

The Honorable James L. Robart

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EARL BEARD and ALEXIS LOPEZ, CRAIG
BAHAM, and ROBERT VAN HORN,

Plaintiffs,

v.

ECOLAB, INC.,

Defendant.

Case No. 2:17-cv-00663-JLR

**JOINT MOTION TO APPROVE
SETTLEMENT AND DISMISS CASE**

Plaintiffs Craig Baham and Robert Van Horn (“Plaintiffs”) and Defendant Ecolab Inc. (“Ecolab”), by and through their respective undersigned attorneys, hereby jointly move this Court to approve the terms of their settlement and to dismiss this case with prejudice. In support of their Motion, the Parties states as follows:

1. On April 27, 2017, Earl Beard and Alexis Lopez filed this lawsuit against Ecolab alleging claims under the Fair Labor Standards Act (“FLSA”), the Washington Minimum Wage Act (“WMWA”), and the New York Labor Law (“NYLL”). Dkt. No. 1.

2. On May 3, 2017, Craig Baham and Robert Van Horn filed consents to join the lawsuit. Dkt. No. 7. On June 29, 2017, Plaintiffs filed a First Amended Complaint that added Baham and Van Horn as additional named Plaintiffs. Dkt. No. 19. Baham’s employment with

**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 1**
Case No. 2:17-cv-00663-JLR

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1 Ecolab ended in December 2012, and Van Horn's employment with Ecolab ended in January
2 2014. Docket Nos. 19 and 22, ¶¶ 24 and 28.

3 3. On June 20, 2017, Ecolab served Defendant's Offer of Judgment Pursuant to Fed.
4 R. Civ. P. 68 to Beard and Lopez. Dkt. No. 23. On July 18, 2017, Ecolab filed their Notice of
5 Acceptance of Defendant's Offer of Judgment dated July 5, 2017. Dkt. No. 24. On July 25,
6 2017, the Court entered an order dismissing Beard's and Lopez's claims with prejudice pursuant
7 to the Offer of Judgment and Notice of Acceptance. Dkt. No. 25.

9 4. Although Ecolab denies Plaintiffs' allegations, the Parties engaged in settlement
10 negotiations. On October 25, 2017, the Parties reached a settlement. Under the terms of the
11 settlement, Plaintiffs will release all wage and hour claims, whether under the FLSA, WMWA,
12 and NYLL, and attorneys' fees and costs. Plaintiffs have agreed to dismiss their lawsuit with
13 prejudice.
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15 5. The Parties have prepared and executed a written Settlement Agreement and
16 General Release ("Agreement") that memorializes the terms of their settlement, which includes a
17 requirement that the Court approve the settlement.

18 6. The Parties hereby seek the Court's approval of the settlement they reached in this
19 matter, and stipulate to the dismissal of this action. Pursuant to the FLSA (and to the extent
20 required under state law), claims for back wages and other damages arising under the FLSA may
21 be settled or compromised with the approval of the district court or Secretary of Labor. *See*
22 *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350, 1353-54 (11th Cir. 1982). To approve
23 the settlement, the Court should determine that the compromise is a fair and reasonable
24 resolution of a *bona fide* dispute over wages owed. *Id.*
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1 Dated: November 21, 2017

/s/ Michael J.D. Sweeney
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ATTORNEYS FOR PLAINTIFFS

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13
14 Dated: November 21, 2017

s/ Breanne Sheetz Martell
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ATTORNEYS FOR DEFENDANT

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**JOINT MOTION TO APPROVE SETTLEMENT
AND DISMISS CASE - 4
Case No. 2:17-cv-00663-JLR**

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CERTIFICATE OF SERVICE

I am a resident of the State of Washington, over the age of eighteen years, and not a party to the within action. My business address is One Union Square, 600 University Street, Ste. 3200, Seattle, WA 98101. On November 21, 2017, I

ELECTRONICALLY FILED the foregoing document(s) with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

<p>Michael C. Subit, WSBA #29189 msubit@frankfreed.com FRANK FREED SUBIT & THOMAS Hoge Building 705 Second Avenue, Suite 1200 Seattle, WA 98104-1729 Phone: 206-682-6711</p> <p><i>Attorneys for Plaintiffs</i></p>	<p>Michael J.D. Sweeney <i>Pro Hac Vice</i> msweeney@getmansweeney.com Artemio Guerra <i>Pro Hac Vice</i> aguerra@getmansweeney.com GETMAN SWEENEY & DUNN PLLC 260 Fair Street Kingston, New York 12401 Phone: 845-255-9370 Fax: 845-255-8749</p> <p><i>Attorneys for Plaintiffs</i></p>
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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on November 21, 2017, at Seattle, Washington.

s/ Sally Swearinger
Sally Swearinger
sswearinger@littler.com
LITTLER MENDELSON, P.C.

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