

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JEFFRY LEVIN,
Plaintiff,
v.
CAVIAR, INC.,
Defendant.

Case No. 15-cv-01285-EDL

NOTICE OF INTENT TO DISMISS

Re: Dkt. No. 50

This is a putative wage and hour class action brought by restaurant delivery drivers against Caviar, Inc. This Court previously granted a motion to compel arbitration of Plaintiff’s individual claims, held that the class action waiver was enforceable but the California Private Attorneys General Act of 2004, Cal. Lab.Code, § 2698 et seq. (“PAGA”) waiver was not, and ultimately ordered the parties to arbitrate the issue of the arbitrability of the PAGA claims. Dkt. Nos. 43. The Court stayed the case pending the arbitrator’s decision on the question of whether Plaintiff’s PAGA claim is arbitrable. Dkt. No. 49.

On March 24, 2016, the parties filed a stipulation of dismissal with prejudice of Plaintiff’s PAGA claims because they have agreed that another Caviar courier will pursue these claims in arbitration. Dkt. No. 50. However, the parties did not ask the Court to either stay or dismiss the remainder of the case. This Court has the discretion to stay the case under 9 U.S.C. § 3 or dismiss the litigation entirely. See Sparling v. Hoffman Constr. Co., 864 F.2d 635, 638 (9th Cir.1988). The Court is inclined to dismiss the entire case with prejudice at this time. If any party objects to

1 dismissal of the case, or objects to dismissal with prejudice as opposed to without prejudice, the
2 party shall file a brief of no more than three pages within one week of the date of this Order
3 explaining the reason for the objection. If no objections are timely received, the Court will
4 dismiss the action in its entirety with prejudice.

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IT IS SO ORDERED.

Dated: March 29, 2016


ELIZABETH D. LAPORTE
United States Magistrate Judge