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Attorneys for Plaintiff, on a representative basis and on behalf of all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JIMMY MACIEL, individually, on a
representative basis, and on behalf of all others
similarly situated;

Plaintiff,

vs.

SHAMBAUGH & SON, L.P., a Texas Limited
Partnership; and DOES 1 through 20, inclusive;

Defendants.

Case No.: 20STCV30747
*[Assigned to Hon. Judge Elihu M. Berle,
Dept 6, for all purposes]*

**DECLARATION OF MICHAEL
MOORE OF BEHALF OF PHOENIX
CLASS ACTION SETTLEMENT
ADMINISTRATION IN SUPPORT
OF CLASS AND PAGA
SETTLEMENT**

Complaint Filed: August 19, 2021

I, Michael Moore, declare as follows:

1. I have personal knowledge of the facts set forth herein and if called upon to
testify, I could and would do so competently under oath.

2. I am employed by Phoenix Settlement Administrators (“PSA”), as CEO and
Managing Partner.

3. I personally have over “10” years of experience in claims management and
administration of class and collective action matters.

1 4. PSA is an S Corporation, owned by its Employees, and has no professional or
2 financial affiliation with any of the parties involved, including class members, in this matter of
3 *Maciel v. Shambaugh*.

4 5. PSA has extensive experience administering class action matters. PSA has
5 administered complex wage and hour, labor and employment, consumer/ product liability, TCPA,
6 FLSA, FACTA, ERISA and PAGA class action matters, thru final approval and distribution. PSA
7 has developed a system of quality assurance measures, to ensure the highest quality service is
8 provided in our cases and to class members.

9 6. PSA's Claims Management Group has extensive experiences in all aspects of
10 Notification and Identification of Class Members, Claims Processing, Formulation and Calculation
11 Methodologies, Award Distribution and Taxation, Accounting and Reconciliation.

12 7. PSA has extensive experience in and are experts at all aspects of administering
13 complex class action matters including; (i) preparing, printing, mailing and tracking privacy
14 notices; (ii) operation of a 24/7/365 multi-lingual call center; (iii) establishing settlement websites;
15 (iv) claims management; (v) USPS processes and systems, third party tracing, including the use of
16 reverse telephone directory services; (vi) database management, programming and security
17 protocols; (vii) calculating and issuing settlement payments; (viii) tax management, filings, and
18 account reconciliation; and (ix) final approval.

19 8. As part of Settlement Notice procedures, PSA will run the names of all Settlement
20 Class Members through the National Change of Address ("NCOA") database to determine any
21 updated addresses for Settlement Class Members. If a Class Notice Packet from the initial notice
22 mailing is returned as undeliverable; the Settlement Administrator will attempt to obtain a current
23 address for the Settlement Class Member to whom the returned Class Notice Packet had been
24 mailed by undertaking skip tracing. If the Settlement Administrator is successful in obtaining a new
25 address, it will promptly re-mail the Class Notice Packet to the Settlement Class Member. Further,
26 any Class Notice Packets that are returned to the Settlement Administrator with a forwarding
27 address before the Response Deadline shall be promptly re-mailed to the forwarding address affixed
28 thereto.

1 9. PSA has been appointed as a Settlement Administrator in both State and Federal
2 Courts.

3 10. A true and correct copy of PSA's Curriculum Vitae is attached hereto as Exhibit A.

4 11. Phoenix Settlement Administrators has adequate procedure in place to safeguard the
5 data and funds to be entrusted to it. PSA's Technology and Banking groups are directly involved
6 with Management on all issues of Information Security and Settlement Fund transfer, as it pertains
7 to the continuance of business processes, and all risk, vulnerability, security and assessments as it
8 pertains to information. The group, along with internal systems in place, monitor and communicate
9 with Management on a Preventative and comprehensive level, in order to prevent potential Strategic
10 or Compliance Risks. All processing of confidential and personal information is handled and
11 maintained within the organization and therefore all data received is kept within a strict chain of
12 custody internally. All informational assets are classified and assigned based on initial case
13 assessment, client and procedural requirements. The Technology Group handles all higher-level
14 ownership of information and physical peripherals, as well as ownership of direct / indirect assets
15 associated with technology and the continuance of business, Specific Users, Groups or Entities are
16 assigned Shared Ownership or Management Capability based on procedural needs, and security
17 level granted.

18 12. In addition to high levels of Data Center Policies/Procedures and
19 Facility/Maintenance Security Protocols, PSA's conducts semiannual training to maintain
20 additional safeguards such as:

- 21
- 22 a. Phoenix Settlement Administration Business Continuity Policy
- 23 b. Phoenix Settlement Administration Disaster Recovery Plan
- 24 c. Phoenix Settlement Administration Incident Response Plan
- 25 d. Phoenix Settlement Administration Personal Computer Security Policy
- 26 e. Phoenix Settlement Administration Phoenix Data Archiving and Retention Policy
- 27 f. Phoenix Settlement Administration Phoenix Personnel Security Policy
- 28 g. Phoenix Settlement Administration Risk Assessment

- 1 h. Phoenix Settlement Administration Service Provider Risk Assessment
2 i. Phoenix Settlement Administrator Classification and Access Rights Policy
3 j. Phoenix Settlement Administrator Password Policy
4 k. Phoenix Settlement Administrators Certification of Destruction
5 l. Phoenix Settlement Administrators Security Awareness Training Program.
6 13. PSA currently maintains an errors and omissions insurance policy, in addition to, a
7 separate data breach insurance policy, of 2 million and 3 million occurrence basis.
8 14. PSA costs are reasonable and competitive when compared to the industry.
9 15. PSA only employs a certified and/or qualified translator to translate Court-
10 approved Notices for postings on PSA's website for dissemination to the Class.
11 16. To complete the Settlement Administration for the Maciel v. Shambaugh case, the
12 Settlement Administration will include hard cost and hourly costs detailed below:
13 • Hard Cost: Postage, Printing Supplies, Toll Free Setup, QSF Bank Setup, NCOA,
14 Skip Tracing, Re-Mail and Translation costs.
15 • Hourly Cost: The hourly rates include Programming Database & Setup, Project
16 Management, Notice Packet Formatting, Programming Undeliverable, Programming Claims
17 Database, Programming Calculations, Disbursement Review, Printing of Notice & Checks,
18 Reconcile Uncashed Checks, Conclusion Reports, Potential Tax Filing and Case
19 Management/Maintenance.
20 17. Having factored in the hard and hourly cost, the settlement administration for this
21 project has a Will Not Exceed Fee of \$7,060.16. A detailed breakdown of PSA's cost is attached
22 hereto as Exhibit B.

23 I declare under penalty of perjury under the laws of the United States and state of California
24 that the foregoing is true and correct.

25 Executed on November 10, 2022, at Orange, California.

26 
27 _____

28 Michael E. Moore

Exhibit A



CLASS ACTION ADMINISTRATION SOLUTIONS

1411 N. Batavia Street, Suite 105, Orange, CA 92867

800.523.5773

www.phoenixclassaction.com

CURRICULUM VITAE

Phoenix, Class Action Administrators, PSA Overview

Phoenix Settlement Administrators, PSA, is an emerging, National, Class Action Notification and Claims Administration firm, located in Orange County, California. PSA's core competencies ensure delivery of the highest quality and accuracy to its Clients and Class members. With a combined 22 years of expert experience, PSA's Managing Partners, Case Supervisors, Managers and Associates, Data Programming, and Certified Secure Strategic Partners possess all the qualities that our Clients expect throughout the Noticing and Administration process to Final Approval. It is our Value Pricing, Efficiency, Experience, Consultative Expertise and Delivery, that has perpetuated PSA, as an emerging leader in Class Action Settlement Administration. Expert PSA staff members are currently managing, Consumer and Product Liability, TCPA, Complex Labor & Employment, FLSA, ERISA and PAGA cases.

PSA has over 100 Attorney & Law Firm Clients, which have entrusted us with the management of their claims administration, because of the "Boutique" attention every case receives. PSA is value driven on all size cases. Large or small, cases receive expert management, secure data custody, neutral communication and a dedicated team. This seamless process maintains superior case continuity to ensure our clients receive timely final approval and conclusion to their actions. Phoenix Settlement Administrators implements its successful C.A.S.E. solutions on all our class action matters.

With tens of Millions of dollars in award distributions currently under management since our inception, PSA has the ability and strengths to manage all levels of Complex Cases. PSA's Staff "Synergy" is our greatest attribute. It allows our people to work closely together and solve our client's case issues. PSA prides itself as a true "Third Party Administrator" and holds Neutrality and Service as a mantra. Because of this approach, both Defense and Plaintiff Clients, experience fairness, trust and confidence in us, and allows for continued business from both parties. PSA has been appointed Third Party Administrator in State and Federal Courts.

We look forward to working with you on your next Class Action Noticing Campaign or Claims Administration. Let us design a C.A.S.E. solution, which will allow us to showcase the difference you'll experience. Superior Service, Class Savings Value Pricing and Timely Outcomes is why our clients come back to PSA.



Expert Core Services

Initial Planning and Consultative Service on Class Action Cases and Noticing Plans.

State/Nationwide Noticing Expertise: Privacy, Media, Publication, Internet & Email Campaigns.

Attorney General(s) CAFA Notification

Claims Programming, Administration, Processing and Reporting.

24/7/365 Multi-Lingual Call Center Support and Claims Processing

Secure Data Management Environment, Individual Firewalls, Encrypted Data and Storage

Settlement Fund Calculations, Solutions, Award Distribution, Award Reconciliation

Tax Filings: State, Federal, EDD, ETT, FUTA, PAGA Payments

Partial PSA Client List, Defense and Plaintiff

Fisher & Phillips
Gordon & Rees
Paul Plevin Sullivan & Connaughton
Call & Jensen
Seyfarth Shaw
McKenna Long & Aldridge
Greenberg Traurig
Manning & Kass
Littler Mendelson
Perkins Coie
Orrick Herrington & Sutcliffe
Ogletree Deakins Nash Smoak & Stewart
Perkins Coie
Ulwelling Siddiqui
Winston & Strawn
Sheppard Mullins
Lewis Brisbois Bisgaard & Smith
Morgan Lewis & Bockius
Paul Hastings
Snell & Wilmer
Sidley Austin
Higgs Fletcher & Mack
Jackson Lewis
Norton Rose Fulbright

The Arns Law Firm
The Nourmand Law Firm
Mahoney Law Group
Law Office of Thomas Rutledge
Lawyers for Justice PC
Remedy Law Group
Rastegar Law Group
Diversity Law Group
Righetti & Glugoski
Cohelan, Khoury & Singer
Moon & Yang, APC
Moss & Moss
The Spivak Law Firm
Law Offices of Kenneth Yoon
Paul Haines Law Group
Kearney Littlefield, LLP
Markham Law Firm
Chandler Law Firm
David Yeremian & Associates
Aegis Law Firm
Lauby, Mankin & Lauby, APC
Jones Law Firm
Short Legal, APC
Levine Law Group, APC

Exhibit B



October 5, 2022

CASE ASSUMPTIONS

Class Members	120
Opt Out Rate	1%
Opt Outs Received	1
Total Class Claimants	119
Subtotal Admin Only	\$7,060.16

Flat Fee Total \$7,060.16

For 120 Class Members

Pricing Good for Scope of Estimate Only

All Aspects of Escheating to the State of CA Included

Spanish Translation, Printing & Mailing Included

Case: Macial v. Shambaugh, Opt-Out Administration

Phoenix Contact: Michael E. Moore
 Contact Number: 949.331.0131
 Email: mike@phoenixclassaction.com

Requesting Attorney: Brian J. Mankin
 Firm: Lauby, Mankin & Lauby, LLP
 Contact Number: (951) 320-1444
 Email: brian@lmlfirm.com

Assumptions and Estimate are based on information provided by counsel. If class size changes, PSA will need to adjust this Estimate accordingly. Estimate is based on 120 Class Members. PSA assumes class data will be sent in Microsoft Excel or other usable format with no or reasonable additional formatting needed. A rate of \$150 per hour will be charged for any additional analysis or programming.

Case & Database Setup / Toll Free Setup & Call Center / NCOA (USPS)

Administrative Tasks:	Rate	Hours/Units	Line Item	Estimate
Programming Manager	\$100.00	1		\$100.00
Programming Database & Setup	\$100.00	1		\$100.00
Toll Free Setup*	\$150.00	1		\$150.00
Call Center & Long Distance	\$2.00	24		\$48.00
NCOA (USPS)	\$30.00	1		\$30.00
Total				\$428.00

* Up to 120 days after disbursement

Data Merger & Scrub / Notice Packet, Opt-Out Form & Postage / Spanish Translation / Website

Project Action	Rate	Hours/Units	Line Item	Estimate
Notice Packet Formatting	\$100.00	2		\$200.00
Spanish Translation	\$800.00	1		\$800.00
Data Merge & Duplication Scrub	\$0.10	120		\$12.00
Notice Packet & Opt-Out Form	\$1.35	120		\$162.00
Estimated Postage (up to 2 oz.)*	\$0.84	120		\$100.80
Static Website	\$100.00	1		\$100.00
Check Cashing Reminder Postcard Postage Included	\$0.60	25		\$14.99
Total				\$1,389.79

* Prices good for 90 days. Subject to change with the USPS Rate or change in Notice pages or Translation, if any.



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Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Associate	\$55.00	3		\$165.00
Skip Tracing Undeliverables	\$0.85	30		\$25.50
Remail Notice Packets	\$0.75	27		\$20.25
Estimated Postage	\$0.61	27		\$16.47
Programming Undeliverables	\$50.00	1		\$50.00
Total				\$277.22

Database Programming / Processing Opt-Outs, Deficiencies or Disputes				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Programming Claims Database	\$150.00	1		\$150.00
Non Opt-Out Processing	\$200.00	1		\$200.00
Case Associate	\$55.00	3		\$165.00
Opt-Outs/Deficiency/Dispute Letters	\$10.00	7		\$70.00
Case Manager	\$85.00	2		\$170.00
Total				\$755.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Programming Calculations	\$135.00	2		\$270.00
Disbursement Review	\$135.00	1		\$135.00
Programming Manager	\$95.00	1		\$95.00
QSF Bank Account & EIN	\$135.00	1		\$135.00
Check Run Setup & Printing	\$135.00	3		\$405.00
Mail Class Checks *	\$0.90	119		\$107.10
Estimated Postage	\$0.61	119		\$72.59
Total				\$1,219.69

* Checks are printed on 8.5 x 11 in. sheets with W2/1099 Tax Filing



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Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations				
Project Action:	Rate	Hours/Units	Line Item	Estimate
Case Supervisor	\$115.00	2		\$230.00
Remail Checks & Tax Forms (Postage Included)	\$1.70	24		\$40.46
Case Associate	\$55.00	3		\$165.00
Reconcile Uncashed Checks	\$85.00	5		\$425.00
Conclusion Reports	\$115.00	2		\$230.00
Case Manager Conclusion	\$85.00	3		\$255.00
Final Reporting & Declarations	\$115.00	3		\$345.00
IRS & QSF Annual Tax Reporting * (1 State Tax Reporting Included)	\$1,000.00	1		\$1,000.00
Check to Cy-Pres	\$150.00	1		Included
Uncashed Checks to the State of California Controllers Office	\$300.00	1		\$300.00
Estimated <u>12</u> Total Class Members				
Total				\$2,990.46

* All applicable California State & Federal taxes, which include SUI, ETT, and SDI, and FUTA filings. Additional taxes are Defendant's responsibility.

Estimate Total: \$7,060.16



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TERMS AND CONDITIONS

Provisions: The case estimate is in good faith and does not cover any applicable taxes and fees. The estimate does not make any provision for any services or class size not delineated in the request for proposal or stipulations. Proposal rates and amounts are subject to change upon further review, with Counsel/Client, of the Settlement Agreement. Only pre-approved changes will be charged when applicable. No modifications may be made to this estimate without the approval of PSA (Phoenix Settlement Administrators). All notifications are mailed in English language only unless otherwise specified. Additional costs will apply if translation into other language(s) is required. Rates to prepare and file taxes are for Federal and California State taxes only. Additional charges will apply if multiple state tax filing(s) is required. **Pricing is good for ninety (90) days.**

Data Conversion and Mailing: The proposal assumes that data provided will be in ready-to-use condition and that all data is provided in a single, comprehensive Excel spreadsheet. PSA cannot be liable for any errors or omissions arising due to additional work required for analyzing and processing the original database. A minimum of two (2) business days is required for processing prior to the anticipated mailing date with an additional two (2) business days for a National Change of Address (NCOA) update. Additional time may be required depending on the class size, necessary translation of the documents, or other factors. PSA will keep counsel apprised of the estimated mailing date.

Claims: PSA's general policy is to not accept claims via facsimile. However, in the event that facsimile filing of claims must be accepted, PSA will not be held responsible for any issues and/or errors arising out of said filing. Furthermore, PSA will require disclaimer language regarding facsimile transmissions. PSA will not be responsible for any acts or omissions caused by the USPS. PSA shall not make payments to any claimants without verified, valid Social Security Numbers. All responses and class member information are held in strict confidentiality. Additional class members are \$10.00 per opt-out.

Payment Terms: All postage charges and 50% of the final administration charges are due at the commencement of the case and will be billed immediately upon receipt of the data and/or notice documents. PSA bills are due upon receipt unless otherwise negotiated and agreed to with PSA by Counsel/Client. In the event the settlement terms provide that PSA is to be paid out of the settlement fund, PSA will request that Counsel/Client endeavor to make alternate payment arrangements for PSA charges that are due at the onset of the case. The entire remaining balance is due and payable at the time the settlement account is funded by Defendant, or no later than the time of disbursement. Amounts not paid within thirty (30) days are subject to a service charge of 1.5% per month or the highest rate permitted by law.

Tax Reporting Requirements

PSA will file the necessary tax returns under the EIN of the QSF, including federal and state returns. Payroll tax returns will be filed if necessary. Under the California Employment Development Department, all taxes are to be reported under the EIN of the QSF with the exception of the following taxes: Unemployment Insurance (UI) and Employment Training Tax (ETT), employer-side taxes, and State Disability Insurance (SDI), an employee-side tax. These are reported under Defendant's EIN. Therefore, to comply with the EDD payroll tax filing requirements we will need the following information:

1. Defendant's California State ID and Federal EIN.
2. Defendant's current State Unemployment Insurance (UI) rate and Employment Training Tax (ETT) rate. This information can be found in the current year DE 2088, Notice of Contribution Rates, issued by the EDD.
3. Termination dates of the class members, or identification of current employee class members, so we can account for the periods that the wages relate to for each class member.
4. An executed Power of Attorney (Form DE 48) from Defendant. This form is needed so that we may report the UI, SDI, and ETT taxes under Defendant's EIN on their behalf. If this form is not provided we will work with the EDD auditors to transfer the tax payments to Defendant's EIN.
5. Defendant is responsible for reporting the SDI portion of the settlement payments on the class member's W-2. PSA will file these forms on Defendant's behalf for an additional fee and will issue an additional W-2 for each class member under Defendant's EIN, as SDI is reported under Defendant's EIN rather than the EIN of the QSF. The Power of Attorney (Form DE 48) will be needed in order for PSA to report SDI payments.