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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO – CENTRAL DIVISION

EVA GABRIELA DELGADO,) Case No.: 37-2024-00009843-CU-OE-CTL
)
Plaintiff,) [Complaint Filed: March 1, 2024]

v.)

PINNACLE INDUSTRIAL SUPPLY, INC., a) **STIPULATION AND ~~PROPOSED~~ ORDER**
California corporation; DANIEL HALECKY,) **TO DISMISS PLAINTIFF’S PAGA CLAIMS**
an individual; and DOES 1 through 25,) **WITHOUT PREJUDICE**

Defendants.) Judge: Hon. Marcella O. McLaughlin
) Dept.: C-72
)
)
)
)

TO THE HONORABLE COURT:

Plaintiff Eva Gabriela Delgado (“Plaintiff”) and Defendants Pinnacle Industrial Supply, Inc. and Daniel Halecky (“Defendants”) hereby submit this Stipulation to Dismiss Plaintiff’s PAGA claims without prejudice, as follows:

1 A. WHEREAS, on March 1, 2024, Plaintiff filed this action against Defendants.

2 B. WHEREAS, in the Action, Plaintiff alleges various individual claims, including
3 failure to pay wages, missed/unlawful meal periods, missed/unlawful rest periods, non-compliant
4 wage statements, failure to pay timely wages, waiting time penalties, failure to reimburse business
5 expenses, failure to provide records, constructive discharge, and unfair business practices, among
6 other things. Plaintiff also alleges an individual and representative PAGA claim asserting the same
7 theories. Defendants deny all material allegations in the Action.

8 C. WHEREAS, after arms-length negotiations conducted through counsel, the Parties
9 entered into a confidential settlement agreement to resolve Plaintiff's individual claims, which
10 does not include any resolution of Plaintiff's Private Attorney General Act ("PAGA") claims. .

11 D. WHEREAS, Plaintiff no longer wishes to, and shall not, pursue the PAGA cause
12 of action.

13 E. WHEREAS, no consideration, direct or indirect, is being given for the dismissal of
14 Plaintiff's PAGA claim.

15 F. WHEREAS, Plaintiff has not provided notice of this action to any other potentially
16 aggrieved employee.

17 G. WHEREAS, the Parties agree to dismiss the non-individual PAGA claims without
18 prejudice as to the rights of any individual other than Plaintiff.

19 H. WHEREAS, because the legal rights of all unidentified allegedly aggrieved
20 employees are preserved - i.e., none of their claims are dismissed with prejudice at all- no notice
21 is required under California law. *See Pirjada v. Superior Court* (2011) 201 Cal. App. 4th 1074,
22 1088 ("[A]s Rule 3.770 provides, no notice to absent class members is required at all 'if the court
23 finds that the dismissal will not prejudice them.'").

24 NOW, THEREFOR, IT IS HEREBY STIPULATED AND AGREED by and
25 between the Parties hereto, as follows:

26 1. All individual claims asserted by Plaintiff in the Action, including her individual
27 PAGA claim, are hereby dismissed with prejudice.

28 2. The non-individual PAGA claim asserted by Plaintiff in the Action is hereby

1 dismissed without prejudice. The non-individual PAGA claims of unidentified allegedly aggrieved
2 employees are dismissed without prejudice and such persons are not prejudiced by the confidential
3 settlement or dismissal of Plaintiff's individual claims, and therefore, notice is not required.

4 3. Thus, the Action shall be closed, this matter shall be dismissed in its entirety, and
5 each party shall bear their own costs and attorney's fees.

6
7 Respectfully Submitted,

8
9 Dated: August 21, 2024

DELMORE GREENE LLP

10
11 By: 

12 Terence L. Greene, Esq.
13 Attorneys for Defendants Pinnacle Industrial
14 Supply, Inc. and Daniel Halecky

15 Dated: August 21, 2024

MM LAW, APC

16
17 By: 

18 Maralle Messrelan, Esq.
19 Attorneys for Plaintiff Eva Gabriela Delgado

20
21 **~~PROPOSED~~ ORDER**

22 This Court, having reviewed the Stipulation and Request of the Parties to Dismiss
23 Plaintiff's PAGA Claims Without Prejudice, good cause appearing therefor, hereby makes the
24 following order:
25

26
27 ///

1 1. That Plaintiff's cause of action number nine (9) of Plaintiff's Complaint for
2 penalties pursuant to the Private Attorneys General Act ("PAGA"), is dismissed without
3 prejudice.
4

5 **IT IS SO ORDERED.**

6
7 Dated: 9-11-2024



Judge Marcella O. McLaughlin

~~Hon. James A. Mangione~~
Judge of the Superior Court