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ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

09/14/2023 at 04:17:42 PM

By: Anita Dhir,
Deputy Clerk

**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 KEVIN LEE
REGARDING NOTICE AND SETTLEMENT
ADMINISTRATION**

Hearing Information

Date: October 10, 2023

Time: 3:00 p.m.

Dept.: 23

Reservation ID: 530453113646

Complaint Filed: September 2, 2020

Trial Date: Not Set

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1. I am a Case Manager at Phoenix Settlement Administrators (“Phoenix”), the Court-appointed Class Action Settlement Administrator for *Deering v. Roman Empire ABA Services, Inc.* (the “Action”). I have personal knowledge of the facts stated herein and, if called upon to testify, I could and would testify competently to such facts.

3. On July 18, 2023, Phoenix received a data file from Defense Counsel that contained names, last known mailing addresses, Social Security numbers, and dates of employment for each Class Member (“Class List”) during the Class Period. The final mailing list contained eight hundred sixty-two (862) individuals identified as Class Members.

1 4. On July 24, 2023, Phoenix conducted a National Change of Address (“NCOA”) search in an attempt to update the class list of addresses as accurately as possible. A search of this database provides updated addresses for any individual who has moved in the previous four (4) years and notified the U.S. Postal Service of their change of address.

5 5. On July 24, 2023, Phoenix mailed the Notice via U.S. first class mail to all eight hundred sixty-two (862) Class Members on the Class List. A true and correct copy of the mailed Notice is attached hereto as **Exhibit A**.

8 6. As of the date of this declaration, thirty-one (31) Notices have been returned to Phoenix. None were returned with a forwarding address. For the thirty-one (31) Notices returned from the Post Office without a forwarding address, Phoenix attempted to locate a current mailing address using TransUnion TLOxp, one of the most comprehensive address databases available for skip tracing. Of the one thirty-one (31) Notices that were skip traced, twenty-eight (28) updated addresses were obtained and the Notice was promptly re-mailed to those Class Members via first class mail.

15 7. As of the date of this declaration, three (3) Notices are considered undeliverable since an updated address could not be obtained via skip trace.

17 8. As of the date of this declaration, Phoenix has received zero (0) Requests for Exclusion from Class Members. The deadline to request exclusion from the Class Settlement will be September 7, 2023.

20 9. As of the date of this declaration, Phoenix has received zero (0) Notices of Objection from Class Members. The deadline for objecting to the Class Settlement will be September 7, 2023.

22 10. As of the date of this declaration, Phoenix has received zero (0) Pay period disputes from Class Members. The deadline for submitting a dispute will be September 7, 2023.

24 11. There are eight hundred sixty-two (862) Class Members who did not submit timely and valid Requests for Exclusion and are therefore deemed Settlement Class Members, representing 100% of the Class. Settlement Class Members have worked a collective total of sixteen thousand seven hundred seven (16,707) pay periods during the Class Period. Each Pay period is valued at approximately \$10.80.

1 12. The Calculation of Gross Settlement Amount section of the Settlement Agreement
2 indicates that, if the number of Class Members employed during the class period exceeds seven
3 hundred ninety-four (794) by more than 10% (i.e. if there are more than eight hundred seventy-four
4 (874) Class Members), then the Gross Settlement Amount shall increase in proportion to the
5 increase in number of employees over such cap. Because the number of Class Members did not
6 exceed this cap, the Gross Settlement Amount did not increase.

7 13. The Net Settlement Amount of \$180,495.12 available to pay Settlement Class
8 Members was determined by subtracting the requested Class Counsel attorneys' fees (\$126,666.67),
9 and Class Counsel costs (\$10,838.21), requested Class Representative Service Award (\$10,000.00),
10 the PAGA Payment (\$40,000.00), and the requested Settlement Administration Costs (\$12,000.00)
11 from the Gross Settlement Amount (\$380,000.00).

12 14. Based upon the calculations stipulated in the Settlement, the highest Individual
13 Settlement Payment to be paid is approximately \$1,760.98, the lowest Individual Settlement
14 Payment to be paid is approximately \$10.80, while the average Individual Settlement Payment to
15 be paid is approximately \$209.39. Settlement Class Members will be issued payment of their
16 Individual Settlement Payments subject to reduction for the employee's share of taxes and
17 withholdings with respect to the wages portion of the Individual Settlement Payment.

18 15. Additionally, \$40,000.00 of the Gross Settlement Amount has been allocated toward
19 penalties under the Private Attorneys General Act ("PAGA Amount"), of which 75%, or
20 \$30,000.00, shall be paid to the Labor and Workforce Development Agency ("LWDA"), and 25%,
21 or \$10,000.00, of which shall be paid to all current and former hourly non-exempt individuals who
22 are or were employed by Defendant during the PAGA Period. There are eight hundred nineteen
23 (819) Aggrieved Employees who worked a total of fourteen thousand five hundred eleven (14,511)
24 pay periods during the PAGA Period. The highest Individual PAGA Payment to be paid is
25 approximately \$60.64, and the average Individual PAGA Payment to be paid is approximately
26 \$12.21.

27 16. Pursuant to the Settlement, Defendant has agreed to fund the employer-side taxes
28 due separately and apart from the Gross Settlement Amount.

17. Phoenix's costs associated with the administration of this matter are \$12,000.00. This includes all costs incurred to date, as well as estimated costs involved in completing the settlement distribution. A true and correct copy of the invoice from Phoenix is attached hereto as **Exhibit B**.

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

Executed this 7th day of September 2023, at Orange, California.

[Handwritten signature]

KEVIN LEE

Exhibit A

«First_Name» «Last_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 «Est_Set_Amt».**

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: September 7, 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 «PAGA_Amount» (“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: September 7, 2023)	If you do not like the settlement, you can send a written objection to the Settlement Administrator by the identified deadline. You may also object at the Final Approval hearing. 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 September 7, 2023.

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:

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773

You must submit such information by September 7, 2023. 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 September 7, 2023.

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773

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 September 7, 2023.

If your Request for Exclusion is postmarked after September 7, 2023, 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 September 7, 2023. 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 October 10, 2023, at 3:00 p.m. (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 October 10, 2023, at 3:00 p.m. (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 Phoenix Settlement Administrators, Telephone: (800) 523-5773, 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.,

The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://portal.alameda.courts.ca.gov>. After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number and click "Submit." Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

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



PHOENIX

CLASS ACTION ADMINISTRATION SOLUTIONS

CASE ASSUMPTIONS

Class Members	862
Opt Out Rate	0%
Opt Outs Received	0
Total Class Claimants	862
Subtotal Admin Only	\$12,803.62

TOTAL COSTS	\$12,000.00
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Fixed Fee

September 7, 2023

Case: Deering v. Roman Empire ABA Services

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

Administrative Tasks:	Rate	Hours/Units	Line Item Estimate
Programming Manager	\$100.00	3	\$300.00
Programming Database & Setup	\$100.00	3	\$300.00
Toll Free Setup*	\$140.00	1	\$140.00
Call Center & Long Distance	\$2.00	86	\$172.40
NCOA (USPS)	\$0.15	862	\$129.30
Total			\$1,041.70

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

Project Action	Rate	Hours/Units	Line Item Estimate
Notice Packet Formatting	\$105.00	3	\$315.00
Data Merge & Duplication Scrub	\$0.25	862	\$215.50
Notice Packet & Opt-Out Form	\$1.25	862	\$1,077.50
Postage (up to 1 oz.)	\$0.84	862	\$724.08
Static Website	\$200.00	1	\$200.00
Total			\$2,532.08

Skip Tracing & Remailing Notice Packets / Tracking & Programming Undeliverables

Project Action:	Rate	Hours/Units	Line Item Estimate
Case Associate	\$55.00	3	\$165.00
Skip Tracing Undeliverables	\$2.50	31	\$77.50
Remail Notice Packets	\$1.25	28	\$35.00
Postage	\$0.84	28	\$23.52
Programing Undeliverables	\$50.00	2	\$100.00
Total			\$401.02

Database Programming / Processing Opt-Outs, Deficiencies or Disputes

Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Claims Database	\$125.00	3	\$375.00
Non Opt-Out Processing	\$200.00	2	\$400.00
Case Associate	\$55.00	3	\$165.00
Opt-Outs/Deficiency/Dispute Letters	\$10.00	3	\$30.00
Case Manager	\$85.00	4	\$340.00
Total			\$1,310.00

Calculation & Disbursement Programming/ Create & Manage QSF/ Mail Checks			
Project Action:	Rate	Hours/Units	Line Item Estimate
Programming Calculations	\$125.00	3	\$375.00
Disbursement Review	\$125.00	3	\$375.00
Programming Manager	\$95.00	2	\$190.00
QSF Fees, Bank Account & EIN	\$100.00	3	\$300.00
Check Run Setup & Printing	\$125.00	3	\$375.00
Mail Class Checks, W2 and 1099 *	\$1.50	862	\$1,293.00
Estimated Postage Checks, W2 and 1099	\$0.61	862	\$525.82
Total			\$3,433.82

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

Tax Reporting & Reconciliation / Re-Issuance of Checks / Conclusion Reports and Declarations			
Project Action:	Rate	Hours/Units	Line Item Estimate
Case Supervisor	\$100.00	3	\$300.00
Remail Undeliverable Checks (Postage Included)	\$2.50	50	\$125.00
Case Associate	\$55.00	3	\$165.00
Reconcile Uncashed Checks	\$85.00	4	\$340.00
Conclusion Reports	\$115.00	2	\$230.00
Case Manager Conclusion	\$85.00	2	\$170.00
Final Reporting & Declarations	\$115.00	2	\$230.00
Uncashed Check Notice Postcard (Postage Included)	\$1.75	200	\$350.00
Uncashed Check QSF Tax Filing	\$150.00	3	\$450.00
IRS & QSF Annual Tax Reporting * (State Tax Reporting Included)	\$1,450.00	1	\$1,450.00
Uncashed Check to Cy Pres	\$275.00	1	\$275.00
Total			\$4,085.00

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

Total: \$12,803.62