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22 *Attorneys for Defendants, Holiday AL Management Sub LLC*
 23 *dba Holiday Retirement (sued erroneously as Harvest AL Management Sub LLC),*
 24 *Harvest Management Sub LLC dba Holiday Retirement, and*
 25 *Harvest Management Sub TRS Corp.*

26 UNITED STATES DISTRICT COURT
 27 EASTERN DISTRICT OF CALIFORNIA

28 DAVID KINNEY, on behalf of himself and
 all others similarly situated, the general
 public, and as an “aggrieved employee”
 under the Labor Code Private Attorneys
 General Act of 2004,

Plaintiff,

vs.

HARVEST AL MANAGEMENT SUB LLC,
 a Delaware Limited Liability Company d/b/a
 Holiday Retirement, HARVEST
 MANAGEMENT SUB LLC, a Delaware
 Limited Liability Company d/b/a Holiday
 Retirement, and DOES 1 through 50,
 inclusive,

Defendants.

Case No.: 2:12-CV-02716-TLN-CKD

**ORDER APPROVING SETTLEMENT OF
 CLAIMS BROUGHT PURSUANT TO
 THE PRIVATE ATTORNEY GENERAL’S
 ACT OF 2004 AND DISMISSAL WITH
 PREJUDICE**

MODIFIED FROM ORIGINAL VERSION

1 WHEREAS Plaintiff's Motion for an *Order Approving Settlement Of Claims Brought*
2 *Pursuant To The Private Attorney General's Act Of 2004 And Dismissal With Prejudice*
3 (hereinafter "the Order") came before this Court, and was submitted on the papers on August 30,
4 2013.

5 WHEREAS Plaintiff filed the instant Lawsuit against Defendants on behalf of the State
6 of California, pursuant to the Private Attorney General's Act of 2004 (*Cal. Labor Code §2698 et.*
7 *seq.*, hereafter "PAGA"), subsequent to giving written Notice to Defendants and the Labor and
8 Workforce Development Agency ("LWDA") as required by California Labor Code § 2699.3;

9 WHEREAS the operative Complaint in the Lawsuit contains a single claim for relief
10 under the PAGA based on an alleged violation of *California Labor Code § 204*, and seeks to
11 recover civil penalties under *California Labor Code § 210* for such alleged violations sustained
12 by all current and/or former non-exempt employees of Defendants within the State of California;

13 WHEREAS Defendants have denied and continue to deny all allegations by Plaintiff in
14 the Lawsuit;

15 WHEREAS the Parties desire to settle the Lawsuit solely for the purpose of avoiding
16 the burden, time, expense and uncertainty of continuing litigation, and for the purpose of
17 putting to rest the controversies engendered by the Lawsuit;

18 WHEREAS *California Labor Code § 2699, subpart 1*, states that the "court shall review
19 and approve any penalties sought as part of a proposed settlement agreement pursuant to this
20 part";

21 WHEREAS the Court has reviewed and considered **(1)** the proposed Stipulation of
22 Settlement and Release, attached hereto as **Exhibit 1** (hereafter the "Settlement Agreement"), **(2)**
23 the Motion for Approval of PAGA Settlement (and the points and authorities submitted
24 therewith), and **(3)** the Motion for Approval of Plaintiff's Counsel's Attorneys' Fees, Costs and
25 Enhancement Payment to Plaintiff (and the points and authorities submitted therewith);

26 Based thereon, the Court HEREBY MAKES THE FOLLOWING FINDINGS:

27 1. That all terms used herein shall have the same meaning as defined in the
28 Settlement Agreement.

1 2. That this Court has jurisdiction over the subject matter of the Lawsuit and over all
2 Parties to the Lawsuit.

3 3. That the Settlement was entered into in good faith, that the Settlement is fair,
4 reasonable and adequate under the circumstances, and that Plaintiff, by and through his Counsel,
5 has satisfied the standards and applicable requirements for approval of a settlement of a claim
6 brought under the PAGA (Cal. Labor Code §2698 et. seq.).

7 GOOD CAUSE APPEARING, it is HEREBY ORDERED THAT:

8 1. The terms of the Settlement Agreement are fair, adequate and reasonable, and
9 therefore, are given approval by the Court.

10 2. Compensation to the LWDA and the Aggrieved Employees shall be effected
11 pursuant to the terms of the Settlement Agreement.

12 3. In recognition of the Plaintiff's efforts, and having provided a more broad general
13 release of claims in the Settlement, the Court hereby approves the payment of an enhancement
14 award in the amount of \$3,000, which shall be effected in the manner set forth in the Settlement
15 Agreement.

16 4. The Court hereby approves the payment of attorneys' fees to Plaintiff's Counsel
17 in the sum of \$218,750, and actual costs incurred, not to exceed \$7,000, to be effected in the
18 manner set forth in the Settlement Agreement.

19 5. The Court also hereby approves and orders payment in the amount of not more
20 than \$7,370 to Dahl Administration for performance of its Settlement administration services

21 6. Except as provided in the parties' settlement agreement, no less than \$638,880,
22 will be allocated to the LWDA and to the Aggrieved Employees (allocated in the amount of
23 \$479,160 to the LWDA, and \$159,720 to Aggrieved Employees).

24 7. Upon entry of this Order, all of the claims in the Lawsuit shall be and are hereby
25 dismissed with prejudice. Moreover, the LWDA and each and every Aggrieved Employee,
26 including Plaintiff, shall be deemed and hereby are deemed to have conclusively released and
27 forever discharged the Released Parties for any and all Released Claims, as defined in the
28 Settlement Agreement, and are hereby permanently barred and enjoined from the institution or

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prosecution of any and all Released Claims against the Released Parties. In addition, Plaintiff David Kinney shall also be deemed to be bound by a general release, as defined in the Settlement Agreement.

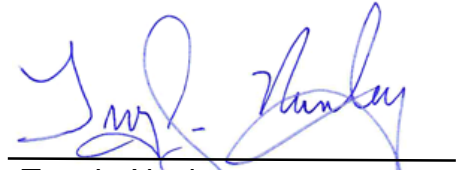
8. Neither the Settlement, nor any of the terms set forth in the Settlement Agreement, is an admission by the Released Parties, nor is the Court's instant Order a finding of the validity of any claims in the Lawsuit or of any wrongdoing by the Released Parties.

9. This Order is intended to be a final disposition of the Lawsuit in its entirety, and is intended to be immediately appealable.

10. This Court shall retain jurisdiction with respect to all matters related to the administration and consummation of the Settlement.

IT IS SO ORDERED

Dated: September 4, 2013


Troy L. Nunley
United States District Judge