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Attorneys for Defendant

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

VICKI FLORES an individual, on behalf of
herself and others similarly situated

PLAINTIFF,

v.

HERITAGE BAG COMPANY; and DOES 1
thru 50, inclusive,

DEFENDANTS.

Case No. CIVDS2023373

**DECLARATION OF NICOLE BENCH OF
ILYM GROUP, INC., IN SUPPORT OF
MOTION FOR FINAL APPROVAL OF
CLASS ACTION SETTLEMENT**

Date: August 2, 2022
Time: 10:00 a.m.

Judge: David Cohn
Dept.: S-26

1 I, Nicole Bench declare as follows:

2 1. I am a resident of the United States of America and am over the age of 18. I am a
3 Case Manager for ILYM Group, Inc., (herein after referred to as “ILYM Group”), the professional
4 settlement services provider who has been retained by the Parties’ Counsel and subsequently
5 appointed by the Court to serve as the Settlement Administrator for the above captioned *Flores v.*
6 *Heritage Bag Company* matter. I am authorized to make this declaration on behalf of ILYM Group
7 and myself. I have personal knowledge of the facts herein, and, if called upon to testify, I could and
8 would testify competently to such facts.

9 2. ILYM Group has extensive experience in administering Class Action Settlements,
10 including direct mail services, database management, claims processing and settlement fund
11 distribution services for Class Actions ranging in size from 26 to 4.5 million Settlement Class
12 Members.

13 3. ILYM Group was engaged by the Parties’ Counsel and subsequently approved and
14 appointed by the Court to provide notification services and settlement administration, pursuant to
15 the terms of the Settlement, in the above referenced Action. Duties performed to-date and to be
16 performed after Final Approval of the Settlement is granted, include: (a) printing and mailing the
17 *Notice of Pendency of Class Action Settlement and Final Hearing* (referred to as “Notice Packet”);
18 (b) receiving and processing requests for exclusion; (c) resolving Settlement Class Members’
19 disputes over the number of pay periods Defendants have record of them working during the Class
20 Period, which was pre-printed on their individualized Class Notice; (d) calculating individual
21 settlement award amounts; (e) processing and mailing settlement award checks; (f) handling tax
22 withholdings as required by the Settlement and the law; (g) preparing, issuing and filing tax returns
23 and other applicable tax forms; (h) handling the distribution of any unclaimed funds pursuant to the
24 terms of the Settlement; and (i) performing other tasks as the Parties mutually agree to and/or the
25 Court orders ILYM Group to perform.

26 4. On March 23, 2022, ILYM Group received the Court approved text for the Notice
27 Packet from Counsel for Plaintiff. ILYM Group prepared a draft of the formatted Notice Packet,
28 which was approved by the Parties’ Counsel prior to mailing.

1 5. On April 7, 2022, ILYM Group received the class data file from Counsel for
2 Defendants, which contained the name, last known mailing address, social security number,
3 employment dates worked during the class period and the total number of applicable pay periods
4 worked for each Settlement Class Member and PAGA Employee. The data file was uploaded to
5 our database and checked for duplicates and other possible discrepancies. The Class List contained
6 565 individuals with a total of 28,186 applicable pay periods worked during the class period.

7 6. As part of the preparation for mailing, all 565 names and addresses contained in the
8 Class List were then processed against the National Change of Address (“NCOA”) database,
9 maintained by the United States Postal Service (“USPS”), for purposes of updating and confirming
10 the mailing addresses of the Settlement Class Members before mailing of the Notice Packet. The
11 NCOA contains requested change of addresses filed with the USPS. To the extent that an updated
12 address was found in the NCOA database, the updated address was used for the mailing of the
13 Notice Packet. To the extent that no updated address was found in the NCOA database, the original
14 address provided by Counsel for Defendants was used for the mailing of the Notice Packet.

15 7. On May 2, 2022, the Notice Packet was mailed, via U.S First Class Mail, to all 565
16 individuals contained in the Class List. Attached hereto, as **Exhibit A**, is a true and correct copy of
17 the mailed Notice Packet.

18 8. As of the date of this declaration, 41 Notice Packets have been returned to our office
19 as undeliverable. Of the 41 returned Notice Packets, none included a returned with a forwarding
20 address. ILYM Group performed a computerized skip trace on the 41 returned Notice Packets that
21 did not have a forwarding address, in an effort to obtain an updated address for purpose of re-
22 mailing the Notice Packet. As a result of this skip trace, 30 updated addresses were obtained and
23 the Notice Packets were promptly re-mailed to those Settlement Class Members, via U.S First Class
24 Mail. In addition, 1 Settlement Class Member has contacted Plaintiff’s Counsel requesting that a
25 new Notice Packet be re-mailed to them.

26 9. As of the date of this declaration, a total of 31 Notice Packets have been re-mailed.
27 Specifically, 30 have been re-mailed as a result of ILYM Group’s skip tracing efforts and 1 was re-
28 mailed as a result of a re-mail request by a Class Member.

10. As of the date of this declaration, a total of 11 Notice Packets have been deemed undeliverable as no updated address was found notwithstanding the skip tracing.

11. As of the date of this declaration, ILYM Group has not received any requests for exclusion. The deadline to request exclusion from the Settlement is July 1, 2022.

12. As of the date of this declaration, ILYM Group has not received any objections to the Settlement. The deadline to file an objection to the Settlement is July 1, 2022.

13. As of the date of this declaration, ILYM Group will report a total of 565 Participating Class Members, representing 100% of the 565 Settlement Class Members.

14. Participating Class Members will receive a proportional share of the Net Settlement Fund through individual settlement payments, based on the number of pay periods worked by Class Members during the Class Period. The Net Settlement Fund is the amount remaining after deduction of the Court-approved payments from the Gross Settlement Fund for Class Counsel Fees and Litigation Costs, the Class Representative Enhancement Award, Claims Administration Fees to ILYM Group, and the PAGA allocation, e.g.,

Gross Settlement Fund	\$475,000.00
Attorney Fees	\$158,333.33
Attorney Costs/ Expenses	\$10,760.34
Enhancement Award	\$5,000.00
ILYM Group Fees	\$15,000.00
LWDA	\$22,500.00
Net Settlement Fund	\$263,406.33
PAGA Payment to Employees	\$7,500.00
Class Allocation	\$255,906.33

To determine a Participating Class Member's individual settlement award payment, the distribution shall be divided among all Class Members on a pro rata basis, based on the ratio of the Applicable Pay Periods worked by each Participating Class Member during the Class Period, to the total number of Applicable Pay Periods worked by all Participating Class Members during the Class Period. The PAGA Employee allocation is calculated in the same manner during the PAGA period.

1 Based on these calculations, the participating individuals will receive an estimated average gross
2 payment of \$466.21, with the estimated highest gross payment being \$2,545.11.

3 15. ILYM Group's total fees and costs for services in connection with the administration
4 of this Settlement, which includes fees and costs incurred to-date, as well as anticipated fees and
5 costs for completion of the settlement administration, are \$15,000.00. ILYM Group's work in
6 connection with this matter will continue with the calculation of the settlement award payments,
7 issuance and mailing of the settlement award checks, the necessary tax filing and reporting on such
8 payments, and any other tasks that the Parties mutually agree to and/or the Court orders ILYM
9 Group to perform.

10 I declare under penalty of perjury under the laws of the State of California and the United
11 States that the foregoing is true and correct to the best of my knowledge and that this Declaration
12 was executed this 6th day of July 2022, at Tustin, California.

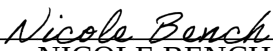
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EXHIBIT “A”

VICKI FLORES v. HERITAGE BAG COMPANY

**Superior Court of the State of California, County of San Bernardino
Case No.: CIVDS2023373**

If you are a current or former employee of Heritage Bag Company (“Heritage Bag” or “Defendant”), a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

- This lawsuit involves a class defined as: “all hourly paid, non-exempt persons employed by Defendant in the State of California during the Settlement Period.”
- You are receiving this Notice because the records reflect that you may be one of the above Class Members.
- Plaintiff in this class action alleges that Defendant failed to pay all wages and/or overtime, provide lawful meal periods, provide reimbursement for expenses, provide accurate itemized wage statements, pay lawful wages upon termination or resignation, engaged in unfair business practices, and is liable for penalties under California’s Private Attorneys General Act or “PAGA.” Heritage Bag denies Plaintiff’s claims and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or Heritage Bag’s defenses.
- You will not be penalized or retaliated against by Heritage Bag for participating in this class action settlement. If you are currently employed by Heritage Bag, your employment will not be affected in any way. Current employees of Heritage Bag who choose to participate in the settlement will not be required to resign and can continue to work for Heritage Bag.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue for claims brought or that could have been brought based on the facts and theories alleged in the Action, including but not limited to claims for unpaid wages and overtime, failure to reimburse expenses, failure to provide lawful meal periods, failure to timely pay wages, failure to pay lawful wages upon termination or resignation, and unfair business practices from October 20, 2016 through December 31, 2021.
ASK TO BE EXCLUDED (OPT OUT)	Exclude yourself from this lawsuit. Keep your rights to file a separate claim against Heritage Bag. If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to bring your own suit against Heritage Bag for the same legal claims in this lawsuit.
OBJECT	Object to the terms of this Settlement.

Your options are explained in this notice. To opt out or object, you must act by July 1, 2022.

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of Heritage Bag’s employees. You have received this notice because Heritage Bag’s records indicate that you are a member of this class.

2. What is this lawsuit about?

This lawsuit was filed on October 20, 2020, on behalf of all persons who are employed or have been employed as an hourly employee by Heritage Bag Company in the State of California. The operative complaint alleges class-wide causes of action against Heritage Bag for failure to provide all wages and/or overtime under Labor Code §§ 204, 210, 510, 1194, 1174.5, 1182.12, 1197, 1197.1, 1198, and 1199; failure to provide lawful meal periods under Labor Code §§ 226.7, 558, and 512; failure to reimburse for expenses under Labor Code § 2802; failure to provide accurate itemized wage statements under Labor Code § 226(a) and 226.3; failure to pay lawful wages upon termination or resignation under Labor Code §§ 201–203; unfair business practices under Business & Professions Code § 17200 et seq.; and penalties under the Labor Code Private Attorneys General Act, Labor Code § 2698 et seq.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff’s allegations or Defendant’s defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff’s claims and asserts that it has complied with all of its legal obligations toward its employees, Defendant has also concluded that further litigation would be protracted and expensive and would also divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Fund is \$475,000.00. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys’ fees: \$158,333.33
- Litigation Costs: \$12,000.00
- Claims Administration Costs: \$15,000.00
- Incentive Award to Named Plaintiff: \$5,000.00
- Penalties Under the Labor Code Private Attorneys General Act: \$30,000.00

After these deductions, \$262,166.67 will be available for payment to the Settlement Class Members receiving this notice (“Net Settlement Fund”).

Each Participating Class Member’s Individual Settlement Payments shall be determined on a pro rata basis based upon the number of pay periods during which the employee worked in proportion to the aggregate number of pay periods worked by all Settlement Class Members during the relevant time period.

All Individual Settlement Payments will be allocated as follows: 1/3 (33%) to settlement of wage claims, 1/3 (33%) to settlement of claims for interest, and 1/3 (33%) to settlement of claims for statutory penalties.

According to Heritage Bag’s records, the total number of pay periods that you worked as an employee *during the relevant time period* is <<Pay Period>>. If you disagree with this information and would like someone to look into the matter, please follow the procedure below. Based on these pay periods, your estimated settlement amount is \$ <<ESA>>.

6. What if I disagree with the number of pay periods shown above?

If you believe the information in the notice is incorrect regarding the number of pay periods, you will need to write a letter setting forth the number of pay periods that you believe are correct. You may attach any relevant documentation in support. You must mail your letter to:

Flores v. Heritage Bag Company Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, Ca 92781

You must submit such information by July 1, 2022. The Parties and the Settlement Administrator will do their best to promptly resolve the dispute based on available records.

In the event they are unable to resolve any dispute under this Section, the Settlement Administrator will review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive a share of the settlement?

If you wish to receive an award under the terms of this settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator to ensure you receive your settlement share. You will be covered by the release summarized in Section 8, below.

8. What rights am I giving up?

The claims you will Release by doing nothing are: all wage and hour claims against Heritage Bag Company or and any of its former and present parents, subsidiaries, affiliates, officers, directors, employees, partners, shareholders, attorneys, agents, successors, assigns, or legal representatives brought or that could have been brought in the Action based on the facts and theories alleged therein, including but not limited to claims under California Labor Code sections 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, and 2802 as well as California Business and Professions Code Section 17200, during the period of October 20, 2016 through December 31, 2021.

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself (“opt out”) by completing, signing, and mailing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, ILYM Group, Inc., by July 1, 2022.

Flores v. Heritage Bag Company Settlement Administrator
c/o ILYM Group, Inc.
P.O. Box 2031
Tustin, Ca 92781

If your Request for Exclusion is postmarked after July 1, 2022, it will be rejected, and you will be a Participating Class Member and be bound by the settlement terms and release. Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Participating Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue Heritage Bag separately about the claims made in this lawsuit.

10. What if I have an objection?

A class member may object to the settlement in writing or in person. Written objections and all supporting briefs or other materials must be submitted to the Settlement Administrator no later than July 1, 2022.

Any class member may make an objection at the Final Approval Hearing with or without filing or serving any written objection. The Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval hearing to present his or her objection directly to the Court. Any attorney who will represent an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Judge and serve Class Counsel and Defense Counsel no later than July 1, 2022. The Final Approval and Fairness Hearing will be held in Dept. S-26 of the San Bernardino County Superior Court, located at 247 W 3rd St, San Bernardino, CA 92415 on August 2, 2022, at 10:00 a.m. (Pacific Time).

Class Counsel:	Counsel for Heritage Bag Company:
Eric B. Kingsley, Esq. Liane Katzenstein Ly, Esq. Ari J. Stiller, Esq. Kingsley & Kingsley, APC 16133 Ventura Blvd., Suite 1200 Encino, CA 91436 Telephone: (818) 990-8300	Lonnie D. Giamela, Esq. Anet Drapalski, Esq. Fisher & Phillips LLP 444 South Flower Street, Suite 1500 Los Angeles, California 90071 Telephone: (213) 330-4500

11. Do I need a lawyer?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. S-26 of the San Bernardino County Superior Court, located at 247 W 3rd St, San Bernardino, CA 92415 on August 2, 2022, at 10:00 a.m. (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's Incentive Award, and the costs of claims administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This notice is a summary of the basic terms of the settlement. For further information, you may also telephone the *Flores v. Heritage Bag Company* Settlement Administrator, ILYM Group, Inc. (listed above), or Class Counsel (listed above).

Please do not telephone the Court, the Office of the Clerk, or Heritage Bag Company's counsel for information regarding this settlement.

Flores v. Heritage Bag Company

c/o ILYM Group, Inc.

P.O. Box 2031

Tustin, CA 92781

Postage Will
Be Placed Here
Prior To
Mailing

ILYM ID: <<ILYM ID>>

<<Name>>

<<Address>>

<< City>>, <<State>> <<Zip Code>>

(PROOF OF SERVICE)

[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On July 7, 2022, I served all interested parties in this action the following documents described as: **DECLARATION OF NICOLE BENCH OF ILYM GROUP, INC., IN SUPPORT OF FINAL APPROVAL OF CLASS ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Lonnie D. Giamela
Anet Drapalski
lgiamela@fisherphillips.com
adrapalski@fisherphillips.com
FISHER & PHILLIPS LLP
444 South Flower Street, Suite 1500
Los Angeles, California 90071

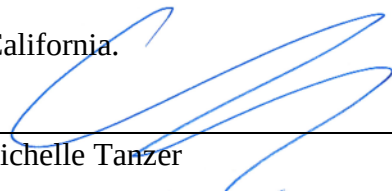
☐ **(BY MAIL)** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage fully prepaid at Encino, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **BY ELECTRONIC SERVICE:** I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

☒ **BY ELECTRONIC MAIL TRANSMISSION:** I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the below email address(es).

☒ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 7, 2022, at Woodland Hills, California.



Michelle Tanzer