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14

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SAN BERNARDINO**
17

18 ANDRE BEY, individually, and on behalf of all
19 others similarly situated,

20 Plaintiff,

21 vs.

22 HOLLIDAY ROCK CO., INC., a California
23 corporation; and DOES 1 through 10, inclusive,

24 Defendants
25
26
27
28

Case No.: CIVSB2316000

PAGA SETTLEMENT AGREEMENT

Action Filed: July 13, 2023
FAC Filed: December 18, 2023
SAC Filed: July 15, 2024
Trial Date: None Set

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PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiffs ANDRE BEY and DONALDO BARELA PONCE, (“Plaintiffs”), individually and in their capacity as representatives of the State of California on behalf of other allegedly aggrieved employees, and defendant HOLLIDAY ROCK CO., INC. (“Defendant”) The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiffs’ consolidated lawsuit alleging wage and hour violations against Defendant captioned *Andre Bey v. Holliday Rock, Co.*, Case No. CIVSB2316000, initiated on July 13, 2023, and pending in Superior Court of the State of California, County of San Bernardino, and *Donaldo Barela Ponce v. Holliday Rock, Co.*, Case No. CIVSB2332526
- 1.2. “Administrator” means Simpluris the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of the Settlement.
- 1.4. “Covered Employees” means all current and former hourly employees of Defendant who performed work in California at any time during the period from July 13, 2022 through March 31, 2024 (the “PAGA Period”).
- 1.5. “Covered Employee Data” means Covered Employee identifying information in Defendant’s possession including the Covered Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 1.6. “Covered Employee Address Search” means the Administrator’s investigation and search for current Covered Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Covered Employees.

- 1.7. "Court" means the Superior Court of California, County of San Bernardino.
- 1.8. "Defense Counsel" means Fisher & Phillips, LLP.
- 1.9. "Effective Date" means the earliest date, following entry by the Court of the Judgment, upon which one of the following has occurred: (i) expiration of all potential appeal periods without a filing a notice of appeal of the Judgment; (ii) final affirmance of the Judgment by an appellate court as a result of any appeal(s); or (iii) final dismissal or denial of all such appeals (including any petitions for review, rehearing, certiorari, etc.) such that the Judgment is no longer subject to further judicial review.
- 1.10. "Gross Settlement Amount" means \$550,000.00 which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Enhancement Payment to Plaintiffs, and the Administration Expenses Payment.
- 1.11. "Individual PAGA Payment" means the Covered Employee's *pro rata* share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Covered Employee worked during the PAGA Period.
- 1.12. "Judgment" means the judgment entered by the Court based upon the Order granting Approval of the Settlement.
- 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code § 2699(i).
- 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).
- 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Enhancement Payment to Plaintiffs, and the Administration Expenses Payment. The remainder is to be paid as follows: 75% of the Net Settlement Amount to the LWDA PAGA Payment and 25% of the Net Settlement Amount to the Individual PAGA Payments.

- 1.16. "PAGA Counsel" means Moon Law Group, PC, and Bibiyan Law Group, PC.
- 1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. "PAGA Pay Period" means any Pay Period during which a Covered Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. "PAGA Period" means the period from July 13, 2022, to March 31, 2024.
- 1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).
- 1.21. "PAGA Notice" means Plaintiffs' July 10, 2023, and October 9, 2023, letters to Defendant and the LWDA providing notice pursuant to Labor Code § 2699.3(a).
- 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Covered Employees as Individual PAGA Payments and the 75% to LWDA as the LWDA PAGA Payment in settlement of PAGA claims.
- 1.23. "Plaintiffs" means Andre Bey and Donaldo Barela Ponce, the named plaintiffs in the Action.
- 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. "Released PAGA Claims" means the claims being released as described in Paragraph 5 below.
- 1.26. "Released Parties" means: Holliday Rock, Co., Inc., and its current and former, direct and indirect owners, parents, subsidiaries, brother-sister companies, and all other affiliates and related entities, and each of its respective current and former owners, partners, officers, directors, managers, employees, attorneys, agents, and other related parties.
- 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28. "Defendant" means named Defendant Holliday Rock Co., Inc.

1 **2. RECITALS.**

- 2 2.1. July 13, 2023, Plaintiff Andre Bey filed a class action complaint in this action against
3 Defendant alleging violations of California law. Because of an enforceable arbitration
4 agreement, Plaintiff Bey dismissed class and individual claims and filed a Private Attorney
5 General Act ("PAGA") only complaint ("Bey Action").
- 6 2.2. Plaintiff Donaldo Barela Ponce filed a PAGA only complaint on December 15, 2024,
7 entitled *Donaldo Barela Ponce v. Holliday Rock Co., Inc. et al.*, Case No. CIVSB2332526,
8 pending in San Bernardino Superior Court ("Ponce Action").
- 9 2.3. On February 12, 2024, the Parties in the Bey and Ponce Actions participated in a global
10 mediation with Defendant and reached an agreement in principle. Prior to mediation,
11 Plaintiffs obtained, through informal discovery, employee and payroll data, policy
12 documents, and additional information regarding Defendant's non-exempt, hourly
13 employees in California who were employed by Defendant during the PAGA Period,
14 which PAGA Counsel reviewed and analyzed.
- 15 2.4. On July 15, 2024, Plaintiffs filed Second Amended Consolidated Complaint adding
16 Donaldo Barela Ponce to the Bey Action as an additional representative.
- 17 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any
18 other pending matter or action asserting claims that will be extinguished or affected by the
19 Settlement.

20 **3. MONETARY TERMS.**

- 21 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8 below, Defendant
22 promises to pay \$550,000.00 and no more as the Gross Settlement Amount. Defendant has
23 no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph
24 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement
25 Amount without asking or requiring Covered Employees to submit any claim as a
26 condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 27 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the
28 following payments from the Gross Settlement Amount, in the amounts specified by the

1 Court in the Final Approval:

2 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than one-third of
3 the Gross Settlement Amount, which is currently estimated to be \$183,333.33 and
4 a PAGA Counsel Litigation Expenses Payment of not more than \$25,000.00.

5 Defendant will not oppose requests for these payments provided that do not exceed
6 these amounts. Plaintiffs and/or PAGA Counsel will file an application or motion
7 for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the
8 Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel
9 Litigation Expenses Payment less than the amounts requested, the Administrator
10 will allocate the remainder to the Net Settlement Amount. Released Parties shall
11 have no liability to PAGA Counsel or any other Plaintiffs' Counsel arising from
12 any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel
13 Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees
14 Payment and PAGA Counsel Expenses Payment using IRS 1099 Forms. PAGA
15 Counsel assumes full responsibility and liability for taxes owed on the PAGA
16 Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment and
17 holds Defendant harmless, and indemnifies Defendant, from any dispute or
18 controversy regarding any division or sharing of any of these Payments.

19 3.2.2. To the Administrator: An Administration Expenses Payment not to exceed
20 \$20,000.00 except for a showing of good cause and as approved by the Court. To
21 the extent the Administration Expenses are less, or the Court approves payment
22 less than \$20,000.00, the Administrator will retain the remainder in the Net
23 Settlement Amount.

24 3.2.3. Enhancement Payment To Plaintiffs: A litigation enhancement Payment not to
25 exceed \$2,000.00 per Plaintiff. If the Court approves less than the amounts
26 requested, the Administrator will allocate the remainder to the Net Settlement
27 Amount.

28 3.2.4. To the LWDA and Covered Employees: After deducting PAGA Counsel Fees

Payment, PAGA Counsel Litigation Expenses Payment, Enhancement Payment, and the Administration Expenses Payment from the Gross Settlement Amount, the remaining amount will be the Net Settlement Amount. The Net Settlement Amount is comprised of the LWDA PAGA Payment and Individual PAGA Payments. The Net Settlement Amount shall be allocated 75% to the LWDA PAGA Payment. The remaining 25% of the Net Settlement Amount will be allocated to the Individual PAGA Payments that will be paid to the Covered Employees on a *pro rata* basis as noted below.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Covered Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Covered Employees during the PAGA Period and (b) multiplying the result by each Covered Employee's PAGA Period Pay Periods. Covered Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payments.

3.2.4.2. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. **SETTLEMENT FUNDING AND PAYMENTS.**

4.1. Covered Employee Pay Periods. Based on a review of its records, Defendant estimates that there are 1,072 Covered Employees, who collectively worked 58,034 pay periods during the period from July 13, 2022 through February 12, 2024.

4.2. Covered Employee Data. Within fourteen (14) days after the Court Order is signed, Defendant will simultaneously deliver the Covered Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Covered Employees' privacy rights, the Administrator must maintain the Covered Employee Data in confidence, use the Covered Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Covered Employee Data to Administrator employees who need access to the Covered Employee Data to effect and perform under this Agreement. Defendant has

1 a continuing duty to immediately notify PAGA Counsel if it discovers that the Covered
2 Employee Data omitted employee identifying information and to provide corrected or
3 updated Covered Employee Data as soon as reasonably feasible. Without any extension of
4 the deadline by which Defendant must send the Covered Employee Data to the
5 Administrator, the Parties and their counsel will expeditiously use best efforts, in good
6 faith, to reconstruct or otherwise resolve any issues related to missing or omitted Covered
7 Employee Data.

8 4.3. Funding of Gross Settlement Amount. Within one (1) day after the Effective Date, the
9 Administrator will provide Defendant with wire transfer information. Defendant shall
10 fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no
11 later than fourteen (14) days after the Effective Date.

12 4.4. Payments from the Gross Settlement Amount. Within ten (10) days after Defendant funds
13 the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA
14 Payments, the LWDA PAGA Payment, the Enhancement Payments, the Administration
15 Expenses Payment, the PAGA Counsel Fees Payment, and the PAGA Counsel Litigation
16 Expenses Payment. Additionally, the Administrator will send Covered Employees a Notice
17 of PAGA Action Settlement (attached hereto as **Exhibit 1**) along with their respective
18 Individual PAGA Payment.

19 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and send
20 them to the Covered Employees via First Class U.S. Mail, postage prepaid. The
21 face of each check shall prominently state the date (not less than 180 days after the
22 date of mailing) when the check will be voided. The Administrator will cancel all
23 checks not cashed by the void date. Before mailing any checks, the Administrator
24 must update the recipients' mailing addresses using the National Change of
25 Address Database.

26 4.4.2. The Administrator must conduct a Covered Employee Address Search for all
27 Covered Employees whose checks are returned undelivered without USPS
28 forwarding address. Within seven (7) days of receiving a returned check the

1 Administrator must re-mail checks to the USPS forwarding address provided or to
2 an address ascertained through the Covered Employee Address Search. The
3 Administrator need not take further steps to deliver checks to Covered Employees
4 whose re-mailed checks are returned as undelivered. The Administrator shall
5 promptly send a replacement check to any Covered Employee whose original
6 check was lost or misplaced, requested by the Covered Employee prior to the void
7 date.

8 4.4.3. For any Covered Employee whose' Individual PAGA Payment check is uncashed
9 and cancelled after the void date, the Administrator shall transmit the funds
10 represented by such checks to the California Controller's Unclaimed Property Fund
11 in the name of the Covered Employee.

12 4.4.4. The payment of Individual PAGA Payments shall not obligate Defendant to confer
13 any additional benefits or make any additional payments to the Covered
14 Employees (such as 401(k) contributions or bonuses) beyond those specified in this
15 Agreement.

16 **5. RELEASES OF CLAIMS.**

17 Effective on the date when Defendant fully funds the entire Gross Settlement Amount, Covered
18 Employees (including Plaintiffs) will release claims against all Released Parties as follows:

19 5.1. Release by Covered Employees: All Covered Employees (including Plaintiffs) are deemed
20 to release, on behalf of themselves and their respective former and present representatives,
21 agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from
22 any and all claims for relief under PAGA arising during the PAGA Period, based on the
23 facts alleged by Plaintiffs in the Second Amended Complaint ("Operative Complaint") and
24 Plaintiffs' PAGA Notice to the LWDA including, but not limited to, civil penalties for the
25 violation of the following Labor Code sections: 98.6, 201, 202, 203, 204, 210, 216, 218,
26 222, 225.5, 226 et. Seq., 226.3, 226.7, 227.3, 233, 234, 246, 246.5, 432, 510, 512, 516,
27 551, 552, 558, 558.1, 1174, 1182.12, 1193, 1193.6, 1194, 1194.2, 1197, 1197.1, 1198,
28 1198.5, 1199, 2698 et seq., 2699, 2802, 2804, and 2810.5., and the applicable IWC Wage

1 Orders, and any resulting claim for attorneys' fees and costs under PAGA. In line with the
2 holding of *Arias v. Superior Court*, 46 Cal. 4th 969 (2009), because actions under PAGA
3 functions as a substitute for an action by the government itself, any judgment will be
4 binding not only on the Plaintiffs but also on government agencies and any other
5 Aggrieved Employee not a party to the proceeding. Thus, nonparty employees who are
6 Aggrieved Employees cannot sue to recover additional civil penalties for the same Labor
7 Code violations released (but may sue for damages or other remedies for the same
8 violations).

9 **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.**

10 The Parties agree to jointly prepare and file an application or motion for approval of this
11 Settlement.

12 6.1. Plaintiffs' Responsibilities. Plaintiffs will prepare and deliver to Defense Counsel all
13 documents necessary for obtaining approval of this Settlement under Labor Code Section
14 2699, subd. (f)(2) including (i) a draft proposed Order Granting Approval of PAGA
15 Settlement; (ii) signed declaration from PAGA Counsel firm attesting to its timely
16 transmission to the LWDA of all necessary PAGA documents (initial notice of violations
17 (Labor Code § 2699.3(a)), Operative Complaint (Labor Code § 2699(l)(1)), this
18 Agreement (Labor Code § 2699(l)(2)); (iv) all facts relevant to any actual or potential
19 conflict of interest with Covered Employees and/or the Administrator. In their
20 Declarations, Plaintiffs and PAGA Counsel shall aver that they are not aware of any other
21 pending matter or action asserting claims that will be extinguished or adversely affected by
22 the Settlement, except the purported class action and representative action matters *Donaldo*
23 *Barela Ponce v. Holliday Rock Co., Inc.* pending in the San Bernardino Superior Court,
24 Case No. CIVSB2327716 as well as the related PAGA case alleging the same underlying
25 violations, Case No. CIVSB2332526 (the which will be dismissed without prejudice in
26 support of a global resolution of representative action claims against Defendant at issue in
27 this Settlement).

28 6.2. Responsibilities of All Counsel. PAGA Counsel and Defense Counsel are jointly

1 responsible for expeditiously finalizing and filing the application or motion for approval of
2 this Settlement and, if necessary, obtaining a prompt hearing date for the motion and
3 appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for
4 delivering the Court's Approval Order to the Administrator.

5 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or
6 motion for approval of this Settlement and/or the supporting declarations and documents,
7 PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the
8 Parties by meeting in person or by telephone, and in good faith, to resolve the
9 disagreement. If the Court does not grant the motion for approval of this Settlement or
10 conditions its approval on any material change to this Agreement, PAGA Counsel and
11 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in
12 person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy
13 the Court's concerns.

14 **7. SETTLEMENT ADMINISTRATION.**

15 7.1. Selection of Administrator. The Parties have jointly selected Simpluris to serve as the
16 Administrator and verified that, as a condition of appointment, Simpluris agrees to be
17 bound by this Agreement and to perform, as a fiduciary, all duties specified in this
18 Agreement in exchange for payment of the Administration Expenses Payment. The Parties
19 and their Counsel represent that they have no interest or relationship, financial or
20 otherwise, with the Administrator other than a professional relationship arising out of prior
21 experiences administering settlements.

22 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
23 Identification Number for purposes of calculating payroll tax withholdings and providing
24 reports state and federal tax authorities.

25 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
26 the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation §
27 468B-1.

28 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to be

performed or observed by the Administrator contained in this Agreement or otherwise.

8. COVERED EMPLOYEE SIZE ESTIMATES AND ESCALATOR CLAUSE

Based on its records, Defendant estimates that, as of the date of February 12, 2024, there were approximately 1,072 Covered Employees who worked a total of 58,034 Pay Periods during the PAGA Period. Should the number of PAGA Pay Periods exceed by more than 10% the estimated number of 58,034 Pay Periods (*i.e.*, 5,804 or more PAGA Pay Periods), Defendant shall increase the Gross Settlement Amount on a pro-rata basis equivalent to the percentage increase in the number of pay periods worked by the Covered Employees above the ten percent (10%) threshold, meaning Defendant will increase the Gross Settlement Amount by the percentage amount above ten percent (10%) (e.g., if the number of pay periods increases by 11% to 6,384 pay periods, the Gross Settlement Amount will increase by one percent (1%)).

9. CONTINUING JURISDICTION AND WAIVER OF RIGHT TO APPEAL.

9.1. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.2. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

1 **10. ADDITIONAL PROVISIONS.**

2 10.1. No Admission of Liability or Representative Manageability for Other Purposes. This
3 Agreement represents a compromise and settlement of highly disputed claims. Nothing in
4 this Agreement is intended or should be construed as an admission by Defendant that any
5 of the allegations in the Operative Complaint have merit or that Defendant has any liability
6 for any claims asserted; nor should it be intended or construed as an admission by Plaintiff
7 that Defendant's defenses in the Action have merit. The Parties agree that representative
8 treatment is for purposes of this Settlement only. If, for any reason the Court does not
9 approve this Settlement, Defendant reserves all available defenses to the claims in the
10 Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement,
11 this Agreement, and the Parties' willingness to settle the Action will have no bearing on,
12 and will not be admissible in connection with, any litigation (except for proceedings to
13 enforce or effectuate the Settlement and this Agreement).

14 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
15 together with its attached exhibits shall constitute the entire agreement between the Parties
16 relating to the Settlement, superseding any and all oral representations, warranties,
17 covenants, or inducements made to or by any Party.

18 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and
19 represent that they are authorized by Plaintiffs and Defendant, respectively, to take all
20 appropriate action required or permitted to be taken by such Parties pursuant to this
21 Agreement to effectuate its terms, and to execute any other documents reasonably required
22 to effectuate the terms of this Agreement including any amendments to this Agreement.

23 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use their
24 best efforts, in good faith, to implement the Settlement by, among other things, modifying
25 the Agreement, submitting supplemental evidence and supplementing points and
26 authorities as requested by the Court. In the event the Parties are unable to agree upon the
27 form or content of any document necessary to implement the Settlement, or on any
28 modification of the Agreement that may become necessary to implement the Settlement,

the Parties will seek the assistance of a mediator and/or the Court for resolution.

10.5. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.

10.12. Use and Return of Covered Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that

violates any existing contractual agreement, statute, or rule of court. Covered Employee Data shall not be shared with PAGA Counsel unless identifying information is anonymized. In the event PAGA Counsel receives non-anonymized Covered Employee Data, PAGA Counsel shall delete it immediately.

10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

10.14. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

10.15. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

10.16. Enforcement Actions. Except as otherwise provided in this PAGA Settlement Agreement, in the event that one or more of the Parties to this PAGA Settlement Agreement institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this PAGA Settlement Agreement or to declare rights and/or obligations under this PAGA Settlement Agreement, the successful Party or Parties shall be entitled to recover from the unsuccessful Party or Parties reasonable attorneys’ fees and costs incurred in connection with any enforcement actions.

10.17. Binding Settlement. This PAGA Settlement Agreement is intended to and shall be fully binding, enforceable, and subject to disclosure, including Evidence Code section 1123 and Code of Civil Procedure section 664.6.

10.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the

litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to Code of Civil Procedure § 583.330 to extend the date to bring a case to trial under Code of Civil Procedure § 583.310 for the entire period of this settlement process.

Plaintiff:

Dated: 08/30/2024

DocuSigned by:

By: 76D48FAD38E7443...
Andre Bey

Dated: 08/29/2024


By: Donaldo Ponce (Aug 29, 2024 12:34 PDT)
Donaldo Ponce Barela

Plaintiff's Counsel:

Dated: 9/6/2024

MOON LAW GROUP, PC

By: 
Kane Moon
Lilit Ter-Astvatsatryan

Dated: 9/8/2024

BIBIYAN LAW, PC

By: 
David Bibiyan
Vedang Patel
Attorneys for Plaintiffs

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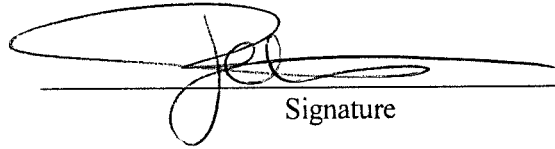
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1 **Defendant:**

2 Dated: September 3, 2024

HOLLIDAY ROCK CO., INC.

3 By: John F. Holliday
4 Print Name

5 
6 Signature

7 Secretary Treasurer
8 Title

9 **Defendant's Counsel:**

10 Dated: September 3, 2024

FISHER & PHILLIPS, LLP

11 By: 
12 Lonnie D. Giamela
13 Areen Babajian

14 Attorneys for Defendant