

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

SEB INVESTMENT MANAGEMENT AB,
Individually and on Behalf of All Others Similarly
Situated,

Plaintiff,

v.

ALIGN TECHNOLOGY, INC., JOSEPH M.
HOGAN, and JOHN F. MORICI,

Defendants.

Case No. 3:18-cv-06720-VC

CLASS ACTION

~~[PROPOSED]~~ ORDER APPROVING
DISTRIBUTION PLAN

Courtroom: 4, 17th Floor
Judge: Hon. Vince Chhabria

THIS MATTER comes before the Court on Lead Plaintiff’s Motion for Approval of Distribution Plan.

WHEREAS, by its Order Approving Class Action Settlement dated April 28, 2022 (ECF No. 215), Judgment dated April 28, 2022 (ECF No. 218), and Order Approving Plan of Allocation dated April 28, 2022 (ECF No. 216), this Court approved the terms of the settlement set forth in the Stipulation and Agreement of Settlement (ECF No. 189-2) (“Settlement” or “Stipulation”) and the proposed plan for allocating the net settlement proceeds to eligible Settlement Class Members (“Plan of Allocation”);

WHEREAS, this Court had directed the Parties to consummate the terms of the Settlement and Plan of Allocation;

WHEREAS, the Settlement provided for consideration of \$16,000,000 in cash (“Settlement Amount”) and, pursuant to the terms of the Stipulation, the Settlement Amount was deposited into an escrow account established by Lead Counsel for the benefit of the Settlement Class;

WHEREAS, as set forth in the Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Final Approval Hearing; and (III) Motion for Attorneys’ Fees and Litigation Expenses (“Notice”), the deadline for Settlement Class Members to submit Claims to the Court-authorized claims administrator for the Settlement, JND Legal Administration (“JND”), in order to be potentially eligible to participate in the distribution of the Net Settlement Fund has passed;

WHEREAS, in satisfaction of due process requirements, all Settlement Class Members who submitted Claims that were in any way ineligible or deficient were: (i) informed that their Claims were ineligible or deficient; and (ii) given opportunities to correct any curable deficiencies prior to their Claims being finally rejected, or to contest the determination as to such deficiencies, by requesting judicial review;

WHEREAS, the process of reviewing Claims has been completed;

WHEREAS, Lead Plaintiff, through Lead Counsel, now seeks authorization to distribute the proceeds of the Settlement Fund to Authorized Claimants, after deduction of any taxes, fees, and expenses previously approved by the Court or approved by this Order (“Net Settlement Fund”); and

WHEREAS, this Court retained continuing and exclusive jurisdiction of this Action in connection with, among other things: (i) the disposition of the Settlement Fund; and (ii) any motion to approve the Class Distribution Order.

NOW, THEREFORE, upon careful consideration of: (i) the Declaration of Luiggy Segura in Support of Lead Plaintiff’s Motion for Approval of Distribution Plan submitted on behalf of JND (“Segura Declaration”); (ii) Lead Plaintiff’s Notice of Motion and Motion for Approval of Distribution Plan and Memorandum of Points and Authorities in Support Thereof; (iii) the other submissions and papers on file with the Court; and (iv) upon all prior proceedings heretofore and herein, and after due deliberation, it is hereby

ORDERED, that all capitalized terms not otherwise defined herein shall have the same meanings

as set forth in the Stipulation and the Segura Declaration; and it is further

ORDERED, that the administrative determinations of JND accepting the Claims described in the Segura Declaration and listed on Exhibits C and D thereto, calculated pursuant to the Court-approved Plan of Allocation set forth in the Notice, are hereby approved, and said Claims are hereby accepted; and it is further

ORDERED, that the administrative determinations of JND rejecting the Claims described in the Segura Declaration and listed on Exhibit E thereto are hereby approved, and said Claims are hereby rejected; and it is further

ORDERED, that JND be paid the sum of \$19,571.68 from the Net Settlement Fund as payment for its outstanding fees and expenses incurred in connection with the administration of the Settlement and up to \$22,853.21 for the fees and expenses expected to be incurred by JND in connection with the Initial Distribution of the Net Settlement Fund; and it is further

ORDERED, that JND conduct the Initial Distribution of the Net Settlement Fund as set forth in Paragraph 48 of the Segura Declaration. Specifically, the Net Settlement Fund shall be distributed to the Authorized Claimants listed on Exhibits C and D to the Segura Declaration pursuant to the Court-approved Plan of Allocation in proportion to each Authorized Claimant's Recognized Claim as compared to the total Recognized Claims of all Authorized Claimants as shown on such Exhibits; and it is further

ORDERED, that all checks to Authorized Claimants issued in the Initial Distribution shall bear the notation "CASH PROMPTLY. VOID AND SUBJECT TO REDISTRIBUTION IF NOT CASHED BY 90 DAYS AFTER ISSUE DATE." Lead Counsel and JND are authorized to take appropriate actions to locate and/or contact any Authorized Claimant who has not cashed his, her, or its check within said time; and it is further

ORDERED, that Authorized Claimants who do not cash their checks within the time allotted will irrevocably forfeit all recovery from Settlement; and it is further

ORDERED, that, after making reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, but no earlier than nine (9) months after the Initial Distribution, JND will, if cost-effective to do so, redistribute any funds remaining in the Net Settlement Fund by reason of

uncashed checks or otherwise to Authorized Claimants who have cashed their Initial Distribution checks and who would receive at least \$10.00 from such distribution; and it is further

ORDERED, that JND may make additional redistributions of balances remaining in the Net Settlement Fund to Authorized Claimants who have cashed their prior checks and who would receive at least \$10.00 on such additional redistributions if Lead Counsel, in consultation with JND, determines that additional distributions would be cost-effective; and it is further

ORDERED, that, at such time as Lead Counsel, in consultation with JND, determines that further distribution of the funds remaining in the Net Settlement Fund is not cost-effective, any otherwise valid Claims received after January 17, 2023, or any earlier received Claims for which an adjustment was received after January 17, 2023, may be paid in accordance with Paragraph 48(f) of the Segura Declaration; and it is further

ORDERED, that any balance that remains in the Net Settlement Fund after further distributions or payment of any otherwise valid Claims received after January 17, 2023, or Claims adjusted after January 17, 2023, in accordance with Paragraph 48(e) of the Segura Declaration, which is not cost-effective to reallocate, will be contributed, as set forth in the Court-approved Plan of Allocation, to the non-profit 501(c)(3) organization Charitable Smiles; and it is further

ORDERED, that the Court finds that the administration of the Settlement and the proposed distribution of the Net Settlement Fund comply with the terms of the Stipulation and the Plan of Allocation and that all persons and entities involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Claims submitted in connection with the Settlement of this Action, or who are otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund are released and discharged from any and all claims arising out of such involvement, and, pursuant to the release terms of the Settlement, all Settlement Class Members, whether or not they are to receive payment from the Net Settlement Fund, are barred from making any further claims against the Net Settlement Fund or the parties released pursuant to the Settlement beyond the amount allocated to them pursuant to this Order; and it is further

ORDERED, that JND is hereby authorized to destroy paper copies of Claims and all supporting documentation one (1) year after the Second Distribution of the Net Settlement Fund, if that occurs, or, if

there is no Second Distribution, two (2) years after the Initial Distribution and all electronic copies of the same one (1) year after all funds have been distributed; and it is further

ORDERED, that this Court retain jurisdiction over any further application or matter which may arise in connection with this Action; and it is further

ORDERED, that in accordance with this District's Procedural Guidance for Class Action Settlements, Lead Counsel shall file a Post-Distribution Accounting within twenty-one (21) days after the Initial Distribution checks become stale and post the Post-Distribution Accounting on the website for the Settlement; and it is further

ORDERED, that the Post-Distribution Accounting shall contain all of the information set forth at page 17 of this Court's "Standing Order for Civil Cases Before Judge Vince Chhabria," as well as advise the Court whether Lead Counsel has determined that a second distribution of unclaimed settlement funds (whether due to uncashed checks or otherwise) should be pursued, or whether any then-remaining unclaimed settlement funds should be contributed to the non-profit 501(c)(3) organization set forth in Paragraph 11 of the Court-approved Plan of Allocation; and it is further

ORDERED, that with its filing of the Post-Distribution Accounting, Lead Counsel shall submit a proposed order to the Court requesting the release of the remainder of its fee awarded pursuant to the Court's Order Awarding Attorneys' Fees and Litigation Expenses dated April 28, 2022 (ECF No. 217).

SO ORDERED this 2nd day of March 2023.

The Honorable Judge Vince Chhabria
United States District Judge
