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☐ EXPEDITE
☒ No hearing set
☐ Hearing is set
Date:
Time:
Judge/Calendar: Hon. Indu Thomas

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF THURSTON

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SYLVIA LIANG, MANUEL BRITO, and
SHAZIA ANWAR, individually and on behalf
of all those similarly situated,

Plaintiffs,

No. 20-2-02506-34

**DECLARATION OF ADAM
DOMANSKI IN SUPPORT OF THE
PARTIES' CONSENT MOTION RE
SECOND DISTRIBUTION**

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v.

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STATE OF WASHINGTON;
WASHINGTON STATE DEPARTMENT OF
SOCIAL AND HEALTH SERVICES, a
Washington State Agency; CHERYL
STRANGE, in her official capacity as the
Secretary of the Washington State Department
of Social and Health Services,

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Defendants.

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I, Adam Domanski, declare as follows:

1.   I am over 18 years old and competent to testify to the contents of this declaration.

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2.   I have described my qualifications, background, assignment, compensation, and

materials considered in my March 24, 2022, declaration in support of Plaintiffs' Motion for

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Preliminary Approval.

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3.   Since March 24, 2022, I have been working with Plaintiffs' counsel on implementing

the Settlement Agreement.

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DECLARATION OF ADAM DOMANSKI – Page 1
Case No. 20-2-02506-34

4.   My role in settlement implementation was to use the data provided by the State (described in detail in Exhibit A to the Settlement Agreement) and the data provided by SEIU 775 identifying the SEIU 775 members on a month-by-month basis, and to calculate the allocation and dues withholdings based on that data. I then turned those allocations over to the Settlement Administrator, JND, for calculation of tax withholdings and processing of the settlement checks.

5.   In the last few months, Plaintiffs' counsel brought to my attention that the dues remission from the Initial Distribution was lower than anticipated. After investigation, Plaintiffs' counsel and I discovered that the cause of the shortfall was an error in the data file identifying SEIU 775 members, which inadvertently omitted dues member data for 14,724 Class Members during the transmission of the file from SEIU 775 to Plaintiffs' counsel's office to me. This error caused me to not calculate union dues for those 14,724 Class Members who should have had dues withheld.

6.   After discussion, I prepared a memorandum explaining the effect of the error and proposing a methodology for correcting the error through the Second Distribution.

7.   I attach as **Exhibit 1** a true and correct copy of my memorandum.

8.   I understand that the Plaintiffs, JND, the Defendants, and SEIU 775 all agree that the methodology proposed in my memorandum correctly fixes the error.

9.   I have also calculated the amount of money that would need to be available in the Settlement Fund for my proposed methodology to work without affecting any other terms of the Settlement Agreement and allocation method. That amount is $6,290,714.

10.   I understand that as of June 12, 2023, the Settlement Fund has at least $10 million available for redistribution in the Second Distribution. As a result, I am confident that there are enough funds available for the Second Distribution to correct the error in the Initial Distribution

as described in my methodology without affecting any other terms of the Settlement Distribution and allocation method.

I declare under penalty of perjury under the laws of the State of Washington that the above is true and correct to the best of my knowledge.

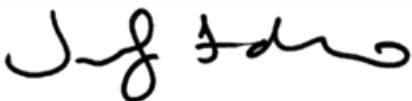Signed in _Seattle_, Washington, this _27th_ day of _June_, 2023.

Dr. Adam Domanski

DECLARATION OF SERVICE

I hereby certify that on the date noted below I caused the foregoing document to be filed with the Clerk of the Thurston County Superior Court, and true and correct copies of the same to be delivered to the individuals noted below as follows:

PARTY/COUNSEL	DELIVERY INSTRUCTIONS
Margaret McLean Daniel Judge Sara L. Wilmot Joshua Campbell Attorney General's Office P.O. Box 40145 Olympia, WA 98504-0145 MargaretM@atg.wa.gov DanielJ@atg.wa.gov Sara.Wilmot@atg.wa.gov Joshua.campbell@atg.wa.gov Nicole.Walvatne@atg.wa.gov DawnW@atg.wa.gov Rebecca.Leigh@atg.wa.gov Shoadsef@atg.wa.gov *Attorneys for Defendants*	☐ Hand Delivery ☐ Certified Mail ☐ Facsimile ☒ E-mail ☐ U.S. Mail ☐ E-Service

DATED June 28, 2023, at Seattle, Washington.

By: _____
Jennifer Fernando, Paralegal

DECLARATION OF SERVICE
Case No. 20-2-02506-34

EXHIBIT 1

MEMORANDUM
To: Darin Dalmat, Sarah Derry and Jennifer Robbins, Barnard Iglitzin & Lavitt llp
From: Adam Domanski, Ph.D., Enduring Econometrics
Date: June 26, 2023

RE: Proposed Approach for the Second Liang et. al. Distribution

Hi Darin, Sarah, and Jennifer,

As recently identified, there are a subset of IPs that did not have union dues withheld from their Initial Distribution checks but should have. This memorandum describes a proposed approach for correcting this in the Second Distribution. This approach aligns with the Settlement Agreement and all information available to me at this time.

1. Relevant Guiding Language:

From the Settlement Agreement, Exhibit A:

> "**4.** For class notification, the estimated allocation of the net settlement funds for any one IP is calculated by multiplying net settlement funds by a proportional share of total back pay damages. The IPs' pro rata shares are calculated by dividing an individual IP's back pay damages by the sum of back pay damages for all IPs.
>
> $$Allocation_{IP} = NetSettlementFunds * \frac{BackPayDamages_{IP}}{\sum_{IP} BackPayDamages_{IP}}$$
>
> Where:
> - $Allocation_{IP}$ is the allocation of net settlement funds, by IP.
> - $BackPayDamages_{IP}$ is the sum of unpaid base and overtime hours for each IP.
> - $\sum_{IP} BackPayDamages_{IP}$ is the sum of back pay damages for all IPs.
>
> **5.** The distribution process will be performed in three iterative allocations. The same formula in paragraph 4 applies, with modifications to $NetSettlementFunds$ and $\sum_{IP} BackPayDamages_{IP}$ as outlined below. At each iteration, the allocation will be checked to ensure the sum of all Class Member Settlement Payments for any IP do not exceed 100% of that IP's total damages on all claims.
>
> **a.** In the Initial Distribution, the term $\sum_{IP} BackPayDamages_{IP}$ is the sum of back pay damages for all IPs who have not opted out of the settlement. The term $NetSettlementFunds$ is $105 million dollars, the amount of the Settlement Fund minus all fees and costs itemized in sections 4.1(b), (c), (d), (f), and (h) of the Settlement Agreement to which this allocation method is an exhibit.
>
> **b.** Should Settlement Funds remain following the Initial Distribution (as a result of IPs not cashing their first Class Member Settlement Payments in the time allotted or other unused settlement funds), a Second Distribution will occur in which the term $\sum_{IP} BackPayDamages_{IP}$ is the sum of back pay damages for all IPs who cashed their first Class Member Settlement Payment, and the term $NetSettlementFunds$ are the

funds remaining following the Initial Distribution and other payments from the Settlement Fund as provided for in the Agreement, including interest accrued by the Settlement Fund."

From the Settlement Agreement:

> "**4.3.h. Dues Payment.** The Settlement Administrator shall deduct 3.2% from Class Member Settlement Payments and remit that money to SEIU 775 for every month that the Settlement Class Member receiving that Class Member Settlement Payment was a member of SEIU 775, provided that the Settlement Class Member is currently an SEIU 775 member or, if the Settlement Class Member is no longer working as an Individual Provider as of the date of the Final Approval Order, then if the Settlement Class Member was a member of SEIU 775 on the end date of the Individual Provider's last paycheck."

2. Principles for Calculating the Second Distribution

- There are 20,687 IPs who correctly had union dues withheld from the Initial Distribution.

- There are 14,724 IPs who had no union dues withheld in the Initial Distribution but should have. This totals $788,656.

- Union dues should be withheld and directed towards SEIU 775, regardless of whether the Initial Distribution check was cashed.

- The union dues from the 14,724 IPs that did not cash their checks in the Initial Distribution should be set aside before calculating the funds available for the Second Distribution.

- The union dues from the 14,724 IPs that did cash their checks in the Initial Distribution, should be withheld from their Second Distribution.

3. Proposed Approach for Calculating the Second Distribution

There are six groups of IPs that result from whether they were a union member, had union dues withheld in the Initial Distribution, and cashed their checks in the Second Distribution, as follows:

IP Group	Union Member?	Union Dues Withheld?	Cashed Check from Initial Distribution?
A	Yes	Yes	Yes
B	Yes	Yes	No
C	Yes	No	Yes
D	Yes	No	No
E	No	No	Yes
F	No	No	No

Groups C and D are the subset of IPs that should have had union dues withheld in the Initial Distribution but did not.

For the Second Distribution, the allocation formula is defined as follows:

$$Allocation_{IP,2nd} = NetSettlementFunds_{2nd} * \frac{BackPayDamages_{IP}}{\sum_{IP} BackPayDamages_{IP}}$$

$NetSettlementFunds_{2nd}$ are the net funds available for the Second Distribution, which is comprised of $FundsRemaining_{1st}$ minus the union dues for those IPs that did not cash their checks from the Initial Distribution (Group D).

$$NetSettlementFunds_{2nd} = FundsRemaining_{1st} - UnionDues_{GroupD}$$

$FundsRemaining_{1st}$ are the funds remaining from the Initial Distribution net of other payments from the Settlement Fund as provided for in the Settlement Agreement, including interest accrued by the Settlement Fund.

The term $\sum_{IP} BackPayDamages_{IP}$ (the denominator in the allocation equation) is the sum of $BackPayDamages_{IP}$ for all IPs who cashed checks in the Initial Distribution (Groups A, C, and E).

$$\sum_{IP} BackPayDamages_{IP}$$
$$= BackPayDamages_{IPGroupA} + BackPayDamages_{IPGroupC}$$
$$+ BackPayDamages_{IPGroupE}$$

The ultimate distribution, by IP is as follows:

Group A: IPs that are union members, cashed their first checks, and had union dues withheld in the first distribution receive a payment that is equal to their respective allocation of the net settlement funds available for the second distribution reduced by appropriate tax and union dues withholdings.

$$Distribution_{IP,2nd} = Allocation_{IP,2nd} * (1 - Taxrate_{IP} - UnionDuesrate_{IP})$$

Group C: IPs that are union members and cashed their first checks but did not have union dues withheld in the first distribution receive a payment that is equal to their respective allocation of the net settlement funds available for the second distribution reduced by appropriate tax and union dues withholdings, minus the union dues that should have been withheld in the first distribution.

$$Distribution_{IP,2nd}$$
$$= (Allocation_{IP,2nd}) * (1 - Taxrate_{IP} - UnionDuesrate_{IP})$$
$$- UnionDues_{IP,1st}$$

Group E: IPs that are not union members and cashed their first checks receive a payment that is equal to their respective allocation of the net settlement funds available for the second distribution reduced by appropriate tax withholdings.

$$Distribution_{IP,2nd} = Allocation_{IP,2nd} * (1 - Taxrate_{IP})$$

Groups B, D, and F are omitted from the Second Distribution since they did not cash their checks, per the settlement agreement.

4. Needed Remaining Funds for Equitable Distribution of Settlement

In order for all IPs and SEIU 775 to equitably receive settlement payments per the original Settlement Agreement, the $NetSettlementFunds$ available for the Second Distribution must be large enough such that all IPs in Group C receive a Second Distribution check amount that is greater than or equal to zero. This break-even point can be calculated as $Distribution_{IP,2nd} = 0$, and with some rearranging and substitution, the equation for Group C above becomes:

$$BE\ Allocation_{IP,2nd} = \frac{UnionDues_{IP,1st}}{(1 - TaxRate_{IP} - UnionDuesRate_{IP})}, \qquad \forall IPs\ in\ Group\ C$$

With the following transformations:

$$BE\ Allocation_{IP,2nd} = BE\ NetSettlementFunds_{2nd} * Share_{IP}$$

$$UnionDues_{IP,1st} = \$105\ million * Share_{IP} * UnionDuesrate_{IP}$$

The previous equation reduces to:

$$BE\ NetSettlementFunds_{2nd} = \frac{\$105\ million * \max_{IP}(UnionDuesrate_{IP})}{\left(1 - \max_{IP}(Taxrate_{IP}) - \max_{IP}(UnionDuesrate_{IP})\right)},$$
$$\forall IPs\ in\ Group\ C$$

Using the tax and union dues rates from the Initial Distribution provided by JND in the file "2023 03 03_Payment_Report_noPW.xlsx", the needed total remaining $NetSettlementFunds_{2nd}$ to equitably allocate the settlement per the original settlement agreement is \$6,176,468.

This value is in addition to the union dues needed to be withheld for Group D above. Using a preliminary list of presumed cashed and uncashed checks provided by JND on June 8, 2023, the total union dues for group D totals \$114,246.

Thus, the total **break-even needed $FundsRemaining$ equals \$6,290,714.** According to JND's June 12, 2023, check distribution report, there are an anticipated \$10,502,535 in uncashed checks. If so, there will be more than sufficient funds to correct the dues withholdings omission in the second distribution.