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15  
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
17 **COUNTY OF SANTA CLARA**

18 THOMAS HEFNER, as an individual on  
behalf of himself and all similarly situated

19  
20 Plaintiff,

21 v.

22 SOLARAY, LLC, a California limited liability  
company; and DOES 1 THROUGH 50,  
23 inclusive,

24 Defendants.  
25

Case No.: 21CV384796

*[Assigned for all purposes to the Honorable Sunil  
R. Kulkarni, Dept. 1]*

**ADDENDUM TO STIPULATION OF  
SETTLEMENT AND RELEASE OF CLAIMS**

GRAHAM HOLLIS APC  
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1 This Addendum to Stipulation and Settlement of Claims (the "Addendum") has been executed  
2 for the purpose of clarifying the terms and conditions of the Stipulation and Settlement of Claims dated  
3 as of June 17, 2022 (the "Settlement Agreement") entered into by and among Plaintiff Thomas Hefner,  
4 as an individual and on behalf of all others similarly situated ("Plaintiff"), and Defendant Solaray LLC  
5 ("Defendant") (collectively, the "Parties"). This Addendum, as with the Settlement Agreement is subject  
6 to the approval of the Superior Court.

7 WHEREAS, on June 17, 2022, the Parties entered into a Stipulation and Settlement of Claims  
8 ("Settlement Agreement");

9 WHEREAS, on August 1, 2022, Plaintiff filed his Motion for Preliminary Approval of Class and  
10 PAGA Action Settlement;

11 WHEREAS, on August 2, 2022, the Court issued a Tentative Ruling indicating that the Court is  
12 inclined to grant preliminary approval, subject to the Parties' agreement to amend the release to conform  
13 with *Amaro v. Anaheim Arena Management, LLC* (2021) 69 Cal.App.5th 521, among other edits.

14 THEREFORE, the Parties hereby add to or modify the Agreement as follows, in the form of a  
15 binding Addendum:

16 **PROVISIONS:**

- 17 1. Terms used in this Addendum are defined in the Agreement.
- 18 2. Under Definitions on Page 3, line 10, in Paragraph A defining "Action," the date "June  
19 27, 2017" is stricken and "June 27, 2021" is inserted in its place.
- 20 3. The Parties agree to delete ", address, and last four digits of the Social Security number  
21 and/or the Employee ID number" on Page 15, Lines 25-26 (contained within Paragraph III.I.1,  
22 "Requests for Exclusion") from the Settlement Agreement.
- 23 4. The Parties agree to delete "the last four digits of the Social Security number and/or the  
24 Employee ID number" on Page 16, Lines 26-27 (contained within Paragraph III.I.2, "Objections") from  
25 the Agreement.
- 26 5. On Pages 18-19 of the Settlement Agreement, the Parties agree to replace all of  
27 Paragraph III.K.1 with the following:

28 **1. Released Class Claims**

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Upon the Effective Date, and except as to the right to enforce the terms and conditions of this Agreement, each Participating Class Member will release the Released Parties of all claims, actions, demands, causes of action, suits, debts, obligations, rights, or liabilities reasonably related to or arising from the same set of facts asserted in the operative complaint in the Action or the facts alleged in the related LWDA notice, including but not limited to claims for (1) failure to provide legally compliant meal periods and/or timely pay premium wages in violation of Labor Code §§ 204, 226.7, 512, 558, 1198 and the "Meal Periods" section of IWC Wage Order No. 7-2001; (2) failure to provide legally compliant rest periods and/or timely pay premium wages in violation of Labor Code §§ 204, 226.7, 1198 and the "Rest Periods" section of IWC Wage Order No. 7-2001; (3) failure to timely pay minimum and/or regular wages in violation of Labor Code §§ 204, 210, 1194, 1194.2, 1197, 1197.1, 1198 and the "Minimum Wages" section of IWC Wage Order No. 7-2001; (4) failure to pay all overtime wages and/or double time wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1198 and the "Hours and Days of Work" section of IWC Wage Order No. 7-2001; (5) unlawful deductions and/or underpayment of wages in violation of Labor Code §§ 221, 222, 223, and 224; (6) failure to timely pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, and 203 and 210; (7) failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 1198, and the "Records" section of IWC Wage Order No. 7-2001; (8) failure to maintain accurate records in violation of Labor Code § 226 and the IWC Wage Order No. 7-2001; (9) failure to provide employment and personnel records upon request in violation of Labor Code §§ 226 and 1198.5; (10) violations of Business and Professions Code §§ 17200 *et seq.* based solely on the facts alleged in the operative complaint in the Action; and (11) any and all damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest, costs or attorneys' fees resulting therefrom ("Released Class Claims"). The period of the Released Class Claims shall extend to the limits of the Class Period. The res judicata effect of the Judgment will be the same as that of the Released Class Claims. The Released Class Claims shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, or any other claim or right that as a matter of law cannot be waived or released.

6. On Pages 19-20 of the Settlement Agreement, the Parties agree to replace all of Paragraph III.K.2 with the following:

**2. Released PAGA Claims**

Upon the Effective Date, and except as to the right to enforce the terms and conditions of this Agreement, each PAGA Employee will release the Released Parties of all claims pursuant to PAGA of any nature or description reasonably related to or arising from the same set of facts asserted in the operative complaint in the Action or the facts alleged in the related LWDA notice, including but not limited to PAGA claims for (1) failure to provide legally

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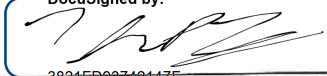
compliant meal periods and/or timely pay premium wages in violation of Labor Code §§ 204, 210, 226.7, 512, 558, 1198 and the "Meal Periods" section of IWC Wage Order No. 7-2001; (2) failure to provide legally compliant rest periods and/or timely pay premium wages in violation of Labor Code §§ 204, 210, 226.7, 1198 and the "Rest Periods" section of IWC Wage Order No. 7-2001; (3) failure to timely pay minimum and/or regular wages in violation of Labor Code §§ 204, 210, 1194, 1194.2, 1197, 1197.1, 1198 and the "Minimum Wages" section of IWC Wage Order No. 7-2001; (4) failure to pay all overtime wages and/or double time wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1198 and the "Hours and Days of Work" section of IWC Wage Order No. 7-2001; (5) unlawful deductions and/or underpayment of wages in violation of Labor Code §§ 212, 221, 223, 224, and 225.5; (6) failure to timely pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, 203 and 210; (7) failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 226.3, and the "Records" section of IWC Wage Order No. 7-2001; (8) failure to maintain accurate records in violation of Labor Code §§ 226, 1174, 1174.5 and the "Records" section IWC Wage Order No. 7-2001; and (9) failure to provide employment and personnel records upon request in violation of Labor Code §§ 226, 1198, and 1198.5 based solely on the facts alleged in the operative complaint in the Action ("Released PAGA Claims"). The period of the Released PAGA Claims shall extend to the limits of the PAGA Period. The res judicata effect of the Judgment will be the same as that of the Release. The Released PAGA Claims shall not apply to any claim or right that as a matter of law cannot be waived or released.

7. The attached Exhibit A – Notice of Class Action Settlement – shall replace the original Exhibit A attached to the Settlement Agreement.


8. All other provisions contained in the Agreement shall remain "as is," and continue in full force and effect.

**IT IS SO AGREED.**

Dated: August 11, 2022

DocuSigned by:  
  
3821FD99742147F...  
Plaintiff THOMAS HEFNER

Dated: August 10, 2022

  
Defendant SOLARAY, LLC  
By: *Chris W. Pullman*  
Title: *Chief Administrative Officer*

1 **Approved as to Form and Content:**

2 Dated: August 11, 2022

GRAHAM HOLLIS APC

3 By: 

4 GRAHAM S.P. HOLLIS  
5 DAWN M. BERRY  
6 NORA J. STEINHAGEN  
7 Attorneys for Plaintiff THOMAS HEFNER

8 Dated: August 10, 2022

SCHOR VOGELZANG & CHUNG LLP

9 By: 

10 JULIE VOGELZANG  
11 LISA HIRD CHUNG  
12 CARL J. LEHMAN  
13 Attorney for Defendant SOLARAY, LLC

14 GRAHAM HOLLIS APC  
15 3555 FIFTH AVENUE SUITE 200  
16 SAN DIEGO, CALIFORNIA 92103

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# **EXHIBIT A**

*Thomas Hefner v. Solaray, LLC, et al.*, Santa Clara County Superior Court, Case No. 21CV384796  
 SUPERIOR COURT FOR THE STATE OF CALIFORNIA, COUNTY OF SANTA CLARA

**NOTICE OF SETTLEMENT AND RELEASE OF CLAIMS**

*You are not being sued. This notice affects your rights. Please read it carefully.*

To: All current and former non-exempt Route Sales Representatives, Route Service Representatives, and Route Relief Representatives who are employed or have been employed by Solaray, LLC (“Defendant”) and who worked in California at any time between July 27, 2017, through and including August 8, 2022.

You have received this Notice of Settlement and Release of Claims (“Notice”) because Defendant’s records identify you as a current or former non-exempt employee of Defendant who performed work for Defendant in the State of California at any time from July 27, 2017, through and including August 8, 2022. The purpose of this Notice is to explain the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for the benefits, and how to receive them.

Defendant’s records indicate that you worked a total of \_\_\_\_ workweeks during the relevant time period. As explained in Section 5, your total estimated Individual Settlement Payment is approximately \$ \_\_\_\_.

- **READ THIS NOTICE CAREFULLY. YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.**
- **THE COURT HAS NOT DETERMINED THAT DEFENDANT VIOLATED THE LAW. DEFENDANT DENIES THAT IT VIOLATED ANY LAWS OR THAT IT HARMED WORKERS IN ANY WAY. IT IS SETTLING THIS LAWSUIT TO AVOID THE EXPENSE AND BURDEN OF FURTHER LITIGATION.**
- **DEFENDANT WILL NOT RETALIATE IN ANY MANNER AGAINST ANY SETTLEMENT CLASS MEMBER RELATED TO THIS LAWSUIT.**

<b>SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>PARTICIPATE IN THE SETTLEMENT - <u>NO ACTION REQUIRED</u></b>	<p>You do not have to do anything to receive your Individual Settlement Payments other than ensuring that the Settlement Administrator has your current mailing address on file if it changes from the address to which this Notice was mailed. Payments will be mailed to you after the Court grants final approval of the Settlement. (See Section 5 for more information.)</p> <p>If you are a Participating Class Member, as defined below, you will be mailed a check in exchange for the release of the Released Class Claims, as detailed below.</p> <p>If you are a PAGA Employee, as defined below, you will be mailed a check in exchange for the release of the Released PAGA Claims regardless of whether you request exclusion from the Settlement.</p>
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT</b>	<p>Decline your Class Member Payment. Write to the Settlement Administrator by [date] stating that you do not want to participate in the Settlement and do not want to receive your Class Member Payment. (See Section 5 for more information.) This is the only option that will allow you to bring your own lawsuit against Defendant for the same claims settled in this Lawsuit. You cannot, however, exclude yourself from the PAGA portion of this Settlement and will still receive a check as a PAGA Employee, if applicable.</p>

<b>OBJECT TO THE SETTLEMENT</b>	Write to the Settlement Administrator by [date] if you think the Settlement is not fair. You may also ask to speak in Court about why you think the Settlement is not fair. (See Section 5 for more information.)  <b>NOTE:</b> You cannot object to the Settlement if you ask to exclude yourself from the Settlement.
<b>DISPUTE THE NUMBER OF WORKWEEKS WORKED</b>	If you believe that your number of Workweeks Worked is incorrect, you must notify the Settlement Administrator of your belief and provide supporting documentation by [date]. (See Section 5 for more information.)
<b>CHANGE/UPDATE YOUR CONTACT INFORMATION</b>	Update your personal information to ensure that your Individual Settlement Payment is mailed to the correct address by contacting the Settlement Administrator at (###) ###-####.

### 1. Introduction

The Honorable Sunil R. Kulkarni of the Superior Court for the State of California, County of Santa Clara, has granted preliminary approval of a proposed settlement ("Settlement") of this putative class and Private Attorneys General Act ("PAGA") action (the "Action" or "Lawsuit").

The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement. **You have received this Notice because Defendant's records indicate that you are a Class Member (defined below) and you may be entitled to an Individual Settlement Payment.**

**Unless you choose to be excluded from the Settlement by following the procedures described below, you will be deemed a Participating Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the Gross Settlement Amount.** However, all PAGA Employees (as defined below) will receive a pro rata portion of the PAGA Settlement regardless of whether they opt out of the Settlement. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at :00 .m. on \_\_\_\_\_, 2022, in Department 1 of the Superior Court for the State of California, County of Santa Clara, located at 191 North First Street, San Jose, California, 95113. You are not required to attend the Final Approval Hearing, but you are welcome to do so. The Court may change the Final Approval Hearing date or time without notice.

### 2. Summary of the Litigation

Plaintiff Thomas Hefner ("Plaintiff"), on behalf of himself and on behalf of other non-exempt Route Sales Representatives, Route Service Representatives, and Route Relief Representatives who are employed or have been employed by Solaray, LLC and who worked in the State of California at any time from July 27, 2017, through and including August 8, 2022, claims that Defendant violated California state labor laws by: (1) failing to provide legally compliant meal periods and/or timely pay premium wages; (2) failing to provide legally compliant rest periods and/or timely pay premium wages; (3) failing to timely pay minimum and regular wages; (4) failing to pay timely all overtime and double time wages; (5) unlawfully deducting and/or underpaying wages; (6) failing to timely pay all wages due and owing upon separation of employment; (7) failing to furnish accurate itemized wage statements; (8) failing to maintain accurate records; and (9) failing to provide employment and personnel records upon request. Plaintiff also alleges a cause of action for violation of Business & Professions Code §§ 17200, *et seq.* The Action also serves as an enforcement action in accordance with the PAGA, Labor Code sections 2698 *et seq.*

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**



After the exchange of relevant information and evidence, the Parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the Action. On April 7, 2022, the Parties participated in a mediation with Steven Serratore, Esq., an experienced and well-respected class action mediator. With Mr. Serratore's guidance, the Parties were able to negotiate a complete settlement of the claims described above.

Counsel for Plaintiff, and the attorneys approved by the Court to represent the Settlement Class, Graham S.P. Hollis, Dawn M. Berry, and Nora J. Steinhagen of GrahamHollis APC ("Class Counsel"), have investigated and researched the facts and circumstances underlying the issues raised in the Action and the applicable law. While Class Counsel believes that the claims alleged in this Lawsuit have merit, Class Counsel also recognizes that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believes the proposed settlement is fair, adequate, reasonable, and in the best interests of all Class Members, PAGA Employees and the State of California.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this Settlement. Judge Sunil R. Kulkarni of the Superior Court of the State of California, County of Santa Clara, is overseeing this Lawsuit. The Lawsuit is known as *Thomas Hefner v. Solaray, LLC, et al.*, Case No. 21CV384796.

Defendant has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to the asserted claims. Defendant denies any wrongdoing and asserts that its pay practices at all times complied with the law. Defendant further denies that it owes the monies claimed in the Lawsuit. However, Defendant has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation. By agreeing to settle the Action, Defendant is not admitting liability on any of the factual allegations or claims in the Action or that the Action can or should proceed as a class or PAGA representative action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

### **3. Summary of the Proposed Settlement Terms**

Plaintiff and Defendant have agreed to settle the Action in exchange for a Gross Settlement Amount of \$750,000.00. This amount is inclusive of: (1) Class Member Payments to all Participating Class Members; (2) an Enhancement Payment in an amount up to \$7,500.00 to Plaintiff; (3) the Class Counsel Payment, which includes \$250,000.00 in attorney's fees and reasonable litigation costs not to exceed \$16,500.00; (4) the PAGA Settlement in the amount of \$75,000.00; and (5) reasonable Administration Costs not to exceed \$5,995.00. After deducting the Enhancement Payment, the Class Counsel Payment, the PAGA Settlement, and the Administration Costs, a Net Settlement Amount of approximately \$395,000.00 will be allocated to Class Members who do not opt out of the settlement ("Participating Class Members").

Each Participating Class Member's settlement payment ("Class Member Payment") will be based on the number of workweeks the Participating Class Member worked during the period of July 27, 2017, through August 8, 2022 ("Class Period"). The Net Settlement Amount will be distributed on a pro rata basis according to the number of Workweeks Worked during the Class Period. "Workweeks Worked" means any week (defined as Sunday through Saturday) during which you performed work for Defendant on at least one day of that week during the relevant time period, according to Defendant's timekeeping records. Any Participating Class Member whose employment with Defendant terminated between July 27, 2017, and August 8, 2022 (the "Waiting Time Subclass") will be credited with an additional six (6) workweeks toward the calculation of their total Workweeks Worked.

Class Member Payments will be calculated as follows: the number of the Class Member's Workweeks Worked during the Class Period, divided by the total number of Workweeks Worked by all Class Members during the Class Period, multiplied by the Net Settlement Amount. Class Member Payments will be treated as two-thirds interest and penalties (for which IRS

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

Forms 1099-MISC will be issued), and one-third wages (for which IRS Forms W-2 will be issued). Participating Class Members will be responsible for taxes associated with the wages portion of the Class Member Payments. The six (6) additional Workweeks Worked credited to individuals in the Waiting Time Subclass will be allocated 100% as penalties.

The Parties also will seek approval for a PAGA Settlement from the Gross Settlement Amount in the amount of \$75,000.00, 75% of which will go to the California Labor & Workforce Development Agency ("LWDA"), which enforces the PAGA, and 25% of which will be paid to all individuals who Defendant employed as non-exempt Route Sales Representatives, Route Service Representatives, and Route Relief Representatives in California at any time from July 27, 2017, through and including August 8, 2022 ("PAGA Employees"). Each PAGA Employee is entitled to a pro rata share of the 25% portion of the PAGA Settlement available for distribution to PAGA Employees based on the number of Workweeks Worked by that person during the period of July 27, 2017, through and including August 8, 2022 ("PAGA Period"). The PAGA Settlement Payment is to be calculated as follows: the number of the PAGA Employee's Workweeks Worked during the PAGA Period, divided by the total number of Workweeks Worked by all PAGA Employees during the PAGA Period, multiplied by 25% of the PAGA Settlement. The full amount of the PAGA Settlement Payment will be allocated as penalties, for which IRS Forms 1099-MISC will be issued. The PAGA Settlement Payment will be paid to all PAGA Employees regardless of whether a Class Member requests exclusion from the Settlement.

Each Individual Settlement Payment will be reduced by any required legal deductions. Participating Class Members and PAGA Employees should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

All checks will be voided 180 days after issuance. After the 180-day period, the associated funds from all uncashed or undeliverable Class Member Payment and PAGA Settlement Payment (collectively, Individual Settlement Payment) checks will be directed to the California State Controller in the name of the individual who did not cash those checks.

According to Defendant's records, you performed work for Defendant in California during the Class Period for a total of \_\_\_\_\_ Workweeks Worked. According to Defendant's records, you performed work for Defendant in California during the PAGA Period for a total of \_\_\_\_\_ Workweeks Worked.

Accordingly, if the Settlement is finally approved by the Court, your estimated Individual Settlement Payment would be approximately \$\_\_\_\_\_, which includes a \$\_\_\_\_\_ Class Settlement Payment and a \$\_\_\_\_\_ PAGA Settlement Payment. If you believe the information provided above is incorrect, please promptly contact the Settlement Administrator at \_\_\_\_\_ . If you dispute the information stated above, Defendant's records will control unless you are able to provide documentation that establishes otherwise.

#### **4. Why Is This Being Referred to as a "Class and PAGA Action"?**

The Settlement about which you are receiving notice concerns a Lawsuit that includes class action and PAGA action claims. The class action claims under California law are for Defendant's alleged: (1) failure to provide lawful meal periods and/or timely pay premium wages; (2) failure to provide lawful rest periods and/or timely pay premium wages; (3) failure to timely pay minimum and/or regular wages; (4) failure to timely pay all overtime and/or double time wages; (5) unlawful deductions and/or underpayment of wages; (6) failure to timely pay all wages due and owing upon separation of employment; (7) failure to furnish accurate itemized wage statements; (8) failure to maintain accurate records; (9) failure to provide employment and personnel records upon request; and (10) violation of Business & Professions Code section 17200, *et seq.* Further, this case includes representative claims involving the PAGA for civil penalties, which is referred to as a "representative action."

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

The key distinctions between a “class action” and a “representative action” are the requirements for how you participate in or how or if you can exclude yourself from the Settlement.

**If you wish to participate in the Settlement and receive your Individual Settlement Payment as explained in this Notice, you do not have to do anything. You will receive your Individual Settlement Payment under the Settlement by doing nothing.** If you want to request to be excluded from and not be bound by the Settlement, then you must submit your intention to be excluded from the Settlement in the manner and timeframe described in Section 5 of this Notice. If you request exclusion from the Settlement, you not receive a Class Member Payment but you will receive a PAGA Settlement Payment and will be bound by the Released PAGA Claims that are part of the Settlement.

**If the Court approves the PAGA Settlement, you will receive a PAGA Settlement Payment and do not have the option to exclude yourself and you will be bound by the Released PAGA Claims.**

In sum, for the Class Member Payment, you do not have to do anything to get the money and be bound by the Released Class Claims. For the PAGA Settlement Payment, you do not need to do anything to receive your payment and you will be bound by the PAGA Released Claims.

## **5. Your Options Under the Settlement**

### ***Option 1 – Automatically Receive a Payment from the Settlement***

If you want to receive your Individual Settlement Payment from the Settlement, then no further action is required on your part. You will automatically receive your Individual Settlement Payment checks from the Settlement Administrator if and when the Settlement receives final approval by the Court.

### ***Option 2 – Request Exclusion from the Settlement by [DATE]***

If you do not wish to participate in the Settlement, you may exclude yourself from receiving the Class Member Payment and being subject to the Released Class Claims by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Settlement and Release of Claims, decided not to participate in the Settlement, and desire to “opt out” and be excluded from the Settlement. You can submit a request to exclude you from the Settlement. The written request for exclusion must include: (1) your full name; (2) the signature of the person requesting to be excluded from the Settlement; and (3) a statement which substantially reads as follows: “I wish to exclude myself from the Settlement in *Thomas Hefner v. Solaray, LLC, et al.*, Santa Clara County Superior Court, Case No. 21CV384796, and I understand that by requesting to be excluded from the Settlement I will not receive any money from the Settlement other than the PAGA Settlement Payment I will receive if I am an eligible PAGA Employee.”

The written request for exclusion must be timely mailed or faxed to the Settlement Administrator at [\_\_\_\_].

The written request to be excluded must be postmarked or faxed by \_\_\_\_\_, 2022. The date of the postmark on the mailing envelope or fax stamp will be the exclusive means used to determine whether a request for exclusion has been timely submitted. If you submit a request for exclusion that is not postmarked or faxed by \_\_\_\_\_, 2022, or your request does not include all of the information listed above, then your request for exclusion will be rejected, and you will be included in the Settlement Class. If more 5% of Class Members request exclusion, Defendant has the option to void the entire Settlement.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement and will not be bound by the Settlement or have any right to object, appeal, or comment on the Settlement. If you do not

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\\_\\_\\_\\_.com](http://www.____.com)**

request exclusion from the Settlement but then later do not cash your Individual Settlement Payment checks, you will still be bound by the Released Class Claims. If you request exclusion from the Settlement, you will still receive a PAGA Settlement Payment and will be bound by the Released PAGA Claims that are part of the Settlement.

**Option 3 – Object to the Settlement by [DATE]**

If you decide to object to the Settlement because you find any portion of it unfair or unreasonable, you may submit a written objection stating why you object to the Settlement. The objection must be signed by the Class Member or their authorized legal representative and state: (1) the full name of the Class Member; (2) the case name and case number; (3) the basis for the objection, including any evidence; and (4) if the Class Member intends to appear at the Final Approval Hearing. The objection must be timely faxed or mailed to the Settlement Administrator at [\_\_\_\_].

All written objections must be postmarked or faxed by \_\_\_\_\_ 2022. By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Approval Hearing set for \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m. in Department 1 of the Superior Court for the State of California, County of Santa Clara, located at 191 North First Street, San Jose, California, 95113, and discuss your objection with the Court and the Parties at your own expense. You may appear at the Final Approval Hearing to make an oral objection even if you do not file a written objection. You may also retain an attorney to represent you at the hearing. The Court may change the hearing date or time without notice.

**6. What Rights Am I Releasing in the Settlement?**

If you choose **Option 1 and do nothing**, and if the Court grants final approval of the Settlement (subject to any appeal), then you will be mailed a check for your Individual Settlement Payment. In addition, you will be deemed to have released or waived the following claims (“Released Class Claims”):

Upon the Effective Date, and except as to the right to enforce the terms and conditions of the Agreement, each Participating Class Member will release the Released Parties of all claims, actions, demands, causes of action, suits, debts, obligations, rights, or liabilities reasonably related to or arising from the same set of facts asserted in the operative complaint in the Action or in the related notice sent by Plaintiff to the LWDA, including but not limited to claims for (1) failure to provide legally compliant meal periods and/or timely pay premium wages in violation of Labor Code §§ 204, 226.7, 512, 558, 1198 and the “Meal Periods” section of IWC Wage Order No. 7-2001; (2) failure to provide legally compliant rest periods and/or timely pay premium wages in violation of Labor Code §§ 204, 226.7, 1198 and the “Rest Periods” section of IWC Wage Order No. 7-2001; (3) failure to timely pay minimum and/or regular wages in violation of Labor Code §§ 204, 210, 1194, 1194.2, 1197, 1197.1, 1198 and the “Minimum Wages” section of IWC Wage Order No. 7-2001; (4) failure to pay all overtime wages and/or double time wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1198 and the “Hours and Days of Work” section of IWC Wage Order No. 7-2001; (5) unlawful deductions and/or underpayment of wages in violation of Labor Code §§ 221, 222, 223, and 224; (6) failure to timely pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, and 203 and 210; (7) failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 1198, and the “Records” section of IWC Wage Order No. 7-2001; (8) failure to maintain accurate records in violation of Labor Code § 226 and the IWC Wage Order No. 7-2001; (9) failure to provide employment and personnel records upon request

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in violation of Labor Code §§ 226 and 1198.5; (10) violations of Business and Professions Code §§ 17200 *et seq.* based solely on the facts alleged in the operative complaint in the Action; and (11) any and all damages, restitution, disgorgement, civil penalties, statutory penalties, taxes, interest, costs or attorneys' fees resulting therefrom ("Released Class Claims"). The Released Class Claims include a release of any federal Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.* ("FLSA") claims that could be asserted based on the facts alleged in the Complaint or notice to the LWDA. The period of the Released Class Claims shall extend to the limits of the Class Period. The res judicata effect of the Judgment will be the same as that of the Released Class Claims. The Released Class Claims shall not apply to claims for workers' compensation benefits, unemployment insurance benefits, or any other claim or right that as a matter of law cannot be waived or released.

Further, PAGA Employees will be bound by the "Released PAGA Claims," which includes a release of the following:

Upon the Effective Date, and except as to the right to enforce the terms and conditions of the Agreement, each PAGA Employee will release the Released Parties of all claims pursuant to the Private Attorneys General Act (codified in Labor Code §§ 2698 *et seq.*) of any nature or description reasonably related to or arising from the same set of facts asserted in the operative complaint in the Action or the facts alleged in the related LWDA notice, including but not limited to PAGA claims for (1) failure to provide legally compliant meal periods and/or timely pay premium wages in violation of Labor Code §§ 204, 210, 226.7, 512, 558, 1198 and the "Meal Periods" section of IWC Wage Order No. 7-2001; (2) failure to provide legally compliant rest periods and/or timely pay premium wages in violation of Labor Code §§ 204, 210, 226.7, 1198 and the "Rest Periods" section of IWC Wage Order No. 7-2001; (3) failure to timely pay minimum and/or regular wages in violation of Labor Code §§ 204, 210, 1194, 1194.2, 1197, 1197.1, 1198 and the "Minimum Wages" section of IWC Wage Order No. 7-2001; (4) failure to pay all overtime wages and/or double time wages in violation of Labor Code §§ 204, 210, 510, 558, 1194, 1198 and the "Hours and Days of Work" section of IWC Wage Order No. 7-2001; (5) unlawful deductions and/or underpayment of wages in violation of Labor Code §§ 212, 221, 223, 224, and 225.5; (6) failure to timely pay all wages due upon separation of employment in violation of Labor Code §§ 201, 202, 203 and 210; (7) failure to furnish accurate itemized wage statements in violation of Labor Code §§ 226, 226.3, and the "Records" section of IWC Wage Order No. 7-2001; (8) failure to maintain accurate records in violation of Labor Code §§ 226, 1174, 1174.5 and the "Records" section IWC Wage Order No. 7-2001; and (9) failure to provide employment and personnel records upon request in violation of Labor Code §§ 226, 1198, and 1198.5 based solely on the facts alleged in the operative complaint in the Action ("Released PAGA Claims"). The period of the Released PAGA Claims shall extend to the limits of the PAGA Period. The res judicata effect of the Judgment will be the same as that of the Release.

The term "Released Parties" means Defendant and all of its current and former officers, directors, members, managers, employees, consultants, partners, shareholders, joint ventures, agents, successors, assigns or legal representatives, including but not limited to Pugs Holdings LLC. Please be advised that if you later decide to bring a claim against any of the Released Parties for any of the claims you released (outlined above), you may be responsible for the attorneys' fees and costs of the Released Parties for violating the release provisions of this Settlement.

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If you choose **Option 2 and request exclusion**, then you will no longer be a Class Member, and you will (1) be barred from participating in the Settlement, but you will not be deemed to have released the Released Class Claims, (2) be barred from filing an objection to the Settlement, and (3) not receive a Class Member Payment. You will, however, receive a PAGA Settlement Payment and will be bound by the Released PAGA Claims.

If you choose **Option 3 and object**, then you will still be entitled to your Individual Settlement Payment. If the Court overrules your objection, you will be deemed to have released the Released Class Claims.

**7. Final Approval Hearing**

The Final Approval Hearing has been set for [DATE], at [TIME] in Department 1 of the Santa Clara County Superior Court for the State of California, located at 191 N. 1st Street, San Jose, California 95113. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing even if you did not submit a written objection. Please note that the hearing may be continued without further notice to Class Members. Please be advised that the Court may reschedule the Final Approval Hearing without further notice to Class Members. If the Court grants final approval of the Settlement, you can view the final approval order and final judgment by visiting [www. \\_\\_\\_\\_ .com](http://www.____.com).

Hearings before the judge overseeing this case will be conducted remotely. (As of August 15, 2022, the Court’s remote platform is Microsoft Teams.) Class members who wish to appear should contact class counsel at least three days before the hearing if possible. Instructions for appearing remotely are provided at [https://www.sccscourt.org/general\\_info/ra\\_teams/video\\_hearings\\_teams.shtml](https://www.sccscourt.org/general_info/ra_teams/video_hearings_teams.shtml) and should be reviewed in advance. Class members may appear remotely using the Microsoft Teams link for Department 1 (Afternoon Session) or by calling the toll free conference call number for Department 1.

**8. Additional Information**

This Notice is only a summary of the Action and the Settlement. For a more detailed statement of the matters involved in the Action and the Settlement, you may refer to the pleadings, the Settlement Agreement, and other papers filed in the case by accessing the Court’s public portal at [portal.sccscourt.org/search](http://portal.sccscourt.org/search), clicking on “Search” then “Case Information” and entering the case number (21CV384796) or by visiting the Records department located at 191 N. 1st Street, San Jose, California 95113, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures. A copy of the Settlement Agreement and other important information may also be obtained by visiting [www. \\_\\_\\_\\_ .com](http://www.____.com). You may contact your own attorney, at your own expense, to advise you, or you may contact the Settlement Administrator or Class Counsel, whose information is below.

**Settlement Administrator:**

[Settlement Administrator]  
[Address]  
[Phone Number]  
[Fax Number]  
[website]

**Class Counsel:**

Graham S.P. Hollis  
Dawn B. Berry  
Nora J. Steinhagen  
GrahamHollis APC  
3555 Fifth Avenue, Suite 200  
San Diego, California 92103  
Phone: (619) 546-4373 (English)  
(619) 798-4528 (Spanish)

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www. \\_\\_\\_\\_ .com](http://www.____.com)**

If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.

**Questions? Contact the Settlement Administrator toll free at 1-\*\*\*-\*\*\*-\*\*\*\* or visit [www.\\_\\_\\_\\_\\_.com](http://www._____.com)**

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