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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

OSCAR ALMANZA, individually and on
behalf of all persons similarly situated,

Plaintiffs,

vs.

XTREME XPRESS, INC., a California
corporation and DOES 1 through 50,
Inclusive,

Defendants.

Case No. 20STCV15387

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL**

Date: July 28, 2022

Time: 9:00 a.m.

Judge: Elihu M. Berle

Dept.: 6

1 Plaintiff's motion for an order finally approving the Second Amended Stipulation of
2 Settlement of Class Action Claims and Release of Claims ("Agreement") and motion for an award
3 of attorneys' fees, costs and service awards duly came on for hearing on July 28, 2022, before the
4 above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf
5 of Plaintiff OSCAR ALMANZA ("Plaintiff"). Rupal Law appeared on behalf of Defendant
6 XTREME XPRESS, INC. ("Defendant").

7 **I.**

8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

11 1. All terms used herein shall have the same meaning as defined in the
12 Agreement.

13 2. This Court has jurisdiction over the subject matter of this litigation pending
14 in the California Superior Court for the County of Los Angeles ("Court"), Case No.
15 20STCV15387, entitled *Almanza v. Xtreme Xpress, Inc.* and over all Parties to this litigation,
16 including the Class.

17 **A. Preliminary Approval of the Settlement**

18 3. On March 30, 2022, the Court granted preliminary approval of a class-wide
19 settlement. At this same time the court approved certification of a provisional settlement class for
20 settlement purposes only. The Court confirms this Order and finally approves the settlement and
21 the certification of the Class.

22 **B. Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Notice Packet was
24 mailed by first class mail to the Class Members at their last known addresses on April 29, 2022.
25 Mailing of the Notice Packet to their last known addresses was the best notice practicable under
26 the circumstances and was reasonably calculated to communicate actual notice of the litigation
27 and the proposed settlement to the members of the Class Members. The Court finds that the
28 Notice Packet provided fully satisfies the requirements of California Rules of Court, rule 3.769.

1 5. The Response Deadline for opting out or objecting was June 29, 2022.
2 There was an adequate interval between notice and deadline to permit Class Members to choose
3 what to do and act on their decision. No Class Members objected. No Class Members requested
4 exclusion.

5 **C. Fairness of the Settlement**

6 6. The Agreement provides for a Total Settlement Amount of \$467,309.60.
7 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
8 Cal.App.4th 1794, 1801.)

9 a. The settlement was reached through arms-length bargaining between
10 the parties. There is no evidence of any collusion between the parties in reaching the proposed
11 settlement.

12 b. The Parties' investigation and discovery have been sufficient to
13 allow the Court and counsel to act intelligently.

14 c. Counsel for all parties are experienced in similar employment class
15 action litigation and have previously settled similar class claims on behalf of employees claiming
16 compensation. All counsel recommended approval of the Settlement.

17 d. The percentage of objectors and requests for exclusion is small. No
18 objections were received. No requests for exclusion were received.

19 e. The participation rate is high. All Class Members will be
20 participating in the Settlement and will be sent settlement payments.

21 7. The consideration to be given to the Settlement Class Members under the
22 terms of the Agreement is fair, reasonable, and adequate considering the strengths and weaknesses
23 of the claims asserted in this Action and is fair, reasonable, and adequate compensation for the
24 release of the Released Claims, given the uncertainties and risks of the litigation and the delays
25 which would ensue from continued prosecution of the Action.

26 8. The Agreement is finally approved as fair, adequate, and reasonable and in
27 the best interests of the Settlement Class Members.

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1 **D. Attorneys' Fees and Litigation Expenses**

2 9. The Agreement provides for a Class Counsel Award in the amount of
3 \$170,769.86. Subject to Court approval, the Class Counsel Award consists of attorneys' fees
4 equal to one-third (1/3) of the of the Total Settlement Amount, or One Hundred Fifty-Five
5 Thousand, Seven Hundred Sixty-Nine Dollars and Eighty-Six Cents (\$155,769.86) and
6 reimbursement of costs and expenses not to exceed Fifteen Thousand Dollars and Zero Cents
7 (\$15,000.00).

8 10. A Class Counsel Award in the amount of \$170,769.86 comprised of
9 attorneys in the amount of One Hundred Fifty-Five Thousand, Seven Hundred Sixty-Nine Dollars
10 and Eighty-Six Cents (\$155,769.86) and reimbursement of costs and expenses not to exceed
11 Fifteen Thousand Dollars and Zero Cents (\$15,000.00) is reasonable in light of the contingent
12 nature of Class Counsel's fee, the hours worked by Class Counsel, and the results achieved by
13 Class Counsel. The requested attorneys' fee award represents 1/3 of the common fund, which is
14 reasonable and at the low end of the range for fee awards in common fund cases and is supported
15 by Class Counsel's lodestar.

16 **E. Class Representative Service Award**

17 11. The Agreement provides for a Class Representative Service Award of up to
18 \$10,000 for Plaintiff, Oscar Almanza, subject to the Court's approval. The Court finds that the
19 amount of \$10,000 is reasonable in light of the risks and burdens undertaken by the Plaintiff in
20 this class action litigation.

21 **F. Settlement Administration Costs**

22 12. The Agreement provides for Settlement Administration Costs to be paid in
23 an amount not to exceed \$14,000. The Declaration of the Settlement Administrator provides that
24 the actual claims administration expenses were \$14,000. The amount of this payment is
25 reasonable in light of the work performed by the Settlement Administrator.

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1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include:

2. Every person in the Class who did not submit and timely and validly Request for Exclusion is a Settlement Class Member. There were zero Requests for Exclusion submitted by the Class Members.

4. The Court hereby confirms Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC and Shani Zakay, Esq., of the Zakay Law Group, APLC, as Class Counsel for the Settlement Class Members.

6. The Court hereby confirms plaintiff Oscar Almanza as the Class Representative in this Action.

1 7. The Court hereby determines the Class Representative Service Award in the
2 sum of \$10,000 to the Class Representative is fair and reasonable. The Court hereby orders the
3 Administrator to make this payment to the Class Representative in accordance with the terms of
4 the Settlement Agreement.

5 8. The payment of \$14,000 to the Settlement Administrator for Settlement
6 Administration Costs is approved.

7 9. The PAGA Settlement of \$15,000 is approved.

8 10. Final Judgment is hereby entered in this action. The Final Judgment shall
9 bind each Settlement Class Member. The Final Judgment shall operate as a full release and
10 discharge of Defendant from all claims alleged in the operative complaint which occurred during
11 the Class Period, specifically including claims for: (1) Failure to pay minimum wages; (2) Failure
12 to pay overtime wages; (3) Failure to provide required meal periods; (4) Failure to provide
13 required rest periods; (5) Failure to reimburse for required business expenses; (6) Failure to
14 provide accurate itemized wage statements; and (7) Failure to provide wages when due; as well as
15 any federal, state or local provisions. To the extent employees are required to “opt-in” to have this
16 release be deemed effective under federal law, the acceptance and negotiation of any settlement
17 check shall be deemed effective for that purpose. The Released Claims expressly exclude all other
18 claims, including claims for vested benefits, wrongful termination, unemployment insurance,
19 disability, social security, workers’ compensation, and class claims outside of the Class Period.

20 11. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
21 California and all Aggrieved Employees, pursuant to the California Private Attorneys’ General
22 Act (“PAGA”) and shall release Defendant from claims which could have been alleged under
23 PAGA based on the facts disclosed to the LWDA in Plaintiff’s notice to the LWDA, which
24 occurred during the PAGA Period, including PAGA penalties for: (1) Failure to pay minimum
25 wages; (2) Failure to pay overtime wages; (3) Failure to provide required meal periods; (4) Failure
26 to provide required rest periods; (5) Failure to reimburse for required business expenses; (6)
27 Failure to provide accurate itemized wage statements; and (7) Failure to provide wages when due.
28 Excluded from the Released PAGA Claims are any claims under PAGA which were not and could

1 not have been alleged based upon the facts set forth in Plaintiff's Complaint and administrative
2 exhaustion letter and expressly excluding all other claims, including claims vested benefits,
3 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
4 and PAGA claims outside the PAGA Period.

5 12. The term "Aggrieved Employees" is hereby defined to mean the following:

6 "All of Defendant's current and former non-exempt employees employed in
7 California between February 13, 2019, and March 18, 2021."

8 13. In addition to the release given by each Settlement Class Member, Plaintiff
9 also generally releases Defendant from any and all of the Plaintiff's Released Claims as defined in
10 the Agreement. This general release by Plaintiff also includes a waiver of rights under California
11 Civil Code Section 1542.

12 14. The Agreement is not an admission by Defendant, nor is this Final
13 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
14 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
15 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
16 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
17 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
18 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
19 concession with regard to the denials or defenses by Defendant and shall not be offered in
20 evidence in any action or proceeding against Defendant in any court, administrative agency or
21 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
22 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
23 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
24 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
25 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
26 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
27 claims being released by the Settlement.

1 15. Notice of entry of this Final Approval Order and Judgment shall be given to
2 Class Counsel on behalf of Plaintiff and all Class Members. It shall not be necessary to send
3 notice of entry of this Final Approval Order and Judgment to individual Class Members and the
4 Final Approval Order and Judgment shall be posted on Settlement Administrator's website as
5 indicated in the Notice Packet.

6 16. After entry of Final Judgment, the Court shall retain jurisdiction to construe,
7 interpret, implement, and enforce the Settlement, to hear and resolve any contested challenge to a
8 claim for settlement benefits, and to supervise and adjudicate any dispute arising from or in
9 connection with the distribution of settlement benefits.

10 11. If the Settlement does not become final and effective in accordance with the
11 terms of the Settlement, resulting in the return and/or retention of the Total Settlement Amount to
12 Defendant consistent with the terms of the Settlement, then this Final Approval Order and
13 Judgment, and all orders entered in connection herewith shall be rendered null and void and shall
14 be vacated.

15
16 **IT IS SO ORDERED AND ADJUDGED. LET JUDGMENT BE FORTHWITH**
17 **ENTERED ACCORDINGLY.**

18 DATED: _____, 2022
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21 _____
22 Hon. Elihu M. Berle
23 Judge, Superior Court for the State of California,
24 County of Los Angeles
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