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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHRISTIAN MATUTE, an individual;
Individually and on Behalf of All
Similarly Situated Individuals,

Plaintiff,

v.

PILOT AIR FREIGHT LLC dba PILOT
FREIGHT SERVICES, a Pennsylvania
Limited Liability Company; BEST BUY
CO., INC., a Minnesota Corporation; and
DOES 1 through 25, Inclusive,

Defendants.

Case No: 4:22-cv-00587-YGR

[The Honorable Yvonne Gonzalez Rogers]

CLASS ACTION

**[PROPOSED] ORDER FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT, SETTING OF A FINAL
APPROVAL HEARING AND APPROVAL OF
NOTICE TO THE CLASS**

Date: June 20, 2023

Time: 2:00 p.m.

Courtroom: 1 (4th Floor), Oakland Courthouse

1 The Court, having fully reviewed the Plaintiff's Motion for Preliminary Approval of Class
2 Action Settlement, the supporting Points and Authorities, the Declaration of Armand R. Kizirian in
3 support thereof, the Stipulation of Class Action Settlement ("Settlement Agreement") attached as
4 Exhibit "1" to the Declaration of Armand R. Kizirian, the proposed Notice of Settlement and Payment
5 Information Form attached as Exhibits "A" and "B" to the Settlement Agreement, and the settlement
6 administration estimate submitted by ILYM Group, Inc. ("ILYM") attached as Exhibit "3" to the
7 Declaration of Armand R. Kizirian; and in recognition of the Court's duty to make a preliminary
8 determination as to the reasonableness of any proposed Class Action settlement, and if preliminarily
9 determined to be reasonable, to ensure proper notice is provided to Settlement Class Members in
10 accordance with due process requirements; and to conduct a Final Approval hearing as to the good
11 faith, fairness, adequacy and reasonableness of any proposed settlement, THE COURT HEREBY
12 MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:

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14 1. The Court finds, on a preliminary basis, that the Settlement Agreement appears to be
15 within the range of reasonableness of a settlement that could ultimately be given final approval by this
16 Court. The Court notes that Defendant Pilot Air Freight has agreed to pay \$650,000 on behalf of itself
17 and Defendant Best Buy Co., Inc. for distribution to the Settlement Class Members, Settlement Class
18 Representative, Settlement Class Counsel, the Labor Workforce and Development Agency, and the
19 Settlement Administrator, in exchange for a release and full and final disposition of this case, as
20 described in the Settlement Agreement. The Court approves of the plan of allocation of the \$650,000
21 as described in the Settlement Agreement.

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23 2. It further appears to the Court, on a preliminary basis, that the Settlement is fair,
24 reasonable, and adequate as to Settlement Class Members when balanced against the probable
25 outcome of further litigation, liability and damages issues, and potential appeals of rulings concerning
26 the claims arising in the Settlement Period of March 28, 2017 to the date of this Order. The Court also
27 finds that significant investigation, discovery, research, and litigation has been conducted such that
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1 counsel for the Parties at this time are able to reasonably evaluate their respective positions and make
2 reliable recommendations regarding the approval of this Settlement. It further appears that settlement
3 at this time will avoid substantial costs, delay and risks that would be presented by the further
4 prosecution of the litigation. It also appears that the proposed Settlement has been reached as the result
5 of intensive, informed and non-collusive negotiations between the Parties;

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7 3. ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR
8 PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT IS HEREBY GRANTED.

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10 4. Upon consideration of the information before this Court, and having preliminarily
11 approved the Settlement, IT IS ORDERED THAT the following class is conditionally certified for
12 settlement purposes only, pending final approval: (a) all individuals who provided services for
13 Defendants Pilot and Best Buy (as those entities are defined in the Settlement Agreement) as contract
14 carriers, drivers, and/or helpers in the State of California, and (b) all entities owned and controlled by
15 contract carriers which contracted directly with Defendant Pilot and provided delivery services for
16 Defendant Best Buy (as those entities are defined in the Settlement Agreement) from March 28, 2017
17 through the date of this Order. However, the Settlement Class shall exclude all individuals and entities
18 who provided delivery services for Defendant Best Buy (as those entities are defined in the Settlement
19 Agreement) as contract carriers, drivers, and/or helpers in the State of California exclusively prior to
20 April 18, 2019 and who previously released claims through that date via the settlement in *Henriquez v.*
21 *DSI Logistics, Inc.*, Los Angeles Sup. Ct. No. BC714165 (final approval granted Nov. 25, 2019).

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23 5. The Court finds that the Notice of Settlement and Payment Information Form fully
24 advises Settlement Class Members of the proposed Settlement, preliminary Court approval of the
25 proposed Settlement, exclusion timing and procedures, dispute resolution procedures, and the Final
26 Approval Hearing. These documents fairly and adequately advise Settlement Class Members of the
27 terms of the proposed Settlement and the benefits available to Settlement Class Members thereunder,
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1 as well as their right to exclude themselves from the Class and procedures for doing so, and of the
2 Final Approval Hearing and the right of Settlement Class Members to file documentation in objection
3 and to appear in connection with said hearing. The Court further finds that said Notice clearly
4 comports with all constitutional requirements including those of due process.

5
6 6. ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY
7 APPROVES THE PROPOSED NOTICE OF PROPOSED CLASS ACTION SETTLEMENT FOR
8 DISTRIBUTION TO THE SETTLEMENT CLASS MEMBERS.

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10 7. Upon consideration of the information before this Court regarding the work counsel has
11 done in identifying and investigating the claims in this action, counsel's experience in handling class
12 actions and the type of claims asserted here, counsel's demonstrated knowledge of the applicable law,
13 and the resources counsel has committed to representing the Settlement Class Members. IT IS
14 ORDERED THAT Michael H. Boyamian, and Armand R. Kizirian of Boyamian Law, Inc. are hereby
15 appointed as Settlement Class Counsel.

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17 8. Upon consideration of the information before this Court regarding the efforts of the
18 Plaintiffs, and the adequacy of their representation of absent class members, IT IS ORDERED THAT
19 the Plaintiff Christian Matute is hereby appointed as Settlement Class Representative of the Settlement
20 Class.

21
22 9. Upon consideration of the information before this Court, and Settlement Class
23 Counsel's recommendations, IT IS ORDERED THAT ILYM Group, Inc. is hereby appointed as the
24 Settlement Administrator for this Settlement.

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26 10. Upon consideration of the information before this Court, the Court finds that mailing to
27 the present and last known addresses of the Settlement Class Members constitutes an effective method
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1 of notifying Settlement Class Members of their rights with respect to the Settlement.

2 ACCORDINGLY, IT IS ORDERED:

3 (a) Within sixty (60) days, Defendants shall forward to the appointed Settlement
4 Administrator, ILYM, the Settlement Class Data, as that term is defined in the Settlement Agreement;

5 (b) Within fourteen (14) days, the Settlement Administrator, ILYM, shall send to
6 each member of the Settlement Class, by first class mail, the Notice of Settlement and Payment
7 Information Form. All mailings shall be made to the present and/or last known mailing address of the
8 Settlement Class Members based on Defendants' records or other information known to the Parties, as
9 well as addresses that may be located by the Settlement Administrator, who will conduct standard
10 address searches in cases of returned mail. The Court finds that the mailing of notices to Settlement
11 Class Members as set forth in this paragraph is the best means practicable by which to reach
12 Settlement Class Members and is reasonable and adequate pursuant to all constitutional and statutory
13 requirements including all due process requirements.

14
15 11. IT IS FURTHER ORDERED that all:

16 (a) Requests for exclusion and completed Payment Information Forms must be
17 mailed to the Settlement Administrator, postmarked on or before the 60th day after the Notice Packet
18 was mailed to the relevant Settlement Class Member, excepting Settlement Class Members who had
19 Notice Packets re-mailed, who shall have at up to ten days prior to the Final Approval Hearing to
20 respond;

21 (b) Objections must be filed with the Court as described in the Notice of Proposed
22 Class Action Settlement and also served on Settlement Class Counsel and on Defense Counsel on or
23 before the 60th day after the Notice Packet was mailed to the relevant Settlement Class Member,
24 excepting Settlement Class Members who had Notice Packets re-mailed, who shall have at up to ten
25 days prior to the Final Approval Hearing;

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27 12. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before the
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undersigned at 2:00 p.m., on November 14, 2023, at the above-entitled court located at 1301 Clay Street, Oakland, California 94612 to consider final approval of the proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to consider the application of Settlement Class Counsel for an award of reasonable attorneys' fees, litigation expenses, Settlement Class Representative Service Payment, and for costs of claims administration incurred;

13. IT IS FURTHER ORDERED that all briefs in support of final approval of the Settlement and for Award of Attorneys' Fees, Costs, Settlement Class Representative Service Awards, and Settlement Class Member Service Awards shall be served and filed with the Court at least 35 days prior to the close of the Exclusion and Objection Period, such that Settlement Class Members will be able to review Plaintiff's attorneys' fees request prior to the close of such period.

14. IT IS FURTHER ORDERED that any party to this case, including Settlement Class Members, may appear at the Final Approval Hearing in person or by counsel, and may be heard to the extent allowed by the Court, in support of or in opposition to, the Court's determination of the good faith, fairness, reasonableness and adequacy of the proposed Settlement, the requested attorneys' fees and litigation expenses, and any Order of Final Approval and Judgment regarding such Settlement, fees and expenses; provided, however, that no person, except Settlement Class Counsel and counsel for Defendants, shall be heard in opposition to such matters unless such person has complied with the conditions set forth in the Notice of Proposed Class Action Settlement which conditions are incorporated therein;

15. IT IS FURTHER ORDERED that in the event of the occurrence of the Effective Date, as defined in the Settlement Agreement, all Settlement Class Members, except those who have requested exclusion from the settlement, and their successors shall conclusively be deemed to have given full releases of any and all Released Claims against all Released Parties, as those terms are defined in the Settlement Agreement, and all such Settlement Class Members and their successors

1 shall be permanently enjoined and forever barred from asserting any Released Claims against any
2 Released Parties as described by the Settlement Agreement;

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4 16. IT IS FURTHER ORDERED that if, for any reason, the Court does not execute and file
5 an Order of Final Approval, or if the Effective Date does not occur for any reason whatsoever, the
6 proposed Settlement Agreement and the proposed Settlement subject of this Order and all evidence
7 and proceedings had in connection therewith, shall be without prejudice to the status quo ante rights of
8 the parties to the litigation as more specifically set forth in the Settlement Agreement.

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10 17. IT IS FURTHER ORDERED that, pending further order of this Court, all proceedings
11 in this matter except those contemplated herein and in the Settlement Agreement are stayed.

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13 18. The Court expressly reserves the right to adjourn or continue the Final Approval
14 Hearing from time-to-time without further notice to the Settlement Class Members.

15 **IT IS SO ORDERED.**

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18 DATED: _____

THE HON. YVONNE GONZALEZ ROGERS
Judge of the Northern District of California