

BY FAX

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19 Attorneys for Plaintiffs LAPHILL KNOX,
20 SUSANA ACOSTA, and HAROLD FOX,
21 individually and on behalf of all other
22 aggrieved employees

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

LAPHILL KNOX, individually and on behalf
of all other aggrieved employees,

Plaintiff,

vs.

EXPRESS MESSENGER SYSTEMS, INC.
DBA ONTRAC, a Delaware corporation,
and DOES 1 through 50, inclusive,

Defendants.

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

JAN 11 2023

BY


JESSICA MORALES, DEPUTY

CASE NO. CIV-DS-1932323

[Assigned for all purposes to the Hon.
Gilbert Ochoa, Dept. S-26]

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

[PROPOSED] ORDER

Plaintiffs Laphill Knox, Susana Acosta, and Harold Fox's (collectively, "Plaintiffs") Motion for Approval of PAGA Settlement came on regularly for hearing on January 9, 2023, the Honorable Gilbert Ochoa presiding. Having reviewed Plaintiffs' motion, the declarations of Launa Adolph, Christina M. Lucio, James Hawkins, Laphill Knox, Susana Acosta, and Harold Fox and all exhibits thereto, including the Settlement Agreement and Release of PAGA Claims ("Settlement Agreement"), and good cause appearing therefore, the Court hereby finds and orders as follows:

1. The Court, for purposes of this Final Order and Judgment, adopts all defined terms as set forth in the Settlement Agreement filed in this Action.

2. The Court has jurisdiction over all claims asserted in the Action, Plaintiffs, the Representative Group Members, and Defendant. This Final Order and Judgment shall be binding on all Representative Group Members and the Labor and Workforce Development Agency ("LWDA"), who are hereby barred by the doctrine of res judicata from re-litigating the Released Claims, as defined below. *See Arias v. Superior Court* (2009) 46 Cal.4th 969, 986 (holding that a judgment in a representative action brought by an aggrieved employee under PAGA is binding not only on the named employee plaintiff but also on state labor law enforcement agencies and any aggrieved employee not a party to the proceeding).

3. Pursuant to the California Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2699 *et seq.*, the Court approves the Settlement and finds that it is fair and reasonable and furthers PAGA's objectives. The Court finds that notice of the Settlement has been provided to the LWDA, as required by Labor Code § 2699(1)(2). Plaintiffs, the LWDA, and Representative Group Members shall have, by operation of this Final Order and Judgment, fully released and forever discharged the Released Parties from the following Released Claims: any and all claims and/or causes of action under PAGA which are based upon the factual allegations set forth in the operative complaint and/or Plaintiffs' PAGA notices to the LWDA and arising at any time during the Settlement Period, including but not limited to claims for PAGA penalties for violations of Labor Code sections 201, 202, 203, 204, 210, 212, 216, 221, 222.5, 223, 224, 225,

225.5, 226, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1197, 1197.1, 1198, 2802, applicable IWC Wage Order (Wage Order 9), and California Code of Regulations, Title 8, section 11000, et seq.. The Representative Group Members' Released Claims are limited to claims for civil penalties under PAGA. It is understood and agreed that this Settlement Agreement neither releases the Released Parties from liability, if any, to Representative Group Members for violations of any predicate statutes other than PAGA, nor does it effect a waiver of claims by Representative Group Members against the Released Parties for any individual wage and hour claims, other than PAGA.

4. The Court finds the Maximum Settlement Amount, the Net Settlement Amount, and the methodology used to calculate and pay each Representative Group Member's Individual Settlement Payment are fair and reasonable, and authorizes the Settlement Administrator to pay the Individual Settlement Payments to Representative Group Members in accordance with the terms of the Settlement Agreement. The Court also authorizes the Settlement Administrator to make the LWDA Payment to the LWDA.

5. The Court finds that Plaintiff's Counsel's request for attorneys' fees in the amount of \$2,266,666.67, which is one-third of the Gross Settlement Amount, is reasonable as a percentage of the common fund. The Court awards Plaintiff's Counsel \$2,266,666.67 in attorneys' fees to be paid from the Maximum Settlement Amount.

6. The Court finds that Plaintiffs' Counsel has incurred \$23,698.47 in costs and expenses. Such costs and expenses were reasonably incurred in prosecuting this Action on behalf of the Representative Group Members. The Court finds that Plaintiffs' Counsel will incur an additional \$2,800.00 in Settlement Administration costs in excess of the \$50,000.00 provided by the Settlement Agreement. The Court awards Plaintiffs' Counsel \$26,498.47 in costs and expenses to be paid from the Maximum Settlement Amount.

7. The Court approves Settlement Administration Costs in the amount of \$50,000.00, to be paid from the Maximum Settlement Amount.

1 8. The Court hereby approves Service Awards in the amount of \$10,000.00 to
2 Plaintiff Knox and Plaintiff Acosta, and \$7,000.00 to Plaintiff Fox (\$27,000.00 total) for their
3 service as PAGA representatives, to be paid from the Maximum Settlement Amount.

4 9. This Judgment is intended to be a final disposition of the Action and is intended to
5 be immediately appealable.

6 10. This Court shall retain jurisdiction with respect to all matters related to the
7 administration and consummation of the settlement, and any and all claims, asserted in, arising
8 out of, or related to the subject matter of the lawsuit, including but not limited to all matters
9 related to the settlement and the determination of all controversies relating thereto.

10 11. The Parties are to provide a final report and accounting by _____.
11 A final distribution hearing is set for 1st of 24 at 9:00am

12 12. The Court directs that a judgment shall be entered in accordance with the terms of
13 this Order.

14 IT IS SO ORDERED.

15
16 DATED: 1/11/23

Larry Cohn
HON. GILBERT OCHOA
JUDGE OF THE SUPERIOR COURT