2 action.

3 IT IS SO ORDERED.

4 10/03/2024



Judge of the Superior Court
Hon. David S. Cunningham III