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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

FEB 01 2022

BY 
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO

TESSA SAMPSON, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

DIVERSIFIED CONVEYORS
INTERNATIONAL, LLC, a Tennessee
Limited Liability Company; and DOES 1
through 50, inclusive,

Defendant.

CASE NO.: CIVDS 2018610

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

Date: February 1, 2021

Time: 10:00 a.m.

Dept: S-29

Judge: Hon. David Cohn

Complaint Filed: September 3, 2020

1 Plaintiff's unopposed Motion for Preliminary Approval of a Class Action Settlement came
2 before this Court on February 1, 2022, in Department S-29, the Honorable David Cohn presiding.
3 The Court having considered the papers submitted in support of the application of the parties,
4 HEREBY ORDERS THE FOLLOWING:

5 1. The Court grants preliminary approval of the Settlement and the Settlement Class
6 based upon the terms set forth in the Joint Stipulation of Settlement and Release of Class and
7 Representative Action (the "Settlement Agreement") attached as **Exhibit A** to the Declaration of
8 Jonathan Melmed in support of Plaintiff's Motion for Order Granting Preliminary Approval of
9 Class Action Settlement. All terms used herein shall have the same meaning as defined in the
10 Settlement Agreement. The settlement set forth in the Settlement Agreement appears to be fair,
11 adequate and reasonable to the Class, and the Court preliminarily approves the terms of the
12 Settlement Agreement, including, without limitation:

- 13 a. A non-reversionary Gross Settlement Amount of **\$460,000.00**;
- 14 b. The Class Representative enhancement payment to the named Plaintiff of
15 **\$10,000.00**;
- 16 c. Court approved attorneys' fees to Class Counsel of up to **\$153,333.33**,
17 representing one-third of the Gross Settlement Amount;
- 18 d. Court approved litigation costs to Class Counsel of up to **\$18,000.00**;
- 19 e. Fees and Costs of the Settlement Administrator of up to **\$9,000.00**; and
- 20 f. A PAGA allocation of \$25,000.00, with **\$18,750.00** (i.e., 75%) payable to the
21 California Labor & Workforce Development Agency for its portion of the
22 PAGA penalties.

23 2. This Court has considered the papers in support of the Motion and the Settlement
24 Agreement and finds that the, pursuant to C.R.C. Rule 3.769(d), proposed Class should be certified
25 for settlement purposes only. Specifically, the Court finds for settlement purposes only that the
26 proposed Class: (a) is ascertainable; (b) is sufficiently numerous; (c) meets the commonality
27 requirements; (d) the claims of the Class Representatives are typical of the claims of the proposed
28 Class Members; (e) Class Representatives' counsel has and is able to adequately represent the

1 proposed Class; (f) the Class Representative is adequate to represent the Class; and (g) class-wide
2 treatment of this dispute is superior to individual litigation because common issues predominate
3 over individual issues for settlement purposes.

4 3. The Settlement falls within the range of reasonableness and appears to be
5 presumptively valid, subject only to any objections that may be raised at the final fairness hearing
6 and final approval by this Court.

7 4. A final fairness hearing on the question of whether the proposed Settlement,
8 attorneys' fees and costs to Class Counsel, and the Class Representative's enhancement award
9 should be finally approved as fair, reasonable and adequate as to the members of the Class is
10 scheduled on the date and time set forth in the implementation schedule in Paragraph 13 below.

11 5. This Court approves, as to form and content, the Notice of Proposed Class and
12 Representative Action Settlement and Hearing Date for Court Approval ("Class Notice"), in
13 substantially the form attached to the herein as **Exhibit 1**. The Court approves the procedure for
14 Class Members to participate in, to opt out of, and to object to, the Settlement as set forth in the
15 Settlement Agreement.

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

21 7. It is ordered that the Settlement Class is preliminarily certified for settlement
22 purposes only.

23 8. The Court preliminary certifies for settlement purposes only the Settlement Class
24 defined as follows: *all individuals who are or were employed as hourly, non-exempt employees by*
25 *Defendant in California during the Class Period*. The Class Period is defined as the period of time
26 from September 3, 2016 through April 21, 2021.

27 9. Upon final approval of the settlement, the Class Members who do not seek to be
28 excluded from the settlement release any and all claims, charges, complaints, controversies, debts,

demands, obligations, promises, agreements, suits, rights, costs, losses, liens, fines, restitutionary amounts, interest, punitive damages, liabilities, money owed, interest, guarantees, expenses (including, without limitation, wages, penalties, liquidated damages, attorneys' fees and costs), actions or causes of action of any nature under state, federal, or local law, that were made or could have been made based on the facts alleged in the Complaint or the Action, which include claims under California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, IWC Wage Order No. 4, UCL violations pursuant to Cal. Bus. & Prof. Code §17200 et seq. based on the foregoing, and statutory penalties based on the foregoing under California's Private Attorney Generals Act ("PAGA") (Labor Code §§ 2698-2699.5). The Release Period shall be the Class Period.

10. The Court confirms Plaintiff Tessa Sampson as Class Representative, and Jonathan Melmed of Melmed Law Group P.C. as Class Counsel.

11. The Court appoints ILYM Group, Inc. as the Settlement Administrator.

12. To facilitate administration of the Settlement pending final approval, the Court hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative proceedings (including filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations) regarding claims released by the Settlement, unless and until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator and the time for filing claims with the Settlement Administrator has elapsed.

13. The Court orders the following **Implementation Schedule** for further proceedings:

a.	Deadline for Defendant to Submit Class Member Information to Settlement Administrator	[within 14 days after the Preliminary Approval Date]
b.	Deadline for Settlement Administrator to Mail Notice to Class Members	[within 14 days after receiving the Class Member Information from Defendant]
c.	Deadline for Class Members to Postmark Requests for Exclusion	[30 days after mailing of the Class Notice]

d.	Deadline for Class Members to submit any Objections to Settlement	[30 days after mailing of the Class Notice]
e.	Deadline for Settlement Administrator to file Declaration of Due Diligence and Proof of Mailing	[30 Court days prior to Final Approval and Fairness Hearing]
f.	Deadline for Class Counsel to file Motion for Final Approval of Settlement, including Request for Attorneys' Fees, Costs, and Enhancement Award	[16 Court days prior to Final Approval and Fairness Hearing]
g.	Final Approval and Fairness Hearing (the Court's first available date after June 1, 2022)	<u>6-3</u> , 2022 at <u>10:00</u> a.m. p.m.

14. If any of the dates in this Implementation Schedule falls on a weekend, bank or court holiday, the time to act shall be extended to the next business day.

15. The Court shall retain jurisdiction over the Action for all purposes pursuant to California Rule of Court 3.769 and California Rule of Civil Procedure § 664.6 to enforce the terms of the Settlement.

IT IS SO ORDERED.

Dated: 2-1-22

RAFAEL A ARREOLA

Hon. David Cohn
Judge of the Superior Court, San Bernardino
County