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Attorney for Galileo Learning, LLC, Debtor
and Debtor in Possession

12
13 **UNITED STATES BANKRUPTCY COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

15 In re
16 GALILEO LEARNING, LLC,
17 Debtor.¹

Case Nos. 20-40857 (RLE)
20-40858 (RLE)

Chapter 11
(Jointly Administered)

18 In re
19 GALILEO LEARNING FRANCHISING
20 LLC,
21 Debtor.

**DECLARATIONS OF JOHN A. LOFTON,
KEITH BENCHER, AND DEAN G.
RALLIS JR. IN SUPPORT OF CLASS
REPRESENTATIVES AND DEBTOR FOR
ORDER (1) PRELIMINARILY
APPROVING CLASS SETTLEMENT,
(2) APPOINTING SETTLEMENT
ADMINISTRATOR, (3) APPROVING
FORM AND MANNER OF NOTICE TO
CLASS MEMBERS, (4) SCHEDULING
FINAL APPROVAL HEARING, AND
(5) GRANTING RELATED RELIEF**

22 Affects GALILEO LEARNING, LLC
23 Affects GALILEO LEARNING
24 FRANCHISING LLC,

Date: [To Be Determined]
Time: [To Be Determined]

25
26
27 ¹ These cases are being jointly administered, and all documents for either case should be filed in lead case number
28 20-40857 (RLE). The last four digits of each Debtor's federal tax identification number are as follows: Galileo
Learning, LLC (9453) and Galileo Learning Franchising LLC (5638). The mailing address for the Debtors is 1021
3rd Street, Oakland, California 94607.

1 **DECLARATION OF JOHN A. LOFTON**

2 I, John A. Lofton, declare as follows:

3 1. I am an attorney licensed to practice before this Court and of counsel with the law
4 firm Aiman-Smith & Marcy, P.C. (“Aiman-Smith & Marcy”), co-counsel appointed by the Court,
5 along with Hahn & Hahn LLP (“Hahn & Hahn”), for the class of individuals certified pursuant to
6 the Court’s order of November 9, 2020 (the “Customer Class,” and the members of the Customer
7 Class, the “Customer Class Members”) in the chapter 11 case of the debtor and debtor in
8 possession Galileo Learning, LLC (the “Debtor”).

9 2. I make this declaration in support of the *Joint Motion by Class Representatives and*
10 *Debtor for Order (1) Preliminarily Approving Class Settlement, (2) Appointing Settlement*
11 *Administrator, (3) Approving Form and Manner of Notice to Class Members, (4) Scheduling Final*
12 *Approval Hearing, and (5) Granting Related Relief* (the “Joint Motion”).² Where the matters
13 stated in this declaration are statements of fact that are within my personal knowledge, they are
14 true and correct. Where the matters stated in this declaration are statements of fact that are not
15 within my personal knowledge, they are derived from information provided to me by Aiman-
16 Smith & Marcy or by the class representatives Nanette Kearney, Krister Johnson, and Sandra
17 Shorago (collectively, the “Customer Class Representatives”) or based upon information and
18 belief and are true and correct to the best of my knowledge, information, and belief. If called to
19 testify, I could and would, without waiver of any applicable privilege, testify competently to the
20 matters stated in this declaration. I am duly authorized to make this declaration on behalf of
21 Aiman-Smith & Marcy.

22 3. On April 23, 2020, Aiman-Smith & Marcy, on behalf of Ms. Kearney and others
23 similarly situated, filed a class action complaint against the Debtor, its affiliate Galileo Learning
24 Franchising LLC, and its principal Glen Tripp in the United States District Court for the Northern
25 District of California, commencing the civil case captioned as *Kearney v. Galileo Learning, LLC*,

26 _____
27 ² Unless otherwise separately defined herein, all capitalized terms used herein shall have the
28 same respective meanings assigned to them in the Joint Motion and accompanying memorandum.

1 *et al.* and bearing Case No. 3:20-cv-02807-JCS (the “Civil Case”). A true and correct copy of the
2 complaint from the Civil Case is attached hereto as **Exhibit 6**.

3 4. On May 6, 2020, the Debtor filed a voluntary petition under chapter 11 of the
4 Bankruptcy Code in this Court, commencing this chapter 11 case, which is being jointly
5 administered with the chapter 11 case of Galileo Learning Franchising LLC. The Civil Case
6 remains pending but has been stayed due to the automatic stay.

7 5. On November 9, 2020, the Court entered the *Order Granting Class*
8 *Representative’s Motion for Order Applying Civil Rule 23 to Claims Administration Process and*
9 *Authorizing Filing of Class Proof of Claim* (the “Class Certification Order”), at docket no. 226,
10 that, among other things, certified the Customer Class, designated the Customer Class
11 Representatives as the representatives of the Customer Class, and appointed Aiman-Smith &
12 Marcy and Hahn & Hahn as co-counsel for the Customer Class (together, the “Class Counsel”).

13 6. From May 2020 to the present, the Class Counsel have negotiated extensively with
14 the Debtor’s counsel. The Debtor provided the Class Counsel with substantial informal discovery
15 in the form of financial documents detailing the Debtor’s present financial condition, as well as its
16 financial projections under a variety of potential settlement scenarios.

17 7. At the start of the case, the Customer Class Representatives and the Debtor worked
18 together to allow the Debtor to offer the 110% Credit Option and 50% Coupon Option to the
19 Customer Class Members under the Summer 2020 Settlement Offer, in order to reduce the amount
20 of debt that would need to be repaid under a plan and allow the Customer Class Members an early
21 means to recover value on account of their claims. Since then, the Class Counsel and the Debtor’s
22 counsel have been able to negotiate creative solutions and an amicable class settlement within the
23 bankruptcy case under unusual time pressures. The product of those negotiations is the settlement
24 between the Customer Class and the Debtor memorialized by that certain *Class Settlement*
25 *Agreement* dated December 2, 2020 (the “Settlement Agreement” or “Settlement”), which is
26 attached as Exhibit 1 to the Joint Motion.

27 8. In connection with the Settlement, the Class Counsel sought quotes from multiple
28 claims administrators, and Atticus Administration, Inc. (“Atticus”) provided the lowest quote in

1 the amount of \$64,317.00. A true and correct copy of that quote is attached hereto as **Exhibit 7**.
2 Aiman-Smith & Marcy has worked with Atticus in the past, and I believe that Atticus's bid is
3 reasonable and that Atticus is capable of administering the Settlement.

4 9. Atticus's quote is based on an estimated 3,269 Customer Class Members electing
5 the Deferred Cash Payment Option (and thus receiving checks from the Settlement Administrator)
6 and may increase or decrease depending on the actual number who made the election. The quote
7 also assumes that six rounds of payments will be made to the Customer Class Members at \$7,052
8 per round. The Settlement provides for up to nine rounds of payments to be made provided that
9 the Debtor meets certain income or financing criteria, which would increase the estimated cost to
10 \$85,473.00. However, that cost may be reduced if certain rounds of payments are devoted entirely
11 to paying the Class Expenses (i.e., the initial rounds).

12 10. The Customer Class Representatives have been extremely helpful and proactive in
13 prosecuting this matter. Ms. Kearney was instrumental in initiating the Civil Case and acting
14 promptly to protect the Customer Class's interests in this bankruptcy case. Ms. Kearney has
15 expended significant efforts researching the Debtor's business practices, seeking out the Class
16 Counsel, assisting in the preparation of the complaint in the Civil Case, finding and producing
17 documents to assist in the litigation, and contacting witnesses who also provided valuable
18 discovery to the Class Counsel.

19 11. Mr. Johnson and Ms. Shorago joined Ms. Kearney as class representatives in this
20 bankruptcy case. All three Customer Class Representatives (1) took a financial risk (and will
21 suffer actual detriment) by refraining from seeking chargebacks in order to represent the Customer
22 Class in this case; (2) met with and communicated with the Class Counsel on numerous occasions;
23 (3) detailed their experiences with the Debtor; (4) reviewed and commented on the documents
24 prepared by the Class Counsel; (5) reviewed the terms of and signed the Settlement Agreement;
25 and (6) assisted in the preparation of the Joint Motion. Throughout this process, the Customer
26 Class Representatives have zealously advocated for the best interests of the Customer Class, and
27 there is no question that the Customer Class has benefited from results of their efforts.

28 12. Aiman-Smith & Marcy's representation of the Customer Class Representatives,

1 and now the Customer Class, has required the firm to forego other work it would have otherwise
2 undertaken. The firm has devoted a substantial amount of hours to this matter, often at the expense
3 of other cases due to the urgency of the various filings and negotiations here. The firm anticipates
4 additional work will be required in this matter for the next five years in connection with the
5 administration of the Settlement, essentially until the reorganized Debtor has completed all
6 payment obligations under the Settlement.

7 13. Aiman-Smith & Marcy and Hahn & Hahn both have written fee agreements with
8 the Customer Class Representatives and with each other, which provide for the Class Counsel Fee
9 Award to be equitably split between the two firms.

10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct and that this declaration was executed on December 2, 2020, at
12 Oakland, California.

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/s/ John A. Lofton
John A. Lofton

Exhibit 6

1 RANDALL B. AIMAN-SMITH (124599)
2 JOHN A. LOFTON, ESQ. (222259)
3 Aiman-Smith & Marcy, P.C.
4 7677 Oakport Street, Suite 1150
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6 Telephone: 510-817-2711
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8 Email: ras@asmlawyers.com
9 jal@asmlawyers.com

10 Attorneys for Plaintiff Nanette Kearney

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14

15 NANETTE KEARNEY, an individual,

16 Plaintiff,

17 v.

18 GALILEO LEARNING, LLC, a California
19 limited liability company; GALILEO
20 LEARNING FRANCHISING LLC, a
21 California limited liability company; GLEN
22 TRIPP, an individual; and DOES 1-10,
23 inclusive,

24 Defendants.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

25 Plaintiff Nanette Kearney (“Named Plaintiff”) is informed and believes and thereupon
26 alleges the following:

27 **I. INTRODUCTION**

28 1. Named Plaintiff brings these claims, individually and as a class action under
Federal Rule of Civil Procedure 23, against Defendants Galileo Learning, LLC, Galileo Learning
Franchising LLC, and Glen Tripp (collectively, “Galileo” or “Defendants”). These claims are

EXHIBIT 6 TO LOFTON DECL.

Page 5

1 asserted by Named Plaintiff in her capacity as class action representative on behalf of all similarly
2 situated persons (the “Class”).

3 2. The Class consists of all individuals who paid Defendants for spring and/or
4 summer camps in 2019-2020 that were canceled by Defendants without refund.

5 3. The Class Period is designated as the period from 3 years prior to the filing of this
6 action through the trial date.

7 4. As used herein, “Plaintiffs” means Named Plaintiff and all members of the Class.

8 5. Plaintiffs have been injured by Defendants’ failure to provide spring and/or
9 summer camps and related services and/or failure to provide refunds upon cancelation of said
10 camps.
11

12 6. For these injuries, Plaintiffs seek damages and penalties, or alternatively restitution,
13 as well as interest, attorney’s fees, costs, and injunctive relief.

14 7. All violations of law described herein are ongoing, are continuing at present, and
15 will continue unless and until enjoined by this Court.

16 8. Defendants knowingly and intentionally engaged in the conduct complained of
17 herein, and Defendants acted as alleged herein in willful and knowing violation of the law.

18 **II. PARTIES**

19 9. Defendant Galileo Learning, LLC is a California limited liability company,
20 registered to and conducting business in California, with its primary place of business in Oakland,
21 California. Galileo Learning, LLC operates spring and summer camps in California, Illinois, and
22 Colorado, including approximately 71 camps in California.

23 10. Defendant Galileo Learning Franchising LLC is a California limited liability
24 company, registered to and conducting business in California, with its primary place of business in
25
26
27
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1 Oakland, California. Plaintiffs are informed and believe and on that basis allege that Galileo
2 Learning Franchising LLC operates spring and summer camps in California, Illinois, and
3 Colorado, including approximately 71 camps in California.
4

5 11. Defendant Glen Tripp is the founder and principal of Galileo Learning, LLC and
6 Galileo Learning Franchising LLC. Plaintiffs are informed and believe and on that basis allege
7 that Mr. Tripp is a resident of California and is directly responsible for the wrongful acts alleged
8 herein.

9 12. Plaintiff Nanette Kearney is a resident of Walnut Creek, California. In February
10 2020, Ms. Kearney purchased two summer camp sessions for her child. At the time she purchased
11 the sessions, the agreement with Defendants provided that she could cancel and receive a refund,
12 subject only to a cancellation fee. When Defendants cancelled all their camps for 2020, Ms.
13 Kearney sought a refund and was denied.
14

15 13. Plaintiffs are ignorant of the true names or capacities of defendants named herein as
16 Does 1 through 10, inclusive, and therefore sue these defendants by these fictitious names. When
17 the names and capacities of these defendants are ascertained, Plaintiffs will amend this complaint
18 accordingly. Each of the defendants named herein or designated as a Doe is liable or in some
19 manner legally responsible for the events alleged herein.
20
21

22 **III. JURISDICTION AND VENUE**

23 14. This Court has subject matter jurisdiction of this action under the Class Action
24 Fairness Act, 28 U.S.C. § 1332, in that the estimated damages involved in the claims asserted
25 herein will exceed \$5,000,000, and the Class members reside in different states.

26 15. This Court has personal jurisdiction over Defendants because Defendants either
27 reside in California or have their principal place of business in California and conduct the majority
28

1 of their business in California.

2 16. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a
3 substantial part of the events or omissions giving rise to the claims asserted herein occurred in this
4 District. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because
5 Defendants are subject to this Court's personal jurisdiction with respect to this civil action and
6 therefore resides in this District pursuant to 28 U.S.C. § 1391(c)(2). Venue is also proper in this
7 Court pursuant to 28 U.S.C. § 1391(d) because Defendants have sufficient contacts in this District
8 to establish personal jurisdiction in this District.
9

10 **IV. GENERAL ALLEGATIONS**

11
12 17. During the Class Period, Defendants operated approximately 83 spring and/or
13 summer camps – approximately 71 in California, 11 in Illinois, and 1 in Colorado – with each
14 camp having multiple sessions over the course of the spring and/or summer.

15
16 18. Defendants offered those camps to the public via their website, email marketing,
17 and otherwise. Pursuant to the terms of the agreement, anyone who purchased a camp session
18 could cancel for a refund. The exact terms appear to be inconsistent, with some materials stating
19 that reservations could be canceled at will, while other materials referred to a nominal cancellation
20 fee.
21

22 19. In 2019 and 2020, Plaintiff and the Class purchased numerous camps sessions for
23 2020. On or around March 13, 2020, Glen Tripp, on behalf of Defendants, appeared on TV and
24 represented that despite the COVID-19 pandemic, Defendants' camps would continue to be
25 available and encouraged families to apply for scholarships. Similarly, in March and early April,
26 representatives of Defendants advised customers who called that the cancellation policy remained
27 in effect.
28

1 20. In reliance on those representations, Plaintiffs did not cancel their camp sessions
2 and did not request a refund, and in some cases, were induced to purchase camp sessions for the
3 first time.

4 21. By mid-April 2020, the COVID-19 pandemic had grown exponentially worse, and
5 Defendants made the decision to cancel all 2020 camp sessions. Defendants have refused and
6 continue to refuse to provide any refunds. Instead, Defendants have offered credit towards future
7 camps.
8

9 22. While the decision to cancel was probably prudent, and due to factors that were not
10 the fault of any party, Defendants cannot simply retain Plaintiffs' payments while not providing
11 the agreed services.
12

13 23. The offer of credit is inadequate, as many families are in dire straights themselves
14 due to the coronavirus, and have used their childcare budget to pay for these camps. A credit
15 towards a future camp in 2021 or later does nothing to address their immediate need for childcare.
16 Other families may not be in a position to use that credit in a later year.
17

18 **V. CLASS ACTION ALLEGATIONS**

19 24. Named Plaintiff brings this action on behalf of herself and as a class action
20 pursuant to Federal Rule of Civil Procedure 23.
21

22 25. The class that Named Plaintiff seeks to represent is defined as follows: All
23 individuals who paid Defendants for spring and/or summer camps that were canceled by
24 Defendants without refund during the Class Period.

25 26. The claims alleged by Named Plaintiff may properly be maintained as a class
26 action pursuant to Federal Rule of Civil Procedure 23 because the requirements of that Rule are
27 satisfied with respect to those claims.
28

1 **A. Numerosity**

2 27. The total number of members of the Class is believed to be in excess of 20,000
3 persons. Accordingly, joinder of all class members would be impractical.

4 **B. Commonality**

5 28. There are numerous questions of law and fact common to the Class. Such
6 questions include, but are not limited to, the following:
7

8 (1) Whether Defendants, as a matter of common policy, breached their
9 contracts with Class members to allow cancelations for a refund;

10 (2) Whether Defendants negligently misrepresented that their camps would be
11 available despite the COVID-19 pandemic and the imminent cancelation of those camps by
12 Defendants; and

13 (3) Whether Defendants' actions as described herein constitute violations of
14 California Business and Professions Code §17200, *et seq.*

15 **C. Typicality**

16 29. Named Plaintiff's claims are typical of the claims of the Class. Named Plaintiff
17 and all members of the proposed Class are or were subjected to the same policies and procedures,
18 and their claims arise out of Defendants' common course of conduct and are based on the same
19 legal and remedial theories.
20

21 **D. Adequacy of Representation**

22 30. Named Plaintiff will fairly and adequately protect the interests of the Class.
23 Named Plaintiff has retained competent and capable attorneys who are experienced trial lawyers
24 with significant experience in complex and class action litigation, including employment
25 litigation. Named Plaintiff and her counsel are committed to prosecuting this action vigorously on
26 behalf of the Class and have the financial resources to do so. Neither Named Plaintiff nor her
27 counsel have interests that are contrary to or that conflict with those of the Class.
28

1 **E. Propriety of Certification under FRCP 23(b)(3)**

2 31. Questions of law and fact common to the Class, including the common question
3 described above, predominate over any questions affecting only individual members. Adjudication
4 of these common issues in a single action has important and desirable advantages of judicial
5 economy. Moreover, there are no unusual difficulties likely to be encountered in the management
6 of this case as a class action. The identity of each member of the proposed Class can be
7 established by records maintained by Defendants.
8

9 32. The class action mechanism is superior to any alternatives that might exist for the
10 fair and efficient adjudication of these claims. Prosecution of this case as a class action will
11 permit a large number of injured parties to pursue their common claims in a single forum, at the
12 same time, which will promote efficiency, prevent duplication of evidence and efforts, and
13 preserve judicial resources and the resources of the parties. A class action will avoid potentially
14 inconsistent results in numerous individual trials or other judicial actions. Further, class treatment
15 is the only realistic means by which Plaintiffs – many of whom are without substantial resources –
16 can effectively litigate against a large, well-represented corporate defendant like Defendants. In
17 the absence of a class action, Defendants will be unjustly enriched by the retention of the fruits
18 and benefits of its unlawful conduct. A multiplicity of repetitive individual actions would also
19 place an enormous burden on the courts.
20
21

22 **F. Propriety of Certification under FRCP 23(b)(2)**

23 33. Class certification is appropriate under FRCP 23(b)(2) because Defendants have
24 acted and/or refused to act, as alleged herein, on grounds generally applicable to the Class, making
25 appropriate declaratory and injunctive relief with respect to the Class as a whole. The Class
26 members are entitled to injunctive relief to end Defendants’ common, uniform, and unfair policies
27 and practices as described herein.
28

1 **VI. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **(Breach of Contract)**

4 34. Plaintiffs incorporate the allegations above as though they were fully set forth
5 herein.
6

7 35. In the time period from 2019 through the present, Plaintiffs entered various
8 agreements with Defendants pursuant to which Plaintiffs paid consideration to Defendants in
9 exchange for Defendants providing summer camp sessions to Plaintiffs (or, primarily, their
10 children) in the spring and summer of 2020. The agreements contained a material term that the
11 agreements could be canceled for a refund, either at will or subject only to a nominal cancelation
12 fee.
13

14 36. In or around April 2020, Defendants breached those agreements by canceling the
15 camps due to the COVID-19 pandemic, but refusing to give any refunds to Plaintiffs.
16

17 37. Plaintiffs performed all required of them under the agreements, save such
18 performance as has been waived or excused by Defendants' own conduct.

19 38. As a result of Defendants' breach, Plaintiffs have been damaged in an amount to be
20 proved at trial.
21

22 **SECOND CAUSE OF ACTION**

23 **(Negligent Misrepresentation)**

24 39. Plaintiffs incorporate the allegations above as though they were fully set forth
25 herein.
26

27 40. As set forth above, on or around March 13, 2020, Glen Tripp, on behalf of
28 Defendants, appeared on FOX 2/KTVU and stated that Defendants' camps were "full speed
ahead" and encouraged families to apply for scholarships. Additionally, in March and early April,

1 some Class members called Defendants to inquire about the status of the camps and possible
2 cancellation, and was assured that the cancellation policy remained in effect

3 41. When Mr. Tripp and Defendants' representatives made those representations on
4 behalf of Defendants, they had no reasonable grounds for believing that the representations were
5 true, and Mr. Tripp and Defendants' representatives made the representations with the intent to
6 induce Plaintiffs to take the actions herein alleged.
7

8 42. As a proximate result of the negligent misrepresentations of Mr. Tripp and
9 Defendants' representatives on behalf of Defendants, Plaintiffs were induced to act as described
10 above, by reason of which they have been damaged in an amount to be proved at trial.
11

12 **THIRD CAUSE OF ACTION**

13 **(Restitution/Unfair Business Practices, Violation of California Bus. & Prof. Code §17200)**

14 43. Plaintiff incorporates the allegations above as though they were fully set forth
15 herein.

16 44. Defendants' conduct, as set forth above, violates the California Unfair Competition
17 Law, Bus. & Prof. Code §17200, *et seq.* ("UCL"). Defendants' conduct constitutes unlawful,
18 unfair, or fraudulent business acts or practices in that they promoted their camps, accepted
19 payment for those camps in advance, continued to reassure Plaintiffs and the general public that
20 those camps would operate, then abruptly canceled those camps and refused to provide refunds.
21

22 45. As a result of Defendants' unlawful, unfair, and fraudulent conduct, Plaintiffs have
23 suffered injury in fact and have lost money, while Defendants have been enriched by the retention
24 of those funds that are the property of Plaintiffs.
25

26 46. Plaintiffs are entitled to restitution of all amounts paid to Defendants for the
27 services not provided to them and which, through the unfair and unlawful practices alleged herein,
28 Defendants have not paid to Plaintiffs.

EXHIBIT 6 TO LOFTON DECL.

Page 13

1 47. Plaintiffs are informed and believe, and on that basis allege, that Defendants
2 continue to engage in the unlawful, unfair, and fraudulent practices as alleged herein, and that they
3 will continue to do so unless enjoined by this court.

4 48. Pursuant to Bus. & Prof. Code §17203, Plaintiffs seek declaratory and injunctive
5 relief for Defendants’ unlawful, unfair, and fraudulent conduct, and to recover restitution.
6

7 **FOURTH CAUSE OF ACTION**

8 **(Rescission)**

9 49. Plaintiff incorporates the allegations above as though they were fully set forth
10 herein.
11

12 50. As set forth above, in the time period from 2019 through the present, Plaintiffs
13 entered various agreements with Defendants pursuant to which Plaintiffs paid consideration to
14 Defendants in exchange for Defendants providing summer camp sessions to Plaintiffs (or,
15 primarily, their children) in the spring and summer of 2020. The agreements contained a material
16 term that the agreements could be canceled for a refund, either at will or subject only to a nominal
17 cancelation fee.
18

19 51. In or around April 2020, Defendants breached those agreements by canceling the
20 camps, but refusing to give any refunds to Plaintiffs.
21

22 52. Plaintiffs sought to rescind the agreements and recover their payments to
23 Defendants, but Defendants have refused to either perform or to refund any consideration.
24

25 53. Plaintiffs have no adequate remedy at law other than rescission.
26

27 ///

28 ///

///

1 WHEREFORE, Plaintiffs pray for relief against Defendants as follows:

2 1. That the Court certify this action as a class action on behalf of the Class pursuant to
3 Federal Rule of Civil Procedure 23;

4 2. That the Court designate Named Plaintiffs as representative of the Class;

5 3. That the Court appoint the law firm Aiman-Smith & Marcy, P.C. as class counsel;

6 4. That Defendants be ordered to pay all amounts owed to Plaintiffs and the Class
7 arising out of the actions complained of herein in an amount according to proof at trial, plus
8 penalties, interest, and costs;

9 5. That Defendants, at their own expense, be ordered to provide full and adequate
10 notice as required in class actions to all members of the Class;

11 6. That in addition to any constitutionally sufficient notice that is or might otherwise
12 be required in a class action, that Defendants be ordered to pay for all necessary efforts to actually
13 locate members of Plaintiff Class;

14 7. That Defendants be ordered to make full restitution of all amounts received and/or
15 retained and/or not paid to Plaintiffs by Defendants pursuant to California Business and
16 Professions Code § 17200, et seq.;

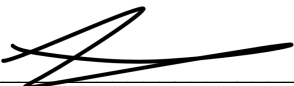
17 8. For damages according to proof;

18 9. For costs of suit herein incurred, including attorneys' fees; and

19 10. For such further relief as the court deems just and proper.

20 DATED: April 23, 2020

21 **AIMAN-SMITH & MARCY, P.C.**

22 
23 _____
24 John A. Lofton, Esq.
25 Attorney for Plaintiff Nanette Kearney

26 **EXHIBIT 6 TO LOFTON DECL.**

27 **Page 15**


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DEMAND FOR JURY TRIAL

Plaintiff, on behalf of herself and the Class, hereby demands a jury on all causes of action and claims with respect to which Plaintiff has a right to jury trial.

DATED: April 23, 2020

AIMAN-SMITH & MARCY, P.C.



John A. Lofton, Esq.
Attorney for Plaintiff Nanette Kearney

Exhibit 7



Class Action Administration

Estimate E2020-11-E14
Galileo Settlement

Prepared on November 25, 2020
By Chris Longley – CEO | Atticus Administration LLC

Atticus Administration, LLC
Chris Longley - CEO
Galileo Settlement

Prepared for

John A. Lofton | Attorney
jal@asmlawyers.law
P: 510.817.2711

Aiman-Smith & Marcy
7677 Oakport Street, Suite 1150
Oakland, CA 94621

Estimate Summary

Atticus Services & Cost Description			
NOTICE MAILING-Mailed First Class			
<i>Noticing services eliminated from scope at client's request</i>			
PROJECT MANAGEMENT/ADMIN FEES/Technical	\$4,370		\$4,370
ELECTION processing (assume 3,269)	\$7,845		\$7,845
COMMUNICATIONS (5 yrs)	\$6,540		\$6,540
PO Box rental, opt-outs, objections	Included		
written correspondence	Included		
Website – interactive / input capability	Included		
800# with IVR + live operators (6 month)	Included		
FUND, Treasury & TAX (price per calendar year)	\$ 650	5 yrs	\$3,250
setup QSF, file annual QSF tax returns	included	\$650 x 5	
DISTRIBUTION (price per installment batch)	\$7,052	6 x	\$42,312
initial check distribution. includes printing, payment calculation & verification, bank fees	included	\$7,052 x 6	

Total Fees and Expenses **\$64,317**

PRINT NAME

ROLE

Client Signature

Date

By signing above, I understand and agree to the pricing terms and services to be provided by Atticus Administration for the stated project.

PLEASE NOTE: This estimate and pricing is for the services stated herein and is valid for 30 days from the date of the estimate. If the Settlement Agreement or other service scope document(s) require additional services not included or priced in this estimate, we will separately price those scope changes and submit an updated quote prior to proceeding with the work

Payment Terms:
 100% of Project Management, Election Form Processing and Communications – payable at Notice.
 100% of Fund, Tax and Distribution services payable at each Distribution (batch price)

Key Assumptions

- Class Size: **9,339 class members.**
- Quote excludes any Noticing services
- 4,195 Class Members have yet to make an Election. Quote anticipates 3,269 'cash-option' elections.
- Project management fees consist of a blended hourly rate OF \$105 for 40 hours of project time.
- Project time includes, data preparation & analysis, class communications, client reports and corresponding affidavits to the Court.
- Communications includes interactive website for posting court documents, filing election forms and updating Class Member information (5-year period). Communications also includes mail services, toll free 800# with IVR (live phone operators during Election Form filing period).
- Checks sent out only to 'cash option' Elections (anticipated at 3,269).
- Number of disbursement installments will be between six and nine (six is currently quoted). Variable pricing for individual installment batches is \$2.16 per Class Member.
- Costs assume check fees, postage, and return and re-mail fees, positive pay (Fraud Prevention), QSF management and QSF year end tax reporting.



Detailed Budget

DESCRIPTION	UNITS	SUBTOTAL
NOTICE MAILING-Mailed First Class	9,339 Class Mbrs	\$0
PROJECT MANAGEMENT	37 hrs	\$4,070
TECHNICAL SET UP (includes project kick-off)	3 hrs	\$300
ELECTION FORMS (assume 35%)	3,269 35%	\$7,845
COMMUNICATIONS - English		\$6,540
Telephone - Set-Up + Monthly Fee	6 months	\$266
Website - Interactive (election forms, update info & hosting)	5 yrs	\$3,956
Telephone - Messages/IVR	6 months	\$1,500
PO Box - Setup & Monthly Fee	5 yrs	\$231
Correspondence - Mail	280 3% of class	\$586
FUND/TAX (per ea calendar year)		\$650
Prepare/File Annual Fund Return (5 yrs)	6.00 Hrs	\$650
Mail 1099's	- postage	\$0
Print 1099's (not applicable)	-	\$0
DISTRIBUTION (initial distribution)		\$7,052
Payment Data - Calculate & Verify Payments	8.00 Hrs	\$832
Prepare Payment Reports- Treasury reconciliations	10.00 Hrs	\$1,083
Check - Print Set-up/Printing/Mail Prep (1st check run)	3,269 100%	\$1,672
Check Mailing Postage (will be one mailing)	3,269 100%	\$1,879
Check - Undeliverable/ NCOA/Return Mail Processing & Remail	163 5%	\$715
Bank Fees (Account Set-Up + Monthly Fee)	6 months	\$871

Operating Assumptions

- Class Size: **9,339 - class members.**
- Class Noticing services removed from scope at client's request.
- Mail checks returned undeliverable will be skip-traced and re-mailed where there are positive address hits.
- Election Form processing includes mailed-in and or website filed electronic submittals.
- Costs include declarations / affidavits, reporting Noticing results and related statistics pursuant to the Settlement Agreement.
- Communications includes an interactive website (for 5 years) along with toll-free 800# and IVR (for 6 months).
- Cost include Qualified Settlement Fund assuming 5 years (see batch pricing notes). Price includes positive pay fraud protection and tax reporting for both state and federal returns. All bank fees are included in pricing.
- Includes six Disbursement batches (more or less batches priced with batch pricing). Checks mailed to all Class Members that Elect the 'cash-option'.
- 1099 reporting for Class Member payments is not applicable.

Thank you



Chris Longley – CEO

[Redacted]
[Redacted]
[Redacted]

(Direct)
(Cell)

1250 Northland Drive Suite 240
Mendota Heights MN 55120

www.atticusadmin.com

1 **DECLARATION OF KEITH BENCHER**

2 I, Keith Bencher, declare as follows:

3 1. I am the chief financial officer of the debtor and debtor in possession Galileo
4 Learning, LLC (the “Debtor”).

5 2. I make this declaration in support of the *Joint Motion by Class Representatives and*
6 *Debtor for Order (1) Preliminarily Approving Class Settlement, (2) Appointing Settlement*
7 *Administrator, (3) Approving Form and Manner of Notice to Class Members, (4) Scheduling Final*
8 *Approval Hearing, and (5) Granting Related Relief* (the “Joint Motion”).³ Where the matters
9 stated in this declaration are statements of fact that are within my personal knowledge, they are
10 true and correct. Where the matters stated in this declaration are statements of fact that are not
11 within my personal knowledge, they are derived from my review of the Debtor’s business records,
12 are based upon information provided to me by the Debtor, or are based upon information and
13 belief, and are true and correct to the best of my knowledge, information, and belief. The Debtor’s
14 business records were (1) made at or near the time of the occurrence of the matters set forth
15 therein by, or from information transmitted by, a person having knowledge of those matters,
16 (2) kept in the course of the regularly conducted business activities of the Debtor, and (3) by
17 custom and practice of the Debtor, made as part of the Debtor’s regularly conducted business
18 activities. If called to testify, I could and would testify competently to the matters stated in this
19 declaration. I am duly authorized to make this declaration on behalf of the Debtor.

20 3. From late 2019 to early 2020, thousands of customers paid money to or for the
21 benefit of the Debtor as deposits for the Debtor’s in-person camp programs scheduled for 2020
22 and other goods and services offered in connection with those camp programs. However, due to
23 the Covid-19 pandemic and the governmental orders and directives in response thereto, in April
24 2020, the Debtor canceled all of its camp programs and was unable to, and did not, provide
25 refunds to any customers.

26 _____
27 ³ Unless otherwise separately defined herein, all capitalized terms used herein shall have the
28 same respective meanings assigned to them in the Joint Motion and accompanying memorandum.

1 4. On May 20, 2020, the Debtor was authorized to offer to its customers the
2 opportunity to resolve their pending claims against the Debtor in exchange for either (a) a credit
3 equal to 110% of the customer’s claim (the “110% Credit Option”) or (b) a coupon good for five
4 years entitling the customer to a 50% discount off of the Debtor’s camp programming (the “50%
5 Coupon Option”). The customers were not obligated to take either option, and could instead
6 continue to retain their monetary claim against the Debtor.

7 5. The Debtor estimates that, as of November 13, 2020, (1) 4,054 customers holding
8 claims totaling \$4,497,008.15 elected the 110% Credit Option, (2) 1,090 customers holding claims
9 totaling \$1,075,299.29 elected the 50% Coupon Option, and (3) 4,106 customers holding claims
10 totaling \$4,351,274.86 made no election and continue to retain their monetary claim against the
11 Debtor.

12 6. The Debtor believes that email is the best manner to reach the Customer Class
13 Members. Prior to this litigation, email was the Debtor’s primary means of communication with
14 the Customer Class Members, and the Debtor is informed and believes that we have current email
15 addresses for all Customer Class Members.

16 I declare under penalty of perjury under the laws of the United States of America that the
17 foregoing is true and correct and that this declaration was executed on December 2, 2020, at
18 Oakland, California.

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/s/ Keith Bencher
Keith Bencher

1 **DECLARATION OF DEAN G. RALLIS JR.**

2 I, Dean G. Rallis Jr., declare as follows:

3 1. I am an attorney licensed to practice before this Court and of counsel with the law
4 firm Hahn & Hahn, LLC (“Hahn & Hahn”), co-counsel appointed by the Court, along with
5 Aiman-Smith & Marcy, P.C. (“Aiman-Smith & Marcy”), for the class of individuals certified
6 pursuant to the Court’s order of November 9, 2020 (the “Customer Class,” and the members of the
7 Customer Class, the “Customer Class Members”) in the chapter 11 case of the debtor and debtor
8 in possession Galileo Learning, LLC (the “Debtor”).

9 2. I make this declaration in support of the *Joint Motion by Class Representatives and*
10 *Debtor for Order (1) Preliminarily Approving Class Settlement, (2) Appointing Settlement*
11 *Administrator, (3) Approving Form and Manner of Notice to Class Members, (4) Scheduling Final*
12 *Approval Hearing, and (5) Granting Related Relief* (the “Joint Motion”).⁴ Where the matters
13 stated in this declaration are statements of fact that are within my personal knowledge, they are
14 true and correct. Where the matters stated in this declaration are statements of fact that are not
15 within my personal knowledge, they are derived from information provided to me by
16 Hahn & Hahn or by the class representatives Nanette Kearney, Krister Johnson, and Sandra
17 Shorago (collectively, the “Customer Class Representatives”) or based upon information and
18 belief and are true and correct to the best of my knowledge, information, and belief. If called to
19 testify, I could and would, without waiver of any applicable privilege, testify competently to the
20 matters stated in this declaration. I am duly authorized to make this declaration on behalf of Hahn
21 & Hahn.

22 3. Hahn & Hahn’s representation of the Customer Class Representatives, and now the
23 Customer Class, has required the firm to forego other work it would have otherwise undertaken.
24 The firm has devoted a substantial amount of hours to this matter, often at the expense of other
25 cases due to the urgency of the various filings and negotiations here. The firm anticipates

26 _____
27 ⁴ Unless otherwise separately defined herein, all capitalized terms used herein shall have the
28 same respective meanings assigned to them in the Joint Motion and accompanying memorandum.

1 additional work will be required in this matter for the next five years in connection with the
2 administration of the Settlement, essentially until the reorganized Debtor has completed all
3 payment obligations under the Settlement.

4 4. Hahn & Hahn and Aiman-Smith & Marcy both have written fee agreements with
5 the Customer Class Representatives and with each other, which provide for the Class Counsel Fee
6 Award to be equitably split between the two firms.

7 5. However, an issue may arise with respect to the fees awarded to the Class Counsel
8 or how those fees are divided between the Class Counsel, as a third law firm, Anglin Flewelling &
9 Rasmussen LLP (formerly Anglin Flewelling Rasmussen Campbell & Trytten LLP) (“AFRCT”),
10 has claimed that it is entitled to a portion of those fees.

11 6. Matthew D. Pham and I are the two attorneys from Hahn & Hahn who have been
12 working on this matter. We were previously employed by AFRCT until May 15, 2020. During a
13 brief, roughly one-week period ending on May 15, 2020, Mr. Pham and I performed some work
14 for Ms. Kearney in connection with this matter. However, AFRCT did not have any kind of
15 engagement letter or written fee agreement with Ms. Kearney.

16 7. Effective on May 16, 2020, Mr. Pham and I were employed by Hahn & Hahn.
17 Ms. Kearney subsequently entered into a written contingency-fee agreement with Hahn & Hahn
18 after expressing a desire to work with me specifically. No inappropriate solicitation occurred.

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1 8. AFRCT has since made a demand that it be paid 50% of any fees awarded in this
2 matter. And despite AFRCT's lack of a written fee agreement with any of the Customer Class
3 Representatives, the Customer Class Representatives have no issue with awarding reasonable fees
4 to AFRCT on a quantum meruit basis for the number of hours worked on this matter by any
5 attorneys at AFRCT, at their respectively hourly rates, up until May 15, 2020. It is unclear
6 whether this proposal is acceptable to AFRCT.

7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct and that this declaration was executed on December 2, 2020, at
9 Pasadena, California.

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11 _____
12 /s/ Dean G. Rallis Jr.
13 Dean G. Rallis Jr.
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