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13 *Class and Collective Members, and*
14 *Aggrieved Employees*

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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF SAN BERNARDINO**

18 MANDELA BYAM, SEBASTIAN CIFUENTES,
19 ANDY FREE, MATTHEW HARMON, MIN
20 SOO KIM, JAMINE NYAMEKYE, DANIEL
21 ORTIZ, NATHAN PEGRAM, MARYANNE
22 PIRRELLO, JESUS RAMOS, and CODY
23 WILSON, individually and on behalf of all others
24 similarly situated,,
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Plaintiffs,

v.

FLOCK FREIGHT, INC.,

Defendant.

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 20 2023

BY RAFAEL HERNANDEZ, DEPUTY

Case No. CIVSB2200575

**[PROPOSED] ORDER OF FINAL
APPROVAL AND JUDGMENT**

Judge: Hon. David Cohn
Dept.: S-26
Date: April 20, 2023
Time: 10:00 a.m.
Date Action Filed: January 4, 2022

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The Parties have submitted their Stipulation of Settlement and Release (“Settlement Agreement”), which this Court preliminarily approved in its October 20, 2022 order (the “Preliminary Approval Order”). In accordance with the Preliminary Approval Order, Settlement Class Members have been given notice of the terms of the Settlement Agreement and the opportunity to comment on or object to the Settlement Agreement, and/or opt out of its provisions.

Definitions

Jurisdiction

Dissemination of Notice to Settlement Class Members

3. Pursuant to the Preliminary Approval Order, the Notices were sent by first-class mail, email, and text to all Settlement Class Members at their last known address as updated by the postal service's National Change of Address database, last known email address, and last

known personal telephone number. Settlement Class Members had 45 days from issuance of the Notice to submit an Opt-out Statement or to file an Objection.

4. None of the Settlement Class Members submitted an Objection and none of the Settlement Class Members submitted an Opt-out Statement.

5. The Class Notice fairly, plainly, accurately, and reasonably informed Settlement Class Members of: (1) appropriate information about the nature of this action, the Class definition, the identity of Class Counsel, and the essential terms of the Agreement, including the plan of allocation and release of claims; (2) appropriate information about the specific amounts to be paid from the Maximum Settlement Amount for Class Counsel's requested attorneys' fees and costs, Plaintiffs' requested Service Awards, and costs of settlement administration; (3) appropriate information about how Settlement Class Members' individual payments will be calculated; (4) appropriate information about this Court's procedures for final approval of the Agreement, and about Settlement Class Members' right to appear at the Fairness Hearing if they desired; (5) appropriate information about how to object to or opt out of the Settlement; and (6) appropriate instructions as to how to obtain additional information regarding this action and the Settlement Agreement.

6. The Court finds and determines that this notice procedure afforded adequate protections to Settlement Class Members and provides the basis for the Court to make an informed decision regarding approval of the Settlement based on the responses of Settlement Class Members. Notice was accomplished in the manner prescribed by the Settlement Agreement. The Court finds and determines that the notice provided in this case was the best notice practicable, which satisfied the requirements of law and due process under California Code of Civil Procedure § 382, California Rules of Court, rules 3.766 and 3.769(f), the California and United States Constitutions, and other applicable law.

Certification of Settlement Class and Collective

7. Pursuant to California Code of Civil Procedure § 382, the Court certifies the following California Class for settlement purposes only: all current and former employees who worked for Flock Freight as an exempt-classified Sales Representative in California at any time

1 between June 11, 2017 and November 5, 2021.

2 8. The Court also certifies the following FLSA Collective for settlement purposes
3 only: all current and former employees who worked for Flock Freight as an exempt-classified
4 Sales Representative in the United States at any time between June 11, 2018 and November 5,
5 2021.

6 9. Outten & Golden LLP and Harlan Law, PC, which the Court previously appointed
7 as Class Counsel, satisfy the adequacy requirements.

8 **Final Approval of the Class and Collective Action Settlement**

9 10. The Court finds the Settlement Agreement was entered into in good faith, that the
10 settlement is fair, reasonable, and adequate, and that the Settlement satisfies the standards and
11 applicable requirements for final approval under California law, including the provisions of
12 California Code of Civil Procedure § 382 and California Rules of Court, rule 3.769.

13 11. The Settlement Agreement is binding on all California Class members. By
14 operation of the entry of this Final Approval Order, upon the Effective Date, except as to such
15 rights or claims as may be created by the Settlement Agreement, each individual California Class
16 Member releases the Released Parties from the Released California Class Claims.

17 12. By operation of the entry of the Final Approval Order, upon the Effective Date,
18 except as to such rights or claims as may be created by the Settlement Agreement, each
19 Settlement Class Member who cashes a Settlement Check releases the Released Parties from the
20 Released Collective Claims.

21 **Maximum Settlement Amount Allocation and Distribution**

22 13. The Motion for Approval of Attorneys' Fees and Costs is granted. Class Counsel
23 shall be awarded one-third of the Maximum Settlement Amount (\$616,666.67) as attorneys' fees,
24 ^{7 18,931.88} and ~~\$19,596.69~~ as litigation costs. These amounts shall be paid to Class Counsel according to the
25 terms of the Settlement Agreement.

26 14. A Service Award of \$7,500.00 each to Plaintiffs Mandela Byam, Sebastian
27 Cifuentes, Andy Free, Matthew Harmon, Min Soo Kim, Jamine Nyamekye, Daniel Ortiz, Nathan
28 Pegram, Maryanne Pirrello, Jesus Ramos, and Cody Wilson is approved and shall be paid to

1 Plaintiffs pursuant to the terms of the Settlement Agreement.

2 15. Administration costs of \$14,750.00 shall be paid to the Settlement Administrator,
3 ILYM Group, Inc., pursuant to the terms of the Settlement Agreement.

4 16. No other litigation costs and/or attorneys' fees shall be awarded, either against
5 Flock Freight or any related persons or entities or from the award to the Class.

6 17. If no individual or party appeals this Final Approval Order, the Effective Date of
7 this Settlement will be 60 calendar days after the Final Approval Order is entered.

8 18. Defendant shall pay the Maximum Settlement Amount and Employer Payroll
9 Taxes into the Qualified Settlement Fund within twenty-one (21) days of the Effective Date.
10 Thirty-five (35) days after the Effective Date, the Settlement Administrator will mail Settlement
11 Checks to Settlement Class Members, Service Awards to Plaintiffs, Settlement Checks with Net
12 PAGA Amount to PAGA Members and the PAGA Check Enclosure Letter, and the LWDA
13 Payment to the LWDA; and shall wire Fees and Costs to Class Counsel.

14 19. The Settlement Administrator will send reminders via e-mail and First Class
15 United States Mail within sixty (60) days after the initial distribution of checks to Settlement
16 Class Members who have not yet cashed their Settlement Checks reminding them to negotiate
17 their checks prior to the one hundred and twenty (120) day deadline.

18 20. Any California Class Member or PAGA Member's Settlement Check not cashed
19 after the expiration of one hundred and twenty (120) days following the issuance of such
20 Settlement Check will be transferred to the Controller of the State of California, Unclaimed
21 Property Fund in the name of the Settlement Class Member whose check was cancelled.

22 21. Any other portion of the Maximum Settlement Amount not distributed as per the
23 terms of the Settlement Agreement, including any interest accrued on the Qualified Settlement
24 Fund, and any Settlement Check not cashed by an FLSA Collective Member who is not also a
25 California Class Member after the one hundred and twenty (120) days shall be redistributed pro
26 rata to Participating Collective Members and Participating California Class Members who cashed
27 or otherwise negotiated a Settlement Check; or, if a second distribution is impractical on the basis
28 that the amount remaining in the Net Fund is similar to or less than the cost of a second

1 distribution, it shall be donated to the Cy Pres, Centro Legal De La Raza.

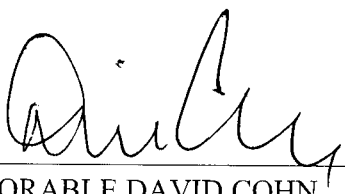
2 22. Thirty (30) days after the expiration of the one hundred and twenty (120) day
3 Settlement Check cashing deadline from the first distribution or thirty (30) days after the
4 expiration of the Settlement Check cashing deadline agreed to by the Parties from the second
5 distribution, whichever is later, the Parties shall file a report specifying the total amount paid to
6 Settlement Class Members, and the residual of unclaimed funds that will be paid to Centro Legal
7 de La Raza.

8 23. Notice of entry of judgment shall be posted on the Settlement Administrator's
9 website in compliance with California Rules of Court, rule 3.771(b).

10 24. The Court hereby enters Judgment in the case. Pursuant to California Rules of
11 Court, rule 3.769(h), the Court shall retain continuing jurisdiction over the action, the Parties, and
12 the Settlement Class, as well as the administration and enforcement of the terms of the settlement
13 of this action to enforce the terms of the Judgment.

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15 IT IS SO ORDERED.

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17 Dated: 4/20/23

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19 HONORABLE DAVID COHN
20 SUPERIOR COURT OF CALIFORNIA
21 **DAVID COHN**
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