

PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 ET SEQ.)
SETTLEMENT AGREEMENT

Brian Saylor v. Hamama, Inc.
Yolo County Superior Court
Case Number CV2022-0610

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the settlement of this action with respect to all claims brought in a representative capacity pursuant to the Private Attorneys General Act (“PAGA”) (Labor Code § 2698 *et seq.*) shall be effectuated upon and subject to the following terms and conditions. Capitalized terms used herein shall have the meanings set forth in Article I or elsewhere in this PAGA Settlement Agreement (“Agreement”).

This Agreement is made by and between Defendant Hamama, Inc. (“Defendant”), Plaintiff Brian Saylor (“Plaintiff”), for himself, Aggrieved Employees (defined below), on behalf of the State of California, and the law firms defined below as “Plaintiff’s Counsel” and “Defense Counsel.” (Defendant, Plaintiff and Aggrieved Employees, as defined herein, are sometimes collectively referred to as the “Parties.”) This Agreement shall be effective upon the last date upon which it is signed by the Parties.

The Parties agree that all representative claims brought pursuant to PAGA in Yolo County Superior Court case number CV2022-0610 (the “Litigation” or “Action”) shall be, and hereby are, ended, settled, resolved, and concluded by agreement of Defendant to pay the sum of Forty-Five Thousand Dollars (\$45,000.00) (hereinafter referred to as the “PAGA Settlement Sum”) for settlement of the PAGA claims and penalties sought in the Litigation, which shall be inclusive of Plaintiff’s Counsel attorneys’ fees and costs in connection with this Agreement and a general release payment to Plaintiff Saylor. The Parties further agree that this Agreement is a compromise of disputed claims and that nothing in this Agreement shall be construed as an admission of liability.

Article I.

Definitions.

Section 1.01 Definitions.

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) “Aggrieved Employees” means all individuals who worked for Defendant Hamama, Inc. in California, as hourly and/or non-exempt employees at any time between January 13, 2021 and March 29, 2022 at Defendant’s warehouse facility in its manufacturing, fulfillment, warehousing, and R&D operations. Defendant represents that the total number of Aggrieved Employees is approximately 73 individuals.

- (b) “Complaint” means the operative Complaint filed by Plaintiff on or about April 20, 2022 which asserts claims under PAGA predicated on underlying violations of Labor Code §§ 201, 202, 204, 210, 212, 225.5, 226(a), 226.3, 226.7, 510, 512, 558, 1194, and 2802.
- (c) “Court” means the Superior Court for the State of California, County of Yolo.
- (d) “Defense Counsel” or “Counsel for Defendant” is:

Gillian McKean Bidgood, Esq.
POLSINELLI
1401 Lawrence Street, Suite 2300
Denver, CO 80202
- (e) “Effective Date” means the date the Court approves the settlement of the PAGA penalties as described in this Agreement and dismisses the Action with prejudice.
- (f) “Plaintiff’s Counsel” is:

Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
GAINES & GAINES, APLC
4550 East Thousand Oaks Boulevard, Suite 100
Westlake Village, California 91362
- (g) “Release Period” means the time period January 13, 2021 through March 29, 2022.

Article II.

Background.

Section 2.01 Background.

- (a) On April 20, 2022, Plaintiff Saylor filed a complaint in the Superior Court of the State of California for the County of Yolo, entitled *Brian Saylor v. Hamama, Inc.*, Case No. CV2022-0610. The Litigation is brought by Brian Saylor, on behalf of himself, the State of California and other aggrieved employees, as a single representative cause of action pursuant to the Private Attorneys General Act of 2004 (Cal. Labor Code § 2698 *et seq.*) based on alleged violations of Labor Code §§ 201, 202, 204, 210, 212, 225.5, 226(a), 226.3, 226.7, 510, 512, 558, 1194, and 2802 premised on Defendant’s alleged failure to pay all wages due and owing during employment, provide all meal and rest periods or premium compensation in lieu thereof, reimburse all necessary business expenses, pay all wages due by an instrument payable in cash and on demand, without discount, timely pay all wages due during employment and upon separation of employment, and issue complete and accurate wage statements.
- (b) The Parties engaged in basic informal discovery prior to the filing of the lawsuit to determine the total number of aggrieved employees and implicated pay periods at issue and

a review of the pertinent policies and procedures. The Parties reached this PAGA Settlement only after such discovery and investigation was performed.

- (c) This PAGA Settlement contemplates the entry of an order by the Court approving the payment allocated for settlement of the PAGA claims and dismissing the Action with prejudice.

Article III.

Approval and Implementation of Settlement.

Section 3.01 Cooperation.

The Parties will cooperate in obtaining, through a stipulation and order, or an unopposed motion, if required, an Order from the Court approving the payment of the PAGA Settlement Sum as described in this Agreement at the earliest possible date. Concurrently with the submission of this Agreement to the Court, Plaintiff shall submit it to the LWDA as required by PAGA. The Parties agree to use their best efforts to expedite the preparation and submission of the settlement documents. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, shall take all steps that may be requested by the Court relating to, or that are otherwise necessary to, the approval and implementation of the payment of the PAGA Settlement Sum as described in this Agreement.

The Court's approval of the payment of the PAGA Settlement Sum as described in this Agreement shall be embodied in a written Order, which shall be transmitted to the LWDA promptly upon entry, as required by PAGA. Should the Court not grant approval of the payment of the PAGA Settlement Sum as described in this Agreement or decline to dismiss the Action, this Agreement shall be null and void and have no further effect, and all sums paid by Defendant, if any, shall be promptly returned to it.

Section 3.02 Settlement Payment Procedures.

(a) Payment of PAGA Settlement Sum and Notice to Aggrieved Employees.

- (1) Defendant agrees to pay a total amount of Forty-Five Thousand Dollars (\$45,000.00) to settle this matter. This amount, *i.e.*, the PAGA Settlement Sum, shall cover, resolve, and fully satisfy any and all amounts owed to Plaintiff, the Aggrieved Employees, the State of California, and Plaintiff's Counsel, including all amounts allocated to attorneys' fees and costs, in settlement of all claims asserted in the Complaint, or that could have been asserted in the Complaint, by Plaintiff, on behalf of himself and the Aggrieved Employees. The Parties agree that there are no circumstances that would require Defendant to pay any amount greater than the PAGA Settlement Sum in connection with this Agreement. In the event that this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur as permitted herein, or the settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant shall have no obligation to pay any of the PAGA Settlement Sum and the Parties' respective positions shall be restored to positions prior

to the settlement. Further, in that event, nothing in this Agreement, the negotiations leading to this settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

- (2) The "Net Settlement Fund" shall be calculated by deducting from the PAGA Settlement Sum up to \$15,750 for the payment of Plaintiff's Counsel's fees, up to \$1,000 for the payment of Plaintiff's Counsel's costs, up to \$5,000 to Plaintiff as a general release payment, and up to \$3,000 to compensate the parties' chosen Settlement Administrator. The Net Settlement Fund will be comprised of approximately \$20,250. Seventy-five percent (75%) of the Net Settlement Fund, or approximately \$15,187.50, shall be distributed to the State of California Labor and Workforce Development Agency ("LWDA"), and the remaining twenty-five percent (25%) of the Net Settlement Fund, or approximately \$5,062.50, shall be distributed to the Aggrieved Employees.
- (3) The twenty-five percent (25%) of the Net Settlement Fund to be distributed to the Aggrieved Employees will be divided by the total number of pay periods worked by all of them in California during the Release Period to yield the Pay Period Value. Each Aggrieved Employee will be paid an amount equal to their individual number of pay periods worked in California during the Release Period multiplied by the Pay Period Value.
- (4) Defendant shall pay the PAGA Settlement Sum to a Qualified Settlement Fund to be established by the Settlement Administrator by the latter of ten (10) calendar days after the Effective Date.
- (5) Defendant will provide the Settlement Administrator with a confidential list of the names and addresses of the Aggrieved Employees, together with the number of their individual pay periods, within ten (10) calendar days after the Effective Date. This information will be provided confidentially to the Settlement Administrator only, and the Settlement Administrator will treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of such information. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement.
- (6) No later than fifteen (15) calendar days after the PAGA Settlement Sum has been paid, the Settlement Administrator shall transmit the Notice of PAGA Settlement (attached hereto as Exhibit "A"), together with settlement checks containing their individual settlement amounts, with no claims process required, to all Aggrieved Employees by first-class United States mail, postage prepaid, to the last known address of each recipient with directions to the Postmaster to forward the Notice of PAGA Settlement and return all undeliverable Notices. Attorneys' fees, costs, and the general release payment to Plaintiff shall also be disbursed no later than fifteen (15) calendar days after the PAGA Settlement Sum has been paid.
- (7) For each settlement check and Notice of PAGA Settlement that is returned as undeliverable, the Settlement Administrator shall promptly attempt to locate the Aggrieved Employee by using an address refresher database. The value of checks

uncashed more than 180 days after issuance shall be paid to the Office of the California State Controller – Unclaimed Property Fund, to be held in the name of the respective Aggrieved Employees.

- (8) 100% of the PAGA Settlement Sum is considered penalties and will not be subject to local, state or federal tax withholdings. All recipients of payments under this Agreement have their payments reported on an IRS Form 1099. The Settlement Administrator shall issue IRS Form 1099s (if required) to the Aggrieved Employees.

Article IV.

Limitations On Use Of This Settlement.

Section 4.01 No Admission.

This Agreement and compliance with this Agreement shall not be construed as an admission by Defendant of any liability whatsoever, or as an admission by Defendant of any violations of Plaintiff's or Aggrieved Employees' rights, violation of any order, law, statute, duty or contract whatsoever. Defendant specifically disclaims any liability to Plaintiff or any other allegedly aggrieved employee for any alleged violation of his/her rights, or for any alleged violation of any order, law, statute, duty or contract. Defendant further denies that, for any purpose other than settling these matters, that this action is appropriate for representative treatment.

Section 4.02 Non-Evidentiary Use.

Neither this Agreement, nor any of its terms, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or anything else associated with it, shall be offered or used as evidence by any of the Parties, or their respective counsel in the Litigation or in any other action or proceeding, including to establish any liability or admission on the part of Defendant or any Released Parties or to establish the existence of any condition constituting a violation of, or noncompliance with, federal, state, local or other applicable law; provided, however, this shall not prevent this Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Agreement. Neither this Agreement, nor any of its terms or provisions, nor any of the negotiations connected with it or proceedings relating to this Agreement, payouts or other events associated with it, shall be construed as an admission or concession by Defendant or any Released Parties or establishment of any such violation(s) or failure(s) to comply with any applicable law. Defendant specifically retains the right to defend, on the merits, against any non-settled claims brought by any Aggrieved Employees.

Section 4.03 Nullification.

Invalidation of any material provision of this Agreement shall invalidate this Agreement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

Article V.

Release and Waiver of Claims.

Section 5.01 Limited Release By Aggrieved Employees.

Upon the Effective Date and subject to Defendant's full payment of the PAGA Settlement Sum, Plaintiff, on behalf of himself, his heirs, executors, and assigns, the Aggrieved Employees, and the State of California, fully releases and discharges Defendant, and each of its present and former affiliates, parent companies, subsidiaries, divisions, successors, predecessors, and assigns, and each of its respective past and present shareholders, officers, partners, directors, current and former employees, agents, attorneys, insurers, successors, assigns, representatives, accountants, and all persons acting under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims, rights, demands, liabilities, and causes of action of every nature and description, under PAGA, which were alleged or which could have been alleged based on the facts asserted in the operative complaint in the Action ("Released Claims") that accrued during the Release Period.

Section 5.02 General Release by Plaintiff Saylor.

Upon the Effective Date and subject to Defendant's full payment of the PAGA Settlement Sum, Plaintiff Saylor shall be deemed to have fully, finally, and forever released the Released Parties from any and all claims, obligations, demands, actions, rights, causes of action, and liabilities against the Released Parties, of whatever kind and nature, character, and description, whether in law or equity, whether sounding in tort, contract, federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, whether known or unknown, and whether anticipated or unanticipated, including unknown claims covered by Civil Code Section 1542, arising through the date of his signature hereon, for any type of relief, including, without limitation, claims for wages, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief. These claims include, but are not limited to, the PAGA Released Claims, as well as any other claims under any provision of the California Labor Code or any applicable California Industrial Welfare Commission Wage Orders, and claims under local, state, or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, California Government Code §§ 12940 *et seq.*; the Unruh Civil Rights Act, California Civil Code §§ 51 *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000 *et seq.*; the Americans with Disabilities Act, 42 U.S.C. §§ 12101 *et seq.*; the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines. With respect to these Released Claims as described in this Section, Plaintiff Saylor shall be deemed to have expressly waived and relinquished, to the fullest extent permitted by law, the provisions, rights, and benefits he may otherwise have had pursuant to Section 1542 of the California Civil Code, which provides as follows:

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 Section 1542, Plaintiff understands and agrees that this Agreement shall act as a release of all future claims that may arise from Plaintiff Saylor's employment or separation from employment with Defendant, or any other matters that existed between Plaintiff Saylor and the Released Parties up to the date of this Agreement, whether such claims are currently known or unknown, and that Plaintiff intentionally waives any rights he may have under the provisions of Section 1542, as well as under any other statutes or common law principles of similar effect in the State of California or in any other state.

Article VI.

Miscellaneous Provisions.

Section 6.01 Non-Disparagement.

Plaintiff agrees that Plaintiff shall not at any time engage in any form of conduct, or make statements or representations that disparage or otherwise impair the commercial reputation, goodwill or interests of the Released Parties. In the event Plaintiff violates this Section 6.01, Defendant shall be entitled to seek, exercise, and recover all legal and equitable remedies and damages available to it. In addition to any and all other remedies available to it, Plaintiff agrees that Defendant shall be entitled to both a temporary and permanent injunction, without being required to post a bond, restraining and enjoining Plaintiff from any violation of this Section 6.01. Nothing in this Agreement prevents Plaintiff from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination or any other conduct that Plaintiff has reason to believe is unlawful.

Section 6.02 Acknowledgment.

Plaintiff acknowledges, agrees, and warrants to the Released Parties upon Defendant's performance of its payment obligations under this Agreement, Plaintiff has been fully compensated for all wages, commissions, benefits, vacation pay, bonus amounts, or any other amounts which are, or could be, due and owing to Plaintiff as a result of Plaintiff's employment with Defendant.

Section 6.03 Voluntariness.

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

Section 6.04 Amendments.

The terms and provisions of this Agreement may be amended only by a written agreement that is both (a) signed by the Plaintiff, Plaintiff's Counsel, Defendant and Defense Counsel who executed this Agreement and (b) approved by the Court. Any waiver of any

provision of this Agreement shall not constitute a waiver of any other provision of this Agreement unless expressly so indicated otherwise.

Section 6.05 Assignment.

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, Plaintiff's Counsel, or Defense Counsel without the express written consent of each other Party and their respective counsel hereto. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person. Plaintiff expressly warrants that he has not transferred to any person or entity any right or cause of action, or claim released by this Agreement.

Section 6.06 Governing Law.

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California.

Section 6.07 Entire Agreement.

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the settlement of the Litigation.

Section 6.08 Waiver of Compliance.

Any failure of any Party, Defense Counsel, and/or Plaintiff's Counsel hereto to comply with any obligation, covenant, agreement, or condition herein may be expressly waived in writing, to the extent permitted under applicable law, by the Party or Parties and their respective counsel hereto entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

Section 6.09 Counterparts.

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. It shall not be necessary in making proof of this Agreement or any counterpart hereof to produce or account for any of the other counterparts.

Section 6.10 Attorneys' Fees and Costs.

With respect to this Agreement, neither Plaintiff's Counsel nor any other attorneys acting for, or purporting to act for the Aggrieved Employees, or Plaintiff may recover or seek to recover any amounts for fees, costs, or disbursements from the Released Parties or the PGA

Settlement Sum except as expressly provided herein. Defendant shall bear its own attorney's fees and costs, and neither Plaintiff's Counsel, Aggrieved Employees or the Plaintiff shall be responsible for Defendant's attorney's fees and costs. If any party moves the Court to enforce this Agreement, the prevailing party shall be entitled to recover from the other party all attorneys' fees and costs incurred to enforce this Agreement.

Section 6.11 Dispute(s).

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, the Parties agree to submit any such dispute(s) to the Court. To the extent any Party seeks to enforce any of the terms of this Agreement in Court or before the Court, the prevailing party shall be entitled to recover his/its reasonable attorneys' fees and costs.

Section 6.12 Binding.

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

Section 6.13 Court's Retention of Jurisdiction.

The Court shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6 and otherwise as permitted by law, to enforce this Settlement.

Section 6.14 Escalator Provision.

This settlement is based on Defendant's representation that there are approximately 30 pay periods during the Release Period worked by approximately 73 Aggrieved Employees. If the number of employees exceeds this amount by 5% or more, Defendant shall pay an increased PAGA Settlement Sum proportionate to the increase over the 5% threshold, with the larger increase controlling. For example, if the final number of Aggrieved Employees during the Release Period is 6% greater than 73, the PAGA Settlement Sum will increase by 1%, assuming the number of Aggrieved Employees increases by no more than 6%.

IN WITNESS WHEREOF, the Parties have executed this Private Attorneys General Act Settlement Agreement on the date set forth.

APPROVED AND ACCEPTED.

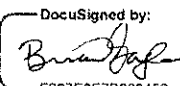
[SIGNATURES ON FOLLOWING PAGE]

Dated: April __, 2022

HAMAMA, INC.

By _____
Its _____

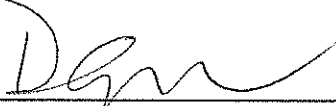
April 21, 2022
Dated: April __, 2022

DocuSigned by:

By _____
F362E8E7B003452
BRIAN SAYLOR

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: April 21, 2022

GAINES & GAINES, ALPC

By  _____
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Attorneys for Plaintiff

Dated: April __, 2022

POLSINELLI

By _____
Gillian McKean Bidgood, Esq.
Attorneys for Defendant

Dated: April 21, 2022

HAMAMA, INC.

By  Daniel Goodman
Its Co-founder and CTO

Dated: April __, 2022

By _____
BRIAN SAYLOR

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: April __, 2022

GAINES & GAINES, ALPC

By _____
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
Attorneys for Plaintiff

Dated: April 21, 2022

POLSINELLI

By  _____
Gillian McKean Bidgood, Esq.
Attorneys for Defendant

EXHIBIT A

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF YOLO**

BRIAN SAYLOR, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiff,

v.

HAMAMA, INC., a Delaware corporation,
and DOES 1 through 10, inclusive,

Defendants.

Case No. CV2022-0610

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIM
(CAL. LABOR CODE § 2698 *ET SEQ.*)**

You have been identified as an individual who worked for Defendant Hamama, Inc. (“Defendant”) in California, as an hourly and/or non-exempt employee at any time between January 13, 2021 and March 29, 2022 at Defendant’s warehouse facility in its manufacturing, fulfillment, warehousing, and R&D operations. (“Aggrieved Employee”).

On April 20, 2022, Plaintiff Brian Saylor (the “Plaintiff”) commenced a lawsuit in Yolo Superior Court, case number CV2022-0610 (the “Lawsuit”) to recover civil penalties. Plaintiff alleges in the lawsuit that Defendant failed to pay all wages due, provide all meal and rest periods, or premium compensation in lieu thereof, reimburse all necessary business expenses, pay wages “in cash, on demand,” timely pay wages during employment, timely pay wages due at separation of employment, and issue complete and accurate wage statements. For these alleged violations, Plaintiff seeks penalties pursuant to the California Labor Code’s Private Attorneys General Act of 2004, codified at Labor Code § 2698 *et seq.* (“PAGA”).

Defendant denies Plaintiff’s allegations and disputes all of Plaintiff’s claims. Following an investigation, the Parties reached a settlement which takes into account the uncertainties and risks of proceeding with litigation.

The Court approved the settlement on [REDACTED] and has determined that the settlement is fair and reasonable. The payment which accompanies this notice is made to you pursuant to the terms of the Settlement.

The Court-approved settlement contains the following release of claims, to which you are bound:

Upon the Effective Date and subject to Defendant's full payment of the PAGA Settlement Sum, Plaintiff, on behalf of himself, his heirs, executors, and assigns, the Aggrieved Employees, and the State of California, fully releases and discharges Defendant, and each of its present and former affiliates, parent companies, subsidiaries, divisions, successors, predecessors, and assigns, and each of its respective past and present shareholders, officers, partners, directors, current and former employees, agents, attorneys, insurers, successors, assigns, representatives, accountants, and all persons acting under, by, through, or in concert with any of them (collectively, "Released Parties") from any and all claims, rights, demands, liabilities, and causes of action of every nature and description, under PAGA, which were alleged or which could have been alleged based on the facts asserted in the operative complaint in the Action ("Released Claims") that accrued during the Release Period (from January 13, 2021 through March 29, 2022).

If you have any questions, please contact Gaines & Gaines, APLC, counsel for Plaintiff, at (866) 550-0855.