

Justin F. Marquez (SBN 262417)
justin@wilshirelawfirm.com
Benjamin H. Haber (SBN 315664)
benjamin@wilshirelawfirm.com
Arrash T. Fattahi (SBN 333676)
afattahi@wilshirelawfirm.com
WILSHIRE LAW FIRM
3055 Wilshire Blvd., 12th Floor
Los Angeles, California 90010
Telephone: (213) 381-9988
Facsimile: (213) 381-9989

Attorneys for Plaintiff

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/14/2023 at 03:30:00 PM

Clerk of the Superior Court
By Mariejo Guyot, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

NORBERTO BURCIAGA, on behalf of the
State of California and other aggrieved persons,

Plaintiff,

v.

ATI RESTORATION, LLC, a Limited Liability
Company; AMERICAN TECHNOLOGIES,
INC., a corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: 37-2021-00047609-CU-OE-CTL

PAGA REPRESENTATIVE ACTION

[Assigned for all purposes to: Hon. Richard S.
Whitney, Dept. C-68]

**DECLARATION OF JUSTIN F.
MARQUEZ IN SUPPORT OF JOINT
STIPULATION REGARDING
APPROVAL OF SETTLEMENT UNDER
CALIFORNIA PRIVATE ATTORNEYS
GENERAL ACT**

[Filed concurrently with: Joint Stipulation
Regarding Approval of Settlement Under
California Private Attorneys General Act,
[Proposed] Order]

Complaint filed: November 9, 2021
Trial date: Not set

I, Justin F. Marquez, declare as follows:

1. I am admitted, in good standing, to practice as an attorney in the State of California, the Ninth Circuit Court of Appeals, and the United States District Courts for the Central, Southern, Eastern, and Northern Districts of California. I am a Senior Partner at Wilshire Law Firm, PLC, counsel of record for Plaintiff Norberto Burciaga (“Plaintiff”). I have personal knowledge of the facts set forth in this declaration and could and would competently testify to them under oath if called as a witness. This Declaration is submitted in support of the Joint Stipulation Regarding Approval of Settlement Under California Private Attorneys General Act.

2. On November 9, 2021, Plaintiff filed a Private Attorneys General Act (“PAGA”) action against Defendant ATI Restoration, LLC (“Defendant ATI”) and Defendant American Technologies, Inc. (“Defendant American Tech.,” and together with Plaintiff and Defendant ATI, the “Parties”) in the Superior Court of California, County of San Diego (the “Action”). Plaintiff’s PAGA claim is based on Defendants’ failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to pay all earned wages twice per month, failure to maintain accurate records of hours worked and meal periods, failure to timely pay final wages, failure to furnish accurate wage statements, and failure to indemnify for necessary business expenditures

3. On September 8, 2022, the Parties reached a resolution through private mediation with Kelly Knight, Esq.

4. The Parties entered into a Memorandum of Understanding setting forth the material terms of the Parties' settlement on or around September 15, 2022.

5. On April 24, 2023, the Parties fully executed a long-form settlement agreement which includes an explanatory letter which will be mailed out to the Aggrieved Employees¹ by the Settlement Administrator. A true and correct copy of the Settlement Agreement (or “Settlement”) is attached hereto as **Exhibit A**. Plaintiff is also concurrently submitting the Settlement Agreement

¹ The “Aggrieved Employees” consist of all persons within the State of California who are or were employed by Defendant ATI in the State of California as hourly-paid or non-exempt during the PAGA Period.

1 to the California Labor & Workforce Development Agency (“LWDA”) in compliance with Cal.
2 Lab. Code section 2699(1)(2).

3 6. Plaintiff and Plaintiff’s counsel concluded, after taking into account the sharply
4 disputed factual and legal issues involved in the Action, the risks associated with further
5 prosecution, and the substantial benefits received and to be received pursuant to the Settlement,
6 that the Settlement is in the best interest of all interested parties and beneficiaries.

7 7. Plaintiff and Plaintiff’s counsel have balanced their evaluation of the validity and
8 strength of these asserted allegations against the problems of proof, collectability, and the legal
9 standards governing said allegations, and found significant risk in proceeding. Based on this
10 evaluation, Plaintiff’s counsel believes that the Settlement satisfies the public policies of PAGA
11 and is fair to all parties and beneficiaries.

12 8. As part of the Settlement, Defendant ATI has agreed to pay a sum of \$460,000.00
13 (the “Gross Settlement Amount”), which includes payments to all Aggrieved Employees (25% of
14 the Net Settlement Amount [as defined in Section I(9) of the Settlement Agreement and in
15 accordance with Cal. Lab. Code section 2699(i)]), payment to the LWDA (75% of the Net
16 Settlement Amount, in accordance with Cal. Lab. Code section 2699(i)), payment of Plaintiff’s
17 counsel’s fees and costs, payment to Plaintiff for service as the PAGA representative and in
18 exchange for executing a general release of claims, and payment to the Settlement Administrator
19 for administration costs.

20 9. The fee award requested here is \$153,333.33, representing one third (33.3333%) of
21 the Gross Settlement Amount. The requested fee award is justified because Plaintiff’s counsel
22 achieved a significant monetary recovery for the Aggrieved Employees and the LWDA in an
23 uncertain and risky case while bearing the substantial burdens of representation on a contingency
24 basis, and the fees requested are in line with market rates. Plaintiff’s counsel expended significant
25 time and resources in litigating this case, which resulted in a favorable result for the LWDA,
26 Plaintiff, and the Aggrieved Employees. Plaintiff’s counsel elected to bear the contingency risk of
27 this litigation for the benefit of the Aggrieved Employees, as well as for the State of California
28 (who elected not to take the case after receiving the PAGA notice). A true and correct copy of

Plaintiff's PAGA notice is attached hereto as **Exhibit B**.

10. Plaintiff's counsel has dedicated substantial resources to this litigation, including approximately \$14,879.74 in costs as of June 14, 2023, without receiving any compensation. All of Plaintiff's counsel's litigation costs are documented and reasonably incurred. Additionally, we anticipate incurring \$300.00 in anticipated future costs for filing fees, messenger costs, and copying costs following the Court's Order regarding the Parties' Joint Stipulation, and request reimbursement of such as well. Attached as **Exhibit C** to this declaration is a breakdown of costs incurred by my office.

11. Plaintiff requests an enhancement fee of \$10,000.00 for his service as the PAGA representative and in exchange for executing a general release of all claims. The requested enhancement fee is intended to recognize: (1) the substantial time and effort that Plaintiff has expended on behalf of the State and Aggrieved Employees; (2) the risks faced by Plaintiff as a result of bringing this Action; (3) the fact that Plaintiff put the interests of the State of California and other Aggrieved Employees ahead of his own; and (4) the substantial benefit conferred upon the State and the Aggrieved Employees as a result of Plaintiff's actions.

12. The Parties propose using ILYM Group, Inc. to administer the Settlement. The Settlement Administrator Costs in the amount of \$9,795.00 are reasonable, given the tasks to be performed by the Settlement Administrator, including, but not limited to, the following duties: mailing and re-mailing (if necessary) checks/explanatory letters to the Aggrieved Employees and the LWDA; establishing a Qualified Settlement Fund; preparing and submitting to the Aggrieved Employees and government entities all appropriate tax filings and forms; distributing the Service Payment to Plaintiff and attorneys' fees and costs; keeping the Parties timely apprised of the performance of all obligations under the Agreement; and voiding uncashed or undeliverable checks to issue those funds to the State Controller's Office. A true and correct copy of ILYM Group, Inc.'s estimate for administration costs is attached to this declaration as **Exhibit D**.

13. The regular and customary practice at Wilshire Law Firm, PLC is for all attorneys to maintain contemporaneous time records setting forth the amount of time spent (rounded to the nearest 0.1 hour) on each task in each case, with explanatory descriptions of each task performed.

My colleagues and I followed this practice throughout this litigation. To calculate my firm's lodestar for this case, I reviewed the time records and exercised discretion in eliminating excessive entries. Using these time records, my office derived the following summary chart of timekeeping activities of the attorneys working on this case:

Attorney	Hours	Rate	Lodestar
Justin F. Marquez	50	\$850	\$42,500
Benjamin H. Haber	65	\$650	\$42,250
Arrash T. Fattahi	85	\$450	\$38,250
Total:			\$123,000

14. Plaintiff's counsel has spent over 200 hours litigating this Action to bring it to resolution, not including the time which will be expended monitoring the administration of the settlement and distribution of funds. I estimate that my office will commit no less than 10 hours to those tasks and have included those hours above. Accordingly, the requested fee of \$153,333.33 is reasonable and fair as it is based on a multiplier of approximately 1.25.

15. There are additional hours devoted by me (and by my colleagues) to this litigation that are not reflected in Plaintiff's Counsel's request for attorneys' fees.

16. We can provide complete, detailed billing records in the event the Court requests them but would request the opportunity to redact attorney-client privileged information and any other privileged information.

EXPERIENCE AND QUALIFICATIONS

17. Wilshire Law Firm, PLC was selected by Best Lawyers and U.S. News & World Report as one of the nation's Best Law Firms in 2023 and is comprised of over 55 attorneys and over 300 employees. Wilshire Law Firm, PLC is actively and continuously practicing in employment litigation, representing employees in both individual and class actions in both state and federal courts throughout California.

18. Wilshire Law Firm, PLC is qualified to handle this Action because its attorneys are experienced in litigating Labor Code violations in both individual, class action, and representative

1 action cases. Wilshire Law Firm, PLC has handled, and is currently handling, numerous wage and
2 hour class action lawsuits, as well as class actions involving consumer rights and data privacy
3 litigation.

4 19. I graduated from the University of California, Los Angeles's College Honors
5 Program in 2004 with Bachelor of Arts degrees in History and Japanese, magna cum laude and Phi
6 Beta Kappa. As an undergraduate, I also received a scholarship to study abroad for one year at
7 Tokyo University in Tokyo, Japan. I received my Juris Doctor from Notre Dame Law School in
8 2008.

9 20. My practice is focused on advocating for the rights of consumers and employees in
10 class action litigation and appellate litigation. I am currently the primary attorney in charge of
11 litigating several class action cases in state and federal courts across the United States.

12 21. I have received numerous awards for my legal work. From 2017 to 2020, Super
13 Lawyers selected me as a "Southern California Rising Star," and in 2022 to 2023, I was selected
14 as a "Southern California Super Lawyer." I was selected as one of the "Best Lawyers in America"
15 in 2023. In 2016 and 2017, the National Trial Lawyers selected me as a "Top 40 Under 40"
16 attorney. I am also rated 10.0 ("Superb") by Avvo.com.

17 22. I am on the California Employment Lawyers Association ("CELA")'s Wage and
18 Hour Committee and Mentor Committee, and I was selected to speak at CELA's 2019 Advanced
19 Wage & Hour Seminar on the topic of manageability of class actions. Since 2013, I have actively
20 mentored young attorneys through CELA's mentorship program.

21 23. I am also a past member of the Consumer Attorneys of California ("CAOC"). In
22 2020, I was selected for a position on CAOC's Board of Directors. I am also a past member of
23 CAOC's Diversity Committee, and I helped assist the CAOC in defeating bills that harm
24 employees. Indeed, I recently helped assist Jacqueline Serna, Esq., Legislative Counsel for CAOC,
25 in defeating AB 443, which proposed legislation that sought to limit the enforceability of California
26 Labor Code § 226.

27 24. As the attorney responsible for day-to-day management of this matter at the
28 Wilshire Law Firm, PLC, I have over thirteen years of experience with litigating wage and hour

1 class actions. Over the last thirteen years, I have managed and assisted with the litigation and
2 settlement of several wage and hour class actions. In those class actions, I performed similar tasks
3 as those performed in the course of prosecuting this action. My litigation experience includes:

- 4 a. I served as lead or co-lead in negotiating class action settlements worth over \$10
5 million in gross recovery to class members for each year since 2020, including over
6 \$37.5 million in 2022 and 2023.
- 7 b. I was part of the team of attorneys that prevailed in *Moore v. Centrelake Medical*
8 *Group, Inc.* (2022) 83 Cal.App.5th 515, the first California appellate decision in a
9 data breach class action holding that consumer plaintiffs adequately alleged injury
10 in fact under the benefit of the bargain theory and monitoring-costs theory.
- 11 c. In 2022, Top Verdict recognized Wilshire Law Firm and myself for having one case
12 in the Top 20 Labor & Employment Settlements (including number 19 for the \$1.6
13 million settlement in *Moreno v. Pretium Packaging, L.L.C.*) and four additional
14 cases in the Top 50 Labor & Employment Settlements (numbers 27, 30, 33, and 37).
- 15 d. To my knowledge, I am the only attorney to appear on each of the following Top
16 Verdict lists for 2018 in California: Top 20 Civil Rights Violation Verdicts, Top 20
17 Labor & Employment Settlements, and Top 50 Class Action Settlements.
- 18 e. As lead counsel, on April 29, 2021, I prevailed against CVS Pharmacy, Inc. by
19 winning class certification on behalf of hundreds of thousands of consumers for
20 misleading advertising claims in *Joseph Mier v. CVS Pharmacy, Inc.*, U.S. Dist. Ct.
21 C.D. Cal. no. SA CV 20-1979-DOC-(ADSx).
- 22 f. As lead counsel, I prevailed against Bank of America by: winning class certification
23 on behalf of thousands of employees for California Labor Code violations; defeating
24 appellate review of the court's order certifying the class; defeating summary
25 judgment; and defeating a motion to dismiss. (*Frausto v. Bank of America, N.A.*
26 (N.D. Cal. 2019) 334 F.R.D. 192, 2020 WL 1290302 (9th Cir. Feb. 27, 2020), 2019
27 WL 5626640 (N.D. Cal. Oct. 31, 2019), 2018 W.L. 3659251 (N.D. Cal. Aug. 2,
28 2018).). The decision certifying the class in *Frausto* is also discussed in Class

Certification Under Fed. R. Civ. P. 23 in Action by Information Technology or Call Center Employees for Violation of State Law Wage and Hour Rules, 35 A.L.R. Fed. 3d Art. 8.

- g. I was the primary author of the class certification and expert briefs in *ABM Industries Overtime Cases* (2017) 19 Cal.App.5th 277, a wage and hour class action for over 40,000 class members for off-the-clock, meal period, split shift, and reimbursement claims. *ABM Industries Overtime Cases* is the first published California appellate authority to hold that an employer's "auto-deduct policy for meal breaks in light of the recordkeeping requirements for California employers is also an issue amenable to classwide resolution." (*Id.* at p. 310.)² Notably, the Court of Appeal also held that expert analysis of timekeeping records can also support the predominance requirement for class certification. (*Id.* at p. 310-11.) In 2021, the case settled for \$140 million, making it one of the largest ever wage and hour class action settlements for hourly-paid employees in California.
- h. I briefed, argued, and won *Yocupicio v. PAE Group, LLC* (9th Cir. 2015) 795 F.3d 1057. The Ninth Circuit ruled in my client's favor and held that non-class claims under the PAGA cannot be used to calculate the amount in controversy under the Class Action Fairness Act ("CAFA"). This case is cited in several leading treatises such as Wright & Miller's Federal Practice & Procedure, and Newberg on Class Actions. In October 2016, the U.S. Supreme Court denied review of a case that primarily concerned *Yocupicio*. That effort was led by Theodore J. Boutrous, who brought the cert petition, with amicus support from a brief authored by Andrew J. Pincus.³ Considering that leading Supreme Court practitioners from the class action defense bar were very motivated in undermining *Yocupicio* case, but failed, this demonstrates the national importance of the *Yocupicio* decision.

² As a California district court observed before the *ABM Industries Overtime* decision, "[t]he case law regarding certification of auto-deduct classes is mixed." (*Wilson v. TE Connectivity Networks, Inc.* (N.D. Cal. Feb. 9, 2017) No. 14-CV-04872-EDL, 2017 WL 1758048, *7.)

³ <http://www.chamberlitigation.com/cases/abm-industries-inc-v-castro>.

- i. On December 13, 2018, the United States District Court granted final approval of the \$2,500,000 class action settlement in *Mark Brulee, et al. v. DAL Global Services, LLC* (C.D. Cal. Dec. 13, 2018) No. CV 17-6433 JVS(JCGx), 2018 WL 6616659 in which I served as lead counsel. In doing so, the Court found: “Class Counsel’s declarations show that the attorneys are experienced and successful litigators.” (*Id.* at p. *10.)
- j. *Gasio v. Target Corp.* (C.D. Cal. Sep. 12, 2014) 2014 U.S. Dist. LEXIS 129852, a reported decision permitting class-wide discovery even though the employer has a lawful policy because “[t]he fact that a company has a policy of not violating the law does not mean that the employees follow it, which is the issue here.” The court also ordered defendant to pay for the cost of *Belaire-West* notice.
- k. In 2013, I represented a whistleblower that reported that his former employer was defrauding the State of California with the help of bribes to public employees. The case, a false claims (qui tam) action, resulted in the arrest and criminal prosecution of State of California employees by the California Attorney General’s Office.
- l. In 2013, I was part of a team of attorneys that obtained conditional certification for over 2,000,000 class members in a federal labor law case for misclassification of independent contractors that did crowdsourced work on the Internet, *Otey v. CrowdFlower, Inc.*, N.D. Cal. Case No. 12-cv-05524-JST (MEJ), resulting in the following pro-plaintiff reported decisions:
 - i. 2013 U.S. Dist. LEXIS 151846 (N.D. Cal. Oct. 22, 2013) (holding that an unaccepted Rule 68 offer doesn’t moot plaintiff’s claims, and granting plaintiff’s motion to strike defendant’s affirmative defenses based on *Twombly/Iqbal*).
 - ii. 2013 U.S. Dist. LEXIS 122007 (N.D. Cal. Aug. 27, 2013) (order granting conditional collective certification).
 - iii. 2013 U.S. Dist. LEXIS 95687 (N.D. Cal. July 8, 2013) (affirming the magistrate judge’s discovery ruling which held that “evidence of other

sources of income is irrelevant to the question of whether a plaintiff is an employee within the meaning of the FLSA”).

iv. 2013 U.S. Dist. LEXIS 91771 (N.D. Cal. June 20, 2013) (granting broad discovery because “an FLSA plaintiff is entitled to discovery from locations where he never worked if he can provide some evidence to indicate company-wide violations”).

m. From 2012 to 2013, I was part of a team of attorneys that obtained class certification for over 60,000 class members for off-the-clock claims, *Linares v. Securitas Security Services USA, Inc.*, Los Angeles Superior Court. Case No. BC416555. We also successfully opposed subsequent appeals to the California Court of Appeal and California Supreme Court.

25. Benjamin H. Haber is a sixth-year Associate Attorney at Wilshire Law Firm, PLC. He is admitted to practice law in the State of California and the Central, Southern, Eastern, and Northern Districts of California. He graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political Science, and received his Juris Doctor from the University of California, Hastings College of the Law in 2016. During law school, he was a member of the executive board for the Hastings Law Journal and a student mediator at the San Francisco Superior Court, Small Claims Division. Since graduating law school, he has focused his legal work primarily on wage and hour class action litigation. His current contingent billing rate for this case is \$650 per hour, which is consistent with his level of experience in the wage and hour arena.

26. Arrash T. Fattahi is a third-year Associate Attorney at Wilshire Law Firm, PLC. He was admitted to practice law in the State of California and the Central and Southern Districts of California in January 2021. Arrash graduated from the University of California, Los Angeles, with a Bachelor of Arts in Political Science, *summa cum laude*. He received his Juris Doctor from The George Washington University Law School. During law school, he was a member of the student editorial board for the *Federal Circuit Bar Journal*. Since January 2021, his practice has mainly been focused on wage and hour class action litigation. His current contingent billing rate for this case is \$450 per hour.

27. My current contingent billing rate of \$850.00 per hour is consistent with my practice area, lead appellate experience in the Ninth Circuit Court of Appeals, numerous awards received, legal market and accepted hourly rates:

- a. In the December 8, 2008 article “Billable Hours Aren’t the Only Game in Town Anymore,” NATIONAL LAW JOURNAL, the following hourly billing rates were reported by Sheppard, Mullin, Richter & Hampton, a leading firm in the defense of wage and hour class actions that I opposed when litigating wage and hour class actions: Partners: \$475-\$795; Associates: 1st Year - \$275, 2nd Year - \$310, 3rd Year - \$335, 4th Year - \$365, 5th Year - \$390, 6th Year - \$415, 7th Year - \$435, 8th Year - \$455. I am a 14th year attorney and Senior Partner, with most of my experience in class action litigation as a primary practice area. Having successfully briefed and argued a published appeal in the Ninth Circuit Court of Appeals involving CAFA and PAGA, having experience certifying large class actions (including *ABM Industries Overtime Cases*, which was decided on appeal), and having received numerous awards for my legal work, my hourly rate should be adjusted upward.
- b. On May 6, 2022 the Hon. Jay A. Garcia-Gregory of the United States District Court in Puerto Rico approved my \$850 hourly rate when he granted final approval of the class action settlement in *Serrano v. Inmediata Corp.*, No. 3:19-cv-01811-JAG, Dkt. 57 (U.S. Dist. Ct. P.R. May 6, 2022).
- c. On September 9, 2021, the Hon. Peter Wilson of the Orange County Superior Court approved my \$800 hourly rate when he granted final approval of the class action settlement in *Ricardo Campos Hernandez v. Adams Iron Co., Inc.*, Case No. 30-2019-01066522-CU-OE-CXC.
- d. On August 6, 2021, the Hon. Stanley Blumenfeld, Jr. of the United States District Court granted final approval of the \$1,600,000 class action settlement in *Carlos Moreno v. Pretium Packaging, Inc.* (C.D. Cal. Aug. 6, 2021) No. 8:19-cv-02500-SB-DFM, 2021 WL 3673845 in which I served as lead counsel. In doing so, the

1 Court approved my then \$750 hourly rate after finding it was “reasonable, given the
2 qualifications of the attorneys who worked on this matter.” (*Id.* at p. *3.)

3 e. On January 19, 2021, the Hon. Elihu M. Berle of the Los Angeles County Superior
4 Court approved my \$750 hourly rate when he granted final approval of the class
5 action settlement in *Faye Zhang v. Richemont North America, Inc.*, Case No.
6 19STCV32396.

7 I declare under penalty of perjury under the laws of the State of California and the United
8 States that the foregoing is true and correct.

9 Executed on June 14, 2023, at Los Angeles, California.

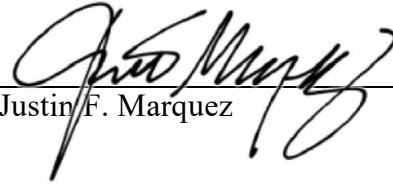
10
11 
12 Justin F. Marquez

Exhibit A

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement” or “Agreement”) is made and entered into between Plaintiff Norberto Burciaga (“Plaintiff”), on behalf of himself and on behalf of similarly situated aggrieved PAGA members, and Defendant ATI Restoration, LLC (“Defendant”).

I. DEFINITIONS

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

1. “Action” means the matter entitled *Norberto Burciaga v. ATI Restoration, LLC, et al.*, San Diego County Superior Court, Case No. 37-2021-00047609-CU-OE-CTL, filed on or about November 9, 2021.

2. “Aggrieved Employees” consist of all persons within the State of California who are or were employed by Defendant in the State of California as hourly-paid or non-exempt from September 1, 2020 through November 7, 2022 or the Effective Date (defined below), whichever is earlier.

3. “Complaint” means the Representative Action Complaint entitled *Norberto Burciaga v. ATI Restoration, LLC, et al.*, San Diego County Superior Court, Case No. 37-2021-00047609-CU-OE-CTL, filed on or about November 9, 2021.

4. “Court” means the Superior Court of California for the County of San Diego.

5. “Effective Date” means the date upon entry of an Order by the Court approving this Settlement.

6. “Individual PAGA Payment” means the amount to be paid to each Aggrieved Employee based on the formula described herein.

7. “LWDA” means the California Labor and Workforce Development Agency.

8. “Gross Settlement Amount” is the non-reversionary sum of Four Hundred and Sixty Thousand Dollars and Zero Cents (\$460,000.00), which represents the total amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff’s Counsel’s fees and costs, and payment to the Settlement Administrator for administration costs.

9. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff’s Counsel’s fees up to one third of the Gross Settlement Amount, currently estimated at One Hundred and Fifty-Three Thousand and Three Hundred and Thirty Dollars and Thirty-Three Cents (\$153,333.00); (b) Plaintiff’s verified costs up to Twenty Thousand Dollars and Zero Cents (\$20,000.00); (c) administration costs up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00); and (d) enhancement payment to Plaintiff of Ten Thousand Dollars (\$10,000.00) for service as the PAGA representative and in exchange for execution of a complete and separate full release of claims, including a section 1542 waiver.

10. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

11. “PAGA Period” means the time period from September 1, 2020 to November 7, 2022 or the date when the Court grants approval of the settlement, whichever is earlier

12. “Released Parties” means Defendant ATI Restoration, LLC and all persons, agents, servants, representatives, officers, directors, stockholders, employees, associations, joint ventures, corporations, parent corporations, subsidiaries, affiliates, partners, members, predecessors and successors in interest, insurers, re-insurers, and assigns, and all other legal entities with whom Defendant has been, is now, or may hereafter be affiliated with.

13. “PAGA Released Claims” mean any and all claims relating to any and all facts and claims asserted in the Action or that could have been asserted in the action, including, but not limited to, any and all claims for PAGA penalties for violations of the California Labor Code governing: meal and rest breaks; minimum wages, overtime and double time wages (including, but not limited to, any and all theories related to “off the clock work” or incorrect calculation of the “regular rate of pay”); expense reimbursement; late payment of wages; failure to properly record and maintain employment records; waiting time penalties; wage statement violations; separation pay violations; and unfair business practices, and any related claims for attorneys’ fees, costs, or interest resulting therefrom.

14. “Parties” mean Plaintiff and Defendant.

15. “Plaintiff’s Counsel” means Justin F. Marquez, Benjamin H. Haber, and Arrash T. Fattahi of Wilshire Law Firm.

16. “Settlement Administrator” means ILYM Group, Inc.

II. RECITALS

1. Plaintiff alleges that Defendant: (1) failed to pay for all hours worked, including minimum, straight time and overtime wages, (2) failed to provide meal periods, (3) failed to authorize and permit rest periods, (4) failed to pay all earned wages twice per month, (5) failed to maintain accurate records of hours worked and meal periods, (6) failed to timely pay final wages, (7) failed to furnish accurate wage statements, and (8) failed to indemnify for necessary expenditures; and as a result of the foregoing, are liable for civil penalties under PAGA.

2. On September 1, 2021, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described above.

3. On November 9, 2021, Plaintiff filed the operative complaint in the Action.

4. The Parties engaged in an informal discovery exchange prior to mediation. In response to Plaintiff’s Counsel’s informal discovery requests, Defendant provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and value the PAGA claim.

5. On September 8, 2022, the Parties participated in mediation before mediator Kelly Knight. With the assistance of Mr. Knight, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

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

2. **Gross Settlement Amount.** Defendant shall pay Four Hundred and Sixty Thousand Dollars and Zero Cents (\$460,000.00) as the non-reversionary Gross Settlement Amount. Defendant will not pay more than the Gross Settlement Amount. Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator within thirty (30) calendar days after the Effective Date.

3. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, if approved by the Court, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Counsel's Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one third (33.3333%) of the Gross Settlement Amount (currently estimated at One Hundred and Fifty-Three Thousand and Three Hundred and Thirty Dollars and Thirty-Three Cents [\$153,333.00]) and costs incurred in prosecuting this Action, up to Twenty Thousand Dollars and Zero Cents (\$20,000.00). In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. Defendant, via the Settlement Administrator, will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. **Administration Costs.** Defendant will not oppose the Settlement Administrator's costs in the amount up to Fifteen Thousand Dollars and Zero Cents (\$15,000.00) for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. Defendant, via the Settlement Administrator, will report this payment on IRS Form 1099 issued to the Settlement Administrator.

c. **Enhancement Payment to Plaintiff.** Defendant will not oppose the Enhancement award to Plaintiff in the amount up to Ten Thousand Dollars and Zero Cents (\$10,000.00) for service as the PAGA representative and for executing a general release of claims including a section 1542 waiver, set forth in paragraph 7 below.

4. **Allocation of Net Settlement Amount.** The Net Settlement Amount shall be distributed pursuant to Lab. Code § 2699(i) as follows:

a. 75% of the Net Settlement Amount shall be distributed to the LWDA.

b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees on a pro rata basis which is based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Gross Settlement Amount or the Net Settlement Amount, the Parties agree to re-negotiate the allocation of funds in good faith in an effort to obtain approval of the Settlement.

5. **Representative PAGA Release.** In his capacity as a Private Attorney General or “aggrieved employee” acting on behalf of himself, the State of California and Aggrieved Employees, Plaintiff hereby releases Defendant and Released Parties from any and all of the PAGA Released Claims that arose during the PAGA Period.

6. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement, Plaintiff and all Aggrieved Employees will release any and all PAGA Released Claims against the Released Parties that arose and/or existed during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, Plaintiff and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose and/or existed during the PAGA Period against the Released Parties.

7. **Plaintiff’s General Release.**

a. Plaintiff personally agrees to release, in addition to the PAGA Released Claims, all claims, whether known or unknown, under federal law or state law, to the fullest extent permitted by law, against the Released Parties. This release includes, without limiting the generality of the foregoing: any and all claims, demands, causes of actions, obligations, charges, liabilities, attorneys’ fees, costs, actual, compensatory and punitive damages, and all claims for any other type of relief relating to, arising out of, or based upon: all claims of harassment, discrimination, and/or retaliation in violation of State or Federal law; all claims for failure to accommodate and/or failure to engage in the interactive process; violations, interference with and/or retaliation for requesting and taking a leave of absence under state or Federal law; all claims of violation of public policy, including a claim for wrongful and/or constructive termination of employment; all claims for fraud or misrepresentation; all claims based on tort and/or breach of contract, whether written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid wages, commissions, or other benefits, including minimum wage, regular, overtime, double time, vacation, associated penalties and/or premiums, and expense reimbursement; all claims for rest or meal periods and associated penalties and/or premiums; all claims for stock options; all claims for inaccurate wage statements; all claims for the alleged failure to pay all wages at separation; all claims for failure to timely provide documents for review and/or inspection; any claim for unlawful or unfair business practices; and claim regarding rights created in response to COVID-19, and any other applicable laws, regulations, and rules; all claims for emotional distress; and any and all claims generally relating to Plaintiff’s employment with

Defendant and the cessation thereof, including any alleged violation of any federal, state or other governmental statute, regulation, ordinance, or executive order, including without limitation:

- (1) The Civil Rights Acts of 1866, 1964, and 1991, as amended;
- (2) 42 U.S.C. § 1981;
- (3) The California Fair Employment and Housing Act;
- (4) Section 503 of the Rehabilitation Act of 1973;
- (5) The Fair Labor Standards Act (including the Equal Pay Act);
- (6) The California and United States Constitutions;
- (7) The California Labor Code, specifically including, but not limited to, the Private Attorneys General Act pursuant to *Labor Code* § 2699, *et seq.*;
- (8) The California Business and Professions Code;
- (9) The Employee Retirement Income Security Act, as amended;
- (10) The California Family Rights Act;
- (11) The Americans with Disabilities Act;
- (12) The Family Medical Leave Act;
- (13) The California Pregnancy Discrimination Act;
- (14) The California Wage Orders;
- (15) The National Labor Relations Act;
- (16) The Immigration Reform and Control Act;
- (17) California Occupational Safety and Health Act, or the Federal equivalent;
- (18) The Worker Adjustment and Retraining Notification Act;
- (19) The Families First Coronavirus Response Act; and
- (20) COVID-19 Supplemental Paid Sick Leave.

Plaintiff, by executing this release, is representing and acknowledging that he is currently unaware of any basis to make a claim for workers' compensation benefits. This release in all respects has been voluntarily and knowingly executed with the express intention of effecting the legal consequences provided in the California *Civil Code* section 1541, that is, the extinguishment of obligations herein designated. This release does not cover any claims that cannot be waived as a matter of law.

b. Waiver Under Section 1542 of the California Civil Code. Plaintiff further understands that this release includes unknown claims and that he is, as a result, waiving all rights and benefits afforded by Section 1542 of the California Civil Code, which provides:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

Notwithstanding the above nor anything else in this Agreement, this waiver and release does not apply to: (i) those rights as a matter of law that cannot be waived, including, but not limited to, workers' compensation claims; (ii) rights or claims arising out of this Agreement after the date this Agreement is executed by Plaintiff and (iii) rights or claims arising out of this Agreement. The Agreement in no way affects Plaintiff's entitlement and/or benefits to be received by Plaintiff in workers' compensation pursuant to the jurisdiction of workers' compensation.

8. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement

9. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

10. **Confidentiality.** Except as provided below, to the extent necessary to effectuate the Settlement or as required by court or legal process, Plaintiff and Plaintiff's Counsel will keep the terms of this Settlement confidential. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, hold a press conference, publish information about the Settlement on any website or through any social media or otherwise publicize the Settlement or communicate its terms (including the amount) in public or in private, other than as necessary to obtain Court approval of this Settlement and/or unless otherwise ordered by the Court or required by law. The Parties and Plaintiff's Counsel agree that they will not initiate or have contact with the press, respond to any press inquiry, or have any communication with the press about the Action. Notwithstanding the above, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff's Counsel may reference the Action by name and case number in a declaration establishing adequacy as class or representative counsel.

To permit judicial review and approval of the PAGA Payment, as required by Labor Code Section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement with the Court and submit the Settlement to the LWDA as part of the Parties seeking Court approval of the Settlement, pursuant to Lab. Code § 2699(l)(2).

11. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

12. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. **ADMINISTRATION OF SETTLEMENT**

1. **Settlement Administrator.** The Parties agree to use ILYM Group, Inc. to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) calendar days after the Effective Date, Defendant shall provide the Settlement Administrator confidentially with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total pay periods worked and/or dates of employment during the PAGA Period, and Social Security number. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to those with a need to use the list as part of the administration of the Settlement.

Within seven (7) calendar days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within two (2) calendar days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.4., *supra*. The Settlement

Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with an explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

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 involved and will perform a single re-mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued.

5. **Payment of Remainder.** Within two (2) calendar days of receiving approval from counsel of the payment calculations, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; and (3) the Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** Within fifteen (15) calendar days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for the Parties, make any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

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

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

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

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

6. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement 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 unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

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

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

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

11. **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 arms-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

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

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

15. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions. In any proceeding to enforce the terms of this Agreement, the Parties may disclose the terms of this Agreement to the extent necessary to enforce the Agreement, but shall make all efforts to preserve the confidentiality of this Agreement, including, but not limited to, filing the relevant provisions of the Agreement and/or discussion of these terms under seal or conditionally under seal to the fullest extent appropriate and possible.

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

17. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement 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 under California Code of Civil Procedure section 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

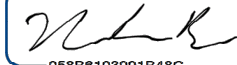
18. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

19. **Escalator Provision.** Defendant represents that there are approximately 51,836 cumulative pay periods worked by the Aggrieved Employees during the period of September 1, 2020 to August 5, 2022. In the event the number of pay periods worked by the Aggrieved Employees increases by more than 10%, or 5,184, for the PAGA Period, then Defendant may decide to either: (1) increase the Gross Settlement Amount proportionally by the pay periods worked in excess of 57,020 multiplied by the pay period value; or (2) end the PAGA Period on the date on which the pay periods exceed an additional 10% of the 51,836 cumulative pay periods. In the event Defendant selects option (1), the pay period value shall be calculated by dividing the Gross Settlement Amount by 51,836 pay periods. The Parties agree that the pay period value is \$8.87 (\$460,000 / 51,836 pay periods). Thus, for example, should there be 58,000 pay periods in the period from September 1, 2020 to August 5, 2022, then the Gross Settlement Amount shall be increased by \$8,692.60 $([58,000 \text{ pay periods} - 57,020 \text{ pay periods}] \times [\$8.87/\text{pay period}])$. As used here, “pay periods” refers to pay periods during which an Aggrieved Employee recorded at least one hour of work, unless determining that is not possible and in which case dates of employment can be used instead.

20. **Calendar Days.** In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

Dated: 4/2/2023

DocuSigned by:

058B8103001B48C...
Norberto Burciaga, Plaintiff

Dated: 4/24/2023

DocuSigned by:

EFD8FC02A00B4E7...
Defendant ATI Restoration, LLC

By: Kevin Casenhiser

Its: General Counsel

EXHIBIT A

[Administrator's Letterhead]

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

Enclosed please find a check in the amount of [INDIVIDUAL SETTLEMENT SHARE].

You are receiving this check because of a lawsuit brought by Norberto Burciaga ("Plaintiff") against Defendant ATI Restoration, LLC ("Defendant") for civil penalties pursuant to the Private Attorneys General Act, California Labor Code § 2698 et seq. ("PAGA"). The claim was filed in the San Diego County Superior Court under Case No. 37-2021-00047609-CU-OE-CTL (the "Action").

Plaintiff's claim against Defendant is for civil penalties pursuant to the PAGA, a law that allows Plaintiff to attempt to stand in the shoes of the government and to seek penalties on the government's behalf and on behalf of those employees who Plaintiff claims were "aggrieved" by Defendant's alleged unlawful conduct. Specifically, Plaintiff alleges that Defendant failed to comply with wage-and-hour laws as to non-exempt employees who worked for Defendant.

Defendant strongly denies these claims and maintains that it fully complied with all applicable wage-and-hour laws. Nevertheless, to avoid further costs and uncertainty from further litigation, the parties agreed to settle the matter. The settlement covers Defendant and all persons, agents, servants, representatives, officers, directors, stockholders, employees, associations, joint ventures, corporations, parent corporations, subsidiaries, affiliates, partners, members, predecessors and successors in interest, insurers, re-insurers, and assigns, and all other legal entities with whom Defendant has been, is now, or may hereafter be affiliated with (all of whom are referred to here as the "Released Parties"). The Court has approved the settlement and release of claims described below. By settling this claim, Defendant and the Released Parties are not admitting they have done anything wrong, and they deny that they owe any penalties to the government or to you.

On [insert date], 2023, the settlement was approved by the Court. A portion of the settlement is being paid to the government and a portion is being paid to each non-exempt or hourly-paid employee who worked for Defendant in California from September 1, 2020 to November 7, 2022 (the "Aggrieved Employees"). You are receiving a portion of the settlement because Defendant's records indicate that you worked for Defendant during at least one pay period from September 1, 2020 to November 7, 2022.

You will not be retaliated against for cashing the check. It is entirely up to you if you cash your check or not. Checks that are not cashed within 180 days of issuance shall be sent to the California Department of Unclaimed Property. Regardless of what you do with the check issued to you, by law and Court order, you have released the Released Parties from the released claims described below.

One hundred percent (100%) of your payment under this settlement will be considered penalties and will be reported to the IRS and state tax authorities.

This settlement bars you and other Aggrieved Employees, for the period spanning September 1, 2020 to November 7, 2022, from pursuing any and all claims relating to any and all facts and claims asserted in the Action or that could have been asserted in the Action, including, but not limited to, any and all claims for PAGA penalties for violations of the California Labor Code governing: meal and rest breaks; minimum wages, overtime and double time wages (including, but not limited to, any and all theories related to "off the clock work" or incorrect calculation of the "regular rate of pay"); expense reimbursement; late payment of wages; failure to properly record and maintain employment records; waiting time penalties; wage statement violations; separation pay violations; and unfair business practices, and any related claims for

attorneys' fees, costs, or interest resulting therefrom.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement.

**If you have any questions, you may call or write [insert], at the following phone number or address:
[insert address and telephone number for Administrator's contact person]**

Exhibit B

WILSHIRE LAW FIRM, PLC

3055 Wilshire Blvd, 12th Floor
Los Angeles, CA 90010
Tel: (213) 381-9988
Fax: (213) 381-9989
www.wilshirelawfirm.com



Bobby Saadian, Esq. JD/MBA

Colin M. Jones, Esq.
A. Ilyas Akbari, Esq.
Brad Stuckey, Esq.
Gail Richardson, Esq.
Justin F. Marquez, Esq.
Robert Dart, Esq.
Jon Teller, Esq.
Sutton A. Shapiro, Esq.
Daniel B. Miller, Esq.

Tae Kim, Esq.
Hazel Chang, Esq.
Daniel DeSantis, Esq.
Nicol Hajjar, Esq.
Thiago Coelho, Esq.
Erik Harper, Esq.
Johnny Ogata, Esq.
Jennifer Reiz, Esq.

September 1, 2021

LWDA
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
(Via Online Submission)

ATI Restoration, LLC
3360 E. La Palma Ave.
Anaheim, CA 92806
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4729 56

American Technologies, Inc.
3360 E. La Palma Ave.
Anaheim, CA 92806
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4729 63

C T Corporation System
Agent for Service of Process for: ATI Restoration, LLC
330 N. Brand Blvd.
Glendale, CA 91203
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4729 70

Danielle Hultenius Moore
Fisher & Phillips LLP
Attorneys for: American Technologies, Inc.
4747 Executive Drive, Suite 1000
San Diego, CA 92121
(Via Certified Mail, Return Receipt Requested)
#9489 0090 0027 6362 4729 87

Re: ***Norberto Burciaga v. ATI Restoration, LLC, et al.***
Notice of Labor Code Violations and PAGA Penalties

To Whom It May Concern:

Please be advised that my office has been retained by Norberto Burciaga ("Plaintiff") to pursue a Labor Code Private Attorneys General Act ("PAGA") representative action (Cal. Lab. Code §§ 2699, *et seq.*) against his former employers, ATI Restoration, LLC and American Technologies,

Inc. (“Defendants”). The purpose of this letter is to comply with PAGA and set forth the facts and theories of California Labor Code violations which we allege Defendants engaged in with respect to Plaintiff and all other persons who worked for Defendants in California as non-exempt or hourly-paid employees at any time within the applicable statutory period (“Aggrieved Employees”).

Plaintiff wishes to pursue this action on behalf of himself as an aggrieved employee, on behalf of the State of California, as well as on behalf of the Aggrieved Employees.

Plaintiff and the Aggrieved Employees suffered the Labor Code violations described below.

Plaintiff’s Employment with Defendants

Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including San Diego County. As such, and based upon all the facts and circumstances incident to Defendants’ business in California, Defendants are subject to the California Labor Code and Wage Orders issued by the Industrial Welfare Commission (“IWC”).

Plaintiff Norberto Burciaga was a California resident during his employment with Defendants and worked for Defendants in San Diego, California as an hourly-paid, non-exempt employee from approximately January 2019 to approximately February 2021. Throughout Plaintiff’s employment, Defendants failed to pay for all hours worked (including minimum, straight time, and overtime wages), failed to provide Plaintiff with meal periods, failed to authorize and permit Plaintiff to take rest periods, failed to pay all earned wages twice per month, failed to keep and maintain records of hours worked and meal periods, failed to timely pay all final wages to Plaintiff when Defendants terminated Plaintiff’s employment, failed to furnish accurate wage statements to Plaintiff, and failed to indemnify Plaintiff for expenditures incurred in direct discharge of his duties for Defendants. As discussed below, Plaintiff’s experience working for Defendants was typical and illustrative.

Defendants Failed to Pay for All Hours Worked, Including Minimum, Straight Time, and Overtime Wages

Under California law, an employer must pay for all hours worked by an employee. “Hours worked” is the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so.

In addition, Labor Code § 510 provides that employees in California shall not be employed more than eight hours in any workday or forty (40) hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law.

Labor Code §§ 1194 and 1198 also provide that employees in California shall not be employed more than eight hours in any workday unless they receive additional compensation beyond their

regular wages in amounts specified by law. Additionally, Labor Code § 1198 states that the employment of an employee for longer hours than those fixed by the IWC is unlawful.

Throughout the statutory period, Defendants maintained a policy and practice of not paying Plaintiff and the Aggrieved Employees for all hours worked, including minimum, straight time, and overtime wages. Defendants required Plaintiff and the Aggrieved Employees to work “off-the-clock,” uncompensated, by, for example, requiring Plaintiff and the Aggrieved Employees to work unpaid during legally required meal periods. Some of this unpaid work should have been paid at the overtime rate. In failing to pay for all hours worked, Defendants also failed to maintain accurate records of the hours Plaintiff and the Aggrieved Employees worked.

Defendants also wrongfully failed to include non-discretionary bonuses, commissions, incentive pay, production pay, performance pay, and/or shift differentials in the calculation of Plaintiff’s and the other Aggrieved Employees’ regular rate of pay used to calculate their overtime rate for the payment of overtime wages. Plaintiff and the other Aggrieved Employees earned non-discretionary bonuses, commissions, incentive pay, production pay, performance pay, and/or shift differentials and overtime wages in the same pay period where they worked overtime hours. Accordingly, Defendants failed to compensate Plaintiff and the Aggrieved Employees for all overtime compensation they were owed.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210, 1197.1, and 2699(f)(2) for failing to pay for all hours worked, including minimum, straight time, and overtime wages.

Failure to Provide Meal Periods

Under California law, employers have an affirmative obligation to relieve employees of all duty in order to take their first 30-minute, duty-free meal period by the end of their fifth hour of work in a workday, and to allow employees to take their second 30-minute, duty-free meal period by the end of their tenth hour of work. Further, employees are entitled to be paid one hour of additional wages for each workday they were not provided with a required meal period(s).

Despite these legal requirements, Defendants wrongfully failed to provide Plaintiff and the Aggrieved Employees with legally compliant meal periods. Defendants regularly, but not always, required Plaintiff and the Aggrieved Employees to work in excess of five consecutive hours a day without providing a 30-minute, uninterrupted, and duty-free meal period for every five hours of work, or without compensating Plaintiff and the Aggrieved Employees for meal periods that were not provided by the end of the fifth hour of work or tenth hour of work. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory meal periods, or by denying Plaintiff and the Aggrieved Employees permission to take a meal period. Defendants also never informed Plaintiff of his right to, nor permitted him to take, a second meal period when Plaintiff worked at

least ten hours in a workday. Accordingly, Defendants' policy and practice was not to provide meal periods to Plaintiff and the Aggrieved Employees in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not provided with a required meal period(s). Defendants, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for meal periods and that were not provided.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to provide meal periods and pay meal period premium wages.

Failure to Authorize and Permit Rest Periods

Employers are required by California law to authorize and permit breaks of ten uninterrupted minutes for each four hours of work or major fraction of four hours (i.e. more than two hours). Thus, for example, if an employee's work time is six hours and ten minutes, the employee is entitled to two rest breaks. Each failure to authorize rest breaks as so required is itself a violation of California's rest break laws.

Throughout the statutory period, Defendants have wrongfully failed to authorize and permit Plaintiff and the Aggrieved Employees to take legally compliant rest periods. Defendants regularly required Plaintiff and the Aggrieved Employees to work in excess of four consecutive hours a day without Defendants authorizing and permitting them to take a 10-minute, uninterrupted, duty-free rest period for every four hours of work (or major fraction of four hours), or without compensating Plaintiff and the Aggrieved Employees for rest periods that were not authorized or permitted. Instead, Defendants continued to assert control over Plaintiff and the Aggrieved Employees by requiring, pressuring, or encouraging them to perform work tasks which could not be completed without working in lieu of taking mandatory rest periods, or by denying Plaintiff and the Aggrieved Employees permission to take a rest period.

Accordingly, Defendants' policy and practice was to not authorize and permit Plaintiff and the Aggrieved Employees to take rest periods in compliance with California law.

Plaintiff and the Aggrieved Employees are thus entitled to be paid one hour of additional wages for each workday he or she was not authorized and permitted to take all required rest periods. Defendant, however, regularly failed to pay Plaintiff and the Aggrieved Employees the additional wages to which they were entitled for rest periods and that they were not authorized and permitted to take.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 210 and 2699(f)(2) for failing to authorize and permit rest periods and pay rest period premium wages.

///

Failure to Pay All Earned Wages Twice Per Month

Based on its failure to pay Plaintiff and the Aggrieved Employees for all wages as discussed above, Defendants also violated Labor Code § 204.

Labor Code § 204 requires employers to pay employees all earned wages two times per month. Throughout the statute of limitations period applicable to this cause of action, employees were entitled to be paid twice a month at their regular rates, including all meal period premium wages owed, rest period premium wages owed, and wages owed for overtime hours worked. However, during all such times, Defendants systematically failed and refused to pay Plaintiff and the Aggrieved Employees all wages due, and failed to pay those wages twice a month, in that they were not paid all wages for all meal periods not provided by Defendants, all wages for all rest periods not authorized and permitted by Defendants, and all wages for all hours worked. As a result, Defendants owe the employees the legally required wages not paid, and Plaintiff and the Aggrieved Employees suffered damages in those amounts.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 210 for failing to pay all earned wages twice per month.

Failure to Maintain Accurate Records of Hours Worked and Meal Periods

Plaintiff seeks penalties under California Labor Code § 1174(d). Pursuant to California Labor Code § 1174.5, any person, including any entity, employing labor who willfully fails to maintain accurate and complete records required by California Labor Code § 1174 is subject to a penalty under § 1174.5. Pursuant to the applicable IWC Order § 7(A)(3), every employer shall keep time records showing when the employee begins and ends each work period. Meal periods and total hours worked daily shall also be recorded.

Defendants, however, failed to maintain accurate records of hours worked and all meal periods taken or missed by Plaintiff and the Aggrieved Employees.

Defendants' failure to provide and maintain records required by the California Labor Code and IWC Wage Orders deprived Plaintiff and the Aggrieved Employees the ability to know, understand and question the accuracy and frequency of meal periods, and the accuracy of their hours worked stated in Defendants' records. Therefore, Plaintiff and the Aggrieved Employees had no way to dispute the resulting failure to pay wages, all of which resulted in an unjustified economic enrichment to Defendants. As a direct result, Plaintiff and the Aggrieved Employees have suffered, and continue to suffer, substantial losses related to the use and enjoyment of such wages, lost interest on such wages and expenses and attorney's fees in seeking to compel Defendants to fully perform its obligation under state law, all to their respective damage in amounts according to proof at trial. As a result of Defendants' knowing failure to comply with the California Labor Code and applicable IWC Wage Orders, Plaintiff and the Aggrieved

Employees have also suffered an injury in that they were prevented from knowing, understanding, and disputing the wage payments paid to them.

Failure to Timely Pay All Wages at Termination

Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

Within the applicable statute of limitations, the employment of Plaintiff and many other Aggrieved Employees ended, i.e., was terminated by quitting or being discharged, and the employment of others will be terminated. However, during the relevant time period, Defendants failed, and continues to fail to pay Plaintiff and terminated Aggrieved Employees, without abatement, all wages required to be paid by Labor Code §§ 201 and 202 either at the time of discharge, or within seventy-two (72) hours of their leaving Defendants' employment. These unpaid wages include wages for unpaid work time (including minimum, straight time, and overtime wages), missed meal period premium wages, and missed rest period premium wages.

Defendants' conduct violates Labor Code §§ 201 and 202. Labor Code § 203 provides that if an employer willfully fails to pay wages owed, in accordance with §§ 201 and 202, then the wages of the employee shall continue as a penalty wage from the due date, and at the same rate until paid or until an action is commenced; but the wages shall not continue for more than thirty (30) days.

Accordingly, Plaintiff and the Aggrieved Employees are entitled to recover from Defendants their additionally accruing wages for each day they were not paid, at their regular hourly rate of pay, up to thirty (30) days maximum pursuant to Labor Code § 203.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 2699(f)(2) for failing to timely pay all wages at termination.

Failure to Furnish Accurate Itemized Wage Statements

Labor Code § 226(a) provides that every employer shall furnish each of his or her employees an accurate itemized wage statement in writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of his or her social security number or an employee identification number other than a social security number,

(8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. An employee is presumed to suffer an injury if this information is missing. (Lab. Code § 226(e)(2)(B)(iii).)

The statute further provides: “An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees.” (Lab. Code § 226(e)(1).)

Throughout the statutory period, Defendants failed to furnish Plaintiff and the Aggrieved Employees with accurate, itemized wage statements showing all applicable hourly rates, and all gross and net wages earned (including correct hours worked, correct wages for meal periods that were not provided in accordance with California law, and correct wages for rest periods that were not authorized and permitted to take in accordance with California law).

Because Defendants violated Labor Code § 226, Plaintiff and similarly Aggrieved Employees suffered injury and damage to their statutorily protected rights. Accordingly, Plaintiff and similarly Aggrieved Employees are entitled to recover from Defendants the greater of their actual damages caused by Defendants’ failure to comply with Labor Code § 226(a), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

Moreover, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code § 226.3 for failing to furnish accurate itemized wage statements.

Failure to Indemnify for Necessary Expenditures

Labor Code § 2802(a) provides that employers shall indemnify his or her employees for all necessary business expenditures or losses that have been incurred by the employees in direct discharge of his or her duties. Throughout the statute of limitations period applicable to this cause of action, Defendants wrongfully required Plaintiff and the Aggrieved Employees to pay expenses that they incurred in direct discharge of their duties for Defendants. Plaintiff and the Aggrieved Employees regularly paid out-of-pocket for necessary employment-related expenses, including, without limitation, use of personal vehicles for work-related duties and gas mileage. Plaintiff and the Aggrieved Employees incurred substantial expenses as a direct result of performing their job duties for Defendants, but Defendants failed to indemnify Plaintiff and the Aggrieved Employees for these employment-related expenses.

As a result, Defendants are liable to Plaintiff and the Aggrieved Employees for the civil penalties provided for in Labor Code §§ 2802 and 2699(f)(2) for failing to indemnify Plaintiff and the Aggrieved Employees for necessary business expenditures.

Action for Civil Penalties Under PAGA

In light of the above, Plaintiff alleges that Defendants violated the following provisions of the Labor Code with respect to the Aggrieved Employees:

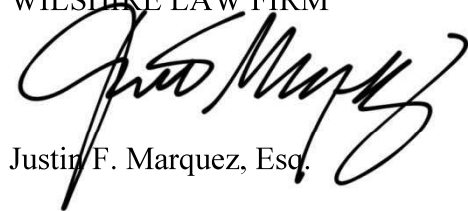
1. Labor Code §§ 204, 510, 1194, 1197, and 1198 by failing to pay for all hours worked, including minimum, straight time, and overtime wages;
2. Labor Code § 226.7 and applicable Wage Orders by failing to provide meal periods;
3. Labor Code § 226.7 and applicable Wage Orders by failing to authorize and permit rest periods;
4. Labor Code § 204 by failing to pay all earned wages two times per month;
5. California Labor Code § 1174.5 and applicable Wage Orders by failing to maintain accurate records of hours worked and meal periods taken or missed;
6. Labor Code §§ 201 to 203 by willfully failing to pay all wages owed at termination;
7. Labor Code § 226 by failing to provide accurate itemized wage statements; and
8. Labor Code § 2802 by failing to indemnify for necessary expenditures.

Therefore, on behalf of all Aggrieved Employees, Plaintiff seeks applicable penalties related to the violations alleged above pursuant to the PAGA. These include, but are not limited to, penalties under Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699(f)(2).

Plaintiff has placed Defendants on notice by mailing a certified copy of this correspondence, as indicated on the first page. Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact me.

Sincerely,

WILSHIRE LAW FIRM

A handwritten signature in black ink, appearing to read "Justin Marquez", is written over the printed name.

Justin F. Marquez, Esq.

Exhibit C

Wilshire Law Firm, PLC
Transaction Detail by Account
All Transactions

6/12/2023

Accrual Basis

<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Memo</u>	<u>Amount</u>	<u>Balance</u>
COSTS					
Expert Fees					
	2/24/2022	556478	Mediation Fee	6,250.00	6,250.00
	9/14/2022	6799	Expert Fees	3,300.00	3,300.00
Total EXPERT FEES				9,550.00	9,550.00
Legal Expenses					
	9/2/2021		PAGA Fee	75.00	75.00
	9/8/2021	844958460	Legal Research	8.03	8.03
	6/27/2022	INV76407-010-01	Legal Research	2,850.00	2,850.00
	8/11/2022	846791965	Legal Research	39.98	39.98
	10/4/2022	847129568	Legal Research	104.36	104.36
Total LEGAL EXPENSES				3,077.37	3,077.37
Process Service Fees					
	1/14/2021		Attorney Services	307.50	307.50
	11/10/2021	41960	Attorney Services	563.50	563.50
	11/12/2021	42099	Attorney Services	45.00	45.00
	11/12/2021	42051	Attorney Services	129.00	129.00
	9/22/2022		Attorney Services	12.87	12.87
	1/12/2023		Attorney Services	13.90	13.90
	1/15/2023		Attorney Services	5.97	5.97
	1/29/2023		Attorney Services	5.97	5.97
	2/2/2023	54779	Attorney Services	109.95	109.95
	2/22/2023		Attorney Services	14.36	14.36
	3/5/2023		Attorney Services	5.97	5.97
	3/15/2023		Attorney Services	14.36	14.36
	3/19/2023		Attorney Services	5.97	5.97
Total PROCESS SERVICE FEES				1,234.32	1,234.32
Other Costs					
	1/21/2021		Case Administration Fee for In-House Services	500.00	500.00
	4/27/2021	E-471519	Printing Cost	3.25	3.25
	9/1/2021	E-746355	Printing Cost	6.00	6.00
	9/1/2021	E-560993	Printing Cost	6.33	6.33
	9/1/2021	E-560995	Printing Cost	6.33	6.33
	9/1/2021	E-560996	Printing Cost	6.33	6.33
	9/1/2021	E-560992	Printing Cost	6.33	6.33
	9/7/2022		Lunch meeting	142.44	142.44
	9/8/2022		Breakfast during mediation	168.49	168.49
	9/8/2022		Lunch during mediation	172.55	172.55
Total OTHER COSTS				1,018.05	1,018.05
TOTAL				14,879.74	14,879.74

Exhibit D

Case Name: Burciaga v. ATI Restoration

Wednesday, September 14, 2022

Requesting Attorneys Name:	Justin Marquez
E-Mail:	Justin@wilshirelawfirm.com
ILYM Contact:	Sean Hartranft
E-Mail:	Sean@ilymgroup.com
Contact Number:	949.690.2564

Assumptions: PAGA Settlement

ASSUMPTIONS	
Total Number of Aggrieved Employees	800
Toll-Free Telephone Support	Yes
Certified Spanish Translation	No
Case Duration (Years)	1

Activity	Rate Type	Unit Cost	Volume	Amount
CASE STARTUP				
Initial Setup - Import and Formatting of Data*	Hourly	\$150.00	8	\$1,200.00
Project Manager (Case notification and maintenance)	Hourly	\$120.00	6	\$720.00
Toll Free Phone Support	Flat Rate	\$95.00	1	\$95.00
NCOA	Flat Rate	\$125.00	1	\$125.00

*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 \$2,140.00

DISTRIBUTION (Includes EIN, Bank Acct /QSF Setup)*				
Distribution Setup & Management	Hourly	\$150.00	6	\$900.00
Account Reconciliation & Distribution Reporting	Hourly	\$125.00	6	\$750.00
Fulfillment of Notice & Check - (including 1099)	Per Check	\$2.00	800	\$1,600.00
USPS First Class 1oz Postage	Per Piece	\$0.60	800	\$480.00
Remails (Forward/Skip Trace Undeliverables)	Per Piece	\$2.50	80	\$200.00
Preparation of Taxes	Hourly	\$125.00	10	\$1,250.00
Annual Filing of Tax Return	Per Year	\$1,500.00	1	\$1,500.00

*Additional Bank fees may apply

Subtotal \$6,680.00

CASE CONCLUSION				
Data Manager Final Reporting	Hourly	\$100.00	6	\$600.00
Declaration	Hourly	\$125.00	3	\$375.00

Subtotal \$975.00

Will Not Exceed: \$9,795.00

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. Now a 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.

Burciaga v. ATI Restoration, LLC, et al.
37-2021-00047609-CU-OE-CTL