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Attorneys for Defendant,
DOMAIN SERVICES, LLC

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF NAPA

ESQUIBEL ARIAS, an individual, on behalf of himself and all others similarly situated,

Plaintiff,

v.

DOMAIN SERVICES, LLC, a California Limited Liability Company; and DOES 1 TO 50,

Defendants.

Case No. 24CV000298

DEFENDANT, DOMAIN SERVICES, LLC'S REPLY IN SUPPORT OF MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR SANCTIONS AGAINST ESQUIBEL ARIAS

[Cal. Code Civ. Proc. §§ 2023.010; 2023.030; 664.6]

Date: September 10, 2025

Time: 8:30 a.m.

Place: 825 Brown Street, Department B
Napa, CA 94559

Hon. Cynthia P. Smith, presiding

Complaint filed: February 28, 2024

Trial Date: None

Defendant DOMAIN SERVICES, LLC ("DOMAIN" or "Defendant") hereby submits the following reply to Plaintiff's ("ARIAS" or "Plaintiff") (collectively with Defendant, the "Parties") opposition to Defendant's motion for entry of judgment in accordance with the Parties' Memorandum of Understanding dated December 18, 2024 ("MOU") and for sanctions.

1. <u>There Are no Class Claims in this Proceeding.</u>

This proceeding does not involve class claims as there are no class claims plead in the operative First Amended Complaint ('FAC"). Plaintiff's assertion that the FAC merely acted as a "supplemental pleading" by adding the PAGA claims to the previously asserted class claims in the initial Complaint is plainly disingenuous. Before Defendant was even served with the initial Complaint filed on February 29, 2024, the Parties were in communication regarding the alleged class claims in the Complaint. Declaration of Jennifer Douglas ("Douglas Decl.") ¶ 2. After Defendant provided Plaintiff with a copy of the Parties' Arbitration Agreement including an applicable class action waiver, Plaintiff agreed to amend the Complaint to remove the class claims and add PAGA claims. Id. The Parties even filed a joint stipulation outlining the plan for Plaintiff to remove the class claims and instead seek PAGA penalties in an amended pleading. Douglas Decl. ¶ 3, Exhibit 1. This stipulation was filed and ordered by the Court, thereby receiving the requisite court approval under California Rule of Court Rule 3.770, if applicable. Douglas Decl. ¶ 4, Exhibit 2.

However, Plaintiff did not require court approval to file the FAC. *See* Cal. Civ. Proc. section 472 ("A party may amend its pleading once without leave of the court at any time before the answer, demurrer, or motion to strike is filed"). Plaintiff filed a FAC on May 3, 2024, including only a single cause of action for the PAGA claims; no class claims were asserted in the FAC, and as such no class claims were operative once the FAC was filed. *See* Cal. Rule of Court Rule 5.74(a)(2) ("'Amended pleading' means a pleading that completely restates and supersedes the pleading it amends for all purposes"). The intention of Plaintiff to remove any class claims is made clear by the joint Case Management Statement filed by the Parties on July 30, 2024, which reflects in multiple places that Plaintiff sought PAGA penalties, but makes no mention of any class claims. Douglas Decl. ¶ 5.

The Rule cited by Plaintiff, California Rule of Court Rule 3.770, requires court approval to dismiss a class action or any part thereof. There is an established difference between dismissal and amendment: dismissal ends a proceeding, while amendment simply alters or corrects a document in the course of a proceeding. *See Mac v. Minassian* (2022) 76 Cal. App. 5th 510, 517-518. Rule 3.770 is therefore not applicable to facts at hand, as Plaintiff did not dismiss any class claims by ending the proceeding or creating a final decision implicating the class. See *Marcarelli v. Cabell* (1976) 58 Cal. App. 3d 52, 54-57. Rather, Plaintiff voluntarily amended a document, the complaint, in the course of the proceeding to include only PAGA claims; no class was implicated or affected by the change, and no class rights were foreclosed.

Plaintiff has made no mention of class claims since the FAC was filed. The attempt to shoehorn class claims into this matter again over a year later and after Arias has only ever raised concerns with the resolution of his own claims is calculated and dishonest.

2. <u>The MOU Should Be Enforced as to PAGA Claims.</u>

Plaintiff's proposal that the MOU should not be enforced because it has not been submitted to the Labor Workforce Development Agency ("LWDA") is disingenuous, as the reason for submitting a settlement to the LWDA is to evaluate the fairness of a settlement in light of the fact that the PAGA action was brought, purportedly, by someone standing in the shoes of the State. Given that Plaintiff's proposed division of settlement funds would award nearly half of the funds to him individually, it seems unlikely that his primary concern is the approval of the LWDA. As the MOU is the subject of a dispute between the Parties and Plaintiff is typically the party seeking approval of the settlement, it was not submitted by Defendant to the LWDA through the portal. Out of an abundance of caution, Defendant has remedied this concern and has submitted the MOU through the LWDA portal, curing this concern, as it were. Douglas Decl. ¶ 6. The statute does not provide any penalty for failure to submit a proposed settlement simultaneously, even when there is not a motion for enforcement pending. Notably, the statute does not require the approval of the LWDA, but only submission of the proposed settlement to the LWDA with courts noting that submission is "to the LWDA to comment on the settlement if the LWDA so desires." *Haralson v. U.S. Aviation Servs. Corp*. (N.D. Cal. 2019) 383 F. Supp. 3d 959, 971. There is no basis for Plaintiff's claim that the appropriate remedy for not simultaneously submitting the proposed settlement to the LWDA is to deny the settlement entirely. If any remedy were necessary, it would be sufficient to delay an order enforcing the MOU by a period of thirty (30) days to permit the LWDA additional time to review the proposed settlement.

3. Arias' Individual Claims Set Forth in the FAC Were Resolved By the MOU.

The MOU specifies that Plaintiff "individually and in his representative capacity . . will release the Released Parties of the Released Claims". The Released Parties includes Defendant and the Released Claims include those "arising out of or related to the allegations set forth in the operative complaint and/or PAGA notice to the California Labor and Workforce Development Agency that arose during the PAGA Period". Plaintiff is correct that the Parties also contemplated, but did not finalize, an agreement to a representative enhancement award in exchange for a "release of any and all wage and hour claims by Plaintiff". The contemplated release in exchange for the representative enhancement award is more expansive than Plaintiff's individual Released Claims in the MOU, which are limited in scope to those arising out of or related to his allegations in the FAC or in the PAGA notice, and are further limited in time to the PAGA period. Nevertheless, Plaintiff did release his individual claims as described in the Released Claims, and his failure to agree to a further release in exchange for a representative enhancement award does not foreclose these individual Released Claims.

4. Sanctions Are Warranted Against Plaintiff.

Plaintiff has asserted a claim for sanctions against Defendant for unsuccessfully asserting a claim for sanctions based on a misuse of the discovery process. However, Defendant has not unsuccessfully asserted a claim for sanctions; Defendant's claim for sanctions is pending and moreover warranted for the reasons set forth in the Memorandum of Points and Authorities. Additionally, Plaintiff's bad faith behavior has persisted in the Opposition, which as described herein was misleading with regard to the representation that class claims were still operative at the time of the settlement. One point that the Parties do not dispute was Defendant's indication Plaintiff and Plaintiff's counsel are appropriately subject to sanctions pursuant to Cal. Civ. Proc. sections 128.5 and 128.7. However, such sanctions must be the subject of a separate motion. Defendant maintains the right to file such motion against Plaintiff and Plaintiff's counsel.

/ / /

Conclusion

Plaintiff's deceptive presentation of facts and attempts to undermine the settlement are improper and should not be rewarded. Defendant respectfully requests an order granting its Motion to enter judgment pursuant to the terms of the Settlement Agreement and for sanctions against Plaintiff.

Dated: September 3, 2025

DICKENSON, PEATMAN & FOGARTY PC

By: Jennifer Douglas
Angela A. Nelson
Attorneys for Defendant,
DOMAIN SERVICES, LLC

PROOF OF SERVICE

I, the undersigned, certify that I am over age 18, and am not a party to this action, and am employed in the County of Sonoma, California. My business address is 1500 First Street, Suite 200, Napa, CA 94559.

On the date indicated below, I served the following document:

DEFENDANT, DOMAIN SERVICES, LLC'S REPLY IN SUPPORT OF MOTION TO ENFORCE SETTLEMENT AGREEMENT AND FOR SANCTIONS AGAINST ESQUIBEL ARIAS

on the person(s) below, as follows:

MATTHEW A HAULK ESQ JOSE M HERRERA ESQ HAULT & HERRERA LLP 100 PINE ST STE 1250 SAN FRANCISCO CA 94111 mhaulk@hhemploymentlaw.com jherrera@hhemploymentlaw.com (415) 745-3301 fax	*Attorneys for Plaintiff*

( ) PERSONAL SERVICE. I personally delivered the document(s) to the person(s) at the address(es) listed above. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

( ) U. S. MAIL. I enclosed the document(s) in a sealed envelope or package addressed to the person(s) at the address(es) listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

( ) BY OVERNIGHT DELIVERY. I enclosed the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the person(s) at the address(es) above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

(XX) BY ELECTRONIC SERVICE. I caused a copy of the document(s) to be sent to the person(s) at the electronic notification address(es) listed above pursuant to CCP §1010.6. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 3, 2025 at Napa, California.

/s/ *Katie Napolitano*
Katie Napolitano