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7
8 Attorneys for Plaintiffs,
ASMA EL BOUJAMAAI-STRICKLIN
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN FRANCISCO**

12 ASMA EL BOUJAMAAI STRICKLIN, an
13 individual;

14 Plaintiff,

15 vs.

16 CHESTNUT PARTNERS, LLC, a California
limited liability company; JULIE WINTER, an
17 individual; and DOES 1 through 20, inclusive

18 Defendants.
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Case No.: CGC-23-605851

**PLAINTIFF ASMA EL BOUJAMAAI-
STRICKLIN'S EX PARTE APPLICATION
FOR AN ORDER DISMISSING PAGA CAUSE
OF ACTION**

Date: February 28, 2025
Time: 11:00 a.m.
Dept.: 301

Action Filed: April 4, 2023
Trial Date: Vacated

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23 **TO THE HONORABLE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:**

24 PLEASE TAKE NOTICE that on February 28, 2025 at 11:00 a.m., or as soon as the matter may
25 be heard, in Department 301 of the honorable Court, located at 400 McAllister Street, San Francisco,
26 California 94102, Plaintiff Asma El Boujamaai-Stricklin ("Plaintiff") will move for an order to dismiss
27 without prejudice her Eleventh cause of action for PAGA violations.
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1 This motion will be based on this notice the accompanying points and authorities, the Declaration
2 of Ruben Guerra, and the complete files and records in this action. The Labor Workforce Development
3 Agency (“LWDA”) has been served with this Application as set forth in the accompanying proof of
4 service.

5 Pursuant to California Rules of Court, Rule 3.1202, subdivision (a), the counsel for the parties in
6 the case are:

- 7 1. **Counsel for Defendants:**
8 ROGERS JOSEPH O’DONNELL
9 Dennis C. Huie (State Bar No. 184377)
10 dhue@rjo.com
11 Whitney R. Miner (State Bar No. 290825)
12 wminer@rjo.com
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San Francisco, California 94104
Telephone: 415.956.2828
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13 DATED: February 27, 2025

GUERRA & CASILLAS LLP

14
15 By:



16 Ruben Guerra, Esq.
17 Tizoc Perez-Casillas, Esq.
18 Guile Gomez, Esq.
19 Attorneys for Plaintiff
20 ASMA EL BOUJAMAAI-STRICKLIN
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On the eve of trial, the Parties reached a settlement. Prior to the settlement, Plaintiff had agreed to dismiss the PAGA cause of action before trial, because after extensive discovery and during Plaintiff's multiple sessions of depositions, it became evident that proving she was an "aggrieved employee" would prove difficult if not impossible. (Declaration of Ruben Guerra ["Guerra Decl."], ¶2-3.) The settlement reached by and between the Plaintiff and Defendants was negotiated at arm's length and had in its purview only Plaintiff's Second and Fourth Causes of Action for Harassment and Failure to Prevent Harassment under the Fair Employment and Housing Act (Gov. Code §12940, et seq.), which were the only true surviving causes of action after the Court's ruling on Defendant's Motion for Summary Judgment on August 27, 2024.

II. RELEVANT FACTUAL BACKGROUND

On April 4, 2023, Plaintiff filed a lawsuit against Defendants CHESTNUT PARTNERS, LLC and JULIE WINTER alleging the following causes of action:

- (1) DISCRIMINATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;
- (2) HARASSMENT IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;
- (3) RETALIATION IN VIOLATION OF GOV'T CODE §§ 12940 ET SEQ.;
- (4) FAILURE TO PREVENT DISCRIMINATION, HARASSMENT AND RETALIATION IN VIOLATION OF GOV'T CODE § 12940(k);
- (5) FOR RETALIATION IN VIOLATION OF LABOR CODE §§ 1102.5 AND 1102.6;
- (6) FOR DECLARATORY JUDGMENT;
- (7) WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY;
- (8) FAILURE TO PROVIDE MEAL AND REST PERIODS (CAL. LABOR CODE §§226.7, 512);
- (9) FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE AND HOUR STATEMENTS (CAL. LABOR CODE §§226, ET SEQ.);
- (10) WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);
- (11) PRIVATE ATTORNEY GENERAL ACT (CAL. LABOR CODE § 2699, ET SEQ); and

1 (12) UNFAIR BUSINESS PRACTICES (BUS. & PROF. CODE §17200 ET SEQ.).

2 The alleged violations against Defendant under the Labor Code, and the derivative claims, served
3 as the basis for Plaintiff's PAGA cause of action. (Guerra Decl., ¶2-3.) Defendants deny that there is
4 any factual or legal basis for the claims under the Labor Code. For example, during the discovery
5 process, it was revealed that despite the fact that occasionally Plaintiff did not take meal or rest breaks,
6 the paystubs showed that a meal period premium was paid to Plaintiff, thereby potentially, fully
7 nullifying her claims for missed meal and rest breaks, Plaintiff's Eighth cause of action. (Guerra Decl.,
8 ¶5.) Consequently, the derivative claims for failure to provide accurate wage statements and for waiting
9 time penalties, Plaintiff's Ninth and Tenth causes of action, would be similarly extinguished. Thus, the
10 remaining claims for wage and hour violations, namely the PAGA and UCL (Bus. & Prof. Code §17200)
11 causes of action (Eleventh and Twelfth) would also be similarly extinguished. (Guerra Decl., ¶6.)

12 On May 20, 2024, Defendants filed a Motion for Summary Adjudication attacking Plaintiff's
13 FEHA causes of action, i.e., cause of action One through Seven.

14 August 27, 2024, the venerable Court granted summary adjudication on of Plaintiff's FEHA
15 causes of action save for Harassment and Failure to Prevent Harassment, Causes of Action Two and
16 Four.

17 Trial was set to begin on September 3, 2024; however, the Parties stipulated to continue the trial
18 for 60 days and the Court granted the stipulated request, setting the trial for November 4, 2024 at 9:30am
19 in Dept. 206.

20 Prior to trial, Plaintiff agreed to dismiss the Labor Code violations, including the PAGA cause
21 of action, and to pursue only the Harassment and Failure to Prevent causes of action at trial. (Guerra
22 Decl. ¶7.)

23 On the eve of trial, on October 31, 2024, the Parties reached a settlement of Plaintiff's
24 Harassment and Failure to Prevent causes of action. The negotiation discussions explicitly omitted the
25 Labor Code violations and the PAGA cause of action for the reasons stated above, namely, that it would
26 be extremely difficult to prove those violations based on the discovery and depositions taken with regard
27 to those alleged violations. (Guerra Decl., ¶8.)
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1 The Parties having reached a resolution, which explicitly omits the PAGA cause of action, now
2 wish to dismiss it. Under said resolution, Plaintiff has agreed to relinquish her status of being an alleged
3 “aggrieved employee” pursuant to the California Labor Code Private Attorney General Act of 2004
4 (“PAGA”), California Labor Code §§2699 et seq. (Guerra Decl., ¶9.)

5 Plaintiff has also agreed to file the Court’s dismissal order with the LWDA. (Guerra Decl., ¶10.)

6 **III. THE COURT HAS AUTHORITY TO DISMISS THE PAGA CAUSE OF ACTION**

7 Under the Private Attorneys General Act, California Labor Code § 2699, et seq., the trial court
8 has the authority to approve, and inversely to dismiss a PAGA cause of action. Given the above facts,
9 it is well within the Court’s discretion to grant this motion.

10 **IV. CONCLUSION**

11 Based on the foregoing, Plaintiff respectfully requests that the Court grant this motion and
12 dismisses without prejudice Plaintiff’s Eleventh Cause of action for alleged PAGA violations.

13 DATED: February 27, 2025

GUERRA & CASILLAS LLP

14
15 By:



Ruben Guerra, Esq.

Tizoc Perez-Casillas, Esq.

Guile Gomez, Esq.

Attorneys for Plaintiff

ASMA EL BOUJAMAAI STRICKLIN

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1 to those alleged violations.

2 9. Plaintiff has agreed to relinquish her status of being an alleged “aggrieved employee”
3 pursuant to the California Labor Code Private Attorney General Act of 2004 (“PAGA”), California
4 Labor Code §§2699 et seq.

5 10. Plaintiff has also agreed to file the Court’s dismissal order with the LWDA.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct.

8 Executed on February 27, 2025, in Los Angeles, California

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12 _____
13 Ruben Guerra
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EXHIBIT A



Kristie Lopez <kristie@guerracasillas.com>

Ex Parte Motion to Dismiss PAGA - Feb. 28, 2025 at 11am Dept. 301

2 messages

Ruben Guerra <ruben@guerracasillas.com>

Thu, Feb 27, 2025 at 7:45 AM

To: "Dennis C. Huie" <DHuie@rjo.com>, "Whitney R. Miner" <WMiner@rjo.com>

Cc: Guile Gomez <guile@guerracasillas.com>, Tizoc Perez-Casillas <tizoc@guerracasillas.com>, Kristie Lopez <kristie@guerracasillas.com>

Dear Counsel:

This email is to inform you that on Friday February 28, 2025 at 11:00 am, we will be appearing in Dept 301 for an ex parte hearing for an order dismissing the PAGA cause of action without prejudice. The ex parte application is based on the grounds that the Parties have reached a settlement and wish to extinguish the case.

Seeing as the Parties both seek the same ruling from the Court, we trust you will not oppose this application; however, please correct me if I am wrong.

Best regards,

Ruben Guerra, Esq.

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P Please consider the environment before printing.

Dennis C. Huie <DHuie@rjo.com>

Thu, Feb 27, 2025 at 8:44 AM

To: Ruben Guerra <ruben@guerracasillas.com>, "Whitney R. Miner" <WMiner@rjo.com>

Cc: Guile Gomez <guile@guerracasillas.com>, Tizoc Perez-Casillas <tizoc@guerracasillas.com>, Kristie Lopez <kristie@guerracasillas.com>

Confirming we will not be opposing the ex parte application. Thank you.

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 617 South Olive Street, Suite 422, Los Angeles, California 90014.

Denis C. Huie, Esq.
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☒ (VIA ELECTRONIC TRANSMISSION) I caused a copy of the document(s) listed above to be sent via electronic transmission either through email or through an electronic delivery service to the persons at the e-mail addresses listed above on this day. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

K. Per