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8 California

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SOLANO**

11 MICHAEL STODDART, individually and
on behalf of all aggrieved employees of
12 Defendants in the State of California,

13 Plaintiff,

14 v.

15 HEAVY METAL IRON, INC. a California
corporation; DANIEL BONG, and
16 individual; and DOES 1 THROUGH 50,

17 Defendant.
18
19

Case No.: FCS058244

**NOTICE OF PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT**

Date: March 27, 2024

Time: 8:30 a.m.

Dept: 12

Judge: Hon. Christine A. Carringer

*[Memorandum of Points and Authorities;
Declaration of Graham S.P. Hollis; and
[Proposed] Order Granting Plaintiff's Motion for
Approval of PAGA Settlement are filed and served
concurrently herewith.]*

20 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

21 **PLEASE TAKE NOTICE** that on March 27, 2024 at 8:30 a.m. in Department 12 of the Solano
22 County Superior Court, located at 580 Texas St., Fairfield, CA 94533, Plaintiff Michael Stoddart
23 ("Plaintiff"), in his representative capacity, will and hereby does, move the Court for an Order approving
24 the settlement of the claim for civil penalties under the California Labor Code Private Attorneys General
25 Act ("PAGA"), the terms of which are set forth in the parties' Settlement Agreement and Release of
26 PAGA Claims ("Settlement" or "Agreement") attached as Exhibit 1 to the Declaration of
27 Graham S.P. Hollis.
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1 Plaintiff's Motion is made pursuant to California Labor Code section 2699(1)(2) on the grounds
2 that the Settlement was reached as a result of informed arm's length negotiations, is fair, reasonable and
3 adequate, and is deserving of approval for the benefit of the State of California, the general public and the
4 aggrieved employees. A copy of the parties' Agreement and Motion for Approval of PAGA Settlement is
5 being submitted to the California Labor and Workforce Development Agency concurrently with the filing
6 of Plaintiff's Motion in accordance with California Labor Code section 2699(1)(2).

7 Plaintiff's Motion is based upon this Notice; the accompanying Memorandum of Points and
8 Authorities; the parties' Agreement; the declarations of Graham S.P. Hollis and any exhibits thereto,
9 which are filed and served concurrently herewith; the [Proposed] Order; all pleadings and papers filed in
10 the above-entitled action; and upon any other such evidence and oral argument that may be presented to
11 the Court at the time of the hearing.

12 **TENTATIVE RULING**

13 The Superior Court in and for Solano County has adopted a tentative rulings system that is
14 described in the court's local Rule 3.9. Failure to comply with Rule 3.9 may seriously affect parties' rights
15 in this case.

16 Respectfully submitted,

17 Dated: November 20, 2023

GRAHAMHOLLIS APC

18
19 Bv: Nora Steinhagen
20 Nora J. Steinhagen
21 Attorney For Plaintiff Michael Stoddart
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14 v.

15 HEAVY METAL IRON, INC. a California
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16 individual; and DOES 1 THROUGH 50,

17 Defendant.

Case No.: FCS058244

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFF'S MOTION FOR APPROVAL OF
PAGA SETTLEMENT**

Date: March 27, 2024

Time: 8:30 a.m.

Dept: 12

Judge: Hon. Christine A. Carringer

*[Notice of Plaintiff's Motion for Approval of PAGA
Settlement; Declaration of Graham S.P. Hollis in
Support of Plaintiff's Motion for Approval of PAGA
Settlement; and [Proposed] Order are filed and
served concurrently herewith.]*

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Michael Stoddart (“Plaintiff”) seeks approval of the parties’ Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement and Release (“Settlement” or “Agreement”),¹ which provides for Defendants Heavy Metal Iron, Inc. (“HMI”) and Daniel Bong (collectively, “Defendants”) to fund a non-reversionary Gross PAGA Settlement Amount of \$150,000.00. The Court should approve the settlement because it is fundamentally fair and reasonable. The Agreement resolves years of litigation between the parties regarding the disputed representative wage and hour claims under the Private Attorneys General Act of 2004 (“PAGA”) on behalf of approximately seventeen (17) current and former employees of HMI.

Accordingly, under the Agreement, the Gross PAGA Settlement Amount will be distributed as follows:

- Settlement Administrator Costs in the amount not to exceed \$2,450.00 to ILYM Group, Inc.;
- Attorneys’ Fees to GrahamHollis APC in the amount of \$60,000.00;
- Attorneys’ Costs to GrahamHollis APC in the amount of \$9,500.00;
- The remainder, the Net PAGA Settlement Amount (estimated to be \$78,050.00), will be distributed in accordance with the PAGA statute – 75% (estimated to be \$58,537.50) to the California Labor and Workforce Development Agency (“LWDA”) and 25% (estimated to be \$19,512.50) paid to the Aggrieved Employees on a pro-rata basis based on the number of workweeks each Aggrieved Employee worked during the PAGA period.

As fully set forth below, the Settlement is fair and reasonable and was reached after years of litigation, and a mediation with Mark C. Peters, a neutral third-party mediator experienced in wage and hour class and representative actions. The terms of the Settlement are fair and reasonable based on the disputed validity of the PAGA claims, the range of possible outcomes in the litigation, the risk, expense,

¹ To the extent the terms used in this Motion for Approval are defined in the Agreement, the defined terms contained herein shall have the same meaning as set forth in the Agreement.

1 and complexity of further litigation, and the experience and views of counsel. Accordingly, Plaintiff
2 respectfully requests that the Court grant approval of the Settlement.

3 **II. PROCEDURAL AND FACTUAL BACKGROUND**

4 **A. Plaintiff's Allegations**

5 This Settlement involves the wage and hour claims of approximately 17 individuals who are or
6 were employed by HMI as non-exempt employees in California during the PAGA Period, excluding
7 Daniel C. Bong, Dustin Bong, and Jacob Bong, and all employees working for HMI whose employment
8 was covered by a collective bargaining agreement ("Aggrieved Employees"). Declaration of
9 Graham S.P. Hollis ("Hollis Decl."), ¶ 3, Ex. 1 ("Settlement Agreement") at ¶ I.2. The PAGA Period is
10 from March 9, 2021 through the earlier date of February 28, 2024 or the date the Court approves this
11 Settlement. Settlement Agreement at ¶ I.11.

12 Plaintiff was employed by HMI as a welder from approximately August 19, 2017 until
13 September 29, 2021. Hollis Decl., ¶ 6. The Complaint alleges that Defendants (1) failed to provide legally
14 compliant meal periods and/or timely pay premium wages; (2) failed to provide legally compliant rest
15 periods and/or timely pay premium wages; (3) failed to timely pay all minimum and regular wages; (4)
16 failed to timely pay all overtime wages; (5) failed to reimburse necessary business expenses; (6) failed to
17 maintain accurate records; and (7) failed to furnish accurate itemized wage statements. *Id.*, ¶ 10.

18 **B. Defendants' Position**

19 Defendants vehemently deny any liability and wrongdoing of any kind associated with the claims
20 alleged in this action. Hollis Decl. at ¶¶ 11; 24-29. Among other things, Defendants contend that Plaintiff
21 and all other Aggrieved Employees were provided with legally compliant meal and rest periods, were paid
22 all earned wages for all work performed, and were reimbursed all necessary business expenses. *Id.*, ¶ 24.
23 Defendants further maintained that they kept accurate itemized wage statements and maintained accurate
24 records. *Id.* Defendants maintained that most of the Aggrieved Employees had signed arbitration
25 agreements that precluded them from participating in a representative PAGA action in state court. *Id.*
26 Defendants also maintained that several of the Aggrieved Employees were covered by collective
27 bargaining agreements that exempt their employment from PAGA coverage pursuant to Labor Code
28 section 2699.6. *Id.* Defendants also argued that HMI is a small workforce and that the aggrieved

1 employees that Plaintiff sought to represent included family members and dedicated employees who did
2 not experience the Labor Code violations alleged by Plaintiff. *Id.*

3 **C. Case History and Discovery**

4 As required under PAGA, on February 28, 2022, Plaintiff submitted written notice to the LWDA
5 and Defendants informing them of Defendants' alleged violations of the Labor Code. Hollis Decl., ¶ 8.
6 Plaintiff filed the Complaint in this Action on May 13, 2022. *Id.* at ¶ 9.

7 Throughout the course of the litigation, the Parties engaged in extensive formal written discovery,
8 including written Special Interrogatories, Form Interrogatories – General, Form Interrogatories –
9 Employment, and Requests for Production. *Id.* at ¶¶ 13-16. The Parties also informally exchanged
10 information and hundreds of pages of documents, including but not limited to complete time and payroll
11 records of the Aggrieved Employees from approximately April of 2021 through July of 2023; an exemplar
12 of HMI's arbitration agreement, an employee manual, and a list of Aggrieved Employees with their dates
13 of employment and contact information, for purposes of mediation. *Id.* at ¶¶ 17-18.

14 Prior to mediation, Plaintiff's counsel reviewed and analyzed the documents produced, including
15 Defendant's arbitration agreement, time and payroll records of the Aggrieved Employees, and
16 Defendant's employee manual *Id.* at ¶ 18. Plaintiff's counsel also conducted fact-finding interviews with
17 several Aggrieved Employees. *Id.* at ¶ 19. As a result of these efforts and with the assistance of Plaintiff,
18 Plaintiff's Counsel prepared a comprehensive mediation brief and damage analysis. *Id.* The data reviewed
19 by Plaintiff's counsel was more than sufficient to analyze the Labor Code violations alleged and make an
20 informed decision about the resolution of this case. *Id.* at ¶ 20.

21 On September 13, 2023, the Parties participated in a mediation before Mark C. Peters, Esq., a
22 highly respected, neutral third-party mediator well-versed and experienced in wage and hour class actions
23 and PAGA cases. *Id.* at ¶ 21. During mediation, the Parties engaged in good-faith, non-collusive
24 negotiations and discussed the realistic damages exposure to Defendants and the relative strength and
25 weaknesses of the claims. *Id.* The parties reached a settlement and formally executed the Settlement
26 Agreement on November 13, 2023. *Id.*

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1 **III. SUMMARY OF SETTLEMENT**

2 The Settlement Agreement before the Court provides substantial financial consideration in
3 exchange for releasing all the PAGA claims asserted in the Action. The consideration is fair and
4 reasonable in light of the potential liabilities and risks of litigation, particularly in light of the recent change
5 in law regarding the arbitrability of individual PAGA claims. The released claims have been narrowly
6 tailored to ensure the settlement is not unduly expansive. The Parties' agreed upon procedure for
7 distributing the consideration is sufficient to ensure efficient distribution to the Aggrieved Employees.

8 **A. Monetary Terms**

9 The Gross PAGA Settlement Amount is \$150,000.00. Hollis Decl., ¶ 39; Settlement Agreement at
10 ¶ III.31. Of the Gross PAGA Settlement Amount, \$60,000.00 will be awarded to Plaintiff's Counsel for
11 Attorneys' Fees, \$9,500.00 will be awarded to Plaintiff's Counsel for Litigation Costs, and \$2,450.00 is
12 allocated to Settlement Administration costs. Hollis Decl., ¶¶ 39-42; Settlement Agreement at ¶¶ I.3;
13 III.31-32. Of the estimated remaining \$78,050.00 defined as the Net PAGA Settlement Amount, 75%
14 (estimated to be approximately \$58,537.50) will be paid to the LWDA. Hollis Decl. at ¶¶ 43; Settlement
15 Agreement at ¶ I.9. The remaining 25% (estimated to be approximately \$19,512.50) will be distributed
16 amongst Aggrieved Employees. *Id.* With 17 Aggrieved Employees, it is estimated that the average
17 recovery per Aggrieved Employee is \$4,591.17, of which \$1,147.79 will be paid to each Aggrieved
18 Employee as his or her share of the settlement.

19 **B. Distribution Procedure**

20 The Parties will use ILYM Group, Inc. to administer the distribution of funds from the Gross
21 PAGA Settlement Amount. Hollis Decl., ¶ 40; Settlement Agreement at ¶¶ I.17; IV.38. Prior to mailing
22 the Individual PAGA Payments to the Aggrieved Employees, the Settlement Administrator shall conduct
23 a National Change of Address search or skip trace of all provided addresses to confirm and/or locate the
24 most recent mailing address for each Aggrieved Employees. Settlement Agreement at ¶ IV.44. ILYM shall
25 establish a Qualified Settlement Fund ("QSF") account for this Action, which Defendant shall fund with
26 the Gross PAGA Settlement Amount within 30 days after the Effective Date. Settlement Agreement at ¶¶
27 IV.39; 42. ILYM Group, Inc. will determine the appropriate settlement payments for Aggrieved
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1 Employees based on his or her proportionate share of workweeks during the PAGA Period.² Settlement
2 Agreement at ¶¶ III.33; IV.40. The Individual PAGA Payments will be valid for a period of 180 days after
3 which any unclaimed funds will be void, and the Settlement Administrator shall issue the unclaimed funds
4 to the Parties' chosen *cy pres* beneficiary, Legal Services of Northern California. Settlement Agreement
5 at ¶ IV.44.

6 **C. PAGA Released Claims**

7 The Settlement Agreement provides that as of the Effective Date, Plaintiff, in his capacity as
8 private attorneys general and acting on behalf of himself the State of California, LWDA, and the
9 Aggrieved Employees, releases the Released Parties of any right or claim for civil penalties pursuant to
10 the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.*, arising under the
11 California Labor Code based on the alleged violations in the operative complaint in the above-referenced
12 case (Case No. FCS058244), or alleged in Plaintiff's notice(s) to the LWDA, or that could have been
13 alleged based upon the facts alleged in the operative complaint or notices, including any alleged failure
14 by Defendants (1) to pay wages, minimum wages, or overtime; (2) to provide meal or rest periods or
15 compensation in lieu thereof; (3) to provide compliant wage statements; (4) to timely pay wages during
16 or at the end of alleged employment; (5) to reimburse for all necessary business expenses or other
17 losses/expenditures; (6) to accurately record work hours and meal break periods; and (7) to accurately
18 maintain records (collectively, the "PAGA Released Claims"). This release includes, without limitation,
19 violation of California Labor Code sections 201–204, 216, 226, 226.7, 226.8, 510, 512, 516, 558, 1182.11,
20 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802 during the PAGA Period. Settlement
21 Agreement at ¶¶ I.12; III.34.

22 The PAGA Released Claims shall cover the period of March 9, 2021 through and including the
23 date of approval of the settlement or February 28, 2024, whichever occurs first. Settlement Agreement at
24 ¶ I.11.

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28 ² A copy of the proposed notice to be included with settlement checks is attached as Exhibit A to the
Settlement Agreement, which is attached as Exhibit 1 to the Declaration of Graham S.P. Hollis.

1 **IV. THE PAGA SETTLEMENT SHOULD BE APPROVED**

2 Pursuant to Labor Code § 2699(1)(2), a settlement of a civil action brought under the PAGA statute
3 must be submitted to the LWDA and must be approved by the court. Where a settlement purports to
4 resolve PAGA claims, courts must examine the settlement as a whole and the amount allocated to PAGA,
5 including the amount distributed to the LWDA. *O'Connor v. Uber Techs, Inc.* (2016) 201 F.Supp.3d 1110,
6 1134-1135. Accordingly, a PAGA settlement must be fair, adequate and reasonable. *Id.*

7 To determine whether a settlement is fair, adequate and reasonable, a court must be provided with
8 “basic information about the nature and magnitude of the claims in question and the basis for concluding
9 that the consideration being paid for the release of those claims represents a reasonable compromise.”
10 *Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 799. In the class action context,
11 the trial court must exercise its discretion through the application of several well-recognized factors when
12 deciding whether the settlement is fair. *Id.* The Court of Appeal has held that in determining whether a
13 PAGA settlement is “fair,” a court may refer to the well-developed settlement standards analyzed by courts
14 in the class actions. *Moniz v. Adecco USA, Inc.* (2021) 72 Cal.App.5th 56, 77. The list of factors, which
15 “is not exhaustive and should be tailored to each case,” includes “the strength of plaintiff’s case, the risk,
16 expense, complexity and likely duration of further litigation...the amount offered in settlement, the extent
17 of discovery completed and the stage of the proceedings, the experience and views of counsel, the presence
18 of a governmental participant, and the reaction of the [represented] members to the proposed settlement.”
19 *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 128 (quoting *Dunk v. Ford Motor Co.*
20 (1996) 48 Cal.App.4th 1794, 1801). The most important factor the trial court should consider in
21 determining whether to approve a settlement is the strength of the case for plaintiff on the merits, balanced
22 against the amount offered in settlement. *Munoz v. BCI Coca-Cola Bottling Co. of Los Angeles* (2010)
23 186 Cal.App.4th 399, 407-08; *Kullar*, 168 Cal.App.4th at 130. In sum, the trial court must determine that
24 the settlement was not the product of fraud, overreaching or collusion, and that the settlement is fair,
25 reasonable and adequate. *Nordstrom Com’n Cases* (2010) 186 Cal.App.4th 576, 581.

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A. The Settlement is the Result of Non-Collusive, Arm's-Length, and Informed Negotiations

California courts recognize that a “presumption of fairness exists where (1) the settlement is reached through arm’s-length bargaining; (2) sufficient investigation allows counsel and the court to act intelligently; (3) counsel is experienced in similar litigation; and (4) the percentage of objectors is small.” *Dunk*, 48 Cal.App.4th at 1802. Here, the Settlement objectively meets all these requirements and this Court should undoubtedly give considerable weight to the competency and integrity of the parties’ respective counsel, who are experienced in wage and hour class action litigation and reached the settlement through arm’s length negotiations without self-dealing or other misconduct. *Kullar*, 168 Cal.App.4th at 129.

1. The Settlement is the Product of Arm’s Length Negotiations

“[W]hat transpires in settlement negotiations is highly relevant to the assessment of a proposed settlement’s fairness.” *State v. Levi Strauss & Co.* (1986) 41 Cal.3d 460, 482. Courts presume the absence of fraud or collusion in the negotiation of a settlement unless evidence to the contrary is offered. In short, there is a presumption that the negotiations were conducted in good faith. *William B. Rubenstein, et al.* (5th ed. 2011-2017) Newberg on Class Actions § 13:45. There can be no doubt as to the fairness of the settlement as the parties did not engage in settlement negotiations until they possessed sufficient information and documents to conduct a comprehensive review and analysis of the facts and legal issues raised by the Action to make an informed decision. Hollis Decl., ¶¶ 13-20. At all times, the negotiations were conducted with the assistance of mediator, Mark C. Peters, Esq., a well-versed and highly experienced mediator. *Id.* at ¶ 21.

In reaching the settlement, Plaintiff’s counsel took into consideration relevant factors such as the information and documents obtained in formal and informal discovery, the fact-finding interviews of other Aggrieved Employees, Defendants’ projected liability, the expense of continued litigation, the inherent risks in litigating complex representative actions and the potential for appeals. *Id.* at ¶ 33. Based on Plaintiff’s Counsel’s experience, they are of the belief that the settlement represents a favorable resolution without the further expense and uncertainty of further litigation while maintaining the enforcement purpose behind the PAGA statute. *Id.* at ¶ 34.

1 **2. *The Settlement is the Product of Informed Investigation and Discovery***

2 There is a presumption that a proposed settlement is fair and reasonable when there has been
3 sufficient investigation and discovery to permit counsel and the court to act intelligently, and counsel are
4 experienced in similar litigation. *Dunk*, 48 Cal.App.4th at 1802. Here, the Parties conducted a lengthy and
5 thorough investigation into the merits of Plaintiff’s claims prior to attending mediation and ultimately
6 settling the Action. Hollis Decl., ¶¶ 13-20. Plaintiff’s Counsel’s investigation included the exchange of
7 formal discovery, including Special Interrogatories, Form Interrogatories – General, Form Interrogatories
8 – Employment, Requests for Production, the exchange of information and documents informally pursuant
9 to the settlement privilege, and interviews of other Aggrieved Employees. *Id.* Plaintiff’s Counsel thus
10 obtained sufficient information to adequately evaluate the merits of the claims asserted, Defendants’
11 defenses, and the projected liability. *Id.* at ¶ 20. Therefore, this Court should presume the fairness of this
12 settlement.

13 **3. *Plaintiff’s Counsel is Highly Experienced In Similar Litigation***

14 Throughout this litigation, Plaintiffs have been represented by well-qualified counsel who have
15 years of experience in wage and hour litigation. Hollis Decl., ¶¶ 51-57, Exh. 3. To date, Plaintiff’s Counsel
16 has handled well over 100 class, collective and representative action cases. *Id.* Plaintiff’s Counsel relied
17 on their extensive experience when negotiating the settlement. *Id.* at ¶ 57, Exh. 3. As discussed, the
18 settlement negotiations were conducted with consideration of the common experience of Aggrieved
19 Employees; the strength of the case versus the amount offered in settlement; the risk, expense, complexity,
20 and likely duration of further litigation and the potential finding that the case is unmanageable; the present
21 state of the law as it applies to the claims asserted; and the burdens of proof necessary to establish liability
22 against Defendants. *Id.* at ¶ 33. Although the recommendations of counsel proposing the settlement are
23 not conclusive, the court can properly consider the recommendations, particularly if counsel have been
24 involved in litigation for some period of time, appear to be competent, have experience with this type of
25 litigation, and significant discovery has been completed. *Newberg on Class Actions* (5th ed. 2011-2017)
26 § 13:53.

27 Overall, the Court should presume the settlement as fair because it was the result of arm’s-length
28 negotiations, sufficient investigation and discovery, and the experience of Plaintiff’s Counsel.

B. The Settlement is Fair, Reasonable, and Adequate in Light of the Significant Risks and Expense of Further Litigation

In order to determine whether a representative settlement is fair, adequate and reasonable, courts must be provided with “basic information about the nature and magnitude of the claims in question and the basis for concluding that the consideration being paid for the release of those claims represents a reasonable compromise.” *Kullar*, 168 Cal.App.4th at 133; *Clark*, 175 Cal.App.4th at 799. A settlement is not judged against what might have been recovered had a plaintiff prevailed at trial, nor does the settlement have to provide 100% of the damages sought to be fair and reasonable. *Wershba v. Apple Computer, Inc.* (2001) 91 Cal.App.4th 224, 246, 250.

Here, the settlement results in a substantial benefit to the State of California, the general public and all of the Aggrieved Employees because it achieves the enforcement objectives of PAGA while providing compensatory relief to the State and the Aggrieved Employees. Hollis Decl., ¶ 34. In reaching this settlement, Plaintiff’s counsel carefully considered the strength of the case versus the amount offered in settlement and the risk, expense, and complexity of the case. *Id.*

While Plaintiff believes his claims are meritorious and believes he would have prevailed had the issues gone to trial, Plaintiff acknowledges that Defendants possess legitimate defenses, including to liability, manageability, and the stacking of civil penalties. *Id.* at ¶¶ 24-34. Defendants have consistently denied all material allegations in this Action, including alleging that they did not violate any laws and are not liable for any civil penalties. *Id.* at ¶¶ 11; 24. For example, Defendants argued that Plaintiff and all other Aggrieved Employees were provided with legally compliant meal and rest periods, were paid all earned wages for all work performed, and were reimbursed all necessary business expenses. *Id.* at ¶ 24. Additionally, Defendants maintained that most of the Aggrieved Employees had signed arbitration agreements that precluded them from participating in a representative PAGA action in state court, and that several of the Aggrieved Employees were covered by collective bargaining agreements that exempt their employment from PAGA coverage pursuant to Labor Code section 2699.6. *Id.* Plaintiff acknowledges that he would face significant hurdles in establishing his burden of proof at trial on behalf of each and every Aggrieved Employee. *Id.*

1 Plaintiff also acknowledges that continued litigation would result in more attorney's fees and
2 expenses, even if he is successful as Defendants would undoubtedly appeal any judgement in Plaintiff's
3 favor. *Id.* at ¶¶33; 35. Moreover, continued litigation would undoubtedly result in a substantial delay of
4 any recovery to the State of California and/or the Aggrieved Employees. *Id.* at ¶ 35.

5 The settlement of \$150,000.00 is an excellent result for the Aggrieved Employees given the risks
6 and expenses associated with further litigation. The true value of the settlement is even higher because
7 Plaintiff's Action led to numerous changes and refinements to Defendants' employment practices. *Id.* at
8 ¶ 67. For example, HMI refined and formalized its employment policies and practices after Plaintiff
9 initiated this Action, including issuing employee handbooks with detailed policies relating to meal and
10 rest periods, timekeeping, and expense reimbursement. *Id.* Furthermore, HMI changed the format of
11 employee timesheets to include reminders to take meal breaks before the fifth hour. *Id.* HMI also now
12 schedules meal and rest breaks and has brought its overtime policy into compliance with the Labor Code.
13 *Id.* Therefore, this Action created value for the Aggrieved Employees and the State of California beyond
14 financial recovery.

15 **C. The Court's Ability to Reduce the Maximum Potential Civil Penalties Justifies**
16 **Approval of the Settlement.**

17 Plaintiff's Counsel estimated Defendants' maximum potential liability of civil penalties to be
18 \$408,000. *Id.* at ¶ 23. This estimate was based on the assumption that Plaintiff would prevail on all claims
19 at trial. *Id.* Thus, Defendants' maximum potential liability of civil penalties is premised on an "everything
20 goes right" scenario. *Id.*

21 Although the \$150,000 Gross PAGA Settlement Amount accounts for approximately 37% of
22 Defendants' maximum potential exposure, and thus represents a significant discount on Defendants'
23 potential liability, this reduction represents an extremely reasonable compromise considering the
24 substantial and significant risks Plaintiff faced in this Action. *Id.* at ¶¶ 24-36. Defendants have legitimate
25 defenses, and there are considerable risks to Plaintiff in proceeding with litigation. *Id.* These risks are
26 obviated by the Settlement while striking a balance between the interest of all parties by penalizing
27 Defendants and providing monetary relief to the State and members of the Aggrieved Employees. *Id.* at ¶
28 34.

Further, in the event Plaintiff were successful at trial, Defendants would likely argue that any civil penalties should be reduced under the discretion of the Court as unjust, arbitrary, and oppressive, or confiscatory. Since, Defendants are likely to have sufficient defenses limiting Plaintiff's ability to recover civil penalties, there is a significant likelihood that a court would reduce any potential recovery under Labor Code § 2699(e)(2). Given the potential of a reduction of any recovery of civil penalties, the settlement on the terms outlined in the Settlement Agreement justifies approval of the settlement.

D. The Distribution of the Settlement Is Reasonable

The settlement provides that Defendants will pay a non-reversionary Gross PAGA Settlement Amount of \$150,000. Hollis Decl. at ¶ 39; Settlement Agreement at ¶ III.31. The Gross PAGA Settlement Amount will fund: (a) the Aggrieved Employees; (b) the LWDA payment; (c) the award of Attorney's Fees to Plaintiff's Counsel; (d) the award of Attorneys' Costs to Plaintiff's Counsel; and (e) the Administration Costs. *Id.*

The following chart reflects the estimated payments from the Gross PAGA Settlement Amount:

Gross PAGA Settlement Amount	\$150,000.00
Settlement Administration Costs	\$2,450.00
Attorney's Fees	\$60,000.00
Attorney's Costs	\$9,500.00
Net PAGA Settlement Amount	\$78,050
To the LWDA (75% of PAGA Fund)	\$58,537.50
To Aggrieved Employees (25% of PAGA Fund)	\$19,512.50

Thus, it is estimated that the LWDA will receive \$58,537.50 the Aggrieved Employees will receive \$19,512.50. The \$19,512.50 will be allocated to the Aggrieved Employees based on his or her proportionate share of pay periods during the PAGA Period. Hollis Decl., ¶ 44; Settlement Agreement at ¶¶ III.33; IV.40. The Settlement Administrator is to ensure proper distribution of payments once Defendants deposit the Gross PAGA Settlement Amount within 30 calendar days following the Effective Date. Settlement Agreement at ¶¶ IV.39; 41. All Individual PAGA Payments will be valid for a period of 180 calendar days after which any unclaimed funds will be void, and the Settlement Administrator shall issue the unclaimed funds to the Parties' chosen *cy pres* beneficiary, Legal Services of Northern California. Hollis Decl., ¶ 46; Settlement Agreement at ¶ IV.44.

The California Supreme Court has explained that a judgment in “a representative action brought by an aggrieved employee under the Labor Code Private Attorneys General Act of 2004 . . . is binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding,” *Arias v. Superior Court* (2009) 46 Cal.4th 969, 985-86. In accordance with this rule, the release in the Settlement Agreement narrowly binds the Plaintiff, the State of California and the Aggrieved Employees for civil penalties, attorneys’ fees, and costs under Labor Code §§ 2698 *et seq.* predicated on the Labor Code violations alleged in the operative complaint, Plaintiff’s notice to the LWDA, or that could have been alleged based upon the facts alleged in the operative complaint or notice. Hollis Decl., ¶ 50; Settlement Agreement at ¶¶ I.12; III.34. In accordance with *Arias*, the final judgment will be “binding not only on the named employee plaintiff but also on government agencies and any aggrieved employee not a party to the proceeding.” 46 Cal.4th at 985-86.

E. Plaintiff Submitted the Settlement Agreement to the LWDA

In 2016, the Labor Code was amended to require the Court to review and approve any settlement of a civil action brought pursuant to PAGA. Labor Code § 2699(l)(2). The amendment also required that the “proposed settlement [] be submitted to the agency at the same time that it is submitted to the court.” *Id.*

In accordance with the statute, the Settlement Agreement, and Motion for Approval of PAGA Settlement were submitted to the LWDA on November 20, 2023, via the agency’s online portal. Hollis Decl., ¶ 5, Exh. 2. Therefore, the LWDA has had the opportunity to review the Settlement and advise the parties or the Court of any objections. To date, the LWDA has yet to indicate any objections to the Settlement. As such, the Court should approve the Settlement.

V. THE REQUESTED ATTORNEYS’ FEES AND COSTS ARE FAIR AND REASONABLE

Pursuant to section 2699(g)(1) of the Labor Code, [a]ny employee who prevails in a PAGA action shall be entitled to an award of reasonable attorney’s fees and costs. Accordingly, Plaintiff’s Counsel requests that this Court approve an award of attorneys’ fees of \$60,000.00 or forty percent of the Gross PAGA Settlement Amount and reimbursement of actual litigation costs of \$9,500.00. Hollis Decl., ¶¶ 63, 79. As discussed below, these awards are not only recoverable under the common fund theory and lodestar approach, but also are within the range of awards granted in similar cases. Hollis Decl., ¶¶ 58-81.

A. Plaintiff's Counsel's Fees Are Supported Under the Common Fund Theory

In a PAGA action, which is type of a *qui tam* action, reasonable attorney's fees and costs are typically awarded under the common fund theory where, as here, the litigation creates a common fund of a specific amount for the benefit of others. *Iskanian v. CLS Transp. Los Angeles, LLC* (2014) 59 Cal.4th 348, 382. When a common fund is created, attorneys who secured the fund are entitled to a percentage of the fund. See *Laffitte v. Robert Half Int'l, Inc.* (2016) 1 Cal.5th 480, 503 ("[T]he court may determine the amount of a reasonable fee by choosing an appropriate percentage of the fund created"). The bases of the common fund doctrine are:

Fairness to the successful litigant, who might otherwise receive no benefit because his recovery might be consumed by the expenses; correlative prevention of an unfair advantage to the others who are entitled to share in the fund and who should bear their share of the burden of its recovery; and encouragement of the attorney for the successful litigant, who will be more willing to undertake and diligently prosecute proper litigation for the protection or recovery of the fund if he is assured that he will be promptly and directly compensated should his efforts be successful.

Bank of America v. Cory (1985) 164 Cal.App.3d 66, 90; see *Serrano v. Priest* (1977) 20 Cal.3d 25, 34 ("[O]ne who expends attorneys' fees in winning a suit which creates a fund from which other derive benefits, may require those passive beneficiaries to bear a fair share of the litigation costs.").

Here, a common fund was created in the amount of \$150,000 for the benefit of Aggrieved Employees and the State of California. As such, these beneficiaries must bear their share of the costs and attorneys' fees, to be deducted from the \$150,000 Gross PAGA Settlement Amount under the common fund theory. The parties allocated forty percent of the Gross PAGA Settlement Amount to Plaintiff's Counsel for their reasonable attorneys' fees, plus reimbursement of their actual litigation costs. Hollis Decl., ¶¶ 41-42, Settlement Agreement at ¶ I.3. The award sought is justified in light of the amount of work Plaintiff's Counsel performed and substantial risk involved with litigating this type of case. Hollis Decl., ¶¶ 61-68. Indeed, the requested Attorneys' Fees award of \$60,000.00, or forty percent of the Gross PAGA Settlement Amount, constitutes a fair market charge for the benefits conferred by the settlement, as Plaintiff's Counsel's skills in negotiating the settlement resulted in the substantial benefit for the State of California, the general public and the Aggrieved Employees.

B. Plaintiff's Attorneys' Fees Are Also Recoverable Under The Lodestar Approach

The reasonableness of Plaintiff's Counsel's requested award is also supported under the lodestar method. *See e.g., Lealao v. Beneficial Cal., Inc.* (2000) 82 Cal.App.4th 19, 26 (“[F]ees have traditionally been allowed in such common fund cases, although...the lodestar methodology may also be utilized in this context.”). Under the lodestar approach, the number of hours reasonably expended is multiplied by a reasonable hourly rate. *Id.* Once the court has established the lodestar, it may be increased or decreased “by applying a positive or negative “multiplier” to consider a variety of other factors, including the quality of the representation, the novelty and complexity of the issues, the results obtained, and the contingent risk presented.” *See Lealao, supra*, 82 Cal.App.4th at 26; *see, e.g., Serrano, supra*, 20 Cal.3d 25, 49.

Here, Plaintiff's Counsel has expended over 400 hours litigating this case, which includes the time spent investigating and researching the legal issues raised in this Action, drafting notice to the LWDA, preparing the complaint and other legal pleadings, such as motions to remand, drafting and responding to correspondence, drafting and responding to written discovery, reviewing and analyzing documents produced by Defendants, conducting a thorough damages analysis, drafting the detailed mediation brief, negotiating the terms of the settlement and finalizing the written agreement, and moving for approval of the settlement. Hollis Decl., ¶¶ 69; 75. At Plaintiff's Counsel's usual and customary rate, this would result in a total lodestar of more than \$160,000. Hollis Decl., ¶ 69. Thus, Plaintiff's Counsel's request for an award of attorneys' fees in the amount of \$60,000, or approximately 37.5% of Plaintiff's Counsel total lodestar, is a significant reduction of the value of the work actually performed by Plaintiff's Counsel. The request is undoubtedly fair and reasonable given the nature and complexity of the litigation and experience level of the timekeeper. Hollis Decl., ¶¶ 65; 72.

The Settlement's allocation of attorneys' fees is also supported by the fact that the actual value of the Settlement achieved is more than \$150,000. Following the initiation of this litigation, HMI changed its practice regarding the payment of overtime, scheduling of meal and rest periods, and timekeeping. Hollis Decl., ¶ 67. Therefore, Aggrieved Employees are now being paid more than they were prior to this litigation. Said result would not have been achieved if it were not for the efforts of Plaintiff's Counsel in bringing this action. Thus, the actual value of the settlement exceeds \$150,000, thereby further justifying Plaintiff's Counsel's fee request.

C. Plaintiff's Litigation Costs Incurred Were Reasonable and Necessary

It is appropriate for litigation costs to be paid from the common fund. *In re Media Vision Tech. Sec. Litig.* (N.D. Cal. 1996) 913 F.Supp. 1362, 1366 (“Reasonable costs and expenses incurred by an attorney who creates or preserves a common fund are reimbursed proportionally by those class members who benefit from the settlement.”). In addition, courts permit attorneys to “recover their reasonable expenses that would typically be billed to paying clients in non-contingency matters.” *See In re Omnivision Technologies, Inc.* (N.D. Cal. 2008) 559 F.Supp.2d 1036, 1048; *see also Harris v. Marhoefer* (9th Cir. 1994) 24 F.3d 16, 19 (“[Plaintiff] may recover as part of the award of attorney’s fees those out-of-pocket expenses that “would normally be charged to a fee-paying client.”). California courts routinely allow for the recovery of expenses for photocopying, document scanning, postage and delivery charges, travel, attorney services fees, and legal research. *Bussey v. Affleck* (1990) 225 Cal.App.3d 1162, 1166 (“[A]ttorneys’ fees and expenses are inseparably intertwined as equally vital components of the costs of litigation . . . expenses such as supplemental secretarial costs, copying, telephone costs and necessary travel, are integrally related to the work of an attorney and the services for which outlays are made may play a significant role in the ultimate success of litigation . . .”).

Here, Plaintiff’s Counsel seeks reimbursement for costs and expenses in the amount of \$9,500.00 for costs and expenses incurred in connection with this Action from its inception to the present. Hollis Decl., ¶ 79. As cited above, Plaintiff’s Counsel’s costs and expenses are warranted as they include filing fees, court fees, computerized legal research charges, copying, delivery, postage, telephone charges, and mediation fees. *Id.* The costs and expenses incurred are those that would normally have been billed to a client paying for my firm’s services on a non-contingency basis. Hollis Decl., ¶ 80. Plaintiff’s Counsel agreed to represent Plaintiff in connection with this Action in approximately October of 2021. *Id.* Accordingly, Plaintiff’s Counsel’s purported litigation costs are certainly reasonable in light of the substantial investigation that took place over the past two years. *Id.*

Given the excellent result and extensive work that Plaintiff’s Counsel has performed on behalf of the Aggrieved Employees and the State of California, the requested awards in the amount of \$60,000.00 in attorneys’ fees and \$9,500.00 in litigation costs are extremely reasonable.

1 **VI. CONCLUSION**

2 Plaintiff respectfully requests that this Court approve the settlement on the terms outlined in the
3 parties' Agreement. As set forth herein, the settlement is fair, reasonable and adequate due to the disputed
4 strengths of the PAGA claims, the range of outcomes of the litigation, the risks and expenses associated
5 with further litigation, the scope of the release and the experience and views of Plaintiff's Counsel.

6
7 Respectfully submitted,

8 Dated: November 20, 2023

GRAHAMHOLLIS APC

9
10 Bv: Nora Steinhagen
11 Nora J. Steinhagen
12 Attorney for Plaintiff Michael Stoddart
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7 Attorneys for Plaintiff MICHAEL STODDART and
aggrieved employees of Defendant in the State of
8 California

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF SOLANO**

11 MICHAEL STODDART, individually and on
behalf of all aggrieved employees of Defendants
12 in the State of California,

13 Plaintiff,

14 v.

15 HEAVY METAL IRON, INC. a California
corporation; DANIEL BONG, and individual;
16 and DOES 1 THROUGH 50,

17 Defendant.

Case No.: FCS058244

**DECLARATION OF GRAHAM S.P. HOLLIS
IN SUPPORT OF PLAINTIFF'S MOTION
FOR APPROVAL OF PAGA SETTLEMENT**

Date: March 27, 2024

Time: 8:30 a.m.

Dept: 12

Judge: Hon. Christine A. Carringer

*[Notice of Plaintiff's Motion for Approval of PAGA
Settlement; Memorandum of Points and Authorities
in Support of Plaintiff's Motion for Approval of
PAGA Settlement; and [Proposed] Order are filed
and served concurrently herewith.]*

20 I, Graham S.P. Hollis, declare as follows:

21 1. I am an attorney at law licensed to practice before all courts of the State of California. I
22 am a shareholder of the law firm GrahamHollis APC ("GrahamHollis") in San Diego, California. My law
23 firm is the attorney of record for Plaintiff Michael Stoddart ("Plaintiff"). Co-shareholder Nathan Reese,
24 associate attorney Nora Steinhagen, and I are the attorneys from my firm primarily handling this case. I
25 am thoroughly familiar with and have personal knowledge of all the facts set forth herein, except as
26 otherwise stated. If called as a witness, I could and would competently testify to the information set forth
27 below.
28

2. I submit this declaration¹ in support of Plaintiff's Motion for Approval of PAGA Settlement ("Approval Motion"), which seeks an order:

- a) Granting approval of the Settlement;
- b) Appointing ILYM Group, Inc. as the Settlement Administrator;
- c) Approving administration costs in the amount of \$2,450.00 to be paid to the Settlement Administrator;
- d) Awarding attorneys' fees in the amount of \$60,000.00 to GrahamHollis APC; and
- e) Awarding reimbursement of litigation costs in the amount of \$9,500.00 to GrahamHollis APC.

3. A true and correct copy of the fully executed "Private Attorneys General Act (Labor Code §2698 *et seq.*) Settlement Agreement and Release" ("Settlement Agreement") is attached hereto as **Exhibit 1** and is incorporated herein by reference.

4. A true and correct copy of the letter explaining the settlement that will be sent out to each PAGA Member is attached as Exhibit A to the Settlement Agreement and is incorporated herein by reference.

5. In accordance with the Private Attorneys General Act of 2004 ("PAGA"), my office submitted the Settlement Agreement, and Motion for Approval of PAGA Settlement to the California Labor and Workforce Development Agency ("LWDA") on November 20, 2023. A true and correct copy of the November 20, 2023 confirmation of submission is attached hereto as **Exhibit 2** and incorporated herein by reference.

CASE BACKGROUND AND PROCEDURAL HISTORY

6. Plaintiff was employed by Heavy Metal Iron, Inc. ("HMI") as a welder from approximately August 19, 2017 until September 29, 2021.

7. Plaintiff alleges that HMI is owned by Defendant Daniel Bong (HMI and Daniel Bong are collectively referred to as "Defendants") (Plaintiff and Defendants are referred to collectively as the "Parties").

¹ To the extent the terms used in this Motion for Approval are defined in the Agreement, the defined terms contained herein shall have the same meaning as set forth in the Agreement.

1 8. On February 28, 2022, Plaintiff submitted written notice to the LWDA and Defendants as
2 required by the PAGA informing them of Defendants' alleged violations of the California Labor Code
3 ("Labor Code").

4 9. On May 13, 2022, Plaintiff filed a PAGA enforcement action in Solano County Superior
5 Court, *Michael Stoddart v. Heavy Metal Iron, Inc., et al.*, case number FCS058244 (the "Action").

6 10. The Complaint alleges representative claims on behalf of aggrieved employees, who are
7 defined as "current and former non-exempt employees of Defendants who work or have worked in any
8 non-exempt position in California and who have suffered at least one of the wage and hour violations
9 described herein during the applicable time period." The Complaint alleges that Defendants (1) failed to
10 provide legally compliant meal periods and/or timely pay premium wages; (2) failed to provide legally
11 compliant rest periods and/or timely pay premium wages; (3) failed to timely pay all minimum and regular
12 wages; (4) failed to timely pay all overtime wages; (5) failed to reimburse necessary business expenses;
13 (6) failed to maintain accurate records; (7) failed to furnish accurate itemized wage statements; and (8)
14 failed to timely pay all wages due during and upon separation of employment.

15 11. On July 11, 2022, HMI filed an Answer denying liability. On August 29, 2022,
16 Daniel Bong filed an answer denying liability.

17 12. On August 31, 2022, Defendants filed a Notice of Removal on the basis that Plaintiff's
18 claims were preempted by the LMRA and ERISA. On January 31, 2023, Plaintiff filed a Motion to
19 Remand. The district court granted Plaintiff's Motion to Remand on March 14, 2023.

20 **INVESTIGATION AND DISCOVERY**

21 13. Both parties engaged in extensive formal and informal discovery in connection with this
22 Action prior to mediation.

23 14. Prior to filing this action, Plaintiff requested his employment file from Defendants, which
24 was produced in approximately December of 2021 and consisted of some of Plaintiff's timesheets and
25 wage statements.

26 15. While this case was in federal court, the Parties produced initial disclosures. Defendants
27 produced a list of Aggrieved Employees and their dates of employment. Defendants also identified which
28 Aggrieved Employees had signed arbitration agreements and which Aggrieved Employees' employment

1 was covered by a collective bargaining agreement (“CBA”). Defendant’s initial disclosures also included
2 identification of the applicable CBAs.

3 16. Plaintiff propounded Special Interrogatories and Requests for Production upon
4 Defendants. Defendant propounded Requests for Production, Special Interrogatories, Form Interrogatories
5 – General, and Form Interrogatories – Employment.

6 17. The parties stipulated to a protective order, filed on July 28, 2023, and the Court granted
7 it shortly after on August 4, 2023.

8 18. Before mediation, the Parties agreed to pursue informal discovery. Defendants produced
9 hundreds of pages of documents, including complete time and payroll records of the Aggrieved Employees
10 from approximately April of 2021 through July of 2023; an exemplar of its arbitration agreement, an
11 employee manual, and an updated list of Aggrieved Employees with their dates of employment and contact
12 information. Plaintiff’s counsel reviewed and analyzed these documents prior to mediation.

13 19. Plaintiff’s Counsel also spent a significant amount of time conducting fact finding
14 interviews with several Aggrieved Employees. As a result of these efforts and with the assistance of
15 Plaintiff Stoddart, Plaintiff’s counsel prepared a comprehensive mediation brief and damage analysis.

16 20. Based on my experience litigating almost exclusively wage and hour claims for the past
17 37 years, I believe the information obtained and exchanged between the Parties was sufficient for the
18 Parties to make an informed decision about the resolution of this case.

19 **MEDIATION**

20 21. On September 13, 2023, the Parties participated in a full day of mediation with
21 Mark Peters, Esq., a well-respected, neutral third-party mediator, well-versed and experienced in wage
22 and hour actions. During the mediation, the Parties discussed and considered each party’s respective
23 positions on the legal and factual issues raised by the Action, as well as the asserted liability. The Parties
24 reached a settlement and formally executed the Settlement Agreement on November 13, 2023. At all times,
25 the Parties’ negotiations were adversarial, non-collusive and at arm’s-length.

26 **EVALUATION OF THE PAGA CLAIMS FOR SETTLEMENT PURPOSES**

27 22. The default formula used to calculate civil penalties under the PAGA is as follows: Initial
28 Violation Penalty x Total Number of Employees during the PAGA Period x Total Number of Pay Periods

1 during the PAGA Period. However, because this formula presumes that a violation occurs at least once
2 per employee, per pay period, Plaintiff modified the formula to reflect the applicable violation rate for
3 each claim based on the evidence.

4 23. To evaluate Defendants' liability, Plaintiff used the following formula: Initial Violation
5 Penalty x Violation Rate x Number of Pay Periods During Relevant Period. Plaintiff determined that
6 Defendants' overall liability was approximately \$359,650.00 as outlined below. This amount represents
7 the maximum exposure Defendants could potentially face based on an "everything goes right" scenario
8 for all claims, all Aggrieved Employees, and all pay periods, as well as the presumption that the Court
9 would permit stacking and not reduce the civil penalties as "unjust, arbitrary and oppressive or
10 confiscatory."

11 A. For the meal period claim, Plaintiff used the civil penalty outlined in Labor Code
12 § 558 and determined that the value of claim was approximately \$39,850;

13 B. For the rest period claim, Plaintiff used the civil penalty outlined in Labor Code
14 § 2699(f) and determined that the value of claim was approximately \$79,700;

15 C. For the failure to pay for all hours worked at the correct regular rate of pay, Plaintiff
16 used the civil penalty outlined in Labor Code § 2699(f) and determined that the
17 value of the claim was approximately \$79,700;

18 D. For the failure to reimburse expenses claim, Plaintiff used the civil penalty outlined
19 in Labor Code § 2699(f) and determined that the value of the claim was
20 approximately \$79,700;

21 E. For the waiting time penalties claim, Plaintiff used the civil penalty outlined in
22 Labor Code § 2699(f) and determined that the value of the claim was approximately
23 \$1,000; and

24 F. For the itemized wage statement claim, Plaintiff used the civil penalty outlined in
25 Labor Code § 2699(f) and determined that the value of the claim was \$79,700.

26 24. During the course of the litigation, the Parties engaged in numerous and extensive
27 discussions regarding the factual and legal issues presented by the Action and Defendants' defenses.
28 Throughout the course of this Action, Defendants have consistently maintained that Plaintiff and all other

Aggrieved Employees were provided with legally compliant meal and rest periods, were paid all earned wages for all work performed, and were reimbursed all necessary business expenses. Defendants further maintained that they kept accurate itemized wage statements and maintained accurate records. Defendants maintained that most of the Aggrieved Employees had signed arbitration agreements that precluded them from participating in a representative PAGA action in state court. Defendants also maintained that several of the Aggrieved Employees were covered by collective bargaining agreements that exempt their employment from PAGA coverage pursuant to Labor Code section 2699.6. Defendants also argued that HMI is a small workforce and that the Aggrieved Employees that Plaintiff sought to represent included family members and dedicated employees who did not experience the Labor Code violations alleged by Plaintiff. Although Plaintiff maintains that all claims are meritorious and believes that he would have prevailed had he taken the issues to trial, Plaintiff acknowledges that Defendants possess legitimate defenses to liability, manageability, and the recovery of penalties.

25. For instance, the meal period claim is premised on the assertion that Defendants scheduled meal periods after the end of the fifth hour of work; were occasionally interrupted by work duties such as having to unload trucks, and occasionally required Aggrieved Employees to work through meal periods based on workloads. Defendants contend, however, that Aggrieved Employees were permitted to take meal breaks whenever they desired and added that Aggrieved Employees now confirm on their timesheets that timely, off-duty, uninterrupted meal breaks were taken. Such considerations posed a substantial obstacle for Plaintiff to succeed on his meal period claims, as well as establishing the full amount of Plaintiff's estimated civil penalties.

26. The rest period claim is premised on the fact that Plaintiff never received a rest period during his employment with Defendants because they lacked any policy authorizing them or informing Aggrieved Employees of their right to take them whatsoever. Defendants contend that Aggrieved Employees now confirm on their timesheets that timely, off-duty, uninterrupted rest breaks were taken.

27. The unpaid wages claims are based on assertions that Defendants improperly considered the length of time that Aggrieved Employees spent driving back from field work to Defendants' shop while subject to the control of Defendants as non-compensable time; and regularly failed to compensate Aggrieved Employees for all recorded hours. Defendants, on the other hand, adamantly refuted Plaintiff's

1 unpaid wages claims contending that they followed all applicable laws and paid Aggrieved Employees for
2 all hours worked. Defendants further contend that even if they were found liable, Plaintiff's estimate of
3 Defendant's exposure for civil penalties was grossly inflated.

4 28. The failure to pay all overtime wages claim is premised on the allegation that Defendants
5 only issued overtime pay where Aggrieved Employees worked over nine hours when doing field work.
6 Defendants contend that they have always paid overtime compensation for time worked after eight hours
7 in a workday and forty in a workweek. Although Plaintiff disputes Defendants' denial, it appears that
8 Defendant changed its overtime practices following the initiation of this litigation.

9 29. The failure to reimburse claim is premised on the assertion that Aggrieved Employees are
10 required to use their personal cell phones to communicate with supervisors and other employees of
11 Defendants in order to fulfill their job duties, including to receive their assignment every evening before
12 work. Plaintiff also alleges that Aggrieved Employees are required to purchase tools in order to perform
13 work, which included a welding mask, boots, and fireproof clothing. Defendants contend that the tools
14 purchased by Aggrieved Employees were not necessary and that they provided all necessary tools.
15 Defendants also maintained that cell phones were not necessary for work because there is a company
16 phone in the shop, and in the field there is always a supervisor with a company phone for any necessary
17 work-related communications.

18 30. With respect to the claim for waiting time penalties, Defendants would likely assert a "good
19 faith" defense that there were not any unpaid wages, which would preclude the imposition of waiting time
20 penalties, or at the very least, substantially undercut the value of this claim. Further, this is a derivative
21 claim and thus is dependent on the substantive violations that are alleged. (See, e.g., *Road Sprinkler Fitters*
22 *Local Union No. 669 v. G&G Fire Sprinklers, Inc.* (2002) 102 Cal.App.4th 765, 782-783 [a mistaken
23 belief that wages are not owed may negate a finding of willfulness]; *Nordstrom Commissions Cases* (2010)
24 186 Cal.App.4th 576, 584 [discounting penalties on a Section 203 claim because a "good faith dispute"
25 existed regarding the claimed wages].)

26 31. The claim for failure to provide accurate itemized wage statements flows directly from the
27 meal and rest period and unpaid wages violations. (See, e.g., *Harris v. Vector Marketing Corp.* (N.D. Cal.
28 2009) 656 F.Supp.2d 1128, 1145-1146 [summary adjudication on plaintiff's Section 226 claim was

1 warranted because a dispute existed as to whether plaintiff was an independent contractor and the record
2 lacked evidence that conduct was knowing or willful].) Inadvertent mistakes and clerical errors are also
3 good faith defenses to the wage statement claim. (Labor Code § 226(e)(3).)

4 32. Because Plaintiff's claims are based solely on PAGA violations, had he proceeded to trial,
5 there is a substantial risk that any penalties assessed would have been reduced under Labor Code
6 § 2699(e)(2), which permits a court to reduce the award of penalties if the full amount of penalties would
7 be "unjust, arbitrary, and oppressive or confiscatory."

8 33. In reaching the settlement, my office carefully considered the following: information and
9 documents obtained in formal and informal discovery; the common experience of Aggrieved Employees;
10 the strength of the case versus the amount offered in settlement; Defendants' projected liability, the risk,
11 expense, complexity, and likely duration of further litigation and the potential finding that the case is
12 unmanageable; the present state of the law as it applies to the claims asserted; the burdens of proof
13 necessary to establish liability against Defendants; and the potential for appeals.

14 34. The Gross PAGA Settlement Amount accounts for approximately 42% of Defendants'
15 maximum potential exposure. While this represents a discount, assuming Plaintiff prevailed on all issues,
16 established liability, and proved the civil penalties as estimated, this reduction is an extremely reasonable
17 compromise considering the substantial risk Plaintiff may face in proving liability, determining the civil
18 penalties, and establishing manageability. The settlement strikes a balance between the interests of all
19 parties, including the State of California, the general public and the Aggrieved Employees by penalizing
20 the employer and providing relief to the Aggrieved Employees.

21 35. The settlement commits Defendants to create a Gross PAGA Settlement Amount that will
22 provide Plaintiff, the state of California and Aggrieved Employees with a financial recovery and
23 extinguishes the risks associated with continuing the litigation and any appeals that would likely be filed
24 following a judgment in Plaintiff's favor. Indeed, such efforts by Defendants would likely result in a delay
25 of several years before this case could finally be resolved and both parties would incur substantially more
26 in attorneys' fees and costs, whereas the settlement provides the State and the employees with a significant
27 and timely recovery, making it well within the range of reasonableness.

36. I believe that the Gross PAGA Settlement Amount of \$150,000.00 is an excellent result that provides a real and substantial benefit to the State of California, the general public, Plaintiff and all other Aggrieved Employees. This is particularly true considering the highly disputed nature of the claims, the risks associated with trying the Action, and the potential for appeals. The Parties' determination of a fair value of the settlement was based on a number of factors, including an investigation of the applicable law as it applied to the facts discovered, the suitability of the case for trial, the PAGA claims and associated civil penalties, Defendants' potential defenses, and the Court's authority to reduce civil penalties. Based on my experience, I believe the settlement is a fair and reasonable compromise.

SUMMARY OF SETTLEMENT

37. The settlement that is currently before the court is the product of thorough, arm's-length negotiations. The Parties reached a settlement only after an extensive investigation into and a comprehensive analysis of the legal and factual issues presented in this Action, as well as an evaluation of the potential liability faced by Defendants.

38. On or about November 13, 2023, the parties entered into a written agreement, "Private Attorneys General Act (Labor Code § 2698 *et seq.*) Settlement Agreement and Release," to resolve the representative claims raised in this Action. Plaintiff now seeks Court approval of the settlement on the terms outlined in the Agreement. The following is a basic summary of the terms of the Agreement.

39. **Gross PAGA Settlement Amount:** Defendants have agreed to pay a non-reversionary Gross PAGA Settlement Amount of One Hundred Fifty Thousand Dollars (\$150,000.00). Settlement Agreement at ¶ III.31. The Gross PAGA Settlement Amount will fund: (a) the Aggrieved Employees; (b) the LWDA payment; (c) the award of Attorneys' Fees to Plaintiff's Counsel; (d) the award of Attorneys' Costs to Plaintiff's Counsel; and (e) the Administration Costs. Settlement Agreement at ¶ III.31-32. Defendants are to pay the Gross PAGA Settlement Amount no later than thirty (30) calendar days after the Effective Date. Settlement Agreement at ¶ IV.39.

40. **Settlement Administration and Costs:** The Settlement Agreement provides that Administrator, ILYM Group, Inc., will administer the settlement in accordance with the Settlement Agreement and any Court orders and will be paid for its services in administering the Settlement in an amount not to exceed \$2,450.00. Settlement Agreement at ¶ III.32.b.

41. **Attorneys' Fees:** The Settlement Agreement states that Plaintiff or Plaintiff's Counsel's may seek Attorneys' Fees for services rendered in an amount not to exceed forty percent (40%) of the Gross PAGA Settlement Amount, which is Sixty Thousand Dollars (\$60,000.00). Settlement Agreement at ¶ I.3.

42. **Attorneys' Litigation Costs:** The Settlement Agreement allows Plaintiff or Plaintiff's Counsel to seek reimbursement of Litigation Costs in an amount not to expected to exceed nine thousand five hundred dollars and zero cents (\$9,500.00). Settlement Agreement at ¶ I.3.

43. **Net PAGA Settlement Amount:** The Net PAGA Settlement Amount is defined as the Gross PAGA Settlement Amount less the awarded Attorneys' Fees, Attorneys' Costs, and Administration Costs. Settlement Agreement at ¶ I.9. Seventy-five percent (75%) of the Net Settlement Amount will be distributed to the LWDA and twenty-five percent (25%) will be distributed to Aggrieved Employees. *Id.*

44. **Individual PAGA Payments:** Aggrieved Employees are entitled to receive twenty-five percent (25%) of the Net Settlement Amount. Settlement Agreement at ¶¶ III.33; IV.40. Each Aggrieved Employee shall receive their respective Individual PAGA Payment pro rata based upon the total number of pay periods worked during the PAGA period. *Id.*

45. **Individual PAGA Payments Distribution:** Within ten (10) business days of the Effective Date, Defendant shall provide the Settlement Administrator with information related to Aggrieved Employees, which the Settlement Administrator shall use to calculate each Aggrieved Employee's Individual PAGA Payment. Settlement Agreement at ¶ IV.41. Within five (5) business days of receipt of this information, the Settlement Administrator will circulate to counsel for Plaintiff and Defendants an anonymized spreadsheet containing the Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said payments. *Id.* The Settlement Administrator shall obtain approval of the calculations from the Parties within five (5) business days after receipt of such information by counsel for the Parties. *Id.* Within five (5) business days after such approval is received, the Settlement Administrator shall mail the Individual PAGA Payments to Aggrieved Employees. *Id.*

46. The payment to Aggrieved Employees will be based on the number of pay periods during which each Aggrieved Employee performed work for Defendants during the PAGA Period. Settlement Agreement at ¶¶ III.33; IV.40. The Individual PAGA Payment shall be calculated by (i) computing the

total number of pay periods worked by all Aggrieved Employees during the PAGA period; (ii) dividing the 25% of the Net PAGA settlement amount by the total pay periods to determine the settlement value of each pay period (“Pay Period Value”) and (iii) multiplying the number of pay periods worked by each Aggrieved Employee during the PAGA period by the Pay Period Value. *Id.* The Individual PAGA Payments will be valid for a period of one hundred and eighty (180) days after which any unclaimed funds will be void, and the Settlement Administrator shall issue the unclaimed funds to the Parties’ chosen *cy pres* beneficiary, Legal Services of Northern California. Settlement Agreement at ¶ IV.44.

47. **LWDA Payment:** In accordance with the PAGA statute, the California Department of Labor and Workforce Development Agency will receive seventy-five percent (75%) of the Net Settlement Amount. Settlement Agreement at ¶¶ I.9; III.33.

48. **The Aggrieved Employees:** The Agreement covers all individuals employed by HMI as non-exempt employees in California during the PAGA Period, excluding Daniel C. Bong, Dustin Bong, and Jacob Bong, and all employees working for HMI whose employment was covered by a collective bargaining agreement. Settlement Agreement at ¶ I.2. It is estimated that there are seventeen (17) Aggrieved Employees. *Id.*

49. **PAGA Period:** The Agreement covers the period of March 9, 2021 through and including the date of approval of this Agreement or February 28, 2024, whichever occurs first. Settlement Agreement at ¶ I.11.

50. **PAGA Released Claims:** Upon the Effective Date, except as to the right to enforce the terms and conditions of the settlement, Plaintiff, in his capacity as private attorneys general and acting on behalf of himself the State of California, LWDA, and the Aggrieved Employees, releases the Released Parties of any right or claim for civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.*, arising under the California Labor Code based on the alleged violations in the operative complaint in the above-referenced case (Case No. FCS058244), or alleged in Plaintiff’s notice(s) to the LWDA, or that could have been alleged based upon the facts alleged in the operative complaint or notices, including any alleged failure by Defendants (1) to pay wages, minimum wages, or overtime; (2) to provide meal or rest periods or compensation in lieu thereof; (3) to provide compliant wage statements; (4) to timely pay wages during or at the end of alleged employment; (5) to

1 reimburse for all necessary business expenses or other losses/expenditures; (6) to accurately record work
2 hours and meal break periods; and (7) to accurately maintain records (collectively, the “PAGA Released
3 Claims”). This release includes, without limitation, violation of California Labor Code sections 201–204,
4 216, 226, 226.7, 226.8, 510, 512, 516, 558, 1182.11, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
5 and 2802 during the PAGA Period. Settlement Agreement at ¶¶ I.12; III.34.

6 **PLAINTIFF’S COUNSEL’S EXPERIENCE**

7 51. I have been a member of the State Bar of California since 1985. I have personally tried
8 many bench and jury trials to verdict in various courts in California. I have represented employees and
9 employers in employment litigation matters since 1995. My involvement in various forms of class and
10 representative action litigation spans more than twenty years.

11 52. I have extensive experience handling class and representative actions, other complex
12 litigation, and wage and hour claims, such as those asserted in this Action. My knowledge of the applicable
13 wage and hour laws is evidenced by my representation of employees in various state and federal courts in
14 the state of California in numerous disputes concerning receipt of pay in connection with their
15 employment.

16 53. Over the past ten years, my firm has been appointed as class counsel and received adequate
17 and fair settlements in over 100 lawsuits in the district and state courts of California with claims similar
18 to those presented here. Additionally, my firm currently serves as plaintiff’s counsel for approximately
19 thirty wage and hour class and representative employment law cases. A list of the cases in which my firm
20 has served as class counsel and/or currently serves as counsel for plaintiffs in employment actions pending
21 throughout California is attached hereto as **Exhibit 3** and incorporated herein by reference.

22 54. I have also served as defense counsel in the following class action cases: *Garza, et al. v.*
23 *SRH Investments LLC, et al.*, Superior Court for the County of Los Angeles; *Avila, et al. v. Gateway Ivey*
24 *Ranch Associates, et al.*, Superior Court for the County of San Diego; *Cabrera, et al. v. Fieldstone*
25 *Communities, Inc., et al.*, Superior Court for the County of San Diego; *Cheatwood, et al. v. Greystone*
26 *Homes, Inc., et al.*, Superior Court for the County of San Bernardino; *Castro, et al. v. Kaufman & Broad*
27 *of Southern California, Inc., et al.*, Superior Court for the County of San Diego; *Flores, et al. v. Eastlake*
28 *Trails Co. LLC, et al.*, Superior Court for the County of San Diego; *Pacheco, et al. v. WL Coral Gate*

1 *Associates, et al.*, Superior Court for the County of San Diego; *Garcia, et al. v. Cambridge Homes, et al.*,
2 Superior Court for the County of Riverside; *Harris, et al. v. LNC Properties, LTD, et al.*, Superior Court
3 for the County of San Bernardino; *Soriano, et al. v. Kaufman and Broad of Southern California, Inc., et*
4 *al.*, Superior Court for the County of Kern; *Rodriguez, et al. v. Epic Development Corporation, et al.*,
5 Superior Court for the County of Kern; *Gates, et al. v. Kaufman and Broad Coastal Valleys, Inc., et al.*,
6 Superior Court for the County of Los Angeles; *Zimmerman, et al. v. West Venture Development, Inc., et*
7 *al.*, Superior Court for the County of San Bernardino; *Robles, et al. v. Rockfield Development Corporation,*
8 *et al.*, Superior Court for the County of San Bernardino; *Riley, et al. v. So. Cal Housing Partners, LLC, et*
9 *al.*, Superior Court for the County of San Bernardino; *Castillo, et al. v. LNC Properties LTD, et al.*,
10 Superior Court for the County of San Bernardino; *Reynoso, et al. v. DOES 1-50, inclusive*, Superior Court
11 for the County of San Diego; *Frais v. Forecast Group*, Superior Court for the County of Los Angeles;
12 *Haney v. The Presley Group*, Superior Court for the County of Riverside; *Le Doux v. KB Homes*, Superior
13 Court for the County of Los Angeles; *Long v. West Venture*, Superior Court for the County of Los Angeles;
14 *Manning v. Presley Homes*, Superior Court for the County of Los Angeles; *McLellan v. Stratham Group*,
15 Superior Court for the County of Los Angeles; *Winkler v. West Venture*, Superior Court for the County of
16 Los Angeles.

17 55. Nathan Reese was admitted to the State Bar of California in 2012. Since being admitted to
18 the Bar, he has represented employees in employment litigation matters, including wage and hour class
19 action litigation such as this matter. During his time working with GrahamHollis APC, he has obtained
20 settlements and been approved as class counsel in the following Class and PAGA Representative actions:
21 *Milburn v. PetSmart, Inc., United States District Court Eastern District*, settled for \$1,350,000 on behalf
22 of approximately a total of 3,491 class members and aggrieved employees, and Judge Drozd approved
23 fees of 33 1/3%; *Dadafshar v. KT Hotels, LLC et al.*, Superior Court County of San Diego, settled for
24 \$515,000 on behalf of approximately 892 class members and Judge Pollock awarded 33.33% in fees;
25 *Potter v. Big Tex Trailer Manufacturing Inc. et al.*, United States District Court Central District, settled
26 for \$972,391.68 on behalf of 104 class members and Judge Gutierrez approved fees of 33.33%; *Taylor v.*
27 *Cross Country*, Superior Court County of Los Angeles, settled for \$582,000 on behalf of a settlement class
28 of 589 and 1602 aggrieved employees and Judge Nelson approved fees of 33 1/3%; and *Ramirez v. Baker*

1 *Hughes Oilfield Operations, LLC*, Superior Court County of Santa Barbara, settled for \$2,750,000 on
2 behalf of a settlement class of 165 employees, and Judge Anderle approved fees of 33 1/3%; *Cassels v.*
3 *Select Comfort Retail Corporation*, Superior Court San Diego County, settled for \$1,250,000 on behalf of
4 426 class members and 997 aggrieved employees, and Judge Wohlfeil awarded fees of 33 1/3%. In
5 addition, he has litigated wage and hour actions to verdict in both jury and bench trials. He recently
6 obtained a favorable jury verdict of a class action trial in the consolidated action entitled *Arriaga Wage*
7 *and Hour Cases* in Superior Court for the State of California, County of Santa Clara, case no. JCCP 4980.

8 56. Nora Steinhagen was admitted to the State Bar of California in November 2021. Prior to
9 her admission to the California bar, Ms. Steinhagen was admitted to the State Bar of Minnesota in October
10 of 2019 and to the State bar of Wisconsin in September 2020. Ms. Steinhagen has represented employees
11 in class and representative actions and has assisted in a number of class and/or representative action cases,
12 including, but not limited to, *Julis Gray v. Moz Designs, Inc.*, Alameda Superior Court, settled for
13 \$124,000 on behalf of approximately 32 aggrieved employees with Judge Eumi Lee awarding 33% of the
14 gross settlement amount in attorney's fees; *Fernandez v. Prime Healthcare Services, Inc.*, Superior Court
15 for the County of Los Angeles, settled for \$150,000 on behalf of approximately 18 aggrieved employees
16 and Judge Virginia Keeny awarded 33% of the gross settlement amount in attorney's fees; *Martinez v.*
17 *Zoo Med Laboratories*, San Luis Obispo Superior Court, settled for \$600,000 on behalf of approximately
18 301 aggrieved employees and Judge Tana Coates awarded 33% of the gross settlement amount in
19 attorney's fees; *Justin Cole v. Talia First Class Limousines*, San Diego Superior Court (litigation
20 ongoing); *Cathy Koleff v. Starside Security*, San Diego Superior Court (litigation ongoing);
21 *Krizia Coombes v. HR Support*, Superior Court for the County of Alameda (litigation ongoing); *Gamez v.*
22 *Glenn E. Thomas Co.*, Los Angeles Superior Court (litigation ongoing); *Hood v. E&E Ryder, et al.*,
23 Superior Court for the County of Riverside (litigation ongoing), *Thomas Hefner v. Solaray, LLC*, Santa
24 Clara County Superior Court, case number 21CV384796; settled for \$750,000.00 on behalf of
25 approximately 63 class members and Judge Sunil Kulkarni awarded 33% of the gross settlement amount
26 in attorney's fees; *Alan Pena v. Superior Contracting Corp., et al.*, Alameda County Superior Court, case
27 number RG20072863, settled for \$800,000.00 on behalf of 678 class members and Judge Jeffrey Brand
28 awarded one-third of the gross settlement amount in attorney's fees.

57. Mr. Reese, Ms. Steinhagen, and I have considerable experience handling wage and hour class action cases with claims similar to those asserted in this Action and have successfully represented tens of thousands of employees in state and federal court cases throughout California. We relied on our extensive experience when negotiating the settlement.

ATTORNEY'S FEES AND LITIGATION COSTS

58. In accordance with the Settlement Agreement, Plaintiff's Counsel will request an attorneys' fee award in the amount of 40% of the Gross PAGA Settlement Amount, plus reimbursement of litigation costs. Settlement Agreement at ¶ III.32.a.

59. The Settlement is a great result for the state of California, the general public, and the Aggrieved Employees because it achieves the enforcement objective of the statute, while providing relief to the State of California and the Aggrieved Employees.

60. In my experience, plaintiffs in employment law cases are typically unable to pay their attorneys on an hourly basis and can only obtain representation if they can find counsel who are willing to accept their case on a contingency basis and advance either all or a significant portion of the costs. To that end, it is important that competent counsel is incentivized to bring complex and risky contingency cases, such as this case, by awarding attorneys' fees that are commensurate with the fees that the attorneys would have received had they negotiated a fee arrangement with plaintiff ex ante.

61. Although case law supports as high as a 50% fee award on common settlement funds of less than \$10 million, Plaintiff's Counsel's request for an attorneys' fee award of \$60,000.00 representing forty percent of the Gross PAGA Settlement Amount, is both "reasonable and fair" in light of the amount of work performed and the amount of resources and labor employed in the prosecution of this action. Based on my experience and knowledge of the relevant legal market for wage and hour class actions, these amounts accurately reflect the marketplace for similar representation of plaintiffs in wage and hour cases on a contingency basis.

62. GrahamHollis APC has taken on substantial risk and expense in order to achieve the ultimate result in this Action. My firm bore the risk and costs of this action on a pure contingency basis. For instance, my firm has prepared for and prosecuted the Action, advanced all costs, and deferred payment of fees with no guarantee that any of the fees or litigation costs incurred would ever be recovered.

1 GrahamHollis APC was also precluded from taking other fee generating employment, since this action
2 occupied a significant portion of my firm's time and resources. To date, GrahamHollis APC has not been
3 compensated for any of its time or expense since this action began.

4 63. The requested Attorneys' Fee award of \$60,000.00, or forty percent of the Gross PAGA
5 Settlement Amount, constitutes a fair market charge for the benefits conferred by the settlement, as
6 Plaintiff's Counsel's skills in negotiating the settlement resulted in the substantial benefit for the State of
7 California, the general public and the Aggrieved Employees.

8 64. In making a fee request in representative actions such as this, I always analyze the factors
9 that a court must consider in awarding attorneys' fees, and I believe that the circumstances in this case
10 justify the \$60,000.00 Attorney's Fee award. From the beginning, this case presented unique challenges
11 for Plaintiff, both factually and legally, and liability was highly contested. Defendants vigorously opposed
12 Plaintiff's claims. I believe that my firm's knowledge and experience, combined with our persistent efforts
13 enabled us to work through these issues and combat Defendants' rigorous defense strategy. Defendants
14 raised legal defenses to each one of Plaintiff's claims. The excellent results achieved by this settlement
15 was due, in large part, to our knowledge, experience and commitment to the litigation.

16 65. I believe that an attorneys' fee award of \$60,000.00 is fair and reasonable and is well within
17 the range of what is typically charged in the marketplace. GrahamHollis APC's fee request, as expressed
18 and contemplated in the Settlement Agreement, is in line with other settlements approved in California.
19 For instance, California courts have approved the following awards under the common fund approach:

- 20 • *Crandall v. U-Haul Int'l, Inc.*, Los Angeles County Super. Ct. Aug. 17, 2001, Case
21 No. BC178775 (court awarded 40% of the gross settlement in fees);
- 22 • *Abzug v. Kerkorian*, Los Angeles County Super. Ct., Case No. CA000981 (court
23 awarded 45% of the gross settlement in fees);
- 24 • *Haitz v. Meyer, et al.*, Alameda County Super. Ct., Case No. 572968-3 (court
25 awarded 40% of the gross settlement in fees);
- 26 • *Elliott v. Clothestime*, Orange County Super. Ct., Case No. 01-CC00333 (court
27 awarded 40% of gross settlement in fees);

- *Irmen v. Raphael's Party Rentals*, San Diego County Super. Ct. Oct. 7, 2011, No. 37-2009-00081887-CU-OE-CTL (court awarded 40% of gross settlement in fees);
- *Birch v. Office Depot, Inc.*, S.D. Cal. Sept. 28, 2007, Case No. 3:06-CV-01690 DMS (WMC) (court awarded 40% of gross settlement in fees);
- *Calhoun v. General Petroleum Corp.*, Los Angeles County Super. Ct., Case No. BC425216 (court awarded 40% of gross settlement in fees);
- *Duarte v. Rainbow Disposal Co., Inc.*, Orange County Super. Ct., Case No. 30-2008-00044404-CU-OE-CXC (court awarded 40% of gross settlement in fees);
- *Payton v. Atlantic Aviation Investors, Inc.*, Orange County Super. Ct., Case No. 30-2010-00366725-CU-OE-CXC (court awarded 40% of gross settlement in fees);

66. My firm demonstrated substantial skill, diligence, and efficiency in achieving the settlement, despite the aggressive defense mounted by Defendants, and I believe an award of forty percent of the common fund represents fair compensation for our high quality of work and excellent results achieved.

67. The reasonableness of the requested award is supported by the result achieved and the fact that HMI has changed a number of its policies as a result of this litigation. For example, HMI refined and formalized its employment policies and practices after Plaintiff initiated this Action, including issuing employee handbooks with detailed policies relating to meal and rest periods, timekeeping, and expense reimbursement. Furthermore, HMI changed the format of employee timesheets to include reminders to take meal breaks before the fifth hour. HMI also now schedules meal and rest breaks and has brought its overtime policy into compliance with the Labor Code. Because HMI has made such changes to its employment policies, this litigation has conferred an important benefit to HMI's employees and fulfilled an important purpose of the PAGA statute, which is to ensure compliance with the California Labor Code.

68. The reasonableness of the requested award is further undoubtedly supported by the lodestar cross-check. There has been an extraordinary amount of work performed by my firm in this Action over the past three and a half years.

69. Since becoming involved in this Action, my firm has served and responded to written discovery, engaged in extensive meet and confer efforts with Defendants, filed a motion to remand based

upon complex legal issues, analyzed hundreds of pages of handwritten time records and compared them with wage statements and payroll data pertaining to the Aggrieved Employees, interviewed numerous Aggrieved Employees about the claims and defenses asserted in the Action, attended a full-day mediation, assisted in drafting the Settlement Agreement, and prepared the instant motion to approve the settlement.

70. GrahamHollis APC keeps contemporaneous billing detail logs, which reflect time billed in one-tenth hour increments. My firm's lodestar to date is over \$160,000.00, which represents a total of over 400 hours worked on this Action. This time includes time spent litigating this Action from its inception to the present. It does not include additional time that will be spent attending the hearing on this motion and assisting with the administration of this settlement.

71. In setting the hourly rates for myself, my co-shareholder Mr. Reese and I consulted with attorneys with national reputations, experience, and law practices similar to my firm and determined that the rates we charge are reasonable for attorneys of our experience, reputation and expertise and are consistent with the prevailing market rates for attorneys and paralegals of comparable levels of experience and reputation. My firm's rates also compare very favorably with rates approved by other trial courts in similar actions.

72. The billing rates for the lawyers and paralegals who primarily worked on this case are as follows:

Time Keeper	Billable Rate
Graham Hollis/Shareholder (Admitted 1985)	\$1,000
Nathan Reese/Shareholder (Admitted 2012)	\$800
Nora Steinhagen/Associate (Admitted 2021)	\$450

73. These rates reflect the usual and customary rates charged by my firm for handling complex wage and hour litigation as of the beginning of 2023, such as this Action. Wage and hour class, collective and representative actions form a vast majority of my firm's current work and we have developed a high level of skill and competence in this field of litigation. These hourly rates are fair and reasonable given the nature and complexity of the litigation and experience level of the timekeeper.

74. As an attorney who practices class, collective, and representative action employment law throughout California, I regularly attend seminars and have frequent contact with other members of the legal community who work in the employment law class action field. Based on information I received from these sources, I believe the hourly billing rates charged by my firm are well within the customary rates charged by other experienced class action law firms in the community.

75. The following summarizes the hours spent by each timekeeper as part of this litigation²:

Timekeeper	Years	Hours	Billable Rate	Lodestar
Graham Hollis/Shareholder	37	3.4	\$1,000	\$3,400
Nathan Reese/Shareholder	11	52.1	\$800	\$41,680
Nora Steinhagen Associate	2	152.4	\$450	\$68,580
Allison Schubert	1	1.5	\$400	\$600
Brisa Martinez	1	18.7	\$300	\$5,610
Senior Paralegals	6+	54.1	\$270	\$14,607
Paralegals	-	44.2	\$245	\$10,829
Case Manager	-	4.6	\$185	\$851
Law Clerks	-	75.8	\$185	\$14,023
TOTAL		406.8		160,180

76. In all instances, the timekeeper indicates the date and the amount of time spent on a task in one-tenth of an hour increments, describes the work that was performed during the indicated time period, and identifies the matter to which the time should be charged. GrahamHollis APC's time records include, but are not limited to, time spent investigating and researching the legal issues raised in this Action, drafting written notice to the LWDA, preparing the complaint and other legal pleadings, such as motions to remand and reply motions in support of such; drafting and responding to correspondence, communicating with Plaintiff, drafting and responding to written discovery, reviewing and analyzing documents produced by Defendants, conducting the damages analysis, drafting the detailed mediation brief, participating in mediation, negotiating the terms of the settlement and finalizing the written agreement, and moving for approval of the settlement. The time records do not include the time that will

² If the Court finds it appropriate to review the complete billing records, a copy will be made available upon request for an in-camera review.

be spent preparing for and attending the hearing on Plaintiff's approval motion or the time spent ensuring that the settlement funds are distributed accordingly.

77. The hours spent prosecuting this action are not only reasonable but were necessary for the successful prosecution and for the excellent recovery obtained on behalf of the State, the general public and Aggrieved Employees.

78. Below is a summary of the hours spent on various categories of activities³, along with the firm's collective lodestar:

Activities	Hours	Lodestar
Intake and Pre-Filing Work	14.8	\$4,028.50
Pleadings, Filings and Correspondence	109.3	\$47,402.00
Legal Research	10.2	\$4,372.00
Case Management	32.9	\$12,543.5
Mediation and Settlement	136.2	\$58,123.00
Investigation and Discovery	84.3	\$26,746.50
Client Communications and Meetings	6.7	\$3,946.00
Document and File Management	12.4	\$3,018.50
Total	406.8	\$160,180

79. GrahamHollis APC seeks reimbursement for costs and expenses in the amount of \$9,500.00 for costs and expenses incurred in connection with this Action.⁴ GrahamHollis APC maintains accounting records in its ordinary course of business. The costs and expenses identified in the following summary are taken from expense records, receipts, credit card statements, and check records. My firm's litigation costs include filing fees, court fees, computerized legal research charges, copying, delivery, postage, telephone charges, and mediation fees. These types of expenses are those which are customarily billed to fee-paying clients and routinely reimbursed. All of the litigation costs incurred by GrahamHollis APC were reasonably and necessarily incurred to effectively prosecute the Action. A true and correct copy

³ Because the firm's internal billing records include privileged information, I have provided a summary of the time spent on various tasks. Should the Court wish to review more detailed documentation of the hours spent by Plaintiff's Counsel, such records will be provided for the Court's review in camera.

⁴ My firm has incurred over \$9,500.00 in costs, however because the Agreement provides that Counsel will seek reimbursement of litigation costs in an amount not to exceed \$9,500.00, Plaintiff's Counsel has limited its request to \$9,500.00.

1 of a summary of the litigation costs incurred is attached hereto as **Exhibit 4** and is incorporated herein by
2 reference.

3 **Summary by Expense Type**

4 Attorney Service	\$700.79
5 Filing/Court Fees	\$1,375.00
6 Mediator/Arbitration	\$5,550.26
7 Online Research	\$1,572.35
8 Postage/Overnight Delivery	\$137.43
Photocopies/Document Imaging/ DocuSign	\$144.50
Telephone/Electronic Communications	\$578.22
Total	\$10,058.55

9
10 80. All costs and expenses incurred were reasonable and necessary to the prosecution of this
11 Action. My firm agreed to represent Plaintiff in connection with this Action in approximately October of
12 2021. The costs and expenses incurred are those that would normally have been billed to a client paying
13 for my firm's services on a non-contingency basis and are reasonable for a case such as this, in which
14 substantial investigation took place over the past two years.

15 81. Under the circumstances, I believe that the attorneys' fees and litigation costs sought are
16 appropriate and should be approved as fair and reasonable.

17 I declare under penalty of perjury under the laws of the State of California that the foregoing is
18 true and correct. Executed on November 20, 2023 in San Diego, California.

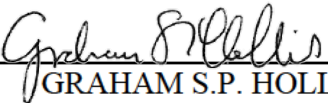
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EXHIBIT 1

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

This Private Attorneys General Act (“PAGA”) Settlement Agreement and Release (“Agreement”) is made by and between Plaintiff Michael Stoddart (“Plaintiff”), acting in a private attorney general capacity, and Defendants Heavy Metal Iron, Inc. (“HMI”) and Daniel Bong (collectively “Defendants”).

This Agreement, and the settlement embodied herein shall be binding on Plaintiff, on the Aggrieved Employees he represents, and on Defendants, subject to the approval of the Court.

I. DEFINITIONS

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

1. “Action” means the matter entitled *Michael Stoddart v. Heavy Metal Iron, Inc., et al.*, Solano County Superior Court, Case No. FCS058244.

2. “Aggrieved Employees” means all individuals employed by HMI as non-exempt employees in California during the PAGA Period, excluding Daniel C. Bong, Dustin Bong, and Jacob Bong, and all employees working for HMI whose employment was covered by a collective bargaining agreement. The number of Aggrieved Employees, including Plaintiff, as of September 17, 2023 is 17 individuals.

3. “Attorneys’ Fees and Costs” means the attorneys’ fees and costs paid to Plaintiff’s Counsel for the services rendered related to Plaintiff’s representative claims, as approved by the Court to compensate them for their legal work in connection with the Action, including all litigation activities and post-settlement activities, payable from the Gross PAGA Settlement Amount in an amount up to 40% of the PAGA Settlement Amount or Sixty Thousand Dollars (\$60,000.00) and Plaintiff’s Counsel actual expenses incurred in litigating this action in an amount not to exceed Nine Thousand Five Hundred Dollars (\$9,500.00), as approved by the Court.

4. “Court” means the Superior Court of California, County of Solano.

5. “Defendants” means Heavy Metal Iron, Inc., and Daniel Bong.

6. “Effective Date” means the day after both of the following have occurred: (i) final approval of this settlement is granted by the Court, and (ii) judgment approving this settlement becomes Final. If there are no objections to the settlement at the time of approval, the judgment approving the settlement shall become final on the date it is issued by the court. If there is an objection pending at the time of final approval, the judgment approving the settlement shall become final on the later of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review of any appellate decision, or, (ii) if a petition for review is filed, the date of denial of the petition for review, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

7. “Gross PAGA Settlement Amount” means the sum of One Hundred and Fifty Thousand Dollars (\$150,000.00), which shall include all settlement administration costs, the civil

penalties allocated to the PAGA and paid to the Aggrieved Employees and the California Labor and Workforce Development Agency (“LWDA”), and all Plaintiff’s attorneys’ fees and costs.

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

9. “Net PAGA Settlement Amount” means the Gross PAGA Settlement Amount less any amounts allocated as attorneys’ fees, attorneys’ costs, and administration costs. The Net PAGA Settlement Amount shall be allocated entirely as civil penalties under PAGA, with 25% of this amount payable to the Aggrieved Employees and the other 75% payable to the LWDA. The payment to each Aggrieved Employee will be based on the number of pay periods worked during the PAGA period.

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

11. “PAGA Period” means the time period from March 9, 2021, through either the date the Court approves the Settlement or February 28, 2024, whichever is earlier.

12. “PAGA Released Claims” means any right or claim for civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.*, arising under the California Labor Code based on the alleged violations in the operative complaint in the above-referenced case (Case No. FCS058244), or alleged in Plaintiff’s notice(s) to the LWDA, or that could have been alleged based upon the facts alleged in the operative complaint or notices, including any alleged failure by Defendants (1) to pay wages, minimum wages, or overtime; (2) to provide meal or rest periods or compensation in lieu thereof; (3) to provide compliant wage statements; (4) to timely pay wages during or at the end of alleged employment; (5) to reimburse for all necessary business expenses or other losses/expenditures; (6) to accurately record work hours and meal break periods; (7) to accurately maintain records. This release includes, without limitation, violation of California Labor Code sections 201–204, 216, 226, 226.7, 226.8, 510, 512, 516, 558, 1182.11, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2802 during the PAGA Period.

13. “PAGA Released Parties” means HMI, its parents and affiliates, past, present, and/or future, direct and/or indirect owners (including but not limited to Daniel Clifford Bong and Daniel Carl Bong, officers, directors, members, managers, employees, agents, representatives, attorneys, parent companies, subsidiaries successors and assigns.

13. “Parties” means Plaintiff and Defendants.

14. “Plaintiff” means Michael Stoddart.

15. “Plaintiff’s Counsel” means Nathan Reese and Nora Steinhagen of GrahamHollis, APC.

16. “Qualified Settlement Fund” means the qualified settlement fund established pursuant to Section 468B(g) of the Internal Revenue Services for the purpose of administering the settlement.

17. “Settlement Administrator” means ILYM Group, Inc. The Settlement Administrator shall be responsible for sending notices and for calculating settlement payments specified in the Agreement and preparing all checks and mailings.

18. “Settlement” means this PAGA Settlement Agreement and Release (alternatively referred to herein as the “Agreement”).

II. RECITALS

19. Plaintiff is a former non-exempt employee of HMI who worked as a welder from approximately August 19, 2017 until September 29, 2021.

20. On February 28, 2022, Plaintiff provided written notice to the LWDA and Defendants asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code.

21. On March 13, 2022, Plaintiff filed a Complaint entitled *Michael Stoddart v. Heavy Metal Iron, Inc., et. al.*, in Solano County Superior Court, case no. FCS058244. Plaintiff’s Complaint alleged claims against Defendants on an individual basis for 1) failure to provide meal periods or required premiums, 2) failure to provide rest breaks or required premiums, 3) failure to pay minimum and regular wages, 4) failure to pay all overtime wages, 5) failure to indemnify necessary expenditures, 6) failure to provide accurate itemized wage statements, 7) failure to timely pay all wages due upon separation of employment, and 8) violations of Business & Professions Code sections 17200 *et seq.* The Complaint also alleged representative claims on behalf of other aggrieved employees pursuant to PAGA.

22. Prior to filing his Complaint, Plaintiff requested his personnel file from Defendant. Defendant produced Plaintiff’s personnel file, which included a portion of his wage statements and time records from 2020 and 2021.

23. Defendants removed the case on August 31, 2022 to federal court pursuant to 28 U.S.C. 1441(a) based on federal question jurisdiction, arguing Plaintiff’s PAGA claim is preempted both under section 301 of the LMRA, 29 U.S.C. 185, and the Employee Retirement Income Security Act, 29 U.S.C. 1001 *et seq.* Plaintiff filed a motion to remand which the court granted on March 15, 2023, based on its determination that because Plaintiff himself was not subject to a qualifying collective bargaining agreement (“CBA”), none of his claims involved a right that existed solely as a result of the CBA and thus the LMRA does not preempt them. Upon remand, the Parties agreed to mediate the case and focus their efforts on the informal exchange of information and documents.

24. As part of informal discovery, Defendants provided Plaintiff’s Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees in order for Plaintiff’s Counsel to investigate Plaintiff’s allegations and potential penalties/exposure to Defendants for the PAGA Released Claims. The aforementioned information and documents included, *inter alia*: the timekeeping and payroll records of Plaintiff, and timekeeping and payroll records of the Aggrieved Employees from approximately March of 2021 through July of 2023; information and documentation concerning the claims set forth in the Complaint, such as Defendants’ employee handbook; and information regarding the number of Aggrieved Employees.

25. After entering into a stipulation and protective order, Defendants also produced contact information of the Aggrieved Employees, and Plaintiff’s Counsel interviewed several Aggrieved Employees in addition to Plaintiff.

26. On September 13, 2023, the Parties participated in a full-day mediation with Mark C. Peters, at which time the parties executed a Memorandum of Understanding that set forth the terms of a global settlement of Plaintiff's individual and representative claims.

27. The Parties have arrived at the settlement after extensive, arms-length negotiations, considering all relevant factors, present and potential.

28. Based on their own independent investigations and evaluations, Plaintiff and Plaintiff's Counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Agreement is fair, reasonable, and consistent with the underlying purpose of the PAGA, and is in the best interests of the Plaintiff and the Aggrieved Employees, in light of all known facts and circumstances and the risks inherent in litigation.

29. Although Defendants maintain and believe that Plaintiff and the Aggrieved Employees were treated lawfully in all respects and deny all wrongdoing, Defendants wish to resolve this matter amicably and without further litigation. This Agreement represents a compromise and settlement of highly disputed claims. The Parties agree that nothing in this Agreement is an admission by the Defendants that the claims in the Action have merit or that Defendants bear any liability to Plaintiff or the Aggrieved Employees. If for any reason this Settlement does not become effective, the Parties agree that Defendants reserve all available defenses to the claims in this Action.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

THEREFORE, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree and covenant as follows:

30. **Non-Admission**. Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendants specifically disclaim 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.

31. **Gross PAGA Settlement Amount**. Defendant shall pay One Hundred and Fifty Thousand Dollars (\$150,000.00) as the Gross PAGA Settlement Amount in full satisfaction of the PAGA Released Claims of Plaintiff, the State of California and Aggrieved Employees.

- a. This Settlement is based on the number of pay periods in the PAGA Period, which was estimated at the time of mediation to be approximately 1,092. Should the total number of pay periods encompassed by this settlement exceed 1,201 (10% above the number of pay periods estimated), Defendants shall increase the PAGA Settlement Amount on a pro rata basis in accordance with the increased number of pay periods over 1,092.
- b. Defendant shall disburse the Gross PAGA Settlement Amount in accordance with the terms of the Settlement, to the Settlement Administrator, within the timeframe specified herein.

32. **Net PAGA Settlement Amount.** The Parties agree that the following Plaintiff's Attorneys' Fees and Costs and the Settlement Administration Costs will be deducted from the Gross PAGA Settlement Amount, if approved by the Court, resulting in a Net PAGA Settlement Amount to distribute to the LWDA and Aggrieved Employees:

- a. **Plaintiff's Attorneys' Fees and Costs.** Plaintiff's Counsel will apply to the Court for an award of attorneys' fees and costs for the services rendered related to Plaintiff's representative claims in an amount up to 40% of the PAGA Settlement Amount, subject to proof. In addition, Plaintiff's Counsel shall seek reimbursement of Plaintiff's Counsel actual expenses incurred in litigating this action in an amount not to exceed Nine Thousand Five Hundred Dollars (\$9,500.00). Defendants will not oppose requests for Plaintiff's Attorneys' Fees and Costs. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.
- b. **Settlement Administration Costs.** The Settlement Administrator's costs are estimated not to exceed Two Thousand Four Hundred Fifty Dollars (\$2,450.00) for administering the Settlement. The Settlement Administrator will report this payment on IRS Form 1099.

33. **Allocation of Net PAGA Settlement Amount.** The Net PAGA Settlement Amount shall be allocated between the LWDA and the Aggrieved Employees pursuant to Labor Code Section 2699 as follows: "2699 Civil Penalties." 100% of the Net PAGA Settlement Amount shall be paid as a Labor Code Section 2699 penalty payment with 75% of this amount paid to the LWDA and 25% paid to the Aggrieved Employees. The 25% portion to be paid to Aggrieved Employees shall be paid to each Aggrieved Employees pro rata based on the number of pay periods worked by each Aggrieved Employee during the PAGA Period. This amount shall constitute resolution of all remedies available under Labor Code Section 2699 and shall preclude, pursuant to this Agreement, Plaintiff, Aggrieved Employees or the LWDA from pursuing any PAGA Released Claims.

34. **Released Claims.** As of the Effective Date, the PAGA Released Parties shall be entitled to a full and complete release of the PAGA Released Claims during the PAGA Period. All PAGA Members are bound by the PAGA Release. Nothing in this agreement shall release any claims that were not alleged in the operative complaint or notice or could not have been alleged based on the facts alleged in the operative complaint or notice. Nothing in this release shall release or limit any obligation created by this Agreement. As of the Effective Date, the State of California, through its representatives and via Court approval, shall release any and all PAGA claims pled in the Action or LWDA notices, or that could have been pled in the lawsuit or notice.

35. **Plaintiff's Individual Claims.** The Parties will enter into a separate settlement agreement that resolves the non-PAGA claims alleged in this action and contains a general release of claims, including a waiver of rights under the California Civil Code section 1542.

36. **Plaintiff's Counsel.** As of the Effective Date, and except as otherwise provided by this Agreement and the Judgment, Plaintiff's Counsel waives any claim to costs and attorneys' fees and expenses against Defendants arising from or related to the Action.

37. **Entry of Judgment.** Plaintiff shall submit a proposed order and judgment which seeks the Court's approval of the Settlement and entry of judgment thereon, in accordance with the terms of the PAGA Settlement. The judgment will not release or bar any claims other than the PAGA Released Claims as to the Aggrieved Employees and the State of California.

IV. ADMINISTRATION OF SETTLEMENT

38. **Settlement Administrator.** The Parties agree that ILYM Group, Inc. will manage the administration of this Settlement.

39. **Funding Obligation.** Within 30 days after the Effective Date, Defendants shall pay the Settlement Administrator the Gross PAGA Settlement Amount. If the terms of the Settlement Agreement are modified by the Court in a way inconsistent with this Agreement, Defendants shall have the right to void the settlement. Defendants may exercise this right only after exhausting all available means of reconsideration or appeal of such a ruling. In the event that Defendants choose to exercise their right to void the settlement under this paragraph it must do so within five days of exhausting all available means of reconsideration or appeal of such a ruling.

40. **Payment to the LWDA, Attorneys' Fees and Costs, and Administration Costs.** The Settlement Administrator will distribute the following payments: (1) the 75% share of the Net PAGA Settlement Amount to the LWDA; (2) the Court-approved attorneys' fees and costs to Plaintiff's Counsel; and (3) the Court-approved administration costs to the Settlement Administrator. Payment to the Aggrieved Employees. Following the deduction of the Court-approved sums from the Gross PAGA Settlement Amount for Attorneys' Fees and Costs and Administration Costs, individual PAGA settlement payments will be paid from 25% of the remaining Net Settlement Amount to Aggrieved Employees based upon the number of pay periods during the PAGA period. The Administrator will compute the total number of pay periods for all Aggrieved Employees during the PAGA period and will divide the Net PAGA Settlement Amount by the pay periods to determine the settlement value of each eligible pay period to determine the "Pay Period Value." The Administrator will multiply the number of pay periods of an Aggrieved Employee during the PAGA period by the Workweek Value to determine the Aggrieved Employee's individual payment. The Settlement Administrator will be responsible for issuing to Aggrieved Employees' IRS Form 1099s.

41. **Provision of Information for Aggrieved Employees.** Within ten (10) business days after the Effective Date, Defendant shall provide to the Settlement Administrator the information specified in this Section for Aggrieved Employees. Defendant will in good faith compile from their 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, last known telephone number, start date(s) of employment, end date(s) of employment, and Social Security numbers (for purposes of issuance of IRS Forms 1099). Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and access shall be limited to authorized representatives of the Settlement Administrator with a need to use the list as part of the administration of the Settlement. The Settlement Administrator has represented to Plaintiff's Counsel that it will store such data securely in accordance with California law and best practices for companies engaged in the administration of settlements.

Within five (5) business days of receipt of this information, the Settlement Administrator will circulate to counsel for Plaintiff and Defendants an anonymized spreadsheet containing the Individual PAGA Payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall obtain approval of the calculations from the Parties within five (5) business days after receipt of such information by counsel for the Parties. Within five (5) business days after such approval is received, the Settlement Administrator shall mail the Individual PAGA Payments.

42. **Qualified Settlement Fund.** The Claims Administrator will establish a Qualified Settlement Fund (“QSF”) pursuant to Section 468B(g) of the Internal Revenue Service for the purpose of administering the settlement.

43. **Explanatory Letter and Individual PAGA Payments.** Subject to Court approval, the Settlement Administrator will include 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 amount to be received by each Aggrieved Employee will be based on the formula set forth in Section IV.40, *supra*. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties and reported using IRS Form 1099.

44. **Undeliverable Payments.** The Settlement Administrator shall conduct a National Change of Address Database (“NCOAD”) prior to mailing the Individual PAGA Payments and explanatory letter. The Settlement Administrator shall exercise its best judgment to determine the current 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 another 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 the Aggrieved Employees through the payment of the Gross PAGA Settlement Amount to the Settlement Administrator and clearance of the settlement funds, regardless of whether 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 redistributed to the Parties’ chosen *cy pres* beneficiary, Legal Services of Northern California, a nonprofit legal services organization that works to empower the poor to identify and defeat the causes and effects of poverty, efficiently utilizing all available resources.

Neither Defendant nor Plaintiff shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

45. **Disputes as to Number of Pay Periods.** Aggrieved Employees may dispute the number of pay periods allocated to them during the PAGA period and must do so no later than thirty (30) days after the Administrator mails the notice. The date of mailing shall be deemed the exclusive means for determining if a dispute was timely received. If there is a dispute, the Administrator shall

consult with the Parties to determine whether an adjustment is warranted. In the absence of circumstances indicating fraud, manipulation or destruction, Defendants' records will be given a rebuttable presumption of accuracy.

46. **Tax Consequences.** Neither Plaintiff nor Defendants, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

47. **Settlement Approval.** After execution of this Agreement, Plaintiff shall be responsible for seeking approval of this settlement in the above-referenced case within the Solano County Superior Court. Plaintiff's Counsel agrees to provide Defendants' counsel with drafts of the motion for approval and any other documents they intend to submit in support of their motion at least five (5) business days in advance of the filing of such documents to allow Defendants' counsel reasonable time to review and comment, and Plaintiff's Counsel agrees to reasonably incorporate the comments from Defendants' counsel.

- a. Plaintiff shall submit the motion for approval to the Labor and Workforce Development Agency or other appropriate arm of the California Department of Industrial Relations at the same time the motion for approval is filed. Plaintiff shall make any other submissions to the agency or agencies as are required under PAGA by then-current law or regulation. All agency submissions shall be forwarded to Defendants' counsel with proof of service attached.
- b. Should the Court decline to approve the Settlement, the Parties shall work together in good faith to address any concerns raised by the Court.

V. MISCELLANEOUS PROVISIONS

48. **Drafting.** 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.

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

50. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. 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.

51. **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. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

52. **Nullification of Settlement.** In the event that the Court does not approve the Settlement as provided herein or the Settlement does not become final for any other reason, and all efforts at reconsideration or appeal are exhausted, 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. The Parties agree to cooperate regarding the preparation and execution of any documents necessary for effectuating this provision.

53. **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.

54. **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.

55. **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 court 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.

56. **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, electronic signature, 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.

57. **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.

58. **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 Settlement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

59. **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.

60. **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.

61. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. Accordingly, 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.

62. **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 reviewed in full and is executed knowingly and voluntarily.

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

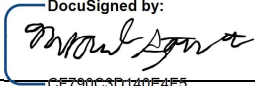
64. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce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

65. **Non-Publicity.** Plaintiff's Counsel shall not publicize the settlement on its website or in advertising/marketing materials, other than filing documents with the Court and updating existing statements regarding the status of the litigation. Plaintiff and Plaintiff's Counsel agree that they will not issue any press releases or initiate any contact with the media about the fact, amount, or terms of the settlement. If Plaintiff or Plaintiff's Counsel received an inquiry about the settlement from the media, they may respond only after the motion for approval has been filed and only by confirming the accurate terms of the settlement. Nothing in this provision shall prevent Defendants from making any required disclosure. Nothing in this provision shall prevent Plaintiff's Counsel from identifying this settlement in Court filings in other litigation related to its qualifications as counsel.

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: 10/28/2023, 2023

PLAINTIFF

DocuSigned by:
By: 
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Michael Stoddart

HEAVY METAL IRON, INC.

Dated: 11/13/2023, 2023

DocuSigned by:
By: Daniel Bong
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Its:

DANIEL BONG

Dated: 11/13/2023, 2023

DocuSigned by:
By: Daniel Bong
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Its:

Exhibit A

Dear [NAME]:

The enclosed check is your proportional share of the civil penalties settlement payment in the California Private Attorneys General Act (“PAGA”) lawsuit titled *Michael Stoddart v. Heavy Metal Iron, Inc., et al.* (Superior Court of California, County of Solano, Case No. FCS058244.). You are receiving this check because you worked for Heavy Metal Iron , Inc. as a non-exempt hourly employee within the state of California at some point between March 9, 2021, and [insert date of approval].

This settlement releases claims for civil penalties under the PAGA, but does not release any other claims. Enclosed you will also find an IRS Form 1099 for 100% of this payment, which represents civil penalties only. Please cash or deposit the check on or before its printed void date. Checks will not be re-issued after the void date.

If you have any questions about this payment, contact ILYM Group, Inc., the Settlement Administrator at (888) 250-6810. Please note that neither the parties nor their counsel cannot provide tax advice. If you have questions about the tax treatment of this payment, we suggest that you consult your tax advisor or accountant.

Regards,

Heavy Metal Iron, Inc. and Daniel Bong

EXHIBIT 2

EXHIBIT 3

Appointed as Class Counsel¹ for the following wage and hour employment law cases:

United States District Court - Central District:

- *Corral v. Lifecare Solutions* settled for \$3 million on behalf of approximately 270 class members, and Judge Olguin awarded 30% in fees.
- *Ellis v. Pacific Bell Telephone Co.* settled for \$3.1 million on behalf of approximately 84 class members, and Judge Carney awarded 33.3% in fees.
- *Green v. Lawrence Service Co.* settled for \$60,000.00 on behalf of approximately 295 class members, and Judge Kronstadt awarded \$141,659.07 in fees.
- *Madera v. Universal Alloy Corporation* settled for \$4.75 million on behalf of approximately 744 class members, and Judge Selna awarded 25% in fees.
- *Potter v. Big Tex Trailer Manufacturing, Inc.*, settled for \$972,391.68 on behalf of approximately 104 class members, and Judge Gutierrez awarded 33% in fees.
- *Rodriguez v. Old Dominion Freight Line, Inc.*, settled for \$3.4 million on behalf of approximately 76 class members, and Judge Fischer awarded 27.5% in fees.
- *Valentine v. Rehabilitation Center of Santa Monica Holding Co.*, settled for \$950,000.00 on behalf of approximately 4560 class members, and Judge Kronstadt awarded 25% in fees.
- *Weaver v. Hallmark Marketing Corp.* settled for \$5.625 million on behalf of approximately 3,846 class members, and Judge Fairbanks awarded 33% in fees.

United States District Court – Eastern District:

- *Milburn v. Petsmart, Inc.* settled for \$1.35 million on behalf of approximately 2,984 class members, and Judge Drozd awarded 33% in fees.
- *Osegueda v. Northern California Inalliance* settled for \$225,000.00 on behalf of approximately 271 class members, and Judge Shubb awarded 33.33% in fees.
- *Stoddart v. Express Services, Inc.* settled for \$10 million on behalf of approximately 145,548 class members, and Judge Mueller awarded 25% in fees.

¹ List includes cases filed by Graham Hollis, A.P.C., as well as its predecessor entities. It also includes cases where other law firms were appointed as co-class counsel.

United States District Court – Northern District:

- *Aston v. United Parcel Services, Inc.*, settled for \$490,000.00 on behalf of approximately 2,000 class members, and Judge White awarded 33.33% in fees.
- *Delatorre v. Johnson Controls, Inc.*, settled for \$2.8 million on behalf of approximately 1,441 class members, and Judge Grewal awarded 25% in fees.
- *Fong v. Regis Corporation* settled for \$5.75 million on behalf of approximately 5,573 class members, and Judge Chhabria awarded 33% in fees.
- *Jimenez v. Menzies Aviation* settled for \$1.25 million on behalf of 5,175 class members, and Judge Orrick awarded 33% in fees.
- *Moore v. Petsmart, Inc.*, settled for \$10 million on behalf of approximately 19,701 class members, and Judge Davila awarded 27% in fees.

United States District Court – Southern District:

- *Birch v. Office Depot, Inc.*, settled for \$14 million on behalf of approximately 16,722 class members, and Judge Sabraw awarded 40% in fees.
- *Ceron v. Flagship Facility Services, Inc.*, settled for \$2 million on behalf of approximately 6,922 class members, and Judge Sammartino awarded 30% in fees.
- *Cook v. Tiffany and Company* settled for \$4,148,270.00 on behalf of approximately 1,584 class members, and Judge Lorenz awarded 24.8% in fees.
- *Ferguson v. Winston Retail Solutions* settled for \$750,000.00 on behalf of approximately 660 class members, and Judge Battaglia awarded 33.33% in fees.
- *Lopez v. GAT Airline Ground Support, Inc.*, settled for \$600,000.00 on behalf of approximately 1,394 class members, and Judge Battaglia awarded 25% in fees.
- *Pool v. Ameripark, LLC*, settled for \$1.75 million on behalf of approximately 1024 class members, and Judge Burns awarded 25% in fees.
- *Singer v. Becton Dickinson and Co.* settled for \$1 million on behalf of approximately 266 class members, and Judge Gonzalez awarded 33.33% in fees.

Superior Court for the County of Alameda:

- *Gray v. Moz Designs, Inc.*, settled for \$124,000.00 on behalf of approximately 33 aggrieved employees, and Judge Lee awarded 33.33% in fees.

- *Hobdy v. Landmark Event Staffing Services, Inc.*, settled for \$245,100.00 on behalf of approximately 3,671 class members, and Judge Hernandez, Jr., awarded 33.33% in fees.
- *Pena v. American National Insulation, LLC.*, settled for \$883,189.09 on behalf of approximately 711 aggrieved employees, and Judge Brand awarded 33.33% in fees.
- *Roberson v. Center for the Elders' Independence* settled for \$1.15 million on behalf of approximately 527 class members, and Judge Smith awarded 30% in fees.
- *Lee v. Sutter Bay Medical Foundation* settled for \$995,000.00 on behalf of approximately 5,403 class members, and Judge Petrou awarded 33.33% in fees.
- *Trento v. US Security Associates* settled for \$6.5 million on behalf of approximately 14,700 class members, and Judge Seligman awarded 27.69% in fees.
- *Uriostegui v. Pacific Drive-Ins, LLC.*, settled for \$590,000.00 on behalf of approximately 2645 class members, and Judge Caietti awarded 33.33% in fees.

Superior Court for the County of Contra Costa:

- *Stevenson v. Falcon Critical Care Transport* settled for \$233,853.00 on behalf of approximately 46 class members, and Judge Goode awarded 29% in fees.

Superior Court for the County of Fresno:

- *Drake v. Midvalley Disposal, LLC* before Judge Snauffer, settled for \$150,000.00 on behalf of approximately 315 class members, and Judge McGuire awarded 33.33% in fees.
- *Kenner v. Oak Harbor Freight Lines, Inc.*, settled for \$1.85 million on behalf of approximately 216 class members, and Judge Snauffer awarded 27% in fees.
- *Parmelee v. Driveline Retail Merchandising, Inc.*, settled for \$1 million on behalf of approximately 1,261 class members, and Judge Kapetan awarded 33.33% in fees.

Superior Court for the County of Kern:

- *McGough v. Love's Travel Stops & Country Stores, Inc.*, settled for \$3 million on behalf of approximately 1,638 class members, and Judge Schuett awarded 33.33% in fees.

Superior Court for the County of Los Angeles:

- *Agredano v. Southwest Water Company* settled for \$1.22 million on behalf of approximately 125 class members, and Judge Nelson awarded 33.33% in fees.

- *Calhoun v. General Petroleum Corp.* settled for \$950,000.00 on behalf of approximately 300 class members, and Judge Dunn awarded 40% in fees.
- *Escalante v. Urth Payroll Services, Inc.*, settled for \$625,000.00 on behalf of approximately 2,115 aggrieved employees, and Judge Traber awarded 40% in fees.
- *Frugard v. Unified Protective Services, Inc.*, is an ongoing case which has been certified as a class action by Judge Johnson.
- *Garcia v. Menzies Aviation, Inc.*, settled for \$1 million on behalf of approximately 1,800 class members, and Judge Rosenblatt awarded 33.33% in fees.
- *Gordon v. Accountable Healthcare Staffing, Inc.*, settled for \$900,000.00 on behalf of approximately 560 class members, and Judge Buckley awarded 33.33% in fees.
- *Hendrix v. Lucky Seven Dragons, Inc.*, settled for \$225,000.00 on behalf of approximately 336 class members, and Judge Riff awarded 33.33% in fees.
- *Iskandaryan v. Casual Male Retail Group, Inc.*, settled for \$950,000.00 on behalf of approximately 716 class members, and Judge Stern awarded 33.33% in fees.
- *Jackson v. Sourcecorp BPS Inc.*, settled for \$1.875 million on behalf of approximately 481 class members, and Judge Nelson awarded 33.33% in fees.
- *Kirkpatrick v. Petco Animal Supplies Stores, Inc.*, settled for \$9.75 million on behalf of approximately 15,962 class members, and Judge Highberger awarded 33.33% in fees.
- *Lopez v Infosys Limited*, settled for \$2.72 million on behalf of approximately 4,444 class members, and Judge Bowick awarded 33.33 in fees.
- *Lucarini v. Dresser, Inc.*, settled for \$1.024 million on behalf of approximately 78 class members, and Judge Mohr awarded 39.55% in fees.
- *Magana-Mead v. LKQ Corporation* was settled for \$1.15 million on behalf of 303 class members, and Judge Nelson awarded 33% in fees.
- *Mahoney v AT&T Corp.* settled for \$13,894,098.62 on behalf of approximately 719 class members, and Judge Elias awarded 33.33% in fees.
- *Quinones v. Atria Management Company, LLC*, settled for \$1 million on behalf of approximately 15,027 class members, and Judge Buckley awarded 33.33% in fees.
- *Ralda v. Smart & Final Stores, LLC*, settled for \$2 million on behalf of approximately 3104 class members, and Judge Kuhl awarded 33.33% in fees.

- *Solaberrieta v. Baker Hughes Oilfield Operations* settled for \$3.5 million on behalf of approximately 295 class members, and Judge Wiley awarded 33.33% in fees.
- *Taylor v. Cross Country Support Services* settled for \$582,000.00 on behalf of 581 class members, and Judge Nelson awarded 33.33% in fees.
- *Valentine v. Rehabilitation Center of Santa Monica* settled for \$2.050 million on behalf of 7,072 class members, and Judge Palazuelos awarded 33% in fees.
- *Valles v. Anthony, Inc.*, settled for \$2.858 million on behalf of 658 class members, and Judge Sadvig awarded 33.33% in fees.
- *Whittington v. Eureka Restaurant Group, LLC* settled for \$200,000.00 on behalf of 3,883 class members, and Judge Hill awarded 33% in fees.
- *Williams v. One Legacy* settled for \$1.2 million on behalf of approximately 145 class members, and Judge Johnson awarded 33% in fees.
- *Wright v. AMF Bowling Centers, Inc.*, settled for \$6.35 million on behalf of approximately 4,914 class members, and Judge Duffy-Lewis awarded 28% in fees.
- *Wright v. Menzies Aviation, Inc.*, was certified as a class action by Judge Weintrob and was consolidated with *Jimenez v. Menzies Aviation, Inc.* for settlement purposes.
- *Walker v. Favorite Healthcare Staffing, Inc.*, settled for \$3.65 million on behalf of approximately 7,290 class members, and Judge Iwasaki awarded 33% in fees.

Superior Court for the County of Orange:

- *Chima v. Beckman Coulter, Inc* settled for \$225,000.00 on behalf of approximately 36 class members, and Judge Wilson awarded 35% in fees.
- *Collins v. The Stephouse Recovery, Inc.*, settled for \$1.2 million on behalf of approximately 150 class members, and Judge Claster awarded 35% in fees.
- *Duarte v. Rainbow Disposal Co., Inc.*, settled for \$1.6 million on behalf of approximately 110 class members, and Judge Andler awarded 40% in fees.
- *Flannery v. AGR Group California* settled for \$1,324,937.00 on behalf of approximately 5,182 class members, and Judge Andler awarded 33% in fees.
- *Jenkins v. The Mentor Network, Inc.*, settled for \$1.625 million on behalf of approximately 1,050 class members, and Judge Perkins awarded 33% in fees.

- *Payton v. Atlantic Aviation Investors, Inc.*, settled for \$1 million on behalf of approximately 162 class members, and Judge Stock awarded 40% in fees.
- *Parnell v. Hart-Hanks Shoppers, Inc.*, settled for \$600,000.00 on behalf of approximately 169 class members, and Judge Andler awarded 33.33% in fees.
- *Sheehan v. Applied Medical Products*, settled for \$2.75 million on behalf of approximately 2,012 class members, and Judge Cluster awarded 33.33% in fees.
- *Valenzuela v. Enver Solar, Inc.*, settled for \$575,000.00 on behalf of approximately 1,440 class members, and Judge Sanders awarded 35% in fees.

Superior Court for the County of Riverside:

- *Becerra v. Moncler USA Retail, LLC.*, settled for \$447,744.15 on behalf of approximately 169 class members, and Judge Riemer awarded 33% in fees.
- *Digiacomio v. Castelli's Ristorante* settled for \$225,000.00 on behalf of approximately 35 class members, and Judge Waters awarded 33% in fees.
- *Leonard v. ABTTC, Inc.*, settled for \$2.5 million on behalf of approximately 336 class members, and Judge Riemer awarded 33% in fees.
- *Loudon v. DHSE, Inc.*, (Representative Action) settled for \$650,000.00 on behalf of approximately 860 aggrieved employees, and Judge Waters awarded 33.33% in fees.
- *Steepe v. Responsible Medical Solutions Corp.*, settled for \$629,147.61 on behalf of approximately 273 class members, and Judge Riemer awarded 30.6% in fees.
- *Vest v. Scher Tire, Inc.*, settled for \$3,363,396.00 on behalf of approximately 795 class members, and Judge Waters awarded 33.33% in fees.

Superior Court for the County of Sacramento:

- *Abella v. GHC OF SAC-SNF LLC* settled for \$1.35 million on behalf of approximately 5,484 class members, and Judge Mesiwala awarded 33.33% in fees.
- *Johnson v. PMC Southwest, LLC*, settled for \$2.25 million on behalf of approximately 377 class members, and Judge Krueger awarded 33.33% in fees.
- *Mendez v. SSP America SMF, LLC*, settled for \$650,000.00 on behalf of 173 class members, and Judge Damrell awarded 35% in fees.

Superior Court for the County of San Bernardino:

- *Alvarez v. Core States, Inc.*, settled for \$530,000.00 on behalf of approximately 45 class members, and Judge Garza awarded 40% in fees.
- *Booher v. The Poma Companies* settled for \$650,000.00 on behalf of approximately 75 class members, and Judge Plotkin awarded 44% in fees.
- *Bracy v. Speedy Cash* settled for \$237,320.00 on behalf of approximately 222 class members, and Judge Kayashima awarded 22.69% in fees.
- *Christensen v. Heartland Express Inc. of Iowa*, settled for \$10.25 million on behalf of approximately 1,717 class members and 984 members of a FLSA collective, and Judge Cohn awarded 33.33% in fees.
- *Jeffries v. Praxair Services, Inc.*, settled for \$373,000.00 on behalf of approximately 23 class members, and Judge Garza awarded 35% in fees.
- *Malone v. Praxair, Inc.*, settled for \$900,000.00 on behalf of approximately 57 class members, and Judge Davis awarded 40% in fees.
- *McCray v. Wireless World, LLC et al.* settled for \$1million on behalf of approximately 1,300 class members, and Judge Pacheco awarded 40% in fees.
- *Sala v. Personnel Staffing*, settled for \$40,000.00 on behalf of approximately 47 class members, and Judge Cohn awarded 40% in fees.
- *Sala v. Radial South, L.P.* settled for \$350,000.00 on behalf of 251 class members, and Judge McCarville awarded 40% in fees.
- *Salazar v. PODS Enterprises, LLC.*, settled for \$1,360,632.00 on behalf of approximately 654 class members, and Judge Ortiz awarded 33.33% in fees.
- *Scaglione v. M.O. Dion & Sons, Inc.*, settled for \$585,000.00 on behalf of approximately 123 class members, and Judge Garza awarded 30% in fees.

Superior Court for the County of San Diego:

- *Arriaga v. International Coffee & Tea* settled for \$1.25 million on behalf of 479 class members, and Judge Bacal awarded 33.33% in fees.
- *Baker v. Select Comfort Retail Corp.*, settled for \$1.2 million on behalf of approximately 426 class members, and Judge Wohlfeil awarded 33.33% in fees.

- *Barron v Green Farms, Inc.*, settled for \$650,000.00 on behalf of approximately 154 class members, and Judge Pollak awarded 33.33% in fees.
- *Basile v. Aaron Brothers, Inc.*, settled for \$750,000.00 on behalf of approximately 2,000 and Judge Katz awarded 32.44% in fees.
- *Bergman v. BJS&T Enterprises, Inc.*, settled for \$200,000.00 on behalf of 99 class members, and Judge Frazier awarded 33.33% in fees.
- *Berry v. Sizzling Platter, LLC*, settled for \$950,000.00 on behalf of approximately 2,654 class members, and Judge Frazier awarded 33% in fees.
- *Broadnax v. Amazing Courier Express Services, LLC.*, settled for \$1.15 million on behalf of approximately 639 class members, and Judge Mangione awarded 33% in fees.
- *Carson v. Downtown San Diego Partnership Clean and Safe*, settled for \$200,000.00 on behalf of 99 aggrieved employees, and Judge Bacal awarded 33.33% in fees.
- *Chavez v. Real Time Staffing Services, Inc.*, settled for \$1.9 million on behalf of approximately 3,120 class members, and Judge Medel awarded 35% in fees.
- *Clancy v. Scripps Health* settled for \$6.4 million on behalf of approximately 124 class members, and Judge Meyer awarded 33% in fees.
- *Costa v. Altman Specialty Plants, Inc.*, settled for \$2.4 million on behalf of approximately 4,414 class members, and Judge Hayes awarded 33.33% in fees.
- *Dadafshar v. KT Hotels, LLC, dba Pendry Hotel* settled for \$515,000.00 on behalf of 892 class members, and Judge Pollack awarded 33.3% in fees.
- *De La Rosa v. Quten Research Institute, LLC*, settled for \$450,000.00 on behalf of approximately 402 class members, and Judge Meyer awarded 33.33% in fees.
- *Demers v. Hotcakes No. 3, Inc.*, settled for \$150,000.00 on behalf of approximately 300 class members, and Judge Nevitt awarded 33% in fees.
- *Dew v. Minegar Contracting, Inc.*, settled for \$525,150.00 on behalf of approximately 270 class members, and the Judge Sturgeon awarded 35% in fees.
- *Downey v. Sears Roebuck and Co. (Representative Action)* settled for \$875,000.00 on behalf of approximately 1,200 aggrieved employees, and Judge Sturgeon awarded 33.33% in fees.
- *Escoto-Miranda v. Evans Tire & Service Centers, Inc.*, settled for \$800,000.00 on behalf of approximately 450 class members, and Judge Strauss awarded 33% in fees.

- *Falcon v. Flight Suits, Inc.*, settled for \$450,000.00 on behalf of approximately 101 class members, and Judge Denton awarded 33.33% in fees.
- *Fay v Cement Cutting, Inc.*, settled for \$720,000.00 on behalf of approximately 376 class members, and Judge Bacal awarded 33.33% in fees.
- *Fennessey v. Round Table Pizza, Inc.*, settled for \$2.125 million on behalf of approximately 16,333 class members, and Judge Lewis awarded 28% in fees.
- *Frayre v. United Parcel Services Supply Chain Services, Inc.*, settled for \$494,000.00 on behalf of approximately 55 class members, and Judge Sturgeon awarded 33.33% in fees.
- *Garcia v. Task Ventures, LLC*, settled for \$822,856.50 on behalf of approximately 2,700 class members, and Judge Wohlfeil awarded 40% in fees.
- *Geilenfeldt v. EDF Renewable Energy, Inc.*, settled for \$2.5 million on behalf of approximately 144 class members, and Judge Sturgeon awarded 33.33% in fees.
- *Gonzalez v. Coronado Yacht Club*, settled for \$330,000.00 on behalf of approximately 193 class members, and Judge Mangione awarded 33.33% in fees.
- *Headley v. Professional Maintenance Systems, Inc.*, settled for \$3.15 million on behalf of approximately 3,851 class members, and Judge Frazier awarded 30% in fees.
- *Huerta v. Venture Petroleum Company, Inc.*, settled for \$300,000.00 on behalf of approximately 513 class members, and Judge Wohlfeil awarded 33.33% in fees.
- *Irmen v. Raphael's Party Rentals* settled for \$1 million on behalf of approximately 845 class members, and Judge Lewis awarded 40% in fees.
- *Johnson v. The SoCo Group, Inc.*, settled for \$895,000.00 on behalf of approximately 218 class members, and Judge Lewis awarded 33.33% in fees.
- *Julio v. L&M Tire Company, Inc.*, settled for \$1.85 million on behalf of approximately 1,087 class members, and Judge Barton awarded 33% in fees.
- *Loveless v ASM Affiliates* settled for \$750,000.00 on behalf of approximately 276 class members, and Judge Styn awarded 33.33% in fees.
- *Maasrani v. International Hotel Associates No. 11 LLC*, settled for \$540,000.00 on behalf of approximately 140 class members, and Judge Sturgeon awarded 33.33% in fees.
- *Mandell v. Diversified Communications Services, Inc. (Representative Action)* settled for \$50,000.00 on behalf of approximately 55 aggrieved employees, and Judge Frazier approved 33.33% in fees.

- *Madriz v. North County Ford, Inc.*, settled for \$188,000.00 on behalf of approximately 45 class members, and Judge Wohlfeil awarded 33.33% in fees.
- *Martinez v. San Diego Auto Scrubber, Inc.*, settled for \$500,000.00 on behalf of approximately 148 class members, and Judge Hayes awarded 33.33% in fees.
- *Morales v. Sony Electronics, Inc.*, settled for \$450,100.00 on behalf of approximately 4,742 class members, and Judge Styn awarded 65.82% in fees.
- *Moreno v. Providence Group, Inc.*, settled for \$775,000.00 on behalf of approximately 486 class members, and Judge Frazier awarded 30% in fees.
- *Parvizi v. Classic Residence Management, LP* settled for \$1 million on behalf of approximately 1,409 class members, and Judge Wohlfeil awarded 33.33% in fees.
- *Pham v. George's at the Cove, Inc. dba George's at the Cove #4032*, settled for \$340,000.00 on behalf of approximately 519 class members, and Judge Bacal awarded 33.33% in fees.
- *Pina v. Paradise Wings Enterprise*, settled for \$150,000.00 on behalf of approximately 248 class members, and Judge Taylor awarded 33.33% in fees.
- *Sanchez v. Evans Tire and Service Centers, Inc.*, settled for \$750,000.00 on behalf of approximately 401 class members, and Judge Sturgeon awarded 33.33% in fees.
- *Serrano v KSL Corona, L.P.*, settled \$325,000.00 on behalf of approximately 261 aggrieved employees, and Judge Meyer awarded 33.33% in fees.
- *Solis v. Check Agencies of California, Inc.*, settled for \$475,000.00 on behalf of approximately 559 class members, and Judge Taylor awarded 35% in fees.
- *Spriggs v. Ortiz Corporation*, settled for \$300,000.00 on behalf of approximately 198 class members, and Judge Katz awarded 33.33% in fees.
- *Thompson v. LawInfo.com, Inc.*, settled for \$150,000.00 on behalf of approximately 115 class members, and Judge Enright awarded 33.33% in fees.
- *Twombly v. Del Frisco's*, settled for \$950,000.00 on behalf of approximately 1,800 aggrieved employees, and Judge Sturgeon awarded 33.33% in fees.
- *Vega v. Scoobeez*, settled for \$2,512,390.91 on behalf of approximately 5,271 class members, and Judge Whitney awarded 33.33% in fees.
- *Well v. Hooters of America, Inc.*, settled for \$1.35 million on behalf of approximately 2,300 class members, and Judge Wohlfeil awarded 35% in fees.

- *Zamorano v. Piperin Corporation*, settled for \$121,887.00 on behalf of approximately 51 class members, and Judge Pollack awarded 33.33% in fees.

Superior Court for the County of San Francisco:

- *Casas v. Pacific Bell Telephone Co.* settled for \$6 million on behalf of approximately 464 class members, and Judge Goldsmith awarded 23% in fees.
- *Simpkins v. GPS Consumer Direct, Inc.*, settled for \$1.6 million on behalf of approximately 3,295 class members, and Judge Cheng awarded 33.33% in fees.

Superior Court for the County of Santa Barbara:

- *Ramirez v Baker Hughes Oilfield Operations (Baker Hughes Wage and Hour Cases)* settled for \$2.75 million on behalf of 165 class members, and Judge Anderle awarded 33.33% in fees.

Superior Court for the County of Santa Clara:

- *Allison v. Super Zen, Inc.*, settled for \$235,300.00 on behalf of approximately 26 class members, and Judge Lucas awarded 33.33% in fees.
- *Edwards v. Absolute Senior Solutions, et al.*, settled for \$244,000.00 on behalf of approximately 134 aggrieved employees, and Judge Zayner awarded 33.33% in fees.
- *Hefner v. Solary, LLC.*, settled for \$750,000.00 on behalf of approximately 67 class members, and Judge Kulkarni awarded 33.33% in fees.
- *Ledbetter v. Entrepreneurial Ventures, Inc.*, settled for \$1.8 million on behalf of approximately 754 class members, and Judge Overton awarded 33.33% in fees.
- *Letuligasenoa v. International Paper Company* settled for \$4.5 million on behalf of approximately 3,786 class members, and Judge Errand awarded 33.33% in fees with a 1.47 multiplier.
- *Suarez v. First Alarm Security & Patrol, Inc.*, settled for \$7.25 million on behalf of approximately 3,786 class members, and Judge Walsh awarded 33.33% in fees.
- *Subia v. National Securities Industries, Inc.*, settled for \$275,000.00 on behalf of approximately 187 class members, and Judge Lucas awarded 30% in fees.

Superior Court for the County of San Luis Obispo:

- *Hernandez v. All Ways Clean* (Representative Action), settled for \$205,000.00 on behalf of approximately 642 aggrieved employees, and Judge Coates granted 35% in fees.

Superior Court for the County of Solano:

- *Apodaca v. Randstad US, LLC.*, settled for \$275,000.00 on behalf of approximately 675 aggrieved employees, and Judge Gizzi awarded 33.33% in fees.
- *Roberson v. Ghiringhelli Specialty Foods* settled for \$375,000.00 on behalf of approximately 1,324 aggrieved employees, and Judge Getty awarded 33.33% in fees.
- *Saechao v. Pla-Fit Franchise d.b.a. Planet Fitness* settled for \$325,000.00 on behalf of approximately 149 class members, and Judge Mattice awarded 25% in fees.
- *Stafford v. Dollar Tree Stores, Inc.*, settled for \$4.6 million on behalf of approximately 7,737 class members, and Judge Beeman awarded 33.33% in fees.
- *Turnage v. Park Management Corporation* settled for \$400,000.00 on behalf of approximately 214 class members, and Judge Daniels awarded 33.33% in fees.

Superior Court for the County of Tulare:

- *Lopez v. Ruiz Food Products, Inc.*, settled for \$547,500.00 on behalf of approximately 2,233 class members, and Judge Hillman awarded 33% in fees.

Superior Court for the County of Ventura:

- *Jackson v. Vulcan Materials Co.* settled for \$800,000.00 on behalf of approximately 103 class members, and Judge Bysshe awarded 37.5% in fees.
- *Laux v. Van Nuys Skyways, Inc.*, settled for \$800,000.00 on behalf of approximately 70 class members, and Judge Riley awarded 35% in fees.

EXHIBIT 4

Client Expense Report

Date	Expense category	Description	Amount
10/5/2021	Online Research	Online Research - VS Thomson Reuters Invoice 845271620 (re initial research)	\$ 54.46
10/20/2021	DocuSign	DocuSign - Client Information Sheet	\$ 10.00
10/20/2021	DocuSign	DocuSign - Retainer and Records Release	\$ 10.00
10/20/2021	Postage	Postage for certified mail 2 envelopes at \$7.13 each	\$ 14.26
10/22/2021	Online Research	Online Research - VS Thomson Reuters Invoice 845271620 (re initial research)	\$ 23.06
10/27/2021	Postage	Postage for certified mail labels	\$ 7.13
2/10/2022	Filing/Court Fees	Filing/Court Fees - LWDA Filing Fee	\$ 75.00
2/10/2022	Photocopies - B&W	Photocopies	\$ 8.40
2/10/2022	Postage	Postage for certified mail 2 envelopes at \$8.36 each	\$ 16.72
2/25/2022	Document Imaging	Document Imaging	\$ 5.60
3/1/2022	Postage	Postage for certified mail 2 envelopes at 7.33 each	\$ 14.66
3/4/2022	Photocopies - B&W	Photocopies	\$ 9.10
5/24/2022	Postage	Postage for certified mail 2 envelopes at \$9.96 each	\$ 19.92
5/25/2022	Filing/Court Fees	Filing/Court Fees - One Legal Invoice 13746519; Filing of Summons and Complaint	\$ 560.00
6/13/2022	Online Research	Online Research - NJR -Thomson Reuters - Inv. 846615891	\$ 12.74
6/28/2022	Filing/Court Fees	Filing/Court Fees - POS Summons - One Legal Inv. 13815628	\$ 70.00
7/5/2022	Online Research	Online Research - Re People Search - GSK - Thomson Reuters - Inv. 846776640	\$ 36.35
8/2/2022	Attorney Service	Attorney Service - Service of Process - Vanguard Inv. 46814-01	\$ 177.50
8/5/2022	Document Imaging	Document Imaging	\$ 1.40
8/31/2022	Online Research	Online Research - NJR Thomson Reuters Invoice 847112333 - re Remand research	\$ 58.80
9/6/2022	Online Research	Online Research - NJR Thomson Reuters Invoice 847112333 - re Motion to Remand	\$ 2.39
9/6/2022	Document Imaging	Document Imaging	\$ 58.20
9/13/2022	Online Research	Online Research - NJS Thomson Reuters Invoice 847112333 - re Removal	\$ 68.38
9/29/2022	Online Research	Online Research - NJS Thomson Reuters Inv. 847112333 Re Removal	\$ 192.94
10/10/2022	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 847271960	\$ 169.51
10/13/2022	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 847271960	\$ 32.76
11/1/2022	Online Research	Online Research - NJS Thomson Reuters Inv. 847442863 Re Removal	\$ 222.99
11/2/2022	Online Research	Online Research - NJS Thomson Reuters Inv. 847442863 Re Removal	\$ 216.57
11/3/2022	Online Research	Online Research - NJS Thomson Reuters Inv. 847442863 Re Removal	\$ 41.54
1/23/2023	Online Research	Online Research - NJR Re Motion to Remand - Thomson Reuters Inv. 847768136	\$ 12.12
1/23/2023	Postage	Postage	\$ 1.74
1/23/2023	Postage	Postage	\$ 1.74
1/23/2023	Photocopies - B&W	Photocopies	\$ 7.00
1/31/2023	DocuSign	Decl of Plaintiff sent via DocuSign	\$ 10.00
2/14/2023	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 847926823	\$ 171.26
2/15/2023	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 847926823	\$ 80.72
2/16/2023	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 847926823	\$ 54.58
2/28/2023	Attorney Service	Attorney Service - Service of Process - Same Day - Vanguard Inv. 47882	\$ 173.00
3/15/2023	Online Research	Online Research - NJS Re Removal - Thomson Reuters Inv. 848081019 - DDR	\$ 43.66
4/19/2023	DocuSign	Client signature of discovery verifications	\$ 10.00
6/9/2023	Filing/Court Fees	Filing/Court Fees - Plaintiff's Case Management Statement, Notice of Plaintiff Posting Jury Fees, POS - One Legal Inv. 14630075	\$ 220.00
6/28/2023	Mediator / Arbitration	Mediator / Arbitration - Mediation Fees - Duckworth & Peters File No.; DPMED-649	\$ 5,500.00
7/10/2023	Online Research	Online Research - NJS re Mediation - Thomson Reuters Inv. 848788723-DDR	\$ 49.37
7/28/2023	Attorney Service	Attorney Service - Stip and Order - First Legal Inv. 50125477, Order No. 15102392	\$ 156.07
8/6/2023	Print - Color	Color Prints	\$ 2.00
8/6/2023	Print - B&W	Grayscale Prints	\$ 2.80
8/24/2023	Online Research	Online Research - NJS re Mediation - Thomson Reuters Inv. 848880015-DDR	\$ 25.42
8/25/2023	Postage	Postage for mailing Mediation Discloser to client for signature 2 envelopes at \$0.63 each	\$ 1.26
8/28/2023	Online Research	Online Research - NJS re Mediation - Thomson Reuters Inv. 848880015-DDR	\$ 2.73
9/13/2023	Mediator / Arbitration	NJR and NJS Meal during mediation	\$ 50.26
9/20/2023	Attorney Service	Attorney Service - Notice of Settlement, Declaration of Service - First Legal Order No. 15110469 Inv.50128587	\$ 108.11
9/26/2023	Attorney Service	Attorney Service - CMC, POS - First Legal Order No. 15111289 Inv.50128587	\$ 86.11
10/18/2023	DocuSign	DocuSign - Send Individual and PAGA Settlement Agreements with W9 to client for completion	\$ 10.00
11/2/2023	Filing/Court Fees	Filing/Court Fees - [Estimated] Hard copy filing PAGA Approval Motion	\$ 300.00
11/2/2023	Filing/Court Fees	Filing/Court Fees - [ESTIMATED] - Subsequent filings - Notice of Order/judgement,	
11/2/2023	Filing/Court Fees	Notice of Remote Appearance, Disbursement Declaration	\$ 150.00
11/2/2023	Telephone/Electronic Communications	Telephone/Electronic Communications	\$ 578.22
11/2/2023	Overnight Delivery Service	Overnight Delivery Service - [ESTIMATED]	\$ 60.00
Total Including Estimated Costs			\$ 10,058.55

Total Excluding Estimated Costs

\$

9,548.55

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SOLANO

MICHAEL STODDART, individually and
on behalf of all aggrieved employees of
Defendants in the State of California,

Plaintiff,

v.

HEAVY METAL IRON, INC. a California
corporation; DANIEL BONG, and
individual; and DOES 1 THROUGH 50,

Defendant.

Case No.: FCS058244

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR APPROVAL OF
PAGA SETTLEMENT AND JUDGMENT
THEREON**

Date: March 27, 2024

Time: 8:30 a.m.

Dept: 12

Judge: Hon. Christine A. Carringer

*[Notice of Motion; Memorandum of Points and
Authorities; and Declaration of Graham S.P. Hollis
In Support of Plaintiff's Motion for Approval of
PAGA Settlement are filed and served concurrently
herewith.]*

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1 This matter has come before the Honorable Christine A. Carringer in Department 12 of the Solano
2 County Superior Court, located at 580 Texas St., Fairfield, CA 94533, on Plaintiff Michael Stoddart's
3 ("Plaintiff") Motion for Approval of PAGA Settlement ("Approval Motion") pursuant to Labor Code
4 section 2699(l)(2). On March 27, 2024 at 8:30 a.m., each party appeared at the hearing through their
5 respective counsel of record.

6 Having duly considered all papers, evidence, and oral arguments in this matter to date, including
7 Plaintiff's Approval Motion and good cause appearing, the Court ORDERS, ADJUDGES AND
8 DECREES as follows:

9 1. This Order Granting Plaintiff's Motion for Approval of PAGA Settlement ("Order and
10 Judgment") shall incorporate by reference the parties' Private Attorneys General Act (Labor Code § 2698
11 *et seq.*) Settlement Agreement and Release ("Settlement" or "Agreement"), which is attached as Exhibit
12 1 to the Declaration of Graham S.P. Hollis. To the extent the terms used in this Order and Judgment are
13 defined in the Agreement, the defined terms contained herein shall have the same meaning as set forth in
14 the Agreement.

15 2. Plaintiff provided notice to the Labor and Workforce Development Agency ("LWDA") on
16 February 28, 2022, and is authorized to act as private attorney general with respect to the PAGA claim
17 being released under the terms of the Settlement.

18 3. The LWDA was provided with notice of the Settlement and the motion for approval of the
19 PAGA settlement on November 20, 2023 and no objection has been received to the Settlement or the
20 motion from the LWDA.

21 4. In accordance with California Labor Code § 2699(l)(2), the Court has reviewed the
22 Agreement. The Court APPROVES the Settlement as set forth in the Agreement and the Gross PAGA
23 Settlement Amount of \$150,000.00 and finds that the allocation of civil penalties for the claim under the
24 PAGA is fair, reasonable, and appropriate.

25 5. The Settlement covers Plaintiff and all "Aggrieved Employees," defined as "all individuals
26 employed by HMI as non-exempt employees in California during the PAGA Period, excluding
27 Daniel C. Bong, Dustin Bong, and Jacob Bong, and all employees working for HMI whose employment
28 was covered by a collective bargaining agreement."

6. The PAGA Period is defined as the period from March 9, 2021, though the earlier date of February 28, 2024, or the date upon which the Court approves the Settlement.

7. The Court ORDERS that 75% of the Net PAGA Settlement Amount be paid to the LWDA as required by the California Labor Code Private Attorneys General Act ("PAGA") and in accordance with the Agreement.

8. The Court ORDERS that 25% of the Net PAGA Settlement Amount be paid to Aggrieved Employees in the manner outlined in the Agreement.

9. Plaintiff is ORDERED to submit this Order and Judgment to the LWDA within 10 calendar days of entry of this Order and Judgment.

10. ILYM Group, Inc. shall be appointed as the Settlement Administrator. The Settlement Administrator shall administer the settlement in accordance with the Agreement and this Order and Judgment.

11. The Court finds that the costs of the administration of the settlement are reasonable. The Court awards and therefore ORDERS that the Settlement Administrator issue to ILYM Group, Inc. administration costs in the amount of \$2,450.00 for services performed and the costs incurred in connection with administration of the Settlement.

12. The Court ORDERS Defendant to provide the Settlement Administrator with a list of the name, last known mailing address, last known telephone number, and start and end date(s) of employment within ten (10) business days after the Effective Date.

13. The Settlement Administrator is ORDERED to establish a Qualified Settlement Fund ("QSF") for purposes of administering the Settlement. The Settlement Administrator is further ORDERED to calculate all settlement checks required under law based on information that will be confidentially furnished by Defendant.

14. The Court finds that Plaintiff's Counsel's request for attorneys' fees in the amount of \$60,000.00, or forty percent of the PAGA Settlement Amount falls within the range of reasonableness and the result achieved justifies the award sought. The Court awards and therefore ORDERS that the Settlement Administrator issue attorney's fees in the amount of \$60,000.00 to GrahamHollis APC.

15. The Court also finds that Plaintiff's Counsel's request for actual litigation costs incurred in the amount of \$9,500.00 falls within the range of reasonableness and the result achieved justifies the award sought. The Court awards and thus ORDERS that the Settlement Administrator issue payment for litigation costs incurred in the amount of \$9,500.00 to GrahamHollis APC.

16. Upon the Effective Date, except as to the right to enforce the terms and conditions of the settlement, Plaintiff, in his capacity as private attorney general and acting on behalf of himself, the State of California, LWDA, and the Aggrieved Employees, releases the PAGA Released Parties of any right or claim for civil penalties pursuant to the Private Attorneys General Act of 2004, California Labor Code sections 2698, *et seq.*, arising under the California Labor Code based on the alleged violations in the operative complaint in the above-referenced case (Case No. FCS058244), or alleged in Plaintiff's notice(s) to the LWDA, or that could have been alleged based upon the facts alleged in the operative complaint or notices, including any alleged failure by Defendants (1) to pay wages, minimum wages, or overtime; (2) to provide meal or rest periods or compensation in lieu thereof; (3) to provide compliant wage statements; (4) to timely pay wages during or at the end of alleged employment; (5) to reimburse for all necessary business expenses or other losses/expenditures; (6) to accurately record work hours and meal break periods; and (7) to accurately maintain records. This release includes, without limitation, violation of California Labor Code sections 201–204, 216, 226, 226.7, 226.8, 510, 512, 516, 558, 1182.11, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, and 2802 during the PAGA Period.

17. It is ORDERED that as of the Effective Date, Plaintiff and all Aggrieved Employees shall be prohibited and permanently enjoined from pursuing in any fashion the PAGA Released Claims against any of the PAGA Released Parties.

18. Final judgment in this Action is entered in conformity herewith, along with the Agreement.

19. Nothing in this Order and Judgment or the Settlement shall be construed as an admission or concession by any party. The Settlement and this resulting Order and Judgment only represent a compromise of disputed allegations.

20. In accordance with Code of Civil Procedure section 664.6 and California Rules of Court, Rule 3.769, this document shall constitute a final judgment and this Court shall retain exclusive and continuing jurisdiction over the Action, the parties, and Aggrieved Employees for purposes of addressing

(a) the interpretation and enforcement of the terms of the Agreement; (b) matters relating to the administration of the settlement; and (c) such post-Judgment matters as may be appropriate under Court rules or as set forth in the Agreement.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: _____

Honorable Christine A. Carringer
Solano County Superior Court