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Attorneys for Plaintiff Carmen Diaz, on behalf of herself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

CARMEN DIAZ, on behalf of herself and all
“aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

NOLA GOLDEN CORRAL LLC, a California
limited liability company, and DOES 1
through 10, inclusive,

Defendants.

CASE NO: CIVSB2316110

Assigned to the Hon. Donald Alvarez, Dept. 23

**DECLARATION OF DANIEL F. GAINES
IN SUPPORT OF REQUEST FOR
DISMISSAL**

[Filed Concurrently: Request for Dismissal]

Complaint Filed: July 12, 2023

1 I, Daniel F. Gaines, declare as follows:

2 1. I am an attorney duly admitted to practice law in the State of California and I am a
3 managing shareholder at Gaines & Gaines, APLC, counsel of record for Plaintiff Carmen Diaz
4 (“Plaintiff”) in this matter. The matters set forth herein are of my own personal knowledge, and if
5 sworn as a witness, I could and would testify competently thereto.

6 2. On July 12, 2023, Plaintiff filed the instant Action seeking penalties on a
7 representative basis, on behalf of herself and all “aggrieved employees,” for Defendant Nola Golden
8 Corral LLC’s (“Defendant”) violations of the California Labor Code’s Private Attorneys General Act
9 of 2004 (“PAGA”), codified at § 2698, *et seq.*, by failing to provide meal and rest periods, or
10 compensation in lieu thereof, failing to issue complete and accurate wage statements, and failing to
11 timely pay all wages due at separation of employment. The alleged violations occurred when Plaintiff
12 worked for Defendant in San Bernardino County, California.

13 3. Following conversations with Defendant’s counsel, my office has ascertained that
14 Defendant claims severe financial hardship. This determination is based on information provided by
15 Defendant’s counsel through discussions in this matter.

16 4. The Parties have negotiated a settlement of Plaintiff’s individual claims only, and the
17 PAGA representative claims will be dismissed without prejudice, as set forth in the concurrently-filed
18 request for dismissal. The Parties entered into a Confidential Settlement Agreement and General
19 Release of All Claims (the “Settlement Agreement”).

20 5. The Settlement Agreement does not contemplate the waiver of any claims by anyone
21 other than Plaintiff and does not provide for the waiver of PAGA representative claims asserted on
22 behalf of any employee or the State, such that there is no allocation of civil penalties in the Settlement
23 Agreement.

24 6. Plaintiff, therefore, requests that the Court enter a dismissal of this action ***with***
25 ***prejudice*** as to Plaintiff’s individual claims and ***without prejudice*** as to the PAGA representative
26 claims, pursuant to the request submitted concurrently herewith.

1 7. Concurrent with the filing of this declaration and the request for dismissal, Plaintiff
2 has submitted the Settlement Agreement to the LWDA in compliance with Labor Code section
3 2699(1)(2).

4 I declare under penalty of perjury under the laws of the State of California that the foregoing
5 is true and correct and was executed on January 8, 2025, at Westlake Village, California.

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7 /s/ Daniel F. Gaines
8 DANIEL F. GAINES
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_____ (For messenger) my business address is:

Paul J. Bauer, Esq.
SAGASER, WATKINS & WIELAND PC
5260 Palm Ave., Suite 400
Fresno, CA 93704
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____ (BY FEDERAL EXPRESS OR OTHER OVERNIGHT SERVICE) I deposited the sealed envelope in a box or other facility regularly maintained by the express service carrier or delivered the sealed envelope to an authorized carrier or driver authorized by the express carrier to receive documents.

 X (UPLOADED TO LWDA WEB PORTAL) I caused the above-described documents to be delivered to the Labor & Workforce Development Agency via online process at the PAGA Filing website (www.dir.ca.gov) in accordance with the procedure imposed by the LWDA.

Executed on January 8, 2025, at Westlake Village, California.

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PROOF OF SERVICE