

1 **KINGSLEY & KINGSLEY, APC**
ERIC B. KINGSLEY, Esq. (SBN 185123)
2 eric@kingsleykingsley.com
KELSEY M. SZAMET, Esq. (SBN 260264)
3 kelsey@kingsleykingsley.com
16133 Ventura Blvd., Suite 1200
4 Encino, CA 91436
Tel: (818) 990-8300, Fax (818) 990-2903

5 Attorneys for Plaintiff and all aggrieved employees
6
7

8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

10
11 GERALD WHILTON OLIVAS,, an
individual, on behalf of the State of
12 California, as a private attorney general,

13 PLAINTIFF,

14 v.

15 THE UNIVERSITY OF PHOENIX, INC.;;
and DOES 1 thru 50, inclusive,

16 DEFENDANTS.
17
18
19
20
21
22
23
24
25
26
27
28

Case No. RG21091953

[Case Assigned for All Purposes to Hon. Frank
Roesch in Dept. 17]

**SUPPLEMENTAL DECLARATION OF
KELSEY M. SZAMET IN SUPPORT OF
MOTION FOR APPROVAL OF
REPRESENTATIVE ACTION
SETTLEMENT**

Date: May 30, 2024
Time: 3:30 P.M.
Dept.: 17

Complaint Filed: February 19, 2021
FAC Filed: April 26, 2021
Trial Date: None Set:

1 **SUPPLEMENTAL DECLARATION OF KELSEY M. SZAMET**

2 I, Kelsey M. Szamet, declare as follows:

3 1. I am an attorney licensed to practice before all of the courts of the State of California.
4 I am the attorney of record for Plaintiff GERALD WHILTON OLIVAS, in the above-entitled action.
5 I have personal knowledge of the facts set forth herein, and if called upon as a witness, I could and
6 would testify competently thereto.

7 2. I graduated from the University of California, Santa Barbara, in 1993 with a degree
8 in History. I graduated from Loyola Law School of Los Angeles in 1996. I am admitted to practice
9 before the following Courts: United States Supreme Court; United States District Court, Northern,
10 Eastern, Southern and Central of California; all California State Courts.

11 3. I make this Supplemental declaration in support of Plaintiff's Motion for Approval
12 of Representative Action in the above-captioned case in response to the Court's May 15, 2024,
13 Tentative Ruling of the Motion for Approval of Representative Action. The continued Motion
14 hearing date is May 30, 2024.

15 **DESIGNATION OF A CY PRES RECIPIENT**

16 4. I have met and conferred with Counsel for Defendant and we agree that a non-profit
17 organization that provides educational scholarships for veterans is appropriate.

18 5. The Parties have mutually agreed upon Society of the Honor Guard Tomb of the
19 Unknown Soldier Scholarships as the designee which can be found at
20 <https://tombguard.org/scholarships>. The Society awards education scholarships to benefit Tomb
21 Guards and their families, and individuals sponsored by Tomb Guards.

22 6. The Parties think this is appropriate as these are scholarships for education and the
23 Defendant is a large online university designed for working adults that serves many individuals
24 including veterans.

25 7. I believe this cy pres designee meets the requirements of C.C.P § 384 which states,
26 in relevant part, "that the unpaid cash residue and unclaimed or abandoned funds in class action
27 litigation are distributed, to the fullest extent possible, in a manner designed either to further the
28 purposes of the underlying class action or causes of action, or to promote justice for all Californians."

1 Here, the proposed cy pres provides educational scholarships and the Aggrieved Employees are
2 professional educators.

3 8. I do not believe an amendment to the Settlement Agreement is required as the Court
4 can interlineate the last sentence of paragraph C.12 of the Agreement to read: The Parties agree that,
5 within fifteen (15) calendar days after the Void Date, any unclaimed funds in the Settlement Fund
6 Account as a result of the failure to cash Individual Payment checks prior to the Void Date shall be
7 paid by the Settlement Administrator to the Society of the Honor Guard Tomb of the Unknown
8 Soldier Scholarships.

9 **LWDA UPLOAD**

10 9. This Supplemental Declaration and the Supplemental Declaration of Plaintiff in
11 Support of Plaintiff's Motion for Approval of Representative Action Settlement will be uploaded to
12 the LWDA concurrently with their submission to the Court on this day, a true and correct copy of
13 the proof of submission to the LWDA is attached as Exhibit "1".

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

16 This declaration was executed this 23rd day of May, 2024, in Altadena, California.

17 

18 _____
Kelsey M. Szamet

(Proof of Submission to Labor &
Workforce Development Agency)

EXHIBIT "1"

(PROOF OF SERVICE)
[CCP 1013(a)(3)]

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is 16133 Ventura Boulevard, Suite 1200, Encino, California 91436.

On May 23, 2024, I served all interested parties in this action the following documents described as: **SUPPLEMENTAL DECLARATION OF KELSEY M. SZAMET IN SUPPORT OF MOTION FOR APPROVAL OF REPRESENTATIVE ACTION SETTLEMENT** by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

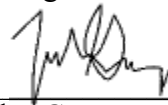
R. Brian Dixon
bdixon@littler.com
Kurt R. Bockes
kbockes@littler.com
Littler Mendelson, P.C.
333 Bush Street, 34th Floor
San Francisco, CA 94104

[XX] BY ELECTRONIC SERVICE: I caused a true and correct copy thereof to be electronically filed using the Labor and Workforce Development Agency Electronic Filing ("EF") System (<https://dir.tfaforms.net/315>) and service was completed by electronic means by transmittal of the documents referenced herein on the EF System.

[XX] (BY ELECTRONIC MAIL TRANSMISSION): I caused the document to be send to the persons at the e-mail address(es) listed on the attached service list. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A pdf copy of which was sent via email to the above email address(es).

[XX] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 23, 2024, at Los Angeles, California.



Taylor Gregg