

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

This Confidential Settlement Agreement and General Release (the "Agreement") is made and entered into by and between the undersigned parties ("the Parties"), TIMOTHY O'CAIN and JOSH DAY (herein, collectively, "Plaintiffs"), on the one hand, and RUCKUS and GREGORY S. JONES ("Defendants"), on the other.

RECITALS

A. Plaintiffs allege that they were employed by Defendant Ruckus (the "Employment"), and a dispute has arisen regarding Plaintiffs' Employment.

B. A class complaint has been filed against Defendants in the Los Angeles Superior Court ("LASC"), Case No. 21STCV30483, alleging claims for unpaid wages and penalties under California Labor Code Sections 203, 226, 510, 1194, 1198.5, 226.7, 512, and Business and Professions Code sections 17200 et seq. Thereafter, Plaintiff O'Cain gave written notice to the California Labor and Workforce Development Agency of his intent to file a lawsuit on behalf of himself and all similarly aggrieved employees against Defendants to allege penalties pursuant to the Private Attorneys General Act of 2004 ("PAGA notice"). The class action complaint and PAGA notice are collectively referred to as the "Action".

C. While Defendants deny the allegations in the Action in their entirety and do not admit any liability, they would like to settle the Action.

D. The Parties have fully and finally agreed to settle all claims Plaintiffs might have against Defendants, including, but not limited to, those claims asserted in the Action. Defendant Ruckus agrees to pay a Total Settlement Amount ("TSA") of forty-seven thousand five hundred and no cents (\$47,500.00). This Agreement memorializes that settlement.

NOW, THEREFORE, in consideration of the terms, conditions, and promises set forth herein, it is agreed as follows:

1. Nonadmission of Liability. Plaintiffs acknowledge that the execution of this Agreement and the payment of consideration shall not be construed in any way as an admission of wrongdoing or liability on the part of Defendants. Plaintiffs further acknowledge that Defendants explicitly deny all allegations of wrongdoing alleged in the Action. Defendants intend, by this Agreement, merely to avoid the expense, delay, uncertainty, and burden of litigation.

2. Consideration by Defendants. In consideration for promises made by Plaintiffs herein, Defendant Ruckus agrees to pay a gross sum of forty-seven thousand five hundred and no cents (\$47,500.00) (the "Total Settlement Amount" or "TSA"). Defendant Ruckus shall pay the Settlement Payment to Plaintiffs in three separate checks, as follows:

2.1. Defendant Ruckus shall issue a payroll check in the amount of Two Thousand Dollars (\$2,000), less all applicable taxes and withholdings, made payable to

“Timothy O’Cain.” Defendants shall issue an IRS Form W-2 to Timothy O’Cain for the payment specified in this Section 2.1. This amount is intended to compensate Timothy O’Cain for all wages allegedly owed, disputed, and undisputed. Timothy O’Cain agrees that this amount satisfies any claim he may have for wages and that he does not contend any other wages are owed to him as of the effective date of the Agreement.

2.2. Defendant Ruckus shall issue a payroll check in the amount of Two Thousand Dollars (\$2,000), less all applicable taxes and withholdings, made payable to “Josh Day.” Defendant Ruckus shall issue an IRS Form W-2 to Josh Day for the payment specified in this Section 2.2. This amount is intended to compensate Josh Day for all wages allegedly owed, disputed, and undisputed. Josh Day agrees that this amount satisfies any claim he may have for wages and that he does not contend any other wages are owed to him as of the effective date of the Agreement.

2.3. Defendant Ruckus shall issue a check in the amount of Forty Free Thousand Five Hundred Dollars (\$43,500) to the “Harris and Ruble Client Trust Account” [Taxpayer ID# 36-3692728]. An IRS Form 1099 shall be issued to the “Harris and Ruble Client Trust Account” in connection with the payment specified in this Section 2.3. The amount in Section 2.3 is intended to compensate Plaintiffs for non-economic damages, alleged penalties, interest, and attorneys’ fees and costs. No portion of the payment detailed in this Section 2.3 is intended to compensate Plaintiffs for any loss of wages, although all such wage claims are released in this Agreement. Plaintiffs’ counsel shall be solely responsible for distributing funds to Plaintiffs pursuant to the allocations in this Agreement.

3. Responsibility for Tax Obligations. Plaintiffs understand and agree that they are solely responsible for all tax obligations, including all reporting and payment obligations that may arise as a consequence of this Agreement. Plaintiffs agree to indemnify and hold harmless Defendants and any person or entity affiliated with Defendants from any tax liability or penalties that may arise from the Total Settlement Amount. Plaintiffs further acknowledge that neither Defendants nor any of their representatives or attorneys, have made any promise, representation or warranty, express or implied, regarding the tax consequences of any consideration paid to Plaintiffs pursuant to this Agreement. Plaintiffs further acknowledge that Defendants have no obligation to indemnify or defend them in any tax proceedings or from any tax consequences that could result from payments made in accordance with this Agreement.

4. Entire Compensation. Plaintiffs agree that the TSA shall constitute the entire consideration due and is in full and complete satisfaction of any and all wages, benefits, claims, demands and/or causes of action they have or may have against Defendants and the Defendant Releasees, including, but not limited to, those asserted in the Action, and any and all attorneys’ fees and/or costs, as described below in Paragraph 6. Plaintiffs further agree that they will not seek any further compensation for any other claimed wages, benefits, damages, costs, or additional attorneys’ fees in connection with the matters encompassed in this Agreement from Defendants. Plaintiffs acknowledge and agree that they would not be entitled to receive their

respective portions of the Total Settlement Amount if they did not make the promises that they are making in this Agreement.

5. Timing of Payment. In consideration for dismissal of the Action with prejudice, and Plaintiff entering into a general release of any and all claims as addressed in Paragraphs 6 and 7 of this Agreement, Defendant Ruckus agrees to remit the TSA within seven (7) days of the “Effective Date” of this Agreement, as defined in Paragraph 10.

6. Complete Mutual General Releases. In consideration for the promises set forth in this Agreement, Plaintiffs hereby fully and finally release Defendants and their subsidiaries, parent companies, related companies, partners, officers, including but not limited to Gregory S. Jones, shareholders, owners, directors, managers, and attorneys, past or present, heirs, administrators, executors, agents, assigns, trust funds, and clients, including but not limited to Mercedes-Benz USA, LLC and the project “Mercedes Benz of the North Pole” and Happy Dance, CMS Productions and the project “Happy Dance” (collectively, the “Defendant Releasees”), from any and all claims of whatever character, in law or in equity, that occurred at any time from the commencement of the world through the date on which Plaintiff executes this Agreement. In addition, in consideration for the promises set forth in this Agreement, the Defendants hereby fully and finally release Plaintiffs and their attorneys, past or present, heirs, administrators, executors, agents and assigns (collectively, the “Plaintiff Releasees”), from any and all claims of whatever character, in law or in equity, that occurred at any time from the commencement of the world through the date on which Defendants execute this Agreement. Notwithstanding these general, mutual releases of claims, nothing in this Agreement is intended to operate as, nor shall be construed as, a release or waiver of any rights and/or claims that cannot be released or waived as a matter of law.

7. General Release of Unknown Claims. For the purpose of implementing a full and complete release, the Parties expressly acknowledges that the release they give in this Agreement is intended to include in its effect, without limitation, claims that they did not know or suspect to exist at the time of execution hereof, regardless of whether the knowledge of such claims, or the facts upon which they might be based, would materially have affected the settlement of this matter, and that the consideration given under this Agreement is also for the release of those claims and contemplates the extinguishment of any such unknown claims. In furtherance of this settlement, the Parties waive any rights they may have under California Civil Code Section 1542 (and other similar statutes and regulations). Section 1542 states:

“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.”

8. Class and Collective Actions. Plaintiffs acknowledge and agree that, included among the claims released, are any and all claims that have been, or may be, asserted by them

or by any other person or entity on their behalf in any class or collective action relating to the Defendant Releasees including, but not limited to, Defendants.

9. Representative PAGA Claim. Plaintiff O’Cain unconditionally covenants not to institute or continue his claim for Private Attorneys’ General Act Violations against Defendants or any of the Defendant Releasees. Plaintiffs also unconditionally covenants not to institute or continue any future claim for civil penalties under PAGA against Defendants or any of the Defendant Releasees. Further, notwithstanding the decision in *Kim v. Reins International California, Inc.*, 9 Cal. 5th 73 (2020), Plaintiffs acknowledge and agree that they will take no further action to pursue, file, or assist in any PAGA claim and Plaintiff O’Cain agrees that he will take no further action in connection with the exhaustion letter he sent to the LWDA. Plaintiffs further agree that they will not aid or participate in, benefit from or encourage the prosecution of or filing of any PAGA complaint and reaffirm that any action taken by them to do so will be a material breach of this Agreement. Plaintiffs also disclaim any further right to act as a Private Attorney General under PAGA against the Defendant Releasees.

10. Effective Date. The terms of the Agreement will become effective on the date that both Timothy O’Cain and Josh Day supply Defendants with a signed copy of this Settlement Agreement (the “Effective Date”).

11. Dismissal of Action. Plaintiff O’Cain will seek dismissal of the Action with prejudice as to Plaintiffs’ individual claims and without prejudice as to the class claims, pursuant to CRC 3.770. It is agreed that this executed Agreement shall be treated as an enforceable settlement agreement pursuant to California Code of Civil Procedure section 664.6. It is binding and enforceable and may be enforced pursuant to California Code of Civil Procedure Section 664.6 and may be admitted in court for purposes of enforcing this Agreement. For the purpose of enforcing this Agreement, the Parties waive the provisions of Sections 1119 and 1152 of the California Evidence Code (and other similar provisions of law, which provide that communications during mediation or for purposes of settlement are inadmissible) and will request that the Court retain jurisdiction to enforce the terms of this Agreement. Plaintiff O’Cain further agrees to execute any and all other documents and instruments in writing which may be necessary or proper to effectuate and carry out the purposes of this Agreement, including specifically any required Court approval of the Agreement and dismissal of the Action.

12. Confidentiality, Non-Disparagement and Notification of Claims.

12.1. Confidentiality Parties. With respect to this Section 12, the term “Confidentiality Parties” refers to Plaintiffs.

12.2. Confidentiality. The Confidentiality Parties agree that, except as expressly provided in this Section 12, they have not and will not act in any manner that they know or have reason to believe will result in the disclosure, advertisement, or communication of any information concerning the negotiation, contents or terms of the Agreement, the amount of

the settlement or even the fact that this case settled, or any of the facts underlying the dispute, with anyone. The Confidentiality Parties further agree that:

a. If asked about the disposition of this Action, they may state only “No Comment.” They shall not disclose any facts or circumstances of this case, the negotiation contents or terms of this Agreement, the amount of the settlement or even that the matter resolved or settled.

b. This Section 12 shall not prevent Plaintiffs from disclosing to their respective spouses the negotiation, contents or terms of this Agreement. However, Plaintiffs agree to instruct their spouse not to make public or to communicate orally or in writing to any person or entity, including a court or jury, whether directly or indirectly, the negotiation, contents or terms of this Agreement or the amount of the settlement or even that any settlement was offered to Plaintiffs, that Plaintiffs received any compensation from Defendants under this Agreement, or that Plaintiffs recovered any attorney fees or damages, including, without limitation, emotional distress or general or special damages.

c. This Section 12 shall not prevent Plaintiffs from disclosing to any governmental tax authority, or to an attorney or accountant in a necessary, confidential and privileged communication in connection with Plaintiffs’ tax, or accounting affairs, the amount of any monies paid pursuant to this Agreement. However, Plaintiffs agree to instruct any such individual provided with information concerning this Agreement (other than governmental tax authorities) not to make public or to communicate orally or in writing to any person or entity, including a court or jury, whether directly or indirectly, the terms of this Agreement or the amounts of any payments under this Agreement.

d. To the extent necessary, this Section 12 shall not prevent Plaintiffs from disclosing the terms of this Agreement in any proceeding reasonably related to the enforcement of this Agreement, including a claim for provisional relief, damages or declaration of rights, provided the Party intending to make the disclosure reasonably undertakes to have the Court or other tribunal adjudge and rule that such disclosure is confidential and made under seal or in a closed hearing. This Agreement shall be admissible pursuant to Evidence Code section 1123.

e. This Section 12 shall not prohibit the disclosure of information regarding this Agreement in response to a lawfully authorized subpoena, provided that Defendants receive reasonable notice of the subpoena. For this purpose, “reasonable notice” means as soon after receipt of the subpoena by Plaintiffs as practicable.

f. This Section 12 shall not prevent Plaintiff O’Cain from informing the Court that the Action has resolved and that the Parties request that any court or tribunal of competent jurisdiction dismiss the Action with prejudice as to Plaintiff O’Cain’s individual claims and without prejudice as to his class claims.

12.3. **Non-Disparagement.** Plaintiffs agree not to orally or in writing, publicly or privately, make or express any comment, view or opinion critical or disparaging of

Defendants or the Defendant Releasees, or to authorize any agent or representative to make or express such comment, view or opinion; provided, however, that nothing in this Agreement shall prohibit Plaintiffs from providing truthful information or testimony in response to any court order, subpoena, litigation, deposition or government investigation.

12.4. Broad Construction. The Parties agree and intend that the above confidentiality or non-disparagement provisions (Sections 12.2 and 12.3) are to be construed as broadly as possible, in a manner consistent with its terms, in order to provide maximum confidentiality. Plaintiffs shall consult legal counsel regarding any uncertainties they may have about whether the information they might disclose violates the above confidentiality or non-disparagement provisions.

12.5. Liquidated Damages and Attorney Fees. The Confidentiality Parties understand and agree that any breach of the above confidentiality or non-disparagement provisions (Sections 12.2 and 12.3) will result in irreparable harm to Defendants or the Defendant Releasees, which may be difficult to quantify or ascertain. Potential damages that could result from a breach of the above confidentiality or non-disparagement provisions include, for example, the filing of unwarranted claims against Defendants or the Defendant Releasees, attorneys' fees and costs to defend against those unwarranted claims, and unwarranted payments which may be necessary to reduce litigation costs to defend those unwarranted claims. In the event either Confidentiality Party violates the above confidentiality or non-disparagement provisions, the violating Confidentiality Party shall pay Defendants, for each such breach, the gross sum of two thousand dollars and no cents (\$2,000.00). The Confidentiality Parties agree that this amount of liquidated damages is reasonable and justified by the foregoing described circumstances.

13. ADEA Waiver. Without limiting the scope of this Agreement, Plaintiffs agree that this Agreement constitutes a knowing and voluntary waiver of any and all rights or claims that exist or that Plaintiff may claim to have under the Age Discrimination in Employment Act ("ADEA"), as amended by the Older Workers' Benefit Protection Act of 1990 (29 U.S.C. §§ 621, et seq.). Plaintiffs acknowledge all of the following:

13.1. The consideration provided pursuant to this Agreement is in addition to any consideration that they would otherwise be entitled to receive;

13.2. Plaintiffs have been and are advised in writing to consult with an attorney prior to signing this Agreement;

13.3. Plaintiffs have been provided a full and ample opportunity to study this Agreement, including a period of at least twenty-one (21) calendar days within which to consider it;

13.4. To the extent that any Plaintiff takes less than twenty-one (21) calendar days to consider this Agreement prior to signing it, that Plaintiff acknowledges that he had

sufficient time to consider this Agreement with legal counsel and that he expressly, voluntarily, and knowingly waives any additional time;

13.5. Plaintiffs agree that any changes made to the Agreement during the twenty-one (21) day period (whether material or immaterial) do not restart the running of the twenty-one (21) day period; and

13.6. Plaintiffs understand and acknowledge their right to revoke this waiver of claims under the ADEA any time within the seven (7) calendar-day period following the date they sign the Agreement, and that the waiver of claims under the ADEA shall not become effective or enforceable until the seven (7) calendar-day revocation period expires. Notwithstanding Plaintiffs' right to revoke the waiver of claims under the ADEA, the remainder of the terms of this Agreement shall become effective and enforceable as of the date that the Parties sign this Agreement.

13.7. To be effective, timely notice of revocation of the waiver of ADEA claims set forth in Section 13.6, above, must be made in writing and delivered to Defendants through their counsel, Ryan Crosner, Esq., Ogletree Deakins, 400 South Hope Street, Suite 1200, Los Angeles, California 90017; ryan.crosner@ogletree.com, no later than the seventh (7th) day after the revoking Plaintiff executes this Agreement.

14. Letter to Mercedes-Benz USA, LLC. Plaintiffs further agree to provide Defendants' counsel with a letter to Mercedes-Benz USA, LLC informing Mercedes-Benz USA, LLC that Plaintiffs have resolved all claims against Defendants and are withdrawing any claims Plaintiff may have against Mercedes-Benz USA, LLC with respect to any work performed by Plaintiff on a production of a television commercial for Mercedes-Benz USA, LLC on or about September 16, 2020. Plaintiffs agree that they will cause their attorneys, as a prerequisite to receipt of the TSA, to provide Defendants with the executed letter. Defendants will not cause the letter to be sent to Mercedes-Benz USA, LLC until after the TSA has been delivered to Plaintiffs' counsel.

15. Medicare Secondary Payer Act.

15.1. **Timothy O'Cain.** Timothy O'Cain affirms, covenants, and warrants he has made no claim for illness or injury (including but not limited to any claim for mental anguish and/or emotional distress) against, nor is he aware of any facts supporting any claim against, the released parties under which the released parties could be liable for medical (including mental health treatment) expenses incurred by Timothy O'Cain before or after the execution of this agreement. Furthermore, Timothy O'Cain is aware of no medical expenses which Medicare has paid and for which the Defendant Releasees are or could be liable now or in the future. Conrad agrees and affirms that, to the best of his knowledge, no liens of any governmental entities, including those for Medicare conditional payments, exist. Timothy O'Cain will indemnify, defend, and hold the released parties harmless from Medicare claims, liens, damages, conditional payments, and rights to payment, if any, including attorneys' fees, and Timothy O'Cain further agrees to waive any and all future private causes of action for damages pursuant to 42 U.S.C. §

1395y(b)(3)(A) et seq. Timothy O'Cain further agrees that should Medicare decide any moneys are owed, such moneys will be paid out of settlement proceeds by Conrad.

15.2. Josh Day. Josh Day declares and expressly warrants that he is not Medicare eligible, that he is not a Medicare beneficiary, and that he is not within 30 months of becoming Medicare eligible; that he is not 65 years of age or older; that he is not suffering from end stage renal failure or amyotrophic lateral sclerosis; that he has not received Social Security benefits for 24 months or longer; and/or that he has not applied for Social Security benefits, and/or has not been denied Social Security disability benefits and is appealing the denial. Josh Day affirms, covenants, and warrants he/she has made no claim for illness or injury against, nor is he/she aware of any facts supporting any claim against, the Defendant Releasees under which the Defendant Releasees could be liable for medical expenses incurred by the [Plaintiff] before or after the execution of this Agreement. Because Josh Day is not a Medicare recipient as of the date of this release, Josh Day is aware of no medical expenses which Medicare has paid and for which the Defendant Releasees are or could be liable now or in the future. Josh Day agrees and affirms that, to the best of his/her knowledge, no liens of any governmental entities, including those for Medicare conditional payments, exist.

16. Employment Relationship. The Parties agree that the employment relationship between Plaintiffs and Defendants has ended. The Parties further agree that Defendants, and each of them, have legitimate, non-discriminatory and non-retaliatory reasons to not rehire Plaintiffs, and that Defendants' position in this regard will not give rise to any claim against Defendants or Defendant Releasees by Plaintiff. The Parties agree that nothing in this section shall be construed to violate California Code of Civil Procedure section 1002.5.

17. Successors. This Agreement shall be binding upon the Parties, and their heirs, representatives, executors, administrators, successors, insurers, and assigns, and shall inure to the benefit of each and all of the Defendant Releasees and Plaintiff Releasees, and to their heirs, representatives, executors, administrators, successors, and assignees.

18. Admissibility of Agreement. The Parties agree and stipulate that this Agreement is admissible only for the purposes of proving and/or enforcing the terms of the Parties' Agreement, as set forth herein.

19. Attorneys' Fees and Costs. The Parties agree that except as necessary to enforce this Agreement, they shall bear their own respective costs and fees, including but not limited to attorneys' fees, in connection with the Action, and the negotiation and execution of this Agreement. If any action is necessary to enforce this agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs.

20. Agreement is Voluntary. The Parties understand and agree that Plaintiffs:

- (a) Have had a sufficient and reasonable amount of time within which to consider the settlement terms memorialized in this Agreement before agreeing to them.
- (b) Have carefully read and fully understand all of the provisions of this Agreement.

- (c) Are, through this Agreement, releasing any and all claims they may have against Defendants and/or any Defendant Releasee.
- (d) Knowingly and voluntarily agree to all of the terms set forth in this Agreement.
- (e) Knowingly and voluntarily intend to be legally bound by the same.
- (f) Consulted with and were represented by an attorney prior to agreeing to the terms of this Agreement.

21. Interpretation and Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California applicable to contracts made and to be performed entirely within such State.

22. Entire Agreement. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements and understandings between the Parties pertaining to the subject matter of this Agreement. The Parties agree that no change to or modification of this Settlement Agreement shall be valid or binding unless it is in writing and signed by Plaintiffs and a duly authorized officer of Defendants.

23. Construing Provisions. The language of all parts in this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against either Party. Should any provision in this Agreement be declared or determined to be illegal or invalid, the validity of the remaining parts, terms, or provisions shall not be affected and the illegal or invalid part, term, or provision shall be deemed not to be part of this Agreement, and all remaining provisions shall remain valid and enforceable. Plaintiffs further agree that in the event any provision of this Agreement is held to be illegal or unenforceable, Plaintiffs will fully cooperate with Defendants to effectuate its purpose to conform the provision(s) to law.

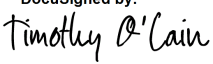
24. Jointly Drafted. This Agreement is deemed to have been drafted jointly by the Parties. Any uncertainty or ambiguity shall not be construed for or against any Party, since all Parties have participated in the negotiations and drafting of this Agreement.

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Furthermore, signatures delivered via email transmission shall have the same force, validity and effect as the originals.

The Parties knowingly and voluntarily sign this Confidential Settlement Agreement and General Release as of the date(s) set forth below.

Plaintiffs

Date: 12/15/2021

DocuSigned by:

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TIMOTHY O'CAIN

Date: 12/14/2021

DocuSigned by:

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JOSH DAY

Defendants

Date: _____

RUCKUS

Name: _____

Title: _____

Date: _____

GREGORY S. JONES

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