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on behalf of herself and others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

MELISSA SOTO, on behalf of herself and
others similarly situated,

Plaintiff,

vs.

GCAM, INC., a California Corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. CIVSB2114483

Hon. David Cohn

**DECLARATION OF DAVID YEREMIAN
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION TO APPROVE
THE PRIVATE ATTORNEYS GENERAL
ACT SETTLEMENT AND RELEASE
UNDER CALIFORNIA LABOR CODE §§
2698 et. seq.**

*[filed concurrently with Plaintiff's Notice of
Motion and Motion; Memorandum of Points and
Authorities; and [Proposed] Order]*

Date: November 4, 2021
Time: 10:00 a.m.
Dept.: S26

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1. I am an attorney licensed and admitted to practice before all courts of the State of California, the United States District Court for the Central, Southern, Eastern, and Northern Districts of California, and the Ninth Circuit Court of Appeals.

3. All of the matters set forth herein are within my personal knowledge, except those matters that are stated to be upon information and belief. As to such matters, I believe them to be true. I have represented Plaintiff and the aggrieved employees since the inception of this matter. I submit this Declaration in support of Plaintiff's Motion to Approve Settlement Agreement and Release of Private Attorneys General Act of 2004 ("PAGA") Claims under California Labor Code 2698 *et seq.*

4. On August 27, 2020, Plaintiff Melissa Soto filed a claim notice online with the California Labor & Workforce Development Agency (the “LWDA”) pursuant to Labor Code § 2699.3(a)(1) and gave notice to Defendant. *See Exhibit 1*. The LWDA Letter alleged that Defendant failed to pay minimum wages, failed to pay wages and overtime, failed to permit lawful meal and rest breaks, failed to keep required payroll records, failed to provide accurate, failed to provide itemized wage statements, failed to pay all wages due upon termination, made unlawful deductions, and failed to reimburse necessary business expenses. The LWDA did not respond to the LWDA letter and did not notify Plaintiff or Defendant that it intended to investigate Plaintiff’s allegations. In September 2020 the Plaintiff and Defendant agreed to mediate this matter before Plaintiff files her lawsuit.

YEREMIAN DECLARATION IN SUPPORT OF MOTION TO APPROVE PAGA SETTLEMENT

1 Plaintiff filed a putative PAGA Complaint against Defendant in the Superior Court for the State
2 of California, in San Bernardino County, Case Number CIVSB2114483, alleging claims for (1)
3 failure to pay minimum wages; (2) failure to pay wages and overtime; (3) failure to provide meal
4 breaks or pay premiums in lieu of compliant breaks; (4) failure to provide rest breaks or pay
5 premiums in lieu of compliant breaks; (5) failure to reimburse necessary business expenses; (6)
6 failure to furnish accurate itemized wage statements; (7) failure to keep required payroll records;
7 (8) violation of Labor Code § 221; and (9) failure to timely pay final wages upon termination or
8 separation.

9 6. Before filing the lawsuit, my firm investigated and researched the facts and
10 circumstances underlying the pertinent issues and the law applicable thereto. This required
11 thorough discussions and interviews between our firm and Plaintiff, as well as preliminary
12 research into the various legal issues involved in the case. After conducting our initial
13 investigation, we determined that Plaintiff's claims were well-suited for representative action
14 adjudication owing to what appeared to be a common course of conduct affecting a similarly
15 situated group of employees.

16 7. Before filing the lawsuit, my firm conducted a thorough investigation of the facts and
17 claims giving rise to the action, including: (1) conducting informal discovery, and meeting and
18 conferring with defense counsel about same (Defendant informally produced a sampling of time
19 and payroll records for employees from August 22, 2019 through February 6, 2021, Plaintiff's
20 personnel file and time and payroll records, policies and procedures regarding wages, overtime,
21 meal periods, rest periods, and reimbursement); (2) reviewing and analyzing time and pay records
22 as well as employment handbooks, Plaintiff's personnel files, relevant policies and other
23 documentation; (3) researching the applicable law and potential defenses; (4) constructing
24 damage models based on interpretations of California law; and (5) reviewing information
25 provided by Defendant at the mediation.

26 8. Defendant, for its part, vigorously contested liability, the amount of claimed damages.
27 In addition, informal discovery revealed that Plaintiff, as well as many other Aggrieved
28 Employees, signed an arbitration agreement during their employment with Defendant. The

1 arbitration agreement precludes Plaintiff, or any employee who signed the arbitration agreement,
2 from bringing class claims against Defendant.

3 9. After Plaintiff's Counsel analyzed the relevant documents and other gathered data,
4 Counsel believed that this case was appropriate for resolution via mediation. With the discovery
5 in hand, the parties were able to engage in meaningful settlement discussions, in an attempt to
6 resolve the claims remaining in the Action.

7 **SETTLEMENT NEGOTIATIONS AND TERMS**

8 10. On March 31, 2021, the parties mediated this case with Mike Young, a respected and
9 highly experienced mediator in wage and hour class and PAGA actions. During mediation, the
10 parties discussed all aspects of the case, including the risks of litigation and exchanged further
11 information. The parties recognized that the issues presented in the Action are likely only to be
12 resolved with extensive and costly pretrial and trial proceedings, and that further litigation will
13 lead to inconvenience, distraction, disruption, delay and expense disproportionate to the potential
14 benefits of litigation. The parties took into account the risk and uncertainty of the outcome
15 inherent in any litigation.

16 11. As a result of the mediation, the parties agreed to settle the lawsuit according to the
17 terms set forth in the Private Attorney General Act Settlement Agreement and General and
18 Limited Release ("Settlement Agreement" or "Settlement"), attached hereto as **Exhibit 2**.

19 12. For purposes of the Settlement, Aggrieved Employees are defined as: "all current and
20 former non-exempt employees of Defendant at any time within the PAGA Period and ending at
21 the time at the time of settlement approval by the court." The PAGA period means the time
22 period from August 27, 2019 through settlement approval by the Court. In this case, there are 160
23 Aggrieved Employees.

24 13. The Settlement Agreement requires Defendant to pay a total sum of Eighty Thousand
25 Dollars and Zero Cents (\$80,000.00) (the "Gross Settlement Amount") in exchange for a release
26 of Plaintiff's Representative PAGA claims asserted in the PAGA Complaint. The Gross
27 Settlement Amount will be allocated as follows, pending Court approval:

28 a) Attorneys' fees of up to 40% of the Gross Settlement Amount which is Thirty-

Two Thousand Dollars (\$32,000.00) (“PAGA Counsel’s Fees”) (see Exhibit 2, at § III, 2(b)) and PAGA Counsel’s litigation costs incurred in this matter which is Eight Thousand Eight Hundred and Seventy Six Dollars and Fifty Six Two Cents \$8,876.56) (“PAGA Counsel’s Costs) (see Exhibit 2, at § III, 2(b) and Exhibit 3).

b) Administration costs of no more than Six Thousand Eight Hundred and Thirty Five Dollars (\$6,835.00) to be paid to the Settlement Administrator (“Administration Costs”) for sending notices and for calculating settlement shares and preparing all checks and mailings (see Exhibit 2, § I, at 13; Exhibit B to the settlement agreement); and

c) The remainder of the Gross Settlement Amount (the “PAGA Fund”) after deducting the above costs is approximately Thirty Two Thousand Two Hundred and Eighty Eight Dollars and Forty Four Cents (\$32,288.44) and shall be designated as PAGA Penalties to be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code section 2699(i), with 75% of the PAGA Fund or the gross amount of Twenty Four Thousand Two Hundred Sixteen Dollars and Thirty Three Cents (\$24,216.33) paid to the LWDA (the “LWDA PAGA Portion) and 25% of the PAGA Fund or the gross amount of Eight Thousand Seventy Two Dollars and Elevent Cents (\$8,072.11) paid to the Aggrieved Employees (the “Aggrieved Employees’ PAGA Portion”) on a pro-rata basis (See Exhibit 2 at § III, 2(a)).

14. From PAGA Counsel’s review of the facts, strengths, and weaknesses of the case, the risks and delays posed by further litigation, and PAGA Counsel’s own prior litigation experience, PAGA Counsel believes that the recovery for each Aggrieved Employee is fair and reasonable taking into consideration the amounts received in other PAGA actions, the risks inherent in litigation of this genre, and the reasonable tailoring of each Aggrieved Employee’s claim to the settlement award he or she will receive. Further, and based on the settlement negotiations, which were extensive and conducted in good faith and at arm’s length between attorneys with

1 substantial experience litigating PAGA actions, the Settlement Agreement was the product of a
2 non-collusive settlement process in which the parties were forced to make significant
3 compromises in the interest of reaching a full and complete settlement of the lawsuit.

4 **THE STRENGTH OF PLAINTIFF'S CASE**

5 **IN LIGHT OF THE SETTLEMENT AMOUNT**

6 15. Plaintiff alleges that Defendant violated various provisions of California law and seeks
7 civil penalties for the foregoing violations pursuant to Labor Code § 2699 *et seq.*

8 16. Under Labor Code § 2699, specifically, Plaintiff alleged that the Aggrieved Employees
9 were not paid all wages they were owed, including for all work performed and for all overtime
10 hours worked. Specifically, when Aggrieved Employees arrived to work, they had to walk over to
11 the timekeeping station and allegedly had to wait in line to undergo temperature checks before
12 they could clock in. On top of these violations, Plaintiff alleged that Aggrieved Employees often
13 were not allowed to take meal and rest breaks due to the demands of the job. Plaintiff alleged that
14 to the extent they were able to take a break, it was often interrupted. Additionally, Plaintiff
15 alleged that Aggrieved Employees were not reimbursed for their cellular phone expenses despite
16 incurring this expense in the course of performing their required job duties for Defendant.

17 17. Plaintiff also contends that Defendant failed to provide their employees with accurate,
18 itemized wage statements, in writing, as required by California Labor Code § 226(a). Section
19 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized
20 statement in writing showing the gross and net earnings, total hours worked, and the
21 corresponding number of hours worked at each hourly rate. Labor Code § 226(a). These
22 statements must be appended to the detachable part of the check, draft, voucher, or whatever else
23 serves to pay the employee's wages, or, if wages are paid by cash or personal check, these
24 statements may be given to the employee separately from the payment of wages. *Id.* In either case
25 the employer must give the employee these statements twice a month or each time wages are
26 paid. *Id.* As a direct and proximate cause of Defendant's alleged violation of Labor Code §
27 226(a), employees allegedly suffered injuries, including not being paid their wages and overtime,
28 confusion over whether they received all wages owed them, the difficulty and expense involved

1 in reconstructing pay records, and forcing them to make mathematical computations to analyze
2 whether the wages paid in fact compensated them for all hours worked. Specifically, the wage
3 statements allegedly failed to accurately account for unpaid wages and overtime due to the off the
4 clock work. Moreover, the wage statements allegedly failed to account for premium pay for
5 deficiently provided meal and rest periods. As a result, Defendant allegedly failed to provide
6 employees with accurate, itemized wage statements in writing, as required by the Labor Code.

7 18. By allegedly failing to pay the Plaintiff and Aggrieved Employees their minimum
8 wages, overtime wages, and premium pay for deficiently provided meal periods, all discussed
9 above, Plaintiff and formerly employed Aggrieved Employees would be due all wages at the time
10 of termination or within seventy-two (72) hours of resignation, as required under Labor Code §
11 203.

12 19. Regarding the alleged “off-the-clock” work, Defendant contends that Aggrieved
13 Employees were instructed to clock in before attending to any duties and to stop all work after
14 clocking out. Accordingly, Defendant contends that they paid for all reported hours worked, that
15 Aggrieved Employees were trained to record all hours worked, and that it paid proper overtime
16 and minimum wages to Employees. Defendant further contends that given its written policies and
17 practices, any unrecorded hours are likely subject to individualized inquiry and are not
18 manageable as a representative action. Defendant also argued that it paid for any unreimbursed
19 expenses that were submitted. Finally, Defendant contends that Aggrieved Employees were
20 provided the opportunity to timely take their meal periods. Defendant further contends that
21 Aggrieved Employees were provided the opportunity to timely take 10-minute rest breaks for
22 every four hours worked. As a result of Defendant’s arguments Plaintiff’s Counsel had to apply
23 appropriate discounts in light of the facts and law as discussed above.

24 **PAGA Penalties**

25 20. The Private Attorneys General Act, Labor Code § 2699 et seq., allows Plaintiff to
26 obtain civil penalties on behalf of herself and other aggrieved employees for Defendant’s
27 violation of any provision of the Labor Code enumerated under Labor Code § 2699.5. Where civil
28 penalties are provided in the statute, those civil penalties are recoverable; where no civil penalties

1 are recoverable, Labor Code § 2699(f) establishes civil penalties of one hundred dollars (\$100)
2 for each aggrieved employee per pay period for the initial violation and two hundred dollars
3 (\$200) for each aggrieved employee per pay period for each subsequent violation. Pursuant to
4 Labor Code § 2699(i), seventy-five (75) percent of the penalties recovered must be allocated to
5 the Labor and Workforce Development Agency (LWDA), with the remaining twenty-five (25)
6 percent allocated to the affected employees. The limitations period as for all penalties is one year
7 prior to the filing of the complaint. However, under *Amaral v. Cintas*, 163 Cal. App. 4th 1157,
8 1207-09 (2008) the Court held that a lower penalty amount of \$100 per violation applies in the
9 absence of a determination that a violation actually occurred.

10 21. Based on the foregoing facts and law, PAGA Counsel estimated Defendant's maximum
11 total exposure on the PAGA claim at approximately \$245,300. The provisions of the Labor Code
12 potentially triggering PAGA penalties in this case include but are not limited to Labor Code §§
13 203, 204, 210, 221, 226, 226.7 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2,
14 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802. Specifically, the total exposure on the PAGA
15 claim was calculated by multiplying the total number of pay periods (2,453) by \$100.00 per
16 violation. Plaintiff's calculation of the total exposure on the PAGA claim is for one PAGA
17 penalty per pay period (*i.e.*, Plaintiff did not stack the penalties in their calculation). Plaintiff's
18 claims giving rise to the penalties include the following: (1) Defendant's alleged failure to pay
19 minimum wages and overtime due to off the clock work; (2) Defendant's alleged failure to
20 provide all the legally required unpaid, off-duty meal periods to the Aggrieved Employees; (3)
21 Defendant's alleged failure to provide all the legally required paid, off-duty rest periods; (4)
22 Defendant's alleged failure to provide accurate wage statements; (5) Defendant's alleged failure
23 to timely pay formerly employed Aggrieved Employees all wages due and certain at the time of
24 termination or within seventy-two hours of resignation as required by Labor Code §§ 201-203.;
25 and (6) Defendant's alleged failure to reimburse Aggrieved Employees for their alleged cellular
26 phone expenses.

27 22. Case law supports the notion that it is inappropriate to "stack" penalties for multiple
28 violations, particularly when those violations all stem from the same alleged "injury" *Aguirre v.*

1 *Genesis Logistics*, 2015 U.S. Dist. LEXIS 78748 (citing *Villacres v. ABM Indus., Inc.*, 189
2 Cal.App.4th 562, 577 (2010)). (“One injury gives rise to only one claim for relief...The violation
3 of one primary right constitutes a single cause of action.”; *Crowley v. Kattelman*, 8 Cal. 4th 666,
4 681-82) (1994); *Li v. A Perfect Day Franchise, Inc.*, 2012 WL 2236752, *17 (N.D. Cal.2012)
5 (“There is no authority that “would permit double recovery of essentially the same penalties.”)

6 23. Defendant asserted that if PAGA penalties were mandatory, an employer’s PAGA
7 liability would be huge because of the possibility of collecting multiple civil penalties for a single
8 violation, and thus such penalties would almost always dwarf the damages available under the
9 causes of action proper. However, PAGA penalties are not mandatory but permissive. Labor
10 Code § 2699(e)(2) states that “a court may award a lesser amount than the maximum civil penalty
11 amount specified by this part if, based on the facts and circumstances of the particular case, to do
12 otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” (*See*
13 *Thurman v. Bayshore* (2012) 203 Cal. App. 4th 1112 (*substantially* reducing PAGA penalties by
14 30% under this provision) (emphasis added); *see also Carrington v. Starbucks Corp.*, 30 Cal.
15 App. 5th 504, 529 (2018) (affirming penalty reduction of 90% for practice that resulted in meal
16 periods occasionally starting minutes after the fifth hour of work); *Sanchez v. McDonald’s Corp.*
17 (2017), LASC Case No. No. BC 499888 (98% reduction from \$41 million to \$775,000);
18 *Ghrdilyan v. RJ Financial* (2012), LASC Case No. BC430633 (94% reduction from \$5.4 million
19 to \$325,000); *Fleming v. Covidien, Inc.* (2011), USDC Case No. ED CV 10-01487-RGK (OPx)
20 (87% reduction from \$2.8 million to \$375,000).). Defendant maintains that it would be unjust to
21 award maximum PAGA penalties.

22 **REQUEST FOR ATTORNEYS’ FEES AND COSTS**

23 24. Under the Settlement, the PAGA Counsel requests, without opposition from
24 Defendant, an award of (1) attorneys fees of up to Thirty-Two Thousand Dollars (\$32,000.00)
25 (“PAGA Counsel’s Fees) and (2) reimbursement of reasonable costs (“PAGA Counsel’s Costs) of
26 Seven Thousand Six Hundred and Fifty Two Dollars and Twenty Two Cents (\$7,652.22) (*See*
27 Exhibit 2, at § III, 2(b)). Attached hereto and incorporated herein as **Exhibit 3** is my firm’s cost
28 log, showing total costs of Eight Thousand Eight Hundred and Seventy-Six Dollars and Fifty Six Two

1 Cents (\$8,876.56).

2 25. PAGA Counsel respectfully requests an order approving its attorneys' fees and costs
3 pursuant to the Settlement Agreement.

4 26. This request is fair, reasonable, and adequate to compensate PAGA Counsel for the
5 substantial work they have put into this case and, moreover, the risk they assumed by taking it in
6 the first place. The attorneys' fees award is intended to reimburse Counsel for all uncompensated
7 work that they have already done and for all the work they will continue to do in carrying out and
8 overseeing the notification to the Aggrieved Employees, communicating with Aggrieved
9 Employees regarding their claims, and assisting in the administration of the settlement if it is
10 approved.

11 27. My firm took this case on a contingent-fee basis against a business represented by a
12 reputable defense firm. When we take contingent cases, we must pay careful attention to the
13 economics involved or one bad case can destroy years of work. Accordingly, when we take
14 contingency cases, we anticipate that we shall, if successful, receive a fee that exceeds our normal
15 hourly rate; otherwise, the risk is often too great to bear. Even when we work long hours, the
16 number of hours in a day is limited. Because of this, when we take on one particular matter, we
17 are unable to take on other matters. When my firm became involved in this case, we realized the
18 time commitment that it would entail and we were forced to turn down matters that we otherwise
19 should have been able to handle.

20 28. Contingent-fee cases present the very real risk of working hundreds if not thousands of
21 hours that may never be entirely compensated. Moreover, while the case is being litigated,
22 counsel must pay overhead (salaries, rent, etc.), provide for their own expenses, and in most cases
23 pay the out-of-pocket expenses incurred on the plaintiff's behalf. And the prospect of a court-
24 awarded fee does not greatly reduce the risk posed by these cases. In many cases, the prospect is
25 nothing more than a potential that never materializes. First, you must win the case to get a court-
26 awarded fee; even those cases that seem strongest at the onset can be lost and sometimes are lost.
27 Second, there are always the pitfalls and unforeseen obstacles that arise along the way, such as
28 settlement offers that the client may accept without ensuring that we receive a reasonable fee or

1 changes in the law that substantially affect the merits of the case, or other uncertainties involving
2 the client. Finally, there is the great risk inherent in advancing tens if not hundreds of thousands
3 of dollars in out-of-pocket expenses. If that money were to be invested in some sort of financial
4 investment, one would expect a reasonable rate of return on that investment. Here, however, the
5 best we can hope to recover is our money, and then only if we are substantially successful; if we
6 are not, all or part of this “investment” can be lost.

7 29. PAGA Counsel is well acquainted with the contingent-fee market throughout
8 California, particularly as it pertains to PAGA and class-action litigation. PAGA Counsel has
9 negotiated numerous contingency-fee agreements with plaintiffs, both as individuals and as
10 representatives in class-action and PAGA suits. Many of those agreements required that counsel
11 receive a fee under certain scenarios that exceeds 40% of the recovery. PAGA Counsel’s recent
12 attorneys’ fees awards in similar wage-and-hour class and PAGA actions have been 40% of the
13 recovery.

14 30. Attorney’s fees payable from this settlement amount to our office in no way
15 undermined our fiduciary duties to the state of California or the Aggrieved Employees.

16 31. PAGA counsel in contingency-fee cases typically receive attorneys’ fees equal to or
17 greater than forty percent of the gross settlement amount. *See Crandall v. U-Haul* (Los Angeles
18 County Super. Ct., Case No. BC178775), the Honorable Steven Czuleger awarded a 40% attorney
19 fee request in an overtime-exemption class action; in *Bushnell v. Cremar, Inc.* (Orange County
20 Super. Ct., Case No. 657778), the Honorable Donald E. Smallwood awarded attorneys’ fees in
21 the amount of 38%; in *Abzug v. Kerkorian* CA000981 (Los Angeles County Super. Ct.,
22 November 1990), the Honorable R. William Schoettler awarded a 45% fee; in *Haitz v. Meyer, et*
23 *al.*, Alameda County Super. Court, 8-20-1990 No. 572968-3, the court awarded a 40% fee; in
24 *Elliott v. Clothestime* (Orange County Super. Ct., Case No. 01-CC00333) the Honorable Jonathan
25 Cannon awarded a 40% fee in a wage-and-hour class action which had not yet proceeded to the
26 class certification stage; in both *Rippee v. Boston Market Corporation*, Case No.: 05 CV 1359
27 BTM (JMA) and *Barile v. Boston Market Corporation*, Case No.: 05 CV 1360 BTM (JMA), the
28 Honorable Judge Barry T. Moskowitz awarded a 40% fee to plaintiffs’ counsel in wage-and-hour

1 class actions that had not proceeded to the class-certification stage.

2 32. Moreover, PAGA Counsel spent substantial time on this matter. Aside from drafting
3 the initial complaint, PAGA Counsel conducted informal discovery, formal discovery, reviewed
4 and analyzed time and pay records, employment handbooks, Plaintiff's personnel file, relevant
5 policies and other documentation, researched the applicable law and potential defenses,
6 constructed damage models based on interpretations of California law, reviewed information
7 provided by Defendant at the mediation, engaged in meet and confer efforts with Defendant, and
8 ultimately drafted and revised the settlement agreement. PAGA Counsel conservatively estimates
9 that it invested over 111 hours of attorney time in this matter. David Yeremian's billing rate is
10 \$750.00 per hour (18 years out of law school and is less than the Laffey Matrix rate of \$759.00),
11 and he spent approximately 34 hours on this matter. Roman Shkodnik's billing rate is \$550.00 (9
12 years out of law school, Laffey Matrix rate of \$672.00). *See Exhibit 4* attached hereto (Laffey
13 Matrix), and he spent 77 hours on this matter. The lodestar for Plaintiff's counsel is \$67,850
14 (\$25,500 for David Yeremian's time on the case and \$42,350 for Roman Shkodnik's time on the
15 case). The fee request of \$32,000.00 is actually less than our total lodestar further evidencing the
16 reasonableness of the request.

17 33. In light of the foregoing, the fee request in an amount equal to forty percent of the
18 settlement in this case is well within the bounds that have been established by the above-cited
19 authority. Defendant has no objection to an award of fees in the amount requested.

20 **EXPERIENCE AND VIEWS OF COUNSEL**

21 34. I have been practicing law since 2003. During my career I have represented employees
22 in over 150 wage-and-hour class and/or representative actions as lead or co-lead counsel
23 (including in the Central, Southern, Eastern and Northern Districts of California), and I have
24 obtained six and seven figure settlements against a range of defendants, including Fortune 500
25 companies.

26 35. My firm is well qualified because of our experience, knowledge, and resources to act as
27 counsel and represent Plaintiff and the Aggrieved Employees in this action. A substantial
28 percentage of our practice is devoted to litigating wage, hour, and working-conditions violations,

1 and the bulk of these cases are class and PAGA actions.

2 36. I am experienced in prosecuting employment matters, particularly class and
3 representative PAGA actions. In addition to the present case, I am also class or PAGA counsel for
4 other wage-and-hour class-action lawsuits pending in various counties throughout California
5 (including in federal courts). There follows a list of some of our recent class-action settlements
6 that have received preliminary or final approval: *Galavis v. Patina Restaurant Group, LLC*
7 (LASC BC375225; class size approx. 10,000; co-counsel); *Milford v. ADT Security Services, Inc.*
8 (CACD CV08-2236; class size approx. 2,000; lead counsel); *Carreon v. Wolfgang Puck Catering*
9 *and Events, LLC* (LASC BC398569; class size approx. 1,400; lead counsel); *Fluke v. RFG Oil,*
10 *Inc.* (LASC BC403354; class size approx. 1,400; lead counsel); *Urena v. Camachos Restaurant*
11 *Inc.* (LASC BC365913; class size approx. 887; lead counsel); *Smith v. Rio Rancho Pontiac GMC*
12 *Buick Inc.* (LASC BC391187; class size approx. 860; lead counsel); *Callela v. Dolce Group*
13 *Inc.* (LASC BC364711; class size approx. 600; lead counsel); *Vasquez v. The Hollywood Pig n*
14 *Whistle LP* (LASC BC335075; class size approx. 600; lead counsel); *Goldman v. Aorta*
15 *Restaurant Operating LP* (LASC BC379688; class size approx. 300; lead counsel); *Sink-Crilly v.*
16 *Centex Homes* (CACD CV09-2476; class size approx. 250; lead counsel); *Utley v. Cranbrook*
17 *Partners Inc.* (LASC BC392813; class size approx. 200; lead counsel); *Garcia v. California*
18 *Credits Group* (LASC BC353213; class size approx. 160; lead counsel); *Afanasyev v. Miller*
19 *Infiniti, Inc.* (LASC BC350788; class size approx. 160; lead counsel); *Morris v. Gymboree, Inc.*
20 (LASC BC393270; class size approx. 150; lead counsel); *Ortega v. AJC Sandblasting, Inc.*
21 (LASC BC378806; class size approx. 140; lead counsel); *Lulejyan v. Jim Falk Motors of Beverly*
22 *Hills, Inc.* (LASC BC398459; class size approx. 72; lead counsel); *Rylko v. The Griddle Café,*
23 *Inc.* (LASC BC386126; class size approx. 70; lead counsel); *Healy v. Siemens IT Solutions and*
24 *Services, Inc.* (Santa Clara Superior Court 108CV113479; class size approx. 60; lead counsel).

25 37. This experience is helpful in assessing the reasonableness of settlements such as the
26 one at issue here, and from this experience Plaintiff's Counsel concluded that this lawsuit could
27 not have been settled on better terms than provided under the present settlement agreement given
28 the financial limitations of Defendant.

1 38. In sum, Plaintiff's Counsel is experienced in employment class and PAGA action
2 litigation, and is adequate to represent the Aggrieved Employees in the instant action.

3 **SUMMARY**

4 39. If the Court approves each of the foregoing payments, approximately (\$32,288.44)
5 remains in the net settlement fund. Of that 75% (approximately \$24,216.33) must be paid to the
6 Labor and Workforce Development Agency per Labor Code § 2699 et seq. and 25%
7 (approximately \$8,072.11) shall be shared by the Aggrieved Employees.

8 40. Concurrently with the filing of the Settlement Agreement with this Court, Plaintiff's
9 counsel will submit the Stipulation to the LWDA.

10 41. Plaintiff has not served notice on the unnamed Aggrieved Employees and Plaintiff's
11 counsel is unaware of anyone who has relied upon the existence of this action in lieu of pursuit of
12 her individual or PAGA claims against Defendant.

13 42. On August 17, 2021, my office submitted the proposed PAGA Settlement to the
14 LWDA in connection with the PAGA case opened by Plaintiff. Attached hereto as **Exhibit 5** is a
15 true and correct copy of the confirmatory email my office received from the LWDA after
16 submission of the PAGA Settlement.

17 43. I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed this 17th day of August, 2021, at Glendale, California.

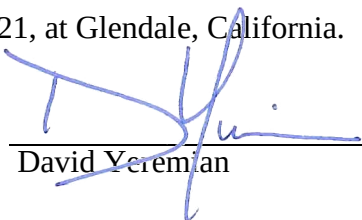
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23 David Yereimian
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EXHIBIT 1

**DAVID YEREMIAN
& ASSOCIATES INC**

535 N BRAND BLVD STE 705
GLENDALE CA 91203

818 230 8380
818 230 0308 FAX

DAVID@YEREMIANLAW.COM

August 27, 2020

VIA ON-LINE SUBMISSION ONLY TO:

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Private Attorneys General Act
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

VIA CERTIFIED MAIL TO:

GCAM, Inc.

Yonghoon Kim, Agent for Service
1561 E. Orangethorpe Ave., Ste. 205
Fullerton, CA 92831
Certified Mail Tracking Number: 7019 2970 0000 5058 2632

**Re: Labor Code § 2699 Penalties
PAGA Notice Letter to LWDA
Soto v. GCAM, Inc.**

Gentlepersons:

This office represents Plaintiff Melissa Soto (“Plaintiff”) and other aggrieved employees (collectively “Aggrieved Employees”) for the violation of California Labor Code §§ 201, 202, 203, 204, 210, 221, 226, 226.7 510, 512, 558, 558.1, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1198, 1199, 2698, 2699, *et seq.*, and 2802; provisions of the applicable Industrial Welfare Commission (IWC) Wage Order(s); and California Business & Professions Code § 17200 *et seq.*

Plaintiff wishes to bring a representative action on behalf of herself and the State of California against Defendant GCAM, Inc., and DOES 1 through 50 inclusive (defendants being referred to herein collectively as “Defendants”).

The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698 *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we Defendants engaged in with respect to our client and all of their California employees.

Relevant Facts

Plaintiff and the other similarly situated Aggrieved Employees were employed by Defendants as non-exempt employees within the state of California within the statutory time period who suffer

or suffered from the same wage and hour violations outlined below. Defendants had a common policy and/or practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Specifically, Defendant would automatically deduct 30 minutes of wages from Aggrieved Employees for alleged meal periods which Aggrieved Employees were continuously denied. Accordingly, Aggrieved Employees were required to work during their meal periods without pay. Thus, Aggrieved Employees were required to work hours without wages. Defendants had a common policy and practice of failing to pay Aggrieved Employees minimum wages for all hours worked. Aggrieved Employees were required to work off-the-clock hours by going through lengthy security and temperature checks each day before clocking in, as part of their duties under Defendants' employ, for which they were never compensated.

Defendants also had a common policy and practice of failing to pay Aggrieved Employees proper overtime. As discussed above, Aggrieved Employees were required to work hours without pay, by going through lengthy security and temperature checks. These uncompensated hours caused Aggrieved Employees to work in excess of eight (8) hours on a given day and/or forty (40) hours in a given week, entitling Aggrieved Employees to overtime wages, which they were never paid.

Defendants had a common policy and/or practice of denying Aggrieved Employees proper meal periods. Specifically, employees were required to work through their meal periods which they were consistently denied as they had to assist customers during their meal periods. Moreover, as discussed above, Defendants had a common policy and/or practice of automatically deducting 30 minutes of wages for alleged meal periods, which Aggrieved Employees were consistently denied. Also, what meal periods Aggrieved Employees did take, were consistently less than 30 minutes, and taken well after their fifth consecutive hour of work, all in violation of Labor Code and applicable Wage Orders. Similarly, Aggrieved Employees were required to work in excess of ten (10) hours a day, without ever receiving a second meal compliant period, all in violation of Labor Code and applicable Wage Orders.

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than 10 minutes for every work period of 4 or more consecutive hours, as required by Labor Code. Specifically, Aggrieved Employees were required to work through their periods which they were continuously denied. Moreover, Aggrieved Employees were not paid for whatever rest breaks they were provided.

Defendants also had a common policy and/or practice of unlawfully collecting or receiving wages from Aggrieved Employees. As discussed above, Defendants would automatically deduct 30 minutes of vested wages from Aggrieved Employees for alleged meal periods which they were denied. Moreover, Defendants also had a common policy and/or practice of understating the hours worked by Aggrieved Employees.

Defendants had a common policy and practice of failing to reimburse Aggrieved Employees for necessary business expenditures incurred in execution of their duties under Defendants' employ. Defendants have failed to reimburse Aggrieved Employees for expenses necessarily incurred in the performance of their job duties for Defendants including, cell phone usage which were

necessary to perform their duties under Defendants' employ which was used throughout the course of Plaintiff and Aggrieved Employees' duties under Defendants' employ.

As a result, Defendants consistently failed to issue accurate itemized wage statements as required by Labor Code § 226, and Defendants failed to pay Aggrieved Employees all wages owed at the time of their termination or within seventy-two (72) hours of their resignation.

Furthermore, Defendants also failed to pay Aggrieved Employees. Defendants also consistently failed to pay Aggrieved Employees all wages due on a semi-monthly basis, and maintain proper employment records in accordance with California law.

Accordingly, Aggrieved Employees complain of the following violations:

Failure to Pay Minimum Wages

Defendants violated the law by failing to pay Aggrieved Employees minimum wages for all hours worked. California Labor Code § 1197, entitled "Pay of Less Than Minimum Wage" states, "[t]he minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful." The applicable minimum wages fixed by the commission for work during the relevant period is found in the Wage Orders. Specifically, Defendant would automatically deduct 30 minutes of wages from Aggrieved Employees for alleged meal periods which Aggrieved Employees were continuously denied. Accordingly, Aggrieved Employees were required to work during their meal periods without pay. Moreover, as discussed above, Aggrieved Employees were required to work off-the-clock hours by going through lengthy security and temperature checks each day, as part of their duties under Defendants' employ, for which they were never compensated. Defendants have the ability to pay minimum wages for all time worked and have willfully refused to pay such wages with the intent to secure for Defendants a discount upon this indebtedness with the intent to annoy, harass, oppress, hinder, delay, or defraud Aggrieved Employees.

In light of the forgoing, the Aggrieved Employees seek to recover penalties. Plaintiff and the Aggrieved Employees are entitled to recover the unpaid minimum wages, liquidated damages in an amount equal to the minimum wages unlawfully unpaid, interest thereon and reasonable attorney's fees and costs of suit pursuant to California Labor Code § 1194(a). Plaintiff and the other Aggrieved employees further request recovery of all unpaid wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against Defendants, in a sum as provided by the California Labor Code and/or other applicable statutes, including pursuant to Labor Code § 558, and Wage Order provisions.

Failure to Pay Wages and Overtime in Violation of Labor Code § 510

Defendants violated the law by failing to pay Aggrieved Employees earned wages and overtime. As discussed above, Aggrieved Employees were required to work hours without pay, by going through lengthy security and temperature checks they took for which they were never paid wages. These uncompensated hours caused Aggrieved Employees to work in excess of eight (8) hours on a given day and/or forty (40) hours in a given week, entitling Aggrieved Employees to

overtime wages, which they were never paid, in violation of Labor Code § 510 and applicable Wage Orders.

In light of the forgoing, Aggrieved Employees seek to recover penalties pursuant to the California Labor Code, including Labor Code §§ 204, 510, 558, and 1194 (and the relevant orders of the Industrial Welfare Commission). Defendants are liable to Employees for the full amount of all their unpaid wages and overtime compensation, with interest, plus their reasonable attorneys' fees and costs, as well as the assessment of any statutory penalties against Defendants, and each of them, and any additional sums as provided by the Labor Code and/or other statutes and Wage Order provisions.

Meal-Period Liability Under Labor Code § 226.7

Defendants have regularly required Aggrieved Employees to work shifts in excess of five (5) hours and ten (10) hours without providing them with uninterrupted meal periods of not less than thirty (30) minutes for the first (5) hours and for the tenth hour as required under Labor Code §§ 226.7, 512, and applicable Wage Orders. Specifically, employees were required to work through their meal periods which they were consistently denied. Moreover, as discussed above, Defendants had a common policy and/or practice of automatically deducting 30 minutes of wages for alleged meal periods, which Aggrieved Employees were consistently denied. Also, what meal periods Aggrieved Employees did take, were consistently less than 30 minutes, and taken well after their fifth consecutive hour of work, all in violation of Labor Code and applicable Wage Orders. Similarly, Aggrieved Employees were required to work in excess of ten (10) hours a day, without ever receiving a second meal compliant period, all in violation of Labor Code and applicable Wage Orders. Defendants also failed to pay Aggrieved Employees "premium pay," i.e. one hour of wages at each Aggrieved Employee's effective regular rate of pay, for each meal period that Defendants failed to provide or deficiently provided. Therefore, pursuant to Labor Code § 226.7, Employees in the Class are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each meal period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Rest-Break Liability Under Labor Code § 226.7

Defendants have consistently failed to provide Aggrieved Employees with paid rest breaks of not less than ten (10) minutes for every work period of four (4) or more consecutive hours, as required under Labor Code § 226.7. Specifically, Aggrieved Employees were required to work through their periods which they were continuously denied. Moreover, Aggrieved Employees were not paid for whatever rest breaks they were provided. Defendants also failed to pay Aggrieved Employees premium pay for each day on which requisite rest breaks were not provided or were deficiently provided. Therefore, pursuant to Labor Code § 226.7, Employees in the Class are entitled to damages in an amount equal to one (1) hour of wages at their effective hourly rates of pay for each rest period not provided or deficiently provided, as well as the assessment of any statutory penalties against the Defendants, and each of them, in a sum as provided by the Labor Code, including Labor Code § 558 and other applicable statutes and Wage Order provisions.

Unlawfully Collecting or Receiving Wages in Violation of Labor Code § 221

Labor Code § 221 provides, “It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee.” As discussed above, Defendants unlawfully received and/or collected wages from Employees by implementing a policy of automatically deducting 30 minutes worth of vested wages, from Employees, for alleged meal periods which they were consistently denied, as well as by understating the hours worked by Aggrieved Employees. In light of the forgoing, Plaintiffs and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Failure to Reimburse for Necessary Business Expenditures in Violation of Labor Code § 2802

Defendants have consistently required Aggrieved Employees to incur necessary business expenses in the execution of their duties under Defendants’ employ. Specifically, Defendants have failed to reimburse Aggrieved Employees for expenses necessarily incurred in the performance of their job duties for Defendants including, cell phone which were necessary to perform their duties under Defendants’ employ which was used throughout the course of Plaintiff and Aggrieved Employees’ duties under Defendants’ employ in violation of Labor Code § 2802. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Failure to Issue Accurate and Itemized Wage Statements in Violation of Labor Code § 226

California Labor Code § 226(a) requires an employer to furnish each of his or her employees with an accurate, itemized wage statements in writing. These statements must be appended to the detachable part of the check, draft, voucher, or whatever else serves to pay the employee’s wages; or, if wages are paid by cash or personal check, these statements may be given to the employee separately from the payment of wages; in either case the employer must give the employee these statements twice a month or each time wages are paid.

Defendants failed to provide Aggrieved Employees with accurate itemized wage statements in writing, as required by the Labor Code. Specifically, the wage statements given to Aggrieved Employees failed to accurately account for all hours worked as described above, unpaid wages, overtime, premium pay for deficiently provided meal periods and rest breaks, and unlawfully received or collected wages, discussed above. In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e), Plaintiff and Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys’ fees.

In light of these violations, and pursuant to Labor Code §§ 226(a) and 226(e), Aggrieved Employees are entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000). They are also entitled to an award of costs and reasonable attorneys’ fees.

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Labor Code § 226.3 provides that “[a]ny employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial violation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the required in subdivision (a) of Section 226.” To the extent that Labor Code § 226.3 applies, Plaintiff also seeks such penalties on behalf of herself and the other Aggrieved Employees.

Failure to Issue Semimonthly Payments in Violation of Labor Code § 204

In failing to pay Aggrieved Employees wages, overtime, premium pay, etc., Defendants failed to timely pay Aggrieved Employees wages on a semimonthly basis as required under Labor Code § 204. Defendants failed to maintain records showing accurate hours worked daily and the wages paid to Aggrieved Employees, as well as the meal and rest periods taken by Aggrieved Employees, as required by Labor Code § 1174 and the applicable IWC wage orders. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Failure to Keep Records In Accordance With Labor Code § 1174

Section 1174 requires employers to keep records showing payroll records and the hours worked daily by and the wages paid to employees. Failing to pay Aggrieved Employees proper wages, overtime, premium pay, etc., all discussed herein, Defendants failed to maintain proper employment records in accordance with Section 1174. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code §§ 1174.5 and 2699, *et seq.*

Waiting Time Penalties Pursuant to Labor Code § 203

Some Aggrieved Employees no longer work for Defendants; they either resigned or were terminated from Defendants’ employ. Based on the forgoing, Defendants have had a consistent policy of failing to pay all wages fur and owed to Aggrieved Employees at the time of their termination of within seventy-two (72) hours of their resignation, as required by California under Labor Code § 203. In light of the forgoing, Plaintiff and Aggrieved Employees seek to recover penalties pursuant to Labor Code § 558.

Unfair Competition Under Business and Professions Code § 17200, *et seq.*

Consequently, Defendants’ conduct has been and continues to be unfair, unlawful, and harmful to Aggrieved Employees and the general public in violation of Business & Professions Code § 17200 *et seq.*

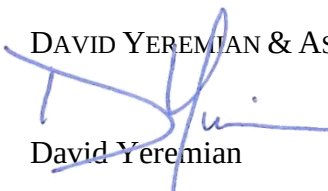
We are constrained to move forward with the filing of this complaint, alleging the causes of action discussed herein, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

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Wherefore we request that you advise us, by certified mail within thirty (60) days of the postmark on this letter, whether you intend to proceed with these claims or whether Aggrieved Employees should include them as a § 2699 claim in an amended complaint.

Regards,

DAVID YEREMIAN & ASSOCIATES, INC.



David Yeremian

Cc: Above listed Defendants by Certified Mail

EXHIBIT 2

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (hereinafter “Settlement Agreement” or “Settlement”) is made and entered into between Plaintiff, MELISSA SOTO for herself and on behalf of the State of California acting in a private attorney general capacity (hereinafter “Plaintiff”) and Defendant, GCAM, INC. (“Defendant”). Plaintiff and Defendant are collectively referred to herein as the “Parties” and may be individually referred to as a “Party.”

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter entitled *Melissa Soto v. GCAM, Inc.*, Superior Court of California, County of San Bernardino that Plaintiff will file within 15 days of execution of this Settlement Agreement and as set forth in Plaintiff’s August 27, 2020 correspondence to the PAGA Administrator of the California Labor and Workforce Development Agency (hereinafter “LWDA Letter”).
2. “Defendant” means GCAM, INC. and its past, present, and future officers, directors, employees, board members, attorneys, insurers, reinsurers, representatives, predecessors, successors, agents, and principals, and their heirs, estates, executors, administrators, servants, insurers, attorneys, and assigns.
3. “Court” means the Superior Court of California for the County of San Bernardino.
4. “Data List” means a list in a ready to use, excel spreadsheet format provided by Defendant which contains the name, last known mailing address, social security number, and number of Pay Periods each of the PAGA Group Members worked during the PAGA Period.
5. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698 *et seq.*
6. “Individual PAGA Payment” means the amount to be paid to each of the PAGA Group Members from the 25% of the PAGA Payment apportioned to them, such individual share to be based on the number of Pay Periods worked during the PAGA Period.
7. “PAGA Payment” means The PAGA Payment is the total of the Gross Settlement Amount, less the payments for the Attorneys’ Fees, Attorneys’ Expenses and the Administration Costs, which shall be paid in full settlement of the PAGA Released Claims. Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted according to the changes made by the Court. The PAGA Payment will be subject to Court approval consistent with Labor Code § 2699. The PAGA Payment shall be allocated under Labor Code section 2699 with 75% of the Section 2699 payment going to the LWDA and 25% to the aggrieved employees (PAGA Group Members, as defined *infra*). The PAGA Group Members will be issued a form 1099 for their Individual PAGA Payments. .

8. “LWDA” means the California Labor Workforce Development Agency.

9. “Gross Settlement Amount” means the sum of Eighty Thousand Dollars and Zero Cents (\$80,000.00), which represents the maximum total amount payable under this Settlement Agreement by Defendant, including, without limitation, attorneys’ fees, costs, and the recovery by the eligible employees for the PAGA Payment (as defined above). Defendant will not be required to make any payment in excess of the Gross Settlement Amount under any circumstances.

10. “PAGA Period” means the time period from August 27, 2019 through settlement approval by the Court.

11. “PAGA Released Claims” with respect to the State of California and Participating PAGA Group Members (other than Plaintiff) means penalties related to wage and hour claims, rights, demands, liabilities and causes of action, whether known or unknown, arising during the PAGA Period, that were asserted or could have been asserted in the Action against Defendant based on the facts alleged or ascertained during the pendency of the Action, under federal and state laws, including statutory, or common law claims for wages, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, equitable relief or other relief under Business & Professions Code section 17200, et seq. based on the alleged Labor Code violations, including, without limitations, the following categories: (a) any and all claims involving any alleged failure to pay minimum wage; (b) any and all claims involving any alleged failure to pay employees for all hours worked, including but not limited to any claim for minimum, straight time, or overtime wages; (c) any and all claims involving any alleged failure to pay overtime wages; (d) any and all claims involving any alleged failure to keep accurate records or to issue proper wage statements to employees; (e) any and all claims involving any alleged failure to timely pay wages, including but not limited to any claim that Defendant violated Labor Code sections 201, 202, or 204, and any claim for waiting time penalties under Labor Code section 203; and (g) any and all penalties pursuant to the Private Attorneys General Act ("PAGA") of 2004 arising out of any or all of the aforementioned claims. The Released Claims include all such claims arising under the California Labor Code (including, but not limited to, sections 201, 202, 203, 204, 210, 221, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1185, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 1199, 2800, 2802, 2698, and 2699 et seq.) and the Wage Orders of the California Industrial Welfare Commission. This release excludes the release of claims not permitted by law. The PAGA Released Claims expressly exclude all PAGA claims outside the PAGA Period.

12. “PAGA Group Members” means all current and former non-exempt employees of Defendant at any time within the PAGA Period and ending at the time at the time of settlement approval by the court. .

13. “Administrator” means a mutually agreeable third-party administrator retained by the parties to administer the settlement. The Administrator fee will be paid from the Gross Settlement Amount. The Administrator fee shall not affect and nothing shall increase the total amount Defendant will pay as part of the Gross Settlement Amount.

14. “Parties” means Plaintiff and Defendant.

15. “Plaintiff’s Counsel” means David Yeremian, Esq. of David Yeremian & Associates Inc.

II. RECITALS

1. Plaintiff was an employee of Defendant during the PAGA Period.

2. On August 27, 2020, Plaintiff sent her LWDA Letter asserting claims for civil penalties pursuant to PAGA stemming from Defendant’s alleged: Failure to Pay Minimum Wages; Failure to Pay Wages and Overtime; Failure to Provide Meal Periods; Failure to Provide Rest Periods; Unlawfully Collecting or Receiving Wages; Failure to Reimburse for Necessary Business Expenditures; Failure to Issue Accurate and Itemized Wage Statements; Failure to Issue Semimonthly Payments; Failure to Keep Records; Waiting Time Penalties for Failure to Pay Wages When Employment Ends; and Unfair Competition under California’s Business and Professions Code.

3. Within 15 days of executing this Settlement Agreement, Plaintiff will file the Action, a complaint entitled *Melissa Soto v. GCAM, Inc.* in the Superior Court of the State of California, County of San Bernardino asserting a cause of action pursuant to the Private Attorneys General Act (“PAGA”), drafted to effectuate release of the “PAGA Released Claims” as defined in Section I Definitions, Paragraph 11, and alleging, for the purposes of PAGA, all violations alleged in Plaintiff’s LWDA letter, including: : (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Unlawfully Collecting or Receiving Wages; (6) Failure to Reimburse for Necessary Business Expenditures; (7) Failure to Issue Accurate and Itemized Wage Statements; (8) Failure to Issue Semimonthly Payments; (9) Failure to Keep Records; (10) Waiting Time Penalties for Failure to Pay Wages When Employment Ends; and (11) Violation of California Business & Professions Code Section 17200; . Plaintiff must then take all necessary steps to obtain court and LWDA approval of this Settlement Agreement in accordance with the remaining terms of this Settlement Agreement.

4. The Parties engaged informal discovery, exchanging information, documents and reviewing and analyzing extensive data made available by Defendant which enabled the parties to thoroughly evaluate Plaintiff’s claims, the claims of the putative class or PAGA Group Members, Defendant’s defenses, and the likely outcomes, risks and expense of pursuing litigation.

5. On March 31, 2021, the Parties engaged in mediation before mediator Michael D. Young. The Parties were able to agree to settle the claims following a full day of mediation.

6. The Parties agree a bona fide dispute exists as to whether any amount of penalties are due from Defendant to any California employees, including Plaintiff, and to the California Labor and Workforce Development Agency (“LWDA”) and/or to any allegedly aggrieved employees.

7. Based on the discovery exchanged as well as their own independent investigation and evaluation, the Parties have considered the claims asserted by Plaintiff, the defenses asserted

by Defendant, the risks associated with the continued prosecution of the Action, the cost of continued litigation through trial and appeals, and after considering all the circumstances, the Parties have concluded that the proposed settlement set forth in this Agreement is fair, adequate, and reasonable.

8. The Parties intend to fully and finally resolve the PAGA Released Claims as to Plaintiff and the PAGA Group Members.

9. The Parties further agree that the Agreement, the fact of this Settlement, any of the terms of this Agreement, and any documents filed in connection with the Settlement shall not constitute, or be offered, received, claimed, construed, or deemed as an admission, finding, or evidence of: (i) any wrongdoing by any Released Parties, (ii) any violation of any statute or law by Released Parties, (iii) any liability on the claims or allegations in the Action on the part of any Released Parties, (iv) any waiver of Defendant's right to arbitration or the enforceability of any arbitration agreement, or (v) the propriety of certifying a litigation class or collective (conditionally or otherwise) or pursuing representative relief under the PAGA in the Action or any other civil or administrative proceeding; and this Agreement shall not be used by any Person for any purpose whatsoever in any administrative or legal proceeding, including but not limited to arbitrations, other than a proceeding to enforce the terms of the Agreement.

10. NOW, THEREFORE, IT IS HEREBY CONSENTED TO, AND AGREED, by Plaintiff for herself and on behalf of the State of California and aggrieved employees and by Defendant, that, subject to the approval of the Court, the Action shall be settled, compromised, and dismissed, on the merits and with prejudice, and the Released Claims shall be finally and fully compromised, settled and dismissed as to the Released Parties, in the manner and upon the terms and conditions hereafter set forth in this Agreement.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that the PAGA claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, the PAGA Group Members, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Settlement Amount.** Defendant shall pay the maximum Gross Settlement Amount of Eighty Thousand Dollars (\$80,000.00) in settlement of the Action. The Parties agree to allocate the Gross Settlement Amount as follows:

a. **PAGA Payment:** The PAGA Payment is the total of the Gross Settlement Amount, less the payments for the Attorneys' Fees, Attorneys' Expenses and the Administration Costs, which shall be paid in full settlement of the PAGA Released Claims. The PAGA Payment

will be subject to Court approval consistent with Labor Code § 2699. Upon approval, the PAGA Payment shall be distributed as follows:

(1) One Hundred Percent (100%) of the PAGA Payment shall be paid as a Labor Code section 2699 payment with 75% of this amount being paid to the LWDA and 25% being paid to the Aggrieved Employees as their Individual PAGA Payments. Each Individual PAGA Payment shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period. This amount shall constitute resolution of all remedies available under Labor Code section 2699, and preclude pursuit by Aggrieved Employees of any PAGA Released Claims.

(2) The penalty settlement payments will be reported on IRS Form 1099s. The Parties acknowledge and agree that all payments under this Settlement Agreement as PAGA Payments are attributable as penalties. None are attributable as wages. Accordingly, the parties acknowledge and agree that Defendants are not responsible for any employer-side taxes in connection with any PAGA Payments under this Settlement Agreement.

(3) In the event the Court or LWDA increases the allocation of funds to the PAGA Payment, such increase shall come from the Gross Settlement Amount. However, nothing will act to increase the total Gross Settlement Amount that Defendant will pay.

b. **Attorneys' Fees and Costs:** Defendant will not oppose Plaintiff's request for attorneys' fees up to Thirty-Two Thousand Dollars (\$32,000.00) and costs estimated at [Ten Thousand Dollars (\$10,000)]. In the event this award is not approved by the Court, or a lesser amount is approved by the Court, the remainder will be included in the PAGA Payment. Nothing will increase the Gross Settlement Amount to be paid by Defendant.

c. **PAGA Administration:** Administrator's fee shall be paid from the Gross Settlement Amount. The Administrator's duties will include, among other things identified in this Agreement, a National Change of Address database search to update stale addresses prior to mailing Individual PAGA Payments and accompanying letters to PAGA Group Members; calculate the pro rata payment of penalties allocated to the PAGA Group Members, issue checks and IRS Form 1099's, and report such payments to the proper taxing authorities; format and print the letter accompanying the Individual PAGA Payment check; void Individual PAGA Payment checks after 180 days and transmit funds represented by such uncashed checks as provided for by this Agreement, and declarations as required by the Parties and the Court.

d. **Plaintiff's Service Payment:** Zero Dollars (\$0.00) shall be paid to Plaintiff for initiation of and service as a representative of the State of California and of all other PAGA Group Members.

3. **Representative PAGA Release.** In Plaintiff's capacity as a private attorney general and "aggrieved employee" acting on behalf of Plaintiff's self, the State of California, and the PAGA Group Members, and in consideration of the PAGA Payment, Plaintiff hereby releases Defendant and Defendant's past, present and/or future, officers, board members, directors, employees, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees), representatives, attorneys, insurers, customers, partners, investors, shareholders, members, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors and/or assigns (hereinafter the "Releasees") from any and all PAGA Released Claims that arose during the PAGA Period.

4. **Settled Claims.** Upon entry of the Order approving this settlement, Plaintiff and all PAGA Group Members will be forever barred from pursuing the PAGA Released Claims against Defendant during the PAGA Period.

5. **Confidentiality.** Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, or hold a press conference about the settlement and should they be asked to comment, shall respond that the Action has been resolved and to look to the Court's file for further information.

6. **No Right to Opt Out or Object.** The Parties agree there is no statutory right for any PAGA Settlement Group Member to object, opt out or otherwise exclude himself or herself from the Settlement. The Parties further agree there is no right or opportunity for any PAGA Settlement Group Member to appeal the approval of the Settlement by the Court.

7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the material terms of this Agreement, Plaintiff, Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. This paragraph does not preclude Plaintiff or Plaintiff's Counsel from appealing from a refusal by the Court to award the Plaintiff's Counsel attorneys' fees and/or costs sought by them. If an appeal is taken, the time for consummating the Settlement (including making payments under the Settlement) will be suspended until such time as their appeal is finally resolved and the Judgment becomes Final, as defined in this Agreement.

8. **Motion for Approval of PAGA Settlement by Plaintiff's Counsel.** The Parties recognize that in accordance with Labor Code Section 2699(l) Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. Instead, to comply with the requirements of Labor Code Section 2699(l), Plaintiff shall file a Motion for Approval of the PAGA Settlement requesting that the Court approve the amount of the PAGA Penalties provided for by this Settlement ("PAGA Approval Motion"). Upon filing the motion for settlement approval, Plaintiff

will also serve the LWDA with notice of the settlement as required by applicable law. At least seven (7) days prior to the deadline for filing, Plaintiff's counsel will provide the Motion for Approval of PAGA Settlement to counsel for Defendant's counsel to review and approve before it is filed. The Parties agree that Plaintiff will submit the Proposed Order of Final Approval and Dismissal with Prejudice (retaining jurisdiction in the Court to enforce per CCP 664.6) ("Final Order") which will be approved by both counsel for Defendant and for Plaintiff prior to Plaintiff's filing, **in substantially the same format as Exhibit "A" attached hereto.**

9. The proposed PAGA Settlement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns and resubmit the Approval Stipulation or motion. If, after the Parties are unable to obtain approval of the terms of the Settlement, or (b) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Invalidity of any material portion of this Settlement, except for the amount of attorneys' fees and costs, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. The Approval Motion will request the Court to approve the amount of the PAGA Penalties, and dismiss the Operative Complaint with Prejudice.

10. Within thirty (30) days of the full execution of this Agreement, or as soon thereafter as possible, Plaintiff will file the Motion for Approval of PAGA Settlement, together with the proposed PAGA Group Letter (defined in section IV. 3. *infra*), and the Final Order Approving the PAGA Settlement but only after Defendant's opportunity for review of all said documents and approval thereof in writing.

11. **Termination of Settlement Agreement.** If the Court does not approve this settlement, or if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and on such review the Court's decision is materially modified or reversed, or if one or more of the terms of the Settlement Agreement are not approved or is materially modified or reversed or found to be invalid, then Defendant shall have the right within twenty-one (21) days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement.

12. **Final Order.** Plaintiff shall submit to the Court a proposed Final Order together with the Joint Motion for Approval of PAGA Settlement mutually agreed to by the Parties. This Settlement Agreement is expressly conditioned upon the Court entering the Final Order in its entirety. Defendant's must review and approve of the Final Order before it is submitted to the Court.

13. **Payment.** Defendant shall tender the Gross Settlement Amount to the Administrator within thirty (30) days of receipt of the signed Final Order entered by the Court.

IV. ADMINISTRATION OF SETTLEMENT

1. Following Court approval of the PAGA Settlement, Administrator, will administer the PAGA Settlement and distribute the Gross Settlement Amount as provided for by this Agreement.

2. The PAGA Payment will be allocated as provided by Labor Code §2699(i), with 75% paid to the LWDA, and 25% distributed to PAGA Group Members on a proportionate basis, based upon the number of Pay Periods each worked during the PAGA Period.

3. Within thirty (30) days of receipt of the Court's Final Order Approving the PAGA Settlement, the Administrator will issue to the PAGA Group Members, their Individual PAGA Payment together with a letter explaining the Individual PAGA Payment ("PAGA Group Letter") which is in a form substantially similar to **Exhibit "B"** which will be approved by both counsel for Defendant and for Plaintiff. The Individual PAGA Payment and letter will be mailed to the PAGA Group Members' last-known home address or as updated by the Administrator following the NCOA database search. Individual PAGA Settlement checks will remain active for one hundred and eighty (180) days. Any check returned as non-deliverable on or before the cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining uncashed for more than one hundred and eighty (180) days after issuance will be tendered to the State of California Controller Unclaimed Property Fund ("UPF") for further handling on behalf of the PAGA Group Members. The Individual PAGA Payments shall be deemed penalties and shall be reported using IRS tax form 1099.

4. After the distribution of the Individual PAGA Payment, the balance of the Gross Settlement Amount shall be paid as follows:

a. Within fourteen (14) calendar days of the distribution of the Individual PAGA Payment, the Administrator will pay Plaintiff's counsel the attorneys' fees and costs in the amounts set forth in paragraph III.2(b) above to the extent it is approved by the Court.

b. Within fourteen (14) calendar days of the distribution of the Individual PAGA Payment, the Administrator shall pay the LWDA its share of the PAGA Payment.

5. Following distribution of the Gross Settlement Amount, the Administrator will provide a declaration to the Parties regarding the distribution to be filed with the Court.

6. Defendant make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. **Drafting**. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. **Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Agreement and in connection with the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Authority.** Defendant represent and warrant that the undersigned has the authority to act on behalf of Defendant and to bind Defendant to the terms of this Agreement. Plaintiff and her counsel represent and warrant that Plaintiff has the capacity to act on behalf of the State of California as a private attorney general under PAGA to bind them to the terms and conditions of this Agreement.

5. **Governing Law.** This Agreement shall be construed under and governed by the laws of the State of California. This Agreement shall be deemed to have been entered into in San Bernardino, California and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Agreement, it shall be brought in the State of California, County of San Bernardino.

6. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the claims. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto.

7. **Nullification of Settlement Agreement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

8. **Judgment and Continued Jurisdiction.** After approval of this settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) matters as may be appropriate under court rules or as set forth in this Settlement.

9. **Entire Agreement.** This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

10. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

11. **Authorization to Enter Into Settlement Agreement.** Counsel for all Parties

warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

12. **Binding on Successors and Assigns.** This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

13. **California Law Governs.** All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

14. **Execution and Counterparts.** This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

15. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

16. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable.

17. **Severability.** If any term or provision of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

18. **Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

19. **Taxes.** The Parties make no representation as to the tax treatment or legal effect of the payments called for hereunder, and the Plaintiff and the PAGA Group members are not relying on any statement, representation, or calculation by any of the Parties or by the Settlement Administrator in this regard. Plaintiff and the PAGA Group members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein and will hold Plaintiff, Plaintiff's Counsel, Defendant, Defendant's counsel and the Released Parties free and harmless from and against any claims resulting from the tax treatment of payments under this Agreement. Plaintiff and PAGA Group members acknowledge and agree that no provision of this Settlement, and no written communication or disclosure between or among the Parties or their attorneys and other advisers, is or was intended to be, nor will any such communication or disclosure constitute or be construed or be relied upon as, tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

20. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

21. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

22. **Representation By Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

23. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement.

24. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

25. **Denial of Liability.** The Parties expressly recognize that the making of this agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing

constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

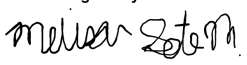
26. Authorization And Voluntary Agreement

Each of the Parties represents and warrants that (a) they are fully authorized to enter into this Agreement; (b) they have read and fully understand each of the provisions of this Agreement and that such provisions have been fully translated in Spanish for Soto by the translator Soto chose and designated for this purpose; and counsel for Soto has explained this entire Agreement to him (*el empleado verifica que ha leído y entiende cada condición de este acuerdo y que todo el acuerdo ha sido completamente traducido al Español para el empleado por el traductor que el eligió para este propósito, y que el abogado del empleado le ha explicado todas las condiciones de este acuerdo*); (c) they have had the opportunity to rely, and/or have relied, upon the advice and representation of their legal counsel of their own choosing in entering into this Agreement; (d) they have signed the Agreement voluntarily, without any duress or undue influence on the part, or on behalf, of any Party; and (e) the terms of this Agreement are contractual and not merely recitals. **Plaintiff hereby is advised not to sign this Agreement before consulting with legal counsel.**

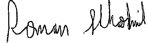
IN WITNESS THEREOF, the Parties each acknowledge that she/he/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

PLAINTIFF:

Dated: 4/8/2021, 2021

By: 
MELISSA SOTO
DocuSigned by:
2B840B490EBC442...

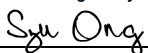
PLAINTIFF'S COUNSEL (AS TO FORM ONLY):

Dated: 4/8/2021, 2021 By: 

DAVID YEREMIAN & ASSOCIATES INC.

DEFENDANT:

Dated: 4/8/2021 | 15:05:56 PDT, 2021

By: 
By: Szu Ong
Its: VP, PLASMA OPS PLANNING & CTRL
DocuSigned by:
SCAM INC
2A2MDF0184...

DocuSigned by:

Grifols Legal
Chris Moriarty

DEFENDANT'S COUNSEL (AS TO FORM ONLY):

Dated: ___April 12___, 2021

By:



CRAIG N. NICKERSON
JANNA I. JAMIL
GORDON REES SCULLY MANSUKHANI, LLP

Exhibit “A”

EXHIBIT A TO PAGA SETTLEMENT AGREEMENT

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF

MELISSA SOTO,	)	Case No.
	)	
Plaintiff,	)	Complaint Filed:
	)	
vs.	)	[PROPOSED] ORDER OF FINAL
	)	APPROVAL AND DISMISSAL WITH
GCAM, INC.; and DOES 1 to 25, inclusive,	)	PREJUDICE
	)	
Defendants.	)	Assigned For All Purposes To The Honorable
	)	
	)	
	)	

Under Labor Code section 2699(1)(2) of the Private Attorneys General Act of 2004 ("PAGA"), the Motion of Plaintiff Melissa Soto ("Plaintiff") for Approval of Settlement under PAGA came before this Court on _____ on a regularly noticed motion.

Plaintiff's Complaint seeks civil penalties on behalf of the State of California and similarly situated aggrieved employees (the "Aggrieved Employees"), as authorized by PAGA under Labor Code § 2699, in relation to alleged violations of the predicate statutes set forth in Plaintiff's Complaint and the letter to the Labor Workforce and Development Agency "LWDA") dated August 27, 2020 (the "LWDA Letter"), on behalf of all current and former

EXHIBIT A TO PAGA SETTLEMENT AGREEMENT

1 non-exempt employees of Defendant GCAM, Inc. ("Defendant") from August 27, 2019 to the
2 date of this Order, inclusive.

3 Under PAGA, in any action brought by an aggrieved employee, the Court "shall review and
4 approve any settlement of any civil action filed pursuant to this part." Lab. Code § 2699(1)(2).
5 Accordingly the Court, having considered the proposed settlement set forth in the Settlement
6 Agreement, including the proposed PAGA penalties, under Labor Code § 2699(1)(2), having
7 considered the papers filed in support of the proposed settlement and the arguments of counsel, and
8 good cause appearing, HEREBY ORDERS AS FOLLOWS:

- 9 1. The Court finds the instant Action presents a good faith dispute of the claims alleged;
- 10 2. The Court finds in favor of settlement approval, and therefore approves the
11 Settlement of the above-captioned action, as set forth in the Settlement Agreement and each of the
12 releases and other terms, as fair, just, reasonable, and adequate;
- 13 3. The Court finds further that Plaintiff, acting on behalf of herself and the State of
14 California, by operation of this Order and Judgment hereby releases and forever discharges
15 Defendant and the Released Parties (as defined in the Settlement Agreement) from any and all
16 PAGA Released Claims (as defined in the Settlement Agreement) including penalties asserted in
17 Plaintiff's Complaint, including any and all known and unknown claims for civil penalties under
18 the Private Attorneys General Act, California Labor Code §§ 2698, *et seq.*, that arise.
- 19 4. The Court finds further that the foregoing release shall be binding on Plaintiff and the
20 State of California, and shall bar any claim under PAGA brought by any person, including the
21 Aggrieved Employees (defined as PAGA Group Members in the Settlement Agreement), on behalf of
22 the State of California, as to the PAGA Released Claims and Released Parties.

23 5. The Parties are directed to comply with all terms of the Settlement Agreement, and
24 Defendants are directed to make all payments required by the Settlement Agreement;

25 6. Under the Settlement Agreement, Defendant agrees to pay an all-in gross amount of
26 Eighty Thousand Dollars (\$80,000.00) (the "Gross Settlement Amount"). The Gross Settlement
27 Amount is inclusive of payments to the LWDA and Aggrieved Employees, enhancement awards to
28

a. \$32,000.00 in attorney's fees to David Yeremian & Associates Inc.;

b. \$10,000.00 in costs to David Yeremian & Associates Inc.;

c. \$_____ in administration costs to _____;

d. After deducting the foregoing payments, the estimated remainder of approximately _____ shall form the Net Settlement Amount ("NSA"). Pursuant to Labor

ection 2699(i), the NSA will then be distributed 75 percent (approximately _____) to

DA, and the remaining 25 percent (approximately _____) to the Aggrieved

ees on a pro rata basis, as set forth in the Settlement Agreement. The Court approves these

nts, and directs the Settlement Administrator to issue checks to the LWDA and Aggrieved

ees, along with the Notice of PAGA Settlement, as set forth in the Settlement Agreement, and

wise carry out its duties as set forth in the Settlement Agreement; and

IT IS SO ORDERED.

[PROPOSED] ORDER OF FINAL APPROVAL AND DISMISSAL WITH PREJUDICE

Exhibit “B”

EXHIBIT B TO PAGA SETTLEMENT AGREEMENT

Melissa Soto v. GCAM, Inc.,
Superior Court of California, County of _____
Case No. _____

[Date_____, 2021]

PAGA EMPLOYEE NAME
ADDRESS

You have received the enclosed check in connection with the Settlement of the above-referenced lawsuit brought by a former employee Melissa Soto ("Plaintiff") against *GCAM, Inc.*, (hereinafter "GCAM") for civil penalties pursuant to the Private Attorneys General Act, Labor Code § 2698 et seq. ("PAGA").

Plaintiff claimed she and other non-exempt employees of GCAM, Inc. employed anytime from August 27, 2019 through _____, 2021 were subjected to the following claims including, but not limited to: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime; (3) Failure to Provide Meal Periods; (4) Failure to Provide Rest Periods; (5) Unlawfully Collecting or Receiving Wages; (6) Failure to Reimburse for Necessary Business Expenditures; (7) Failure to Issue Accurate and Itemized Wage Statements; (8) Failure to Issue Semimonthly Payments; (9) Failure to Keep Records; (10) Waiting Time Penalties for Failure to Pay Wages When Employment Ends; and (11) Violation of California Business & Professions Code Section 17200.

GCAM denies, and continues to deny, all allegations and liability, but to avoid further time and expense of protracted and uncertain litigation, GCAM and Plaintiff have agreed to settle the lawsuit for civil penalties. The settlement, approved by the Court on _____, 2021, resolves the alleged claims brought on behalf of all non-exempt employees of GCAM, Inc. that worked in California any time between August 27, 2019 and _____, 2021 ("PAGA Group").

Pursuant to the Court's Order, a payment of \$80,000.00 was approved in settlement of this lawsuit. After accounting for Plaintiff's Counsel's attorneys' fees of \$_____ and reimbursement of litigation costs of \$_____, administration expenses to _____, of \$_____, the remaining sum called the "PAGA Payment" will be divided pursuant to California law as follows: \$_____ (75%) to the State of California Labor Workforce Development Agency and \$_____ (25%) to all PAGA Group employees to be shared on a proportionate basis. The enclosed check represents your share based upon the number of Pay Periods you worked any time during the period from August 27, 2019 and _____, 2021 ("PAGA Period"). An IRS 1099 form is enclosed. You will be solely responsible for paying federal, state, or local taxes, if any, on the amount of your check.

Regardless of whether you negotiate the enclosed check, by way of this Settlement and the corresponding Final Order, for the PAGA Period, each PAGA Group member shall fully release GCAM for all claims for civil penalties under PAGA as alleged in the LWDA Letter and Plaintiff's Operative Complaint filed in this Action or reasonably could have been asserted under Labor Code § 2698 et seq. based upon the facts alleged in the LWDA Letter and Plaintiff's Complaint filed in this Matter.

The enclosed check is valid for 180 days from the date of issuance. ***It is strongly recommended that you cash or deposit this check immediately.*** After 180 days of issuance, the check will become void and the amount forwarded to the State of California Controller's Office Unclaimed Property Division for further handling. If the check is lost or misplaced, please contact the Administrator immediately, toll-free (800) _____ to have it reissued. If you have any questions about your check, please contact the [insert administrator information].

EXHIBIT 3

Cost report for SOTO v. GCAM, INC. (PAGA)

<i>Date</i>	<i>TaskCode</i>	<i>Payee</i>	<i>Description</i>	<i>Cost</i>	<i>Acct/Check No</i>
8/27/2020		LWDA	PAGA LETTER	\$75.00	PAGA LETTER 4284
2/26/2021		JUDICATE WEST	MEDIATION (3.31.21)	\$5,050.00	MEDIATION 4435
5/12/2021		BERGER CONSULTIN	EXPERT ANALYSIS	\$1,125.00	EXPERT ANALYSIS
5/19/2021		Rapid Legal	SUMMONS & COMPLAINT - filing fee advanced	\$549.29	Filing
6/8/2021		Rapid Legal	CERTIFICATE OF ASSIGNMENT	\$69.18	Filing
6/23/2021		Rapid Legal	NAR	\$69.15	Filing
7/14/2021		Courtcall	HRNG ON MTN FOR PAGA APPROVAL	\$94.00	COURTCALL
7/14/2021		Courtcall	COMPLIANCE HRNG RE DISBURSEMENT OF FUNDS	\$94.00	COURTCALL
7/14/2021		Rapid Legal	INITIAL CMC (8.17.21)	\$69.15	Filing
7/14/2021		Rapid Legal	JOINT REPORT	\$69.15	Filing
7/14/2021		Rapid Legal	NTC OF ENTRY OF ORDER AND JUDGMENT	\$69.15	Filing
7/14/2021		Rapid Legal	DEC OF CLAIMS AND RE DISBURSEMENT OF FUNDS	\$69.15	Filing
8/10/2021		Rapid Legal	Joint CMS (8.17.21); NAR + POS-010	\$74.34	Filing
8/17/2021		Rapid Legal	MTN FOR PAGA APPROVAL - complex fee and filing fee advanced	\$1,400.00	Filing

TOTAL COST **\$8,876.56**

Total Cost By Account

COURTCALL	\$188.00
EXPERT ANALYSIS	\$1,125.00
Filing	\$2,438.56
MEDIATION	\$5,050.00
PAGA LETTER	\$75.00

EXHIBIT 4

LAFFEY MATRIX

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[Expert Opinions](#)
[See the Matrix](#)
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[Links](#)

			Years Out of Law School *				
Year	Adjustmt Factor**	Paralegal/ Law Clerk	1-3	4-7	8-10	11-19	20 +
6/01/20- 5/31/21	1.015894	\$206	\$378	\$465	\$672	\$759	\$914
6/01/19- 5/31/20	1.0049	\$203	\$372	\$458	\$661	\$747	\$899
6/01/18- 5/31/19	1.0350	\$202	\$371	\$455	\$658	\$742	\$894
6/01/17- 5/31/18	1.0463	\$196	\$359	\$440	\$636	\$717	\$864
6/01/16- 5/31/17	1.0369	\$187	\$343	\$421	\$608	\$685	\$826
6/01/15- 5/31/16	1.0089	\$180	\$331	\$406	\$586	\$661	\$796
6/01/14- 5/31/15	1.0235	\$179	\$328	\$402	\$581	\$655	\$789
6/01/13- 5/31/14	1.0244	\$175	\$320	\$393	\$567	\$640	\$771
6/01/12- 5/31/13	1.0258	\$170	\$312	\$383	\$554	\$625	\$753
6/01/11- 5/31/12	1.0352	\$166	\$305	\$374	\$540	\$609	\$734
6/01/10- 5/31/11	1.0337	\$161	\$294	\$361	\$522	\$589	\$709
6/01/09- 5/31/10	1.0220	\$155	\$285	\$349	\$505	\$569	\$686
6/01/08- 5/31/09	1.0399	\$152	\$279	\$342	\$494	\$557	\$671
6/01/07-5/31/08	1.0516	\$146	\$268	\$329	\$475	\$536	\$645
6/01/06-5/31/07	1.0256	\$139	\$255	\$313	\$452	\$509	\$614
6/1/05-5/31/06	1.0427	\$136	\$249	\$305	\$441	\$497	\$598
6/1/04-5/31/05	1.0455	\$130	\$239	\$293	\$423	\$476	\$574
6/1/03-6/1/04	1.0507	\$124	\$228	\$280	\$405	\$456	\$549
6/1/02-5/31/03	1.0727	\$118	\$217	\$267	\$385	\$434	\$522
6/1/01-5/31/02	1.0407	\$110	\$203	\$249	\$359	\$404	\$487
6/1/00-5/31/01	1.0529	\$106	\$195	\$239	\$345	\$388	\$468
6/1/99-5/31/00	1.0491	\$101	\$185	\$227	\$328	\$369	\$444
6/1/98-5/31/99	1.0439	\$96	\$176	\$216	\$312	\$352	\$424
6/1/97-5/31/98	1.0419	\$92	\$169	\$207	\$299	\$337	\$406

6/1/96-5/31/97	1.0396	\$88	\$162	\$198	\$287	\$323	\$389
6/1/95-5/31/96	1.032	\$85	\$155	\$191	\$276	\$311	\$375
6/1/94-5/31/95	1.0237	\$82	\$151	\$185	\$267	\$301	\$363

The methodology of calculation and benchmarking for this Updated Laffey Matrix has been approved in a number of cases. See, e.g., *McDowell v. District of Columbia*, Civ. A. No. 00-594 (RCL), LEXSEE 2001 U.S. Dist. LEXIS 8114 (D.D.C. June 4, 2001); *Salazar v. Dist. of Col.*, 123 F.Supp.2d 8 (D.D.C. 2000).

* “Years Out of Law School” is calculated from June 1 of each year, when most law students graduate. “1-3” includes an attorney in his 1st, 2nd and 3rd years of practice, measured from date of graduation (June 1). “4-7” applies to attorneys in their 4th, 5th, 6th and 7th years of practice. An attorney who graduated in May 1996 would be in tier “1-3” from June 1, 1996 until May 31, 1999, would move into tier “4-7” on June 1, 1999, and tier “8-10” on June 1, 2003.

** The Adjustment Factor refers to the nation-wide Legal Services Component of the Consumer Price Index produced by the Bureau of Labor Statistics of the United States Department of Labor.

EXHIBIT 5