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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

GAETANO BALISTRERI, individually, and
on behalf of aggrieved employees pursuant to
the Private Attorneys General Act ("PAGA"),

Plaintiff,

v.

STERLING BANK AND TRUST, FSB;
STERLING BANCORP, INC.; and DOES 1
through 100, inclusive,

Defendants.

Case No. CGC-21-596359

Assigned to: Hon. Richard B. Ulmer
Dept. 302

**DECLARATION OF JOHN GLUGOSKI
IN SUPPORT OF PLAINTIFF'S NOTICE
OF MOTION FOR APPROVAL OF PAGA
SETTLEMENT AND ENTRY OF
JUDGMENT**

Hearing Date: July 22, 2024
Time: 9:30 a.m.
Judge: Hon. Richard B. Ulmer
Location: Dept. 302

Complaint Filed: November 1, 2021
Trial Date: None Set

1 I, **JOHN GLUGOSKI**, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the State of California with Righetti
3 Glugoski, P.C. (Formerly Righetti Law Firm P.C.), attorneys of record for Plaintiff. I have
4 personal knowledge of the following facts and if called as a witness would testify as follows:

5 **EDUCATION AND EXPERIENCE**

6 2. I graduated from the University of California at Berkeley in 1993 with a degree
7 in Political Science. I then graduated from the University of San Francisco, School of Law in
8 1997. I am admitted to practice law before the following courts: United States Court of Appeals,
9 Ninth Circuit, United States Court of Appeals, Federal Circuit, United States District Court,
10 Northern, Central, Eastern, and Southern Districts of California, and all of California's state
11 courts.

12 3. I have been practicing law full time for over twenty-six (26) years. My practice
13 has been devoted to complex class, collective and representative action litigation. Much of this
14 litigation has involved class action, and representative action prosecution of wage and hour laws
15 (state and federal), state and federal privacy laws (FCRA and CCCRA) and consumer laws. My
16 practice involves litigation in both state and federal courts. A sampling of some of the more
17 significant cases (including wage and hour litigation) handled by Righetti Law Firm, P.C.,
18 includes: *Rocher v. Sav-On Drug Stores* (Hon. Victoria G. Chaney, Los Angeles County Superior
19 Court), co-lead counsel in a certified overtime class action [in a seminal decision, the California
20 Supreme Court unanimously overturned the Court of Appeal's decision to reverse certification
21 (*Sav-On Drug Stores, Inc. v. Superior Court* (2004) 34 Cal.4PthP 319); *Gentry v. Circuit City*
22 *Stores, Inc.* (Hon Tricia Ann Bigelow, Los Angeles County Superior Court), plaintiff's counsel
23 in an overtime class action where the court of appeal's decision affirming the trial court's order
24 to enforce an employment agreement barring class actions was reversed by the California
25 Supreme Court in *Gentry v. Superior Court* (2007) 42 Cal.4PthP 443; *Cooper et al. v. Chief Auto*
26 *Parts* (Hon. Ken Kawaichi, Alameda County Superior Court), a multi-party (over 200 included
27 plaintiffs) overtime case that proceeded through a merits arbitration; *Winfrey v. Chief Auto Parts*
28 (Hon. David Garcia, San Francisco Superior Court), a certified wage and hour class action where

1 the trial court's order to deny certification was reversed by the First DCA in an unpublished
2 opinion. *Crab Addison v. Superior Court*, (LASC Case No. BC377269) plaintiff's counsel in a
3 wage and hour case styled as a class action where 2PndP DCA affirmed trial court's order granting
4 plaintiffs access to names and contact information of putative class members without first
5 sending a "privacy letter" (regarded as a landmark published decision affirming the trial court's
6 order). *Crab Addison v. Superior Court* (2008) 169 Cal.App.4PthP 958 (rehearing denied January
7 23, 2009; petition for review denied March 18, 2009); and *Rutti v. Lojack Corporation, Inc.*
8 (USDC, Central District, Case No. SA CV06-0350-DOC (RNBx, Judge Carter) plaintiffs'
9 counsel in a wage and hour class action. District court's order granting Defendant's motion for
10 summary judgment *reversed* when the 9th Circuit granted plaintiffs' Petition for Rehearing. See,
11 *Rutti v. Lojack Corporation, Inc.* 596 F.3d 1046 (2010) [setting the parameters of both the "de
12 minimus" doctrine and workers' right to wages under California law where employer exercises
13 control over workers]; Home Depot and 99 Cent Only Stores where the trial courts limited the
14 California Private Attorney General Act (PAGA) only to claims under the Labor Code and not
15 to claims under the IWC Wage Orders. In both cases the Courts of Appeal reversed in published
16 decisions. See *Home Depot v. Superior Court* (2011) 191 Cal.App.4th 210 (review denied March
17 16, 2011) (holding PAGA applicable to seating claims on grounds that Labor Code §1198
18 incorporates IWC Wage Order protections); *Bright v. 99 Cents Only Stores* (2010) 189
19 Cal.App.4th 1472 (review denied February 16, 2011) (same); PAGA action against Bank of
20 America on behalf of California bank tellers. The case was twice dismissed by Judge Real. Judge
21 Real's orders were both reversed by the Ninth Circuit – *Green v. Bank of America, N.A.* (9th Cir.
22 2013) __ Fed. Appx., 2013 WL _____ and *Green v. Bank of America, N.A.* (9th Cir. 2015) 634
23 Fed.Appx. 188. On remand the Ninth Circuit removed the case from the docket of Judge Real
24 and re-assigned the case to Judge Percy Anderson.

25 4. There are many cases where Righetti Law Firm, P.C. (now Righetti Glugoski,
26 P.C.) has acted as class and representative action counsel in certified class actions and PAGA
27 actions in state and federal courts and on appeal.

1 5. We acted as trial counsel in what we believe are the only four class action
2 overtime cases ever to have been tried under the quantitative executive exemption standard
3 articulated in *Ramirez v. Yosemite Water Company* (1999) 20 Cal.4th 785. The first case was
4 tried in Los Angeles County Superior Court before the Hon. J. Stephen Czulager, resulting in a
5 phase one finding that U-Haul had misclassified all California salaried “General Managers” as
6 exempt from overtime. The case settled before the phase two remedy trial convened. The second
7 case was tried in San Diego County Superior Court before the Honorable Patricia Cowett,
8 resulting in a phase one finding that Aiko Party City had misclassified salaried employees as
9 exempt from overtime (the phase two damages trial was completed as well). In the third case, we
10 are co-lead counsel in the *Sav-on* overtime litigation that completed the first phase of trial before
11 the Honorable Victoria G. Chaney in Los Angeles County Superior Court (complex). In the
12 fourth trial we were class counsel in a certified class action against Taco Bell alleging that its
13 restaurant general managers were misclassified as exempt under California law. The case was
14 tried in the San Diego County Superior Court before the Hon. Kevin Enright and settled after
15 four weeks of trial.

16 6. Righetti Glugoski, P.C. also represents various amicus groups on occasion in
17 court of appeal proceedings. We have handled appeals throughout California and in the federal
18 courts of the Ninth Circuit, the Seventh Circuit and the Federal Circuit.

19 **RELEVANT LITIGATION HISTORY AND INVESTIGATION**

20 7. On April 3, 2017, Defendants hired Plaintiff and terminated him on or about
21 December 20, 2020.

22 8. On or about July 26, 2021, Balistreri filed a Charge of Discrimination against
23 Sterling Bank and Trust, FSB with the California Department of Fair Employment and Housing
24 (the “DFEH”) and the U.S. Equal Employment Opportunity Commission (the “EEOC”), Charge
25 No. 846-2021-22707 (the “Charge”). Plaintiff alleged that he suffered discrimination and was
26
27
28

wrongfully terminated based on his race and ethnicity.¹

9. On or about October 13, 2021, Balistreri filed an arbitration before JAMS, styled *Gaetano Balistreri, Claimant v. Sterling Bank and Trust, FSB; Sterling Bancorp, Inc.; and Andrew White, Respondents*, JAMS Ref. No. 1100112694 (the “Arbitration”) based on alleged violations of California’s wage and hour laws including: (1) failing to pay all meal period wages and rest break wages, (2) failing to properly calculate and pay all minimum and overtime wages, (3) failing to provide accurate wage statements, (4) failing to pay all wages due and owing upon termination of employment, and (5) failing to reimburse all necessary business expenses.

10. On or about November 1, 2021, Balistreri filed a civil action in the Superior Court of the State of California, San Francisco County, against Sterling styled *Gaetano Balistreri, Plaintiff, v. Sterling Bank & Trust, FSB; Sterling Bancorp, Inc.; and DOES 1-100, inclusive, Defendants*, Case No. CGC-21-596359 (the “Superior Court Action”) seeking PAGA penalties based on alleged California wage and hour violations alleged in the arbitration.

11. On August 26, 2021, Plaintiff provided notice of Plaintiff’s allegations to the Labor and Workforce Development Agency (the “LWDA”). Plaintiff provided notice to Defendants as well. The LWDA did not respond to these notices, thus allowing Plaintiff to initiate the PAGA lawsuit under California Labor Code section 2699.3(a)(2)(A). The LWDA received notice of this settlement and this motion. Marked and attached hereto as Exhibit 3 is submission confirmation from the LWDA.

12. On May 27, 2024, the Parties entered into an Individual Settlement Agreement to fully settle and release Plaintiff’s claims in arbitration.

13. This case alleged PAGA claims based on a variety of alleged Labor Code violations and was filed on behalf of non-exempt employees (hereinafter referred to as “PAGA Settlement Aggrieved Employees”) dating back to August 26, 2020. Plaintiff has represented himself individually and faithfully served as the representative for the State of California to

¹ In December of 2022, Plaintiff amended his Demand for Arbitration to add the claims pending before the EEOC after receiving a Right to Sue Letter. The claims included wrongful termination, discrimination, retaliation, defamation, and slander.

1 collect civil penalties from for the alleged California Labor Code violations. At the time of
2 settlement, the central issue involved whether Defendants jointly and severally acted
3 intentionally and with deliberate indifference and conscious disregard to the rights of all
4 employees in: (1) failing to pay all meal period wages and rest break wages, (2) failing to properly
5 calculate and pay all minimum and overtime wages, (3) failing to provide accurate wage
6 statements, (4) failing to pay all wages due and owing upon termination of employment, and (5)
7 failing to reimburse all necessary business expenses. This motion seeks approval of a non-
8 reversionary settlement that consists of \$235,000.00.

9 14. The PAGA claim has been litigated for more than two (2) years. The parties
10 reached an agreement to settle the matter in its entirety for \$235,000.00.² Marked and attached
11 hereto as Ex. 1 is a true and correct copy of the PAGA Settlement and Release Agreement.

12 15. After payment of administration costs, attorney's fees and costs, and plaintiff
13 enhancement, the proposed settlement provides a Net Settlement Amount of \$145,000.00 with
14 approximately \$108,825.00 allocated to the LWDA and \$36,275.00 to the PAGA Settlement
15 Aggrieved Employees. Based on this Settlement, the PAGA Settlement Aggrieved Employees
16 will receive an average \$186.00 payment of to be mailed to each of the PAGA Settlement
17 Aggrieved Employees.

18 16. The parties engaged in hard-fought litigation over the underlying labor code
19 violations and Plaintiff intended to take his claims to arbitration and then return to Court to pursue
20 the representative PAGA claims of the aggrieved employees he contends are similarly situated
21 based on the outcome in arbitration challenging the legality of Sterling's uniform policies and
22 procedures. Plaintiff was attempting to prepare a trial plan that would meet the Court's standards
23 for a representative PAGA trial as to both liability and penalties following the arbitration. Given
24 the problems identified above and the feedback from employees, Plaintiff concluded that a
25 settlement of the action was in the best interest of all. In terms of an award of penalties under
26

27 ² This is only a settlement of the PAGA claims for civil penalties. It is not a class settlement and does not
28 release the individual claims, if any, of the affected employees. (Cal. Labor Code §2699(g)(1); *Iskanian v. CLS*
Transportation, (2014) 59 Cal. 4th 348, 381.)

1 California Labor Code Section 2699(e)(1) & (2), Defendants were prepared to argue —and the
2 Court could very well agree — that a lesser penalty was more appropriate than the statutory
3 maximum penalty.

4 17. After conducting significant discovery about the policies and procedures that
5 would be the back bone of the PAGA action, Plaintiff concluded that a settlement of the action
6 was in the best interest of all.

7 18. The facts and the continuing risk and expense of further litigation, appeals, and a
8 delayed trial led the parties to pursue settlement negotiations. In preparation for settlement
9 discussions, Sterling provided the number of pay periods (5,732) and the number of employees
10 (195). With sufficient discovery conducted as to the policies and procedures (i.e., production of
11 policies, manuals, employee handbooks, training material), the time keeping policies, and the
12 information above, Plaintiff was able to evaluate the claims at issue in this case.

13 19. Plaintiff was also provided with policy and procedure documents, employment
14 files, the total number of PAGA Settlement Aggrieved Employees, and total number of pay
15 periods between August 26, 2020 and May 15, 2024. Using this information, Plaintiff was able
16 to calculate Defendants’ total penalty exposure for the one-year statutory PAGA period.

17 **THE SETTLEMENT AND DISTRIBUTION OF PAGA PENALTIES**

18 **20. A. Summary of Settlement Terms**

19 The proposed Settlement Agreement (Glugoski Decl., Exhibit 1) involves the formation
20 of a non-reversionary fund consisting of \$235,000.00 (“Gross Settlement Fund”). The Gross
21 Settlement Fund will be used to make payments to the LWDA and PAGA Settlement Aggrieved
22 Employees after costs of administration. Plaintiff requests settlement administration costs to
23 ILYM Group Inc. in the amount of \$5,000.00. The Net Settlement Fund of \$145,100.00 will be
24 distributed as follows: Seventy-five percent (75%), i.e., \$108,825.00 will be distributed to the
25 California Labor & Workforce Development Agency (“LWDA”) as required by the PAGA and
26 the remaining twenty-five percent (25%), i.e., approximately \$36,275.00 will be distributed to
27 all PAGA Settlement Aggrieved Employees on a pro-rata share basis based on the number of pay
28 periods worked by each Settlement Aggrieved Employee.

21. The Notice

Defendants agreed to fund the Settlement Amount within 30 days of the Court's Order approving the Settlement. (Settlement Agreement ¶¶ 16). Within 30 calendar days of the funding of the QSA, the Settlement Administrator shall issue the following payments from the QSA: (a) the Individual Settlement Payments to Aggrieved Employees (including Plaintiff); (b) the LWDA PAGA Payment (as defined below) to the LWDA; (c) Attorney's Fees and Costs to Plaintiff's Counsel; (d) the Service Award to Plaintiff; and (e) the Administration Fees to itself. The Settlement Administrator, and not Defendants, will issue appropriate tax forms for all payments issued under this Settlement, if and as required by law as determined by the Settlement Administrator. Because the payments made under this Agreement will be made with respect to only the PAGA claims for all Aggrieved Employees, this Agreement is not subject to the rules governing the settlement of class or collective actions. Accordingly, the settlement payments shall be distributed without a claims process or an opportunity to object or opt out (Settlement Agreement ¶17). The PAGA Settlement Aggrieved Employees will have 180 days to negotiate their checks. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, or Social Security number of the Aggrieved Employee, and will then perform a single re-mailing. Funds contained in the settlement checks that are returned as undeliverable and in settlement checks uncashed for more than 180 days after issuance will be tendered to the California State Controller's Office - Unclaimed Property Fund, to be held in the name of the Aggrieved Employee. All settlement payments to Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued to the extent required by law. A Notice informing the PAGA Settlement Aggrieved Employees of the nature of the payment will be provided with the settlement check. Marked and attached hereto as Exhibit 2 is a true and correct copy of the PAGA NOTICE to be sent to the aggrieved employees.

22. Settlement Allocation to the PAGA Settlement Aggrieved Employees

1 As noted, twenty-five percent (25%) of the PAGA penalties will be allocated to the
2 PAGA Settlement Aggrieved Employees. (Settlement Agreement ¶ 8). Based on the numbers
3 Defendants provided, approximately 195 employees will share in this fund in proportion of the
4 pay periods each member worked. The portion to each of the PAGA Settlement Aggrieved
5 Employees will be treated as non-wages since these are civil penalties and reported by the
6 Settlement Administrator by law PAGA Settlement Aggrieved Employees will receive, on
7 average, \$186.00.

8 **23. The Release**

9 The California Supreme Court has explained that a judgment in “a representative action
10 brought by an aggrieved employee under the Labor Code Private Attorneys General Act of
11 2004...is binding not only on the named employee plaintiff but also on government agencies and
12 any aggrieved employee not a party to the proceeding.” (*Arias*, 46 Cal. 4th at 985–986.)

13 The release in the Settlement Agreement narrowly binds the PAGA Settlement Aggrieved
14 Employees for civil penalty claims brought in the Action (Settlement Agreement ¶ 22), as
15 follows:

16 all any and all claims for PAGA civil penalties under the California Labor
17 Code, Wage Orders, regulations, and/or other provisions of law alleged or
18 that could have been alleged to have been violated in the Action with
19 respect to Aggrieved Employees based on the facts alleged in the
20 Complaint or Plaintiff’s letter(s) to the California Labor & Workforce
Development Agency during the Settlement Period. Aggrieved
Employees will not be deemed to have released any non-PAGA individual
claims by virtue of this Agreement.(Settlement Agreement para. 22.)

21 **24. Evaluation of the PAGA Settlement**

22 In this case, Plaintiff’s theory centered around Sterling’s policy and practice of not paying
23 all wages owed, not providing meal and rest breaks, and not reimbursing for all home office
24 business-related expenses during the COVID period, as required by California law. Sterling
25 maintains data for all 195 PAGA Settlement Aggrieved Employees. The data produced by
26 Defendants confirm 5,732 pay periods. Therefore, based on the analysis of the claims, Plaintiff
27 believes the realistic total exposure value of the claims is \$573, 200.00 based on 5,732 pay
28 periods (x \$100 per violation).

1 25. With respect to the off-the-clock claim, Plaintiff's investigation uncovered a
2 policy that Plaintiff believed showed that employees turned in time records that had the same
3 entries for a) start of the day, b) commencement of lunch, c) return from lunch and d) end of the
4 day for each and every work day, Further, the time records were filled out for days that had not
5 yet been worked (i.e, turning in time card for Thursday and Friday on the Wednesday). Plaintiff
6 contends the time records are not accurate; however, Sterling took the position that the employees
7 signed off on the time sheets and knew time must be recorded accurately. On the other hand,
8 employees are not robots and the likelihood that everyone started exactly at 8:30 a.m. - -as
9 opposed to 8:31 or 8:37 a.m., and left every day at 5:30 p.m. with exactly one hour for lunch to
10 arrive at 8 hours worked per day is not credible. Sterling would counter with employees verified
11 the accuracy of the time record by signing at the bottom. Plaintiff believed representative
12 evidence could be used to establish liability. Sterling contended it would require an examination
13 of each employee.

14 26. With respect to meal and rest periods, Plaintiff alleged that the aggrieved
15 employees did not receive meal and rest breaks and that the entries in the time records could
16 easily be debunked by phone records, computer log in and log outs, and e-mails would show that
17 the employees did not receive meal periods and/or rest breaks as indicated on time sheets.
18 Sterling contended that the employees got their meal and rest breaks. Unfortunately, for Plaintiff,
19 phone logs and computer log in and log outs were not available. Plaintiff attempted to track down
20 the information directly from the phone providers and service providers to no avail. Thus,
21 Plaintiff would have to rely on anecdotal evidence.

22 27. With respect to business expenses, the employees were sent to work from home
23 during the COVID period. Plaintiff contends that the employees should have been reimbursed
24 for expenses associated with the use of home internet, utilities, and personal cell phones. Sterling
25 took the position that the employees voluntarily worked from home because banks were essential
26 businesses that remained open. Plaintiff contends that at least some – if not all – employees were
27 sent to work from home during COVID.

28. Plaintiff contends that the trial plan being developed would meet the Court's standards for a representative PAGA trial as to both liability and penalties; however, given the challenges in proving a representative action as identified above, Plaintiff concluded that a settlement of the action was in the best interest of all.

29. This result is positive and favorable to the State, which will receive \$108,825.00. The PAGA Settlement Aggrieved Employees will receive \$36,275.00, which amounts on average to \$186.00 per aggrieved employee.

30. Marked and attached hereto as Exhibit 4 is the bid and resume from administrator
ILYM.

HOURLY RATE

31. I believe the fees being sought here are reasonable in light of the experience of counsel, the contingent nature of the fee, the particular risks involved in litigating this case, the amount and the quality of work performed.

32. I have become familiar with the market rates charged by attorneys in California. I have obtained this familiarity in several ways, including: (1) Researching fee rates; (2) Handling attorneys' fee litigation; (3) Discussing fees with other attorneys; (4) Reviewing declarations regarding prevailing market rates in cases seeking fees; (5) Reviewing attorneys' fee applications and court awards in other cases, as well as (6) Reviewing surveys and articles in legal newspapers and treatises on attorney's fees.

33. In my experience, fee awards are almost always determined based on current rates, such as the attorney's rate at the time a motion for fees is made rather than the historical rate at the time the work was performed.

34. Litigating a case against corporate defendants, represented by the defense firm defending this case, is not appealing to most lawyers. Heightening the risk is the fact that the plaintiffs' lawyers are called upon to finance the litigation. It is not a cause undertaken lightly.

35. One difficulty in determining the hourly rate of attorneys of similar skill and experience in the relevant community is the scarcity of hourly fee-paying clients in wage and hour litigation. As a practical matter, few individual employees can afford to pay attorney fees

1 on an hourly basis. This was certainly the case with Plaintiff. As a result, retainer agreements
2 we negotiate with individual clients, as in the case here, are typically based upon a contingency
3 fee relationship. In contrast, corporate defendants typically pay their attorneys on an hourly
4 basis.

5 36. I am knowledgeable about the hourly rates charged by attorneys of varying
6 degrees of experience. In the course of my fees practice, I have reviewed the hourly rates of
7 dozens of law firms in California and elsewhere. I am also familiar with the hourly rates awarded
8 in many other fees cases by state and federal courts in California and throughout the country. In
9 addition, I have reviewed many published surveys of attorneys' billing rates. For example, *four*
10 *years ago* the rates charged by attorneys at Sidley Austin (a large defense firm similar to CFD)
11 for class/representative action litigation was between \$925-\$1000 for partners and \$905-\$540
12 for associates. Attached hereto (Exhibit 8) is a true and correct copy of the 2018 Sidley Austin
13 hourly fee/rate sheet showing Southern California rates.

14 37. The work in this case was taken on a contingency fee basis where we advanced
15 all time and costs. The subject matter involved California wage and hour laws. This is a difficult
16 area of law based on overlapping state and federal statutes and agency interpretations. Work of
17 this type requires specialized learning, experience, and the willingness to take large risks. We
18 attempted to efficiently litigate the claims in this matter using a high level of skill in the difficult
19 questions that arose in this case.

20 38. A practice like ours can only properly litigate so many cases at one time. There
21 is no question that we were required to assign out and/or turn down work in other cases in order
22 to meet the demands of this case.

23 39. We did not receive any compensation for our services during the prosecution of
24 this matter. In addition, Righetti Glugoski, P.C. incurred \$1,649.30 in out-of-pocket expenses
25 (as detailed below) to achieve the settlement.

26 40. My current hourly rate is \$850.00 , which is on par with the 2018 rates of \$925-
27 \$1000 charged by attorneys with similar experience and qualifications who represent
28

commercial and other full-rate clients on an hourly basis. See, e.g., the 2018 Sidley Austin rate sheet referenced above.

41. My hourly rate is supported by my specialized experience. I believe the rates set forth in the fee application are fully consistent with the market rate for attorneys with comparable expertise, experience, and qualifications.

42. I am aware of hourly rates (or their historical equivalents) for other plaintiff counsel approved by courts, including in *Carrillo v. Schneider Logistics Transloading & Distribution, Inc., et al.*, No. CV 11-8557 CAS (DTBx) (C.D. Cal.) (September 24, 2015 order approving 2015 rates of \$895/hr for partners, \$775/hr for a 1994 law graduate, \$650/hr for a 2000 law graduate, \$630/hr for a 2001 law graduate, \$550/hr for a 2004 law graduate, and \$450/hr for a 2008 law graduate, and 2015 rates for Law Clerks (\$275/hr) and Paralegals (\$250/hr)); *Brooks v. U.S. Bank, N.A.*, Case No. C12-4935-EMC (N.D. Cal) (June 16, 2014 order approving 2014 rate of \$895/hr for partner, and 2014 rates of \$775/hr for a 1992 law graduate, \$610/hr for a 2001 law graduate, \$540/hr for a 2004 law graduate, \$275/hr for law clerks, and \$250/hr for paralegals); *Luquetta v. Regents of the University of California*, Case No. CGC-05-443007 (San Francisco County Superior Court) (October 31, 2012 Order approving 2012 rate of \$850/hr for partner, and 2012 rates of \$700/hr for a 1994 law graduate, \$570/hr for a 2000 law school graduate, \$250/hr for law clerks, and \$215/hr for paralegals); *Vasquez v. State of California*, Case No. GIC 740832 (San Diego County Superior Court) (October 1, 2012 Order approving 2012 rate of \$850/hr for partner in civil rights case and 2012 rate of \$375/hr for 2008 law school graduate); *Div 15 Tech v. Sheet Metal Workers' International Association, Local 104*, Case Nos. No. C 10-05309 JSW, C 10-05312 JSW (approving 2011 rates, including \$545/hr for 2000 law school graduate and \$215/hr for paralegals); *Air Line Pilots Ass'n Int'l v. United Airlines, Inc.*, CGC-07-468937 (JAMS Ref. No. 1100061566) (San Francisco County Super. Ct.) (2011 rates of \$825/hr (partner)); *Zalua v. Tempo Research Corp.*, BC319156 (Los Angeles County Super. Ct.) (2011 rates of \$825/hr (partner)).

43. In the course of my practice, I have reviewed the hourly rates of dozens of law firms in California and elsewhere. The rates in this fee application are consistent with the market rates for comparably qualified and experienced counsel handling similar civil litigation.

LITIGATION EFFORTS

44. In the instant case, Sterling strongly denied liability and contended that it had meritorious affirmative defenses on both procedural and substantive grounds.

45. The prosecution of this action case involved a significant financial risk because Counsel took this case on a pure contingency basis (meaning no guarantee of ever being paid, if the case is lost), at the same time advancing all litigation costs out of their own pockets, while incurring ongoing costs of paying overhead and salaries of employees who are working on this case.

46. In preparing this fee application, I reviewed the firm's time records, files, and emails. Based on my review of these records, I can attest that all of the time set forth was reasonably devoted to pursuing the Plaintiff's interests and otherwise would have been billed to a fee-paying client. To calculate the lodestar for the time spent on this case, I personally reviewed and summarized the billing records incurred in prosecuting the matter. I eliminated time entries that could be considered duplicative or inefficient. As of the filing of this motion, I have spent 137.7 hours in the prosecution of this lawsuit which was necessary to achieve a successful outcome. My lodestar as of the filing of this motion is \$117,045.00. I have submitted time summaries setting forth in detail the categories of work performed and the amount of time spent on each of the various categories to support the number of hours expended. The categories are:

- (1) Investigations, Factual Research;
- (2) Discovery;
- (3) Pleadings, Briefs, and Pretrial Motions (includes legal research);
- (4) Court Appearances;
- (5) Mediation Settlement and Administration;
- (6) Litigation Strategy, Analysis, and Case Management;

1 (7) Class Certification; and

2 (8) Trial Preparation and Trial.

3 Marked and attached hereto as Exhibit 5 is a true and correct copy of the non-duplicative time I
4 spent on the categories listed above.

5 47. The amount of time spent on this case is reasonable given the complexity and
6 novelty of the issues involved, the vigorous defense provided by Arnold Porter, the length and
7 intensity of the litigation, and the results obtained. Since its inception, Plaintiff faced a phalanx
8 of defenses as outlined in Defendants' Answer. Counsel litigated this action with skill and
9 efficiency reflecting the amount of work required to achieve the settlement. Once the
10 settlement was consummated our work has not stopped. We expect to work closely with the
11 court appointed notice administrator to assure that notice is provided consistent with this Court's
12 orders and due process. We intend to promptly respond to all inquiries and we intend to continue
13 our work until all responsibilities are discharged and all funds are dispersed. The complexity,
14 risk, and demands of this case -- required the expenditure of 137.7 attorney hours. Consistent
15 with the scope of this action, the nature of the relief obtained on behalf of the LWDA and
16 Aggrieved Employees, and the amount of time expended in prosecution of the case, Plaintiff
17 and Counsel hereby move for an award of attorney's fees and costs of \$78,333.33. The requested
18 fee is fair compensation for undertaking complex, risky, expensive, and time-consuming
19 litigation on a contingent fee basis, especially in light of the benefits achieved. Counsel
20 diligently litigated and investigated this case without duplication of efforts.

21 48. Furthermore, California Courts recognize that Plaintiff's fee request is in line
22 with market rates and have approved similar 40% attorney fee requests in representative actions:

- 23 • In *Enombang v. Target*, Alameda County Superior Court Case No. RG17853948,
24 the court approved a settlement of \$9,000,000 for 1,939,006 pay periods, which
25 equates to \$4.66 per pay period and Plaintiff's counsel were awarded 40% of the
26 \$9,000,000 settlement in attorney's fees;
- 27 • In *Varela et. al., v. Dolgen California, LLC*, Riverside County Superior Court
28 Case No. RIC1306158, the court approved a fee award of \$3,980,000.00 which

equated to 40% of the Settlement Fund based on a lodestar of \$2,783,570.00 times a multiplier of 1.43.

COUNSEL'S COSTS

49. Righetti Glugoski, P.C. incurred \$1,649.30 in costs. Marked and attached hereto as Exhibit 6 is a breakdown of the costs incurred by the Righetti Glugoski, P.C. firm in this case.

SETTLEMENT ADMINSTRATOR

50. ILYM Group, Inc., an experienced third-party claims administrator, will handle all aspects of the notice process and settlement administration. The CV for ILYM is attached hereto as Exhibit 7.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day of June, 2024, at San Francisco, California.



John Glugoski
Attorneys for Plaintiff

EXHIBIT 1

1 ARNOLD & PORTER KAYE SCHOLER LLP
2 DAVID J. REIS (No. 155782)
3 david.reis@arnoldporter.com
4 MATTHEW R. DITON (No. 305597)
5 matthew.diton@arnoldporter.com
6 Three Embarcadero Center, 10th Floor
7 San Francisco, CA 94111-4024
8 Telephone: 415.471.3100
9 Facsimile: 415.471.3400

6 Attorneys for Defendants
7 STERLING BANK AND TRUST, FSB and
8 STERLING BANCORP, INC.

8 RIGHETTI GLUGOSKI, P.C.
9 JOHN GLUGOSKI (No. 191551)
10 jglugoski@righettilaw.com
11 2001 Union St. Ste. 400
12 San Francisco, CA 94123
13 Telephone: 415.983.0900

11 Attorneys for Plaintiff
12 GAETANO BALISTRERI

13
14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF SAN FRANCISCO

16 GAETANO BALISTRERI,

17 Plaintiff,

18 v.

19 STERLING BANK AND TRUST, FSB;
20 STERLING BANCORP, INC.; and DOES 1
21 through 100, inclusive

22 Defendants.
23
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25
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Case No.: CGC-21-596359

**SETTLEMENT AGREEMENT AND
RELEASE OF CLAIMS**

1 Subject to Court approval by the Superior Court of the State of California for the County of
2 San Francisco (the “Court”), Plaintiff Gaetano Balistreri (“Plaintiff”), on behalf of himself and other
3 aggrieved employees, and Defendants Sterling Bank and Trust, FSB and Sterling Bancorp, Inc.
4 (together “Sterling” or “Defendants” and collectively, with Plaintiff, the “Parties”) hereby agree to
5 the following binding settlement agreement (“Settlement” or “Agreement”). By executing this
6 Agreement, the Parties intend to settle the lawsuit entitled *Balistreri v. Sterling Bank and Trust, FSB,*
7 *et al.*, Case No. CGC-21-596359 (San Francisco Superior Court, filed November 1, 2021) (the
8 “Action”) involving claims brought under the California Labor Code Private Attorneys General Act
9 of 2004 (“PAGA”).

10 **I. DEFINITIONS**

11 1. “**Administration Fees**” refers to the amount to be paid to ILYM Group, Inc. (or any
12 other third-party settlement administrator approved by the Parties (“Settlement Administrator”) for
13 costs associated with administration of the settlement contemplated by this Agreement, including
14 costs for, among other things, printing, copying, formatting, translation of materials, postage,
15 envelopes, computer searches to locate addresses, calculation of payments to individual class
16 members, calculation of applicable withholdings and taxes (if required by law), costs associated with
17 the process for any uncashed settlement checks, and any other expenses the Settlement Administrator
18 incurs to complete the settlement process according to the terms of this Agreement. The Settlement
19 Administrator will be responsible for establishing a qualified settlement account, and issuing all
20 payments and appropriate tax forms (if required by law). The Parties agree that Administration Fees
21 will not exceed \$5,000, all of which are to be taken from the PAGA Gross Settlement Amount (as
22 defined below).

23 2. “**Aggrieved Employees**” consist of all individuals, including Plaintiff, who were
24 employed by Sterling Bank and Trust, FSB in California in a non-exempt position at any time between
25 August 26, 2020 and May 15, 2024. The parties understand the number of aggrieved employees to
26 be approximately 195.

1 3. **“Attorneys’ Fees and Costs”** means the amount of money to be paid from the PAGA
2 Gross Settlement Amount (as defined below) to Righetti Glugoski, P.C. (“Plaintiff’s Counsel”) in full
3 satisfaction of all claims Plaintiff may have for reasonable attorneys’ fees, litigation costs, and
4 expenses incurred in the Action. The amount of attorneys’ fees awarded to Plaintiff’s Counsel may
5 not exceed one-third (33 1/3)% of the PAGA Gross Settlement Amount.

6 4. **“Effective Date”** shall be the date on which the Court approves this Agreement
7 through entry of the Order and Judgment (as defined below) and either (i) the California Court of
8 Appeal or California Supreme Court has rendered a final judgment affirming the Order and Judgment,
9 or (ii) sixty-one (61) calendar days have passed since notice of entry of the Order and Judgment has
10 been given to the Parties and no timely appeal or request for review has been made. No money will
11 be distributed unless and until the Effective Date occurs.

12 5. **“Eligible Pay Periods”** means a pay period during the Settlement Period in which an
13 Aggrieved Employee worked in California in a non-exempt position. The parties understand the
14 number of pay periods at issue to be approximately 5732.

15 6. **“Individual Settlement Payments to Aggrieved Employees”** means the individual
16 payments that shall be made to each Aggrieved Employee under this Agreement, which in the
17 aggregate shall total 25% of the PAGA Net Settlement Amount (as defined below).

18 7. **“PAGA Gross Settlement Amount”** means Two Hundred and Thirty-Five Thousand
19 Dollars (\$235,000). This amount shall be used to satisfy all liabilities arising from this Agreement,
20 including Attorneys’ Fees and Costs, Individual Settlement Payments to Aggrieved Employees,
21 Administration Fees, and payment to the Labor and Workforce Development Agency (“LWDA”).
22 Defendants shall pay exactly the PAGA Gross Settlement Amount to fulfill all of their obligations
23 under this settlement.

24 8. **“PAGA Net Settlement Amount”** means the amount, as approved by the Court, after
25 Attorneys’ Fees and Costs and Administration Fees are subtracted from the PAGA Gross Settlement
26 Amount.
27
28

1 9. **“Service Award”** refers to any payment up to \$5,000.00 that the Court awards to
2 Plaintiff for his effort in prosecuting the Action.

3 10. **“Settlement Period”** means August 26, 2020 to May 15, 2024.

4 **II. RECITALS AND PROCEDURAL HISTORY**

5 11. **Allegations in the Complaint.** On November 1, 2021, Plaintiff filed the Action in
6 the Superior Court of California, County of San Francisco, individually and on behalf of all
7 “aggrieved employees” pursuant to Labor Code §§ 2698 *et seq.* In his complaint, Plaintiff alleged a
8 single cause of action for penalties under PAGA.

9 12. **Defendants’ Denials.** Nothing in this Agreement shall constitute an admission on
10 behalf of Defendants of any form of liability or the accuracy of any allegation against it. Defendants
11 deny (1) all the material allegations in the Action; (2) that they violated any applicable laws; and (3)
12 that they are liable for damages, penalties, attorneys’ fees, costs, or any other form of compensation
13 or remedy with respect to the claims asserted in the Action. Nevertheless, without admitting any
14 liability or wrongdoing, Defendants have agreed to settle the Action on the terms set forth in this
15 Agreement to avoid the burden, expense, and uncertainty of litigation. Any statements by Defendants
16 in this Agreement are made for settlement purposes only.

17 13. **Counsel’s Investigation.** Plaintiff’s Counsel has investigated the facts relating to the
18 claims alleged in the Action and also has analyzed all defenses. Plaintiff’s Counsel also engaged in
19 formal and informal discovery and obtained the production of relevant documentation and data from
20 Defendants to allow Plaintiff’s Counsel to further investigate and evaluate the claims and defenses in
21 this Action.

22 **III. TERMS OF THE AGREEMENT**

23 14. **Court Approval of the Settlement.** The Parties will present this Agreement to the
24 Court and will request that the Court issue an order and judgment approving and incorporating by
25 reference the terms and conditions of this Agreement (the “Order and Judgment”). Plaintiff’s Counsel
26 will be responsible for drafting (with approval from Defendants) and filing all documents necessary
27 to obtain the Order and Judgment.

1 15. **Delivery of the List of Aggrieved Employees.** As soon as practicable, but no later
2 than 30 calendar days after the Effective Date, Defendants will provide the Settlement Administrator
3 with a confidential list containing the Aggrieved Employees' names, last known addresses, last
4 known telephone numbers, and social security numbers, which will be used to send the Individual
5 Settlement Payments to Aggrieved Employees. Data provided by Defendants shall be kept
6 confidential by the Settlement Administrator except for purposes of administering the settlement. The
7 Settlement Administrator shall not share any personally-identifying Aggrieved Employee data with
8 Plaintiff's Counsel, but may disclose the number of Aggrieved Employees and their Individual
9 Settlement Payments (with names redacted).

10 16. **Funding of the Settlement.** Within 30 calendar days after the Effective Date,
11 Defendants will deposit the PAGA Gross Settlement Amount into a Qualified Settlement Account
12 ("QSA") to be established by the Settlement Administrator.

13 17. **Settlement Payments.** Within 30 calendar days of the funding of the QSA,
14 the Settlement Administrator shall issue the following payments from the QSA: (a) the Individual
15 Settlement Payments to Aggrieved Employees (including Plaintiff); (b) the LWDA PAGA Payment
16 (as defined below) to the LWDA; (c) Attorney's Fees and Costs to Plaintiff's Counsel; (d) the Service
17 Award to Plaintiff; and (e) the Administration Fees to itself. The Settlement Administrator, and not
18 Defendants, will issue appropriate tax forms for all payments issued under this Settlement, if and as
19 required by law as determined by the Settlement Administrator. Because the payments made under
20 this Agreement will be made with respect to only the PAGA claims for all Aggrieved Employees,
21 this Agreement is not subject to the rules governing the settlement of class or collective actions.
22 Accordingly, the settlement payments shall be distributed without a claims process or an opportunity
23 to object or opt out.

24 18. **Calculation of Individual Settlement Payments to Aggrieved Employees.**
25 The PAGA Net Settlement Amount will be distributed as follows:

26 a. 75% of the PAGA Net Settlement Amount shall be paid to the LWDA
27 (the "LWDA PAGA Payment"); and
28

b. The remaining 25% of the PAGA Net Settlement Amount (the “Aggrieved Employee Settlement Amount”) shall be distributed to all Aggrieved Employees as set forth below.

19. **Distribution of Individual Settlement Payments to Aggrieved Employees.**

The Settlement Administrator will issue to each Aggrieved Employee a check in the amount of his or her Individual Settlement Payment, along with an explanatory letter in the form attached hereto as Exhibit A, within the time parameters set forth in paragraph 17 above. Checks shall remain negotiable for 180 days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, or Social Security number of the Aggrieved Employee, and will then perform a single re-mailing. Funds contained in the settlement checks that are returned as undeliverable and in settlement checks uncashed for more than 180 days after issuance will be tendered to the California State Controller’s Office - Unclaimed Property Fund, to be held in the name of the Aggrieved Employee. All settlement payments to Aggrieved Employees will be treated as miscellaneous income for which a 1099 will be issued to the extent required by law.

a. **Calculation of Individual Settlement Payments.** Each Aggrieved Employee will be eligible to receive a portion of the Aggrieved Employee Settlement Amount based on the following formula: The individual settlement payment to each Aggrieved Employee will be calculated by dividing the Eligible Pay Periods attributed to him or her by the number of all Eligible Pay Periods attributed to all Aggrieved Employees multiplied by the Aggrieved Employee Settlement Amount.

20. **Attorneys’ Fees and Costs.** As referenced above, Plaintiff’s Counsel intends to request, and Defendants agree not to oppose, that the Court award Plaintiff’s Counsel, attorneys’ fees and costs incurred in representing the interests of the Aggrieved Employees in an amount up to one-third (33 1/3 %) of the PAGA Gross Settlement Amount. This amount shall be paid from the

1 PAGA Gross Settlement Amount. Defendants shall have no liability for any other attorneys' fees or
2 costs as a result of the Action. If the Court approves a lesser amount for fees and costs, this will not
3 impact the enforceability of this Agreement and the difference will remain part of the PAGA Net
4 Settlement Amount. The Settlement Administrator shall issue Plaintiff's Counsel the Attorneys' Fees
5 and Costs within the time parameters set forth in paragraph 17 above, together with a Form 1099.
6 Plaintiff's Counsel shall be responsible for instructing the Settlement Administrator as to how the
7 Attorneys' Fees and Costs shall be paid. Plaintiff's Counsel agrees that it is solely responsible for
8 paying all applicable taxes on any payment and agrees to indemnify and hold harmless Defendants
9 from any claim or liability for taxes, penalties, or interest arising as a result of any failure to pay taxes
10 due on the Attorneys' Fees and Costs.

11 21. **Service Award.** As referenced above, Plaintiff's counsel intends to request,
12 and Defendants agree not to oppose, that the Court award a Service Award to Plaintiff in the amount
13 of \$5,000 to be drawn from the PAGA Gross Settlement Amount. Any Service Award is in addition
14 to Plaintiff's Individual Settlement Payment. If the Court approves a lesser amount for the Service
15 Award, this will not impact the enforceability of this Agreement and the difference will remain part
16 of the PAGA Net Settlement Amount.

17 22. **Release of PAGA Claims.** Upon the Effective Date, and subject to
18 Defendants' depositing of the PAGA Gross Settlement Amount in the QSA, all Aggrieved
19 Employees, including Plaintiff, shall fully release and be forever barred from pursuing against
20 Sterling, its past or present officers, directors, shareholders, employees, agents, principals, heirs,
21 representatives, accountants, auditors, consultants, insurers, and reinsurers, and their respective
22 successors and predecessors in interest, direct or indirect parents, subsidiaries, or affiliates, and
23 attorneys ("Released Parties") any and all claims for PAGA civil penalties under the California Labor
24 Code, Wage Orders, regulations, and/or other provisions of law alleged or that could have been
25 alleged to have been violated in the Action with respect to Aggrieved Employees based on the facts
26 alleged in the Complaint or Plaintiff's letter(s) to the California Labor & Workforce Development
27
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1 Agency during the Settlement Period. Aggrieved Employees will not be deemed to have released any
2 non-PAGA individual claims by virtue of this Agreement.

3 **a. Settlement Contingent on Release of Claims.** This Settlement is conditioned
4 upon the releases by Plaintiff and the Aggrieved Employees as described
5 herein.

6 **23. No Credit Toward Benefit Plan.** Payments to Aggrieved Employees,
7 including Plaintiff, as referenced herein will not be used to calculate any additional benefits under
8 any benefit plans to which any Aggrieved Employee may be eligible, including, but not limited to
9 bonus plans, 401(k) plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan.
10 Rather, it is the Parties' intention that this Agreement will not affect any rights, contributions, or
11 amounts to which any Aggrieved Employee may be entitled under any benefit plans.

12 **24. Circular 230 Disclaimer.** Each Party to this Settlement Agreement
13 acknowledges and agrees that (1) no provision of this Agreement, and no written communication or
14 disclosure between or among the Parties or their attorneys or other advisors, is or was intended to be,
15 nor will any such communication or disclosure constitute or be construed or be relied upon as, tax
16 advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as
17 amended); (2) each Party (a) has relied exclusively upon her or its own, independent legal and tax
18 counsel for advice (including tax advice) in connection with this agreement, (b) has not entered into
19 this Agreement based upon the recommendation of any other Party or any attorney or advisor to any
20 other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or
21 advisor to any other Party to avoid any tax penalty that may be imposed on the Party; and (3) no
22 attorney or advisor to any other Party has imposed any limitation that protects the confidentiality of
23 any such attorney's or advisor's tax strategies (regardless of whether such limitation is legally
24 binding) upon disclosure by the Party of the tax treatment or tax structure of any transaction, including
25 any transaction contemplated by this Agreement.

26 **25. No Prior Assignment.** Plaintiff represents and warrants that he has not
27 assigned or transferred any portion of any claims, demands, obligations, causes of action, rights, or
28

liabilities that, but for such assignment or transfer, would be released under this Agreement; nor has Plaintiff purported to do so.

26. **Nullification of Settlement Agreement.** Unless otherwise noted herein, if (i) the Court does not approve the settlement as provided, or (ii) the Settlement does not become final for any other reason, then this 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.

27. **No Publicity; Confidentiality.** Neither party (including the Parties' attorneys) shall publicize this settlement, this Agreement, any terms of this Agreement (including, but not limited to, the PAGA Gross Settlement Amount), or any information about the negotiations leading to the execution of this Agreement. This includes, but not limited to, communications through any social media, unless so ordered by the Court. Nothing herein limits or purports to limit Plaintiff's Counsel's ability to submit this Agreement to the LWDA and the Court for the purpose of obtaining approval of the Settlement and in compliance with the requirements of PAGA.

28. **Judgment and Continued Jurisdiction.** After entry of the Order and Judgment, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of this Agreement; (ii) settlement administration matters; and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Agreement, as permitted by Code of Civil Procedure section 664.6. and any other applicable law.

29. **Entire Agreement.** This Agreement constitutes the entirety of the Parties' settlement terms for purposes of the Action.

30. **Amendment or Modification.** This Agreement may be amended or modified only by a written instrument, signed by both Parties, their successors-in-interest, or their counsel.

31. **Authorization to Enter into a Settlement Agreement.** Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the settlement.

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

3 33. **Governing Law.** All terms of this Agreement shall be governed by, and
4 interpreted according to, the laws of the State of California.

5 34. **Execution and Counterparts.** This Agreement is subject only to the
6 execution of all Parties. However, the Agreement may be executed in one or more counterparts. All
7 executed counterparts and each of them, including fax and scanned copies of the signature page, will
8 be deemed to be one and the same instrument.

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

13 36. **Construction and Interpretation.** Headings and paragraph titles are inserted
14 as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope
15 of this Agreement or any of its provisions. Each term of the Agreement is contractual.

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

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

24 39. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the
25 terms and conditions of this Agreement. Accordingly, this Agreement will not be construed more
26 strictly against one party merely by virtue of the fact that it may have been prepared by counsel for
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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 Agreement.

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

41. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement 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 have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

42. **Cooperation and Execution of Necessary Documents; Stipulation (or Motion) for Court Approval.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Agreement. Plaintiff's counsel shall prepare and file a joint stipulation for Court approval of the Settlement (or a motion if required by the Court) as soon as practicable. The stipulation or motion shall include the bases for demonstrating that settlement amounts are reasonable in light of the facts and controlling authorities pertaining to the claims alleged, and a signed declaration from Plaintiff's counsel discussing the risks of continued litigation and the decision that the best interests of the Aggrieved Employees are served by the terms of the Agreement. Plaintiff's counsel shall submit the stipulation/motion to Defendants' counsel for approval a reasonable time prior to filing.

43. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intended that this 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.

1 SO AGREED:

2 Dated: PLAINTIFF

3
4 _____
Gaetano Balistreri

5
6 Dated: Jun 11, 2024

STERLING BANK AND TRUST, FSB and
STERLING BANCORP, INC.

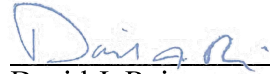
7
8 
Thomas M O'Brien (Jun 11, 2024 17:04 EDT)

9 By: Thomas M. O'Brien
President and Chief Executive Officer

10
11 APPROVED AS TO FORM, AND AGREED TO AS APPLICABLE.

12 Dated: ARNOLD & PORTER KAYE SCHOLER LLP

13
14
15
16 Dated: June 11, 2024

By: 
David J. Reis
Attorneys for Defendants
STERLING BANK AND TRUST, FSB and
STERLING BANCORP, INC.

17
18
19 Dated: June 13, 2024

RIGHETTI GLUGOSKI, P.C.

20
21 By: 
John Glugoski
Attorneys for Plaintiff
GAETANO BALISTRERI

1 SO AGREED:

2 Dated: 6/13/2024

PLAINTIFF

DocuSigned by:

Gaetano Balistreri

Gaetano Balistreri

5 Dated:

STERLING BANK AND TRUST, FSB and
STERLING BANCORP, INC.

By: Thomas M. O'Brien

President and Chief Executive Officer

11 APPROVED AS TO FORM, AND AGREED TO AS APPLICABLE.

12 Dated:

ARNOLD & PORTER KAYE SCHOLER LLP

By:

David J. Reis

Attorneys for Defendants

STERLING BANK AND TRUST, FSB and
STERLING BANCORP, INC.

18 Dated:

RIGHETTI GLUGOSKI, P.C.

By:

John Glugoski

Attorneys for Plaintiff

GAETANO BALISTRERI

Exhibit A

Date

NOTICE OF SETTLEMENT

San Francisco County Superior Court Case No. CGC-21-596359
Case Name: *Gaetano Balistreri v. Sterling Bank and Trust, FSB, et al.*

«FirstName» «LastName»

«Address1» «Address2»

«City» «State» «Zip»

You are receiving the enclosed check in settlement of a lawsuit entitled *Gaetano Balistreri v. Sterling Bank and Trust, FSB, et al.*, Superior Court of the State of California, County of San Francisco, Case Number CGC-21-596359 (the “Lawsuit”).

In the Lawsuit, Plaintiff Gaetano Balistreri (“Plaintiff”) pursued various claims for penalties against Defendants Sterling Bank and Trust, FSB and Sterling Bancorp, Inc. (“Defendant”) under the California Private Attorneys General Act of 2004 (“PAGA”). Defendant denies Plaintiff’s claims in their entirety and asserts that it complied with the applicable law. However, the parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests and, therefore, agreed to a settlement of the Lawsuit. Defendant has agreed to pay a total of \$235,000 (the “Gross Settlement Amount”) to settle this case.

The court has not ruled on the merits of the Lawsuit, but it has approved the civil penalties settlement amount to be paid by Defendant. As required by PAGA, a portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency (the “LWDA”). Another portion of the civil penalty settlement amount goes to the employees who worked for Sterling Bank and Trust, FSB in California as non-exempt employees during the period between August 26, 2020 and May 15, 2024

According to Defendant’s records, you worked as a non-exempt employee in California for «Insert Number» eligible pay periods during the applicable period and are therefore entitled to a share of the settlement. Your share will be calculated by dividing the number of eligible pay periods you worked by the number of all eligible pay periods attributed to all settlement members then multiplying that amount by the portion of the Gross Settlement Amount remaining following disbursements to Plaintiff, the LWDA, Plaintiff’s attorneys, and the settlement administrator. More detail on the formula for determining your precise share has been provided to the Court and can be obtained from the settlement administrator.

Enclosed with this Notice is your settlement check. The settlement check shall remain valid for one hundred eighty (180) calendar days. Checks remaining un-cashed for more than 180 days after issuance will become void and the outstanding balance will be tendered to the California State Controller’s Office - Unclaimed Property Fund, to be held in your name. You are responsible for paying taxes on your settlement share, and your settlement share is considered a penalty for tax purposes.

While you were not a party to the Lawsuit, you and the State of California have been bound by the settlement and resulting judgment entered in this matter by the Court as to civil penalties under PAGA. If you have any questions, you can contact the settlement administrator at «Phone Number».

Very Truly Yours,

Settlement Administrator

EXHIBIT 2

Date

NOTICE OF SETTLEMENT

San Francisco County Superior Court Case No. CGC-21-596359
Case Name: *Gaetano Balistreri v. Sterling Bank and Trust, FSB, et al.*

«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

You are receiving the enclosed check in settlement of a lawsuit entitled *Gaetano Balistreri v. Sterling Bank and Trust, FSB, et al.*, Superior Court of the State of California, County of San Francisco, Case Number CGC-21-596359 (the “Lawsuit”).

In the Lawsuit, Plaintiff Gaetano Balistreri (“Plaintiff”) pursued various claims for penalties against Defendants Sterling Bank and Trust, FSB and Sterling Bancorp, Inc. (“Defendant”) under the California Private Attorneys General Act of 2004 (“PAGA”). Defendant denies Plaintiff’s claims in their entirety and asserts that it complied with the applicable law. However, the parties believe that continued litigation would be protracted, expensive, uncertain, and contrary to their best interests and, therefore, agreed to a settlement of the Lawsuit. Defendant has agreed to pay a total of \$235,000 (the “Gross Settlement Amount”) to settle this case.

The court has not ruled on the merits of the Lawsuit, but it has approved the civil penalties settlement amount to be paid by Defendant. As required by PAGA, a portion of the civil penalty settlement amount goes to the State of California’s Labor and Workforce Development Agency (the “LWDA”). Another portion of the civil penalty settlement amount goes to the employees who worked for Sterling Bank and Trust, FSB in California as non-exempt employees during the period between August 26, 2020 and May 15, 2024

According to Defendant’s records, you worked as a non-exempt employee in California for «Insert Number» eligible pay periods during the applicable period and are therefore entitled to a share of the settlement. Your share will be calculated by dividing the number of eligible pay periods you worked by the number of all eligible pay periods attributed to all settlement members then multiplying that amount by the portion of the Gross Settlement Amount remaining following disbursements to Plaintiff, the LWDA, Plaintiff’s attorneys, and the settlement administrator. More detail on the formula for determining your precise share has been provided to the Court and can be obtained from the settlement administrator.

Enclosed with this Notice is your settlement check. The settlement check shall remain valid for one hundred eighty (180) calendar days. Checks remaining un-cashed for more than 180 days after issuance will become void and the outstanding balance will be tendered to the California State Controller’s Office - Unclaimed Property Fund, to be held in your name. You are responsible for paying taxes on your settlement share, and your settlement share is considered a penalty for tax purposes.

While you were not a party to the Lawsuit, you and the State of California have been bound by the settlement and resulting judgment entered in this matter by the Court as to civil penalties under PAGA. If you have any questions, you can contact the settlement administrator at «Phone Number».

Very Truly Yours,

Settlement Administrator

EXHIBIT 3

PAGA NOTICE PUBLIC SEARCH - CASE DETAIL

Case Information

Case Number: LWDA-CM-845640-21
Plaintiff for PAGA Case: Gaetano Balistreri
Filer/Attorney for PAGA Case: John Glugoski
Law Firm for PAGA Plaintiff: Righetti Glugoski, P.C.
Employer: Sterling Bank & Trust, FSB
Date Case Received:
Filer for Employer:
Employer Filer Firm:
Court Type:
Court Name:
PAGA Court Case Number:
Violation Type:
Related BOFE Case:

Attachments

Attachment Name	Description	Date Submitted	Type
PAGA Notice Submitted on 09/22/2021 04:20:04 PM by John Glugoski	8.26.21 Sterling Bank Mailing.pdf	9/22/2021 11:20 PM	PAGA Notice

EXHIBIT 4

Case Name: Sterling Bank

Friday, June 7, 2024

Requesting Attorneys Name:	John Glugoski
E-Mail:	jglugoski@righettilaw.com
ILYM Contact:	Lisa Mullins
E-Mail:	Lisa@ilymgroup.com
Contact Number:	714.878.8836

Estimate For Administrative Solutions: PAGA

KEY ASSUMPTIONS	
Total Number of Aggreived Employees	195
Estimated Percentage of Remails	15%
Certified Spanish Translation	No
NCOA	Yes
Case Duration (Years)	1

Summary Estimate: ILYM Group Fees & Expenses

Case Startup:	\$405.65
Distribution (Includes EIN, Bank Acct * /QSF Setup):	\$2,724.35
Case Conclusion:	\$370.00

Total ILYM Fees & Expenses: \$3,500.00

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Case Name: Sterling Bank

Friday, May 24, 2024

Requesting Attorneys Name: John Glugoski

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - <i>Import and Formatting of Data*</i>	Hourly	\$150.00	1	\$150.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	1	\$120.00
NCOA	Flat Rate	\$55.00	1	\$55.00
Toll-Free Call Center	Flat Rate	\$80.65	1	\$80.65

**ILYM assumes that data will be in a standard format. Client will be notified immediately if not in standard format to correct data or ILYM can convert to standard format @ \$150.00 per hour.*

Subtotal \$405.65

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	1	\$150.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	1	\$125.00
Notice, Check, Stub & Release - (including 1099)	Per Check	\$2.00	195	\$390.00
USPS First Class 1oz Postage	Per Piece	\$0.83	195	\$161.85
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.50	39	\$97.50
Preparation of Taxes	Hourly	\$150.00	2	\$300.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

**Additional Bank fees may apply*

Subtotal \$2,724.35

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	1	\$100.00
Process Unclaimed Funds	Flat Fee	\$150.00	1	\$150.00
Declaration	Hourly	\$120.00	1	\$120.00

Subtotal \$370.00

Total Case Estimate: \$3,500.00

Terms and Conditions

All services to be provided by ILYM Group, Inc. (hereinafter, "ILYM") to Client shall be subject to the following terms and conditions:

Services: Subject to the terms hereof, ILYM agrees to provide the Client with Administration Services (hereinafter, "services") as specified in the Proposal provided to Client to which these Terms and Conditions are attached. The estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make provision for any services or class members/size not delineated in the request for proposal or stipulations. Such services do not in any way constitute legal services or advice. ILYM is performing its services as an Independent Contractor and neither it nor its employees shall be deemed to be employees of the Client.

Mailing and Data Conversion: ILYM's database administration assumes the Client will provide complete data that includes all information required to send notifications and complete the administration process. Data must be provided in a complete, consistent, standardized electronic format. ILYM's standard format is Microsoft Excel, however, ILYM may accept other formats at its discretion. Further developments or enhancements to non-standardized data will be billed to Client by ILYM on a time and materials basis, according to ILYM's Standard Rates.

Charges for Services: Charges to the Client for services shall be on a time and materials basis at our prevailing rates, as the same may change from time to time. Any fee estimates set forth in the proposal are estimates only, based on information provided by Client to ILYM. Actual fees charged by ILYM to Client may be greater or less than such estimate, and Client shall be responsible for the payment of all such charges and expenses in accordance with Section 5 hereof. Charges incurred related to resolving post distribution withholdings and related corrective files due to voids and re-issues of payments and related correspondence with state and federal taxing authorities will not be charged to the Client to the extent that funds are received from the taxing authorities offset these charges. ILYM may derive financial benefits from financial institutions in connection with the deposit and investment of settlement funds with such institutions, including without limitation, discounts on eligible banking services and fees, and loans at favorable rates.

Indemnification: Client will indemnify and hold ILYM (and the officers, employees, affiliates and agents harmless against any Losses incurred by ILYM, arising out of, in connection with, or related to (i) any breach of the terms by Client; (ii) the processing and handling of any payment by ILYM in accordance with Client's instructions, including without limitation, the imposition of any stop payment or void payment on any check or the wrongful dishonor of a check by ILYM pursuant to Client's instructions.

Payment of Charges: ILYM reserves the right to request payment of postage charges and 50% of the final administration charges at the start of the case. ILYM bills are due upon receipt unless otherwise negotiated and agreed to with the Client. In the event settlement terms provide that ILYM is to be paid out of the Settlement Fund, ILYM will request that Counsel endeavor to make alternate payment arrangements for ILYM charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the Settlement Account is funded by, or no later than the time of disbursement. Decisions of the court and actions of the parties, including disapproval or withdrawal of a settlement, do not affect the Client's liability to ILYM for payment of services. Services are not provided on a contingency fee basis.

Confidentiality: ILYM maintain reasonable and appropriate security measures and safeguards to protect the security and confidentiality of Client data provided to ILYM by Client in connection herewith. Should ILYM ever be notified of any judicial order or other proceedings in which a third party seeks to obtain access to the confidential data created by or for the Client, ILYM will promptly notify the Client, unless prohibited by applicable law. The Client shall have the option to (1) provide legal representation at the Client's expense to avoid such access or (2) promptly reimburse ILYM for any of its costs, including attorneys' fees, reasonably incurred in avoiding, attempting to avoid or providing such access and not paid by the entity seeking the data. If ILYM is required, pursuant to a court order, to produce documents, disclose data, or otherwise act in contravention of the obligations imposed by this Agreement, or otherwise, with respect to maintaining the confidentiality, proprietary nature and secrecy of the produced documents or disclosed data, ILYM will not be liable for breach of said obligation.

Data Rights: ILYM does not convey nor does the Client obtain any right in the programs, system data, or materials utilized or provided by ILYM in the ordinary course of business in the performance of this Agreement.

Document Retention: Unless directed otherwise in writing by Client, ILYM will destroy undeliverable mail on the effective date of the settlement or the date that the disposition of the case is no longer subject to appeal or review, whichever is later. ILYM will maintain claim forms and other correspondence for one year after final distribution of funds or benefits, or until the date that the disposition of the case is no longer subject to appeal or review, whichever is later.

Limitation of damages: ILYM is not responsible to the Client for any special, consequential or incidental damages incurred by Client. Any liability of ILYM to the Client shall not exceed the total amount billed to the Client for the particular services that give rise to any loss.

Termination: The services to be provided under this Agreement may be terminated, at will by the Client upon at least 30 calendar days' prior written notice to ILYM. The Client's obligation to pay for services or projects in progress at the time of notice of withdrawal shall continue throughout that 30 day period. ILYM may terminate this Agreement (i) with 10 calendar days' prior written notice, if the Client is not current in payment of charges or (ii) in any event, upon at least 3 months' prior written notice to the Client.

Notice: Any notice required or permitted hereunder shall be in writing and shall be delivered personally, or sent by registered mail, postage prepaid, or overnight courier service to the responsible officer or principal of ILYM or the Client, as applicable, and shall be deemed given when so delivered personally, or, if mailed, five days after the date of deposit in United States mail, or, if sent by courier, one business day after delivery to such courier service.

Force Majeure: To the extent performance by ILYM of any of its obligations hereunder is substantially prevented by reason of any act of God or by reason of any other matter beyond ILYM's reasonable control, then such performance shall be excused and this Agreement, at ILYM's option, be deemed suspended during the continuation of such condition and for a reasonable time thereafter.

Waiver of Rights: No failure or delay on the part of a party in exercising any right hereunder will operate as a waiver of, or impair, any such right. No single or partial exercise of any such right will preclude any other or further exercise thereof or the exercise of any other right. No waiver of any such right will be effective unless given in a signed writing.

Jurisdiction: The parties hereto submit to the jurisdiction of the Court of the applicable case for purposes of any suit, action or proceeding to enforce any provision of, or based on any right arising out of, this Agreement. The parties hereto hereby waive any objection to the laying of venue of any such suit, action or proceeding in the Court.

Entire Agreement: These terms and conditions and the proposal embody the entire agreement between the parties with respect to the subject matter hereof, and cancels and supersedes all prior negotiations, representations, and agreements related thereto, either written or oral, except to the extent they are expressly incorporated herein. No changes in, additions to, or waivers of, the terms and conditions set forth herein will be binding upon any party, unless approved in writing by such party's authorized representative.

EXHIBIT 5

TIME REPORT

Categories:

(1) Investigations, Factual Research

(2) Discovery

(3) Pleadings, Briefs and Pretrial Motions

(4) Court Appearances

(5) Mediation Settlement and Administration

(6) Litigation Strategy, Analysis and Case Management

(7) Class Certification

(8) Trial Preparation and Trial

[illegible]

EXHIBIT 6

Case Costs Summary for Righetti Glugoski, P.C.
Balistreri v. Sterling Bank Trust, FSB, et al.

DESCRIPTION	NOTES	AMOUNT
Photocopies	In house and outside	\$0.00
Supplies		\$0.00
Postage		\$0.00
Travel/Lodging		\$0.00
On-Line Research (pro-rata Westlaw)		\$0.00
Mileage/Parking/Taxi		\$0.00
Rental Cars		\$0.00
Court reporters; and deposition costs		\$837.50
Courier/Overnight Services	Fax & File,Go Courier, FedEx, UPS	\$0.00
Process servers; subpoenas, etc.		\$164.30
Court Filing Fees		\$647.50
Secretary of State		\$0.00
Database prep and analysis		\$0.00
Investigation		\$0.00
Experts/Consultants (trial plan)		\$0.00
Court Call charges		\$0.00
At&T Conference Services		\$0.00
Mediations		\$0.00
TOTAL:		\$1,649.30

EXHIBIT 7

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

Overview of Our Firm:

ILYM Group, Inc is a class action administration, legal notification, and direct media outlets firm. With over 20 years of combined experience, our primary commitments are to client satisfaction, cutting edge technology and data management security, seamless case management and delivery of case expectations. Because, of our adherence to these commitments, ILYM Group, Inc is a one of the fastest growing, Woman Owned Business (NAPW), in the industry and has become the go-to firm for class action administration and legal notification. ILYM Group, Inc works with the top defense and plaintiff firms across the United States.

AREAS OF EXPERTISE:

- Wage and Hour
- FLSA
- Insurance and Health Care
- Consumer
- Finance
- ERISA
- TCPA
- Antitrust
- Securities

Ramirez v JC Penney.

- ERISA Case with a class size of 26,000.

Kruger, et al. v. Novant Health

- ERISA Case with a class size of \$32 million.

Abbott, et al. v. Lockheed Martin Corp.

- ERISA Case with \$62 million.

Jacqueline Jones vs. I.Q. Data International, Inc.

- TCPA Case with a class size of 93,993. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 93.82% of the Class that did not have a name or address.

Reza Barani vs. Wells Fargo Bank, N.A.

- TCPA Case with a class size of 82,874. Performed a reverse look-up to obtain Class Member information. We were able to obtain contact information for 87.84% of the Class that did not have a name or address.

Kimberly Roberts, et al. v. T.J. Maxx of CA, LLC, et al.

- Wage & Hour Case with a class size of 82,549.

Robert Stone, et al. v. Universal Protection Services, LP, et al.

- Wage & Hour Case with a class size of 75,351.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

ILYM Group, Inc. is operational 24/7 delivering true client and class member availability. Our call center is open 24/7/365 days a year, even holidays and is full digital, automated and multilingual. ILYM Group Inc.'s mail and media center is a state-of-the-art facility, fully digital and USPS integrated. We can accommodate cases of any size, from ten class members to multi-millions. ILYM Group, Inc. prides itself on its commitment to service, quality, value pricing and availability. We've committed ourselves to being the best Class Action Administration and Notification Company in our industry. Through our years of experience, ILYM Group, Inc. is dedicated to exceeding our client's expectations.

PRE-SETTLEMENT CONSULTATION

- **Administration Consultation:** Meeting to determine objectives and expectations by both parties. All reporting and responsibilities will be agreed upon as will the seamless process to access data. We will also discuss the opportunities to identify class members with the proposed print and web-based media for optimum reach. Additionally, all expectations and delivery of those results will be planned for and mapped accordingly.

MAILING AND NOTIFICATION

- **Fulfillment and Correspondence:** All provided settlement information will be published via United States Postal Service (USPS first class standards) to the proposed mailing class. Notifications will include a Claim ID and how to respond, or Opt-Out, based on the stipulations.
- **Reverse Lookup:** A confidential reverse phone or reverse cell lookup will provide; owner's name, location, address history, carrier, phone type (landline or cell phone) and more. Our reverse lookup is powered by an extensive database which includes hundreds of millions of cell phone, landline, residential and unlisted number. Our software collects data from multiple data sources and carriers across the US. Our average "hit ratio" ranges from 93% - 98%.
- **Creating Class Database:** All Data is verified and filtered to eliminate duplication against the United States Postal Service (USPS) National Change of Address (NCOA) database. ILYM Group, Inc. will also certify and validate with the Coding Accuracy Support System (CASS) and Track Your Class (TYC) for zone delivery.
- **Claim Forms:** ILYM Group, Inc. will email all claim forms, whenever possible, to have accurate reporting and tracking of all class requests. Emails will contain full text claim forms.
- **Translations:** When needed, ILYM Group, Inc. will translate notices to any language needed to reach Class members.
- **Remails:** Returned mail will be scanned, re-verified and re-mailed. All returned mail is data warehoused and reported to both parties' counsels in a weekly report.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

MEDIA & INTERNET BANNER ADS

Notice Publication

- **Legal Notices:** ILYM Group, Inc. can provide a Media Proposal to maximize reach based on quantitative and qualitative methodologies.
- **Electronic Publication (Banner Ads):** ILYM Group, Inc. will utilize Internet Banner Noticing efforts and web technologies for maximum reach via the World Wide Web.
- **Electronic Mail Notices:** ILYM Group, Inc. can email an estimated number of class members a full text notice. We are compliant with all search engines and Internet Service Providers (ISP) so that our emails are always “White List” accepted with minimal returns.
- **Reach:** Every case has its own proposed reach and exposure percentage. We filter, verify and scrub the data to improve reach results.
- **Services Included:** Analysis, Documentation, Research and Methodologies, Execution and Reporting.

PROJECT MANAGEMENT

- **Case Notification, Maintenance and Management:** ILYM Group, Inc.’s Senior Project Managers will provide all Account Management, Pre-Consultation to Case Conclusion, Reporting and Claims Processing. Design, negotiation and implementation, upon approval, of all forms and notices, all distribution reporting and filings with the court.
- **Claims Processing:** All claims can be submitted by USPS, Internet, Fax, and Email or Online submission. Claims will be processed and recorded with matching ILYM database ID’s. E-claims will have corresponding records of intake. All deficient claims will be notified via USPS and make provisions for class member to re-submit claims.
- **Call Center:** ILYM Group, Inc. will support class members with a toll-free number to get the most up-to-date case settlement information. Customer service representatives will be available 24/7/365 as will recorded messages. All class members are given the options to best serve their needs and to receive case information.
- **Internet Support:** Class members can log on to a provided website and view, print or submit information and claim forms regarding the settlement. Frequently Asked Questions (FAQ’s) will be provided as well. Class members may download the claim form with mailing and fax instructions provided on the form.
- **Objection and Request for Exclusion:** All objections and request for exclusion, opt-out, will be data warehoused, dated and reported. Postmarks will serve for exclusion dating and will be forwarded to both counsels’ no more than 5 days post submission. Objection will be reviewed by ILYM Group, Inc. to determine the timeliness and basis of the objection. All information will be forwarded to both parties counsel, along with any representation information from the class member, within 5 days.

ILYM | GROUP, Inc.

SETTLEMENT ADMINISTRATION EXPERTS

DATA ADMINISTRATION AND NETWORK SECURITY

- **Network Security:** All provided data is encrypted, stored and hosted in a Tier 4, SAS70 certified environment.
- **Database Administration:** To be developed with all electronically provided data. Class members will be assigned ILYM Group, Inc. internal tracking ID's to ensure all collected member data coincides with all received claims.

DISTRIBUTION AND SETTLEMENT FUNDING

- **Distribution and Management:** Upon receipt of settlement funds, ILYM Group, Inc. will open a QSF Account for proceeds of the Gross Settlement Payment. The deposited funds will then be managed per the Settlement Agreement. All funds will be settled with class members and counsel along with all federal and state income tax reporting.
- **Check Printing and Mailing:** Claims processed, quantified and approved by clients, will be processed for distribution. All checks will be printed and mailed via USPS first class standards. ILYM Group, Inc. will reissue checks in accordance with the Settlement Agreement.
- **Preparation, Filing and Reporting of Taxes:** ILYM Group, Inc. will ensure taxes are filed in accordance to all federal, state and local employment tax returns. All taxes associated with the settlement will be paid on time to tax authorities. All filings and returns (e.g., 1099s, W-2s, etc.) will be done properly and timely with the appropriate authorities. All QSF steps and obligations with federal, state and/or local law will be followed.

CASE CONCLUSION

- **Data Manager Final Report:** All database and electronic documentation will be sent in reports weekly and at the conclusion of the Administration engagement. Call center activity, e-claims, mailed, and faxed claims will be included in all reporting.
- **Project Manager Final Report:** All case and class related information will be provided on a weekly basis and at the conclusion of the Administration engagement. Mailing and media final analysis, exclusions, objections, and all other claims processing outcomes, status reports and final court documentations will be included.
- **Affidavits:** ILYM Group, Inc. will provide all affidavits in support of analysis and media reach, final approvals and settlement. Expert Testimony and Media Methodologies will be determined.
- **Document Retention:** Unless otherwise directed, ILYM Group, Inc. will destroy all undeliverable notices on the effective date of the settlement or when the case is no longer subject to appeal. ILYM Group, Inc. will correspond for one year after the final distribution or until the case is no longer subject to appeal.

EXHIBIT 8

Andrew J. Prizler v. Charter Communications, Inc
Rate Sheet

<u>TK ID</u>	<u>Timekeeper</u>	<u>Title</u>	<u>2018 Standard Rate</u>	<u>2018 Billing Rate</u>	<u>2019 Standard Rate</u>	<u>2019 Billing Rate</u>
02943	Allen, Margaret H.	Partner	950	831	1,000	850
60970	Fischer, Max C.	Partner	925	809	975	829
43800	Lazerson, Wendy M.	Partner	950	831	975	829
12149	Roberts, Katherine A.	Partner	875	766	925	786
13696	Chao, Wesley	Associate	495	433	540	459
11257	Gonzalez, Anahi	Associate	495	433	540	459
14968	Hong, Alison H.	Associate	835	731	890	757
03043	Limbrick, Tiffanie N.	Associate	785	687	870	740
03170	Mackay, Aimee G.	Associate	860	753	905	769
10517	McDonough, Megan	Associate	495	433	635	540
19461	Miner, Katharine M.	Associate	495	433	635	540
03084	Wyson, Natali	Associate	785	687	870	740
95711	Brown, Denise D.	Paralegal	390	341	415	353
17840	L'Hoste, April K.	Paralegal	350	306	370	315
84271	O'Connell, Kathleen M.	Paralegal	360	315	380	323