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Attorneys for Defendants

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES, CENTRAL JUDICIAL DISTRICT

ZAHRA ASAL EMAMI, an individual;

Plaintiff,

vs.

DIVA, INC., a California Corporation; PHILIPPE
ROUSSELIN, an individual; STEPHANIE DE
OLIVERA, an individual; and DOES 3 through 100,
inclusive;

Defendants.

Case No. 23STCV00638

[Assigned for all purposes to Hon. Michael L.
Stern, Judge, Department 62]

**JOINT STIPULATION AND ORDER
APPROVING PAGA SETTLEMENT AND
DISMISSING PLAINTIFF'S COMPLAINT**

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PROCEDURAL HISTORY

1) Plaintiff ZAHRA ASAL EMAMI (“Plaintiff”) filed this action against Defendants DIVA, INC., PHILIPPE ROUSSELIN, and STEPHANIE DE OLIVERA (“Defendants”) on January 12, 2023. Defendants JASON FIELDS and IRINA ROZHKOVA were doe amended to the Complaint on August 30, 2023.

2) On or about August 30, 2023, Plaintiff filed an administrative PAGA complaint (“PAGA Notice”) with the California Labor and Workforce Development Agency (“LWDA”) via online submission and served the PAGA Notice on Defendants via U.S. Certified Mail.

3) On September 15, 2023, Plaintiff and Defendants reached a settlement of the entire case.

4) On November 6, 2023, Plaintiff filed a request for dismissal without prejudice as to Defendants JASON FIELDS and IRINA ROZHKOVA.

5) On November 8, 2023, Plaintiff filed a First Amended Complaint to add Plaintiff’s cause of action for civil penalties under the PAGA as a matter of right pursuant to Labor Code section 2699.3(a)(2)(C).

6) Plaintiff and Defendants (“Parties”) understand that the Court must approve the Settlement for it to be binding, and request such approval in this Stipulation. (*See* Lab. Code, § 2699(l)(2) [requiring Court approval for “any penalties sought as a part of a proposed settlement” of a PAGA action on a representative basis]; *see also* *Arias v. Superior Court* (2009) 46 Cal.4th 969 [parties are not obligated to follow class action procedure in PAGA cases and therefore need not obtain approval of the PAGA settlement thorough a motion for preliminary or final approval]. Accordingly, the Settlement is contingent upon the approval by the Court and shall be void if the Court does not grant the approval requested.

7) Plaintiff and Plaintiff’s counsel have diligently pursued an investigation of Plaintiff’s PAGA claims against Defendants. Based on their own independent investigations and evaluations, which included extensive written discovery and several full day depositions of the Defendants, the Parties and their respective counsel are of the opinion that the amount of consideration and terms set forth in this Settlement are fair, reasonable and adequate and are in the best interests of the Plaintiff, the PAGA aggrieved employees, and Defendants in light of all known facts and circumstances and the risks

1 inherent in litigation, including potential appellate issues.

2 **APPROVAL OF PAGA PENALTIES**

3 8) This Settlement meets the various standards for approval required by Labor Code
4 Section 2699(l)(2), which states: “The superior court shall review and approve any settlement of any
5 civil action filed pursuant to this part. The proposed settlement shall be submitted to the agency at the
6 same time that it is submitted to the court.”

7 9) Although there is no dispositive case law establishing a standard for the Court’s review
8 and approval of PAGA penalties, Senator Joseph L. Dunn stated with regard to the Legislature’s intent
9 that, “The purpose of the court review of penalties in subdivision (l) is to ensure that settlements
10 involving penalties arising under Labor Code Section 2699 do not undercut the dual statutory purposes
11 of punishment and deterrence, or result in unjust, arbitrary and oppressive, or confiscatory settlements.”
12 (See Senate Daily Journal, 2003-2004 Regular Session, Letter dated July 29, 2004, pp. 4754-55.)

13 10) In the PAGA claim, Plaintiff seeks civil penalties arising from the general allegation that
14 Defendants failed to pay overtime and commission wages, provide proper meal and rest breaks, furnish
15 accurate itemized wage statements, timely pay all wages due and owing upon separation of employment,
16 failed to reimburse for work-related expenses, failed to enter into signed written contracts with
17 employees who earn commission wages, and required employees to agree in writing to any term or
18 condition known to be prohibited by law.

19 11) Under the California Supreme Court case *Z.B., NA v. Superior Court* (2019) 8 Cal.5th
20 175, 241, unpaid wages may not be collected as part of an action under the PAGA for remedies under
21 Cal. Lab. Code § 558.

22 12) Against this backdrop, the Parties have agreed to settle Plaintiff’s individual claims for
23 \$320,000.00 and PAGA claims for \$5,000.00. See PAGA Settlement Agreement attached hereto as
24 **Exhibit A.**

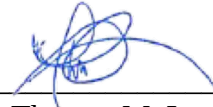
25 13) The PAGA Amount shall be allocated proportionately based upon the total number of
26 workweeks for each aggrieved employee during the period between September 1, 2022, and up to and
27 including the Effective Date of the Settlement Agreement (the “Covered Period”), divided by the total
28 number of weeks worked by all aggrieved employees during the Covered Period. Defendants shall

1 disburse the individual penalty payments to each PAGA Settlement Group Member to the last known
2 address on file with the Defendants. Within 10 business days after the disbursement of the individual
3 penalty payments, Defendants shall send a check to the LWDA for the LWDA penalty payment.

4 14) The proposed PAGA settlement was submitted to the LWDA on November 17, 2023 in
5 compliance with Labor Code section 2699(l)(2). See attached **Exhibit B**.

6
7 DATED: November 17, 2023

Lee Law Offices, APLC

8
9 By:  _____

10 Thomas M. Lee
11 Barry G. Florence
12 Attorneys for Plaintiff
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14

15 DATED: November 17, 2023

Kaufman Dolowich & Voluck LLP

16
17 By:  _____

18 Sanjay Bansal
19 Laura Birnbaum
20 Attorneys for Defendants
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[PROPOSED] ORDER

Having considered JOINT STIPULATION APPROVING PAGA SETTLEMENT, **IT IS**
HEREBY ORDERED that:

1. The Court adopts and approves the Settlement Agreement and the terms of the settlement described therein;
2. Pursuant to Labor Code section 2699(I)(2), Defendants shall pay \$5,000.00 in civil penalties under the PAGA;
3. Plaintiff's Complaint is hereby dismissed with prejudice in its entirety;
4. The Court shall maintain jurisdiction pursuant to Code of Civil Procedure section 664.6 for purposes of enforcing and/or interpreting the terms of the Settlement Agreement.

IT IS FURTHER ORDERED:

5. _____

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6. _____
_____.

Dated: _____

The Honorable Michael L. Stern
Los Angeles County Superior Court Judge