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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 KEITH GUTHRIE, individually, on a
12 representative basis, and on behalf of all
13 others similarly situated;

14 Plaintiff,

15 vs.

16 ITS LOGISTICS, LLC, a Delaware
17 Company, and DOES 1 through 20,
18 inclusive;

19 Defendants.
20

Case No.: 1:21-CV-00729-AWI-EPG
*[Assigned to Hon. Anthony W. Ishii,
U.S. District Judge, Courtroom 2]*

**ORDER GRANTING
PRELIMINARY APPROVAL OF
SETTLEMENT**

21
22 Plaintiff has filed a Motion for Preliminary Approval of Class Action Settlement,
23 which consists of conditional certification of a settlement class, approval of the notice to
24 be sent to the class about the settlement, the appointment of class counsel and settlement
25 administrator, and the setting of a date for a fairness hearing for final approval of the
26 settlement. After review and consideration of the Parties' Class Action Settlement
27 Agreement and Release of Claims, and the papers in support of the Motion for
28 Preliminary Approval,

1 IT IS HEREBY ORDERED as follows:

2 1. The Court conditionally finds that, for the purposes of approving the
3 proposed Settlement only, the proposed class satisfies the requirements for certification
4 of a settlement class under Federal Rule of Civil Procedure 23(a) and 23(b)(3): (a) the
5 Class Members are readily ascertainable and so numerous that joinder of all Class
6 Members is impracticable; (b) there are questions of law or fact common to the proposed
7 Class; (c) certain claims of Plaintiff are typical of the claims of the members of the
8 proposed Class; (d) Plaintiff and his counsel will fairly and adequately protect the interest
9 of the proposed Class; (e) common issues predominate over individual issues; and (f) a
10 class action is superior to the other available methods for efficient resolution of this
11 controversy.

12 2. The Parties' Class Action Settlement Agreement and Release of Claims
13 ("Settlement" or "Settlement Agreement"), attached as Exhibit "1" to the Declaration of
14 Misty Lauby in support of Plaintiff's Motion for Preliminary Approval of Class Action
15 Settlement, is granted preliminary approval as it meets the criteria for preliminary
16 settlement approval. The Settlement appears to fall within the range of possible approval
17 as fair, adequate and reasonable, to be the product of arm's-length and informed
18 negotiations, and to treat all Class Members fairly.

19 3. The Parties' proposed notice plan is constitutionally sound because
20 individual notices will be mailed to all Class Members, and such notice is the best notice
21 practicable. The Parties' proposed Notice of Settlement of Class and Representative
22 Action ("Notice"), attached as Exhibit "1" to the Settlement Agreement, is sufficient to
23 inform Class Members of the terms of the Settlement, their rights under the Settlement,
24 their rights to object to the Settlement or request to be excluded from the Settlement, and
25 the processes for doing so, and the estimated amount that each Class Member will receive
26 from the settlement. The Notice is, therefore, approved.

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1 4. The following class is conditionally certified for settlement purposes only:

2 All current and former truck drivers who resided in California and
3 who were employed by Defendant, ITS Logistics, LLC at any time
4 during the period of March 1, 2019, through May 7, 2022 (the “Class
5 Period”).

6 5. Plaintiff’s PAGA Claims are conditionally approved for settlement purposes
7 only as a representative action under the Private Attorneys General Act under California
8 Labor Code § 2698 *et seq.* (“PAGA”) on behalf of the following:

9 All current and former truck drivers who resided in California and
10 who were employed by Defendant, ITS Logistics, LLC at any time
11 during the period of March 9, 2020, through May 7, 2022 (the “PAGA
12 Period”).

13 6. Class Members are deemed to participate in the Settlement and are not
14 required to submit a claim form to receive an Individual Settlement Payment. All Class
15 Members, except for those who submit valid requests to be excluded, will receive
16 Individual Settlement Payments as set forth in the Settlement and Notice, upon the
17 Court’s final approval of the Settlement and the Effective Date occurring.

18 7. ILYM Group is appointed to act as the Settlement Administrator.

19 8. Plaintiff Keith Guthrie is appointed as the Class Representative for
20 settlement purposes only, and Plaintiff’s counsel Brian Mankin and Misty Lauby are
21 appointed as Class Counsel.

22 9. The Notice will be disseminated according to the notice plan described in
23 the Settlement and substantially in the form submitted by the Parties. Proof of distribution
24 of such forms will be filed by the Parties at or prior to the final approval hearing.

25 10. Defendant is directed to provide the Settlement Administrator, not later
26 than 21 days after the date of this Order, an electronic database containing the Class and
27 Aggrieved Employee Data, as specified by the Settlement.

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1 11. The Settlement Administrator is directed to mail the approved Notice by
2 first-class mail to the Class Members not later than 10 days after receipt of the Class and
3 Aggrieved Employee Data from Defendant.

4 12. Any Class Member who wishes to object to the Settlement or who elects not
5 to participate in the Settlement has until 45 days after the mailing of the Notice (“Notice
6 Response Deadline”) to submit his or her objection or request to be excluded pursuant to
7 the procedures set forth in the Notice.

8 13. Any Class Member who wishes to dispute the Weeks Credited used to
9 estimate his or her Individual Settlement Payment may do so by providing documentation
10 of the dispute to the Settlement Administrator by the Notice Response Deadline pursuant
11 to the procedures set forth in the Notice.

12 14. Aggrieved Employees may not exclude themselves from participating in the
13 representative PAGA or contest the PAGA Pay Periods used to estimate his or her share
14 of the PAGA Penalties.

15 15. A final approval and fairness hearing will be held on
16 _____ at _____ AM/PM in Courtroom 10 to determine
17 whether the Settlement should be granted final approval as fair, reasonable, and adequate
18 as to the Class Members. The Court will hear all evidence and argument necessary to
19 evaluate the Settlement and will consider the Class Representative’s request for a Service
20 Award and Class Counsel’s request for attorneys’ fees and costs.

21 16. Plaintiff’s Motion for an award of attorney’s fees, costs, expenses and a
22 Service Award shall be filed no later than _____.

23 17. Plaintiff’s Motion for Final Approval of the Settlement shall be filed no later
24 than _____.

25 18. The Court may, for good cause shown, extend any of the deadlines set forth
26 in this Order.

27 19. All defined terms contained herein shall have the same meaning as set forth
28 in the Settlement Agreement executed by the Parties and filed with this Court.

1 20. In the event that the Settlement does not receive final approval or the
2 Effective Date of the Settlement does not occur, this Order, including any order
3 conditionally certifying a class for Rule 23 shall be rendered null and void and shall be
4 vacated. Further, in that event, the fact that the Parties were willing to stipulate to class
5 certification as part of the Settlement shall have no bearing on, and will not be admissible
6 in connection with, the issue of whether a class in this Action should be certified in a
7 non-settlement context.

8
9 Dated: _____

Hon. Anthony W. Ishii