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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

SUNSHINE DEERING, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

ROMAN EMPIRE ABA SERVICES, INC.,
a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: RG20072383

*(Assigned for all purposes to the Hon. Brad
Seligman, Dept. 23)*

CLASS ACTION

**DECLARATION OF NICHOLAS
ROSENTHAL IN SUPPORT OF PLAINTIFF'S
MOTION FOR PRELIMINARY APPROVAL
OF CLASS ACTION SETTLEMENT**

Hearing Information

Date: May 9, 2023

Time: 3:00 p.m.

Dept.: 23

Reservation ID: 530453113646

Complaint Filed: September 2, 2020

Trial Date: Not Set

1 **DECLARATION OF NICHOLAS ROSENTHAL**

2 I, Nicholas Rosenthal, declare as follows:

3 1. I am an attorney at law, duly licensed to practice before all Courts in the State of
4 California, and am with the law firm Diversity Law Group, counsel of record for Plaintiff
5 Sunshine Deering (“Plaintiff”). I have personal knowledge of the facts set forth below and if
6 called to testify I could and would do so competently.

7 **FACTUAL AND PROCEDURAL HISTORY**

8 2. On or about July 29, 2020, Plaintiff filed a notice with the Labor & Workforce
9 Development Agency (“LWDA”), alleging that Defendant violated §§ 201-203, 204, 226, 226.7,
10 and 2802, pursuant to Labor Code § 2699.

11 3. Thereafter, on September 2, 2020, Plaintiff filed a class and representative action
12 complaint against Defendant in in the Superior Court of California for the County of Alameda on
13 behalf of herself and others similarly situated.

14 4. As set forth in the Complaint, Plaintiff alleges that Defendant maintained a policy
15 and practice of: (1) failing to reimburse business-related expenses in violation of Labor Code §
16 2802; (2) failing to provide off-duty meal periods in violation of Labor Code §§ 226.7 and 512;
17 (3) failing to provide off-duty rest periods in violation of Labor Code § 226.7; (4) failing to
18 provide accurate, itemized wage statements in violation of Labor Code § 226; (5) engaging in
19 unlawful business practices in violation of Business and Professions Code § 17200, *et seq.*; and
20 (6) seeking civil penalties under the Private Attorneys General Act (“PAGA”), Labor Code §
21 2698, *et seq.* (“Operative Complaint” or “Action”).

22 **DISCOVERY AND INVESTIGATION**

23 5. Class Counsel investigated the facts surrounding the claims in this action before
24 filing the lawsuit and conducted discovery during the course of litigating and prosecuting this
25 case.

26 6. On September 28, 2021, Plaintiff served an initial set of Requests for Production
27 of Documents and Special Interrogatories. Among other relevant topics, the discovery called for
28 Defendant to provide verified responses regarding the number of putative class members and

1 applicable pay periods. The discovery also called for Defendant to produce Plaintiff's personnel
2 file and wage statements and Defendant's relevant policies, including meal and rest period
3 policies, reimbursement policies, and payroll policies. The Parties met and conferred extensively
4 regarding the requests and responses.

5 7. On or about December 17, 2021, Defendant served Responses to Request for
6 Production of Documents, Set One and Responses to Special Interrogatories, Set One. Defendant
7 also produced responsive documents.

8 **MEDIATION**

9 8. Early in the litigation, the Parties agreed to participate in private mediation.
10 Defendant subsequently retained new counsel and the initial mediation date was taken off
11 calendar.

12 9. In or about July 2022, the Parties agreed to engage in private mediation with Lisa
13 Klerman, Esq. The data produced by Defendant included: (1) the estimated number of putative
14 class members; (2) the estimated number of putative class members who separated employment
15 during the liability period; (3) the average hourly rate of putative class members during the
16 liability period; (4) the aggregate number of pay periods during the liability period; and the total
17 number of shifts worked by the putative class. Based upon this information, counsel for Class
18 Counsel conducted a full damage analysis.

19 10. On November 30, 2022, the Parties participated in private mediation with mediator
20 Lisa Klerman, Esq. After a full day of negotiations, the Parties were not able to reach a
21 settlement. However, with Ms. Klerman's assistance, the Parties continued settlement discussions.
22 After the exchange of further information and extended negotiations, the Parties reached an
23 agreement in principle which was memorialized in a Memorandum of Understanding.

24 **SUMMARY OF THE MONETARY TERMS OF SETTLEMENT**

25 11. The Parties executed a Joint Stipulation of Class and Representative Action
26 Settlement Agreement ("Settlement Agreement" or "Agreement"). A true and correct copy of the
27 Settlement Agreement is attached hereto as **Exhibit A**. A copy of the proposed notice to be sent
28 to Class Members is attached to the Settlement Agreement as Exhibit A.

1 12. As defined by the Settlement Agreement, the Class consists of:

2 all non-exempt employees who are or previously were employed by
3 Roman Empire ABA Services, Inc. in California during the period
4 of September 2, 2016, through November 30, 2022.

5 Agreement ¶ 2. As of the time of mediation, Defendant estimates that there are approximately 794
6 unique individuals comprising the Class. *Id.*

7 13. The Settlement Agreement provides for the gross settlement amount (“Gross
8 Settlement Amount”) of \$380,000.00. Agreement ¶ 12.

9 14. The balance of the Gross Settlement Amount remaining after deduction of the
10 approved Class Representative Service Payment to Plaintiff, Settlement Administration Costs,
11 PAGA Payment, and Class Counsel Award (“Net Settlement Amount”), will be available for
12 distribution to Participating Class Members. Agreement ¶ 14. The Parties currently estimate that
13 the Net Settlement Amount will be \$176,333.33.

14 15. The settlement allocates \$40,000.00 of the Gross Settlement Amount for PAGA
15 penalties (the “PAGA Payment”). Agreement ¶ 15. Pursuant to the PAGA, seventy-five percent
16 (75%) of the PAGA Payment, *i.e.*, the sum of \$30,000.00, will be paid to the California Labor and
17 Workforce Development Agency (“LWDA”). *Id.* The remaining twenty-five percent (25%) of the
18 PAGA Payment, *i.e.*, the sum of \$10,000.00, will be distributed to the Class. *Id.*

19 16. As part of the settlement, Defendant does not object to Class Counsel’s request for
20 attorneys’ fees up to one-third of the Gross Settlement Amount, *i.e.*, the sum of \$126,666.67, plus
21 up to \$15,000.00 for reimbursement of litigation costs, subject to the Court finally approving this
22 Settlement. Agreement ¶ 37.c. Class Counsel expressly acknowledges that the Court has final
23 discretion in any fee award.

24 17. Pursuant to the terms of the Settlement Agreement, and without opposition from
25 Defendant, Plaintiff is entitled to request a Class Representative Service Award. Agreement ¶ 8.
26 Specifically, Plaintiff requests payment in the amount of \$10,000.00. *Id.* ¶ 37.b. Both Plaintiff and
27 Class Counsel expressly acknowledge that the Court has final discretion in any fee award or
28 Service Payment. *Id.* ¶¶ 37.b, 37.c.

1 18. The Parties have selected Phoenix Settlement Administrators as the Settlement
2 Administrator. Agreement ¶ 26. The settlement provides for the payment of the fees and expenses
3 reasonably incurred by the Settlement Administrator. *Id.* ¶ 25. The Parties have agreed to a
4 capped fee of \$12,000.00 to be paid to Phoenix Settlement Administrators. *Id.* ¶¶ 26, 37.e. Based
5 on my experience, I am of the opinion that this amount is reasonable in relation to the value of the
6 settlement. The administration costs will be deducted from the Gross Settlement Amount.

7 19. This is a non-reversionary settlement and the entirety of the Gross Settlement
8 Amount will be fully paid out. *Id.* ¶¶ 37, 37.a.ii. Any portion of the Class Counsel Award, Class
9 Representative Service Award, and/or Settlement Administration Costs not approved by the Court
10 shall be added to the Net Settlement Amount. Agreement ¶¶ 12, 14, 37.b, 37.c.

11 **PAYMENTS TO PARTICIPATING CLASS MEMBERS AND SCOPE OF RELEASE**

12 20. Assuming that the Court approves the requested attorneys' fees (\$126,666.67),
13 estimated litigation costs (\$15,000.00), Class Representative Service Award (\$10,000.00),
14 Settlement Administration Costs (\$12,000.00), and the PAGA Payment (\$40,000.00), I estimate
15 that the Net Settlement Amount will be at least \$176,333.33.

16 21. The Individual Settlement Payments payable to each Participating Class Member
17 from the Net Settlement Amount will be based on the total number of pay periods in which the
18 employee worked, as compared to the total number of pay periods worked by all Class Members.
19 Agreement ¶ 37.a.i.

20 22. Participating Class Members will also receive a portion of the PAGA Payment
21 based on the total number of pay periods in which the employee worked, as compared to the total
22 number of pay periods worked by all Class Members. Agreement ¶¶ 15, 37.a.i.

23 23. Based on the approximate number of Class Members (794), each Participating
24 Class Member will be entitled to recover on raw average, up to \$234.68 each. The amount any
25 particular Class Member will be entitled to recover will be greater or lower than this average
26 depending on the number of pay periods he or she worked, with some entitled to receive more,
27 and others less. This is fair, as it strives to allocate greater penalties to individual employees who
28 experienced a higher number of alleged violations.

1 24. The Individual Settlement Payments from the Net Settlement Amount shall be
2 allocated as follows: 80% as penalties, 10% as interest, and 10% as wages. Agreement ¶ 37.a.

3 25. The Individual Settlement Payments from the PAGA Payment shall be allocated as
4 follows: 100% as penalties. Agreement ¶ 37.a.

5 26. Participating Class Members will have 180 days from the issuance of the
6 settlement payment to cash the check. Agreement ¶ 37.a. After the expiration of 180 days, the
7 funds represented by uncashed settlement checks will be remitted to the Parties' designated *cy*
8 *pres* recipient: Legal Aid at Work. *Id.* ¶ 37.a.ii.

9 27. The scope of the release, as listed below, is identified in the Settlement Agreement
10 at paragraph 19, as well as in the Class Notice that will be sent to Class Members. Upon the
11 Effective Date, Plaintiff and all Participating Class Members will release the following:

12 all claims, damages, penalties, interest, liabilities, or causes of action which arise
13 from the facts asserted in the Action, including, without limitation to, all claims
14 under the California Labor Code §§ 201-203, 226(a), 226.7, 512, and 2802, and the
 California Business and Professions Code § 17200, *et seq.* ("Released Claims").

15 Agreement ¶ 19. As shown, the scope of the release is narrow and is limited to the claims arising
16 during the Class Period. Agreement ¶¶ 19, 29.

17 28. Plaintiff and Participating Class Members will also release the following PAGA
18 claims ("Released PAGA Claims") arising during the period of July 29, 2019, through November
19 30, 2022:

20 all claims, damages, penalties, interest, liabilities, or causes of action which arise
21 from the facts asserted in the Action under the Private Attorneys General Act Labor
22 Code § 2698, *et seq.* premised upon violation of Labor Code §§ 201-203, 226(a),
 226.7, 512, and 2802.

23 Agreement ¶ 20. The Released PAGA Claims applies to the LWDA as well. *Id.* ¶ 30.

24 **POTENTIAL DAMAGES AND PENALTIES AND STRENGTHS AND WEAKNESSES**

25 29. Plaintiff engaged in extensive investigation and discovery regarding the merits of
26 the claim and Defendant's defenses, including propounding Requests for Production of
27 Documents and Special Interrogatories, reviewing Defendant's relevant policies, and researching
28 Defendant's defenses. Additionally, in advance of the mediation, Defendant produced payroll data

1 for putative class members. *Id.* Using the information garnered through both formal and informal
2 discovery, Class Counsel conducted a full damages and penalty analysis.

3 30. Class Counsel believe that Plaintiff's claims are meritorious; however, they are
4 experienced and realistic, and understand that the outcome of a trial, and the outcome of any
5 appeals that would inevitably follow if the class prevailed at trial, are inherently uncertain in
6 terms of both outcome and duration. The settlement affords fair relief to the Class, while avoiding
7 significant legal and factual battles, especially at class certification and trial, that otherwise may
8 have prevented the Class from obtaining any recovery at all.

9 31. **Reimbursement Claim:** Plaintiff alleges that Defendant violated Labor Code §
10 with respect to its alleged failure to reimburse employees for the costs associated with using their
11 personal cellular phones and vehicles for work-related purposes. Labor Code § 2802 requires
12 Defendant to indemnify its employees for all necessary business expenditures incurred by the
13 employee as an "indirect consequence of the discharge of his or her duties." The requirement to
14 reimburse business expenses includes reimbursement of costs associated with business use of a
15 personal cell phone and/or vehicle. To show liability under Section 2802, an employee need only
16 show that he was required to use a personal device for work-related purposes, and that he was not
17 reimbursed. *See Cochran v. Schwan's Home Serv., Inc.*, 228 Cal. App. 4th 1137, 1145 (2014)
18 (holding that an employer must reimburse an employee for the reasonable expense of the
19 mandatory use of a personal cell phone).

20 32. While Plaintiff believes in the merits of the claim, Defendant maintains that the
21 claim is not suitable for class treatment because liability hinges on individualized inquiries into
22 the actual expenses incurred by class members and whether each class member was fully
23 reimbursed pursuant to the policy. Defendant maintains that most putative class members were
24 driving under ten miles per day for work, which would mean they were often over-reimbursed.

25 33. For Plaintiff's reimbursement claim, Plaintiff estimates she and her fellow putative
26 Class members drove 100 miles per week for work. Assuming this same amount of driving for the
27 entire class and an IRS Mileage Rate of 58 cents per mile, this comes out to \$58 owed per
28 employee per week. However, employees were reimbursed 90 cents per hour worked for

1 expenses. Assuming 40 hours worked per week, this comes out to \$36 in expenses paid, leaving a
2 \$22 delta per week. There were approximately 11,960 workweeks worked by the putative class,
3 so this comes out to \$263,120.

4 **34. Meal and Rest Period Claims:** Plaintiff alleges that Defendant violated Labor
5 Code §§ 226.7 and 512 with respect to its alleged failure to provide off-duty meal and rest periods
6 and/or pay premium compensation for missed meal and rest periods. Labor Code § 226.7 requires
7 Defendant to “pay one additional hour of pay at the employee’s regular rate of compensation for
8 each workday that the meal or rest or recovery period is not provided.”

9 **35.** Plaintiff maintains that there was no time set aside in employee schedules for meal
10 or rest periods and that appointments were scheduled in such a manner that taking these periods
11 was not possible. Moreover, Plaintiff maintains that any breaks she was able to take were not
12 legally compliant because she was required to always respond to any work related calls she
13 received at any time, even when on breaks. However, Plaintiff acknowledges that the language in
14 the employee handbook on these issues is vague and that employees were not explicitly instructed
15 in writing to answer their phones even when on breaks.

16 **36.** With regard to Plaintiff’s meal and rest period claims, there were 50,816 shifts
17 worked by the putative class, though it is not known if all these shifts were meal period eligible.
18 The average rate of pay for the putative class was \$21.59 per hour. Assuming *all* shifts were meal
19 period eligible and that every meal and rest period was non-compliant because of the requirement
20 that employees answer their phones while on break if a call was work-related, this comes out to
21 \$1,097,117 each for meal and rest periods.

22 **37. Wage Statement Claim:** Plaintiff alleges a claim under Labor Code § 226(a)
23 predicated on Defendant’s alleged failure to list “all applicable hourly rates in effect during the
24 pay period and the corresponding number of hours worked at each hourly rate” on the wage
25 statements issued to Class Members. Labor Code § 226(a)(9). Plaintiff alleges that as a result of
26 the violations above, the wage statements issued to putative class members did not comply with
27 California law. Accordingly, this claim suffers from the same weaknesses, and benefits from the
28 same strengths, addressed above. Specifically, the wage statements did not list the rate or hours

1 for “drive time” or “misc pay,” both of which were paid on an hourly basis.

2 38. Plaintiff would also face the additional burden of demonstrating that any alleged
3 omission of information from the wage statements was a “knowing and intentional failure” by
4 Defendant to comply with Labor Code § 226(a). *See Harris v. Vector Mktg. Corp.*, 656 F. Supp.
5 2d 1128, 1145-46 (N.D. Cal. 2009) (granting summary judgment in favor of employer and finding
6 its conduct was not “knowing and intentional”). Defendant also would have argued that penalties
7 under Section 226 are subject to a similar “good faith” defense as articulated above in the context
8 of Plaintiff’s claims for waiting time penalties. *See, e.g., Apodaca v. Costco Wholesale Corp.*,
9 2014 WL 2533427, at *3 (C.D. Cal. June 5, 2014) (“Where an employer has a good faith belief
10 that it is not in violation of Section 226, any violation is not knowing and intentional.”); *Wright v.*
11 *Adventures Rolling Cross Country, Inc.*, 2013 WL 1758815, at *9 (N.D. Cal. Apr. 24, 2013)
12 (same); *Ricaldai v. U.S. Investigations Servs., LLC*, 878 F. Supp. 2d 1038, 1047 (N.D. Cal. 2012)
13 (same); *Dalton v. Lee Publ'ns, Inc.*, 2011 WL 1045107, at *5 (S.D. Cal. Mar. 22, 2011) (same).
14 Considering the strengths and weaknesses of this claim, too, supports the proposed settlement as
15 fair, adequate, and reasonable.

16 39. For wage statements, Plaintiff calculates total penalties under Labor Code Section
17 226(e) at \$670,900 (794 x \$50 + 6,309 x \$100).

18 40. Plaintiff’s derivative waiting time penalties claim faces the same issue that the
19 wage statement claim faces; can Plaintiff prove Defendant was not acting in “good faith”? Here,
20 again Defendant will argue that the law remains ambiguous as to whether a meal or rest period is
21 “on duty” such that it is noncompliant just because there is the *mere possibility* that the phone
22 may ring during that break.

23 41. Plaintiff calculated waiting time penalties under Labor Code § 203 based on 533
24 putative class members who were separated and the average hourly rate of pay (533 employees x
25 [(8 hours x \$21.59) x 30 days = \$2,761,792]).

26 42. Thus, Plaintiff estimated that Defendant would face potential liability of
27 approximately \$5,899,046 if Plaintiff succeeded on all his claims at trial.

28 43. Plaintiff also pursues representative PAGA claims. Given that the PAGA claim is

derivative in nature, it faced the same obstacles. The PAGA claim also was subject to unique considerations given the Court’s discretion to lower penalties.

44. **PAGA Claim:** Plaintiff estimated that Defendant could face civil penalties in the amount of approximately \$3,588,000 if Plaintiff were successful at trial and the Court applied a penalty of \$100 per pay period. *Amaral v. Cintas Corp. No. 2*, 163 Cal. App. 4th 1157, 1209 (2008); accord *Amalgamated Transit Union Local 1309 v. Laidlaw Transit Service, Inc.*, 2009 WL 2448430, at *9 (S.D. Cal. Aug. 10, 2009) (“[u]nder California law, courts have held that employers are not subject to heightened penalties for subsequent violations unless and until a court or commissioner notifies the employer that it is in violation of the Labor Code”); see also *Bernstein v. Virgin Am., Inc.*, 3 F.4th 1127, 1144 (9th Cir. 2021) (holding no subsequent penalty unless prior citation or court ruling).

45. Even assuming Plaintiff ultimately prevailed on her PAGA claims, the Court still has discretion to reduce any PAGA penalties. Pursuant to Labor Code § 2699(e)(2), the Court can decline to award PAGA penalties where “if, based on the facts and circumstances of the particular case, to do otherwise, would result in an award that is unjust, arbitrary and oppressive, or confiscatory.” Indeed, as shown in the Court of Appeal’s decision in *Carrington v. Starbucks Corp.*, while the plaintiff prevailed on his PAGA claim upon trial, the trial court reduced the maximum PAGA penalty amount by 90%, citing the employer’s good faith attempt at complying with the law. 30 Cal. App. 5th 504, 517 (2018). Upon review, the Court of Appeal found such reduction to be proper. *Id.* at 539. Similarly, this Court reduced the maximum PAGA penalty amount by 93% in *Parr v Golden State Overnight Delivery Service, Inc. Parr v Golden State Overnight Delivery Service, Inc.*, 2014 WL 11199453 (Alameda Sup. Ct. July 10, 2014). With respect to the Labor Code § 226 claim, this Court noted in assigning a \$15 penalty, “[a]mong the long list of possible Labor Code violations that could support a PAGA action, this is by no means the most serious, and there is no evidence that any employee was paid less than what was due or was otherwise harmed by the form of wage statement used by [defendant].” *Id.* A 90% reduction on the PAGA penalties here would result in potentially available penalties of approximately \$358,800.

1 46. In *Magadia v. Wal-Mart Assocs., et al.*, while the trial court imposed substantial
2 PAGA penalties upon the defendant, such amount still represented reductions of 67% and 80% of
3 the potential PAGA penalties at issue. 2019 U.S. Dist. Lexis 91792 at *87-*100 (N.D. Cal. May
4 31, 2019). Moreover, this was only after the plaintiff in *Magadia* had prevailed after trial.
5 Thereafter, the Ninth Circuit reversed the trial court's ruling eliminating the judgment altogether,
6 which demonstrates the significant risk presented in moving forward with litigation. *Magadia v.*
7 *Wal-Mart Assocs., Inc.*, 999 F.3d 668, 677 (9th Cir. 2021).

8 47. Based on the information provided by Defendant, Plaintiff's counsel estimated
9 total damages and penalties to be as high as approximately \$5,899,046 if Plaintiff were successful
10 in certifying all of the claims and prevailing on the merits. Plaintiff's success was far from
11 certain, given the risks addressed above and the possibility of years of appeal and reversal of
12 judgment. Therefore, the proposed settlement of \$380,000.00 is fair, adequate, and reasonable and
13 well within the range accepted by most courts. *See Lesevic v. Spectraforce Techs., Inc.*, 2021 WL
14 1599310, at *3 (N.D. Cal. Apr. 23, 2021) (noting wage and hour class fund of \$600,000 that
15 compensated for 7% of maximum potential recovery was reasonable); *Van Ba Ma v. Covidien*
16 *Holding Inc.*, U.S. Dist. Ct. Case No. 8:12-cv-02161 (C.D. Cal. 2014) (approving wage and hour
17 class settlement which obtained only 9.1% of projected damages); *Villegas v. J.P. Morgan Chase*
18 *& Co.*, 2012 WL 5878390, at *6 (N.D. Cal. Nov. 21, 2012) (holding that settlement of
19 approximately 15% of the potential recovery was fair and reasonable); *McPhail v. First*
20 *Command Fin. Planning, Inc.*, 2009 WL 839841, at *5 (S.D. Cal. Mar. 30, 2009) (approving
21 settlement equal to approximately 7% of estimated damages); *Int'l Bhd. Of Elec. Workers Local*
22 *697 Pension Fund v. Int'l Game Tech., Inc.*, 2012 WL 5199742, at *3 (D. Nev. Oct. 19, 2012)
23 (approving settlement recovering approximately 3.5% of maximum exposure).

24 48. Although Plaintiff believes in the merits of the alleged claims and maintains that
25 there is no reason for reducing PAGA penalties, Plaintiff is aware that Defendant may raise
26 defenses to the statutory violations and further with respect to the reduction of PAGA penalties
27 and that it could be persuasive to the Court. The Gross Settlement Amount was premised with
28 these risks in mind.

1 **THE SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE**

2 49. I believe that Plaintiff and the Class could prevail at trial. However, I also believe
3 in the fairness of the settlement, which is based on factoring in the uncertainty and risks attendant
4 to not prevailing on one or more theories of liability, the possibility of losing at trial, and potential
5 for appeals. Moreover, as Defendant denies that it should be liable for the full extent of the
6 alleged damages and penalties, there is a possibility that Plaintiff and the Class would be awarded
7 less or recover nothing at trial. Thus, after taking into account sharply disputed legal issues
8 involved in this litigation, the risks associated with further prosecution, delays caused by potential
9 appeals, and the substantial benefits to be received pursuant to the settlement, I believe that the
10 proposed settlement is fair, reasonable, and adequate and is in the best interests of the Class.

11 50. Despite the asserted fairness of the settlement terms, should any Class Member
12 wish to pursue his or her own case for the claims being released herein, each Class Member has
13 the right to submit a request for exclusion (*i.e.*, opt-out) from the settlement of the class claims.

14 **ATTORNEY'S EXPERIENCE**

15 51. Both Plaintiff's and Defendant's counsel have a great deal of experience in wage
16 and hour class action litigation. Plaintiff's counsel have been approved as class counsel in a
17 number of wage and hour class actions and have extensive litigation experience.

18 52. I am one of the primary attorneys on this matter. My qualifications are as follows:
19 I received my JD from University of Southern California Gould School of Law in 2009. Upon
20 graduation, I practiced law as an associate at Seyfarth Shaw LLP, representing corporate clients in
21 both single-plaintiff and wage hour class actions. In 2014, I began as an associate at Diversity
22 Law Group.

23 53. I have handled a number of wage and hour matters including class actions and
24 multiple-plaintiff actions. I have been named as Class Counsel in a number of class actions that
25 have been granted certification or preliminary or final approval by the Superior Courts of Los
26 Angeles County, Orange County, Alameda County, and Monterey County, the United States
27 District Court for the Central District of California, and the United States District Court for the
28 Northern District of California. These cases include, but are not limited to: *Diller v. Under*

1 *Armour Retail, Inc.*, Santa Clara County Superior Court Case No. 14-CV-265729, *Lopez v.*
2 *Imperial Body Shop, Inc.*, Orange County Superior Court Case No. Case No. 30-2015-00816193-
3 CU-OE-CXC, *Hughes v. Lincare, Inc., et al.*, Monterey County Superior Court Case No. M124764,
4 *Pittman v. Martinez Steel Corporation*, San Bernardino County Superior Court Case No.
5 CIVDS1823132, *Della Maggiora v. Watsonville Community Hospital*, Santa Cruz County
6 Superior Court Case No. 18CV00191, *Randolph v. Pacific Racing Association*, Alameda County
7 Superior Court Case No. RG18908139, *Morones v. Bimbo Bakeries USA, Inc.*, Sacramento
8 County Superior Court Case No. 34-2018-00245481-CU-OE-GDS *Foaad Hanna v. Equinix,*
9 *LLC*, Santa Clara County Superior Court Case No. 18CV339365; *Alicia Harris v. 24 Seven LLC*,
10 Los Angeles County Superior Court Case No. BC720144; *Markham v. Quik Stop Markets, Inc.*,
11 Santa Clara Superior Court Case No.19CV341582; *Siron v. Raypak, Inc.*, Ventura Superior Court
12 Case No. 56-2019-005279959-CU-OE-VTA; *Carter v. Kline Services, Inc.*, San Bernardino
13 Superior Court Case No. CIVDS1828867, *Pascual v. Satellite Healthcare, Inc.*, Santa Clara
14 County Superior Court Case No. 19CV345211; *Carrillo v. New Balance Athletics, Inc.*, Santa
15 Clara County Superior Court Case No. 19CV352469; *Vogel v. Veolia North America, LLC*,
16 Monterey County Superior Court Case No. 19CV001443; *Holman v. American Sugar Refining,*
17 *Inc.*, Contra Costa County Superior Court Case No. MSC18-00415; *Chavez v. Converse, Inc.*,
18 United States District Court – Northern District of California Case No. 15-cv-03746-NC, and
19 *Rodriguez v. Nike Retail Services, Inc.*, United States District Court – Northern District of
20 California Case No. 5:14-CV-1508 BLF.

21 54. My co-counsel and I will adequately represent the Class Members in this action.
22 Class Counsel have and will zealously represent Plaintiff and the Class and pursue this lawsuit to
23 its conclusion.

24 55. I have no conflicts with the Class and will adequately represent the Class.

25 56. I do not have a connection to or a relationship with the proposed *cy pres* recipient,
26 Legal Aid at Work, that could reasonably create the appearance of impropriety as between the
27 selection of the recipient of the money or thing of value and the interests of the Class.

28 57. In conjunction with the filing of this Motion, I caused the Motion and Settlement

1 Agreement to be uploaded to the LWDA's website. Attached hereto as **Exhibit B** is the
2 confirmation of submission.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Executed on this 17th day of April 2023, at Los Angeles, California.

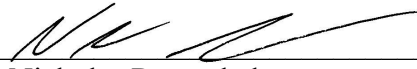
6 
7 _____
8 Nicholas Rosenthal

EXHIBIT A

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Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA**

SUNSHINE DEERING, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

ROMAN EMPIRE ABA SERVICES,
INC., a California corporation; and DOES
1 through 50, inclusive,

Defendants.

Case No.: RG20072383

(Assigned for all purposes to the Hon. Brad
Seligman, Dept. 23)

**JOINT STIPULATION OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT
AGREEMENT**

Complaint Filed: September 2, 2020
Trial Date: None Set

1 **JOINT STIPULATION OF CLASS AND REPRESENTATIVE**

2 **ACTION SETTLEMENT AGREEMENT**

3 IT IS HEREBY STIPULATED, by and among Plaintiff Sunshine Deering (“Plaintiff”),
4 on behalf of herself and the Settlement Class on the one hand, and Defendant Roman Empire
5 ABA Services, Inc. (“Defendant”), on the other hand, subject to the approval of the Court, that
6 the Action is hereby being compromised and settled pursuant to the terms and conditions set
7 forth in this Joint Stipulation of Class and Representative Action Settlement Agreement
8 (“Agreement”), and subject to the definitions, recitals, and terms set forth herein, which by this
9 reference become an integral part of this Agreement.

10 **DEFINITIONS**

11 1. “Action” means the matter of *Sunshine Deering v. Roman Empire ABA Services,*
12 *Inc.* (case no. RG20072383, filed on September 2, 2020, in Alameda County Superior Court).

13 2. “Class” or “Class Members” means all non-exempt employees who are or
14 previously were employed by Roman Empire ABA Services, Inc. in California during the period
15 of September 2, 2016, through November 30, 2022. Defendant represented at the time of the
16 mediation that there were approximately 794 Class Members.

17 3. “Class Counsel” means Diversity Law Group, P.C.

18 4. “Class Counsel Award” means attorneys’ fees for Class Counsel’s litigation and
19 resolution of this Action, and actual expenses and costs incurred in connection with the Action
20 paid from the Gross Settlement Amount.

21 5. “Class List” means information regarding Class Members that Defendant will in
22 good faith compile from its records and provide to the Settlement Administrator within thirty
23 (30) calendar days after the Court grants Preliminary Approval. The Class List shall be
24 passworded protected and it shall be formatted as a Microsoft Excel spreadsheet and shall
25 include: each Class Member’s full name, last known mailing address, last known telephone
26 number (if available), Social Security Number, start date of employment, end date of
27 employment, and number of pay periods worked during the Class Period.

28 6. “Class Notice” means the Notice of Pendency of Class Action Settlement

(substantially in the form attached as **Exhibit 1**).

7. “Class Period” means the period of September 2, 2016 through November 30, 2022.

8. “Class Representative Service Award” means the amount that the Court authorizes to be paid to Plaintiff, in addition to her Individual Settlement Payment, in recognition of her efforts and risk in assisting with the prosecution of the Action.

9. “Court” means the Alameda County Superior Court.

10. “Defendant” means Roman Empire ABA Services, Inc.

11. “Effective Date” means the date upon which the Court grants final approval of Settlement if no Class Members file objections to the Settlement. However, if an appeal or other appellate proceeding is initiated or an objection is filed, the Effective Date shall be sixty (60) days after the Court grants final approval of the Settlement or after the date of termination of such appellate proceedings.

12. “Gross Settlement Amount” means Three Hundred Eighty Thousand Dollars (\$380,000.00) to be paid in full resolution of all Released Claims and the Action. The Gross Settlement Amount includes all Individual Settlement Payments to Settlement Class Members, the Class Representative Service Award, Settlement Administration Costs, the PAGA Payment, and the Class Counsel Award.

13. “Individual Settlement Payment” means the amount payable from the Net Settlement Amount to each Class Member who does not request to be excluded from this Settlement and/or the amount paid from the PAGA Payment.

14. “Net Settlement Amount” means the Gross Settlement Amount, less Class Counsel Award, Class Representative Service Award, PAGA Payment, and Settlement Administration Costs. The entire Net Settlement Amount is the maximum amount that will be available for distribution to Settlement Class Members.

15. “PAGA Payment” means the payments made under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), which shall be Forty Thousand Dollars (\$40,000.00). 75% of the PAGA Payment will be disbursed to the Labor & Workforce Development Agency

1 (“LWDA”), and the remaining 25% will be distributed to Class Members on a *pro rata* basis
2 based on the number of pay periods worked.

3 16. “Participating Class Members” means Class Members who do not submit a valid
4 and timely Request for Exclusion (*i.e.*, opt-out), and therefore, are entitled to receive an
5 Individual Settlement Payment.

6 17. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean
7 either Plaintiff or Defendant.

8 18. “Plaintiff” means Sunshine Deering.

9 19. “Released Claims” means all claims, damages, penalties, interest, liabilities, or
10 causes of action which arise from the facts asserted in the Action, including, without limitation
11 to, all claims under the California Labor Code §§ 201-203, 226(a), 226.7, 512, and 2802, and the
12 California Business and Professions Code § 17200, *et seq.* This release shall apply to claims
13 arising during the Class Period.

14 20. “Released PAGA Claims” means all claims, damages, penalties, interest,
15 liabilities, or causes of action which arise from the facts asserted in the Action under the Private
16 Attorneys General Act Labor Code § 2698, *et seq.* premised upon violation of Labor Code §§
17 201-203, 226(a), 226.7, 512, and 2802. This release shall apply to claims arising July 29, 2019
18 through November 30, 2022.

19 21. “Released Parties” means Defendant and any parent, partner, subsidiary, affiliate,
20 predecessor or successor, and all agents, employees (current and former), officers (current and
21 former), directors, insurers, and attorneys.

22 22. “Request for Exclusion” means a written request by a Class Member electing to
23 opt out of or be excluded from the Settlement. The Request for Exclusion shall include the Class
24 Member’s name, current address, telephone number, last four digits of his/her Social Security
25 number and/or employee ID number, signature, and a statement setting forth his/her request to
26 opt out of or be excluded from the Settlement. However, a Request for Exclusion will not
27 exclude Class Members from the release of Released PAGA Claims, or from receiving his/her
28 portion of the PAGA Payment.

23. “Response Deadline” means the date forty-five (45) days after the Settlement Administrator mails the Class Notice to Class Members and the last date on which Class Members may postmark written requests for exclusion or objections to the Settlement.

24. “Settlement” means the disposition of the Action pursuant to this Agreement.

25. “Settlement Administration Costs” means the amount to be paid to the Settlement Administrator from the Gross Settlement Amount for administration of this Settlement.

26. “Settlement Administrator” means Phoenix Settlement Administrators.

RECITALS

27. Class Certification. The Parties stipulate and agree to the certification of this Action for purposes of this Settlement only. Should the Settlement not become final and effective as herein provided, class certification shall immediately be set aside and the Settlement Class immediately decertified. The Parties’ willingness to stipulate to class certification as part of the Settlement shall have no bearing on, and shall not be admissible in or considered in connection with, the issue of whether a class should be certified in a non-settlement context in this Action and shall have no bearing on, and shall not be admissible or considered in connection with, the issue of whether a class should be certified in any other lawsuit.

28. Procedural History. On September 2, 2020, Plaintiff filed a putative class and representative action against Defendant for various wage and hour violations. Following an exchange of formal and informal discovery and mediation data to assess potential class-wide damages, the Parties agreed to participate in a private mediation with mediator Lisa Klerman, Esq. on November 30, 2022. After continuing arm’s-length negotiations following mediation, the Parties reached an agreement as to the material terms for this Settlement.

TERMS OF AGREEMENT

29. Release as to Participating Class Members. As of the Effective Date, Plaintiff and the Participating Class Members who are not excluded from this Settlement, on behalf of themselves and each of their heirs, representatives, successors, assigns, and attorneys, hereby release Defendant and the Released Parties from the Released Claims for the Class Period as consideration for Defendant’s payment of the Gross Settlement Amount.

1 30. Released PAGA Claims. As of the Effective Date, the LWDA hereby releases
2 Defendant and the Released Parties from the Released PAGA Claims.

3 31. Additional Release by Plaintiff. In consideration of the payment of the Class
4 Representative Service Award, Plaintiff, on behalf of herself only, and each of her heirs,
5 representatives, successors, and assigns, stipulates and agrees to release Defendant and the
6 Released Parties from all claims, demands, rights, liabilities, and causes of action of every nature
7 and description whatsoever, known or unknown, asserted or that might have been asserted,
8 whether in tort, contract, or for violation of any state or federal statute, rule, or regulation arising
9 out of, relating to, or in connection with any act or omission by or on the part of any of the
10 Released Parties committed or omitted prior to the execution hereof. Plaintiff stipulates and
11 agrees that she expressly waives and relinquishes, to the fullest extent permitted by law, the
12 provisions, rights, and benefits of Section 1542 of the California Civil Code, or any other
13 provision under federal or state law, which provides:

14 **A general release does not extend to claims that the creditor or releasing**
15 **party does not know or suspect to exist in his or her favor at the time of**
16 **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.

17 Plaintiff may hereafter discover facts in addition to or different from those she now
18 knows or believes to be true with respect to the subject matter of the Released Claims, but shall
19 be deemed to have, and by operation of the Judgment shall have, fully, finally, and forever
20 settled and released any and all of the Released Claims, whether known or unknown, suspected
21 or unsuspected, contingent or non-contingent, which now exist, or heretofore have existed, upon
22 any theory of law or equity now existing or coming into existence in the future, including, but
23 not limited to, conduct that is negligent, intentional, with or without malice, or a breach of any
24 duty, law, or rule, without regard to the subsequent discovery or existence of such different or
25 additional facts.

26 32. Tax Liability. The Parties and their counsel make no representations as to the tax
27 treatment or legal effect of the payments called for hereunder, and Class Members are not relying
28 on any statement or representation by the Parties in this regard. Class Members understand and

1 agree that they will be responsible for the payment of any employee-side taxes and penalties
2 assessed on the payments described herein.

3 33. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this
4 section, the “Acknowledging Party” and each Party to this Agreement other than the
5 Acknowledging Party, an “Other Party”) acknowledges and agrees that (1) no provision of this
6 Agreement, and no written communication or disclosure between or among the Parties or their
7 attorneys and other advisers, is or was intended to be, nor shall any such communication or
8 disclosure constitute or be construed or be relied upon as, tax advice within the meaning of
9 United States Treasury Department circular 230 (31 CFR part 10, as amended); (2) the
10 Acknowledging Party (a) has relied exclusively upon his, her or its own, independent legal and
11 tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not
12 entered into this Agreement based upon the recommendation of any other party or any attorney
13 or advisor to any Other Party, and (c) is not entitled to rely upon any communication or
14 disclosure by any attorney or adviser to any Other Party to avoid any tax penalty that may be
15 imposed on the Acknowledging Party; and (3) no attorney or adviser to any Other Party has
16 imposed any limitation that protects the confidentiality of any such attorney’s or adviser’s tax
17 strategies (regardless of whether such limitation is legally binding) upon disclosure by the
18 Acknowledging Party of the tax treatment or tax structure of any transaction, including any
19 transaction contemplated by this Agreement.

20 34. Calculation of Gross Settlement Amount. The Gross Settlement Amount was
21 calculated with, and is premised on, approximately 794 Class Members.. If the number of class
22 members who worked during the Class Period increases by more than 10% (i.e., 874 or more),
23 the Gross Settlement Amount shall increase in proportion to the increase in the number of
24 employees. For example, a 12% increase in the number of employees who worked during the
25 Class Period would result in a 2% increase of the Gross Settlement Amount.

26 35. Notice and Preliminary Approval of Settlement. As part of this Settlement,
27 Plaintiff will request that the Court: (a) grant preliminary approval of the Settlement, (b) certify
28 the Class, (c) approve notice to Class Members of the Settlement, and (d) grant final approval of

1 the Settlement. Plaintiff shall request a hearing before the Court to obtain preliminary approval
2 of the Settlement. In conjunction with the hearing, Plaintiff will submit this Agreement, which
3 sets forth the terms of this Settlement, and will include a proposed Class Notice, as necessary to
4 implement the Settlement.

5 36. Settlement Administration. Within thirty (30) calendar days after the Court grants
6 preliminary approval of this Agreement, Defendant shall provide the Settlement Administrator
7 with the Class List for purposes of mailing the Class Notice to Class Members.

8 a. Notice by First Class U.S. Mail. Upon receipt of the Class List, the
9 Settlement Administrator will perform a search based on the National Change of Address
10 Database to update and correct any known or identifiable address changes. Within fourteen (14)
11 calendar days after receiving the Class List from Defendant as provided herein, the Settlement
12 Administrator shall mail copies of the Class Notice to all Class Members via First-Class U.S.
13 Mail. The Settlement Administrator shall exercise its best judgment to determine the current
14 mailing address for each Class Member. The address identified by the Settlement Administrator
15 as the current mailing address shall be presumed to be the best mailing address for each Class
16 Member.

17 i. Undeliverable Notices. Any Class Notice returned to the
18 Settlement Administrator as non-delivered on or before the Response Deadline shall be re-mailed
19 to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement
20 Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or
21 other search using the name, address and/or Social Security Number of the respective Class
22 Member, and shall then perform a re-mailing, if another mailing address is identified by the
23 Settlement Administrator. If a Class Notice is returned to the Settlement Administrator more than
24 once as non-deliverable on or before the Response Deadline, then an additional Class Notice
25 need not be re-mailed and the Class Member is deemed to have received said Class Notice.

26 b. No Claim Form Necessary. All Class Members who do not request to be
27 excluded from the Settlement will receive Individual Settlement Payments from the Net
28 Settlement Amount; submission of a claim form is not necessary to receive an Individual

1 Settlement Payment.

2 i. Disputes Regarding Individual Settlement Payments. Class
3 Members will have the opportunity, should they disagree with Defendant's records regarding
4 their employment dates or number of pay periods worked, to provide documentation and/or an
5 explanation to correct the information and modify their estimated Individual Settlement
6 Payments. If there is a dispute, the Settlement Administrator will consult with the Parties to
7 determine whether an adjustment is warranted. The Settlement Administrator shall determine the
8 eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this
9 Agreement. The Settlement Administrator's determination of the eligibility for and amount of
10 any Individual Settlement Payment shall be binding upon the Class Members and the Parties.

11 ii. Disputes Regarding Administration of Settlement. Any disputes
12 not resolved by the Settlement Administrator concerning the administration of the Settlement
13 will be resolved by the Court, under the laws of the State of California. Prior to any such
14 involvement of the Court, counsel for the Parties will confer in good faith to resolve the disputes
15 without the necessity of involving the Court.

16 c. Requests for Exclusion. The Class Notice shall state that Class Members who
17 wish to exclude themselves from the Settlement must submit a written request for exclusion by
18 the Response Deadline. The written request for exclusion: (1) must contain the name, address,
19 telephone number, and the last four digits of the Social Security number and/or the employee ID
20 number of the person requesting exclusion, (2) must be signed by the Class Member; (3) must be
21 postmarked by the Response Deadline and returned to the Settlement Administrator at the
22 specified address; and (4) must state the Class Member's intent to request exclusion, opt out, or
23 words to that effect. If a signed Request for Exclusion is not timely submitted stating the name
24 and address of the Class Member, it will not be deemed valid for exclusion from this Settlement.
25 The date of the postmark on the return mailing envelope of the Request for Exclusion shall be
26 the exclusive means used to determine whether the Request for Exclusion was timely submitted.
27 Any Class Member who requests to be excluded from the Class will not be entitled to any
28 recovery under the Settlement and will not be bound by the terms of the Settlement or have any

1 right to object, appeal or comment thereon, except as it pertains to the PAGA claims. Regardless
2 of exclusion, all Class Members will receive a portion of the PAGA Payment. The LWDA will
3 be bound by the PAGA Release regardless of the number of Class Member exclusions. Class
4 Members who fail to submit a valid and timely written Request for Exclusion on or before the
5 Response Deadline shall be bound by all terms of the Settlement and any Judgment entered in
6 this Action, if the Settlement is finally approved by the Court.

7 i. No later than fourteen (14) calendar days after the Response
8 Deadline, the Settlement Administrator shall provide counsel for the Parties with a complete list
9 of all Class Members who have timely submitted written Requests for Exclusion. At no time
10 shall any of the Parties or their counsel seek to solicit or otherwise encourage members of the
11 Class to submit Requests for Exclusion from the Settlement.

12 d. Objections. The Class Notice shall state that Class Members who wish to
13 object to the Settlement may mail to the Settlement Administrator a written statement of
14 objection (“Notice of Objection”) by the Response Deadline. The date of the postmark on the
15 return envelope shall be deemed the exclusive means for determining that a Notice of Objection
16 was timely submitted. The Notice of Objection must be signed by the Class Member and state:
17 (1) the full name of the Class Member; (2) the last four digits of the Class Member’s Social
18 Security number and/or employee ID number; and (3) the basis for the objection. Class Counsel
19 will ensure that any Notice of Objection received by the Settlement Administrator by the
20 Response Deadline is filed with the Court along with the Motion for Final Approval. Either of
21 the Parties may file a response to any objection before the Final Approval Hearing. However,
22 any Class Member who does not submit a Notice of Objection in compliance with this section
23 may nevertheless appear at the final approval hearing and present an oral objection to the
24 Settlement. Any attorney who will represent an individual objecting to this Settlement who has
25 not filed a written objection must file a notice of appearance with the Court and serve Class
26 Counsel and counsel for Defendant with this notice no later than the Response Period Deadline.

27 e. No Solicitation of Settlement Objections or Exclusions. The Parties agree
28 to use their best efforts to carry out the terms of this Settlement. At no time shall any of the

Parties or their counsel seek to solicit or otherwise encourage Class Members to submit either Notices of Objection to the Settlement or Requests for Exclusion from the Settlement, or to appeal from the Court's Final Judgment.

37. Funding and Allocation of Gross Settlement Amount. Within thirty (30) calendar days after the Effective Date, Defendant shall provide the Gross Settlement Amount to the Settlement Administrator. No later than thirty (30) calendar days after the Response Deadline, the Settlement Administrator will provide the Parties with an accounting of all payments and awards payable from the Gross Settlement Amount. Payments from the Gross Settlement Amount shall be made, as specified in this Agreement and approved by the Court, for: (1) Individual Settlement Payments to Class Members, (2) Class Representative Service Award, (3) Class Counsel Award, (4) PAGA Payment, and (5) the Settlement Administration Costs. Defendant's employer-side taxes on the wage portion of any Individual Settlement Payments will be paid separate and in addition to the Gross Settlement Amount.

a. Individual Settlement Payments. Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the terms set forth herein. Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to the respective Class Member's last known mailing address within fourteen (14) calendar days after Defendant provides funds to the Settlement Administrator for disbursement under this Agreement. Individual Settlement Payments paid from the Net Settlement Amount will be allocated as follows: eighty percent (80%) as penalties, ten percent (10%) as interest, and ten percent (10%) as wages. Individual Settlement Payments paid from the PAGA Payment will be allocated as one hundred percent (100%) penalties. The Settlement Administrator shall issue IRS Forms W-2 and 1099 for the amounts paid. Any checks issued to Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance.

i. Calculation of Individual Settlement Payments. Defendant will calculate the total number of pay periods worked by each Class Member. The respective number of pay periods worked for each Class Member will be divided by the total number of pay periods worked by all Class Members, resulting in a payment ratio for each Class Member. Each Class

1 Member's payment ratio is then multiplied by the Net Settlement Amount to determine his or her
2 class portion of the Individual Settlement Payment. The same payment ratio will be applied to
3 the employee portion of the PAGA Payment to determine the amount each Class Member will
4 receive as PAGA penalties. Each Individual Settlement Payment will be reduced by any legally
5 mandated deductions (*e.g.*, payroll taxes, etc.) for each Class Member. Defendant's share of
6 payroll taxes and other required withholdings from Individual Settlement Payments, including
7 but not limited to Defendant's FICA and FUTA contributions, shall be paid in addition to the
8 Gross Settlement Amount. Settlement Class Members are not eligible to receive any
9 compensation other than an Individual Settlement Payment.

10 ii. Unpaid Cash Residue or Unclaimed/Abandoned Class Member
11 Funds. In accordance with California Code of Civil Procedure § 384, any unpaid cash residue or
12 unclaimed or abandoned class member funds generally attributable to California residents, plus
13 any accrued interest that has not otherwise been distributed pursuant to order of this Court, shall
14 be transmitted as follows: Legal Aid at Work.

15 b. Class Representative Service Award. Subject to Court approval, in
16 exchange for the release of all Released Claims, Released PAGA Claims, and a general release
17 under Section 1542 of the California Civil Code, and for her time and effort in bringing and
18 prosecuting this matter, Plaintiff shall be paid up to Ten Thousand Dollars (\$10,000.00), subject
19 to Court approval. The Class Representative Service Award shall be paid to Plaintiff from the
20 Gross Settlement Amount no later than fourteen (14) calendar days after Defendant provides
21 funds to the Settlement Administrator for disbursement under this Agreement. Any portion of the
22 requested Class Representative Service Award that is not awarded to the Class Representative
23 shall be part of the Net Settlement Amount and shall be distributed to Class Members as
24 provided in this Agreement. The Settlement Administrator shall issue an IRS Form 1099 – MISC
25 to Plaintiff for her Class Representative Service Award. Plaintiff shall be solely and legally
26 responsible to pay any and all applicable taxes on her Class Representative Service Award and
27 shall hold harmless Defendant and Released Parties from any claim or liability for taxes,
28 penalties, or interest arising as a result of the Class Representative Service Award. The Class

1 Representative Service Award shall be in addition to the Plaintiff's Individual Settlement
2 Payment as a Class Member.

3 c. Class Counsel Award. Defendant agrees not to oppose or object to any
4 application or motion by Class Counsel for attorneys' fees not to exceed One Hundred Twenty-
5 Six Thousand Six Hundred Sixty-Six Dollars and Sixty-Seven Cents (\$126,666.67) or one-third
6 of the Gross Settlement Amount. Defendant further agrees not to oppose any application or
7 motion by Class Counsel for the reimbursement of actual costs of up to \$15,000.00, subject to
8 submission of records to the Court, associated with Class Counsel's prosecution of this Action
9 from the Gross Settlement Amount. Any portion of the requested Class Counsel Award that is
10 not awarded to Class Counsel shall be part of the Net Settlement Amount and distributed to Class
11 Members as provided in this Agreement. So long as there are no objections, Class Counsel shall
12 be paid any Court-approved fees and costs no later than fourteen (14) calendar days after
13 Defendant provides funds to the Settlement Administrator for disbursement under this
14 Agreement. Class Counsel shall be solely and legally responsible to pay all applicable taxes on
15 the payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS
16 Form 1099 – MISC to Class Counsel for the payments made pursuant to this paragraph. This
17 Settlement is not contingent upon the Court awarding Class Counsel any particular amount in
18 attorneys' fees and costs.

19 d. PAGA Payment. Forty Thousand Dollars (\$40,000.00) shall be allocated
20 to the release of Plaintiff's PAGA penalty claim. From that allocation, the Settlement
21 Administrator shall disburse to the California Labor and Workforce Development Agency the
22 amount of Thirty Dollars (\$30,000.00), or 75% of the PAGA Payment. The remaining 25% shall
23 be paid to Class Members as set forth in Section 36.a.i, above. The PAGA Payment will be paid
24 from the Gross Settlement Amount within fourteen (14) calendar days after Defendant provides
25 funds to the Settlement Administrator for disbursement under this Agreement.

26 e. Settlement Administration Costs. The Settlement Administrator shall be
27 paid for the costs of administration of the Settlement from the Gross Settlement Amount. The
28 capped cost of administration for this Settlement is \$12,000.00. The Settlement Administrator

1 shall provide the Parties with a declaration to support the cost of administration. The Settlement
2 Administrator shall be paid the Settlement Administration Costs no later than fourteen (14)
3 calendar days after Defendant provides funds to the Settlement Administrator for disbursement
4 under this Agreement. The Settlement Administrator, on Defendant's behalf, shall have the
5 authority and obligation to make payments, credits, and disbursements, including in the manner
6 set forth herein, to Class Members and the Internal Revenue Service, calculated in accordance
7 with the methodology set out in this Agreement and orders of the Court.

8 i. The Parties agree to cooperate in the Settlement Administration
9 process and to make all reasonable efforts to control and minimize the cost and expenses
10 incurred in administration of the Settlement. The Parties each represent they do not have any
11 financial interest in the Settlement Administrator or otherwise have a relationship with the
12 Settlement Administrator that could create a conflict of interest.

13 ii. The Settlement Administrator shall be responsible for: processing
14 and mailing payments to the Plaintiff, Class Counsel, Class Members, the Internal Revenue
15 Service, the California Labor and Workforce Development Agency, California State Treasury,
16 and the *cy pres* recipient; printing and mailing the Class Notice to the Class Members, as
17 directed by the Court; receiving and reporting the Requests for Exclusion and Notices of
18 Objection submitted by Class Members; distributing tax forms; providing declaration(s) and
19 reports as necessary in support of preliminary and final approval of this Settlement; and other
20 tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform
21 both before and after distribution of the Gross Settlement Amount. The Settlement Administrator
22 shall keep the Parties timely apprised of the performance of all Settlement Administrator
23 responsibilities.

24 f. No person shall have any claim against Defendant, Defense Counsel,
25 Plaintiff, Class Members, Class Counsel, or the Settlement Administrator based on distributions
26 and payments made in accordance with this Agreement.

27 38. Final Settlement Approval Hearing and Entry of Final Judgment. Upon expiration
28 of the Response Deadline, with the Court's permission, a Final Approval/Settlement Fairness

Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for (i) the Class Counsel Award, (ii) the Class Representative Service Award, (iii) Individual Settlement Payments, (iv) the Settlement Administration Cost, and (v) the PAGA Payment. Pursuant to California Rule of Court 3.769(h), after granting final approval, the Court shall retain jurisdiction over the Parties to enforce the terms of the judgment.

39. Nullification of Settlement Agreement. In the event: (i) the Court does not enter an order for preliminary approval; (ii) the Court does not finally approve the Settlement as provided herein; (iii) the Court does not enter a Final Judgment, or (iv) the Settlement does not become final for any other reason, this Settlement Agreement shall be null and void and any order or judgment entered by the Court in furtherance of this Settlement shall be treated as void from the beginning. In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the mediation, and the Parties shall proceed in all respects as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the Parties in equal shares.

40. No Effect on Employee Benefits. Amounts paid to Plaintiff or other Class Members pursuant to this Agreement shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any of the employee benefits (*e.g.*, vacations, holiday pay, retirement plans, etc.) of the Plaintiff or Class Members.

41. No Admission by the Parties. Defendant denies any and all claims alleged in this Action and denies all wrongdoing whatsoever. This Agreement is not a concession or admission by Defendant and shall not be used against Defendant as an admission with respect to any claim of fault, concession, or omission by Defendant.

42. Exhibits and Headings. The terms of this Agreement include the terms set forth in any attached exhibit, which is incorporated by this reference as though fully set forth herein. The exhibit to this Agreement is an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

1 43. Interim Stay of Proceedings. The Parties agree to stay all proceedings in the
2 Action, except such proceedings necessary to implement and complete the Settlement, in
3 abeyance pending the Final Approval/Settlement Fairness Hearing to be conducted by the Court.

4 44. Amendment or Modification. This Agreement may be amended or modified only
5 by a written instrument signed by counsel for all Parties or their successors-in-interest.

6 45. Entire Agreement. This Agreement and the attached exhibit constitute the entire
7 Agreement among these Parties, and no oral or written representations, warranties or
8 inducements have been made to any Party concerning this Agreement or its exhibit other than the
9 representations, warranties and covenants contained and memorialized in the Agreement and its
10 exhibit.

11 46. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
12 and represent they are expressly authorized by the Parties whom they represent to negotiate this
13 Agreement and to take all appropriate actions required or permitted to be taken by such Parties
14 pursuant to this Agreement to effectuate its terms, and to execute any other documents required
15 to effectuate the terms of this Agreement. The Parties and their counsel will cooperate with each
16 other and use their best efforts to effect the implementation of the Settlement. In the event the
17 Parties are unable to reach an agreement on the form or content of any document needed to
18 implement the Settlement, or on any supplemental provisions that may become necessary to
19 effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve
20 such disagreement. The person signing this Agreement on behalf of Defendant represent and
21 warrant that he/she is authorized to sign this Agreement on behalf of Defendant. The person
22 signing this Agreement on behalf of Plaintiff represents and warrants that he/she is authorized to
23 sign this Agreement and that he/she has not assigned any claim, or part of a claim, covered by
24 this Settlement to a third-party.

25 47. Binding on Successors and Assigns. This Agreement shall be binding upon, and
26 inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

27 48. California Law Governs. All terms of this Agreement and the exhibit hereto shall
28 be governed by and interpreted according to the laws of the State of California.

1 49. Counterparts. This Agreement may be executed in one or more counterparts. All
2 executed counterparts and each of them shall be deemed to be one and the same instrument.

3 50. This Settlement is Fair, Adequate, and Reasonable. The Parties believe this
4 Settlement is a fair, adequate, and reasonable settlement of this Action and have arrived at this
5 Settlement after extensive arm's-length negotiations, taking into account all relevant factors,
6 present and potential.

7 51. Jurisdiction of the Court. In accordance with California Rule of Court 3.769(h),
8 the Parties agree that the Court shall retain jurisdiction with respect to the interpretation,
9 implementation and enforcement of the terms of this Agreement and all orders and judgments
10 entered in connection therewith, and the Parties and their counsel hereto submit to the
11 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the Settlement
12 embodied in this Agreement and all orders and judgments entered in connection therewith.

13 52. Invalidity of Any Provision. Before declaring any provision of this Agreement
14 invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible
15 consistent with applicable precedents so as to define all provisions of this Agreement valid and
16 enforceable.

17 53. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
18 and conditions of this Agreement. Accordingly, this Agreement shall not be construed more
19 strictly against one Party than another merely by virtue of the fact that it may have been prepared
20 by counsel for one of the Parties, it being recognized that, because of the arm's-length
21 negotiations.

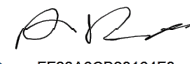
22 54. Representation by Counsel. The Parties acknowledge that they have bene
23 represented by counsel throughout the negotiations that preceded the execution of this
24 Agreement, and that this Agreement has been executed with the consent and advice of counsel.
25 Further, Plaintiff and Class Counsel warrant and represent that there are no liens on the
26 Agreement.

27 55. Cooperation and Execution of Necessary Documents. All Parties shall cooperate
28 in good faith and execute all documents to the extent reasonably necessary to effectuate the

terms of this Agreement.

PLAINTIFF

Date: 3/27/2023

DocuSigned by:

FF23A6CB28164E8

Sunshine Deering

CLASS COUNSEL

Diversity Law Group, P.C.

Date: March 27, 2023



Larry W. Lee

Nicholas Rosenthal

DEFENDANT

Date:

Name

Title

Roman Empire ABA Services, Inc.

DEFENDANT'S COUNSEL

Fisher Phillips

Date:

Nathan V. Okelberry

Drew M. Tate

terms of this Agreement.

PLAINTIFF

Date: _____

Sunshine Deering

CLASS COUNSEL

Diversity Law Group, P.C.

Date: _____

Larry W. Lee
Nicholas Rosenthal

DEFENDANT

Date: 3/27/2023



Name Gabriela Salcido
Title Owner
Roman Empire ABA Services, Inc.

DEFENDANT'S COUNSEL

Fisher Phillips

Date: March 28, 2023




Nathan V. Okelberry
Drew M. Tate

EXHIBIT 1

[CLASS MEMBER NAME]

Sunshine Deering v. Roman Empire ABA Services, Inc.

**Superior Court of the State of California, County of Alameda
Case No. RG20072383**

If you are a non-exempt employee who is or previously was employed by Roman Empire ABA Services, Inc. (“Roman Empire” or “Defendant”) in California during the period of April 6, 2016, through November 30, 2022, a class action lawsuit may affect your rights and you may be entitled to benefits under the settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

**PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT
INFORMATION ABOUT YOUR RIGHTS.**

**YOUR ESTIMATED TOTAL SETTLEMENT PAYMENT FROM THIS CLASS ACTION
SETTLEMENT IS \$.**

This payment is referred to herein as “Total Payment” and may be subject to change.

- This lawsuit involves a class defined as: all non-exempt employees who are or previously were employed by Roman Empire ABA Services, Inc. in California during the period of April 6, 2016, through November 30, 2022.
- You are receiving this Notice because the records reflect that you may be a class member.
- Plaintiff Sunshine Deering (“Plaintiff”) alleges that Defendant did not reimburse work-related expenses, provide off-duty meal and rest breaks, and did not provide accurate itemized wage statements to employees.
- There has been a settlement that affects your rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff’s claims or Roman Empire’s defenses.
- You will not be penalized or retaliated against by Roman Empire for participating in this settlement.
- You have several options available to you:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	If you do nothing in response to this notice, you will receive your Total Payment, which is estimated above. You will also be considered a member of the settlement class and will be deemed to have released the claims made or that could have been made in this lawsuit. To ensure you receive your Total Payment, please notify the Settlement Administrator if your mailing address changes from now until you receive a settlement check. Once the Court grants final approval of the settlement, the Settlement Administrator will mail your check to the address on file for you.
ASK TO BE EXCLUDED FROM THE SETTLEMENT (Deadline: _____, 2023)	If you ask to be excluded from the settlement, you will not receive your Total Payment. You will not be considered a member of the settlement class as to the class action claims brought by Plaintiff and will not have released the Released Claims (defined below). However, you will receive a Private Attorneys General Act-only payment and the Labor and Workforce Development Agency (“LWDA”) will be deemed to have released claims under PAGA, Labor Code § 2698, <i>et seq.</i>, premised on any violation of Labor Code §§ 201-203, 226(a), 226.7, 512, and 2802. The PAGA-only payment that is estimated for you to receive is \$[XXXX] (“PAGA-Only Payment”). Important: You cannot ask to be excluded from the settlement <u>and</u> still receive your Total Payment.
OBJECT TO THE SETTLEMENT (Deadline: _____, 2023)	If you do not like the settlement, you can send a written objection to the Settlement Administrator by the identified deadline. Regardless of how the Court rules on your objection, you will still be considered a member of the settlement class and to have released the claims made or that could have been made in this lawsuit. If the Court approves the settlement, you will still receive your Total Payment even if you have objected.

Your options are explained in this notice.
To opt out or object, you must act by [XXXX].

1. Why did I get this notice?

A proposed settlement has been reached in a class action lawsuit that was brought on behalf of Roman Empire’s employees. You have received this notice because Roman Empire’s records

indicate that you are a member of the settlement class.

2. What is this lawsuit about?

This lawsuit was filed on September 2, 2020, on behalf of current and former employees of Roman Empire in the State of California who were required to use their personal vehicles to drive to and from appointments at patient homes and personal cell phones to make work calls each day. Plaintiff alleges that Roman Empire did not sufficiently reimburse employees for the costs incurred. Plaintiff also alleges that Roman Empire structured employee work schedules such that there was not enough time to take a complete off-duty meal or rest break between appointments, did not timely pay wages, and did not provide accurate itemized wage statements. The lawsuit is limited by the time period commencing on April 6, 2016, and ending on November 30, 2022 (“Class Period”). The operative complaint alleges class action claims against Roman Empire for failure to reimburse business expenses, failure to provide off-duty meal and rest breaks, failure to provide accurate itemized wage statements, and engaging in unfair business practices. The complaint also alleges a claim for civil penalties under PAGA for the same underlying violations, but for the period of July 29, 2019 through November 30, 2022.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff’s allegations or Roman Empire’s defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk, inconvenience, and expense of further litigation. Plaintiff and her attorneys believe the proposed settlement is fair, adequate, and in the best interest of the class members to whom it applies given the outcome of their investigation, and the consumption of time and resources required in connection with further litigation. Although Roman Empire disputes Plaintiff’s claims and asserts that it has complied with all of its legal obligations toward its employees, Roman Empire has also concluded that further litigation would be expensive and would divert management and employee time.

5. What are the terms of the settlement and how much will I receive?

The Gross Settlement Amount is \$380,000,000. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Attorneys’ fees: \$126,666.67
- Litigation Costs: \$15,000.00
- Settlement Administration Costs: \$ 12,000.00
- Class Representative Service Award to Plaintiff: \$10,000.00
- Payment of PAGA penalties to the Labor and Workforce Development Agency

(“LWDA”): \$30,000 representing its share of the settlement payment for the PAGA claims made pursuant to Labor Code § 2699.

- Payment of PAGA penalties to class members: \$10,000, representing their share of the settlement payment for the PAGA claims made pursuant to Labor Code § 2699.

Each class member’s Total Settlement Payment shall be determined as follows:

- Net Settlement Amount: Roman Empire will calculate the total number of pay periods worked by each class member. Each class member’s number of pay periods worked will be divided by the total number of pay periods worked by *all* class members, resulting in a payment ratio for each class member. Each class member’s payment ratio will be multiplied by the Net Settlement Amount to determine his or her payment amount. Payments under this section will be treated as eighty percent (80%) as penalties, ten percent (10%) as interest, and ten percent (10%) as wages, subject to any withholdings, and shall be reported by IRS W-2 and 1099 forms.
- PAGA Payment: Roman Empire will calculate the total number of pay periods worked by each Aggrieved Employee from July 20, 2019 through November 30, 2022. Each Aggrieved Employee’s number of pay periods worked will be divided by the total number of pay periods worked by *all* Aggrieved Employees, resulting in a payment ratio for each class member. This ratio will be multiplied by the \$10,000 that will be distributed to Aggrieved Employees. Payments under this section will be treated as one hundred percent (100%) penalties and shall be reported by IRS 1099 forms.

6. What if I disagree with information shown above?

If you believe the information in the notice is incorrect regarding your dates of employment or the number of pay periods you are being credited with, you can provide documentation or explanation to the Settlement Administrator to show contrary information. You can write a letter setting forth the dates of employment that you believe is correct. You may attach any relevant documentation in support thereof. You must mail or fax your letter to:

[INSERT SETTLEMENT ADMINISTRATOR CONTACT INFORMATION]

You must submit such information by **XXXX**. Class Counsel and the Settlement Administrator will work together in good faith and do their best to promptly resolve the dispute based on available records. In the event they are unable to resolve any dispute under this Section, the Settlement Administrator shall review all information, material and documents and make a decision regarding the dispute.

7. What do I have to do to receive a share of the settlement?

If you would like to receive an award under the terms of this settlement, you do not have to do anything. However, it is advisable to confirm your current mailing address with the Settlement Administrator to ensure you receive your settlement share. If you move, you must notify the Settlement Administrator of your new address. You will be covered by the release summarized in

Section 8, below.

8. What rights am I giving up?

The claims you will release by doing nothing and participating in the settlement are as follows:

“Released Claims” means all claims, damages, penalties, interest, liabilities, or causes of action which arise from the facts asserted in the Action, including, without limitation to, all claims under the California Labor Code §§ 201-203, 226(a), 226.7, 512, and 2802, and the California Business and Professions Code § 17200, *et seq.* This release shall apply to claims arising during the Class Period.

Even if you opt-out of the class action settlement, you cannot opt-out of the PAGA portion of this lawsuit. The LWDA will release the following:

“Released PAGA Claims” means all claims, damages, penalties, interest, liabilities, or causes of action which arise from the facts asserted in the Action under the Private Attorneys General Act Labor Code § 2698, *et seq.* premised upon violation of Labor Code §§ 201-203, 226(a), 226.7, 512, and 2802. This release shall apply to claims arising from July 29, 2019 through November 30, 2022.

9. What if I do not wish to be involved?

Anyone not wishing to participate in the settlement may exclude himself or herself (“Request for Exclusion”) by completing, signing, and mailing a letter indicating that they do not want to participate in the settlement to the Settlement Administrator, Phoenix Settlement Administrators, at the following address by XXXX.

[INSERT SETTLEMENT ADMINISTRATOR CONTACT INFORMATION]

Your letter must include (1) your name, current address, telephone number, last four digits of your Social Security number and/or employee ID number; (2) a statement indicating your request to opt out of or be excluded from the settlement; (3) your signature; and (4) be postmarked on or before XXX.

If your Request for Exclusion is postmarked after XXX, it will be rejected as untimely, and you will be a Participating Class Member and be bound by the settlement terms and release.

Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Participating Class Member and will not receive a payment as part of the class portion of this settlement. Such individuals will keep any right to sue Roman Empire separately about the claims made in this lawsuit, with the exception of the PAGA claims, which will be released upon court approval of the PAGA settlement. However, even if you submit a valid Request for Exclusion, you cannot opt-out of the PAGA portion of this lawsuit and will still receive your PAGA-Only Payment and be deemed to have released the PAGA claims being resolved by this settlement.

10. What if I have an objection?

A class member may object to the settlement in writing or in person. Written objections and all supporting briefs or other materials must be submitted to the Settlement Administrator by mail no later than XXXX. The Court will decide on the objections at the Final Approval Hearing. If your objection is overruled at the Final Approval Hearing, you will still be bound by the terms of this settlement and will receive a settlement payment.

For written objections to be valid, you must state your full name, last four digits of your Social Security number and/or employee ID number, and the basis of your objection. Any class member may make an objection at the Final Approval Hearing with or without submitting a written objection. The Class Member may appear personally or through an attorney, at his or her own expense, at the Final Approval Hearing to present his or her objection directly to the Court. The Final Approval and Fairness Hearing will be held in Dept. 23 of the Alameda County Superior Court, Administration Building, located at 1221 Oak Street, Oakland, California 94612 on [REDACTED], 2023, at XXX (Pacific Time).

11. Do I need a lawyer? Who are the lawyers in this case?

You do not need to hire your own lawyer because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

The below are Class Counsel:

Larry W. Lee (State Bar No. 228175)
Nicholas Rosenthal (State Bar No. 268297)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

12. What happens next in the case?

The Settlement has only been preliminarily approved. The Court will hold a hearing in Dept. 23 of the Alameda County Superior Court, Administration Building, located at 1221 Oak Street, Oakland, California 94612 on [REDACTED], 2023, at XXX (Pacific Time), to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs, Plaintiff's service award, and the costs of settlement administration. At the Final Approval Hearing, the Court will hear all objections, as well as arguments for and against the proposed settlement. You have a right to attend this hearing, but you are not required to do so. You also have the right to hire an attorney to represent you, at your own expense, or to enter an appearance and represent yourself. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

Hearings before the judge overseeing this case are now being conducted in person. However, remote appearances are still permitted, and are offered with the assistance of a third-party service provider, Zoom. If that remains the case at the time of the final fairness hearing, class members

who wish to appear at the final fairness hearing remotely should contact Judge Seligman's clerk to arrange an appearance through Zoom, at least three days before the hearing if possible.

13. How can I receive more information?

This notice is a summary of the basic terms of the settlement. For further information, you may telephone the [INSERT SETTLEMENT ADMINISTRATOR CONTACT INFORMATION], or Class Counsel (listed above). You may also review the settlement agreement, which is on file with the Clerk of the Alameda County Superior Court, Rene C. Davidson Courthouse, located at 1225 Fallon Street, Oakland, California 94612, and may also be reviewed online at <https://eportal.alameda.courts.ca.gov/>.

ALL INQUIRIES REGARDING THIS LITIGATION SHOULD BE MADE TO PLAINTIFF'S ATTORNEYS: Larry W. Lee and Nicholas Rosenthal of Diversity Law Group, P.C., 515 S. Figueroa Street, Suite 1250, Los Angeles, CA 90071, Phone: (213) 488-6555.

Please do not telephone the Court, the Office of the Clerk, or Roman Empire's counsel for information regarding this settlement.

EXHIBIT B