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VECTOR MARKETING CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

WILLIAM WOODS (CA), DOMINIC SEALE (FL), WESLEY VARUGHESE (IL), ERIC ESSLER (MI), KRISTINA WILLS (MN), CASEY MCCALEB (MO), SAMUEL BARONE-CROWELL (NY), LOWELL HARVARD JR. (NY), ALTWELL WINFIELD (NY), TIFFANY REINHART (OH), individually and on behalf of all other similarly situated individuals,

Plaintiffs,

v.

VECTOR MARKETING CORPORATION and DOES 1 through 20, inclusive,

Defendants.

Case No. 14-CV-00264-EMC

STIPULATION AND [PROPOSED] ORDER DISMISSING FIFTH CAUSE OF ACTION WITH PREJUDICE

This Stipulation is entered into by and between Plaintiffs William Woods, Dominic Seale, Wesley Varughese, Eric Essler, Casey McCaleb and Samuel Barone-Crowell, on one hand, and Defendant Vector Marketing Corporation, on the other hand, with reference to the following facts:

A. Plaintiff William Woods purports to aver a claim for violations of the California Private Attorneys General At of 2004, Cal. Lab. Code § 2698 et seq. ("PAGA") in the Fifth Cause of Action contained in the Complaint (ECF No. 1) in the above-captioned action;

B. An aggrieved employee wishing to bring a civil action under PAGA must satisfy PAGA's administrative exhaustion requirements and commence the action within one year of the accrual of the claim. *See* Cal. Code Civ. Proc. § 340(a) (one-year limitations period for action upon statute for penalty); *Ramirez v. Ghilotti Bros. Inc.*, 941 F. Supp. 1197, 1209 (N.D. Cal. 2013) (section 340(a)'s one-year statute of limitations applies to PAGA claims); *Soto v. Castlerock Farming & Transp. Inc.*, No. CIV-F-09-0701 AWI JLT, 2012 WL 1292519, at *5 (E.D. Cal. Apr. 16, 2012) (interplay of statute of limitations with PAGA's administrative exhaustion requirements requires that written notice be given to LWDA within one year); *Moreno v. Autozone*, No. C05-04432 MJJ, 2007 WL 1650942, at *4 (N.D. Cal. June 5, 2007) (PAGA claim accrues at time of alleged violation);

C. The Fifth Cause of Action avers that Plaintiff Woods attended "some or all of the 3-5 day initial training session conducted by Defendants in California in or around summer of 2011." (Compl., ¶ 11.) The Fifth Cause of Action further avers that Plaintiff Woods only provided written notice to the LWDA when he sent a "letter postmarked October 11, 2013." (Compl., ¶ 99.) Given these averments and the fact the Complaint was not filed until January 16, 2014 (ECF No. 1), the Fifth Cause of Action is barred for failure to satisfy PAGA's administrative prerequisites and also as untimely; and

D. In light of the foregoing, Defendant requested that the Fifth Cause of Action be dismissed and Plaintiffs agreed to do so.

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between Plaintiffs and Defendant, through their respective counsel, that the Fifth Cause of Action shall be dismissed with prejudice.

Dated: July 7, 2015

MARLIN & SALTZMAN LLP
DIVERSITY LAW GROUP, PC

By: */s/ Christina A. Humphrey*
Christina A. Humphrey

Attorneys for Plaintiffs

Dated: July 7, 2015

MORRISON & FOERSTER LLP
PHILLIPS LYTLE LLP

By: */s/ Karen J. Kubin*
Karen J. Kubin

Attorneys for Defendant
VECTOR MARKETING CORPORATION

[Proposed] ORDER

The Court having considered the foregoing Stipulation, good cause appearing, it is hereby ordered that the Fifth Cause of Action averred in the Complaint in the above-captioned action shall be and is dismissed with prejudice.

SO ORDERED.

Dated: 7/7/15

Hon. E
United

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
IT IS SO ORDERED
Judge Edward M. Chen

SIGNATURE ATTESTATION

I, Karen J. Kubin, am the ECF User whose ID and password are being used to file this STIPULATION AND [PROPOSED] ORDER DISMISSING FIFTH CAUSE OF ACTION WITH PREJUDICE. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that Christina A. Humphrey has concurred in this filing.

/s/ Karen J. Kubin
Karen J. Kubin