

**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

**DECLARATION OF LUIGGY SEGURA IN
SUPPORT OF LEAD PLAINTIFF'S POST-
DISTRIBUTION ACCOUNTING**

I, LUIGGY SEGURA, declare and state as follows:

1. I am a Vice President at JND Legal Administration (“JND”).¹ JND was retained by Lead Counsel to serve as the Claims Administrator in connection with the Settlement of the Action and that retention was approved by Order dated November 2, 2021 (ECF No. 198). I submit this Declaration in order

¹ All terms with initial capitalization not otherwise defined herein shall have the meanings ascribed to them in the Stipulation and Agreement of Settlement dated June 30, 2021 (ECF No. 189-2) or in the Declaration of Luiggy Segura in Support of Lead Plaintiff’s Motion for Approval of Distribution Plan (ECF No. 222-1, the “Segura Distribution Declaration”).

to provide the Court and the Parties to the Action with information regarding the Initial Distribution of the Net Settlement Fund. I am over 21 years of age and am not a party to the Action. I have personal knowledge of the facts set forth in this Declaration and, if called as a witness, could and would testify competently thereto.

2. On March 2, 2023, the Court entered the Order Approving Distribution Plan (ECF No. 224, the “Distribution Order”), granting approval to distribute the Net Settlement Fund to Authorized Claimants.

3. Following entry of the Distribution Order, JND took several steps to prepare for the Initial Distribution of the Net Settlement Fund. Such steps included, among others: (i) working with Lead Counsel to transfer the funds from the Escrow Account to the distribution account; (ii) working with Authorized Claimants to confirm wire instructions to be utilized for electronic payments; (iii) performing research through the Office of Foreign Assets Control (“OFAC”) list maintained by the U.S. Department of the Treasury to ensure payments would not be made to any known terrorist and/or drug trafficking groups; (iv) working with the Escrow Agent to confirm the proper amount to be distributed to Authorized Claimants and that the checks to be issued were compatible with the Escrow Agent’s system; and (v) performing final reviews and audits. In addition, in determining the distribution amounts for Authorized Claimants, JND eliminated all payments to Claimants whose *pro rata* share of the Net Settlement Fund calculated to less than \$10.00, as set forth in the Distribution Plan approved by the Court. *See Segura Distribution Decl.*, ¶ 48(a).

4. Per the Distribution Order, the Court directed 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. After deducting the Court-

approved amounts to JND, a balance of \$12,105,394.08 remained in the Net Settlement Fund as of March 14, 2023.²

5. JND prepared for the Initial Distribution of the Net Settlement Fund in the manner set forth in the Segura Distribution Declaration and approved by the Distribution Order. In total, after holding back \$16,010 for taxes, \$12,089,384.08 (“Distributable Amount”) was allocated by check or wire transfer to 13,764 Authorized Claimants whose Claims were approved for payment by the Court’s Distribution Order and whose distribution amount calculated to \$10.00 or more. Specifically, on March 31, 2023, JND mailed 6,053 checks, valued at \$5,613,960.41, and sent 25 wire transfers (comprising distribution amounts for 7,668 Authorized Claimants), accounting for \$6,451,805.66.³

6. Since the Initial Distribution on March 31, 2023, JND has monitored returned checks, whether undeliverable or otherwise, processed and responded to inquiries received from Claimants regarding their distributions, and processed requests for the reissuance of checks. There have been no significant or reoccurring concerns communicated by Settlement Class Members to JND.

7. As of the execution of this Declaration, \$11,842,324.86, or 97.96% of the Distributable Amount, has been cashed or otherwise received. A total of 651 uncashed payments (i.e., \$189,509.33) and returned funds (\$33,962.49), for an aggregate amount of \$223,471.82, remain from the Distributable

² This balance excludes the attorneys’ fees holdback of \$320,039.26 (i.e., 10% of the \$3.2 million plus interest in attorneys’ fees awarded by the Court. ECF No. 217, ¶ 4). This amount remains in the Escrow Account at The Huntington National Bank and will be released to Lead Counsel upon Court order.

³ \$23,618.01 of the Distributable Amount was held back and not included in the Initial Distribution on March 31, 2023, because, prior to the Initial Distribution, the Escrow Agent identified forty-three (43) payees (with payments totaling \$23,618.01) as potential hits on the OFAC list. In an effort to clear these payments, JND requested additional information from each of the 43 Claimants. To date, JND has received the necessary information to clear six (6) payments totaling \$290.75. JND will clear additional payments upon receipt of the necessary information from the remaining Claimants. In addition, \$10,286.91 in interest accrued since the calculations for the Initial Distribution were finalized and this amount will be included in a future re-distribution to Authorized Claimants or used to pay late Claims or late-adjusted Claims pursuant to the Distribution Order.

Amount. JND has performed outreach to the recipients of uncashed checks via email and telephone to encourage them to cash their checks. As a result of this outreach, 28 checks, amounting to \$6,468.85, have been reissued or are in the process of being reissued to Authorized Claimants.⁴

8. Pursuant to the Distribution Order, after making reasonable and diligent efforts to have Authorized Claimants cash their Initial Distribution checks, JND will, if cost-effective to do so, conduct a re-distribution of the funds remaining in the Net Settlement Fund to Authorized Claimants who have cashed their Initial Distribution checks and who would receive at least \$10.00 from such re-distribution. Distribution Order, at 3-4. While JND continues to follow up with Claimants with uncashed checks to encourage them to cash their checks, JND anticipates that it will likely be cost-effective to conduct a re-distribution of the amount remaining in the Net Settlement Fund.

9. Moreover, when it is determined that a further re-distribution of the funds remaining in the Net Settlement Fund is not cost-effective, these funds will be used to pay any otherwise valid Claims received after January 17, 2023, or any earlier received Claims for which an adjustment was received after January 17, 2023. *Id.*, at 4. Thereafter, any funds remaining in the Net Settlement Fund will be contributed to the Court-approved *cy pres* recipient, Charitable Smiles. *Id.* JND expects a contribution to Charitable Smiles (if any) will be minimal.

10. I have reviewed the Post-Distribution Accounting to be submitted to the Court by Lead Plaintiff and can confirm that the information provided therein relating to the mailing of Notices, processing of Claims, distribution of the Net Settlement Fund, and notice and administrative costs incurred by JND is accurate based on JND's current records.

11. The average and median payment per Authorized Claimant and the largest and smallest payments per Authorized Claimant reported in the Post-Distribution Accounting are based on the Claimants'

⁴ JND has been unable to contact one (1) Claimant with an uncashed check.

recoveries in the Initial Distribution. As noted above, Authorized Claimants may receive additional funds in subsequent distributions. In calculating the median and average payment to Authorized Claimants, Claims that were not eligible for payment because they fell below the \$10.00 minimum payment threshold, as provided in the Distribution Plan approved by the Court, were excluded from the analysis.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Seattle, Washington, on July 20, 2023.


Luiggy Segura