

COPY

LIDMAN LAW, APC
Scott M. Lidman (SBN 199433)
slidman@lidmanlaw.com
Elizabeth Nguyen (SBN 238571)
enguyen@lidmanlaw.com
Milan Moore (SBN 308095)
mmoore@lidmanlaw.com
2155 Campus Drive, Suite 150
El Segundo, California 90245
Tel: (424) 322-4772
Fax: (424) 322-4775

Attorneys for Plaintiff
LAZARO BOR

HAINES LAW GROUP, APC
Paul K. Haines (SBN 248226)
phaines@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Tel: (424) 292-2350
Fax: (424) 292-2355

Attorneys for Plaintiff
LAZARO BOR

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

NOV 04 2020

Sherri R. Carter, Executive Officer/Clerk of Court

By: Aldwin Lim, Deputy

RECEIVED

OCT 07 2020

Room 106

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

LOZARO BOR, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

ALEXANDER ANDREW, INC. dba
FALLTECH., a California corporation; and
DOES 1 through 100,

Defendants.

Case No.: 19STCV26589

*[Assigned for All Purposes to the Hon. William
F. Highberger, Dept. SSC-10]*

~~PROPOSED~~ FINAL JUDGMENT

Date: November 4, 2020

Time: 11:00 a.m.

Dept.: SSC-10

Complaint Filed: July 31, 2019

Trial Date: None Set

1 This matter came on regularly for hearing before this Court on November 4, 2020,
2 pursuant to California Rule of Court 3.769 and this Court's July 6, 2020 Order Granting
3 Preliminary Approval of Class Action Settlement ("Preliminary Approval Order"). Having
4 considered the parties' Stipulation of Settlement of Class and Representative Action and Joint
5 Stipulation Re Parties' Stipulation and Settlement of Class and Representation Action
6 (collectively "Settlement" or "Settlement Agreement")¹ and the documents and evidence
7 presented in support thereof, and the submissions of counsel, the Court hereby ORDERS and
8 enters JUDGMENT as follows:

9 1. Final judgment ("Judgment") in this matter is hereby entered in conformity with
10 the Settlement, the Preliminary Approval Order, and this Court's Order Granting Final Approval
11 of Class Action Settlement. The Settlement Class is defined as:

12 All current and former non-exempt employees employed by Defendant Alexander
13 Andrew, Inc. dba FallTech in the State of California during the period of July 31,
14 2015 through June 26, 2020.

15 2. Plaintiff Lazaro Bor is hereby confirmed as Class Representatives, and Scott M.
16 Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC and Paul K. Haines of
17 Haines Law Group, APC are hereby confirmed as Class Counsel.

18 3. Notice was provided to the Settlement Class as set forth in the Settlement. The
19 form and manner of notice were approved by the Court on July 6, 2020, and the notice process
20 has been completed in conformity with the Court's Order. The Court finds that said notice was
21 the best notice practicable under the circumstances. The Legal Notice provided due and adequate
22 notice of the proceedings and matters set forth therein, informed Settlement Class members of
23 their rights, and fully satisfied the requirements of California Code of Civil Procedure § 1781(e),
24 California Rule of Court 3.769, and due process.

25
26
27 ¹ Unless otherwise indicated, all terms used in this Order shall have the same meaning as that
28 assigned to them in the Settlement.

1 4. The Court finds that no Settlement Class member objected to the Settlement, only
2 one (1) Settlement class member has opted out of the Settlement, and that the 99.63%
3 participation rate in the Settlement supports final approval. The name of the valid opt out is
4 Daniel F. Marengo.

5 5. The Court hereby approves the settlement as set forth in the Settlement
6 Agreement as fair, reasonable, and adequate, and directs the parties to effectuate the Settlement
7 Agreement according to its terms.

8 6. For purposes of settlement only, the Court finds that (a) the members of the
9 Settlement Class are ascertainable and so numerous that joinder of all members individually is
10 impracticable; (b) there are questions of law or fact common to the Settlement Class, and there
11 is a well-defined community of interest among members of the Settlement Class with respect to
12 the subject matter of the litigation; (c) the claims of the Class Representative are typical of the
13 claims of the members of the Settlement Class; (d) the Class Representative has fairly and
14 adequately protected the interests of the Settlement Class members; (e) a class action is superior
15 to other available methods for an efficient adjudication of this controversy; and (f) Class Counsel
16 are qualified to serve as counsel for the Class Representative and the Settlement Class.

17 7. The Court orders that Alexander Andrew, Inc. dba FallTech deliver the Class
18 Settlement Amount of \$650,000.00 to CPT Group, Inc., the Settlement Administrator, as
19 provided for in the Settlement.

20 8. The Court finds that the settlement payments, as provided for in the Settlement,
21 are fair, reasonable, and adequate, and orders the Settlement Administrator to distribute the
22 individual payments in conformity with the terms of the Settlement.

23 9. The Court finds that an enhancement payment in the amount of \$5,000.00 for
24 Plaintiff Lazaro Bor is appropriate for his risks undertaken and service to the Settlement Class.
25 The Court finds that this award is fair, reasonable, and adequate, and orders that the Settlement
26 Administrator make this payment in conformity with the terms of the Settlement.

1 10. The Court finds that attorneys' fees in the amount of \$216,666.67, and actual
2 litigation costs of \$20,369.69 for Class Counsel, are fair, reasonable, and adequate, and orders
3 that the Settlement Administrator distribute these payments to Class Counsel in conformity with
4 the terms of the Settlement.

5 11. The Court orders that the Settlement Administrator shall be paid \$12,500.00 from
6 the Class Settlement Amount for all of its work done and to be done until the completion of this
7 matter, and finds that sum appropriate.

8 12. The Court finds that the payment to the California Labor & Workforce
9 Development Agency ("LWDA") in the amount of \$15,000.00 for its share of the settlement of
10 Plaintiff's representative action under the California Labor Code Private Attorneys General Act
11 ("PAGA") is fair, reasonable, and adequate, and orders the Settlement Administrator to distribute
12 this payment to the LWDA in conformity with the terms of the Settlement.

13 13. Pursuant to the terms of the Settlement, the employer's share of payroll taxes for
14 the portion of the Net Settlement Amount allocated to wages shall be paid by Alexander Andrew,
15 Inc. dba FallTech separately, and in addition to, the Class Settlement Amount.

16 14. The Court finds and determines that upon satisfaction of all obligations under the
17 Settlement and this Order, all Settlement Class members will be bound by the Settlement, except
18 Daniel F. Marengo, will have released the Released Claims as set forth in the Settlement, and
19 will be permanently barred from prosecuting against Defendant any of the Released Claims
20 pursuant to the Settlement.

21 15. Upon satisfaction of all obligations under the Settlement and the Final Approval
22 Order, by virtue of this Judgment, Plaintiff all Class Members, except Daniel F. Marengo, shall
23 fully and finally release Defendant and each of its past, present and future agents, employees,
24 servants, officers, directors, partners, trustees, representatives, shareholders, stockholders,
25 attorneys, parents, subsidiaries, equity sponsors, related companies/corporations and/or
26 partnerships, divisions, assigns, predecessors, successors, insurers, consultants, joint venturers,
27 joint employers, affiliates, alter-egos, and affiliated organizations, and all of their respective
28

1 past, present and future employees, directors, officers, agents, attorneys, stockholders,
2 fiduciaries, parents, subsidiaries, other service providers, and assigns ("Released Parties") of the
3 Released Claims. The Released Claims include all claims asserted in the Action, as amended,
4 and all claims arising from or related to the facts and claims alleged in the Action, as amended.
5 The Released Claims include all claims for meal period and/or rest period violations (to include
6 but not limited to late, missed, short, and/or interrupted meal periods and/or rest periods),
7 including claims for meal period and/or rest period premiums; meal period waivers; wage
8 statements; failure to keep accurate records; unfair business practices; penalties, including
9 recordkeeping penalties, wage statement penalties, and waiting-time penalties; interest; and
10 attorneys' fees and costs; all derivative claims based upon the facts or claims alleged in the First
11 Amended Complaint based on the facts and allegations contained therein (as amended); all
12 claims related to and arising from the Released Claims arising under: the California Labor Code
13 (including, but not limited to, sections 201, 202, 203, 204, 206, 210, 216, 218.5, 218.6, 225.5,
14 226, 226.3, 226.7, 256, 512, 516, 558, 1174, 1174.5, 2698, and 2699 *et seq.*; the Wage Orders
15 of the California Industrial Welfare Commission, including Wage Orders 1 and 4; the California
16 Private Attorneys General Act of 2004 (PAGA); California Business and Professions Code
17 section 17200, *et seq.*; the California Civil Code, to include but not limited to, sections 3287; 8
18 CCR § 11040 and 8 CCR § 11010; California Code of Civil Procedure § 1021.5; and the
19 California common law of contract. This release excludes the release of claims not permitted by
20 law.

21 In addition to the foregoing, upon acceptance, service, or receipt of the Individual
22 Settlement Payment, Class Members will be deemed to have waived all claims under the Fair
23 Labor Standards Act against the Released Parties for claims and/or causes of action encompassed
24 by the Released Claims

25 16. In light of the Class Representative Enhancement Payment, Plaintiff Lazaro Bor,
26 agrees to fully and finally release the Released Parties from any and all claims, known and
27 unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or
28

1 other source of law, including but not limited to claims arising from or related to his employment
2 with Defendant and his compensation while an employee of Defendant. Plaintiff's Released
3 Claims include, but are not limited to, all claims arising from or related to the Action. Plaintiff's
4 Released Claims include all claims for unpaid wages, including, but not limited to, failure to pay
5 minimum wages, straight time compensation, overtime compensation, double-time
6 compensation, bonuses, commissions, paid sick leave, paid vacation, and interest; the calculation
7 of the regular rate of pay; missed meal period and rest-period wages; for all hours worked,
8 including off-the clock work; wage statements; deductions; failure to keep accurate records;
9 unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage
10 statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees
11 and costs. Plaintiff's Released Claims include all claims arising under the California Labor Code
12 (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206,
13 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.3, 226.7, 226.8,
14 227.3, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
15 1197, 1197.1, 1197.2, 1198, 2698 *et seq.*, 2699 *et seq.*, and 2802); all claims arising under: the
16 Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys
17 General Act of 2004 ("PAGA"); California Business and Professions Code section 17200, *et*
18 *seq.*; the California Civil Code, to include but not limited to, sections 3287, 3336 and 3294; 8
19 CCR § 11010; 8 CCR § 11040; California Code of Civil Procedure § 1021.5; the California
20 common law of contract; the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*; 29
21 CFR 778.223; 29 CFR 778.315; federal common law; and the Employee Retirement Income
22 Security Act, 29 U.S.C. § 1001, *et seq.* ("ERISA"). Plaintiff's Released Claims also include all
23 claims for lost wages and benefits, breach of contract, breach of the implied covenant of good
24 faith and fair dealing, intentional or negligent infliction of emotional distress, interference with
25 contractual relations or economic
26 advantage, fraud, violation of privacy rights, defamation, misrepresentation, discrimination,
27 harassment, retaliation, wrongful termination, punitive damages, and attorneys' fees and costs
28

1 arising under federal, state, or local laws, such as, by way of example only, (as amended) 42
2 U.S.C. § 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act of
3 1990 ("ADA"), the Age Discrimination in Employment Act ("ADEA"), as amended by the Older
4 Workers Benefit Protection Act of 1990, and the California Fair Employment and Housing Act
5 ("FEHA"); the Consolidated Omnibus Budget Reconciliation Act of 1985, the California Family
6 Rights Act, the Family and Medical Leave Act, the Worker Adjustment and Retraining
7 Notification Act, and the law of contract and tort. This release excludes the release of claims not
8 permitted by law, including without limitation claims for workers' compensation benefits.
9 Plaintiff's Released Claims include all claims, whether known or unknown. Even if
10 Plaintiff discovers facts in addition to or different from those that he now knows or believes to
11 be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain
12 released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions,
13 rights and benefits of section 1542 of the California Civil Code, which reads:

14 **A general release does not extend to claims that the creditor or releasing party does**
15 **not know or suspect to exist in his or her favor at the time of executing the release**
16 **and that, if known by him or her, would have materially affected his or her**
17 **settlement with the debtor or released party.**

18 17. The effective date of the Release shall be the same time period as the Class Period.
19 The Releases identified herein shall be null and void if FallTech fails to fully fund the settlement.

20 18. This document shall constitute a final judgment pursuant to California Rule of
21 Court 3.769(h), which provides, "If the court approves the settlement agreement after the final
22 approval hearing, the court must make and enter judgment. The judgment must include a
23 provision for the retention of the court's jurisdiction over the parties to enforce the terms of the
24 judgment. The court may not enter an order dismissing the action at the same time as, or after,
25 entry of judgment."

26 //

27 //

1 19. The Court will retain jurisdiction to enforce the Settlement, the Final Approval
2 Order, and this Judgment.

3 **JUDGMENT IS SO ENTERED.**

4
5
6 Dated: 11/4, 2020

WILLIAM F. HIGHBERGER

Honorable William F. Highberger
Judge of the Superior Court