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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SOLANO

DIEN TRUONG, as an individual and on
behalf of all others similarly situated,

Plaintiffs,

vs.

DS SERVICES OF AMERICA, INC., a
Delaware corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: FCS054399

[Assigned to the Hon. E. Bradley Nelson, Dept. 4]

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: March 29, 2021

Time: 9:00 A.M.

Dept.: 4

Complaint Filed: February 20, 2020

ADDITIONAL ATTORNEYS

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Attorneys for Plaintiff, the Class, and Aggrieved Employees

1 Plaintiff Dien Truong's ("Plaintiff") application for an Order Granting Preliminary
2 Approval of Class Action Settlement was filed with the Court on March 3, 2021, and a hearing
3 was held before this Court on March 29, 2021. Plaintiff's counsel, Larry W. Lee and Mai
4 Tulyathan of Diversity Law Group, P.C., and Dennis Hyun of Hyun Legal, APC, appeared on
5 behalf of Plaintiff, and Defendant's counsel, Eric Hill, of Seyfarth Shaw LLP, appeared on
6 behalf of Defendant DS Services of America, Inc. ("Defendant").

7 The Court has considered the Joint Stipulation and Settlement Agreement ("Stipulation"
8 or "Settlement Agreement") and all other papers filed in this action.

9 NOW THEREFORE, IT IS HEREBY ORDERED:

10 1. This Court grants preliminary approval of the Settlement Agreement between
11 Plaintiff and Defendant filed herewith. The Settlement Agreement appears to be fair, adequate,
12 and reasonable to the Class.

13 2. The Class Representative and Defendant (hereafter, "Settling Parties"), through
14 their counsel of record in the Litigation, have reached an agreement to settle the class and PAGA
15 claims in the Litigation as set forth in the Settlement Agreement, on behalf of the Class (as
16 defined below and in the Settlement Agreement).

17 3. The Court hereby conditionally certifies the following Class for settlement
18 purposes only:

19 All current and former non-exempt employees who were employed
20 by Defendant or its predecessors in the State of California and
21 were paid a base hourly rate less than the applicable minimum
22 wage, at any time from January 1, 2019, through March 29, 2021.

23 Should for whatever reason the Settlement Agreement not become Final, the fact that the
24 Parties were willing to stipulate to certification of a class as part of the Settlement Agreement
25 shall have no bearing on, or be admissible in connection with, the Litigation or the issue of
26 whether a class should be certified in a non-settlement context.

27 4. The Court appoints and designates: (a) Plaintiff Dien Truong as the Class
28 Representative and (b) Larry W. Lee and Mai Tulyathan of Diversity Law Group, P.C., Dennis
S. Hyun of Hyun Legal, APC and William L. Marder of Polaris Law Group LLP as Class

1 Counsel for the Class. Class Counsel is authorized to act on behalf of the Class with respect to
2 all acts or consents required by, or which may be given, pursuant to the Settlement Agreement,
3 and such other acts reasonably necessary to finalize the Settlement Agreement and its terms.

4 Any Class Member may enter an appearance through his or her own counsel at such Class
5 Member's own expense. Any Class Member who does not enter an appearance or appear on his
6 or her own behalf will be represented by Class Counsel.

7 5. The Court hereby approves the terms and conditions provided for in the
8 Settlement Agreement. The Court finds that on a preliminary basis the Settlement Agreement
9 falls within the range of reasonableness of a settlement, including the amount of the PAGA
10 penalties, and appears to be presumptively valid, subject only to any objections that may be
11 raised at the final fairness hearing and final approval by the Court. It appears to the Court on a
12 preliminary basis that the settlement is fair, adequate, and reasonable as to all potential Class
13 Members when balanced against the probable outcome of further litigation relating to liability
14 and damages issues. It also appears that investigation, research, and court proceedings have been
15 conducted so that counsel for the Settling Parties are able to reasonably evaluate their respective
16 positions. It appears to the Court that settlement at this time will avoid substantial additional
17 costs by all Settling Parties, as well as avoid the delay and risks that would be presented by the
18 further prosecution of the Litigation. It also appears that settlement has been reached as a result
19 of intensive, serious, and non-collusive arm's length negotiations.

20 6. A final fairness hearing on the question of whether the proposed Settlement
21 Agreement, the allocation of payments to Settlement Class Members, attorneys' fees and costs to
22 Class Counsel, the payment to the Settlement Administrator, the payment to the Labor
23 Workforce & Development Agency, and the Class Representative Service Award should be
24 finally approved as fair, reasonable, and adequate as to the members of the Class is hereby set for
25 _____ at _____ in this Court.

26 7. The Court hereby approves, as to form and content, the Notice of Class Action
27 Settlement ("Class Notice") to be sent to Class Members, which is attached as **Exhibit A** to the
28 Settlement Agreement, which is attached to the Declaration of Dennis S. Hyun in support of

1 Plaintiff's Motion for Preliminary Approval of Class Action Settlement as **Exhibit A**. The Court
2 finds that distribution of the Class Notice to Class Members substantially in the manner and form
3 set forth in the Settlement Agreement and this Order meets the requirements of due process and
4 shall constitute due and sufficient notice to all parties entitled thereto.

5 8. The Court appoints and designates ILYM Group, Inc. as the Settlement
6 Administrator. The Court hereby directs the Settlement Administrator to provide the approved
7 Class Notice to Class Members using the procedures set forth in the Settlement Agreement.

8 9. Any Class Member may choose to opt out of and be excluded from the Settlement
9 as provided in the Settlement Agreement and Class Notice, and by following the instructions for
10 requesting exclusion. Any person who timely and properly opts out of the Settlement will not be
11 bound by the Settlement Agreement or have any right to object, appeal, or comment thereon.
12 Any requests for exclusion must be in writing and signed by each such Class Member opting out
13 and must otherwise comply with the requirements delineated in the Class Notice. Class
14 Members who have not requested exclusion by submitting a valid and timely request by the
15 deadline shall be bound by all determinations of the Court, the Settlement Agreement, and
16 Judgment.

17 10. Any Class Member may object to the Settlement Agreement or express his or her
18 views regarding the Settlement Agreement, and may present evidence and file briefs or other
19 papers that may be proper and relevant to the issues to be heard and determined by the Court as
20 provided in the Notice.

21 11. The Motion for Final Approval shall be filed by the Class Representative no later
22 than sixteen (16) court days before the Settlement Fairness Hearing.

23 12. The Court reserves the right to adjourn or continue the date of the Settlement
24 Fairness Hearing and all dates provided for in the Settlement Agreement without further notice to
25 the Class, and retains jurisdiction to consider all further applications arising out of or connected
26 with the Class Settlement Agreement.

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1 IT IS SO ORDERED.

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3 DATED: _____

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5 HON. E. BRADLEY NELSON
6 SUPERIOR COURT OF CALIFORNIA
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