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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF SACRAMENTO**

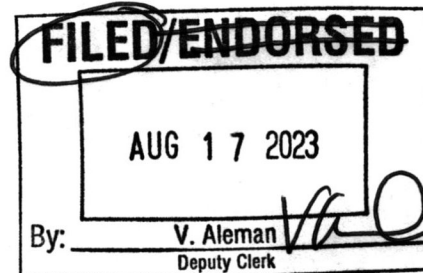
11 **ANGELINA HARROLD**, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 **CALIFORNIA FAMILY HEALTH LLC dba**
16 **CALIFORNIA FAMILY FITNESS**, a
Delaware Limited Liability Company,

17 Defendant.
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Case No.: 34-2022-00323409

REVISED ~~PROPOSED~~ ORDER
GRANTING PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT
PURSUANT TO LABOR CODE § 2699(I)

Complaint Filed: July 14, 2022



1 WHEREAS, the Court has received and reviewed Plaintiff's Motion for Approval of Private
2 Attorney General Act (Labor Code §§ 2698 *et seq.*) Settlement, and has considered the terms of the
3 proposed settlement set forth therein;

4 IT IS HEREBY ORDERED AS FOLLOWS:

5 1. The Court has jurisdiction over the subject matter of this action pursuant to California
6 Labor Code § 2699(I), whereby a Superior Court is required to review and approve any penalties sought
7 as part of a proposed settlement pursuant to PAGA.

8 2. The Settlement between the Parties warrants approval pursuant to California Labor Code
9 § 2699 and is fair, adequate and reasonable.

10 3. Capitalized terms herein shall have the same meaning as in the Parties' Settlement
11 Agreement attached hereto as Exhibit 1.

12 4. The Court hereby approves the Settlement and finds that the payment of the Gross
13 Settlement Amount of \$223,000 in settlement of the claims for PAGA penalties, attorneys' fees, and costs
14 is fair, adequate, and reasonable. The Court finds that the PAGA settlement has been reached as a result
15 of informed and non-collusive arm's-length negotiations. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. The Court has reviewed the penalties being provided as part of the PAGA
18 settlement and recognizes the significant value accorded to the Aggrieved Employees and to the State of
19 California.

20 5. The Settlement is not an admission by Defendant or by any other party, nor is this Order a
21 finding of the validity of any allegations or of wrongdoing by Defendant or any other party. Neither this
22 Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the
23 Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
24 concession, or liability whatsoever by or against Defendant.

25 6. The Parties are directed to consummate the Settlement in accordance with its terms.

26 7. The Court approves the appointment of ILYM Group, Inc. as Administrator in this matter
27 and actual settlement administration costs not to exceed \$7,000 to be paid from the Gross Settlement
28 Amount.

8. Defendant shall, within 21 calendar days after the date of the Order approving the
Settlement, provide the Aggrieved Employee List to the Settlement Administrator and fund the MSA.

9. The Settlement Administrator is directed to, within 5 business days after receiving
Aggrieved Employee List, circulate to counsel for both parties for approval an anonymized spreadsheet

1 containing the Individual PAGA Payments to each Aggrieved and the data used to calculate said payments.
2 Within 5 business days after receiving approval of counsel for both parties, the Settlement Administrator
3 shall distribute to each Aggrieved Employee his or her Individual Settlement Payment by mailing via U.S.
4 First-Class mail a check for the allocated Individual Settlement Payment amount, along with the revised
5 Notice of PAGA Settlement filed with the Court on August 14, 2023, and any necessary tax reporting
6 forms, to their last known address.

7 10. The deadline to cash settlement checks is 90 days after the mailing date. Any settlement
8 checks that remain uncashed within 120 days of the mailing date, will be reissued, maintained in the name
9 of the aggrieved employee, and deposited by the Settlement Administrator in the California State
10 Controller's Unclaimed Property Fund.

11 11. The Court approves payment of \$19,743.90 in litigation costs to Plaintiff's Counsel,
12 HammondLaw, P.C., to be paid from the Gross Settlement Amount.

13 12. The Court approves payment of \$78,050 in attorneys' fees to Plaintiff's Counsel,
14 HammondLaw, P.C., to be paid from the Gross Settlement Amount. The Court finds that Plaintiff's
15 Counsel's hourly rates are reasonable in the context of complex group litigation.

16 13. The Court approves payment of \$7,500 as a Service Award to the Plaintiff, as set forth in
17 the Settlement Agreement.

18 14. The Court orders, adjudges, and decrees that, in consideration of the Gross Settlement
19 Amount and upon entry of the Order approving the Settlement and effective on the date when Defendant
20 fully funds the entire Gross Settlement, Plaintiff, Aggrieved Employees, and the LWDA will fully and
21 finally release and discharge Released Parties from claims for penalties and attorneys' fees and costs
22 recoverable under PAGA which Plaintiff, Aggrieved Employees, and/or the LWDA had, or may claim to
23 have, against Released Parties, arising out of the violations alleged or that could have been alleged based
24 on the facts alleged in the Action or the PAGA Notice by Plaintiff, including, but not limited to, PAGA
25 penalties for or arising out of the following: unpaid wages including overtime wages, failure to provide
26 compliant meal and rest breaks, failure to provide complete and accurate wage statements, failure to pay
27 all wages owed at discharge or resignation, failure to reimburse necessary business-related expenses, and
28 violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 558, 1174(d), 1174.5, 1194, 1194.2,
1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802. This release shall apply to claims arising during the
PAGA Period and will be binding and effective upon Plaintiff, Aggrieved Employees, and the LWDA
regardless of whether the Aggrieved Employee cashes their settlement check. Released PAGA Claims do

1 not include any individual non-PAGA claims Aggrieved Employees may have. IT IS SO ORDERED.

2 Dated this 17^m day of August, 2023.

3
4 BY THE COURT:




Hon. Lauri A. Damrell
JUDGE OF THE SUPERIOR COURT

EXHIBIT 1

SETTLEMENT AGREEMENT

SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement") of claims brought under the Private Attorneys General Act, Labor Code § 2698 *et seq.* ("PAGA"), is made and entered into between Plaintiff Angelina Harrold, acting in her capacity as a representative of the State of California, on behalf of other aggrieved employees, and Defendant California Family Health LLC dba California Family Fitness.

I. DEFINITIONS

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

1. "Action" refers to the following lawsuit: *Angelina Harrold v. California Family Health LLC dba California Family Fitness*, Sacramento County Superior Court, Case No. 2022-00323409.

2. "Aggrieved Employees" means all persons who were employed by Defendant in California as fitness instructors, trainers, and in similar positions at any time during the PAGA Period.

3. "Court" means the Superior Court of California for the County of Sacramento.

4. "Defendant" means California Family Health LLC dba California Family Fitness.

5. "Defendant's Counsel" means Shaun Voigt and Drew Tate of Fisher & Phillips LLP.

6. "Effective Date" means the date upon which the Court signs an Order approving the Settlement.

7. "Gross Settlement Amount" is the non-reversionary sum of \$223,000, which represents the total maximum amount payable under this Settlement by Defendant, including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff's attorneys' fees and costs, payment of Plaintiff's service award, and payment to the Settlement Administrator for administration costs, except as provided in paragraph III.3 below. Defendant will pay the Gross Settlement Amount to the Settlement Administrator within 30 calendar days of the Effective Date.

8. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of the 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods the Aggrieved Employee worked during the PAGA Period.

9. "LWDA" means the California Labor and Workforce Development Agency.

10. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code § 2699(i).

11. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees, after the following amounts (subject to Court approval) are subtracted from

the Gross Settlement Amount: (a) Plaintiff's attorneys' fees of up to thirty five (35%) of the Gross Settlement Amount (i.e. \$78,050); (b) Plaintiff's litigation costs up to \$20,000; (c) Plaintiff's representative service award of \$7,500; and (d) reasonable third-party administration costs up to \$7,000.

12. "PAGA" means the Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698, *et seq.*

13. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

14. "PAGA Period" means the time period commencing on June 28, 2021 and ending on June 1, 2023.

15. "PAGA Released Claims" are those claims set out in paragraph III.7, below.

16. "Parties" means Plaintiff and Defendant.

17. "Plaintiff" means Angelina Harrold.

18. "Plaintiff's Counsel" means Julian Hammond, Polina Brandler, and Ari Cherniak of HammondLaw, P.C.

19. "Released Parties" means (a) Defendant and any direct or indirect parents or owners, subsidiaries, divisions, affiliates, and related entities of Defendant; (b) any predecessors, successors, or assigns of any of the foregoing (a); and (c) any past, present or future employees, officers, directors, affiliates, partners, joint venturers, co-venturers, licensors, licensees, principals, members, managers, managing agents, agents, attorneys, accountants, insurers, reinsurers, shareholders, investment bankers, trusts, trustees, representatives, administrators, fiduciaries, heirs, subrogees, and executors of any of the foregoing (a)-(b) in his, her, their, or its capacity as such.

20. "Settlement Administrator" means ILYM Group, Inc.

II. RECITALS

1. On July 14, 2022, Plaintiff commenced this Action by filing a Complaint against Defendant alleging causes of action for Defendant's alleged failure to: (i) pay wages for all hours worked, (ii) pay overtime wages; (iii) permit and authorize off-duty rest breaks, (iv) provide off-duty meal breaks, (v) issue accurate, itemized wage statements; (vi) pay all final wages due upon discharge; (vii) reimburse business expenses; and (viii) unfair business practices.

2. On September 1, 2022, Plaintiff filed a First Amended Complaint alleging an additional cause of action for PAGA Penalties based on the Labor Code violations alleged in her Complaint.

3. On May 24, 2023, the Parties participated in a full-day mediation with Lisa Klerman, following which they reached a tentative settlement to fully resolve all PAGA claims asserted in the Action as to Plaintiff, and the Aggrieved Employees.

4. On July 14, 2023, Plaintiff filed her Second Amended Complaint deleting her class claims. Defendant denies these allegations and, in entering into this Settlement, Defendant does not admit the sufficiency of any claims, allegations, assertions, or contentions made against it in the Action.

III. OPERATIVE TERMS OF SETTLEMENT

The Parties agree as follows:

1. **Non-Admission of Liability.** Defendant denies liability as to Plaintiff and Aggrieved Employees upon any claim or cause of action. This Settlement does not constitute, and is not intended to constitute, an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or claims made against it in the Action.

Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Settlement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties themselves agree not to introduce, use, or admit this Settlement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Settlement may be used in any proceeding before the Court that has as its purpose the interpretation, implementation, or enforcement of this Settlement or any orders or judgments of the Court entered in connection with the Settlement.

2. **Gross Settlement Amount.** Defendant will pay \$223,000 as the non-reversionary Gross Settlement Amount. The Gross Settlement Amount shall be funded within 30 calendar days after the Effective Date.

3. **Escalator Clause.** It was estimated for purposes of mediation that during the PAGA Period, the Aggrieved Employees worked approximately 11,163 pay periods. If the total number of pay periods worked by Aggrieved Employees actually exceeds 11,163 by more than seven and a half percent (7.5%), the Gross Settlement Amount will increase proportionately for every percent over the 7.5% grace.

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

- a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount of up to thirty-five (35%) of the Gross Settlement Amount (\$78,050) and actual costs incurred in prosecuting this Action, up to \$20,000. 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. **Plaintiff's Service Award.** Defendant will not oppose Plaintiff's request for a service award of \$7,500 for her service to the State of California and the Aggrieved Employees, the risk Plaintiff undertook by attaching her name to this Action, and in consideration of her entering into a general release of her claims. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.
- c. **Administration Costs.** Defendant will not oppose the Settlement Administrator's costs in the amount up to \$7,000 for administering the Settlement. In the event the Court approves a payment of less than this amount, the difference will be added to the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. **Allocation of Net Settlement Amount.** 75% of the Net Settlement Amount will be allocated to the LWDA PAGA Payment and 25% will be allocated to the Individual PAGA Payments.

6. **Distribution of the Net Settlement Fund.** The Settlement Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employees' PAGA Period Pay Periods.

7. **PAGA Released Claims.** Upon court approval of the PAGA Settlement and effective on the date when Defendant fully funds the entire Gross Settlement, Plaintiff, Aggrieved Employees, and the LWDA will fully and finally release and discharge Released Parties from claims for penalties and attorneys' fees and costs recoverable under PAGA which Plaintiff, Aggrieved Employees, and/or the LWDA had, or may claim to have, against Released Parties, arising out of the violations alleged or that could have been alleged based on the facts alleged in the Action or the PAGA Notice by Plaintiff, including, but not limited to, PAGA penalties for or arising out of the following: unpaid wages including overtime wages, failure to provide compliant meal and rest breaks, failure to provide complete and accurate wage statements, failure to pay all wages owed at discharge or resignation, failure to reimburse necessary business-related expenses, and violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 558, 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802. This release shall apply to claims arising during the PAGA Period and will be binding and effective upon Plaintiff, Aggrieved Employees, and the LWDA regardless of whether the Aggrieved Employee cashes their settlement check. Released PAGA Claims do not include any individual non-PAGA claims Aggrieved Employees may have.

8. **Plaintiff's Release.** In consideration for Plaintiff's Service Award, Plaintiff, on behalf of herself and her heirs, successors, assigns, attorneys and agents, hereby releases and forever discharges the Released Parties from any and all claims, demands, debts, duties, obligations, promises, liabilities, damages, accounts, payments, liens, acts, costs, expenses, sums

of money, suits, dues, actions or causes of action, both in law and in equity, whether known or unknown, matured or unmatured, suspected or unsuspected, which they ever had, now have, or may have in the future with regard to any claims made, or which could have been made, in the Action including, but not limited to, claims arising from or relating to Plaintiff's employment relationship with Defendant, rights arising out of alleged violations of any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, any tort including defamation, any legal restrictions on Defendant's right to hire, refuse to hire, or terminate its employees, or any federal, state or local court of law or equity or other governmental statute, regulation or ordinance, including without limitation: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Fair Employment and Housing Act (which Acts prohibit discrimination based upon race, religion, sex, sexual orientation, age, color, national origin, disability, medical condition and marital status); (4) Section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California and the United States Constitution; (8) the Family and Medical Leave Act; (9) the California Family Rights Act; (10) the Worker Adjustment and Retraining Notification Act; (11) the Employee Retirement Income Security Act; (12) the Immigration Reform and Control Act; (13) the California Government Code; (14) violations of the California Industrial Welfare Commission's ("IWC") Wage Orders; (15) violations of California Labor Code sections 201, 202, 203, 204, 206, 210, 218.6, 226, 226.2, 226.3, 226.7, 246, et seq., 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2698, et seq., 2699 et seq., 2800, 2802; (16) violations of California Business and Professions Code §§ 17200, et seq.; and all claims and causes of action for costs, attorney's fees, civil penalties, statutory penalties, premium pay, and liquidated damages related thereto.

9. **Plaintiff's Waiver of Rights Under California Civil Code Section 1542.** For purposes of Plaintiff's release, Plaintiff hereby agrees that upon the Effective Date of this Agreement, Plaintiff's rights under section 1542 of the Civil Code of the State of California are hereby waived as to the individual claims or other claims she may have against Defendant. Section 1542 has been explained to Plaintiff by her counsel and provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

10. **Covenants and Representations by Plaintiff.** Plaintiff represents and warrants that she has not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement. Plaintiff acknowledges that she has read this Settlement, that she fully understands her rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily. Plaintiff further acknowledges that she had the opportunity to consult with her attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

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

12. **Publicity.** Plaintiff and her counsel agree that they have not and will not publish the Action or the Settlement until Plaintiff has filed her motion for approval of the Settlement. Until Plaintiff has filed her motion for approval of the Settlement, Plaintiff's counsel shall not report the Action or the Settlement in any medium or in any publication, shall not post or report anything regarding the claims of Plaintiff or the Aggrieved Employees, or the Settlement on their websites, and shall not contact any reporters or media regarding the Settlement. Nothing herein will restrict Plaintiff's Counsel from including publicly available information regarding this settlement in future judicial submissions regarding Plaintiff's Counsel's qualifications and experience.

13. **Neutral Reference:** Defendant agrees that all inquiries about Plaintiff shall be referred to its Gina Aaron, Chief People Officer at gina.aaron@inshape.com, who will confirm the Plaintiff's dates of employment and position held. No other information concerning Plaintiff's work history will be provided by Human Resources without authorization from Plaintiff.

IV. **ADMINISTRATION OF SETTLEMENT**

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

2. **Provision of Information for Aggrieved Employees.** Within twenty-one (21) calendar days after the Effective Date, Defendant will provide the Settlement Administrator with the following information for the Aggrieved Employees: (1) full name; (2) last known home address; (3) social security number; (4) start and end dates of employment as an employee of Defendant in the State of California during the PAGA Period; and (5) any other information reasonably required by the Settlement Administrator in order to effectuate the terms of the PAGA Settlement ("Aggrieved Employees List"). The Aggrieved Employees List shall be deemed confidential and may not be disclosed or used by the Settlement Administrator for any purpose except to facilitate the PAGA Settlement. Upon receipt of Aggrieved Employee List, the Settlement Administrator shall access the National Change of Address ("NCOA") Database, and update the addresses contained therein.

Within five (5) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the Individual PAGA Payments to each Aggrieved and the data used to calculate said payments. The Settlement Administrator will obtain approval from all counsel for the Parties of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letters and Individual PAGA Payments.** Within five (5) business days of receiving approval from all counsel for the Parties, the Settlement Administrator will mail copies of the explanatory letters, which have been mutually approved by the Parties and are attached hereto as **Exhibit A**, along with the Individual PAGA Payments to all Aggrieved Employees via First-Class U.S. Mail.

Each Individual PAGA Payment will be deemed penalties and reported using IRS Form 1099. Checks will remain negotiable for ninety (90) days from the date they are mailed by the Settlement Administrator. Any check that is not negotiated within one hundred twenty (120) days of mailing to an Aggrieved Employee will be transferred to the California State Controller's Unclaimed Property Fund.

4. **Undeliverable Letters.** The Settlement Administrator will exercise its best judgment to determine the current mailing address for each Aggrieved. The address identified by the Settlement Administrator as the current mailing address will be presumed to be the best mailing address for each Aggrieved Employee. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a Skip-Trace or other search using the name, address or Social Security number of the Aggrieved Employees involved, and will perform a single re-mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom it will pay an Individual PAGA Payment through the Settlement Administrator's initial mailing of a check, regardless of whether such checks are actually received and/or negotiated by the Aggrieved Employees.

Plaintiff and her counsel, as well as Defendant and its counsel shall not bear any responsibility for errors or omissions in the calculation or distribution of the settlement payments or the development of the list of recipients of settlement payments.

5. **Payment of Remainder.** Within ten (10) business days of receiving the Gross Settlement Amount, the Settlement Administrator will distribute the following payments: (1) the 75% share of the Net Settlement Fund to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved service award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** The Settlement Administrator will provide an accounting declaration under oath to the Parties of the amounts paid from the Settlement as soon as practicable after the check cashing deadline described in Paragraph IV.3.

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

V. CIRCULAR 230 DISCLAIMER.

EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISOR TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISOR'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

VI. MISCELLANEOUS PROVISIONS

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

2. **Governing Law.** This Settlement will be construed under and governed by the laws of the State of California, without regard to choice of law principles. All questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement will be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it will be brought in the State of California, County of Sacramento.

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

4. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions, including that the First Amended Complaint will again become the operative Complaint.

5. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction per California Code of Civil Procedure § 664.6 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.

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

7. **Authorization to Enter into Settlement.** Counsel for the Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If they 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.

8. **Execution and Counterparts.** This Settlement is subject only to the execution of the Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts. The Parties may use electronic signature technology to expedite the execution of this Agreement pursuant to California Civil Code section 1633.7. Electronic signatures shall be deemed originals.

9. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

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

16. **Cooperation and Execution of Necessary Documents.** The Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement. The Parties agree to work cooperatively, diligently and in good faith to ensure that all documents necessary to seek the Court's approval of this Settlement are timely filed.

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

IN WITNESS THEREOF, the Parties to this Settlement 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.

ANGELINA HARROLD

Dated: 7/17/2023

Angelina Harrold
Angelina Harrold, Plaintiff

**CALIFORNIA FAMILY HEALTH LLC dba
CALIFORNIA FAMILY FITNESS**

Dated: _____

By: _____
Title: _____

APPROVED AS TO FORM AND CONTENT:

Dated: July 17, 2023

HAMMONDLAW, APC

By: J. Hammond
Julian Hammond
Attorneys for Plaintiff, Angelina Harrold

Dated: _____

FISHER & PHILLIPS LLP

By: _____
Shaun Voigt
Drew M. Tate
Attorneys for Defendant, California Family
Health LLC dba California Family Fitness

ANGELINA HARROLD

Dated: _____

Angelina Harrold, Plaintiff

**CALIFORNIA FAMILY HEALTH LLC dba
CALIFORNIA FAMILY FITNESS**

Randy Karr

Dated: Jul 19, 2023

Randy Karr (Jul 19, 2023 13:34 PDT)

By: Randy Karr

Title: CEO

APPROVED AS TO FORM AND CONTENT:

Dated: _____

HAMMONDLAW, APC

By: _____

Julian Hammond

Attorneys for Plaintiff, Angelina Harrold

Dated: July 19, 2023

FISHER & PHILLIPS LLP

By: *Shaun Voigt*

Shaun Voigt

Drew M. Tate

Attorneys for Defendant, California Family
Health LLC dba California Family Fitness

EXHIBIT A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment from *Harrold v. California Family Health LLC dba California Family Fitness*

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Harrold v. California Family Health LLC dba California Family Fitness*, Sacramento County Superior Court, Case No. 2022-00323409. **This settlement does not release any individual claims that you may have against Defendant outside of PAGA.**

That case was filed against California Family Health LLC dba California Family Fitness ("California Family Fitness") pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called "PAGA"). The claim was brought on behalf of the State of California and all persons who were employed by California Family Fitness in California as fitness instructors, trainers, and in similar positions at any time from June 28, 2021 through to June 1, 2023 for California Family Fitness' alleged failure to comply with the California Labor Code. Specifically, Plaintiff alleged that instructors worked more hours than they were permitted to clock in, were not paid split shift pay on days when they only earned minimum wage, were not paid properly for overtime hours, because of their job duties were routinely not able to take off-duty rest breaks of 10 minutes for every 3.5 hours worked and off-duty meal periods of 30 minutes for every 5 hours worked, and that California Family Fitness did not reimburse them sufficiently for their necessarily incurred business expenses (e.g. music subscriptions, cell phone use). In addition, Plaintiff alleged that as a result of the above violations, California Family Fitness failed to comply with wage statement laws, and failed to pay all wages due at the time instructors were discharged from employment. The Plaintiff in the case claimed that California Family Fitness owed civil penalties under PAGA for the California Labor Code violations listed above. California Family Fitness denies that it did anything wrong or that it owes any penalties.

The Parties agreed to resolve the case, and as part of that settlement, California Family Fitness agreed to pay a certain amount of money categorized as PAGA penalties. The settlement of this action does not constitute an admission by California Family Fitness of any of the matters alleged in the case or an admission of liability. Under the PAGA statute, the penalties get divided between the State and the employees. The enclosed check represents your portion of the penalties allocated to the employees and is based on the number of pay periods that you worked during the PAGA Period.

Under the settlement, Plaintiff, Aggrieved Employees, and the Labor and Workforce Development Agency("LWDA") will fully and finally release and discharge Released Parties from claims for penalties and attorneys' fees and costs recoverable under PAGA which Plaintiff, Aggrieved Employees, and/or the LWDA had, or may claim to have, against Released Parties, arising out of the violations alleged or that could have been alleged based on the facts alleged in the Action or the PAGA Notice by Plaintiff, including, but not limited to, PAGA penalties for or arising out of the following: unpaid wages including overtime wages, failure to provide compliant meal and rest breaks, failure to provide complete and accurate wage statements, failure to pay all wages owed at discharge or resignation, failure to reimburse necessary business-related expenses, and violations of Labor Code sections 201, 202, 203, 204,

210, 226, 510, 558, 1174(d), 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802.

You will receive an IRS Form 1099 in the amount of your Settlement Share. You will be responsible for the tax consequences of your Settlement Share and should seek tax advice as to any amounts paid to you as your Settlement Share from your own tax advisor.

You will be bound by the terms of the Settlement whether or not you accept the enclosed check. Checks will remain negotiable for ninety (90) days from the date they are mailed after which they will be voided and transferred to the California State Controller's Unclaimed Property Fund.

On [REDACTED] 2023, the Court entered an Order and Judgment approving the settlement in this case. A copy of the Order and Judgment is posted at the following website [insert URL].

If you have any questions, you can contact the settlement administrator, whose contact information is at the top of this letter; or Plaintiff's Counsel at:

Julian Hammond, jhammond@hammondlawpc.com
Polina Brandler pbrandler@hammondlawpc.com
HAMMONDLAW, P.C.
1201 Pacific Ave., Suite 600
Tacoma, WA 98402
Telephone: (310) 601-6766

Very Truly Yours,

[administrator]

EXHIBIT 2

1 JULIAN HAMMOND (SBN 268489)
jhammond@hammondlawpc.com
2 POLINA BRANDLER (SBN 269086)
pbrandler@hammondlawpc.com
3 ARI CHERNIAK (SBN 290071)
acherniak@hammondlaw.com
4 HAMMONDLAW, P.C.
1201 Pacific Ave., Suite 600
5 Tacoma, WA 98402
6 Tel. (310) 601-6766
Fax (310) 295-2385

7 *Attorneys for Plaintiff*

8
9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
10 **COUNTY OF SACRAMENTO**

11 **ANGELINA HARROLD**, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 **CALIFORNIA FAMILY HEALTH LLC dba**
16 **CALIFORNIA FAMILY FITNESS**, a
Delaware Limited Liability Company,

17 Defendant.
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Case No.: 34-2022-00323409

REVISED [PROPOSED] ORDER
GRANTING PLAINTIFF'S MOTION FOR
APPROVAL OF PAGA SETTLEMENT
PURSUANT TO LABOR CODE § 2699(l)

Complaint Filed: July 14, 2022

1 WHEREAS, the Court has received and reviewed Plaintiff's Motion for Approval of Private
2 Attorney General Act (Labor Code §§ 2698 *et seq.*) Settlement, and has considered the terms of the
3 proposed settlement set forth therein;

4 IT IS HEREBY ORDERED AS FOLLOWS:

5 1. The Court has jurisdiction over the subject matter of this action pursuant to California
6 Labor Code § 2699(I), whereby a Superior Court is required to review and approve any penalties sought
7 as part of a proposed settlement pursuant to PAGA.

8 2. The Settlement between the Parties warrants approval pursuant to California Labor Code
9 § 2699 and is fair, adequate and reasonable.

10 3. Capitalized terms herein shall have the same meaning as in the Parties' Settlement
11 Agreement attached hereto as **Exhibit 1**.

12 4. The Court hereby approves the Settlement and finds that the payment of the Gross
13 Settlement Amount of \$223,000 in settlement of the claims for PAGA penalties, attorneys' fees, and costs
14 is fair, adequate, and reasonable. The Court finds that the PAGA settlement has been reached as a result
15 of informed and non-collusive arm's-length negotiations. The Court also finds that settlement now will
16 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
17 to continue to litigate the case. The Court has reviewed the penalties being provided as part of the PAGA
18 settlement and recognizes the significant value accorded to the Aggrieved Employees and to the State of
19 California.

20 5. The Settlement is not an admission by Defendant or by any other party, nor is this Order a
21 finding of the validity of any allegations or of wrongdoing by Defendant or any other party. Neither this
22 Order, the Settlement, nor any document referred to herein, nor any action taken to carry out the
23 Settlement, may be construed as, or may be used as, an admission of any fault, wrongdoing, omission,
24 concession, or liability whatsoever by or against Defendant.

25 6. The Parties are directed to consummate the Settlement in accordance with its terms.

26 7. The Court approves the appointment of ILYM Group, Inc. as Administrator in this matter
27 and actual settlement administration costs not to exceed \$7,000 to be paid from the Gross Settlement
28 Amount.

8. Defendant shall, within 21 calendar days after the date of the Order approving the
Settlement, provide the Aggrieved Employee List to the Settlement Administrator and fund the MSA.

9. The Settlement Administrator is directed to, within 5 business days after receiving
Aggrieved Employee List, circulate to counsel for both parties for approval an anonymized spreadsheet

1 containing the Individual PAGA Payments to each Aggrieved and the data used to calculate said payments.
2 Within 5 business days after receiving approval of counsel for both parties, the Settlement Administrator
3 shall distribute to each Aggrieved Employee his or her Individual Settlement Payment by mailing via U.S.
4 First-Class mail a check for the allocated Individual Settlement Payment amount, along with the revised
5 Notice of PAGA Settlement filed with the Court on August 14, 2023, and any necessary tax reporting
6 forms, to their last known address.

7 10. The deadline to cash settlement checks is 90 days after the mailing date. Any settlement
8 checks that remain uncashed within 120 days of the mailing date, will be reissued, maintained in the name
9 of the aggrieved employee, and deposited by the Settlement Administrator in the California State
10 Controller's Unclaimed Property Fund.

11 11. The Court approves payment of \$19,743.90 in litigation costs to Plaintiff's Counsel,
12 HammondLaw, P.C., to be paid from the Gross Settlement Amount.

13 12. The Court approves payment of \$78,050 in attorneys' fees to Plaintiff's Counsel,
14 HammondLaw, P.C., to be paid from the Gross Settlement Amount. The Court finds that Plaintiff's
15 Counsel's hourly rates are reasonable in the context of complex group litigation.

16 13. The Court approves payment of \$7,500 as a Service Award to the Plaintiff, as set forth in
17 the Settlement Agreement.

18 14. The Court orders, adjudges, and decrees that, in consideration of the Gross Settlement
19 Amount and upon entry of the Order approving the Settlement and effective on the date when Defendant
20 fully funds the entire Gross Settlement, Plaintiff, Aggrieved Employees, and the LWDA will fully and
21 finally release and discharge Released Parties from claims for penalties and attorneys' fees and costs
22 recoverable under PAGA which Plaintiff, Aggrieved Employees, and/or the LWDA had, or may claim to
23 have, against Released Parties, arising out of the violations alleged or that could have been alleged based
24 on the facts alleged in the Action or the PAGA Notice by Plaintiff, including, but not limited to, PAGA
25 penalties for or arising out of the following: unpaid wages including overtime wages, failure to provide
26 compliant meal and rest breaks, failure to provide complete and accurate wage statements, failure to pay
27 all wages owed at discharge or resignation, failure to reimburse necessary business-related expenses, and
28 violations of Labor Code sections 201, 202, 203, 204, 210, 226, 510, 558, 1174(d), 1174.5, 1194, 1194.2,
1197, 1197.1, 1198, 2698, *et seq.*, 2800, and 2802. This release shall apply to claims arising during the
PAGA Period and will be binding and effective upon Plaintiff, Aggrieved Employees, and the LWDA
regardless of whether the Aggrieved Employee cashes their settlement check. Released PAGA Claims do

1 not include any individual non-PAGA claims Aggrieved Employees may have. IT IS SO ORDERED.

2 Dated this ____ day of _____, 2023.

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4 BY THE COURT:

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6 Hon. Lauri A. Damrell
7 JUDGE OF THE SUPERIOR COURT
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EXHIBIT 3

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>
<<ADDRESS 1>>
<<ADDRESS 2>>

Re: Payment from Harrold v. California Family Health LLC dba California Family Fitness

Dear <<FIRST_NAME>> <<LAST_NAME>>:

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Deleted: 1

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If you have any questions, you can contact the settlement administrator, whose contact information is at the top of this letter; or Plaintiff's Counsel at:

Julian Hammond, jhammond@hammondlawpc.com
Polina Brandler pbrandler@hammondlawpc.com
HAMMONDLAW, P.C.
1201 Pacific Ave., Suite 600
Tacoma, WA 98402
Telephone: (310) 601-6766

Very Truly Yours,

[administrator]