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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CRUZ
(UNLIMITED JURISDICTION)

MARIA RIOS-ROMAN, on behalf of herself, all others similarly situated, the general public, and as an “aggrieved employee” on behalf of other “aggrieved employees” under the Labor Code Private Attorneys General Act of 2004,

Plaintiff(s),

vs.

SEASONS MANAGEMENT, LLC, an Oregon limited liability company; SM SANTA CRUZ LIMITED PARTNERSHIP, an Oregon limited partnership; SL - SUN OAK, LLC, an Oregon limited liability company; and DOES 1–50, inclusive,

Defendant(s).

Case No. 20CV00783

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

The Motion of Plaintiff Maria Rios-Roman (hereafter referred to as “Plaintiff”) for Preliminary Approval of a Class Action Settlement (the “Motion”) was considered by the Court, The Honorable Paul M. Marigonda presiding. The Court having considered the Motion, the Joint Stipulation of Class Action Settlement and Release of Claims (“Settlement” or “Settlement Agreement”), and supporting papers, HEREBY ORDERS THE FOLLOWING:

1. The Court grants preliminary approval of the Settlement and the Settlement Class based upon the terms set forth in the Settlement filed as an Exhibit to the Motion for Preliminary Approval. All terms herein shall have the same meaning as defined in the Settlement. The Court has determined there is sufficient evidence to preliminarily determine that (a) the terms of the Settlement appear to be fair, adequate, and reasonable to the Settlement Class and (b) the



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1 Settlement falls within the range of reasonableness and appears to be presumptively valid, subject
2 only to any objections that may be raised at the final hearing and final approval by this Court. The
3 Court will make a determination at the hearing on the motion for final approval of class action
4 settlement (the “Final Approval Hearing”) as to whether the Settlement is fair, adequate and
5 reasonable to the Settlement Class.

6
7 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
8 all persons Defendants employed on an hourly, non-exempt basis in California (collectively
9 “Class Members”), who worked anytime during the Class Period. The “Class Period” shall mean
10 the period of time from November 13, 2016, through the preliminary approval order date.
11 Defendants estimate that as of the preliminary approval order date, there were 362 potential
12 Settlement Class Members. The “Effective Date” means as follows: If no objection to this
13 Settlement or to any of the terms and or conditions of the Settlement are filed by Plaintiff, another
14 member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur
15 on the day that the Court enters an order of final approval of this Settlement; however, if any
16 objection to this Settlement or to any of the terms and or conditions of the Stipulation is filed by
17 a member of the Settlement class, or any intervenor to this Lawsuit, the Effective Date shall occur
18 upon the expiration of the time for the filing any appeal of the order of final approval of this
19 Settlement. If an appeal is filed or any writ granted, then the Effective Date shall occur after the
20 appeal has been dismissed or the writ dissolved and when there is no further time to appeal the
21 dismissal of the appeal or the dissolution of the writ. The occurrence of the Effective Date is a
22 prerequisite to any obligation of Defendants to pay any funds into the Settlement Account.

23
24 3. This action is provisionally certified pursuant to section 382 of the California Code
25 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
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1 purposes of settlement only with respect to the proposed Settlement Class.

2 4. The Court hereby preliminarily finds that the Settlement was the product of
3 serious, informed, non-collusive negotiations conducted at arm's length by the Parties. In making
4 this preliminary finding, the Court considered the nature of the claims set forth in the pleadings,
5 the amounts and kinds of benefits which shall be paid pursuant to the Settlement, the allocation
6 of Settlement proceeds to the Settlement Class, and the fact that the Settlement represents a
7 compromise of the Parties' respective positions. The Court further preliminarily finds that the
8 terms of the Settlement have no obvious deficiencies and do not improperly grant preferential
9 treatment to any individual Class Member. Accordingly, the Court preliminarily finds that the
10 Settlement was entered into in good faith.

11
12 5. The Court finds that the dates set forth in the Settlement for mailing and
13 distribution of the Class Notice meet the requirements of due process and provide the best notice
14 practicable under the circumstances, and constitute due and sufficient notice to all persons entitled
15 thereto, and directs the mailing of the Class Notice by first class mail to the Settlement Class as
16 set forth in the Settlement. Accordingly, the Court orders the following implementation schedule
17 for further proceedings:

- 18
19 a. By _____, Defendants shall provide Phoenix Settlement
20 Administrators, the appointed Settlement Administrator, with: (a) An
21 electronic database of all Class Members, last known mailing address, Social
22 Security number and Defendants' employee identification number ("Class
23 Members' Data"); and (b) Corresponding to each Class Member's name,
24 Defendants shall provide a figure indicating the total number of Pay Periods
25 during the Class Period in which Defendants employed the Class Member.
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1 That number of Pay Periods shall be referred to as that Class Member's
2 "Individual Pay Periods;" (c) If any of the Class Members' Data are
3 unavailable to Defendants, Defendants will so inform Class Counsel and the
4 Parties will make their best efforts to reconstruct or otherwise agree upon the
5 Class Members' Data prior to when it must be submitted to the Settlement
6 Administrator. Class Members' Data will otherwise remain confidential and
7 will not be disclosed to anyone, except as necessary to applicable taxing
8 authorities, or pursuant to Defendants' express written authorization or by
9 order of the Court.
10

11 b. **Mailing of Class Notice.** By _____, approximately
12 fourteen (14) days after receiving the Class Members' Data, or as soon
13 thereafter as it can do so, the Settlement Administrator will mail the Class
14 Notice to all identified Class Members via first-class U.S. mail using the
15 mailing address information provided by Defendants, unless modified by any
16 updated address information that the Settlement Administrator obtains in the
17 course of administration of the Settlement.
18

19 c. **Returned Class Notice.** If a Class Notice is returned because of an incorrect
20 address, the Settlement Administrator will promptly, and not later than ten (10)
21 days from receipt of the returned Class Notice, search for a more current
22 address for the Class Member and re-mail the Class Notice to the Class
23 Member. The Settlement Administrator will use the Class Members' Data and
24 otherwise work with Defendants' Counsel and Class Counsel to find a more
25 current address. The Settlement Administrator will be responsible for taking
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1 reasonable steps, consistent with its agreed-upon job parameters, court orders,
2 and fee, to trace the mailing address of any Class Member for whom a Class
3 Notice is returned as undeliverable by the U.S. Postal Service. These
4 reasonable steps shall include the tracking of all undelivered mail; performing
5 address searches for all mail returned without a forwarding address; and
6 promptly re-mailing to Class Members for whom new addresses are found. If
7 the Class Notice is re-mailed, the Settlement Administrator will note for its
8 own records and notify Class Counsel and Defendants' Counsel of the date and
9 address of each such re-mailing as part of a weekly status report provided to
10 the Parties.

11
12 d. **Declaration of Settlement Administrator.** Not later than twenty-one (21)
13 court days prior to the Final Approval Hearing, the Settlement Administrator
14 will provide the Parties for filing with the Court a declaration of due diligence
15 setting forth its compliance with its obligations under this Agreement. Prior to
16 the Final Approval Hearing, the Settlement Administrator will supplement its
17 declaration of due diligence if any material changes occur from the date of the
18 filing of its prior declaration.

19
20 e. **Requests for Exclusion from Settlement; and Objections to Settlement.**
21 Class Members may submit requests to be excluded from the effect of the
22 Settlement, or objections to the Settlement, pursuant to the following
23 procedures:

24
25 i. **Request for Exclusion from Settlement.** A Class Member may
26 request to be excluded from the effect of this Agreement, and any
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1 payment of amounts under this Agreement, by timely mailing a letter
2 to the Settlement Administrator stating that the Class Member wants to
3 be excluded from this Action. This letter must include the Class
4 Member's name, address, telephone number, and signature. To be valid
5 and timely, the request to be excluded must be postmarked by the date
6 specified in the Class Notice (_____, or 60 days from the
7 initial mailing of the Class Notice by the Settlement Administrator). A
8 Class Member who properly submits a valid and timely request to be
9 excluded from the Action shall not receive any payment of any kind in
10 connection with this Agreement or this Action, shall not be bound by
11 or receive any benefit of this Agreement, and shall have no standing to
12 object to the Settlement. A request for exclusion must be mailed to the
13 Settlement Administrator at the address provided on the Class Notice.
14 The Settlement Administrator shall transmit the request for exclusion
15 to counsel for the Parties as follows:

16
17
18
19 *To Class Counsel:*

20 David G. Spivak
21 The Spivak Law Firm
22 8605 Santa Monica Bl
23 PMB 42554
24 West Hollywood, CA 90069

To Defense Counsel:

Carolyn B. Hall
Ogletree, Deakins, Nash, Smoak & Stewart,
P.C.
One Embarcadero Center
Suite 900
San Francisco, CA 94111

- 25 ii. **Objections to Settlement.** The Class Notice will provide that any
26 Class Member who does not request exclusion from the Action and
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who wishes to object to the Settlement should submit an objection in writing to the Settlement Administrator by 60 days after the Settlement Administrator mails the Class Notice, a written objection to the Settlement which sets forth the grounds for the objection and the other information required by this paragraph. The objection should be mailed to the Settlement Administrator at the address provided on the Class Notice. The Settlement Administrator shall transmit the objections to counsel for the Parties as follows:

To Class Counsel:

David G. Spivak
The Spivak Law Firm
8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069

To Defense Counsel:

Carolyn B. Hall
Ogletree, Deakins, Nash, Smoak & Stewart,
P.C.
One Embarcadero Center
Suite 900
San Francisco, CA 94111

The written objection should state the objecting Class Member's full name, address, and the approximate dates of his or her employment with Defendants. The written objection should state the basis for each specific objection and any legal support in clear and concise terms. The written objection also should state whether the Class Member intends to formally intervene and become a party of record in the action, and upon formally intervening, appear and argue at the Final Approval Hearing. However, the objectors will be provided with the opportunity to speak at the final approval hearing regardless of whether they have filed an appearance or submitted a written opposition beforehand.

If the objecting Class Member does not formally intervene in the action



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1 and/or the Court rejects the Class Member's objection, the Class
2 Member may still be bound by the terms of this Agreement.

3 f. **Report.** Not later than fourteen (14) days after the deadline for submission of
4 requests for exclusion, the Settlement Administrator will provide the Parties
5 with a complete and accurate list of all Class Members who sent timely
6 requests to be excluded from the Action and all Class Members who objected
7 to the settlement.
8

9 6. The Court approves, as to form and content, the Class Notice in substantially the
10 form attached as Exhibit A to the Settlement, the Exclusion Request form in substantially the
11 form attached as Exhibit B to the Settlement, and the Pay Periods Dispute form in substantially
12 the form attached as Exhibit C to the Settlement.
13

14 7. The Court approves, for settlement purposes only, David Spivak of The Spivak
15 Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

16 8. The Court approves, for settlement purposes only, Maria Rios-Roman as the Class
17 Representative.

18 9. The Court approves Phoenix Settlement Administrators as the Settlement
19 Administrator.
20

21 10. The Court preliminarily approves Class Counsel's request for attorneys' fees and
22 costs subject to final review by the Court.

23 11. The Court preliminarily approves the estimated Settlement Administrator costs
24 payable to the Settlement Administrator subject to final review by the Court.

25 12. The Court preliminarily approves Plaintiff's Class Representative Payment subject
26 to final review by the Court.
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1 13. A Final Approval Hearing shall be held on _____ at _____**.m.** in the
2 Superior Court for the State of California, County of Santa Cruz, located at Santa Cruz Main
3 Courthouse, 701 Ocean Street, Santa Cruz, CA 95060 to consider the fairness, adequacy and
4 reasonableness of the proposed Settlement preliminarily approved by this Preliminary Approval
5 Order, and to consider the application of Class Counsel for attorneys' fees and costs and the Class
6 Representative Payment to the Class Representative. The notice of motion and all briefs and
7 materials in support of the motion for final approval of class action settlement and motion for
8 attorneys' fees and litigation costs shall be served and filed with this Court on or before
9 _____
10 _____.

11 14. If for any reason the Court does not execute and file a final approval order and
12 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
13 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
14 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
15 litigation, as more specifically set forth in the Settlement.
16

17 15. The Court expressly reserves the right to adjourn or continue the Final Approval
18 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
19 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
20

21 **IT IS SO ORDERED.**

22 DATED: _____

23 **THE HONORABLE PAUL M. MARIGONDA**
24 **JUDGE OF THE SUPERIOR COURT**



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