

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN DIEGO

MIGUEL HERNANDEZ, on behalf of himself,
all others similarly situated, and on behalf of
the general public,

Plaintiff,

v.

MJ INDUSTRIES, INC.; MJ TANK LINES,
INC.; and DOES 1-100,

Defendants.

Case No. 37-2017-00003218-CU-OE-CTL

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: July 24, 2020
Time: 9:00 a.m.
Judge: Hon. Ronald L. Styn
Dept.: C-74

1 TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

2 The Motion for Preliminary Approval of Class Action Settlement came before this Court,
3 the Honorable Ronald L. Styn presiding, on July 24, 2020. The Court having considered the
4 papers submitted in support of the Motion, HEREBY ORDERS THE FOLLOWING:

5 1. The following Class is conditionally certified for purposes of settlement only: all
6 individuals employed by Defendant as drivers at any time between January 25, 2013, through
7 preliminary approval of the settlement.

8 2. The Court grants preliminary approval of the Settlement and the Class based upon
9 the terms set forth in the Joint Stipulation and Settlement Agreement filed herewith. Capitalized
10 terms shall have the definitions set forth in the Settlement.

11 3. The Settlement appears to be fair, adequate and reasonable to the Class. The
12 Settlement falls within the range of reasonableness and appears to be presumptively valid,
13 subject only to any objections that may be raised at the final approval hearing and final approval
14 by this Court.

15 4. Plaintiff Miguel Hernandez is conditionally approved as the Class Representative
16 for the Class.

17 5. The proposed Class Representative Enhancement Payment of \$10,000 payable to
18 the Plaintiff for his services as the class representative is conditionally approved.

19 6. David Mara and Matthew Crawford of Mara Law Firm, PC, are conditionally
20 approved as Class Counsel for the Class.

21 7. The proposed awards of up to \$50,000 in attorneys' fees and up to \$15,000 in
22 actual costs payable to Class Counsel are conditionally approved.

23 8. A final approval hearing on the question of whether the Settlement, attorneys'
24 fees and costs to Class Counsel, and the Class Representative's Enhancement Payment should be
25 finally approved as fair, reasonable and adequate as to Class Members is scheduled in
26 Department C-74 on the date and time set forth in Paragraph 15 below.

27 9. The Court confirms Simpluris as the Settlement Administrator.
28

1 10. The proposed payment of no more than \$7,500 in costs to Simpluris for its
2 services as the Settlement Administrator is conditionally approved.

3 11. The Court hereby preliminarily approves the allocation of \$5,000.00 of the Gross
4 Settlement Amount to Plaintiff's PAGA claims. Of this amount, 75% will be paid to the Labor
5 and Workforce Development Agency ("LWDA") and the remaining 25% will become part of the
6 Net Settlement Amount for distribution to the Class Members. At the Final Approval Hearing,
7 the Court will determine the sufficiency of the PAGA payment. If the Court decides to award
8 less than the amounts set forth by the Parties, then excess amount will become part of the
9 available Net Settlement Amount.

10 12. The Court approves, as to form and content, the Notice in substantially the form
11 attached as Exhibit A the Settlement. The Court approves the procedure for Class Members to
12 participate in, to opt out of, and to object to, the Settlement as set forth in the Notice of
13 Settlement.

14 13. The Court directs the mailing of the Notice by first class mail to Class Members
15 in accordance with the implementation schedule set forth in Paragraph 15 below. The Court
16 finds the dates selected for the mailing and distribution of the Notice, as set forth in the
17 Implementation Schedule, meet the requirements of due process and provide the best notice
18 practicable under the circumstances and shall constitute due and sufficient notice to all persons
19 entitled thereto.

20 14. To facilitate administration of the Settlement pending final approval, the Court
21 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or
22 administrative proceedings (including, but not limited to, filing claims with the Division of
23 Labor Standards Enforcement of the California Department of Industrial Relations) regarding
24 claims released by the Settlement unless and until such Class Members have filed valid Requests
25 for Exclusion with the Settlement Administrator and the time for filing valid Requests for
26 Exclusion with the Settlement Administrator has elapsed. This provision shall not apply to
27 claims not alleged in the Action.
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19

21
22

24
25

25