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FILED
 Superior Court of California
 County of Los Angeles
01/06/2022

Sherri R. Carter, Executive Officer / Clerk of Court
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Class Counsel

[Additional Class Counsel Listed on Next Page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF LOS ANGELES — CENTRAL CIVIL WEST

Coordination Proceeding Special Title
 (Rule 3.550)

**EXPRESS MESSENGER SYSTEMS
 WAGE AND HOUR CASES**

Thomas Lewis v. Express Messenger Systems
 (BC501521)

Eliseo Leal v. Express Messenger Systems
 (BC509904)

Case No. BC501521

Judicial Council Coordination Proceeding
 Case No. **JCCP 4789**

Assigned for All Purposes to:
 Hon. Kenneth R. Freeman,
 Spring Street, Dept. SSC-14

**~~PROPOSED~~ ORDER GRANTING MOTION
 FOR FINAL APPROVAL OF CLASS
 ACTION SETTLEMENT AND MOTION
 FOR ATTORNEYS' FEES, COSTS AND
 EXPENSES, AND CLASS
 REPRESENTATIVE SERVICE AWARDS**

Date: January 6, 2022
 Time: 10:00 a.m.
 Place: Department SSC-14

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1 **ORDER**

2 This matter came before the Court for a hearing on the Motion for Final Approval of the Class
3 Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and Class Representative
4 Service Awards (collectively, the "Motions"). Due and adequate notice having been given to Class
5 Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the
6 Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully
7 informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

8 1. For the reasons set forth in the Preliminary Approval Order, which are adopted and
9 incorporated herein by reference, this Court finds that the requirements of California Code of Civil
10 Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

11 2. This Order hereby adopts and incorporates by reference the terms and conditions of the
12 Amended Class Action Settlement Agreement ("Settlement Agreement" or "Settlement"), together with
13 the definitions and terms used and contained therein.

14 3. The Court finds that it has jurisdiction over the subject matter of the action and over all
15 parties to the action, including all members of the Settlement Class.

16 4. The Class Notice fully and accurately informed Class Members of all material elements
17 of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable
18 under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully
19 with the laws of the State of California and due process. The Class Notice fairly and adequately
20 described the settlement and provided Class Members with adequate instructions and a variety of means
21 to obtain additional information.

22 5. Class Members were given a full opportunity to participate in the Final Approval
23 hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the
24 Court determines that all Class Members who did not timely and properly opt out of the settlement are
25 bound by this Order.

26 6. The Court has considered all relevant factors for determining the fairness of the
27 settlement and has concluded that all such factors weigh in favor of granting final approval. In particular,
28 the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Class Counsel; that the settlement is the result of serious, informed, adversarial, and arm's-
2 length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiffs' case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other released
20 party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
21 any other released party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, wrongdoing, omission, concession, or liability whatsoever by or against
24 Defendant or any of the other released parties.

25 10. Final approval shall be with respect to: All individuals who personally performed last-
26 mile delivery and pickup services for OnTrac ("Defendant") in California at any time from February 22,
27 2009 to August 6, 2021 ("Class Members"), or January 31, 2013 to August 6, 2021 ("PAGA
28 Members"), and who were designated as independent contractors. Excluded from this group are

1 individuals designated as Regional Service Providers during the time they were designated as Regional
2 Service Providers. Excluded from the Class Members (but not PAGA Members) are Yesenia Montoya
3 and Roger D. Williams, who are the only two individuals who submitted timely and valid Requests for
4 Exclusion.

5 11. The Class Members and PAGA Members release any and all present and past claims,
6 actions, demands, causes of action, suits, debts, obligations, damages, rights or liabilities, of any nature
7 and description whatsoever, known or unknown, existing or potential, recognized now or hereafter,
8 expected or unexpected, pursuant to any theory of recovery (including those based in contract or tort,
9 common law or equity, federal, state, or local law, statute, ordinance, or regulation, and for claims for
10 compensatory, consequential, punitive or exemplary damages, statutory damages, penalties, interest,
11 attorneys' fees, costs, or disbursements) based on or reasonably related to the conduct alleged in the
12 operative Complaint during the Settlement Period, and specifically to claims pursuant to California
13 Labor Code sections 201-204, 206.5, 207, 208, 210-214, 216, 218, 218.5, 218.6, 221, 225.5, 226, 226.2,
14 226.3, 226.7, 226.8, 227.3, 432, 432.5, 510, 512, 551-553, 558, 1174, 1174.5, 1182.12, 1194, 1194.2,
15 1197, 1197.1, 1198, 1198.5, 2750.3, 2753, 2800, 2802, 2698 et seq. (PAGA Claims), and 3700 et seq.;
16 Cal. Code of Regulations, tit. 8, § 11090; California Business and Professions Code sections 17200 et
17 seq.; and any other similar California state or federal law, for non-payment of wages, minimum wages,
18 overtime wages (including regular rate calculations), expense reimbursement, wage statements, failure to
19 provide workers' compensation insurance, meal periods, rest breaks, final pay, waiting time penalties,
20 PAGA penalties, restitution, interest, costs and expenses, attorneys' fees, declaratory relief, injunctive
21 relief, liquidated damages, exemplary or punitive damages, civil penalties, equitable remedies, and/or
22 pre- or post-judgment interest. The Class Members and PAGA Members do not release claims that, as a
23 matter of law cannot be released. The Class Members' release the claims in the is paragraph from
24 February 22, 2009 through August 6, 2021. The PAGA Members release the PAGA Claims and PAGA
25 penalties from January 31, 2013 through August 6, 2021.

26 12. Plaintiffs Thomas Lewis, Aurelio Sanchez, and Eliseo Leal are suitable Class
27 Representatives and are hereby appointed the Class Representatives for the Settlement Class. The Court
28 finds that Plaintiffs' investment and commitment to the litigation and its outcome ensured adequate and

1 zealous advocacy for the Settlement Class, and that their interests are aligned with those of the
2 Settlement Class.

3 13. The Court hereby awards Plaintiffs Class Representative Service Awards of \$15,000,
4 each, for Plaintiffs' service on behalf of the Settlement Class, and for agreeing to general releases of all
5 claims they may have against Defendant.

6 14. The Court finds that the attorneys at Capstone Law APC; Marlin & Saltzman, LLP; The
7 Hamideh Firm, P.C.; and James Hawkins, APLC have the requisite qualifications, experience, and skill
8 to protect and advance the interests of the Settlement Class. The Court therefore finds that counsel satisfy
9 the professional and ethical obligations attendant to the position of Class Counsel, and hereby appoints
10 counsel as Class Counsel for the Settlement Class.

11 15. The settlement of civil penalties under PAGA in the amount of \$200,000 is hereby
12 approved. Seventy-Five Percent (75%), or \$150,000, shall be paid to the California Labor and
13 Workforce Development Agency. The remaining Twenty-Five Percent (25%), or \$50,000, will be added
14 to the Net Settlement Amount.

15 16. The Court hereby awards a total of \$4,200,000 in attorneys' fees and \$187,009.74 in
16 costs and expenses to Class Counsel: Capstone Law APC; Marlin & Saltzman, LLP; The Hamideh
17 Firm, P.C.; and James Hawkins, APLC.

18 17. The Court approves settlement administration costs and expenses in the amount of
19 \$36,000 to CPT Group, Inc.

20 18. All Class Members were given a full and fair opportunity to participate in the Approval
21 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
22 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
23 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
24 shall be forever binding on all Class Members and PAGA Members. All other Class Members have
25 released and forever discharged the Defendant for any and all Released Claims.

26 **IT IS SO ORDERED.**

27 Dated: 01/06/2022



Kenneth R. Freeman

Hon. Kenneth R. Freeman
Los Angeles County Superior Court Judge
Kenneth R. Freeman, Judge
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the State of California, County of Los Angeles. I am over the age of 18 and not a party to the within suit; my business address is 1875 Century Park East, Suite 1000, Los Angeles, California 90067. My electronic address is matthew.krout@capstonelawyers.com.

On **October 18, 2021**, I served the document(s) described as:

[PROPOSED] ORDER GRANTING MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT AND MOTION FOR ATTORNEYS' FEES, COSTS AND EXPENSES, AND CLASS REPRESENTATIVE SERVICE AWARDS

on the interested parties in this action by sending [] the original [or] ☒ a true copy thereof [] to interested parties as follows [or] ☒ as stated on the attached service list:

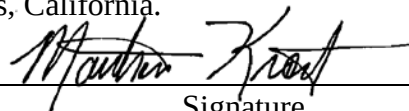
SEE ATTACHED CASE ANYWHERE SERVICE LIST

☒ **ELECTRONIC FILE & SERVE:** A true and correct copy of the above-referenced document(s) was electronically served on counsel of record by means of transmitting the document to Case Anywhere website in accordance with the Court's Order.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this **October 18, 2021**, at Los Angeles, California.

Matthew Krout
Type or Print Name


Signature

Case Anywhere Electronic Service List

Case Name: **Express Messenger Systems Wage and Hour Cases**

Case Info: **JCCP4789, Los Angeles Superior Court**

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