

FILED
Superior Court of California
County of Los Angeles

07/26/2023

David W. Slayton, Executive Officer / Clerk of Court

By: M. Ventura Deputy

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and Holiday AL Management Sub LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

MAGEN SCHAFER, in her representative
capacity under the Private Attorneys General Act
of 2004 ("PAGA")

Plaintiff,

v.

HARVEST MANAGEMENT SUB, LLC, a
Delaware Corporation; and DOES 1 through
100, inclusive,

Defendants.

Case No. 20STCV01731

[Assigned for all purposes to the Honorable
Robert B. Broadbelt, Department 53]

STIPULATION AND ~~PROPOSED~~ ORDER
TO APPROVE PAGA SETTLEMENT

; JUDGMENT

Complaint Filed: January 14, 2020

Trial Date: None Set

1 Plaintiff Magen Schafer ("Plaintiff") and Defendants Harvest Management Sub, LLC and
2 Holiday AL Management Sub LLC ("Defendants") (collectively "the Parties") hereby stipulate as
3 follows.

4 **STIPULATION**

5 **WHEREAS**, on January 14, 2020, Plaintiff filed a complaint alleging a single cause of action
6 for violation of California Labor Code sections 2698, et seq. pursuant to the Private Attorney General
7 Act of 2004 ("PAGA Action");

8 **WHEREAS**, the Parties participated in two private mediation sessions before Jeff Krivis, Esq.
9 and subsequently reached a global settlement of the entire PAGA Action as memorialized in the fully
10 executed Settlement Agreement attached hereto as **Exhibit "1"**;

11 **WHEREAS**, attached hereto as **Exhibit "2"** is a copy of the proof of submission of the fully
12 executed Settlement Agreement to the Labor and Workforce Development Agency pursuant to
13 California Labor Code section 2699(1)(2);

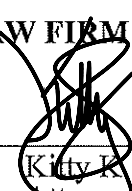
14 **WHEREAS**, the Parties hereby submit the Settlement Agreement to the Court and request that
15 the Settlement Agreement be approved pursuant to California Labor Code section 2699(1)(2);

16 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the
17 Parties that:

18 1. The fully executed Settlement Agreement attached hereto as **Exhibit "1"** shall be
19 approved.

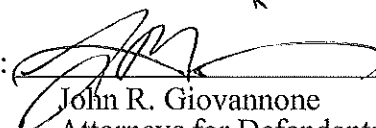
20
21 Date: ~~June~~ ^{July} 5, 2023

PARRIS LAW FIRM

22
23 By: 
Kitty K. Szeto
Attorneys for Plaintiff

24
25 Date: ~~June~~ ^{July} 5, 2023

CDF LABOR LAW LLP

26
27 By: 
John R. Giovannone
Attorneys for Defendants

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made and entered into between Plaintiffs Magen Schafer, Cody Hansen and Christina Grubbs (“Plaintiffs”) acting in their private attorney general capacity, and Defendants Harvest Management Sub LLC, Holiday AL Management Sub LLC (dba Holiday Retirement), Harvest Management Sub TRS Corp., Holiday AL NIC Management LLC (hereinafter referred to as “Defendants”).

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Actions” means the actions entitled *Magen Schafer v. Harvest Management Sub, LLC, et al.*, Case No. 20STCV01731, pending in the Superior Court of the State of California, County of Los Angeles (“*Schafer* Action”), *Cody Hansen v. Holiday AL Management Sub LLC, et al.*, Case No. CIVMSC20-00779, pending in the Superior Court of California, County of Contra Costa (“*Hansen* Action”), and *Christina Grubbs v. Holiday AL Management Sub, LLC, et al.*, Case No. 37-2020-00021646-CU-OE-NC, pending in the Superior Court of California, County of San Diego (“*Grubbs* Action”).
2. “Aggrieved Employees” means all individuals who were employed by Defendants in California and classified as non-exempt employees during the PAGA Period, excluding Kitchen Helpers, Servers, Community Executive Chefs, Business Office Managers, Office Managers, and Assistant General Managers.
3. “Aggrieved Employees List” means the spreadsheet containing the list of Aggrieved Employees with their social security numbers, last known addresses, and their dates of employment and/or pay periods worked as an Aggrieved Employee during the PAGA Period.
4. “Court” means the Superior Court of California, County of Los Angeles.
5. “Individual PAGA Payment” means the amount to be paid to each of the Aggrieved Employees out of 25% of the PAGA Payment under Labor Code section 2699 with such individual shares to be based on the number of pay periods during which an individual worked as an Aggrieved Employee during the PAGA Period divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period. 100% of all PAGA penalties will be considered payment of penalties, and the Aggrieved Employees will be issued an IRS Form 1099 and will be responsible for payment of any and all taxes that are due as a result of their PAGA penalty settlement payments.
6. “LWDA” means the California Labor Workforce Development Agency.
7. “Gross PAGA Settlement Amount” means the total sum of \$1,470,000 for payment of the Administration Costs, Attorneys’ Fees, Attorneys’ Expenses and Costs, and the

PAGA Payment. The Gross PAGA Settlement Amount shall be all-in with no reversion to Defendants.

8. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698 *et seq.*

9. “PAGA Payment” means the total amount remaining in the Gross PAGA Settlement Amount after payment of the Attorneys’ Fees, Attorneys’ Expenses and Costs, and Administration Costs. The PAGA Payment shall be allocated under Labor Code section 2699 with 75% of the Section 2699 payment going to the LWDA and 25% to the Aggrieved Employees.

10. “PAGA Period” means the time period from January 16, 2019 to approval or April 27, 2022, whichever is earlier.

11. “Parties” means Plaintiffs Magen Schafer, Cody Hansen and Christina Grubbs and Defendants Harvest Management Sub LLC, Holiday AL Management Sub LLC (dba Holiday Retirement), Harvest Management Sub TRS Corp., Holiday AL NIC Management LLC.

12. “PAGA Counsel” means Parris Law Firm, Blumenthal Nordrehaug Bhowmik De Blouw LLP and James Hawkins APLC.

13. “Released Parties” means Defendants, Harvest Facility Holdings LP, Winterfell Rock Spring (CA) Owner, LP, Churchill Property Portfolio Owner LLC, Mermco, LLC, ASL Operating Company, LLC, and Atria Senior Living, Inc., and any of their agents, officers, directors, employees, stockholders, members, parent entities, subsidiaries, affiliates, partners, predecessors and successors in interest, insurers, and assigns of the foregoing.

14. “Settlement Administrator” means Simpluris, Inc.

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II. RECITALS

1. Parris Law Firm mailed the necessary correspondence to the LWDA on September 13, 2019 (“*Schafer* First LWDA Notice”) on behalf of Plaintiff Magen Schafer, requesting authorization from the LWDA to seek civil penalties against Harvest Management Sub LLC as provided by PAGA for the wage and hour violations alleged in the *Schafer* First LWDA Notice. The 65-day notice period for the LWDA to notify of its intent to investigate in connection with the *Schafer* First LWDA Notice expired on November 17, 2019. Parris Law Firm subsequently mailed a second correspondence to the LWDA on April 3, 2020 (“*Schafer* Second LWDA Notice”) on behalf of Plaintiff Magen Schafer, requesting authorization from the LWDA to seek civil penalties against Holiday AL Management Sub LLC as provided by PAGA for the wage and hour violations alleged in the *Schafer* Second LWDA Notice. The 65-day notice period for the LWDA to notify of its intent to investigate in connection with the *Schafer* Second LWDA Notice expired on June 7, 2020.

2. On January 14, 2020, Plaintiff Schafer filed a Representative Action Complaint against Defendant Harvest Management Sub, LLC alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*] in the Superior Court of the State of California, County of Los Angeles (Case No. 20STCV01731). On September 1, 2020, Plaintiff Schafer filed a First Amended Representative Action Complaint adding Holiday AL Management Sub LLC as a Defendant.

3. Blumenthal Nordrehaug Bhowmik De Blouw LLP mailed the necessary correspondence to the LWDA on January 16, 2020 (*Hansen* LWDA Notice) on behalf of Plaintiff Cody Hansen, requesting authorization from the LWDA to seek civil penalties against Holiday AL Management Sub LLC, Harvest Management Sub TRS Corp., and Holiday AL NIC Management LLC as provided by PAGA for the wage and hour violations alleged in the *Hansen* LWDA Notice. The 65-day notice period for the LWDA to notify of its intent to investigate expired on March 21, 2020.

4. On April 28, 2020, Plaintiff Hansen filed a Representative Action Complaint against Defendants Holiday AL Management Sub LLC, Harvest Management Sub TRS Corp., and Holiday AL NIC Management LLC alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*] in the Superior Court of the State of California, County of Contra Costa (Case No. CIVMSC20-00779).

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5. James Hawkins APLC mailed the necessary correspondence to the LWDA on April 15, 2020 (*Grubbs* LWDA Notice)¹ on behalf of Plaintiff Christina Grubbs, requesting authorization from the LWDA to seek civil penalties against Holiday AL Management Sub LLC as provided by PAGA for the wage and hour violations alleged in the *Grubbs* LWDA Notice. The 65-day notice period for the LWDA to notify of its intent to investigate expired on June 19, 2020.

6. On June 23, 2020, Plaintiff Grubbs filed a Representative Action Complaint against Defendant Holiday AL Management Sub LLC (dba Holiday Retirement) alleging a single cause of action for recovery of civil penalties for Violation of the PAGA [Labor Code §§ 2698, *et seq.*] in the Superior Court of the State of California, County of San Diego (Case No. 37-2020-00021646-CU-OE-NC).

7. Defendants deny the allegations made by Plaintiffs in the Actions.

8. On April 27, 2021 and January 28, 2022, the Parties engaged in mediation sessions before mediator Jeff Krivis. Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the Actions which led to the signing of a Memorandum of Understanding.

9. As a result of the settlement, the Parties have agreed to fully and finally resolve the Released PAGA Claims alleged in the Actions pursuant to this Settlement Agreement.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiffs that their claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiffs, the Aggrieved Employees, or any other person, and Defendants specifically disclaim any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Settlement Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or

¹ The *Schafer* First LWDA Notice, *Schafer* Second LWDA Notice, *Hansen* LWDA Notice, and *Grubbs* LWDA Notice are collectively referred to herein as the LWDA Notices.

local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, by Defendants or any other Released Party. The Parties themselves agree not to introduce, use, or admit this Settlement Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding before any court that has as its purpose the interpretation, implementation, or enforcement of this Settlement Agreement or any orders or judgments of the Court entered in connection with the Settlement Agreement.

None of the documents produced or created by Defendants or any other Released Party, Plaintiffs or the Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendants or any other Released Party of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Neither this Settlement Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Actions or in any other action or proceeding; provided, however, this shall not prevent this Settlement Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Settlement Agreement.

2. **Timing.** Within thirty (30) days after the Effective Date of this settlement, Defendants shall pay to the Settlement Administrator \$1,470,000 as the Gross PAGA Settlement Amount, and provide the Aggrieved Employees List to the Settlement Administrator. The Effective Date means the date on which the Court enters an order and judgment granting approval of the PAGA Settlement (“Order and Judgment”). Within seven (7) calendar days of the Settlement Administrator’s confirmation to counsel for all Parties of its receipt of the Gross PAGA Settlement Amount, Plaintiffs shall file requests for dismissal with prejudice of the *Schafer* Action, *Hansen* Action, and *Grubbs* Action. Within seven (7) calendar days of the date of entry of the dismissals with prejudice, the Settlement Administrator shall distribute the Gross PAGA Settlement Amount in accordance with the Order and Judgment. In other words, all three Actions must be dismissed with prejudice before the Settlement Administrator may distribute any sums under this Agreement.

3. **Stay and Dismissal of *Hansen* Action and *Grubbs* Action.** Within seven (7) calendar days of the full execution of this Settlement Agreement, the Parties shall file a Stipulation to Stay the *Hansen* Action and *Grubbs* Action pending the Court’s approval of the PAGA Settlement in the *Schafer* Action. Within seven (7) calendar days of the entry of the Order and Judgment, Plaintiffs shall file a request for dismissal with prejudice of the *Hansen* Action and *Grubbs* Action or take whatever steps are required for dismissal with prejudice of the *Hansen* Action and *Grubbs* Action.

4. **PAGA Demographics.** Defendants have represented that there are approximately 901 Aggrieved Employees who collectively worked 32,649 bi-weekly pay periods during the PAGA Period. Defendants will provide PAGA Counsel a declaration verifying the number of Aggrieved Employees and pay periods worked by the Aggrieved Employees during the PAGA Period. The Gross PAGA Settlement Amount will increase proportionally with added bi-weekly pay periods if the number exceeds a 10% increase by April 27, 2022, by the amount of pay periods over the 10% increase or Defendants may shorten the PAGA Period as of the date so that the PAGA Period will not include more than 10% more than 30,127 bi-weekly pay periods (33,134 pay periods).

5. **Payments From the Gross PAGA Settlement Amount.** The Parties agree to the following allocations to be paid from the Gross PAGA Settlement Amount:

a. **PAGA Payment:** The PAGA Payment is the total of the Gross PAGA Settlement Amount, less the payments for the Attorneys' Fees, Attorneys' Expenses and Costs, and Administration Costs, which shall be paid in full settlement of the Released PAGA Claims. Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted according to the changes made by the Court. The PAGA Payment will be subject to Court approval consistent with Labor Code § 2699. Upon approval, the PAGA Payment shall be distributed as follows:

- (1) The PAGA Payment shall be paid as a Labor Code section 2699 civil penalty payment allocated pursuant to PAGA as follows: 75% of the PAGA Payment will be paid to the LWDA and 25% will be paid to the Aggrieved Employees as their Individual PAGA Payments. Each Individual PAGA Payment shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period. No Aggrieved Employee can object or opt out.
- (2) The penalty settlement payments set forth in section 5(a)(1) will be reported on IRS Form 1099s. The Parties acknowledge and agree that all payments under this Settlement Agreement as PAGA Payments are attributable as penalties. None are attributable as wages. Accordingly, the parties acknowledge and agree that Defendants are not responsible for any employer-side taxes in connection with any PAGA Payments under this Settlement Agreement.

b. **Attorneys' Fees and Attorneys' Expenses:** Thirty-five percent of the Gross PAGA Settlement Amount, which is presently \$514,500, shall be paid to PAGA Counsel for payment of Attorneys' Fees, and up to \$45,000 shall be paid to PAGA Counsel for Attorneys' Expenses and Costs as set forth in the clients' billing statement (pursuant to Declarations by PAGA Counsel) in prosecuting the PAGA claims. Defendants shall not oppose Plaintiffs' request for Attorneys' Fees and Attorneys' Expenses and Costs in these amounts. In the event

that Court approval is required and a payment of less than Thirty-Five percent of the Gross PAGA Settlement Amount in Attorneys' Fees or \$45,000 in Attorneys' Expenses and Costs to PAGA Counsel is approved, the unawarded difference will be added to the PAGA Payment and not to PAGA Counsel or the Defendants, and will not affect approval of the settlement. PAGA Counsel agrees not to appeal any reduction in the award of Attorneys' Fees and/or Attorneys Expenses and Costs. This payment will be reported on IRS Form 1099 issued to PAGA Counsel. Except as set forth herein, each party shall bear their own costs and fees of the Actions. The Fee Amount shall be allocated between PAGA Counsel as follows: Parris Law Firm's share will be 50%; Blumenthal Nordrehaug Bhowmik De Blouw LLP's share will be 30%; and James Hawkins APLC's share will be 20%.

c. Administration Costs: A Settlement Administrator shall be selected after receipt of bids and shall be mutually agreed to by the Parties. Administration costs shall not exceed the estimate of the Settlement Administrator to administrate the settlement. Administration Costs shall include the cost of the Settlement Administrator selected by the Parties to administer the settlement in the amount of up to \$5,400. In the event that Court approval of these payments is required and a payment of less than \$5,400 is approved, or if the actual cost to administer the settlement is less than \$5,400, the difference will be added to the PAGA Payment. In the event the cost to administer the settlement exceeds \$5,400, the additional costs shall be paid out of the Gross PAGA Settlement Amount if approved by the Court.

d. Representative PAGA Release. In their capacity as private attorney general "Aggrieved Employees" acting on behalf of the State of California and the Aggrieved Employees, and in consideration of the PAGA Payment and the payment to PAGA Counsel for Attorneys' Fees and Attorneys' Expenses and Costs, upon entry of the Judgment, the occurrence of the Effective Date and full funding, will release Defendants from any and all Released PAGA Claims.

6. Plaintiffs and Aggrieved Employees acknowledge and agree that Defendants have made no representations to them regarding the tax consequences of any amounts received by them pursuant to this Settlement Agreement. Plaintiffs and Aggrieved Employees agree to pay federal or state taxes, if any, which are required by law to be paid with respect to any monetary consideration set forth in this Settlement Agreement. Plaintiffs and Aggrieved Employees further agree to hold Defendants harmless from any claims, demands, deficiencies, levies, assessments, executions, judgments or recoveries by any governmental entity against Defendants for any amounts claimed due on account of Plaintiffs' and Aggrieved Employees' failure to pay taxes due, if any, related to this Settlement Agreement or pursuant to claims made under any federal or state tax laws, and any costs, expenses or damages sustained by Defendants by reason of any such claims, including any amounts paid by Defendants as taxes, attorneys' fees, deficiencies, levies, assessments, fines, penalties, interest or otherwise. Plaintiffs and Aggrieved Employees are committing to hold harmless Defendants concerning only tax consequences created by Plaintiffs' and Aggrieved Employees' breach of their own tax obligations

7. Released PAGA Claims.

a. Upon entry of the Order and Judgment, the Effective Date and full funding,

the State of California and the Aggrieved Employees will release the Released Parties from all “Released PAGA Claims”. “Released PAGA Claims” means all PAGA claims for civil penalties under California Labor Code §§ 2698 *et seq.*, predicated on the California Labor Code claims that are asserted in the LWDA Notices and operative *Schafer, Hansen, and Grubbs* complaints which are for civil penalties pursuant to Labor Code section 2699, *et seq.* for violations of Labor Code sections §§ 201, 202, 203, 204, 210, 226(a), 226.7, 226.8, 510, 512, 558, 1194, 1197, 1197.1, 1198, 2802 and applicable Industrial Welfare Commission Wage Orders. The Released PAGA Claims does not include class claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability, and workers’ compensation, and claims outside of the PAGA Period. The Released PAGA Claims do not include any claims that cannot be released as a matter of law. **In no event shall the release of the Released PAGA Claims in this Settlement Agreement release any individual claims of any individuals, but for the three individual Plaintiffs via their own release agreements as noted below.**

b. In addition to the Gross PAGA Settlement Amount, Defendants have agreed to separately settle Plaintiffs’ individual claims pursuant to a separate confidential Individual Settlement Agreement. If the Court and/or the LWDA requires the Parties to submit the terms of Plaintiffs’ Individual Settlement Agreement to obtain approval of the PAGA settlement, the Parties agree that the terms of Plaintiffs’ Individual Settlement Agreement will only be submitted under seal or disclosed to the Court and/or LWDA in some other way to ensure that the Individual Settlement Amounts are not disclosed publicly.

8. Covenants and Representations by Plaintiffs and PAGA Counsel.

a. Plaintiffs represent and warrant that they have not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

b. Plaintiffs acknowledge that they have read this Settlement Agreement, that they fully understand their rights, privileges and duties under the Settlement Agreement, and enter into this Settlement Agreement freely and voluntarily. Plaintiffs further acknowledge they had the opportunity to consult with their attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

9. Court Approval of the PAGA Settlement. The Settlement Agreement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement Agreement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court’s questions or concerns. If after the Parties make at least three (3) good faith efforts, the Court does not approve this Settlement Agreement, or if appellate review is sought and on such review the Court’s decision is materially modified or reversed, or if one or more of the terms of the Settlement Agreement are not approved or is materially modified or reversed or found to be invalid and the Parties in good faith do not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect,

and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the date of mediation.

IV. ADMINISTRATION OF SETTLEMENT

1. Settlement Administrator will administer the settlement and shall be paid for Administration Costs, which are estimated to be up to \$5,400. Defendants will provide the necessary information about the Aggrieved Employees to the Settlement Administrator within thirty (30) days of the Effective Date.

2. Within seven (7) calendar days of the Court's entry of dismissals of all three Actions, the Settlement Administrator will issue to each Aggrieved Employee a check for their Individual PAGA Payment at their last known home address along with an explanatory letter which will be mutually approved by the parties. Checks will remain negotiable for one hundred eighty (180) days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, Social Security number, phone number, credit reporting and social media of the Aggrieved Employee involved and will then perform a re-mailing. If an Aggrieved Employees' check is not cashed within 120 days after its first mailing to the Aggrieved Employees the Settlement Administrator shall send the affected Aggrieved Employees notice informing them that unless their check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. All checks not cashed within 180 days of payment shall be paid to the State Controller Fund in the name(s) of the absent Aggrieved Employees, subject to Court approval and the Aggrieved Employees shall remain bound by the Settlement. The Individual PAGA Payments are 100% penalties and shall be reported using IRS tax form 1099.

3. Within seven (7) calendar days of the Court's entry of dismissals of all three Actions, the Settlement Administrator will pay the Attorneys' Fees, the Attorneys' Expenses and Costs, the Administration Costs, and the portion of the PAGA Payment allocated to the LWDA from the Gross PAGA Settlement Amount.

4. The Settlement Administrator will provide an accounting under oath to the parties of the amounts paid out.

5. Defendants make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. Drafting. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. No Impact on Benefit Plans. Neither the Settlement Agreement nor any amounts paid to Plaintiffs or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendants. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendants' sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendants' benefit plans, policy, or bonus program. Defendants retain the right, if necessary, to modify the language of its benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

3. Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

4. Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Settlement Agreement and in connection with the Actions and Plaintiffs' claims, except as otherwise set forth specifically herein.

5. Authority. Defendants represent and warrant that the undersigned has the authority to act on behalf of Defendants and to bind Defendants to the terms of this Settlement Agreement. Plaintiffs represents and warrant that they have the capacity to act on their own behalf and on behalf of all who might claim through them to bind them to the terms and conditions of this Settlement Agreement.

6. Governing Law. This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Los Angeles County, California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Los Angeles.

7. Complete Agreement. The Parties acknowledge and represent that this Settlement Agreement and the Individual Settlement Agreements contain the entire understanding between them with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between them, written and oral, with respect to the subject matter hereof. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.

8. Judgment and Continued Jurisdiction. After approval of this settlement, the Parties agree that the Court shall retain continuing jurisdiction over this case under Code of Civil Procedure section 664.6 to ensure the continuing implementation of the provisions of this settlement and that the time within which to bring this action to trial under Code of Civil Procedure section 583.310 shall be extended from the date of the signing of this Settlement Agreement by all parties until the entry of the Order and Judgment or if not entered the date this Settlement Agreement shall no longer be of any force or effect. In the event that the Court does not approve the Settlement, or if the Order and Judgment is reversed on appeal, then there shall be no Effective Date and this Agreement shall become null and void.

9. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement of the Actions. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement of the Actions, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement Agreement, the Parties may seek the assistance of the mediator to resolve such disagreement.

10. Execution in Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, this Settlement Agreement may be executed in one or more counterparts by facsimile, electronic signature, or email which for purposes of this Settlement Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Settlement Agreement.

11. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Actions and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

12. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

13. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

14. Severability. If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

15. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

16. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

17. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and receive approval from the Court.

18. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement Agreement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

19. Denial of Liability. The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants or an admission or concession regarding the validity of the claims in the Actions. Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Actions, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation or lack of violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in any court that has as its purpose the interpretation, implementation, or enforcement of the Settlement Agreement or any orders or judgments of the Court entered into in connection therewith.

20. No Admission of Liability or Wrongdoing by Defendants. Defendants contend that all of its employees were compensated in compliance with the law, and that their conduct was not willful with respect to any alleged failure to pay any wages or penalties. Defendants

have denied, and continue to deny, each of the claims and contentions alleged in the Actions. Defendants have asserted and continue to assert defenses thereto, and have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Actions. Neither this Settlement Agreement, nor any action taken to carry out the terms of this Settlement Agreement, shall ever be construed as, offered, admitted, received or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Defendants or any of the Released Parties, or may be used as an admission, concession, or indication by or against Defendants of any fault, wrongdoing, or liability whatsoever.

21. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of the Settlement Agreement, Plaintiffs and Defendants, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Order and Judgment, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Order and Judgment will become final and non-appellable at the time it is entered.

22. **Stay of Litigation.** The Parties agree that the continuing litigation of the Actions shall be stayed and that the time within which to bring this action to trial under Code of Civil Procedure section 583.310 shall be extended from the date of the signing of this Settlement Agreement by all Parties until the entry of the Order and Judgment or if not entered the date this Settlement Agreement shall no longer be of any force or effect.

23. **Confidentiality.** Plaintiffs and PAGA Counsel agree not to disclose the terms of this settlement except in court papers or if required by the legal process (including submissions to the Court for purposes of obtaining approval of the settlement or submissions to the LWDA in order to comply with the requirements of PAGA), except that PAGA Counsel may put publicly available information about the settlement in any description of their experience or the like in order to describe their experience to a court and may post publicly filed documents on PAGA Counsel's website. Plaintiffs and PAGA Counsel shall not issue a press release, hold a press conference, publish information about the settlement on any website, or otherwise publicize the settlement. Plaintiffs and PAGA Counsel agree not to respond to any press inquiries except to refer reporters to the papers filed with the Court. Plaintiffs and Plaintiffs' Counsel further agree that the materials exchanged preceding and at mediation are confidential and privileged and shall not be used in any future action. This provision does not apply to any needed disclosures by Plaintiffs or PAGA Counsel to their accountants.

24. **No Other Representation.** The Parties represent and acknowledge that, in executing this Settlement Agreement, they do not rely and have not relied upon any representation or statement made by any of the Parties or by any party's agents, attorneys, or representatives with regard to the subject matter, basis, or effect of this Settlement Agreement, other than those specifically stated in this written Settlement Agreement

25. **Plain Meaning.** This Settlement Agreement shall be interpreted in accordance with the plain meaning of its terms.

26. Specific Performance. If at any time a violation of any term of this Settlement Agreement is asserted by any of the Parties, that party shall have the right to seek specific performance of that term and/or any other necessary and proper relief, including but not limited to damages, from any court of competent jurisdiction. The prevailing party shall be entitled to recover its reasonable costs and attorneys' fees.

27. Court Filings. The Parties agree not to object to any Court filings consistent with and/or effectuating this Agreement.

28. Disputes. Any dispute between the Parties as to the remaining terms of the Settlement Agreement shall be presented to the mediator, Jeff Krivis, for resolution.

[Signature Page Follows]

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

PLAINTIFFS:

Dated: 5/1/2023 _____

DocuSigned by:



198A6E1ECAD4469

Magen Schafer

Dated: _____

Cody Hansen

Dated: _____

Christina Grubbs

DEFENDANTS:

Dated: _____

HARVEST MANAGEMENT SUB LLC

By: _____

Dated: _____

HOLIDAY AL MANAGEMENT SUB LLC
(dba Holiday Retirement)

By: _____

Dated: _____

HARVEST MANAGEMENT SUB TRS CORP.

By: _____

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

PLAINTIFFS:

Dated: _____

Magen Schafer

Dated: Mar 6, 2023

Cody Lee Hansen
Cody Lee Hansen (Mar 6, 2023 10:26 PST)

Dated: 4/10/2023

Christina Grubbs
DocuSigned by:
ED98B17C0D27418...
Christina Grubbs

DEFENDANTS:

Dated: _____

HARVEST MANAGEMENT SUB LLC

By: _____

Dated: _____

HOLIDAY AL MANAGEMENT SUB LLC
(dba Holiday Retirement)

By: _____

Dated: _____

HARVEST MANAGEMENT SUB TRS CORP.

By: _____

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement Agreement, accept and agree to the provisions contained in this Settlement Agreement and hereby execute it voluntarily and with full understanding of its consequences.

PLAINTIFFS:

Dated: 5/1/2023

DocuSigned by:



Magen Schafer

Dated: _____

Cody Hansen

Dated: _____

Christina Grubbs

DEFENDANTS:

Dated: May 16, 2023

HARVEST MANAGEMENT SUB LLC

By: W.B. Zuh

Dated: May 16, 2023

HOLIDAY AL MANAGEMENT SUB LLC
(dba Holiday Retirement)

By: W.B. Zuh

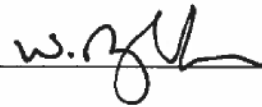
Dated: May 16, 2023

HARVEST MANAGEMENT SUB TRS CORP.

By: W.B. Zuh

Dated: May 16, 2023

HOLIDAY AL NIC MANAGEMENT LLC

By: 

APPROVED AS TO FORM AND CONTENT:

PARRIS LAW FIRM

Dated: _____

By: 
Kitty K. Szeto
Counsel for Plaintiffs

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Dated: _____

By: _____
Norman B. Blumenthal
Counsel for Plaintiffs

JAMES HAWKINS APLC

Dated: _____

By: _____
James R. Hawkins
Counsel for Plaintiffs

CDF LABOR LAW LLP

Dated: May 17, 2023

By: 
John R. Giovannone
Counsel for Defendants

Dated: _____

HOLIDAY AL NIC MANAGEMENT LLC

By: _____

APPROVED AS TO FORM AND CONTENT:

PARRIS LAW FIRM

Dated: _____

By: _____

Kitty K. Szeto
Counsel for Plaintiffs

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Dated: 3/6/23

By: 

Norman B. Blumenthal
Counsel for Plaintiffs

JAMES HAWKINS APLC

Dated: April 10, 2023

By: 

James R. Hawkins
Counsel for Plaintiffs

CDF LABOR LAW LLP

Dated: _____

By: _____

John R. Giovannone
Counsel for Defendants

Kitty Szeto

From: DIR PAGA Unit <lwdadonotreply@dir.ca.gov>
Sent: Wednesday, July 5, 2023 4:04 PM
To: Kitty Szeto
Subject: Thank you for your Proposed Settlement Submission

*** WARNING: This email originated outside of PARRIS Law Firm. Do not click links or open attachments unless you recognize the sender and know the content is safe.***

07/05/2023 04:03:31 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Proposed Settlement

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: https://urldefense.proofpoint.com/v2/url?u=http-3A__labor.ca.gov_Private-5FAttorneys-5FGeneral-5FAct.htm&d=DwlFaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=tp_Ez5gqpqPP-ruHdSpeph1nLyVeCQo0KxI5o4ldICE&m=74mUUWndC9Azz2y8AedHxY4ydWVJ51mV-ff4bVmpkyQ&s=PcXbAQcvhtZotVjgvffaQUo3NJ38YVqenbzEbk_2oE4&e=

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1. The fully executed Settlement Agreement attached as **Exhibit “1”** to the Stipulation is approved pursuant to California Labor Code section 2699(l)(1);

3. PAGA Counsel's Attorneys' Fees in the amount of \$514,500.00 is hereby approved;

5. The Settlement Administrator's Administration Costs in the amount of \$5,400.00 is hereby approved;

7. The Court hereby enters judgment for Plaintiff, the State of California, and the Aggrieved Employees as defined in the Settlement Agreement; and

9. All current hearings in Dept. 53 are advanced and vacated. Plaintiffs shall give notice.



Robert B. Broadbelt / Judge

Honorable Robert B. Broadbelt
Los Angeles Superior Court

PROOF OF SERVICE
1013A(3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 43364 10th Street West, Lancaster, California 93534.

On July 5, 2023, I served the foregoing document described as **STIPULATION AND [PROPOSED] ORDER TO APPROVE PAGA SETTLEMENT** by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

John R. Giovannone, Esq.
jgiovannone@cdfllaborlaw.com
CDF LABOR LAW LLP
707 Wilshire Boulevard, Suite 5150
Los Angeles, California 90017
Telephone: (213) 612-6300

*Counsel for Defendants Harvest
Management Sub, LLC & Holiday AL
Management Sub LLC*

Kyle R. Nordrehaug, Esq.
kyle@bamlawca.com
BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP
2255 Calle Clara
La Jolla, California 92037
Telephone: (858) 551-1223
Facsimile: (858) 551-1232

Counsel for Plaintiff Cody Hansen

James Hawkins, Esq.
James@jameshawkinsaplc.com
Sean S. Vahdat, Esq.
sean@vahdatlaw.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, California 92618
Telephone: (949) 387-7200
Facsimile: (949) 387-6676

Counsel for Plaintiff Christine Gubbs

[X] **BY ELECTRONIC SERVICE as follows:** Based on an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addressed listed above.

Executed on July 5, 2023, at Lancaster, California.

[X] I declare under penalty of perjury under the laws of the State of California that the above is true and correct.



Kitty K. Szeto