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12 Attorneys for Defendants
SIDNEY WAGNER, GARY WAGNER, and
13 JOAN PICK

14 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

15 COUNTY OF SAN DIEGO

16 OLIVIA AGUILAR,

17 Plaintiff,

18 v.

19 SIDNEY WAGNER; GARY WAGNER;
20 JOAN PICK; and DOES 1-100, inclusive,

21 Defendants.

22 SIDNEY WAGNER, by and through his
23 attorney in fact, LISA PICK; GARY
WAGNER; and JOAN PICK

24 Cross-Complainants,

25 vs.

26 OLIVIA AGUILAR.; and DOES 1 - 50,
27 inclusive,

28 Cross-Defendants.

CASE NO. 37-2023-00029645-CU-WT-NC

**JOINT STIPULATION RE: PAGA
SETTLEMENT APPROVAL AND
DISMISSAL OF THE ACTIONS**

[[PROPOSED] ORDER lodged concurrently]

Complaint filed: July 14, 2023

Trial Date: February 21, 2024

1 Plaintiff and Cross-Defendant Olivia Aguilar (“Plaintiff”) and Defendants and Cross-
2 Complainants Sidney Wagner, Gary Wagner, and Joan Pick (“Defendants”), by and through their
3 counsel of record, hereby enter into the following stipulation and mutually request the Court to
4 enter an order in accordance therewith.

5
6 STIPULATION
7

8 1. Plaintiff filed her Complaint on July 14, 2023, asserting claims on behalf of herself
9 for allegedly violations of the Labor Code, the FEHA, and wrongful termination. She amended
10 her complaint on September 19, 2023, to add a representative claim pursuant to the Private
11 Attorneys General Act (“PAGA”) on behalf of herself and other allegedly “aggrieved
12 employees.” The First Amended Complaint includes various individual claims, including
13 wrongful termination, retaliation, and failure to pay overtime, provide meal periods, provide wage
14 statements, or pay all wages due and owing during employment or upon separation of
15 employment. The First Amended Complaint also includes the following claims asserted on
16 behalf of Plaintiff individually and other allegedly “aggrieved employees” (the PAGA claims):
17 (1) unpaid overtime, (2) unpaid missed meal breaks, (3) failure to provide wage statements, (4)
18 failure to maintain accurate payroll records, (5) failure to pay wages during employment, (6)
19 failure to pay wages upon separation, (7) failure to pay for sick days, and (8) intentional
20 misclassification as independent contractors.
21

22 2. Defendants filed their Cross Complaint on November 21, 2023, asserting causes of
23 action against Plaintiff for elder abuse, fraudulent misrepresentation, and intentional and negligent
24 infliction of emotional distress.
25

26 3. Plaintiff and Defendants attended a Mandatory Settlement Conference (“MSC”) on
27 January 9, 2024, supervised by the Hon. Michael D. Washington, as a result of which the parties
28 have reached a confidential settlement of Plaintiff’s individual claims, including her individual

1 claims under PAGA, and of Defendants' cross-claims. The Court has broad discretion to approve
2 a PAGA civil penalty less than the maximum amount pursuant to California Labor Code Section
3 2699(e). A higher PAGA civil penalty amount than the parties agreed to would be unjust,
4 arbitrary and oppressive, or confiscatory because the settlement for Plaintiff's individual PAGA
5 claims is fair, reasonable, and adequate after considering the risks, complexity, and expense of
6 further litigation, and is not the result of overreaching or collusion. Plaintiff does not possess
7 direct evidence of other aggrieved employees suffering Labor Code violations, and Defendants
8 deny engaging in any Labor Code violations. Further, all Defendants are elderly people who are
9 well over 70 years old, including Sidney Wagner who is 103 years old. Plaintiff filed a copy of
10 the proposed settlement of Plaintiff's individual PAGA claims with the LWDA. Attached as
11 **Exhibit 1** is the confirmation. The Settlement Agreement entered into by the parties contains a
12 confidentiality provision will be separately lodged with the Court in accordance with California
13 Labor Code Section 2699(l)(2) for an *in camera* review, unless the Court orders otherwise.
14

15 4. In light of this settlement, the parties request that the settlement of Plaintiff's
16 individual PAGA claims be approved pursuant to California Labor Code Section 2699(l)(2) and
17 that Plaintiff's individual claims (including her individual PAGA claims) be dismissed with
18 prejudice. No consideration, direct or indirect, is being given to Plaintiff to resolve the claims of
19 any individual other than Plaintiff and the settlement reached between Plaintiff and Defendants do
20 not release the claims of any individual other than Plaintiff.
21

22 5. Plaintiff requests that the PAGA claim as to any allegedly aggrieved employees
23 other than Plaintiff be dismissed without prejudice.

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1 6. The parties agree and acknowledge that the San Diego County Superior Court shall
2 retain jurisdiction over the parties to enforce the terms of the Agreement until performance in full
3 of the terms of the Agreement pursuant to California Civil Procedure Code Section 664.6. The
4 parties agree to bear their own costs and attorneys' fees with respect to the dismissal of their
5 respective actions and of the PAGA claims as to any allegedly aggrieved employees other than
6 Plaintiff.

7
8 DATED: January 12, 2024

W LAW

9
10 By: 

JASON WHOOPER

11 Attorneys for Plaintiff
12 OLIVIA AGUILAR

13
14 DATED: January 12, 2024

KADING BRIGGS LLP

15
16 By: 

STANLEY G. STRINGFELLOW II

17 Attorneys for Defendants
18 SIDNEY WAGNER, GARY WAGNER, and
19 JOAN PICK
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EXHIBIT 1