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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

MADISON HARRIS, an individual, BRUNA FERREIRA, an individual, and on behalf of others similarly situated,
Plaintiffs,

vs.

G. D. BUILDERS HARDWARE, INC., a California corporation, and DOES 1-50 inclusive,
Defendants.

Case No. 25STCV03021

[Assigned for all purposes to: The Hon. Laura Seigle, Dept. 17]

PLAINTIFFS' REQUEST FOR DISMISSAL OF CLASS AND PAGA CLAIMS WITHOUT PREJUDICE AND INDIVIDUAL CLAIMS WITH PREJUDICE

Action Filed: 02/03/2025
Trial Date: None Set

Pursuant to California Rules of Court ("CRC"), Rule 3.770, Plaintiffs MADISON HARRIS and BRUNA FERREIRA ("Plaintiffs") respectfully request that the Court enter an order, without a hearing, dismissing the class allegations and the PAGA claim in this action without prejudice and dismissing Plaintiffs' individual claims with prejudice.[1]

[1] CRC, Rule 3.770(b) provides, in relevant part, that "[t]he court may grant the request without a hearing."

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Because no class has been certified and putative class members have not been notified of this litigation, Plaintiffs further request that the Court approve the dismissal without requiring notice to putative class members.

This request is based on this Request for Dismissal, the Declaration of Michael Elkin filed herewith, and the pleadings, records, and files in this action.

I. INTRODUCTION AND FACTUAL BACKGROUND

Plaintiffs filed this proposed class action lawsuit against Defendant G.D. Builders Hardware, Inc. ("Defendant"), in the Superior Court of the State of California, County of Los Angeles, on February 3, 2025, for alleged violations of the California Labor Code, the Industrial Welfare Commission's Wage Orders, and Business and Professions Code §§17200, *et seq.,* seeking to certify a class of all current and former non-exempt employees employed by Defendant in California at any time within the four years before the filing of the Complaint. Plaintiffs alleged the following claims: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Wages; (3) Failure to Provide Required Meal Periods; (4) Failure to Provide Required Rest Periods; (5) Failure to Properly Pay Accrued Sick Days; (6) Failure to Pay Timely Wages During Employment; (7) Failure to Pay All Wages Due to Discharged and Quitting Employees; (8) Failure to Maintain Required Records; (9) Failure to Furnish Accurate, Itemized Wage Statements; (10) Failure to Reimburse Necessary Expenditures; (11) Unfair and Unlawful Business Practices; and (12) Civil Penalties Pursuant to The Private Attorneys General Act. (Elkin Decl. ¶ 2.)

After engaging in litigation and numerous meet and confer efforts, it was determined that Defendant is in financial distress and will be unable to settle on a class-wide basis. (*Id.* ¶ 3.) Nonetheless, the Parties have reached an agreement to settle Plaintiffs' individual claims and have agreed to dismiss the class allegations and the PAGA claim without prejudice and Plaintiffs' individual claims with prejudice. (*Ibid*.) Because of Defendant's financial condition and because Plaintiffs have settled their individual claims, continuing this action would be an inefficient use of judicial resources. (*Id.* ¶ 5.) Plaintiffs accordingly request dismissal of the class allegations and the PAGA claim without prejudice, and dismissal of their individual claims with prejudice. (*Id.* ¶ 3.)

II. ARGUMENT

A. This Court Should Approve Plaintiffs' Request for Dismissal

CRC, Rule 3.770(a) provides, in pertinent part, that:

> A dismissal of an entire class action, or of any party or cause of action in a class action, requires court approval. . . . Requests for dismissal must be accompanied by a declaration setting forth the facts on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is being given for the dismissal and must describe the consideration in detail.

Here, the Declaration of Michael Elkin sets forth the facts on which Plaintiffs rely and describes the consideration given. Each Plaintiff settled her claims on an individual basis for a relatively modest amount, inclusive of all damages, penalties, attorneys' fees, costs, and interest. (Elkin Decl. ¶ 4.) No consideration, direct or indirect, was paid or promised to Plaintiffs or their counsel in exchange for the dismissal of the class allegations or the PAGA claim. (*Id.*)

B. This Court Should Approve the Dismissal of This Action Without Notice to the Class

Notice to the class regarding the dismissal of a class action is not mandatory where the class has not yet been certified by the Court. Specifically, CRC Rule 3.770(c) states in relevant part, that "[i]f the court has not ruled on class certification, or if notice of the pendency of the action has not been provided to class members in a case in which such notice was required . . . the action may be dismissed without notice to the class members if the court finds that the dismissal will not prejudice them." Indeed, courts have held that notice to class members is not required where there has been no publicity and the class members have not relied on the outcome of the class action to their detriment. *See Shinsato ex rel. Shinsato v. Abbot Laboratories* (N.D. Cal., Sept. 5, 2003, No. C.-02-1015 MMC) 2003 WL 22114265, at *1 (no notice to absent class members required on voluntary dismissal without prejudice because no potential prejudice to absent class members and, *inter alia,* there was no publicity surrounding the action); *Rodriguez v. Nationwide Mutual Insurance Company* (C.D. Cal., Nov. 16, 2017, No. 816CV02217JLSDFM) 2017 WL 7803796, at *4 ("Because potential class members here would not be prejudiced by the dismissal of this action, Plaintiff need not provide notice to the class").

Here, the putative class members have not been notified about this case, and Plaintiffs' counsel is unaware of anyone who has relied on the existence of this action. (Elkin Decl. ¶¶ 6, 7.) No class has been certified, so the dismissal will not bind putative class members. The dismissal of the class allegations and the PAGA claim is also without prejudice, so putative class members and other aggrieved employees remain free to pursue any claims they may have. (*Id.* ¶ 8.) Because the dismissal will not prejudice the putative class members, the Court should approve it without requiring notice to them.

C. The Court Should Approve Dismissal of the PAGA Claim Without Prejudice

Plaintiffs also request that the Court approve dismissal of the twelfth cause of action, for civil penalties under the Private Attorneys General Act, without prejudice. The settlement agreements provide that all claims asserted on behalf of others, including the State of California and other employees of Defendant, are to be dismissed without prejudice. (Elkin Decl. ¶ 4.) Plaintiffs' counsel has submitted a copy of this Request, the supporting declaration, and the proposed order to the Labor and Workforce Development Agency. (*Id.* ¶ 9.)

III. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court approve the requested dismissal without a hearing and without notice to the putative class, dismiss the class allegations and the PAGA claim without prejudice, dismiss Plaintiffs' individual claims against Defendant with prejudice, and retain jurisdiction under Code of Civil Procedure section 664.6 to enforce the Parties' settlement agreements until their terms are fully performed. (Elkin Decl. ¶ 10.)

DATED: October 28, 2026

Respectfully Submitted,

ELKIN | GAMBOA LLP

By: _____

Michael Elkin
Attorneys for Plaintiffs MADISON HARRIS and BRUNA FERREIRA

PROOF OF SERVICE
(C.C.P. §§ 1013a and 2015.5)

I, MARY LOPEZ, declare as follows:

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen and not a party to the within action. My business address is 4119 W. Burbank Blvd, Suite 110, Burbank, CA 91505. My email address is mary@elkingamboa.com.

On October 28, 2026, I caused to be served the foregoing document described as **PLAINTIFFS' REQUEST FOR DISMISSAL OF CLASS AND PAGA CLAIMS WITHOUT PREJUDICE AND INDIVIDUAL CLAIMS WITH PREJUDICE** on the interested parties in this action as follows:

Evelyn Abasi Esq. Jesse A. Bernal Esq. Bernal & Robbins, APC 16921 Parthenia St., Ste. 301 North Hills, CA 91343	Attorneys for Defendant G. D. Builders Hardware, Inc. Tel: (805) 748-5481 Email: lisa@bernalrobbins.com, evelyn@bernalrobbins.com, jesse@bernalrobbins.com

☒ CASE ANYWHERE: By electronically serving the document(s) via Case Anywhere to the parties and/or counsel who are registered to use Case Anywhere in this matter, as identified above.

☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 28, 2026, at Burbank, California.

MARY LOPEZ

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