

DAILY ALJIAN LLP

Justin E. D. Daily (State Bar No. 209772)

jd@dallp.com

Reed Aljian (State Bar No. 211010)

ra@dallp.com

Simon Kwak (State Bar No. 297362)

sk@dallp.com

Joshua D. Klein (State Bar No. 322099)

jklein@dallp.com

100 Bayview Circle, Suite 5500

Newport Beach, CA 92660

Tel: 949.861.2524; Fax: 949.269.6364

LAW OFFICE OF DANIEL J. HYUN

Daniel J. Hyun (State Bar No. 309184)

dh@danielhyunlaw.com

1100 West Town and Country Road, Suite 1250

Orange, CA 92868

Tel: (949) 596-4782; Fax: (949) 528-2596

Attorneys for Plaintiff JOSE REFUGIO
GONZALEZ QUIROZ, individually and on behalf
of all others similarly situated

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO**

JOSE REFUGIO GONZALEZ QUIROZ,
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

COFFMAN SPECIALTIES, INC., a
California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No. 37-2020-00022698-CU-OE-CTL

Assigned for All Purposes to:
Hon. Katherine Bacal
Dept. C-69

**JOINT STIPULATION FOR COURT
APPROVAL OF DISMISSAL OF
ACTION FILED PURSUANT TO PAGA
AS TO PLAINTIFF JOSE REFUGIO
GONZALEZ QUIROZ; AND
[PROPOSED] ORDER**

Action Filed: July 1, 2020
Trial Date: None Set

1 KHATEREH S. FAHIMI, Bar No. 252152
2 sfahimi@littler.com
3 LITTLER MENDELSON, P.C.
4 501 W. Broadway, Suite 900
5 San Diego, CA 92101.3577
6 Telephone: (619) 232-0441
7 Fax No.: (619) 232-4302

8
9
10
11 Attorneys for Defendant
12 COFFMAN SPECIALTIES, INC.
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JOINT STIPULATION

Plaintiff Jose Refugio Gonzalez Quiroz (“Plaintiff”) and Defendant Coffman Specialties, Inc. (“Defendant”) (collectively, the “Parties”), by and through their respective counsel of record, have settled claims between them and, pursuant thereto, hereby enter into the following stipulation for court approval of the settlement as follows:

WHEREAS, Plaintiff originally initiated this action (the “Action”) as a class action alleging violations of the California Labor Code and later amended to add a cause of action under the Private Attorneys General Act of 2004, codified at Labor Code section 2698, *et seq* (“PAGA”).

WHEREAS, on October 1, 2021, the Court dismissed Plaintiff’s individual and class claims without prejudice pursuant to Plaintiff’s voluntary request for dismissal, leaving the PAGA claim as the only pending claim in the Action.

WHEREAS, on November 15, 2021 the Court granted an alternative request on Defendant Coffman Specialties Inc.’s motion to compel arbitration as to the arbitrability of Plaintiff’s PAGA claim and applicability of Labor Code Section 2699.6, which states that PAGA does not apply to employees in the construction industry with respect to work performed under a valid collective bargaining agreement, and stayed the matter pending arbitration.

WHEREAS, the Parties have since agreed to settle Plaintiff’s individual and PAGA claims as to Plaintiff only upon on the terms set forth in a written settlement agreement (“Settlement Agreement” or “Settlement”), a true and correct copy of which is attached hereto as **Exhibit 1**.

WHEREAS, the Settlement allocates \$100 to the settlement of Plaintiff’s PAGA claim, 75% of which shall be paid to the California Labor & Workforce Development Agency (“LWDA”) pursuant to Labor Code section 2699(i) and 25% of which shall be paid to Plaintiff, the alleged aggrieved employee.

WHEREAS, the Parties’ proposed Settlement Agreement has been submitted to the LWDA pursuant to Labor Code section 2699(1)(2), as reflected in the true and correct copy of the LWDA’s confirmation of the submission, which is attached hereto as **Exhibit 2**.

WHEREAS, in a settlement of a PAGA claim, the court must “review and approve” the settlement. Labor Code § 2699(1)(2).

WHEREAS, Plaintiff’s previously dismissed individual claims and pending individual

1 PAGA claim are to be dismissed with prejudice, the previously dismissed class claims are to remain
2 dismissed without prejudice, and the pending PAGA claim as to any other potentially aggrieved
3 employee of Defendant are also to be dismissed without prejudice.

4 WHEREAS, the Parties and their respective counsel believe that the settlement is fair,
5 reasonable, and adequate given the facts and legal issues presented, and where the Court has
6 discretion to reduce any PAGA penalties awarded pursuant to Labor Code section 2699(e)(2).

7 NOW THEREFORE, IT IS HEREBY STIPULATED by the Parties, through their respective
8 counsel of record, that the Parties jointly request that the Court enter an order approving the
9 Settlement.

10 Dated: August 19, 2022

DAILY ALJIAN LLP &
LAW OFFICE OF DANIEL J. HYUN

12 By: /s/ Simon Kwak

13 Justin E. D. Daily
14 Simon Kwak
15 Daniel J. Hyun
Attorneys for Plaintiff Jose Refugio
Gonzalez Quiroz

16 Dated: August 19, 2022

LITTLER MENDELSON, P.C.

18 By: /s/ Katerreh S. Fahimi

19 Khatereh S. Fahimi
20 Attorneys for Defendant
21 Coffman Specialties, Inc.
22
23
24
25
26
27
28

[PROPOSED] ORDER

The Court, having considered the Joint Stipulation for Court Approval of Action Filed Pursuant to PAGA as to Plaintiff Jose Refugio Gonzalez Quiroz (the “Stipulation”) and the proposed Settlement Agreement between Plaintiff Jose Refugio Gonzalez Quiroz (“Plaintiff”) and Defendant Coffman Specialties, Inc. (“Defendant”) (collectively, the “Parties”), and pursuant to Labor Code section 2699(1)(2), HEREBY ORDERS AS FOLLOWS:

1. Plaintiff’s individual PAGA penalties sought as part of the Settlement Agreement is approved. The amount allocated to Plaintiff’s individual PAGA penalties shall be allocated pursuant to Labor Code section 2699(i), with 75% payable to the California Labor Workforce Development Agency and 25% payable to Plaintiff.
2. Plaintiff and the LWDA are bound by the release as to Plaintiff’s individual PAGA claims only as set forth in Paragraph 4 of the Settlement Agreement, which is attached to the Stipulation as Exhibit 1.
3. The Order entered by this Court on October 1, 2021, is modified only with respect to Plaintiff’s individual claims such that the prior dismissal of Plaintiff’s individual claims without prejudice shall now be dismissed with prejudice. The dismissal with respect to any other putative class member shall remain without prejudice.
4. As to the PAGA claim, only Plaintiff’s individual PAGA claim is hereby dismissed with prejudice. The representative PAGA claim as to any other allegedly aggrieved employee, however, is hereby dismissed without prejudice.
5. Without affecting the finality of this Order or the dismissals referenced above, the Court retains jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation and enforcement of this Order and the Settlement Agreement.

IT IS SO ORDERED.

Dated: _____

Hon. Katherine Bacal
San Diego Superior Court

EXHIBIT 1
to
Joint Stipulation

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is signed and agreed between Jose Refugio Gonzalez Quiroz ("Gonzalez Quiroz") and Coffman Specialties, Inc. (the "Company") with the following terms.

1. Definitions.

(a) "Gonzalez Quiroz" as used in this Agreement means Jose Refugio Gonzalez Quiroz and Gonzalez Quiroz's heirs, devisees, legatees, executors, administrators, assigns, agents, representatives, businesses, insurers, subrogees, and attorneys, and any other persons or entities acting by, through, under, or in concert with any of the persons or entities listed in this subsection.

(b) "Released Parties" as used in this Agreement means Coffman Specialties, Inc. and all related companies, predecessors, successors, assigns, businesses, affiliates, subsidiaries, divisions, holding companies, parent companies, partnerships, limited partnerships, partners, and any of their officers, directors, trustees, conservators, employees, agents, contractors, representatives, shareholders, stockholders, direct and indirect owners, heirs, devisees, legatees, executors, administrators, insurers, subrogees, and attorneys, and their heirs, devisees, legatees, executors, administrators, assigns, agents, representatives, businesses, insurers, subrogees, and attorneys, and any other persons or entities acting by, through, under, or in concert with any of the persons or entities listed in this subsection.

2. Payments and Consideration. Provided Gonzalez Quiroz provides signed IRS Forms W-4 and W-9 and does not revoke the Agreement pursuant to Paragraph 10, the Company shall pay Gonzalez Quiroz the gross amount of \$22,500 (inclusive of attorneys' fees and costs, and allocation of Gonzalez Quiroz's individual PAGA payment in the amount of \$100 with \$75 (i.e., 75%) to be allocated to the Labor and Workforce Development Agency ("LWDA") pursuant to California Labor Code §2699(i)) within 10 days of the dismissal of the Lawsuit in accordance with Paragraph 7(a), allocated and payable as follows:

(a) One check payable to Gonzalez Quiroz in the gross amount of \$2,500.00, less applicable tax withholding in connection with Gonzalez Quiroz's for economic loss;

(b) One check payable to Gonzalez Quiroz in the amount of \$7,500.00 for penalties, expenses and interest; and

(b) One check payable to "Daily Aljian LLP, in Trust" in the amount of \$12,500.00 for attorney's fees and costs associated with litigation. Plaintiff's Counsel will be responsible for making the \$75 payment to the LWDA.

All checks will be mailed to Daily Aljian LLP, 100 Bayview Circle, Suite 5500, Newport Beach, CA 92660. The Company will issue Gonzalez Quiroz a Form W-2 for the payment stated in Paragraph 2(a). The Company will issue a Form 1099 to Gonzalez Quiroz for the payment stated in Paragraph 2(b). The Company will issue a Form 1099 to Daily Aljian LLP for the payment stated in Paragraph 2(c). Gonzalez Quiroz acknowledges that the consideration provided is in addition to anything of value to which Gonzalez Quiroz already is entitled.

Upon tender of the payments identified in this paragraph to Daily Aljian LLP, the Company will have fully met its obligations under this Agreement and will not be liable in any manner for

the distribution, division or payment of any portion of the consideration noted above.

3. Indemnification.

(a) Gonzalez Quiroz shall be solely responsible for the payment of any federal, state, or local taxes arising out of the payment of monies arising out of this Agreement. Gonzalez Quiroz agrees to hold the Released Parties harmless from any and all claims, demands, rights, damages, costs or expenses resulting from any liability or claim of liability for any amount assessed by or due any federal, state, or local government or agency thereof, including but not limited to, federal, state, and local withholding and income taxes and social security taxes, with respect to payments made by the Company to Gonzalez Quiroz as set out in this Agreement.

(b) This clause is not intended nor does it purport to give Gonzalez Quiroz advice or counseling concerning federal, state, or local tax responsibilities or liabilities. Gonzalez Quiroz and Gonzalez Quiroz's counsel agree to complete an IRS W-9 form and/or provide employer identification numbers along with this Agreement.

4. Release. Gonzalez Quiroz releases the Released Parties from any and all claims, demands, damages, monies, injunctive relief, attorneys' fees, liabilities and/or causes of action of whatever kind or character, whether known or unknown, which Gonzalez Quiroz has asserted or could have asserted against the Released Parties arising out of or relating in any way to any acts, circumstances, facts, transactions, or omissions based on facts occurring prior to the date Gonzalez Quiroz signs this Agreement. This release includes but is not limited to all claims (a) made or which could have been made in the civil action that is designated as Jose Refugio Gonzalez Quiroz v. Coffman Specialties, Inc, et al., San Diego County Superior Court Case No. 37-2020-00022698-CU-OE-CTL ("Lawsuit"), (b) for unlawful discrimination, harassment, retaliation, and reasonable accommodation; related to terms and conditions of employment; for compensation or benefits; and/or for wrongful termination of employment under Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Civil Rights Act of 1866, the Age Discrimination in Employment Act of 1967 (ADEA), the Family and Medical Leave Act, the Employee Retirement Income Security Act (ERISA), the National Labor Relations Act (NLRA), any amendments to the foregoing, or any other federal, state, or local statute, rule, ordinance or regulation, and (c) in equity or under common law for tort, breach of contract, wrongful discharge, defamation, emotional distress, and negligence. This release is personal to Gonzalez Quiroz and shall not be deemed or construed as a release of any claims on behalf of other employees of the Released Parties. Gonzalez Quiroz is releasing all rights under section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

5. Non-Admission. This Agreement is in settlement of disputed claims. Neither the payment of any sum of money nor the execution or delivery of this Agreement shall constitute or be construed as an admission, express or implied, by any Released Party of liability, or of the truth or falsity of any of the claims made by Gonzalez Quiroz which the Released Parties expressly deny, or of any matter pertaining to any claims or defenses alleged or asserted in connection with Gonzalez Quiroz's association with, employment with, and/or termination from the Company.

6. Confidentiality and Non-Disparagement. The nature, terms and monetary amount of this Agreement are strictly confidential and they have not been and shall not be disclosed by Gonzalez Quiroz, directly or indirectly, at any time to any person other than Gonzalez Quiroz's lawyer, accountant, or immediate adult family, or a government agency ("Gonzalez Quiroz Permitted Third Party"), without the prior written consent of an officer of the Company, except as necessary in any legal or administrative proceedings directly related to Gonzalez Quiroz's employment with Coffman Specialties, Inc., or the provisions and terms of this Agreement, to prepare and file income tax forms, or pursuant to court order after reasonable notice to the Company; and provided that Gonzalez Quiroz instructs the recipient(s) of the information (with the exception of a governmental agency), and such individuals agree not to disclose the terms of this Agreement. Any breach by a Gonzalez Quiroz Permitted Third Party shall be treated as a breach by Gonzalez Quiroz. If, and only if, inquiries are made of Gonzalez Quiroz regarding the case, Gonzalez Quiroz will state that the case is resolved or dismissed and shall not further characterize or comment upon this settlement. Gonzalez Quiroz shall not cause or encourage, directly or indirectly, any third parties to inquire about this settlement or the status of the Lawsuit. For the avoidance of doubt, Gonzalez Quiroz shall not cause or encourage, directly or indirectly, any press release or social media related to this settlement or the status of the Lawsuit.

Gonzalez Quiroz further agrees not to make statements to clients, customers, and suppliers of the Released Parties or to other members of the public, through social media or otherwise, either directly or indirectly, that are in any way disparaging, unfavorable or negative towards the Released Parties or their products and services.

Gonzalez Quiroz acknowledges that a violation of this paragraph would cause immeasurable and irreparable damage to Released Parties in an amount incapable of precise determination. Accordingly, Gonzalez Quiroz agrees that the Released Parties shall be entitled to injunctive relief in any court of competent jurisdiction for any actual or threatened violation of this paragraph, in addition to any other available remedies.

Gonzalez Quiroz further agrees that the terms of this paragraph are a material inducement for the execution of this Agreement. Any disclosure or dissemination, other than as described above this paragraph will be regarded as a breach of this Agreement and a cause of action shall immediately accrue for damages and injunctive relief. The Parties agree that damages sustained by such breach would be impractical or extremely difficult to determine and, therefore, agree that in the event that Gonzalez Quiroz, or Gonzalez Quiroz's lawyer, accountant, or immediate family, violates this paragraph, Gonzalez Quiroz shall pay the Company as liquidated damages \$500 per proven breach, but not to exceed a total of \$2,000.00, which represents reasonable compensation for the loss incurred because of such breach. The Parties further agree that such damages are not intended to be, and shall not be construed as, a penalty.

7. Pending Claim and Covenant Not to Sue.

(a) The Parties agree that upon execution and delivery of this Agreement, Gonzalez Quiroz will electronically file a joint stipulation and proposed order, requesting approval of the individual PAGA payment to the LWDA and dismissing the remaining PAGA cause of action against all parties in the Lawsuit without prejudice and any individual causes of action with prejudice. Pursuant to California Labor Code §2699(l), Gonzalez Quiroz will upload a copy of the joint stipulation and proposed order and attach as an Exhibit this Agreement to the LWDA.

(b) Gonzalez Quiroz promises not to file a lawsuit or arbitration proceeding based on any claim that is settled by this Agreement. If Gonzalez Quiroz breaks this promise, Gonzalez Quiroz agrees to pay all of the Released Party's costs and expenses (including reasonable attorneys' fees) related to the defense of any lawsuit or arbitration proceeding. Except as otherwise set forth herein, in an action to enforce the terms of this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees and costs incurred by the prevailing party.

8. No Future Association. Gonzalez Quiroz waives any future association, contractual relationship, or any other relationship of any kind with any Released Party and agrees not to apply to any Released Party for a contractual relationship.

9. Attorneys' Fees/Medicare and Medicaid Interest. This Agreement is intended to settle and release any and all claims for attorneys' fees. This settlement is based upon a good faith determination of the parties to resolve a disputed claim. The Parties have not shifted responsibility of medical treatment to Medicare or Medicaid in contravention of 42 U.S.C. §1395y(b). The parties resolved this matter in compliance with federal, state, and local law. The parties made every effort to adequately protect the interests of Medicare and Medicaid.

10. Waiver and Release of Claims under the ADEA and OWBPA. This Agreement is also intended by the Parties to release and discharge any and all claims that Gonzalez Quiroz may have under the Age Discrimination in Employment Act ("ADEA"), and to satisfy the requirements of the Older Workers' Benefit Protection Act ("OWBPA"). Therefore, Gonzalez Quiroz agrees:

a. Because the arrangements discussed in this Agreement affect important rights and obligations, Gonzalez Quiroz acknowledges that he has been advised to consult, and has in fact consulted, with an attorney before he executes this Agreement.

b. Gonzalez Quiroz acknowledges that he has a full twenty-one (21) calendar days from the date he receives this Agreement within which to consider the provisions herein and to execute this Agreement, although he may sign it at any time during this 21-day consideration period.

c. Any modification of this Agreement by the Parties shall not enlarge or extend the 21-day consideration period.

d. Gonzalez Quiroz acknowledges that he has the right to revoke this Agreement for seven (7) days after he has executed it, in which event this Agreement shall be void and the Company is under no obligation to pay the Settlement Sum or any portion thereof.

e. If Gonzalez Quiroz revokes this Agreement, he must deliver a signed written Notice of Revocation to counsel of record for the Company, Khatereh Sage Fahimi, via email at sfahimi@littler.com, to be received no later than noon on the eighth (8th) day following execution of this Agreement by Gonzalez Quiroz. Upon delivery of a timely written Notice of Revocation, this Agreement shall be canceled and void, and neither Gonzalez Quiroz nor the Company shall have any rights or obligations arising under it.

f. This waiver and release does not apply to any rights or claims that may arise under the ADEA after the date Gonzalez Quiroz signs the Agreement.

11. Choice of Law. This Agreement is made and shall be enforced as provided under the laws of the State of California.

12. Waiver. No waiver of any of the terms of this Agreement shall be valid unless in writing and signed by all Parties to this Agreement.

13. Severability. The Parties agree that should any part of this Agreement be found to be void or unenforceable by a court of competent jurisdiction, except the release of claims, that determination will not affect the remainder of the Agreement.

14. Use as Evidence. The Parties agree that this Agreement may be used as evidence in a subsequent proceeding in which any of the Parties allege a breach of this Agreement or as a complete defense to any lawsuit brought by any Party. Other than the foregoing exception, the Parties agree that this Agreement will not be introduced as evidence in any proceeding or in any lawsuit.

15. Complete Release. This Agreement constitutes the complete and total agreement made between the Parties, and each Party represents to the other that it is not relying on any other agreements or oral representations not fully expressed in this Agreement except this Agreement shall not in any way affect, modify, or nullify any prior agreement Gonzalez Quiroz entered into with any Released Party regarding confidentiality, trade secrets, inventions, unfair competition, and arbitration or other dispute resolution program. This Agreement shall not be modified, altered, or discharged except by a written document signed by each of the Parties to the Agreement. The headings in this Agreement are for reference only and shall not in any way affect the meaning or interpretation of this Agreement.

16. Representation by Counsel. Gonzalez Quiroz has read and fully understood the terms of this Agreement and has been advised and is advised by this Agreement to consult with an attorney prior to signing this Agreement. Gonzalez Quiroz has been represented by Daily Aljian LLP as legal counsel in connection with this settlement who has read and explained to Gonzalez Quiroz the contents and legal consequences of the terms of this Agreement.

17. Protected Rights. Nothing in this Agreement is intended to waive claims that may arise after Gonzalez Quiroz signs this Agreement or which cannot be released by private agreement. In addition, nothing in this Agreement including but not limited to the indemnification, release of claims, confidentiality, non-disparagement, and covenant not to sue provisions (a) limits or affects Gonzalez Quiroz's right to challenge the validity of this Agreement under the ADEA or the OWBPA, (b) prevents Gonzalez Quiroz from communicating with, filing a charge or complaint with; providing documents or information voluntarily or in response to a subpoena or other information request to; or from participating in an investigation or proceeding conducted by the Equal Employment Opportunity Commission, National Labor Relations Board, the Securities and Exchange Commission, law enforcement, or any other any federal, state or local agency charged with the enforcement of any laws, or from responding to a subpoena or discovery request in court litigation or arbitration, (c) prevents Gonzalez Quiroz from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that he have reason to believe are unlawful or waives Gonzalez Quiroz's right to testify in an administrative, legislative, or judicial proceeding concerning alleged criminal conduct or alleged sexual harassment on the part of the Company, or on the part of the agents or employees of the Company, when Gonzalez Quiroz has been required or requested to attend such a proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the

legislature, or (d) limits Gonzalez Quiroz from exercising rights under Section 7 of the NLRA or similar state law to engage in protected, concerted activity with other employees, although by signing this Agreement Gonzalez Quiroz is waiving rights to individual relief (including backpay, frontpay, reinstatement or other legal or equitable relief) in any charge, complaint, or lawsuit or other proceeding brought by Gonzalez Quiroz or on Gonzalez Quiroz's behalf by any third party, except for any right Gonzalez Quiroz may have to receive a payment or an award from a government agency (and not the Company) for information provided to the government agency or otherwise where prohibited.

18. Continued Jurisdiction. Gonzalez Quiroz and the Company agree that the court in which the Lawsuit was filed and pending shall, to the fullest extent permitted by law, retain exclusive and continuing jurisdiction over the Lawsuit and the parties to interpret and enforce the terms, conditions, and obligations of this Agreement pursuant to California Code of Civil Procedure § 664.6.

The Parties agree that they have been provided all information needed to make an informed decision to enter into this Agreement, have been given the opportunity to ask any questions regarding this Agreement, and make this Agreement voluntarily, deliberately, and not as a result of coercion, duress, or undue influence.

ACCEPTED AND AGREED:

DocuSigned by:

By:

Jose Refugio Gonzalez Quiroz

3A0AB13146224DD...

agosto 5, 2022

Date

By:

Coffman Specialties, Inc.

Date

8/19/2022

EXHIBIT 2
to
Joint Stipulation