

BLUMENTHAL, NORDREHAUG & BHOWMIK

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CATHERINE JANE VALLE and
DON PEROLINO CRISTOBAL, as
the Representatives of the State of
California,

Plaintiffs,

vs.

LOWE'S HIW, INC.; a Washington
Corporation,

Defendant.

Case No.: **C 11-5168 SC**

**STIPULATION TO DISMISS THE
ACTION**

Judge: Hon. Samuel Conti Court No.:
1 - 17th Floor

Complaint Filed: September 8, 2011

STIPULATION

IT IS HEREBY STIPULATED by and between Plaintiffs Catherine Jane Valle and Don Perolino Cristobal (“Plaintiffs”) by and through their counsel of record and Lowe’s HIW, Inc. (“Lowe’s”) by and through its counsel of record, as follows:

WHEREAS, Plaintiffs filed this action in San Mateo County Superior Court on September 8, 2011;

WHEREAS, Defendant removed this action to the United States District Court for the Northern District of California on October 24, 2011 [Doc. No. 1], and filed a Motion to Dismiss on October 31, 2011 [Doc. No. 8];

WHEREAS, in the interest of judicial economy, the parties wish to avoid any waste of Court resources on the Motion to Dismiss.

THEREFORE, the parties stipulate and hereby request that:

1. The parties agree that Plaintiffs’ demand for arbitration in AAA Case No. 73 460 00332 11 can be amended forthwith by Plaintiffs to allege a Private Attorney General Act (“PAGA”) claim based upon the Labor Code violations alleged in the current arbitration demand;

2. The parties’ agreement to the amendment of the demand is not and will not be construed as an admission by either party that the PAGA claim is permitted or prohibited by the arbitration agreement, and the parties agree that the arbitrator shall not consider this stipulation or the parties’ agreement to the amendment of the demand when determining the proper scope of the arbitration;

3. The parties agree that their respective arguments and positions concerning arbitrability and the arbitration clause construction, including arguments and positions directed to the scope of the arbitration (which, in turn, shall be determined by the arbitrator per the terms of this Court’s August 22, 2011 order in Related Case No. 11-1489 SC), are hereby preserved;

1 4. The instant action, Case No CV 11-5168, will be voluntarily dismissed
2 without prejudice to allow the PAGA claim to be alleged in the arbitration demand,
3 with each side to bear its own fees and costs with respect to Case No CV 11-5168.
4

5 Dated: November 14, 2011

BLUMENTHAL, NORDREHAUG &
BHOWMIK

7 By: /s/ Kyle Nordrehaug
8 Kyle Nordrehaug
9 Attorneys for Plaintiffs

10 Dated: November 14, 2011

HUNTON & WILLIAMS LLP

12 By: /s/ Jason Kim
13 Jason J. Kim
14 Attorneys for Defendant
15 LOWE'S HIW, INC.

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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 CATHERINE JANE VALLE and
16 DON PEROLINO CRISTOBAL, as
the Representatives of the State of
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17 Plaintiffs,

18 vs.

19 LOWE'S HIW, INC.; a Washington
20 Corporation,

21 Defendant.

Case No.: **C 11-5168 SC**

**[PROPOSED] ORDER DISMISSING
THE ACTION**

Judge: Hon. Samuel Conti
Court No.: 1 - 17th Floor

Complaint Filed: September 8, 2011

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ORDER

The Court, having reviewed the parties' Stipulation for Dismissal, good cause appearing, hereby orders as follows:

1. The above entitled action is dismissed without prejudice, with each side to bear their own fees and costs with respect to Case No CV 11-5168.

IT IS SO ORDERED.

Dated: November 15, 2011

Honorable
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
JUDGE

