

SETTLEMENT AGREEMENT OF PAGA CLAIM

1. **PARTIES:** The parties to this Settlement Agreement of PAGA Claim (“Settlement”) are Plaintiff Rebecca Comella (“Plaintiff”) on behalf of herself and all “aggrieved employees” pursuant to the Private Attorneys General Act of 2004 (“PAGA”), Labor Code section 2698 *et seq.*, and Defendant Crystal Vision Enterprises, LLC (“Defendant”). Plaintiff and Defendant are collectively referred to as the “Parties.” The “PAGA Class” consists of all individuals who were employed by Defendant in the State of California as non-exempt employees between April 16, 2020 and the date of the Court order granting preliminary approval of this Settlement (the “PAGA Period”).

2. **PROCEDURAL HISTORY:** On January 14, 2021, Plaintiff submitted a letter (the “PAGA Letter”) to the Labor and Workforce Development Agency (“LWDA”) regarding her intention to pursue PAGA penalties against Defendant. On March 5, 2021, Plaintiff filed a civil action against Defendant entitled *Rebecca Comella v. Crystal Vision Enterprises, LLC* (San Diego County Superior Court, Case No. 37-2021-00009713-CU-OE-CTL) seeking recovery for Plaintiff’s individual claims. On April 16, 2021, Plaintiff filed a first amended complaint (the “Complaint”) alleging a cause of action for recovery of civil penalties under PAGA.

3. **INVESTIGATION:** The Parties have conducted investigation of the facts and law relating to this dispute. Such investigation has included, *inter alia*, the production and analysis of the Company’s employee handbook and timekeeping and overtime policies, analysis of Plaintiff’s timekeeping and pay records, and exchange of formal written discovery requests and responses regarding, among other things, the Defendant’s wage and hour, timekeeping, and pay practices. Plaintiff believes that Defendant failed to properly calculate and pay Plaintiff and the PAGA Class minimum wages, failed to properly calculate and pay overtime compensation, failed to allow for proper meal and rest breaks, failed to reimburse for business expenses and losses, failed to maintain and provide accurate wage statements and records, and engaged in unfair business practices.

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Defendant denies each of these claims. Based upon a thorough review of the law and facts of this case, Defendant contends that there is no basis for penalties to be assessed against it because all amounts properly owed to the PAGA Class were timely paid, Defendant complied with its obligations under applicable law to provide meal and rest periods, Defendant reimbursed the PAGA Class for any business expenses and losses, and Defendant provided compliant wage statements. Moreover, Defendant paid Plaintiff and the PAGA Class for all amounts owed based on time sheets they submitted.

After a full and complete investigation, the Parties engaged in a full day mediation with the Honorable Timothy Casserly to try to resolve their dispute. Given the substantial risks inherent in this litigation and the spirit of compromise, the Parties agreed that a compromise of Plaintiff's claim for civil penalties under PAGA is in the best interest of all stakeholders.

4. **BENEFITS OF SETTLEMENT TO PAGA CLASS MEMBERS:** Plaintiff recognizes the expense and length of continued proceedings necessary to continue the litigation against Defendant through trial and through any possible appeals. Plaintiff has also taken into account the uncertainty and risk of further litigation, the difficulties and delays inherent in such litigation, the relatively small size of the PAGA Class (between 90 – 100 total employees), Defendant's efforts to improve its wage and hour policies and procedures following notification of Plaintiff's claims, and Defendant's defenses to Plaintiff's claims for recovery of civil penalties under PAGA. Plaintiff is also aware of the burdens of proof necessary to establish liability for the claims asserted in this dispute, Defendant's defenses thereto, and the difficulties in establishing damages for Plaintiff. The Parties have engaged in arms-length settlement discussions regarding all claims with the assistance of a learned and experienced mediator and Plaintiff has determined that the settlement set forth in the Settlement is fair, adequate and reasonable, and is in the best interests of all stakeholders.

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5. **DEFENDANT'S DENIAL OF WRONGDOING:** Defendant denies each of the claims asserted by Plaintiff. Defendant continues to assert defenses thereto and expressly denies any wrongdoing or legal liability arising out of any of the facts or conduct alleged by Plaintiff. Neither this Settlement nor any document referred to or contemplated herein, nor any action taken to carry out this Settlement is, may be construed as, or may be used as an admission, concession, or indication by or against Defendant of any fault, wrongdoing, or liability whatsoever.

6. **EFFECTIVE DATE:** This Settlement shall become effective on the date in which this Settlement is finally approved as provided herein and the Court's Final Judgment ("Final Judgement") becomes final ("Effective Date"). For purposes of this paragraph, the Court's Final Judgment "becomes final" upon the latter of: (i) the date of final affirmance of an appeal of the Final Judgement; (ii) the expiration of the time for a petition for a writ of certiorari to review the Final Judgment; (iii) the date of final dismissal of any appeal from the Final Judgment or the final dismissal of any appeal or proceeding on certiorari to review the Final Judgment; or (iv) if no appeal is filed, the expiration date of the time for filing or noticing any appeal from the Court's Final Judgment.

7. **SETTLEMENT AND RELEASE:** In exchange for Plaintiff and the PAGA Class' release of claims, Defendant agrees to pay the sum of \$15,000 (the "PAGA Settlement Amount"). As of the Effective Date, and subject to Defendant's payment of the PAGA Settlement Amount, the PAGA Class Members, including Plaintiff, release Defendant, all of its affiliates, and each of their past or present officers, directors, members, shareholders, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, insurers and reinsurers, and its and their respective successors and predecessors in interest, subsidiaries, affiliates, any individual entity that could be alleged to be jointly liable with Defendant, joint employers, joint obligors, clients, parents, and attorneys and each of their respective company-sponsored employee benefit plans and all of

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their respective officers, directors, employees, administrators, fiduciaries, trustees, and agents (the “Released Parties”), from the “Released Claims.”

For purposes of this Settlement, the “Released Claims” are defined as: all claims for the recovery of civil penalties which arose during the PAGA Period and which are referenced or otherwise contemplated in the PAGA Letter and the Complaint. The Released Claims specifically include the following: (1) that Defendant did not pay Plaintiff and the PAGA Class all wages, including minimum wages; (2) that Defendant did not allow Plaintiff and the PAGA Class to take meal periods as required by law or pay Plaintiff and the PAGA Class as required by law when such meal periods were not provided; (3) that Defendant did not allow Plaintiff and the PAGA Class to take rest periods as required by law or pay Plaintiff and the PAGA Class as required by law when such rest periods were not provided; (4) that Defendant violated the California Labor Code section 226 in failing to indemnify Plaintiff and the PAGA Class for business expenses and losses during the PAGA Periods; (5) that Defendant failed to provide proper pay stubs to Plaintiff and the PAGA Class during the PAGA Period; (6) that Defendant engaged in unfair business practices in violation of California Business and Professions Code section 17200; (7) that Defendant owes penalties pursuant to the PAGA, premised on the alleged violations articulated above; and (8) that Defendant owes penalties, interest attorneys’ fees, or other damages arising out of Defendant’s alleged failure to pay wages and penalties released herein. Plaintiff and PAGA Class Members specifically release any and all claims to recover PAGA penalties against Defendant under Labor Code § 2698 *et seq.*

8. **ALLOCATION OF SETTLEMENT AMOUNT:** Defendant shall make a payment for the PAGA Class attorneys’ fees and costs by delving a check made payable to “Hillier DiGiacco LLP, Client Trust Account” in the gross amount of \$4,500 to be deducted from the PAGA Settlement Amount, to compensate Plaintiff’s Counsel for his representation of the PAGA Class in this matter (the “Fee Award”). The \$10,500 portion of the PAGA Settlement Amount

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remaining after the deduction of the Fee Award shall be referred to as the “Net Settlement Amount.” The Parties agree that seventy-five percent (75%) of the Net Settlement Amount shall be paid to the LWDA (the “LWDA Payment”) and twenty-five percent (25%) of the Net Settlement Amount shall be paid to the PAGA Class members, including Plaintiff (the “PAGA Payment”). The PAGA Payment shall be allocated pro rata based on the number of pay periods of the entire PAGA Period worked by each eligible PAGA Class member relative to the total pay periods in the PAGA Period. For purposes of this Settlement only, the Parties agree that PAGA Class members employed by Defendant during the PAGA Period are “aggrieved employees” under PAGA. If the Court does not approve any portion of the Fee Award as requested and described above, then the difference not awarded shall be added to the Net Settlement Amount and distributed among the participating PAGA Class members.

9. TIMING OF PAYMENT OF SETTLEMENT AMOUNT: Within 60 days of the Effective Date, Defendant shall mail to each PAGA Class member his or her share of the PAGA Payment, mail to Plaintiff’s Counsel the Fee Award, and submit to the LWDA the LWDA Payment. Within thirty (30) days after Defendant mails the PAGA Payment and submit the LWDA Payment, Defendant’s Counsel shall email Plaintiff’s Counsel a declaration executed by Defendant’s representative certifying under oath that Defendant mailed the PAGA Payment and submitted the LWDA Payment (the “Declaration”). Within ten (10) days after the Effective Date, Plaintiff shall provide Defendant’s Counsel a fully executed Request for Dismissal with prejudice of the action to all parties and all causes of action. Defendant’s Counsel will maintain custody of the original fully executed Request for Dismissal, and agrees that Defendant will not file the Request for Dismissal until after Plaintiff’s Counsel confirms, via email, receipt of payment for the Fee Award and Defendant’s Declaration.

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10. **AMENDMENT OR MODIFICATION**: This Settlement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

11. **ENTIRE AGREEMENT**: This Settlement constitutes the entire agreement among these Parties relating to the resolution of Plaintiff's claims for the recovery of civil penalties pursuant to PAGA, and no oral or written representations, warranties, or inducements have been made to any party concerning this Settlement or its exhibits other than the representations, warranties, and covenants contained and memorialized in such documents.

12. **BINDING ON SUCCESSORS AND ASSIGNS**: This Settlement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13. **COUNTERPARTS**: This Settlement may be executed in one or more counterparts, including by DocuSign, e-mail, and facsimile. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Settlement shall exchange among themselves original signed counterparts.

14. **THIS SETTLEMENT IS FAIR, ADEQUATE, AND REASONABLE**: The Parties believe this Settlement is a fair, adequate, and reasonable settlement of Plaintiff's claims to recover penalties under PAGA and have arrived at this Settlement in arms-length negotiations, taking into account all relevant factors and circumstances, present and potential. The Parties also believe that an unjust arbitrary and oppressive, or confiscatory award could result if the PAGA Settlement is not a substantially lesser amount than a maximum civil penalty amount.

15. **JURISDICTION OF THE COURT**: . The Court shall retain jurisdiction with respect to interpretation, implementation, and enforcement of the terms of this Settlement and all orders and judgments entered in connection therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of interpreting, implementing and enforcing

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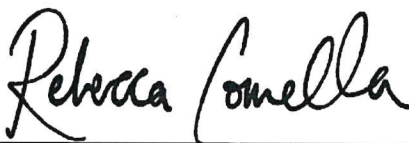
the settlement embodied in this Settlement and all orders and judgments entered in connection therewith pursuant to Civil Code section 664.6

16. **COOPERATION AND DRAFTING:** Each of the Parties has cooperated in the drafting and preparation of this Settlement. Hence, in any construction made to this Settlement, the same shall not be construed against any of the Parties.

17. **INVALIDITY OF ANY PROVISION:** Before declaring any provision of this Settlement invalid, the Court shall first try to construe the provision as valid to the extent possible under the law so as to render all provisions of this Settlement valid and enforceable.

18. **PAGES:** This Settlement consists of eight (8) pages and is made and entered into on the dates indicated below.

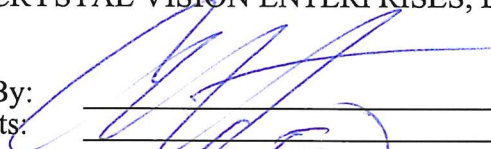
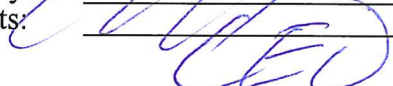
Dated: 04 / 11 / 2022



Rebecca Comella

Dated: 5/11/2022

CRYSTAL VISION ENTERPRISES, LLC

By: 
Its: 

APPROVED AS TO FORM AND CONTENT:

Dated: 04 / 11 / 2022

HILLIER DIGIACCO LLP 
By: _____
Andrew Hillier, Esq.
Attorney for Plaintiff Rebecca Comella

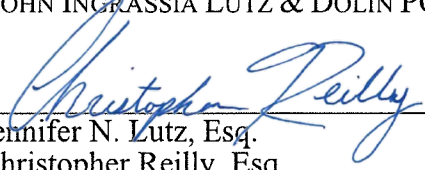
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PETTIT KOHN INGRASSIA LUTZ & DOLIN PC

Dated: May 11, 2022

By:



Jennifer N. Lutz, Esq.
Christopher Reilly, Esq.
Attorneys for Defendant CRYSTAL
VISION ENTERPRISES, LLC