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Attorneys for Plaintiff,
ELIDA MARTIN

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

ELIDA MARTIN, an individual,

Plaintiff,

v.

CONTACTABILITY.COM LLC D/B/A
SMARTFINANCIAL., a California limited
liability company; STEPHANIE SCHNEIDER,
an individual; and DOES 1 through 20,
inclusive,

Defendants.

Case No.: 30-2023-01347335-CU-WT-CXC

*[Assigned for All Purposes to Hon. Lon F. Hurwitz,
Dept. CX103]*

**NOTICE OF SETTLEMENT; REQUEST FOR
DISMISSAL OF PLAINTIFF'S
REPRESENTATIVE PAGA CAUSE OF
ACTION WITHOUT PREJUDICE AND
PLAINTIFF'S INDIVIDUAL PAGA CLAIM
WITH PREJUDICE**

Action Filed: September 6, 2023
Trial Date:

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

Plaintiff ELIDA MARTIN ("Plaintiff"), on behalf of herself, and the State of California Labor
& Workforce Development Agency ("LWDA"), through her attorneys of record, GUERRA &
CASILLAS LLP, hereby reports and requests as follows:

WHEREAS, Plaintiff is pleased to report that this matter has been settled.

WHEREAS, the Parties' agreement, however, is conditional on the dismissal of Plaintiff's
representative PAGA cause of action without prejudice and a dismissal with prejudice of Plaintiff's
individual PAGA claim.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

SEP 13 2024

DAVID H. YAMASAKI, Clerk of the Court

BY: _____, DEPUTY

1 WHEREAS, Plaintiff provided the LWDA with notice of her intent to assert a PAGA claim and
2 the basis for that claim in accordance with Labor Code section 2699.3 on November 18, 2021. Plaintiff
3 filed her Complaint on September 6, 2023, after not receiving a response from the LWDA.

4 WHEREAS, upon receipt of the settlement payment, Plaintiff will file a request for dismissal
5 with prejudice for Plaintiff's individual claims.

6 WHEREAS, Plaintiff brought this Action against Defendant, as alleged in the operative
7 Complaint are the following causes of action: (1) Discrimination In Violation Of Gov't Code §§ 12940
8 Et Seq.; (2) Harassment In Violation Of Gov't Code §§ 12940 Et Seq.; (3) Retaliation In Violation Of
9 Gov't Code §§ 12940 Et Seq.; (4) Failure To Prevent Discrimination, Harassment And Retaliation In
10 Violation Of Gov't Code § 12940(K); (5) Failure To Provide Reasonable Accommodations In Violation
11 Of Gov't Code §§ 12940 Et Seq.; (6) Failure To Engage In A Good Faith Interactive Process In
12 Violation Of Gov't Code §§ 12940 Et Seq.; (7) Retaliation (Labor Code §98.6); (8) Retaliation (Labor
13 Code §§ 1102.5, 1102.6) (9) Wrongful Termination in Violation of Public Policy, (10) For Declaratory
14 Judgement (11) Failure to Pay All Wages Due and Improper deductions (California Labor Code §§
15 200,201,204,221,351); (12) Failure to Indemnify for Necessary Business Expenses (California Labor
16 Code §§ 226, et Seq.); (13) Failure to Provide Itemized Wage and Hour Statements (California Labor
17 Code §§ 226, Et Seq.) (14) Waiting Time Penalties (California Labor Code §§ 201-203) (15) Private
18 Attorney General Act (California Labor Code §§ Et Seq); and (16) Unfair Competition (Bus. & Prof.
19 Code § 17200 Et Seq.)

20 WHEREAS, Defendant's alleged violations under the California Labor Code, and the derivative
21 claims, serve as the basis for Plaintiff's PAGA cause of action;

22 WHEREAS, Defendant denies that there is any factual or legal basis for the claims in this Action;

23 WHEREAS, in order to avoid the expense, uncertainty, and inconvenience of further
24 proceedings, the Parties reached a settlement of Plaintiff's claims against Defendant, which underlying
25 negotiations were focused completely on Plaintiff's individual claims, but not the representative PAGA
26 claim;

27 WHEREAS, the Parties entered into a confidential settlement and general release on July 16,
28 2024.

1 WHEREAS, the settlement between the Parties is not a "PAGA settlement" requiring court
2 approval under Labor Code section 2699(1)(2) because the Parties did not seek to release any PAGA
3 claims on a representative basis;

4 WHEREAS, Plaintiff is limited to facts within her own knowledge, and Plaintiff did not receive
5 any PAGA discovery from Defendant and will not be able to identify other aggrieved employees;

6 WHEREAS, Plaintiff has not sought the express consent of other aggrieved employees to pursue
7 this lawsuit on their behalf;

8 WHEREAS, Plaintiff is not required to give other aggrieved employees the opportunity to opt-
9 out of Plaintiff's representation in this matter;

10 WHEREAS, a claim under the California Labor Code Private Attorney General Act of 2004
11 ("PAGA"), California Labor Code §§2699 et seq. was part of the Complaint;

12 WHEREAS, the rights of other aggrieved employees will not be prejudiced, as the Parties only
13 seek dismissal without prejudice of the PAGA claim of the other allegedly aggrieved employees. No
14 consideration has been or will be provided for the dismissal without prejudice of Plaintiff's
15 representative PAGA claim with respect to these other allegedly aggrieved employees, and the Parties
16 did not seek or enter into a release of a representative PAGA claim on behalf of any allegedly aggrieved
17 employees. Thus, dismissal of this representative action does not affect the rights or abilities of any
18 other allegedly aggrieved employees to bring subsequent individual actions, class actions, or
19 representative PAGA actions because this action is to be dismissed without prejudice as to the
20 representative PAGA claim for any other allegedly aggrieved employees;

21 WHEREAS, this stipulation to dismiss the representative PAGA claim without prejudice shall
22 be served to the California Labor Workforce ("LWDA") after Court approval;

23 WHEREAS, any other allegedly aggrieved employees will not be prejudiced without notice of
24 the settlement or the requested dismissal. Discovery as to the identities of other aggrieved employees
25 was not completed based on the Parties desire to resolve the case after protracted discussion,
26 investigation, and negotiation, nor has notice of this action been provided to other aggrieved employees.
27 Thus, the Parties are not aware of any other allegedly aggrieved employees who have any expectations
28 of recovery of any kind in this case, and to the extent any of them wish, in the future, to pursue their
own claims, they have the right to do that; and

1 WHEREAS, Plaintiff wishes to dismiss her representative PAGA cause of action without
2 prejudice.

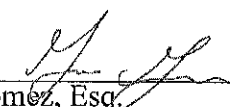
3 NOW, THEREFORE, Plaintiff requests that:

4 1. The Court dismiss Plaintiff's fifteenth representative cause of action under the Private
5 Attorney General Act of 2004 ("PAGA"), Labor Code §§2699 et seq., without prejudice and dismiss
6 Plaintiff's fifteenth individual cause of action under the PAGA, Labor Code §§2699 et seq., with
7 prejudice.

8
9
10 DATED: September 4, 2024

GUERRA & CASILLAS LLP

11
12 By:


13 Guile Gomez, Esq.
14 Tizoc Perez-Casillas, Esq.
15 Ruben Guerra, Esq.
16 Attorneys for Plaintiff
17 ELIDA MARTIN
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[PROPOSED] ORDER

The Court, having considered Plaintiff's Request for Dismissal of Plaintiff's Representative Private Attorneys General Act cause of action without prejudice, and good cause appearing therefore,

IT IS HEREBY ORDERED that

1. All future hearing dates are vacated;
2. Plaintiff's fifteenth representative cause of action under the California Labor Code, Private Attorney General Act, Labor Code §§ 2699, et seq., is dismissed without prejudice;
3. Plaintiff's fifteenth individual cause of action under the California Labor Code, Private Attorney General Act, Labor Code §§ 2699, et seq., is dismissed with prejudice; and
4. Plaintiff shall submit a copy of this Court Order to the Labor and Workforce Development Agency within 10 days after entry of this order;

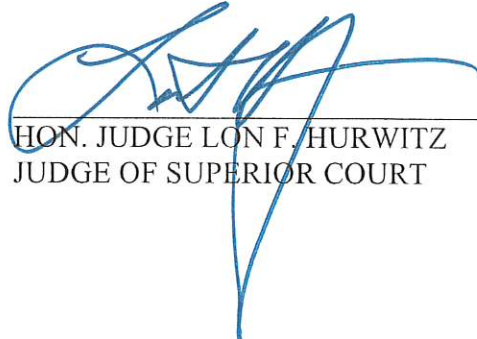
~~5. An Order to Show Cause RE: Dismissal is scheduled for hearing on~~

~~, 2024; and~~

~~4.~~

IT IS SO ORDERED.

DATED: **SEP 13 2024**


HON. JUDGE LON F. HURWITZ
JUDGE OF SUPERIOR COURT

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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.

On September 4, 2024, I served the foregoing document described as **NOTICE OF SETTLEMENT; REQUEST FOR DISMISSAL OF PLAINTIFF'S REPRESENTATIVE PAGA CAUSE OF ACTION WITHOUT PREJUDICE AND PLAINTIFF'S INDIVIDUAL PAGA CLAIM WITH PREJUDICE** on the interested parties in this action as follows:

Brian Mills, Esq.
Anne E. Dwyer, Esq.
Snell & Wilmer
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Costa Mesa, CA 92626
bmills@swlaw.com
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Attorney for Defendants
Contractibility.com LLC

☒ (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.

Executed on September 4, 2024, at Los Angeles, California.

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

Kristie Lopez

