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14 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF ALAMEDA

16 ANNETTE KIELHURN, JOSE BRIDGE, AND
PIROOZ HAGHIGHI, individually and on behalf
17 of all others similarly situated,

18 Plaintiffs,

19 vs.

20 VISTAR CORPORATION, a Colorado
Corporation; PERFORMANCE FOOD GROUP,
21 INC, a Colorado Corporation, dba ROMA
FOOD; and DOES 2 through 10, inclusive,
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23 Defendants.
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Case No.: RG10529045

CLASS ACTION

**JOINT STIPULATION OF CLASS ACTION
SETTLEMENT AND RELEASE**

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I. INTRODUCTION

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1. This Joint Stipulation of Class Action Settlement and Release (hereinafter "Settlement Agreement") is made and entered into by and between the following parties: Plaintiffs Annette Kielhurn, Jose Bridge, and Pirooz Haghighi, individually and on behalf of all others similarly situated ("Plaintiffs"), Defendants Vistar Corporation and Performance Food Group, Inc. (collectively "Defendants" or "Roma"), and their respective counsel of record. This Settlement Agreement is subject to the terms and conditions set forth below and to the approval of the Court. This Settlement Agreement supersedes any and all prior memoranda of understanding and accurately sets forth the Parties' class action settlement to resolve the class claims for alleged failure to reimburse business expenses and related Unfair Competition Law violations as averred in the Second Amended Complaint on file in this action.

II. DEFINITIONS

2. Plaintiffs and Defendants herein are collectively referred to as "the Parties."
3. "Court" means the Superior Court of the State of California, County of Alameda.
4. The "Action" means the lawsuit captioned above.
5. "Area Managers," "AMs," "Settlement Class," and "Settlement Class Members" mean all employees who worked in California for Defendants during the "Class Period" (as defined below) in the position of Area Manager ("AM") and who do not opt out of the settlement or who opt out but rescind the opt out in a timely manner.
6. "Class Positions" means the Area Manager position in California during the Class Period.
7. "Class Period" means the period between either July 4, 2006 (as Plaintiffs contend) or August 3, 2006 (as Defendants contend), depending on the Court's ruling as to the appropriate commencement of the class period, and July 31, 2010.
8. "Plaintiffs' Counsel" means the law firms of Hinton Alfert Sumner & Kaufmann of Walnut Creek, California, and Goldstein, Demchak, Baller, Borgen & Dardarian of Oakland, California.
9. "Class Representatives" means Plaintiffs Kielhurn, Bridge, and Haghighi, who have been designated by Plaintiffs' Counsel as Class Representatives for the Settlement Class.

1 witnesses and reviewing hundreds or thousands of documents. Plaintiffs' Counsel has also served
2 extensive written discovery on each of the Defendants, including form interrogatories, special
3 interrogatories, requests for production of documents, and a request for admissions. Defendants have
4 produced documents and responses to this discovery, which Plaintiffs' Counsel has reviewed and
5 analyzed. Plaintiffs' Counsel deposed for two days Defendants' "person most qualified" as to the key
6 topics at issue for class certification and on the merits. Each of the three Plaintiffs responded to
7 Defendants' form interrogatories and requests for production and were deposed by Defendants.

8 17. As pre-class certification discovery was coming to a close, the parties discussed
9 settlement negotiations. Those discussions led to an agreement to mediation on March 24, 2011, before
10 the Honorable Judge James Warren (Ret.) with JAMS, San Francisco.

11 18. In preparation for mediation, Roma produced to Plaintiffs' Counsel data it had collected
12 from the AMs that showed how many miles each AM had reported driving while carrying out his/her
13 duties during the period after Roma instituted its Runzheimer expense-reimbursement policy. This data
14 was then used to project Defendants' potential exposure on the mileage component of the expense
15 reimbursement claim.

16 19. After a full day of arms-length negotiation on March 24, 2011, assisted by Judge
17 Warren, the parties agreed to the principle settlement terms set forth in a mediator's proposal. This was
18 followed by further negotiations over the detailed terms of the settlement, including a follow-up
19 telephonic session with Judge Warren regarding the parties' dispute over the tax treatment of settlement
20 payments and Defendants' responsibility for payment of employer-side payroll taxes. The material
21 terms of the settlement were reduced to a Memorandum of Understanding, which was executed during
22 the week of April 18, 2011.

23 20. It is the desire of the Parties to fully, finally, and forever settle, compromise, and
24 discharge all disputes and claims against the Defendants arising from or related to the Action.

25 21. It is the intention of the Parties that this Settlement Agreement shall constitute a full and
26 complete settlement and release of the claims averred in the Action. This release includes in its effect a
27 release of all the Defendants.

- 1 ii. The Settlement Agreement shall not be admissible in any judicial,
2 administrative, or arbitral proceeding for any purpose or with respect to
3 any issue, substantive or procedural;
- 4 iii. The preliminary and conditional certification of the class shall become
5 null and void, and the fact of certification shall not be admissible in any
6 judicial, administrative, or arbitral proceeding for any purpose or with
7 respect to any issue, substantive or procedural; and
- 8 iv. None of the parties to this Settlement Agreement will be deemed to have
9 waived any claims, objections, defenses, or arguments with respect to the
10 issue of class certification or the merits of Plaintiffs' claims.

11 d. Settlement Payments.

- 12 i. Defendants shall pay to Plaintiffs and the Settlement Class under this
13 Settlement Agreement the total sum of one million dollars (\$1,000,000)
14 (the "Settlement Fund"), which covers all payments, fees and costs
15 identified in this Settlement Agreement, including service awards to the
16 Class Representatives, costs of settlement administration, and attorneys'
17 fees and out-of-pocket litigation expenses, as provided below. In addition
18 to the Settlement Fund, and subject to the provisions of paragraph 39,
19 Defendants will pay the employer's share of any payroll taxes owing on
20 any payments subject to payroll taxes and made from the Settlement
21 Fund.
- 22 ii. From the Settlement Fund, Defendants have agreed to pay, subject to
23 Court approval, up to twenty thousand dollars (\$20,000) to resolve
24 Plaintiffs' counsel's claims for out-of-pocket litigation expenses, and up
25 to twenty-five percent (25%) of the Settlement Fund (two hundred and
26 fifty thousand dollars (\$250,000) to resolve Plaintiffs' claims for
27 attorneys' fees. Plaintiffs' Counsel will apply to the Court for, and
28 Defendants do not oppose, approval of payment of those amounts.

- 1 iii. The costs of settlement administration, currently estimated at \$7,000, will
2 also be paid from the Settlement Fund.
- 3 iv. From the Settlement Fund, Defendants have agreed to pay, subject to
4 Court approval, Plaintiff service awards of twenty thousand (\$20,000) to
5 Annette Kielhurn and \$10,000 each to Jose Bridge and Piere Haghighi,
6 for a total of \$40,000. Plaintiffs' Counsel will apply to the Court for, and
7 Defendants do not oppose, approval of payment of these amounts.
- 8 v. The Settlement Fund will be deposited to the Settlement Administrator-
9 established interest-bearing account on or before September 15, 2011 or
10 within 10 days of the final approval of the Settlement, whichever is
11 earlier.
- 12 vi. The Settlement Administrator will administer the notice, challenge, opt
13 out and objection to settlement procedures, informing Class Members of
14 their rights in regard to the proposed settlement as specified below; will
15 disburse monies from the Settlement Fund as and when authorized in this
16 Settlement Agreement and by order of the Court; will file and issue any
17 necessary tax reporting documents; and will inform the Parties and the
18 Court of its fulfillment of the duties imposed by this Settlement
19 Agreement. The costs of the Settlement Administrator shall be paid from
20 the Settlement Fund.
- 21 vii. The "Net Settlement Fund" is the balance of the Settlement Fund,
22 including interest accruing to it, after payments have been made for
23 attorneys' fees and litigation expenses, settlement administration costs,
24 and Class Representatives' service payments. The Net Settlement Fund
25 shall be used to pay all amounts due to Settlement Class Members based
26 on their weeks worked in Class Positions; and all monies in the Net
27 Settlement Fund shall be distributed for that purpose.
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1 viii. The Settlement Administrator shall, after final approval of the Settlement
2 Agreement by the Court, pay each Settlement Class Member a pro rata
3 portion of the Net Settlement Fund based on the number of weeks he or
4 she worked in Class Positions. That pro rata portion shall be determined
5 by dividing the total number of weeks worked in Class Positions during
6 the Class Period by all members of the Settlement Class (excluding
7 periods of leave) into the amount of the Net Settlement Fund to arrive at
8 an amount per week; then, for each Settlement Class Member,
9 multiplying that amount times the number of weeks the Settlement
10 Administrator determines that such Settlement Class Member was
11 employed during the Class Period as an AM.

12 ix. The number of weeks worked by Settlement Class Members in the Class
13 positions shall be determined by the Settlement Administrator based on
14 employment records to be provided by Defendants as specified below.
15 Class Members shall have the right to challenge the number of weeks
16 worked reflected in Defendants' records. The Settlement Administrator
17 shall make final and non-appealable determinations as to any such
18 challenges, and shall revise Class Members' weeks worked numbers
19 consistent with its determinations.

20 x. Settlement Class Members entitled to recover under this Settlement
21 Agreement will include only those individuals who are identified on
22 Defendants' records as having worked as an AM in California during the
23 Class Period, or those additional individuals who obtain a determination
24 by the Settlement Administrator that they worked in that capacity
25 notwithstanding the absence of Defendants' records confirming such
26 employment.

27 xi. Except for the service awards to be made to the Class Representatives, all
28 settlement payments under this Settlement Agreement are for business

1 expenses and interest. The individual settlement payments will be
2 allocated as follows: 70% taxable payroll items reported on a form W-2
3 (in the nature of payments from a non-accountable business expense
4 reimbursement plan), and 30% interest reported on a form 1099-INT (not
5 subject to withholdings or payroll taxes).

6 xii. The Settlement Administrator shall make settlement payments due to
7 Settlement Class Members under this Agreement, as well as service
8 payments to the Plaintiffs and attorneys' fees and expenses awarded to
9 Plaintiffs' Counsel by sending such payments by mail or other reliable
10 means to the respective recipients as specified below.

11 e. Objections. Settlement Class Members who wish to object to this settlement
12 must do so in writing, or in any other manner ordered by the Court. Written
13 objections must state the basis of the objection and be mailed to the Settlement
14 Administrator post marked no later than 45 days after mailing of the class notice
15 or as otherwise ordered by the Court. Settlement Class Members shall be
16 permitted to withdraw their objections in writing by submitting a withdrawal
17 statement to the Settlement Administrator not later than one (1) business day
18 prior to the Court's final approval hearing, orally at the final approval hearing, or
19 as otherwise ordered by the Court.

20 f. Opt Outs. Settlement Class Members who wish to opt out of this settlement shall
21 notify the Settlement Administrator in writing that they want to exclude
22 themselves (i.e., opt out) of the Settlement. The opt out statements sent to the
23 Settlement Administrator must be post marked no later than 45 days after mailing
24 of the class notice, or as otherwise ordered by the Court. Settlement Class
25 Members shall be permitted to rescind their opt out statements in writing by
26 submitting a rescission statement to the Settlement Administrator not later than
27 one (1) business day prior to the Court's final approval hearing, orally at the final
28 approval hearing, or as otherwise ordered by the Court.

- 1 g. Release. It is agreed by and among the Parties that the Action and any claims,
2 damages, or causes of action arising out of the disputes that are the subject of said
3 Action, are by this Settlement Agreement settled and compromised as between
4 the Plaintiffs, Settlement Class Members and Defendants as set forth in Section
5 IX below, subject to the terms and conditions set forth in this Settlement
6 Agreement and the approval of the Superior Court of Alameda County.
- 7 h. Entry of Judgment. Upon final approval of the Settlement, the parties shall seek
8 entry of judgment pursuant to Rule 3.769 of the California Rules of Court and the
9 terms of this Settlement. Such judgment shall provide that the Court retains
10 jurisdiction over the Parties to enforce the terms of the Court’s final orders and
11 judgment thereon, as is required by Rule 3.769(h).

12 **VI. DUTIES OF SETTLEMENT ADMINISTRATOR**

13 24. The Parties have agreed to appoint Simpluris, Inc (“Simpluris”) to perform the duties of
14 Settlement Administrator. In the event the Court does not approve the appointment of Simpluris, the
15 parties will meet and confer to select an alternate Settlement Administrator.

16 25. The Settlement Administrator shall be responsible for and the Settlement Fund shall
17 cover: (a) preparing and mailing notices of settlement and of estimated settlement payment amounts,
18 and instructions to opt out of or object to the Settlement, to all Settlement Class Members, including
19 taking appropriate steps to trace and locate any individual Settlement Class Members whose address or
20 contact information as provided to the Settlement Administrator is inaccurate or outdated; (b) receiving
21 and independently reviewing and resolving any challenges, and associated documentation, from
22 Settlement Class Members regarding the number of weeks they worked as AMs during the Class Period;
23 (c) receiving and serving on Plaintiffs’ Counsel and Defendants’ Counsel, and the Court, opt out
24 statements, copies of written objections, and any withdrawal and rescission statements; (d) establishing
25 a toll free telephone line and responding to inquiries and requests for information or assistance from
26 Settlement Class Members; (e) maintaining the Settlement Fund account in an interest bearing account;
27 (f) determining and paying the final amounts due to be paid to Settlement Class Members after
28 adjustments (i) for funds otherwise due to Settlement Class Members who opt out of the settlement, (ii)

1 for funds that cannot be distributed due to the inability to locate Settlement Class Members and (iii)
2 resulting from the resolution of all challenges; (g) determining the validity of any late disputes or claims
3 by previously unidentified class members, and making payment for any valid late claims or disputes,
4 should there be funds available, on a pro rata basis as provided for below; (h) paying any residual funds
5 from uncashed checks to previously unidentified class members, Defendants, or a cy pres beneficiary as
6 provided for below; (i) reporting to Plaintiffs' Counsel, Defendants' Counsel, and the Court regarding
7 the completion of the tasks identified in this paragraph; and (j) carrying out other related tasks including
8 the proper maintenance of undisbursed Settlement Fund amounts in an interest bearing account and
9 reporting required for that account, in accordance with the terms of this Settlement Agreement.

10 26. All disputes relating to the Settlement Administrator's ability and need to perform its
11 duties shall be referred to the Court, if necessary, which will have continuing jurisdiction over the terms
12 and conditions of this Settlement Agreement, until all payments and obligations contemplated by the
13 Settlement Agreement have been fully executed.

14 **VII. NOTICE TO THE SETTLEMENT CLASS MEMBERS**

15 27. Upon approval by the Court, the Settlement Administrator shall send a Notice of
16 Settlement and Opportunity to Opt Out or Object to Settlement ("Notice of Settlement") in the form
17 attached hereto as Exhibit "A" to all Settlement Class Members, by first class mail, within 15 days of
18 the Court granting preliminary approval of the settlement and the form of the Notice. Attached to the
19 Notice of Settlement will be an Estimated Payment Form and instructions ("Share Form"), in the form
20 attached hereto as Exhibit "B." The Notice of Settlement and Share Form shall be sent in an envelope
21 that shall include the following return address:

22
23 Roma Area Manager Class Action Administrator
24 c/o [Name of Settlement Administrator]
[Address of Settlement Administrator]

25 28. By no later than April 30, 2011, Defendants shall provide to the Settlement
26 Administrator and Plaintiffs' Counsel information in electronic format regarding all Settlement Class
27 Members, including last known addresses, e-mail address, and telephone numbers, Social Security
28

1 numbers, and dates worked in Class Positions, with specification of any periods of leave of absence
2 used in calculating workweeks during the Class Period.

3 29. Prior to mailing the Notice of Settlement and Share Forms, the Settlement Administrator
4 will update the addresses for the Settlement Class Members using the National Change of Address
5 database and other available resources deemed suitable by the Settlement Administrator. Any returned
6 envelopes from the initial mailing with forwarding addresses will be used by the Settlement
7 Administrator to locate missing Settlement Class Members and re-mail the Notice to the correct or
8 updated address. The Settlement Administrator will use all appropriate tracing methods to ensure that
9 the Notice of Settlement packets are received by all Settlement Class Members.

10 30. Plaintiffs' Counsel shall have the right to take appropriate steps to locate and assist
11 Settlement Class Members during the notice and distribution process.

12
13 **VIII. CALCULATION OF SETTLEMENT PAYMENTS AND DISTRIBUTION**
14 **OF NET SETTLEMENT FUND**

15 31. Each Share Form mailed to a Settlement Class Member will identify the number of
16 compensable weeks that Defendants' records indicate the individual worked as an AM during the Class
17 Period and estimate each Settlement Class Member's pro rata share of the Net Settlement Fund.

18 32. Settlement Class Members will have the right to challenge only the number of weeks
19 worked as shown on the Share Form. Challenges to the number of weeks worked listed on Share Forms
20 shall be sent directly to the Settlement Administrator at the address indicated on the Form. No
21 challenge to the number of weeks worked will be accepted unless post marked within 45 days of the
22 date of mailing of class notice. Additional time may be provided to a Settlement Class Member for
23 good cause and within an amount of time determined by the Settlement Administrator that will not
24 delay the distribution of settlement payments to other Settlement Class Members. The Settlement
25 Administrator will inform Plaintiffs' Counsel and Defendants' Counsel in writing of any timely filed
26 challenges.

27 33. Challenges will be resolved without hearing by the Settlement Administrator, who will
28 make a decision based on Defendants' records and any documents or other information presented by the

1 Class Member making the challenge, Plaintiffs' Counsel or Defendants. The Settlement
2 Administrator's determination is final and binding without a right of appeal.

3 34. The Settlement Administrator shall (a) date stamp all original opt out statements and
4 objections to the settlement that it receives; (b) serve copies on Plaintiffs' Counsel and Defendants'
5 Counsel no later than five (5) business days after receipt, or immediately if received within five (5)
6 business days of the Court's final approval hearing; and (c) file the date-stamped originals with the
7 Clerk of the Court no later than five (5) business days prior to the date of the Court's final approval
8 hearing or immediately if received less than five (5) business days prior to the date of the Court's final
9 approval hearing.

10 35. The Settlement Administrator shall also (a) date stamp all original rescission of opt out
11 and withdrawal of objection statements it receives; (b) serve copies on Plaintiffs' Counsel and
12 Defendants' Counsel no later than five (5) business days after receipt, or immediately if received within
13 (5) business days of the Court's final approval hearing; and (c) file the date-stamped originals with the
14 Clerk of the Court no later than five (5) business days prior to the date of the Court's final approval
15 hearing or immediately if received less than five (5) business days prior to the date of the Court's final
16 approval hearing.

17 36. The Settlement Administrator shall make the final calculation of payments from the Net
18 Settlement Fund to be distributed to the Settlement Class Members within 15 days after the entry of the
19 Court's order granting final approval of the settlement. Upon completion of its final calculation of
20 payments, and at least 10 days prior to the distribution of payments to Settlement Class Members from
21 the Net Settlement Fund, the Settlement Administrator shall provide Plaintiffs' Counsel and
22 Defendants' Counsel with a report listing the amount of all payments to be made to each Settlement
23 Class Member from the Net Settlement Fund. The Settlement Administrator also will supply Plaintiffs'
24 Counsel and Defendants' Counsel with an updated address list for the Settlement Class Members,
25 reflecting any corrections or updates made by the Settlement Administrator in the course of
26 administering notice to the Settlement Class and the receipt of any challenges and written objection and
27 opt out statements.

1 37. The Settlement Administrator shall be responsible for issuing and mailing the checks and
2 any necessary tax reporting forms to Settlement Class Members, Plaintiffs, Plaintiffs' Counsel, and
3 Defendants. The Settlement Administrator shall provide a declaration of payment, which will be filed
4 with the Court and served on Plaintiffs' Counsel and Defendants within 30 days of mailing the
5 payments to Settlement Class Members, Plaintiffs and Plaintiffs' Counsel.

6 38. Settlement Class Members who are sent payments shall have 120 calendar days after
7 mailing by the Settlement Administrator to cash their settlement checks. If such Settlement Class
8 Members do not cash their checks within that period, those checks will become void and a stop payment
9 will be placed on the uncashed checks. In such event, those Settlement Class Members will be deemed
10 to have waived irrevocably any right in or claim to a settlement payment; however, the Settlement
11 Administrator may, in its discretion and without appeal to or right of review by the Court, agree to make
12 full or partial payment of the amounts calculated to be due to such Settlement Class Members out of any
13 residual funds remaining from any and all uncashed checks. All amounts remaining from voided and
14 uncashed checks after deduction of costs, including stop payment charges, shall be placed in an interest-
15 bearing Reserve Fund to pay late or disputed claims. Whether or not such Settlement Class Members
16 receive any payment from the Reserve Fund, this Settlement Agreement shall be binding upon them.

17 39. Any amounts remaining in the Reserve Fund six (6) months after the Effective
18 Settlement Date will be paid as follows: up to \$30,000 will be used to offset Roma's payment of
19 employer-side payroll taxes on the individual settlement shares paid out to the Settlement Class
20 Members; any remaining funds shall be paid to the Legal Aid Society-Employment Law Center as *cy*
21 *pres* beneficiary.

22 40. Any costs associated with administering the residual (e.g., bank stop payment charges,
23 settlement administration costs associated with the Reserve Fund) or payments to Defendants or the *cy*
24 *pres* beneficiary will be deducted from the residual before donation of the *cy pres* funds.

25 41. No later than 180 days after the Effective Settlement Date, the Claims Administrator
26 shall pay over any residual including any residue in the Reserve Fund to Roma or the *cy pres*
27 beneficiary(ies) designated by the process described above. The Claims Administrator shall provide a
28 declaration of payment to Defendants and/or the *cy pres* beneficiary(ies), which will be filed with the

1 Court and served on Plaintiffs' Counsel within 30 days of payment of the residual to such
2 beneficiary(ies).

3 **IX. RELEASE BY THE CLASS**

4 42. Upon the final approval by the Court of this Settlement Agreement and payment of
5 amounts set forth herein, and except as to such rights or claims as may be created by this Settlement
6 Agreement, the Settlement Class Members shall be deemed to give full release and discharge to the
7 Defendants from any and all claims averred in the Second Amended Complaint on file in this Action,
8 which include all claims for damages and/or restitution, interest, and attorneys' fees and expenses under
9 the California Labor Code Section 2802 and California Business and Professions Code § 17200, *et seq.*
10 based on Defendants' alleged failure to reimburse Settlement Class Members for business-related
11 expenses.

12 43. Nothing in this Settlement Agreement shall be construed to bar any claims by the
13 Plaintiffs or Settlement Class Members that may arise after the Class Period. This release also
14 specifically excludes any claims for alleged failure to reimburse for business-related expenses that
15 Settlement Class Members may have that arise from time periods in which they were not AMs during
16 the Class Period.

17 **X. DUTIES OF THE PARTIES PRIOR TO PRELIMINARY APPROVAL**
18 **AND BETWEEN PRELIMINARY AND FINAL APPROVAL**

19 44. The Plaintiffs shall promptly submit this Settlement Agreement to the Court together
20 with a Motion for Preliminary Approval of Settlement and Certification of Settlement Class. Plaintiffs'
21 motion shall also seek an order:

- 22 a. Preliminarily approving the settlement;
- 23 b. Making a final determination as to the start date of the settlement class period –
24 July 4, 2006 (as Plaintiffs contend) or August 3, 2006 (as Defendants contend);
- 25 c. Approving as to form and content the proposed Notice of Settlement;
- 26 d. Approving as to form and content the proposed Share Form and instructions;
- 27 e. Directing the mailing of the Notice of Settlement and Share Forms and
28 instructions by first class mail to members of the Settlement Class;

1 f. Preliminarily certifying the Settlement Class for purposes of settlement and
2 preliminarily appointing Plaintiffs and Plaintiffs' Counsel as representatives of the Settlement Class;

3 g. Preliminarily approving settlement administration services to be provided by the
4 Settlement Administrator;

5 h. Preliminarily approving the proposed Class Representative service awards to
6 each of the Plaintiffs;

7 i. Preliminarily approving the application for payment of reasonable attorneys' fees
8 and reimbursement of litigation-related expenses to Plaintiffs' Counsel; and

9 j. Scheduling a fairness hearing on the question of whether the proposed settlement
10 should be finally approved as fair, reasonable and adequate as to the members of the Settlement Class.

11 45. Defendants shall submit to the Court, within three (3) business days after filing of the
12 motion for preliminary approval of the proposed settlement, a statement affirming its support for the
13 settlement. Except that Defendants' statement shall provide Defendants' legal arguments regarding the
14 dispute between the parties regarding the beginning date of the Class Period, and Defendants' claim that
15 the beginning date is August 3, 2006.

16 46. Defendants shall provide to the Settlement Administrator, by May 10, 2011, the class
17 membership list and identification and contact information specified in paragraph 28 above.
18 Defendants shall submit this information in electronic format as specified by the Settlement
19 Administrator and shall thereafter, during the notice, approval, opt out/objection and payment
20 processes, assist the Settlement Administrator as necessary or as requested to use, correct, or update this
21 information in order to enable the Settlement Administrator to locate and contact Settlement Class
22 Members, and to provide information needed or requested by the Settlement Administrator in order to
23 make determinations on Settlement Class Members' challenges.

24 47. The Parties shall cooperate with each other and the Settlement Administrator during the
25 process of giving Settlement Class Members notice and opportunity to opt out of or object to the
26 Settlement, in every way necessary and appropriate to assure effective communication to individual
27 Settlement Class Members of information concerning their rights and obligations under this Settlement
28 Agreement.

1 48. Plaintiffs' Counsel shall provide the Court, at least five (5) days prior to the final
2 approval and fairness hearing, a declaration by the Settlement Administrator of due diligence and proof
3 of mailing of the Notice of Settlement and Share Form required to be mailed to Settlement Class
4 Members by this Settlement Agreement, and of the delivery results of the Settlement Administrator's
5 mailings including tracing and re-mailing efforts.

6 **XI. DUTIES OF THE PARTIES AFTER FINAL COURT APPROVAL**

7 49. Plaintiffs' Counsel will submit a proposed order and judgment for final approval, which
8 shall include findings and orders:

9 a. Approving the settlement, adjudging the terms thereof to be fair, reasonable and
10 adequate, and directing that its terms and provisions be carried out;

11 b. Approving the payment of Class Representative service awards to the Plaintiffs;

12 c. Approving Plaintiffs' Counsel's application for an award of attorneys' fees and
13 reimbursement of out-of-pocket litigation expenses; and

14 d. Providing that the Court will retain jurisdiction to oversee administration and
15 enforcement of the terms of the settlement and the Court's orders.

16 50. Following entry of the Court's Order granting final approval of the Settlement
17 Agreement, the parties will each act to assure its timely execution and the fulfillment of all its
18 provisions, including but not limited to the following:

19 a. Should an appeal be taken from the final approval of the Settlement Agreement,
20 all parties will support the approval order on appeal.

21 b. Plaintiffs' Counsel and counsel for Defendants will assist the Settlement
22 Administrator as needed or requested in the process of identifying and locating Settlement Class
23 Members entitled to payments from the Settlement Fund and assuring delivery of such payments;

24 c. Plaintiffs' Counsel and counsel for Defendants will assist the Settlement
25 Administrator as needed or requested in responding to late requests for payments from the Reserve
26 Fund and the fair administration of that Fund;

1 d. Plaintiffs' Counsel and counsel for Defendants will cooperate with each other
2 and assist the Settlement Administrator as needed or requested in completing the distribution of any
3 residual amount from the Reserve Fund, as specified above, to the designated *cy pres* beneficiary;

4 e. Plaintiffs' Counsel will certify to the Court completion of all payments required
5 to be made by this Settlement Agreement.

6 **XII. PRELIMINARY TIMELINE FOR COMPLETION OF SETTLEMENT**

7 51. The preliminary schedule for notice, approval, and payment procedures carrying out this
8 settlement is as follows. The schedule may be modified depending on whether and when the Court
9 grants necessary approvals and orders notice to the class, and sets further hearings. In the event of such
10 modification, the parties shall cooperate in order to complete the settlement procedures as expeditiously
11 as reasonably practicable.

12 On or before May 10, 2011	Defendants to provide the Settlement Administrator the most recent names, mailing addresses, phone numbers, e-mail addresses, and social security numbers it has for all eligible Settlement Class Members, as well as any information regarding the Settlement Class Members' dates of employment and leaves of absence.
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16 On or before May 20, 2011	Plaintiffs' Counsel to file Motion for Preliminary Approval of Settlement with the Court
17	
18 On or before May 23, 2011	Defendants to File Non-Opposition to Plaintiffs' Motion for Preliminary Approval
19	
20 On or before May 27, 2011 (subject to Court availability)	Preliminary Approval hearing
21	
22 15 days after Preliminary Approval of Settlement	Mailing by first class mail and email of Class Action Settlement Notice and Settlement Share Form by Settlement Administrator.
23	
24 20 days after mailing of Notice and Settlement Share Form	Settlement Administrator to conduct trace/search efforts and send a follow up mailing to individuals whose Notice was returned as undeliverable or whose listed address is found to be inaccurate or outdated;
25	
26 45 days after mailing of Notice and Settlement Share Form	Last day for Class Members to opt out, challenge dates of employment, or submit written objections.
27	
28	

1 5 court days before final
2 approval hearing

Last day for filing and service of papers in support of final settlement approval and requests for attorneys' fees and expenses.

3 Settlement Administrator to file with the Court and
4 serve on the parties opt-out statements and written
5 objections or statements of intention to object to the
6 Settlement received from Settlement Class Members,
and also file with the Court and serve on the parties
its certification of the completion and results of the
class notice and related processes.

7 Within 5 days of notice of entry
8 of order granting final approval

9 Settlement Administrator to make the final
10 calculation of payments from the Net Settlement
11 Fund to be distributed to the Settlement Class
12 Members and provide all Counsel with a report
13 listing the amount of all payments to be made to each
14 Eligible Settlement Class Member from the Net
15 Settlement Fund.

16 Settlement Effective Date

17 Settlement Administrator to distribute and pay from
18 the Settlement Fund: (1) 90 percent of the attorneys'
19 fees and all of the awarded reimbursed litigation
20 expenses to Plaintiffs' Counsel; (2) checks for the
21 class representatives' service awards; and (3)
22 administration costs paid to the Settlement
23 Administrator.

24 Within 20 days of Settlement
25 Effective Date

26 Settlement Administrator to distribute and pay
27 Settlement share checks to all participating
28 Settlement Class Members from the Settlement Fund.

120 days after payment of
settlement checks

Expiration of class member settlement checks.

Within 10 days of date of
expiration of class member
settlement checks.

Plaintiffs to submit final Settlement Administrator's
report regarding status of payments and payment of
remainder of attorneys' fees, and request for retained
10 percent of the attorneys' fees.

Within 180 days of date of
Settlement Effective Date.

Settlement Administrator to pay any residual funds in
the reserve fund to Defendants and/or the *cy pres*
beneficiary(ies).

15 days after close of the
Reserve Fund

Plaintiffs to submit final Settlement Administrator's
report regarding all payments and the *cy pres*
distribution, if any.

1 **XIII. VOIDING OR MODIFYING THE SETTLEMENT AGREEMENT**

2 52. This Settlement Agreement is based upon information provided by Defendants as to the
3 number of Settlement Class Members who worked as full-time equivalent AMs (“FTEs”) at various
4 points in time from July 4, 2006 to July 31, 2010. According to this information provided by
5 Defendants, the number of weeks worked by Settlement Class Members during the period from July 4,
6 2006 to July 31, 2010 was 6,247 and during the period from August 3, 2006 to July 31, 2010 was 6,133.
7 Defendants shall submit to the Settlement Administrator and to Class Counsel, by May 10, 2011, data
8 showing the number of weeks worked by all Class Members during such periods. If, after the Court
9 determines the start date for the Class Period, the final information shows that Class Members worked
10 more than 6393 workweeks if the Class Period starts July 4, 2006, or 6,280 workweeks if the Class
11 Period starts August 3, 2006, then Plaintiffs shall have the unilateral right to withdraw from the
12 settlement.

13 53. Other than as specified above, this Settlement Agreement may not be changed, altered,
14 or modified, except in writing and signed by the Parties hereto, and approved by the Court. This
15 Settlement Agreement may not be discharged except by performance in accordance with its terms or by
16 a writing signed by the Parties hereto.

17 **XIV. PARTIES’ AUTHORITY**

18 54. The signatories hereby represent that they are fully authorized to enter into this
19 Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

20 **XV. MUTUAL FULL COOPERATION**

21 55. The Parties agree to fully cooperate with each other to accomplish the terms of this
22 Settlement Agreement, including but not limited to, executing such documents and taking such other
23 action as may reasonably be necessary to implement the terms of this Settlement Agreement. The
24 Parties to this Settlement Agreement shall use their best efforts, including all efforts contemplated by
25 this Settlement Agreement and any other efforts that may become necessary by order of the Court or
26 otherwise to effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable
27 after execution of this Settlement Agreement, Plaintiffs’ Counsel shall, with the assistance and
28

1 cooperation of Defendants and its counsel, take all necessary steps to secure the Court's preliminary and
2 final approval of this Settlement Agreement.

3 **XVI. NO ADMISSION OF LIABILITY OR WRONGDOING;**
4 **INADMISSIBILITY OF SETTLEMENT AS EVIDENCE**

5 56. Nothing contained herein, nor the consummation of this Settlement Agreement, is to be
6 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
7 Defendants. Each of the Parties hereto has entered into this Settlement Agreement with the intention to
8 avoid further disputes and litigation with the attendant inconvenience and expenses. This Settlement
9 Agreement is a settlement document and shall, pursuant to California Evidence Code § 1152, be
10 inadmissible in evidence in any proceeding. The preceding sentence shall not apply to an action or
11 proceeding to approve, interpret, or enforce this Settlement Agreement.

12 **XVII. NOTICES**

13 57. Unless otherwise specifically provided herein, all notices, demands or other
14 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
15 the third business day after mailing by United States registered or certified mail, return receipt
16 requested, addressed as follows:

17 To Plaintiffs' Counsel:
18 David Pogrel
19 HINTON ALFERT SUMNER & KAUFMANN
1646 N. California Blvd., Suite 600
Walnut Creek, CA 94596
(925) 932-6006
(925) 932-3412 (Fax)
pogrel@hinton-law.com

To the Defendants :
c/o Robert Niemann or Eric Hill
SEYFARTH SHAW LLP
560 Mission Street, Suite 3100
San Francisco, CA 94105
415-544-1055
415-397-8549 (Fax)
rniemann@seyfarth.com
ehill@seyfarth.com

22 If the identity of the person(s) to be notified for any party change, or their address changes, that
23 party shall notify all other parties of said change in writing.

24 **XVIII. CAPTIONS AND INTERPRETATIONS**

25 58. Paragraph titles or captions contained herein are inserted as a matter of convenience and
26 for reference, and in no way define, limit, extend, or describe the scope of this Settlement Agreement or
27 any provision hereof. Each term of this Settlement Agreement is contractual and not merely a recital.
28

1 binding upon and effective as to all Parties. A facsimile signature shall have the same force and effect
2 as the original signature, if and only if it is transmitted from counsel for one party to the other. Such
3 transmissions shall be interpreted as verification by the transmitting counsel that the signature is
4 genuine and that the party signing has authorized and reviewed the agreement.

5 Dated: May 10, 2011

6 By: 
ANNETTE KIELHURN
7 Plaintiff

8 Dated: May __, 2011

9 By: _____
JOSE BRIDGE
Plaintiff

10 Dated: May __, 2011

11 By: _____
PIROOZ HAGHIGHI
Plaintiff

12 Dated: May __, 2011


13 HINTON ALFERT SUMNER & KAUFMANN
14 By: _____
AARON KAUFMANN
DAVID P. POGREL
Attorneys for Plaintiffs

15 Dated: May __, 2011

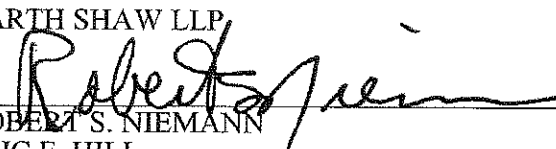
16 GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
DARDARIAN
17 By: _____
MORRIS J. BALLER
Attorneys for Plaintiffs

18 Dated: May 11, 2011

19 PERFORMANCE FOOD GROUP, INC. (formerly known
as VISTAR CORPORATION and d/b/a Roma)

20 By: 
21 MICHAEL MILLER
Senior Vice President, General Counsel and Secretary

22 Dated: May 13, 2011


23 SEYFARTH SHAW LLP
24 By: 
ROBERT S. NIEMANN
ERIC E. HILL
Attorneys for Defendants.

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2 as the original signature, if and only if it is transmitted from counsel for one party to the other. Such
3 transmissions shall be interpreted as verification by the transmitting counsel that the signature is
4 genuine and that the party signing has authorized and reviewed the agreement.

5 Dated: May __, 2011

6 By: 
ANNETTE KIELHURN
Plaintiff

7 Dated: May __, 2011

8 By: 
JOSE BRIDGE
Plaintiff

9 Dated: May __, 2011

10 By: _____
PIROOZ HAGHIGHI
Plaintiff

11 Dated: May __, 2011

12 HINTON ALFERT SUMNER & KAUFMANN

13 By: _____
AARON KAUFMANN
DAVID P. POGREL
Attorneys for Plaintiffs

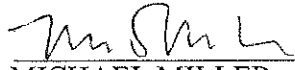
14 Dated: May __, 2011

15 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &
16 DARDARIAN

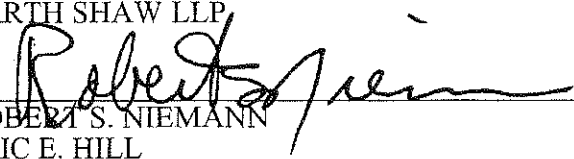
17 By: _____
MORRIS J. BALLER
Attorneys for Plaintiffs

18 Dated: May 11, 2011

19 PERFORMANCE FOOD GROUP, INC. (formerly known
20 as VISTAR CORPORATION and d/b/a Roma)

21 By: 
MICHAEL MILLER
Senior Vice President, General Counsel and Secretary

22 Dated: May 13, 2011

23 SEYFARTH SHAW LLP
24 By: 
ROBERT S. NIEMANN
ERIC E. HILL
Attorneys for Defendants.

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3 transmissions shall be interpreted as verification by the transmitting counsel that the signature is
4 genuine and that the party signing has authorized and reviewed the agreement.

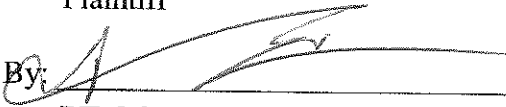
5 Dated: May __, 2011

6 By: _____
ANNETTE KIELHURN
7 Plaintiff

8 Dated: May __, 2011

9 By: _____
JOSE BRIDGE
Plaintiff

10 Dated: May 17, 2011

11 By:  _____
PIROOZ HAGHIGHI
12 Plaintiff

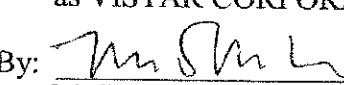
13 Dated: May __, 2011

14 HINTON ALFERT SUMNER & KAUFMANN
15 By: _____
AARON KAUFMANN
DAVID P. POGREL
Attorneys for Plaintiffs


16 Dated: May __, 2011

17 GOLDSTEIN, DEMCHAK, BALLER, BORGEN &
DARDARIAN
18 By: _____
MORRIS J. BALLER
Attorneys for Plaintiffs

19 Dated: May 11, 2011

20 PERFORMANCE FOOD GROUP, INC. (formerly known
as VISTAR CORPORATION and d/b/a Roma)
21 By:  _____
MICHAEL MILLER
22 Senior Vice President, General Counsel and Secretary

23 Dated: May 13, 2011

24 SEYFARTH SHAW LLP
25 By:  _____
ROBERT S. NIEMANN
ERIC E. HILL
26 Attorneys for Defendants.

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2 as the original signature, if and only if it is transmitted from counsel for one party to the other. Such
3 transmissions shall be interpreted as verification by the transmitting counsel that the signature is
4 genuine and that the party signing has authorized and reviewed the agreement.

5 Dated: May __, 2011

6 By: _____
ANNETTE KIELHURN
7 Plaintiff

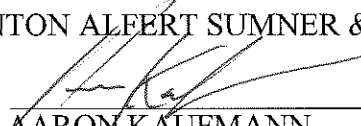
8 Dated: May __, 2011

9 By: _____
JOSE BRIDGE
Plaintiff

10 Dated: May __, 2011

11 By: _____
PIROOZ HAGHIGHI
Plaintiff

12 Dated: May 17, 2011

13 HINTON ALFERT SUMNER & KAUFMANN
14 By:  _____
AARON KAUFMANN
DAVID P. POGREL
Attorneys for Plaintiffs


15 Dated: May __, 2011

16 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &
DARDARIAN

17 By: _____
MORRIS J. BALLER
Attorneys for Plaintiffs


18 Dated: May 11, 2011

19 PERFORMANCE FOOD GROUP, INC. (formerly known
as VISTAR CORPORATION and d/b/a Roma)

20 By:  _____
MICHAEL MILLER
Senior Vice President, General Counsel and Secretary

21 Dated: May 13, 2011

22 SEYFARTH SHAW LLP

23 By:  _____
ROBERT S. NIEMANN
ERIC E. HILL
Attorneys for Defendants.

1 binding upon and effective as to all Parties. A facsimile signature shall have the same force and effect
2 as the original signature, if and only if it is transmitted from counsel for one party to the other. Such
3 transmissions shall be interpreted as verification by the transmitting counsel that the signature is
4 genuine and that the party signing has authorized and reviewed the agreement.

5 Dated: May __, 2011

6 By: _____
ANNETTE KIELHURN
7 Plaintiff

8 Dated: May __, 2011

9 By: _____
JOSE BRIDGE
Plaintiff

10 Dated: May __, 2011

11 By: _____
PIROOZ HAGHIGHI
Plaintiff

12 Dated: May __, 2011

HINTON ALFERT SUMNER & KAUFMANN

13 By: _____
AARON KAUFMANN
14 DAVID P. POGREL
Attorneys for Plaintiffs


15 Dated: May 18, 2011

16 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &
DARDARIAN

17 By:  _____
MORRIS J. BALLER
18 Attorneys for Plaintiffs

19 Dated: May 11, 2011

20 PERFORMANCE FOOD GROUP, INC. (formerly known
as VISTAR CORPORATION and d/b/a Roma)

21 By:  _____
MICHAEL MILLER
22 Senior Vice President, General Counsel and Secretary

23 Dated: May 13, 2011

SEYFARTH SHAW LLP

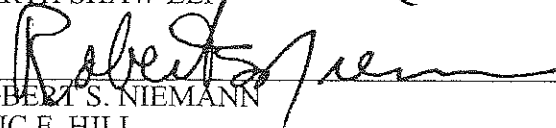
24 By:  _____
ROBERT S. NIEMANN
25 ERIC E. HILL
Attorneys for Defendants.

EXHIBIT A

SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA

If you are or were employed by ROMA FOOD as an AREA MANAGER in California, a class action settlement may affect your rights.

The Alameda County Superior Court ("Court") has authorized this notice in *Kielhurn, et al. v. Vistar Corporation, et al.*, Case No. RG10529045 (the "Action"). This is not a solicitation from a lawyer.

- In August 2010, a current Area Manager ("AM") sued Vistar Corporation dba Roma Foods ("Roma"). The employee claimed that Roma failed to reimburse her for business expenses she and other AMs in California incurred in carrying out their daily sales duties, including for mileage, cell phone use, and home office items.
- Roma denies the claims and asserts that, before August 1, 2010 when it introduced the Runzheimer Plan, Roma reimbursed AMs for their business expenses through enhanced compensation, consistent with California law.
- The parties have reached a settlement. The Court has allowed the Action to be a class action for settlement purposes only. The Settlement Class consists of Area Managers employed by Roma in California at any time from [INSERT DATE DECIDED BY COURT] through July 31, 2010.
- The Court has preliminarily approved a settlement of this case, in which Roma has agreed to pay \$1,000,000 to resolve California AMs' expense reimbursement and related claims.
- You are receiving this notice because Roma's records indicate that you may be a Settlement Class Member in this Settlement. **Read this Notice Carefully, as your legal rights may be affected and you have a choice to make now:**

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

Participate in the Settlement and Collect a Settlement Award.	<i>You need not do anything in order to receive a Settlement Award in this case. However, in exchange for the Settlement Award described below, you will give up your right to sue for expense reimbursements and related claims released by the Settlement.</i>
Request to be Excluded from the Settlement	<i>Opt-out or exclude yourself from the Settlement. Get no benefits from it. If you make a valid and timely written request to be excluded from the Settlement, you will not receive any money, and you will not give up any rights you may have against Roma.</i>
Object to the Settlement	<i>The Court will decide whether any objections to the settlement are valid. If you file an objection and it is rejected by the Court, you will give up your right to sue for expense reimbursements and related claims unless you also file a request to be excluded.</i>

I. BACKGROUND OF THE CASE

On August 3, 2010, Plaintiff Annette Kielhurn ("Kielhurn"), a current AM, filed a class action against Roma on behalf of herself and all other AMs who have worked for Roma in California since **INSERT DATE DECIDED BY COURT**. Jose Bridge and Pirooz Haghighi, former AMs of Roma, later joined as Plaintiffs in the Action. Plaintiffs allege that they and other AMs were not reimbursed for day-to-day business expenses that they incurred while working for Roma as AMs, including vehicle usage costs (i.e., mileage), cell phone use, and home office expenses.

Roma denies any liability or wrongdoing of any kind associated with the claims alleged in the Action, and asserts that AMs are reimbursed for expenses through enhanced compensation, consistent with California law. The Court has not decided whether any violations occurred.

After a full day of mediation and arms-length negotiations between the Plaintiffs and Roma (the "Parties"), the Parties reached this Settlement. This Settlement has been given preliminary approval by the Court, and this notice is being sent to all Settlement Class Members who now have the opportunity to receive a portion of the \$1,000,000 settlement payment or exclude themselves from the Settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

A. Who is included in the Settlement?

You are included in the Settlement if you were employed by Roma as an AM in the State of California at any time from **INSERT DATE DECIDED BY COURT** to July 31, 2010 ("Settlement Class Positions"). **You need not do anything to participate in the Settlement.**

B. How much is my share of the Settlement if it is approved?

Roma will make a settlement payment ("Settlement Payment") of \$1,000,000, if the Court grants final approval of the Settlement. As will be described in more detail below, the amount available for Settlement Class Members from the \$1,000,000 is estimated at \$ _____, calculated as follows:

\$ 1,000,000	(Settlement Amount)
\$ 250,000	(25% Award for Attorneys' Fees)
\$ 20,000	(Estimated Litigation Costs)
\$ 40,000	(Class Representatives' Service Payments)
\$ _____	(Estimated Administrator Fees)
\$ _____	= Estimated "Net Settlement Fund" Payable to Settlement Class

The Net Settlement Fund may vary depending upon whether, and in what amounts, the Court approves the attorneys' fees, litigation expense reimbursements, and service payments.

The entire Net Settlement Fund will be paid to Settlement Class Members based upon the following formula: The number of weeks worked by each Settlement Class Member as an AM at any time during the period **INSERT DATE DECIDED BY COURT** through July 31, 2010 (the "Class Period") in relation to the number of weeks worked by all members of the Settlement Class during the Class Period, i.e. a pro-rata portion of the Net Settlement Fund based on time worked by each Settlement Class Member. Preliminarily, it is estimated that each participating Settlement Class Member will be paid approximately \$ _____ for each week she or he worked as an AM during the Class Period.

Each Settlement Class Member who worked as an AM, according to Roma's records, will receive a payment calculated as described above. **The estimated amount that you can expect to receive pursuant to the proposed terms of the Settlement is stated in the enclosed Share Form.** This estimated amount is subject to change, up or down, depending on the final number of Settlement Class Members who participate in the Settlement and the number of weeks they worked during the Class Period, among other things.

The Settlement Payment to you will be treated as partially (70%) for expenses paid on a "non-

accountable” expense reimbursement plan, and partially (30%) as interest. From the portion payable for non-accountable plan expenses, certain withholding taxes will be withheld as required by law. You will receive separate IRS Forms for the two portions of the payment. If you decide to participate in the settlement and collect your share of the fund, **you will be responsible for correctly characterizing these payments for personal tax purposes and paying any taxes owed on the amounts.** Neither the Settlement Administrator, Plaintiffs, Roma, nor their respective lawyers are authorized to provide tax reporting advice and provide no advice as to whether receipt of this payment will impact your prior or future tax filings. **You should obtain independent tax advice regarding these matters.**

C. What if the information on my Share Form is incorrect?

The amount you receive from the Settlement is not subject to dispute by you, except to the extent you believe that it has been incorrectly calculated due to an error in records showing your dates of employment as an AM during the Class Period. The Share Form enclosed with this Notice lists the dates that you worked for Roma as an AM during the Class Period. If you believe that the dates worked information is incorrect, you may dispute or “challenge” the listed time period(s) in which you worked as a AM during the Class Period, by submitting a written challenge along with any documents or other supporting evidence to the Settlement Administrator. Such challenges must be post-marked by no later than _____, 2011.

Roma’s records will be presumed to be correct, but the Settlement Administrator will evaluate any information and evidence submitted by you and may in its discretion use dates different from those in Roma’s records. Any disputes will be finally resolved by the Settlement Administrator without the possibility of appeal to Class Counsel, Roma, or the Court.

If the Share Form does not correctly state your name or contact information, please inform the Settlement Administrator immediately. You can do this by calling or writing to:

Roma Area Manager Settlement Administrator
c/o Simpluris
ADDRESS

(8__) __ - ____

D. When will I receive my Settlement Payment?

The Settlement Payments will be made approximately 20 days after final court approval of the Settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the Settlement. The earliest that this could occur is in _____, 2011.

E. What if I do not want to participate in this lawsuit or this Settlement?

IMPORTANT: You will be bound by the terms of the Settlement, unless you submit a timely written request to be excluded from the Settlement. To exclude yourself from the Settlement you must mail a written request specifically stating your full name, address, and social security number, as well as the following statement: “I wish to exclude myself or opt out of the class action settlement in the Alameda County Superior Court case of *Kielhurn, et al. v. Vistar Corporation, et al.*, Case No. RG10529045. I understand that by requesting to opt out of the class action settlement, I will not be a Class Member and I will not receive any payments from the Settlement of that case.” Such request for exclusion must be post-marked no later than _____, 2011.

F. What can I do if I oppose the Settlement?

You may object to the terms of the Settlement before final approval, either by filing a written objection or filing a notice of your intent to appear and object at the final approval hearing at the time and place listed below in this Notice. However, if the Court rejects your objection and approves the Settlement you will

be bound by the terms of the Settlement, unless you also submit a request to be excluded from the Settlement.

To object, you must send a written notice of objection or a written notice of your intent to appear and object at the final approval hearing to the Settlement Administrator, with a copy to the Class Counsel, at the addresses shown below. The Settlement Administrator will file your objection with the Court before the final approval hearing. You may also file your objection directly with the Court at the address listed in the section describing the location of the Final Approval Hearing, with a copy to the Settlement Administrator and Class Counsel, but this may result in delays or failure to respond to your objection. **DO NOT TELEPHONE THE COURT OR DEFENDANT'S COUNSEL.**

Any written objection and/or notice of your intent to appear at the hearing must state each specific reason in support of your objection and any legal support for each objection. Your written objection and/or notice of your intent to appear at the hearing must also state your full name, address, date of birth, dates of your employment, and positions held at Vistar Corporation dba Roma Food in California. **To be valid and effective, the Settlement Administrator and/or the Court must receive any written objections and/or notices of intent to appear at the hearing not later than [_____, 2011].** A Settlement Class Member who fails to file and serve a written statement of objection in the manner described above and by the specified deadline will be deemed to have waived any objections and will be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

To object, send your objection to :

ROMA AREA MANAGER CLASS ACTION ADMINISTRATOR
c/o Simpluris
[Address]
(8) _____

And also send a copy of your objection to:

Aaron Kaufmann
David Pogrel
HINTON ALFERT SUMNER & KAUFMANN
1646 North California Blvd., Suite 600
Walnut Creek, CA 94596
Phone: (925) 932-6006
Fax: (925) 932-3412

Morris J. Baller
Sarah Webb
GOLDSTEIN DEMCHAK BALLER BORGES &
DARDARIAN
300 Lakeside Drive, Ste. 1000
Oakland, CA 94612-3534
Phone: (510) 763-9800
Fax: (510) 835-1417

G. What if I change my mind about opting out of or objecting to the Settlement?

If you file a request for exclusion from the Settlement or file an objection to the Settlement but then change your mind, you can rescind your exclusion request or objection within certain time limits, and in writing. **Any such statement of rescission must be in writing, and must be sent to the Settlement Administrator; and must be received at least a day before the date of the Final Approval Hearing, or _____, 2011 as currently scheduled, to be effective.** If you submit a timely rescission, the rescinded exclusion request will have no effect on your participation in the Settlement or the amount of any payment you are entitled to receive from the Settlement.

H. What claims will I release by participating in the Settlement?

The participating Settlement Class Members release and discharge Vistar Corporation and Performance Food Group, Inc. from any and all claims averred in the Second Amended Complaint on file in this Action, which include all claims for damages and/or restitution, interest, and attorneys' fees and expenses under the California Labor Code Section 2802 and California Business and Professions Code § 17200, *et seq.* based on Defendants' alleged failure to reimburse Settlement Class Members for business-related expenses.

I. What additional payments will be made to the Class Representatives?

In addition to their respective shares as participating Settlement Class Members, Plaintiff Kielhurn, will be paid up to \$20,000, and Plaintiffs Bridge and Haghighi will be paid up to \$10,000 each, respectively, subject to Court approval, for their services as Class Representatives bringing this case, as well as their willingness to accept the risks of being Class Representatives. These payments will be deducted from the Settlement Payment.

J. What payments will be made for applicable taxes on Settlement Payments?

Taxes required to be withheld from Settlement Payments to Class Members will be withheld from the portion (70%) of their checks allocated to payments from a non-accountable expense reimbursement plan. No tax withholdings will be made by the Settlement Administrator on the remaining (30%) portion of Settlement Payments.

K. What payments will be made to the attorneys representing the Settlement Class?

Class Counsel will request approval from the Court for payment of attorneys' fees of 25 % of the total Settlement or \$250,000, plus reimbursement of actual litigation costs up to \$20,000. These amounts will be deducted from the Settlement and are subject to Court approval.

L. What payments will be made for costs of settlement administration?

The costs of administering the Settlement--estimated at \$ _____ --will be deducted from the Settlement.

M. What is the amount and function of the Reserve Fund?

The parties have agreed to establish a Reserve Fund to pay for payments due to Settlement Class Members that the Settlement Administrator deems to have been mistakenly denied, overlooked, or otherwise disputed. This fund will be comprised of the total from class members' uncashed checks and held in an interest-bearing account for six (6) months after the Court grants final approval to the Settlement. After this time has expired, any funds that remain from the Reserve Fund will be paid as follows: up to \$30,000 will be used to offset Roma's payment of employer-side payroll taxes on the individual settlement shares paid out to the Settlement Class Members; any remaining funds shall be paid to the Legal Aid Society-Employment Law Center as *cy pres* beneficiary. After the Reserve Fund has been paid out in these ways, there will be no funds remaining for any further payments to Settlement Class Members.

III. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a final approval hearing on the proposed Settlement on _____, 2011, at _____, at Department 17, Alameda County Superior Court, 1221 Oak Street, Oakland, CA 94612. The purpose of this hearing is to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and expense reimbursement and the Class Representatives' service payments. The hearing may be postponed without further notice to the Class; any such postponement will be posted on the Court's website for Department 17.

It is not necessary for you to appear at this hearing unless you wish to object to the Settlement. If you have given written notice of your objection to the Settlement, you may appear at the hearing at your option if you have filed a notice of intent to appear by _____, 2011. If you have not given written notice of your objection and intention to appear, any objection you have may not be heard by the Court.

IV. GETTING MORE INFORMATION ABOUT THE SETTLEMENT

This Notice contains a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement, you are referred to the detailed Joint Stipulation of Class Action Settlement and Release between Plaintiffs and Vistar Corporation, which will be on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined at any time during regular business hours in the Office of the Clerk, Alameda County Superior Court, Department 17, Alameda County Superior Court, 1221 Oak Street, Oakland, CA 94612. You may also contact the Administrator in writing or by telephone at: 1 (800)_____. You also may contact Class Counsel listed below for more information:

Aaron Kaufmann
David Pogrel
HINTON ALFERT SUMNER & KAUFMANN
1646 North California Blvd., Suite 600
Walnut Creek, CA 94596
Phone: (925) 932-6006
Fax: (925) 932-3412

Morris J. Baller
Sarah Webb
GOLDSTEIN DEMCHAK BALLER BORGEN &
DARDARIAN
300 Lakeside Drive, Ste. 1000
Oakland, CA 94612-3534
Phone: (510) 763-9800
Fax: (510) 835-1417

IMPORTANT:

1. **PLEASE DO NOT TELEPHONE THE COURT OR ROMA'S COUNSEL FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIMS PROCESS.**
2. **If you move or change address, please send the Administrator your new address. It is your responsibility to keep a current address on file with the Administrator to ensure receipt of your Settlement Payment. Failure to do so may result in non-payment or delay in payment.**
3. **It is strongly recommended that you keep a copy of any request for exclusion and/or objection that you submit, and proof of timely mailing and/or faxing, until after the Final Approval hearing.**

BY ORDER OF THE COURT.

EXHIBIT B

EXHIBIT B

**ESTIMATED PAYMENT FORM AND INSTRUCTIONS TO
CHALLENGE DATES OF EMPLOYMENT**

KIELHURN, ET AL. V. VISTAR CORPORATION dba ROMA FOOD

Case No. RG10529045 IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

**Your estimated share of the settlement in this case is \$XXXXXX.
This estimate is based on the dates of employment, excluding
leaves of absence, as listed on page 2 of this form.**

**If you accept your dates of employment, you do not need to do
anything to receive your share of the settlement (unless you also
need to update or correct your mailing address).**

**If you wish to challenge the dates of employment listed on page 2,
carefully follow the instructions on this form.**

TO CHALLENGE THE ESTIMATED AMOUNT OF PAYMENT BASED
ON THE DATES OF EMPLOYMENT AS AN AREA MANAGER,
**THIS FORM MUST BE SIGNED AND POSTMARKED OR FAXED
NOT LATER THAN _____.**

<p>MAIL TO: ROMA AREA MANAGER ADMINISTRATOR [Address Here]---- OR FAX TO: () _____</p>

Important:

1. It is strongly recommended that you keep proof of timely mailing and/or faxing for your records until receipt of your settlement payment. You do NOT have to submit this form if you believe the dates of employment listed below are accurate.

2. If you change your mailing address, please send your new mailing address to the Administrator. It is your responsibility to keep a current address on file with the Administrator to ensure receipt of your settlement payment.

EMPLOYMENT DATES AND CHALLENGE INFORMATION

<<Name>>

<<Address>>

<<City>>, <<State> <Zip>>

(_____) _____ -- _____

Home Telephone Number

Your Compensable Workweeks

Roma Food.'s records show that during the Class Period of [INSERT DATE DECIDED BY COURT] through July 31, 2010, you held the position of Area Manager in California in the following time periods:

<<Dates>>

You were on a leave of absence from _____ to _____ (or "N/A" if no leaves of absence noted)

Your total number of Compensable Workweeks is: <<number of workweeks>>

Your Estimated Payment

Based upon the estimated share for each compensable workweek at an estimated amount per week worked of \$ _____, your settlement share is currently estimated at \$ _____, assuming that all Settlement Class Members identified to date participate in the Settlement (i.e., can be located and do not opt out). This amount is subject to change, either up or down, depending upon the number of Settlement Class Members who submit challenges to estimated amounts, the outcome of those challenges, the number of Class Members who opt out, and other possible factors.

CHALLENGE

Check a box below ONLY if you wish to challenge the dates listed below. All Fields must be complete for your challenge to be accepted:

- I wish to challenge the employment dates listed above. I have included a written statement of what I believe to be my correct dates of employment as a Area Manager with Roma Food. in California during the period from [INSERT DATE DECIDED BY COURT] through July 31, 2010. I have also included information and/or documentary evidence that supports my challenge. I understand that, by submitting this challenge, I authorize the Administrator to review Roma Food's records and determine the validity of my challenge based upon Roma Food's records as well as the dates, records and information that I am submitting.

Signature

Name of Class Members _____ [preprinted]

Social Security Number: _____ [preprinted]

I believe that my correct dates of employment as an Area Manager for Roma Food during the class period are _____ to _____.

Statement of reasons and documentation of dates of employment according to Class Member: _____

[attach documentation and use separate page(s) as necessary]