

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Tuoyo Ogbe (“Plaintiff”) and defendant O’Neil Digital Solutions, LLC (“Defendant”). The Agreement refers to Plaintiff and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s individual and PAGA lawsuit alleging wage and hour violations against Defendant captioned *Tuoyo Ogbe, et al. v. O’Neil Digital Solutions, LLC, et al.* initiated on April 25, 2023 and pending in Superior Court of the State of California, County of Los Angeles, Case No. 23STCV09250.
- 1.2. “Administrator” means ILYM Group, Inc. the neutral entity the Parties have agreed to appoint to administer the Settlement.
- 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employees” means all current and former non-exempt or hourly paid employees of Defendant that have worked for Defendant in the State of California at any time from April 25, 2022 to March 4, 2024.
- 1.5. “Aggrieved Employee Data” means Aggrieved Employees’ identifying information in Defendant’s possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods and/or hire and termination dates.
- 1.6. “Aggrieved Employee Address Search” means the Administrator’s investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.
- 1.7. “Court” means the Superior Court of California, County of Los Angeles.
- 1.8. “Defense Counsel” means Fisher & Phillips LLP.
- 1.9. “Effective Date” means the date by which the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) the day the Court enters Judgment.
- 1.10. “Gross Settlement Amount” means \$155,000.00 which is the total amount

Defendant agrees to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

- 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.13. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).
- 1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.16. "PAGA Counsel" means Bradley/Grombacher LLP, the attorneys representing the Plaintiff in the Action.
- 1.17. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.18. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.
- 1.19. "PAGA Period" means the period from April 25, 2022 through March 4, 2024.
- 1.20. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.21. "PAGA Notice" means Plaintiff's April 25, 2023 letter to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.23. "Plaintiff" means Tuoyo Ogbe, the named plaintiff in the Action.

- 1.24. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.26. "Released Parties" means: Defendant, and any past and present owners, officers, directors, shareholders, unit holders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, attorneys, insurers, consultants, and their respective successors and predecessors in interest, subsidiaries, affiliates, and parents and attorneys.
- 1.27. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.
- 1.28. "Defendant" means named Defendant O'Neil Digital Solutions, LLC.

2. RECITALS.

- 2.1. On April 25, 2023, Plaintiff commenced this Action by filing a Complaint alleging ten (10) causes of action against Defendant on a class basis for (1) Failure to Pay Overtime Wages in Violation of Labor Code sections 510 and 1198, (2) Failure to Pay All Wages and Minimum Wages in Violation of Labor Code sections 1182, 1194, 1197, 1198, (3) Failure to Provide Compliant Meal Breaks in Violation of Labor Code section 226.7, (4) Failure to Provide Compliant Rest Breaks in Violation of Labor Code section 226.7, (5) Failure to Timely Pay Wages During Employment in Violation of Labor Code section 204, (6) Failure to Timely Furnish Accurate Itemized Wage Statements in Violation of Labor Code section 226(a) and Failure to Maintain Accurate Records; (7) Waiting Time Penalties Pursuant to Labor Code sections 201, 203; (8) Failure to Provide Sick Pay in Violation of Labor Code section 246; (9) Failure to Reimburse Business Expenses in Violation of Labor Code section 2802; and (10) Violation of Business & Professions Code sections 17200 et seq.
- 2.2. On June 28, 2023, Plaintiff filed a First Amended Complaint adding an eleventh (11th) cause of action against Defendant for Civil Penalties Pursuant to PAGA, Labor Code sections 2698, et seq.
- 2.3. On July 18, 2023, the Court dismissed Plaintiff's class allegations pursuant to a joint stipulation of the parties. Plaintiff's First Amended Complaint is the operative complaint in the Action (the "Operative Complaint."). Defendant denies the allegations in the Operative Complaint, denies any failure to comply with the laws identified in in the Operative Complaint and denies any and all liability for the causes of action alleged.
- 2.4. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.

- 2.5. On March 4, 2024, the Parties participated in an all-day mediation presided over by Brandon McKelvey, which led to this Agreement to settle the Action.
- 2.6. Prior to mediation, Plaintiff obtained, through informal discovery, statistical data, including records of Defendant's employees, which consisted of wage statements, clock in and clock out times, times taken for meal breaks, wages earned during the relevant pay periods, written policies and procedures, including, timekeeping, payment of wages, meal breaks, rest breaks, overtime compensation, and reimbursement for business expenses, the number of pay periods in the PAGA Period, and the total number of Aggrieved Employees.
- 2.7. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

- 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendant promises to pay \$155,000.00 and no more as the Gross Settlement Amount. Defendant has no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Final Approval:
- 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 333.333% which is currently estimated to be \$51,667.00 and PAGA Counsel Litigation Expenses Payment of not more than \$20,000.00. Defendant will not oppose requests for Court approval of these payments provided that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion of any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and

the PAGA Counsel Litigation Expenses Payment and holds Defendant harmless, and indemnifies Defendant, from any dispute or controversy regarding any division or sharing of any of these Payments.

3.2.2. Plaintiff's Enhancement. Defendant will not oppose Plaintiff's request for Plaintiff's Enhancement in the amount up to Ten Thousand Dollars and Zero Cents (\$10,000.00). In the event the Court approves a payment of less than the Plaintiff's Enhancement requested by Plaintiff, the difference will be added to the PAGA Payment.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$4,750.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$4,750.00, the Administrator will retain the remainder in the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of \$68,583.00 to be paid from the Gross Settlement Amount, with 75% (\$51,437.25) allocated to the LWDA PAGA Payment and 25% (\$17,145.75) allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$51,437.25) 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 Employee's PAGA Period Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

3.2.4.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 154 Aggrieved Employees who worked a total of 2,840 PAGA Pay Periods.

4.2. Aggrieved Employee Data. Within 30 days of the Court's Order approving the Settlement, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employee's privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel

if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

- 4.3. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Court issues an Approval Order granting approval of the PAGA Settlement.
- 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, and the PAGA Counsel Fees and Expenses Payments. Disbursement of the PAGA Counsel Fees and Expenses Payments shall not precede disbursement of Individual PAGA Payments.
 - 4.4.1. Explanatory Letter and Individual PAGA Payments. Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.
 - 4.4.2. Within two (2) calendar days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator will issue payments to: (a) Aggrieved Employees along with an explanatory letter similar to that attached hereto as Exhibit A; (b) the LWDA; (c) Plaintiff; (d) Plaintiff's Counsel; and (e) itself.
 - 4.4.3. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
 - 4.4.4. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.
 - 4.4.5. Individual PAGA Payment checks will remain negotiable for 180 calendar days, and

Aggrieved Employees will have 180 calendar days from the date of the mailing to cash their Individual PAGA Payment checks. For any Aggrieved Employee whose Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.6. The payment of Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. RELEASES OF CLAIMS. Effective on the date when Defendant fully funds the entire Gross Settlement Amount Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

5.1 Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during Plaintiff's employment with Defendant, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time, or based on occurrences outside the period of Plaintiff's employment with Defendant. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them. Expressly carved out of this Agreement's release is Plaintiff's individual wage and hour settlement with Defendant. Nothing in this Agreement's release shall affect Plaintiff's individual wage and hour settlement with Defendant.

5.1.1 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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.

5.2 Release by Aggrieved Employees. All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all

claims for PAGA penalties during the PAGA Period that were alleged, or reasonably could have been alleged, the Operative Complaint and the PAGA Notice, including, but Labor Code sections, 201-203, 204, 226, 226.7, 246, 510, 1174, 1182, 1182.11-1182.12, 1194, 1194.2, 1197, 1198, 2802, and Business and Professions Code sections 17200 et seq.

6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file an application or motion for approval of this Settlement.

- 6.1 Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i) a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering the Settlement and attesting to its willingness to serve; competency; operative procedures for protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699, subd. (l)(2)); (iv) a redlined version of the parties' Agreement showing all modifications made to the Model Agreement ready for filing with the Court; and (v) all facts relevant to any actual or potential conflict of interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and PAGA shall aver that they are not aware of any other pending matter or action asserting claims that will be extinguished or adversely affected by the Settlement.
- 6.2 Responsibilities of Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the application or motion for approval of this Settlement no later than 60 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's Preliminary Approval to the Administrator.
- 6.3 Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

- 7.1 Selection of Administrator. The Parties have jointly selected ILYM Group, Inc. to serve as the Administrator and verified that, as a condition of appointment, ILYM Group, Inc. agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.
- 7.2 Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.
- 7.3 Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.
- 7.4 Administrator Duties. The Administrator has a duty to perform or observe all tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.
- 7.5 Accounting. Within fifteen (15) calendar days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement, via a declaration or otherwise.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES

Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 154 Aggrieved Employees who worked 2,840 Pay Periods during the PAGA Period. If the amount of pay periods increases by more than 10%, Defendant will have the option to either increase the Gross Settlement Amount in proportion to any such change or change the cutoff date for PAGA Settlement Employees to an earlier date. Defendant shall distribute the Gross Settlement Amount within thirty (30) business days after the Effective Date.

9. CONTINUING JURISDICTION OF THE COURT.

The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

- 9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate

proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

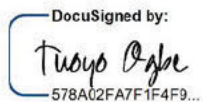
10. ADDITIONAL PROVISIONS.

- 10.1 No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendant that any of the allegations in the Operative Complaint and/or PAGA Notice have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendant's defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement, Defendant reserves all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendant's defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).
- 10.2 Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.
- 10.3 Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.
- 10.4 Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.
- 10.5 No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action,

cause of action, or right released and discharged by the Party in this Settlement.

- 10.6 No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendant nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 10.7 Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument, including stipulation, signed by all Parties or their representatives, and approved by the Court.
- 10.8 Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9 Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10 Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
- 10.11 Confidentiality. To the extent permitted by law, all agreements made, and orders entered during Action and in this Agreement relating to the confidentiality of information shall survive the execution of this Agreement.
- 10.12 No Publicity. Plaintiff and PAGA Counsel agree that response to any inquiries from anyone other than a Aggrieved Employee, Plaintiff will state that “the case was resolved, and it was resolved confidentially” or words of similar effect and or Plaintiff’s Counsel may disclose any inquiries of the settlement to Aggrieved Employees and may direct Aggrieved Employees to the Court or LWDA website. Plaintiff’s Counsel shall not report the settlement in any medium or into any publication, shall not post or report anything regarding the claims of Plaintiff or the Settlement on their website, and shall not contact any reporters or media regarding the Settlement. However, Plaintiff’s Counsel is authorized to make disclosures to the Court, the LWDA, and Aggrieved Employees for the purposes of obtaining the approval of the settlement. This disclosure is limited to court filings and inquiries by any Aggrieved/ Covered Employee. and neither Plaintiff nor Plaintiff’s Counsel or representatives are permitted to disseminate or publish, distribute or discuss the information provided to the Court in those filings outside the filings themselves and any hearing held on those filings, unless ordered otherwise by the Court. Notwithstanding the foregoing, Plaintiff’s Counsel may include the settlement (and/or a summary of the settlement) in future declarations filed in support of Plaintiff’s Counsel’s experience and/or adequacy in PAGA representative actions and/or class actions. Nothing in the provision is intended to violate California Rules of Professional Conduct Rule 5.6.

- 10.13 Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its obligation to pay out of all Settlement funds, PAGA Counsel shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant.
- 10.14 Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
- 10.15 Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.
- 10.16 Notice. All notices, demands or other communications between the Parties in connection with this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, or the day sent by email or messenger, addressed as follows:
- To Plaintiff: Plaintiff Tuoyo Ogbe, Bradley/Grombacher LLP, 31365 Oak Crest Drive, Suite 240, Westlake Village, California 91361
- To Defendant: Hannah Sweiss, Fisher & Phillips LLP, 21600 West Oxnard Street, Suite 600, Woodland Hills, CA 90071
- 10.17 Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
- 10.18 Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

DocuSigned by:

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Plaintiff TUOYO OGBE

Dated: 5/8/2024



Carolyn Koenig For
Defendant O'NEIL DIGITAL SOLUTIONS,
LLC

Dated: 05/14/2024



Bradley/Grombacher, LLP
Marcus Bradley
Lirit King
Counsel for Plaintiff,
Tuoyo Ogbe

Dated: 5/8/2024



Fisher & Phillips LLP
Hannah Sweiss
J. Misa Keelan
Counsel for Defendant,
O'Neil Digital Solutions, LLC

Dated: 5/14/2024

(signed by Plaintiff) Settlement Agreement Final (5.3)

Final Audit Report

2024-05-14

Created:	2024-05-13
By:	Nora Martinez (nmartinez@fisherphillips.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAXIqJeata4I1JjqHsRyMwhPywFHyh8jGL

"(signed by Plaintiff) Settlement Agreement Final (5.3" History

-  Document created by Nora Martinez (nmartinez@fisherphillips.com)
2024-05-13 - 8:27:33 PM GMT
-  Document emailed to Carolyn Koenig (carolyn.koenig@daicompanies.com) for signature
2024-05-13 - 8:27:37 PM GMT
-  Email viewed by Carolyn Koenig (carolyn.koenig@daicompanies.com)
2024-05-14 - 3:02:24 PM GMT
-  Document e-signed by Carolyn Koenig (carolyn.koenig@daicompanies.com)
Signature Date: 2024-05-14 - 3:02:53 PM GMT - Time Source: server
-  Agreement completed.
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