

1 R. Craig Clark (SBN 129219)
cclark@clarklawyers.com
2 Alicja A. Urtnowski (SBN 321215)
aurtnowski@clarklawyers.com
3 **CLARK LAW GROUP**
3258 Fourth Avenue
4 San Diego, CA 92103
Telephone: (619) 239-1321
5 Facsimile: (888) 273-4554

6 Walter Haines (SBN 071075)
UNITED EMPLOYEES LAW GROUP
7 5500 Bolsa Avenue, Suite 201
Huntington Beach, CA 92649
8 Telephone: (562) 256-1047
Facsimile: (562) 256-4554
9

10 *Attorneys for Plaintiffs*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF LOS ANGELES**
13

14 TYRONE WILLS and ROOSEVELT
15 MONK, on behalf of themselves, and all
persons similarly situated,

16 Plaintiffs,

17 v.

18 GOOD GUARD SECURITY, INC., a
19 California corporation; HALMAND
20 TABIBZADA, an Individual; and DOES
1 to 10 inclusive,

21 Defendants.
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Case No. 22STCV36024

[Assigned to Hon. Maren Nelson, Dept. 17]

CLASS & REPRESENTATIVE ACTION

**PLAINTIFFS' REQUEST FOR
DISMISSAL OF CLASS AND PAGA
CLAIMS WITHOUT PREJUDICE
PURSUANT TO CALIFORNIA RULES
OF COURT RULE 3.770**

*[Filed and served concurrently with the
Declaration of R. Craig Clark in support
and [Proposed] Order Granting Plaintiffs'
Request for Dismissal of Class and PAGA
Claims Without Prejudice Pursuant to
California Rules of Court, Rule 3.770]*

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1 compensation (Labor Code §§ 204, 210, 226.2 510, 1194, 1197, 1197.1, 1198, and 1199), (2)
2 failure to provide legally compliant meal periods or compensation in lieu thereof (Labor Code
3 §§ 204, 226.7 and 512), (3) failure to provide legally compliant rest periods or compensation in
4 lieu thereof (Labor Code §§ 204 and 226.7), (4) failure to pay all wages owed upon separation
5 (Labor Code §§ 201, 202 and 203); (5) failure to provide paid sick leave (Labor Code § 246);
6 (6) failure to furnish accurate itemized wage statements (Labor Code §§ 226 and 226.3); (7)
7 failure to maintain accurate records (Labor Code §§ 226(a) and 1174); (8) failure to provide
8 copies of signed documents (Labor Code § 432); (9) failure to reimburse for necessary work
9 expenses (Labor Code §§ 2800 and 2802), (10) unfair business practices (Business &
10 Professions Code §§ 17200 *et seq.*), and (11) Private Attorneys General Act of 2004 (Labor
11 Code §§ 2698 *et. seq.*) *Id.* at ¶ 5.

12 Counsel for Plaintiffs has been informed by the attorney representing Defendants that
13 both Plaintiffs settled their claims individually with Defendants without Plaintiffs' counsel
14 involvement. Plaintiffs request to dismiss class and PAGA claims without prejudice. *Id.* at ¶ 6.

15 Plaintiffs now file their request for dismissal of class and PAGA claims pursuant to
16 Rule 3.770 of the California Rules of Court.

17 **II. LEGAL STANDARD**

18 Rule 3.770(a) of the California Rules of Court provides as follows:

19 A dismissal of an entire class action, or of any party or cause of
20 action in a class action, requires court approval. The court may not
21 grant a request to dismiss a class action if the court has entered
22 judgment following final approval of a settlement. Request for
dismissal must be accompanied by a declaration setting forth the
facts on which the party relies. The declaration must clearly state
whether consideration, direct or indirect, is being given for the
dismissal and must describe the consideration in detail.

23 Section (c) states that notice is not required if the court finds that the dismissal will not
24 prejudice them.

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1 **III. DISMISSAL IS APPROPRIATE**

2 **A. Detrimental Reliance by Putative Class Members is Unlikely**

3 Generally, reliance is limited to actions that are considered of sufficient public to
4 warrant news coverage of either the public or trade-oriented variety. *Mahan v. Trex Co. Inc.*,
5 2010 U.S. Dist. LEXIS 130160 at *10 (N.D. Cal. 2010). Therefore, reliance only occurs when
6 a person who is sophisticated enough to understand the significance of class actions learns of
7 the action. *Id.* at *10-*11.

8 In this case, it is highly improbable that any putative class member detrimentally relied
9 on this action to protect their interest. First, this action is a typical wage and hour action for
10 employees of Defendants. Defendants are not Fortune 500 companies. Thus, while this action
11 is important, it is hardly the type of action that would warrant wide-spread news coverage to
12 the general public. This is proven by the fact that there has been no publicity regarding this
13 action. Clark Decl., ¶ 7.

14 It is also doubtful that putative class members have learned of this action by any other
15 means. For instance, Plaintiffs have not returned to work for Defendants. Also, neither the
16 Court, a party or counsel have issued notice to putative class members. *Id.* Moreover, counsel
17 for Plaintiff has not been in contact with or contacted by any putative class members. *Id.*

18 Since there has been no significant news coverage regarding this action and its claims,
19 Plaintiffs are not in contact with putative class members, notice has not been given to putative
20 class members and counsel for Plaintiffs have not been in contact with any putative class
21 member, it is highly unlikely that putative class members have relied on the filing of the action
22 to their detriment.

23 **B. Dismissal Without Prejudice Does Not Compromise the Claims of Putative**
24 **Class Members**

25 In this instance, putative class members will not be prejudiced by the dismissal of the
26 class claims without prejudice because the dismissal will have no *res judicata* effect. Clark
27 Decl., ¶ 8. This is particularly true as there has not been a ruling on class certification and
28 judgment has not been entered. *Id.* at ¶ 9. Additionally, the statute of limitations for the claims

1 asserted in this action were tolled as of the commencement of this action. *Am. Pipe & Constr.*
2 *Co. v. Utah* (1974) 414 U.S. 538, 554 (holding that “the commencement of a class action
3 suspends the applicable statute of limitations as to all asserted members of the class who would
4 have been parties had the suit been permitted to continue as a class action”); *Tosti v. City of*
5 *Los Angeles*, 754 F.2d 1485, 1488 (9th Cir. 1985). Therefore, a without prejudice dismissal
6 would permit putative class members with the benefit to file their own actions in the future as
7 they see fit. Clark Decl., ¶ 8. Putative class members who may have relied on this action to
8 pursue their claims will undoubtedly benefit from the nine-month tolling period. Accordingly,
9 the dismissal of the class claims without prejudice will not jeopardize the ability of putative
10 class members of the opportunity to bring suit against Defendants.

11 Furthermore, interest of putative class members will not be compromised by the tolling
12 of the claims in this action, as this case has only been tolled for about nine months and due to
13 the lack of publicity it is unlikely that any future class actions will be asserted four years after
14 the filing of this action. *China Agritech, Inc. v. Resh* (2018) 138 S.Ct 1800, 1807.

15 Since putative class member claims will not be compromised by dismissal of the class
16 claims without prejudice, dismissal of the class claims without prejudice is appropriate.

17 **C. Notice to the Class is Not Necessary**

18 Notice to the class is not necessary in this instance as a class has not been certified in
19 this action, notice has not been given to putative class members, and judgment has not been
20 entered. Clark Decl., ¶¶ 7-9. As discussed above, it is unlikely that putative class members are
21 aware of this action as there has not been publication and Plaintiffs’ counsel has not been in
22 contact with putative class members. *Id.* at ¶ 7. Furthermore, putative class members will not
23 be prejudiced by dismissal without prejudice as they will have the opportunity to file a future
24 action as they see fit. *Id.* at ¶ 8. Accordingly, putative class members will not be prejudiced by
25 not receiving notice of the dismissal. Thus, the time and expense of giving notice to putative
26 class members who are completely unaware of the pending action is not necessary.

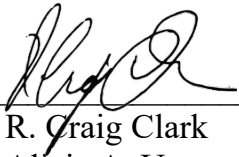
1 **IV. CONCLUSION**

2 For the reasons stated herein and those outlined in the declaration of R. Craig Clark,
3 Plaintiff requests that the Court dismiss the entire action, including the class and PAGA claims
4 in this action without prejudice.

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7 Dated: August 23, 2023

CLARK LAW GROUP

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9 By: _____



R. Craig Clark
Alicja A. Urtnowski
Attorneys for Plaintiff