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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA

WILLIAM MITTIE, individually, on a
representative basis, and on behalf of all
others similarly situated;

Plaintiff,

vs.

CARRY TRANSIT, LLC, a Delaware
Limited Liability Company; HENIFF
TRANSPORTATION SYSTEMS, LLC, a
Delaware Limited Liability Company; and
DOES 1 through 20, inclusive;

Defendants.

Case No.: 22CV008178
*[Assigned to Hon. Noël Wise, Dept. 21, for all
purposes]*

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

Complaint filed: March 9, 2022

The Motion for Final Approval of the Settlement (the “Final Approval Motion”) as set forth in the Class Action and PAGA Settlement Agreement and Release of Claims¹ (the “Settlement Agreement”) between Plaintiff William Mittie (“Plaintiff” or “Class Representative”) and Defendant Carry Transit, LLC, (“Defendant”) (collectively, “the Parties”) came for hearing in Department 21 of the above-entitled court. The Final Approval Motion was unopposed by Defendant. Having considered the Final Approval Motion, the Settlement

¹ See Exhibit 1 to the Declaration of Brian Mankin filed in support of Preliminary Approval.

1 Agreement, the Declarations, and all other materials properly before the Court and having
2 conducted an inquiry pursuant to California Rules of Court, Rule 3.769(g), the Court finds that
3 the Settlement Agreement was entered by all parties in good faith, and the Settlement Agreement
4 is approved. Due and adequate notice having been given to the Class, and the Court having
5 considered the Settlement Agreement, all papers filed and proceedings had herein and all oral
6 and written comments received regarding the proposed settlement, and having reviewed the
7 record in this Litigation, and good cause appearing,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

9 1. The Court, for purposes of this Judgment and Order (“Judgment”), refers to all
10 defined terms (i.e., terms with initial capitalization) as set forth in the Settlement Agreement.

11 2. The Court has jurisdiction over the subject matter over this Action, the Class
12 Representative, the Class Members, the Aggrieved Employees, the Labor and Workforce
13 Development Agency (“LWDA”), and Defendant.

14 3. For sole purposes of effectuating this Order and Judgment, this Court has certified
15 the following the class:

- 16 a. “Class Members” is defined as all current and former California resident truck
17 drivers who were employed by Defendant Carry Transit, LLC, and who drove
18 in California at any time during the Class Period of March 9, 2018, through
19 January 10, 2024.
- 20 b. The Court deems this definition sufficient for purposes of California Rules of
21 Court, rule 3.765(a).
- 22 c. “Participating Class Members” includes “who do not opt-out by submitting a
23 timely, valid Request for Exclusion.”
- 24 d. Additionally, “Aggrieved Employees” includes all current and former
25 California resident truck drivers who were employed by Defendant Carry
26 Transit, LLC, and who drove in California at any time during the PAGA
27 Period of March 9, 2021, through January 10, 2024.
- 28

1 4. With respect to the Class Members and for the sole purposes of approving this
2 Settlement, this Court finds and concludes as follows: (a) the Class Members are ascertainable
3 and so numerous that joinder of all members is impracticable; (b) there are questions of law or
4 fact common to the Class Members, and there is a well-defined community of interest among the
5 Class Members with respect to the subject matter of the Action; (c) the claims of the Class
6 Representative are typical of the claims of the Class Members; (d) the Class Representative has
7 fairly and adequately protected the interests of the Class Members; (e) a class action is superior
8 to other available methods for an efficient adjudication of this controversy; and (f) the counsel of
9 record for the Class Representative, *i.e.*, Class Counsel, are qualified to serve as counsel for the
10 Plaintiff in his individual and representative capacity and for the Class.

11 5. The Court finds that the distribution of the Class Notice, as provided for in the
12 Order Granting Preliminary Approval for the Settlement, constituted the best notice practicable
13 under the circumstances to all Class Members and fully met the requirements of California law
14 and due process under the California and United States Constitution. Based on evidence and
15 other material submitted, the actual notice to the class was adequate. The Court further finds that
16 Plaintiff properly gave notice of this Settlement to the LWDA.

17 6. The Court finds that the instant Action presented a good faith dispute of the
18 claims alleged, and the Court finds in favor of settlement approval. Specifically, as defined in
19 the Settlement Agreement, the Released Class Claims on behalf of the Participating Class
20 Members included all claims that were alleged, or reasonably could have been alleged, based on
21 the facts stated in the Complaint, including claims for failure to pay minimum or regular wages
22 for all hour worked, failure to pay for nonproductive time, failure to pay for rest and recovery
23 periods, failure to reimburse business expenses, failure to pay timely wages during employment,
24 failure to pay all earned and accrued wages to discharged/separated employees, furnish accurate
25 itemized wage statements, and maintain required payroll records in violation of Labor Code
26 sections 200-204, 208, 210, 218.6, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194,
27 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 1198.5, 1199, 2802, or Industrial Welfare
28 Commission Orders 4-2001 and 9-2001, or Business and Professions Code section 17200, et

1 seq., which are premised on the same allegations, and Cal. Code Regs., tit. 8, section 11090.

2 7. Additionally, as defined in the Settlement Agreement, the Released PAGA Claims
3 means the PAGA claims that Plaintiff alleged against the Released Parties, on behalf of himself
4 and the State of California, based on the facts stated in the Complaint and in the relevant LWDA
5 notice letter or that could have been asserted based on those facts, including violations premised
6 on violation of Labor Code sections 200-204, 208, 210, 218.6, 221-223, 226, 226.2, 226.3,
7 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, IWC Wage
8 Orders 4, including §§ 3(A), 4, 11, 12, and Cal. Code Regs., tit. 8, section 11090, and all other
9 claims for civil penalties recoverable under the PAGA based on the facts or claims alleged in the
10 LWDA notice letter and the Complaint.

11 8. There are no Requests for Exclusion to the Settlement. Thus, all 48 Class
12 Members are deemed to be Participating Class Members are entitled to payment pursuant to the
13 Settlement and this Judgment. Furthermore, all Aggrieved Employees are entitled to payment
14 pursuant to this Settlement and Judgment.

15 9. There are no objections to the Settlement.

16 10. The Court approves the Settlement, as set forth in the Settlement Agreement and
17 each of the releases and other terms, as fair, just, reasonable, and adequate as to the Parties. The
18 Court has considered all relevant factors for determining the fairness of the Settlement and has
19 concluded that all such factors weigh in favor of granting final approval. In particular, the Court
20 finds that the Settlement was reached following meaningful discovery and investigation
21 conducted by Class Counsel; that the Settlement is the result of serious, informed, adversarial,
22 and arm's-length negotiations between the Parties; and that the terms of the Settlement are in all
23 respects fair, adequate, and reasonable. In so finding, the Court has considered all evidence
24 presented, including evidence regarding the strength of Plaintiff's case; the risk, expense, and
25 complexity of the claims presented; the likely duration of further litigation; the amount offered in
26 the Settlement; the extent of investigation and discovery completed; and the experience and
27 views of counsel. The Parties are directed to perform in accordance with the terms set forth in the
28 Settlement Agreement and this Order and Judgment.

1 11. The Parties are to bear their own costs, except as otherwise provided in the
2 Settlement Agreement and this Order and Judgment.

3 12. By this Judgment, Class Representative is also deemed to have fully, finally, and
4 forever released any and all claims, known or unknown, against the Released Parties, as set forth
5 in the Settlement Agreement.

6 13. Neither the Settlement Agreement nor the Settlement contained therein, nor any
7 act performed or document executed pursuant to or in furtherance of the Settlement Agreement
8 or the Settlement (i) is or may be deemed to be or may be used by Plaintiff or Participating Class
9 Members as an admission of, or evidence of, the validity of any of the Released Class Claims, or
10 of any wrongdoing, liability, fault, omission, waiver of defenses, or concession of Defendant or
11 any of the other Released Parties; or (ii) is or may be deemed to be or may be used by Plaintiff or
12 Aggrieved Employees as an admission of, or evidence of, the validity of any of the Released
13 PAGA Claims, or of any wrongdoing, liability, fault, omission, waiver of defenses, or
14 concession of Defendant or any of the other Released Parties; or (iii) is or may be deemed to be
15 or may be used by Plaintiff, Participating Class Members, or Aggrieved Employees as an
16 admission of, or evidence of, any wrongdoing, liability, fault, omission, waiver of defenses, or
17 concession of Defendant or any of the other Released Parties in any civil, criminal, or
18 administrative proceeding in any court, administrative agency, or other tribunal. Defendant or
19 any of the other Released Parties may file the Settlement Agreement and/or the Judgment from
20 this Action in any other action that may be brought against it or them in order to support a
21 defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good
22 faith settlement, judgment bar or reduction, or any theory of claim preclusion or issue preclusion
23 or similar defense or counterclaim.

24 14. The Gross Settlement Amount to be paid under the Settlement Agreement is
25 \$425,000. From this amount, Class Counsel sought an award of attorney's fees of \$141,666.66,
26 litigation expenses of \$9,803.09, a Service Payment to the Class Representative William Mittie
27 of \$7,500, Settlement Administrator Costs of \$5,000 to Phoenix Settlement Administrators,
28 \$31,875 to the LWDA for PAGA penalties and \$10,625 to the Aggrieved Employees. Defendant

1 does not oppose these requests. The Court finds that the Settlement Amount is fair, reasonable
2 and adequate, and approves the following payments from the Settlement Amount:

3 A) \$141,666.66 to Class Counsel for attorneys' fees of which ninety percent
4 (90%) shall be disbursed within 10 days of the Settlement Administrator's receipt of the Gross
5 Settlement Amount, and ten percent (10%) shall be kept in the Settlement Administrator's
6 account until the completion of the distribution process and the Court's approval of a final
7 accounting;

8 B) \$9,803.09 to Class Counsel for costs/expenses;

9 C) \$7,500 to Class Representative William Mittie as a Service Payment;

10 D) \$5,000 to the Administrator, Phoenix Settlement Administrators;

11 E) \$31,875 to the LWDA;

12 F) \$10,625 to the Aggrieved Employees;

13 G) After deducting the foregoing payments from the Gross Settlement
14 Amount, the remainder shall form the Net Settlement Amount payable to the Participating Class
15 Members as set forth in the Settlement Agreement and as calculated by the Settlement
16 Administrator.

17 15. Upon entry of this Order and Judgment, Defendant is directed to fund the
18 Settlement Amount in accordance with the Settlement Agreement and the timeline set forth
19 below. The Settlement Administrator is directed to calculate the Participating Class Member's
20 Individual Settlement Payments from the Net Settlement Amount, as well as the Aggrieved
21 Employees' individual PAGA payments, and issue all payments in accordance with the
22 Settlement Agreement and the timeline set forth below:

23 61 calendar days following the date this Order 24 and Judgment is entered	The Effective Date occurs.
25 30 calendar days after the Effective Date	Defendant is directed to deposit the Gross 26 Settlement Amount into the Qualified 27 Settlement Fund, plus its share of payroll 28 taxes as calculated by the Settlement Administrator.

10 calendar days after Defendant's deposit of the Settlement Amount into the Qualified Settlement Fund	Settlement Administrator to issue all payments to Participating Class Members, Aggrieved Employees, Class Counsel (except for 10% of the attorneys fees that it will hold in trust pending the Court's approval of the final accounting), LWDA and itself.
180 calendar days after the Settlement Administrator issues Individual Settlement Payments	Deadline for Participating Class Members and Aggrieved Employees to cash checks.
10 calendar days after the check cashing deadline	Settlement Administrator shall issue the uncashed check fund to the cy pres, Public Justice
15 calendar days after the check cashing deadline	Class Counsel to file a declaration from the Settlement Administrator setting forth the disbursements that were actually made, including any uncashed funds to the cy pres, Public Justice.
Date: _____, 2025 Time: 1:30 p.m.	Final Accounting Hearing
5 calendar days after Court's approval of the final accounting	Settlement Administrator to issue the remaining 10% of Attorneys Fees to Class Counsel

16. The envelope transmitting the settlement checks shall bear the notation "YOUR CLASS ACTION SETTLEMENT CHECK IS ENCLOSED." Concurrently with mailing the settlement checks to the Participating Class Members and Aggrieved Employees, the Settlement Administrator shall include a Notice of Entry of Judgment to all Class Members either on a postcard or as a detachable portion of the check for the Participating Class Members, noting the following: "Please be advised that on [INSERT DATE] the Superior Court of California for the County of Alameda entered Judgment in the case entitled *William Mittie v. Carry Transit, LLC*, Case No. 22CV008178, on behalf of the Participating Class Members and the Aggrieved Employees, which includes all current and former California resident truck drivers who were employed by Defendant Carry Transit, LLC, and who drove in California at any time during the

1 Class Period or the PAGA Period, respectively. The Class Period is March 9, 2018, through
2 January 10, 2024. The PAGA Period is March 9, 2021, through January 10, 2024.”

3 17. Participating Class Members and Aggrieved Employees shall have 180 calendar
4 days to negotiate the settlement check from the date of issuance by the Settlement Administrator.
5 If a Participating Class Member and/or Aggrieved Employees does not negotiate his/her check
6 within this time period, the check will be canceled. The value of the unclaimed funds in the
7 Settlement Administrator’s account as a result of a failure to timely cash a settlement check shall
8 be issued to Bay Area Legal Aid (baylegal.org).

9 18. This document shall constitute a Judgment for purposes of California Rule of
10 Court 3.769(h). The Court reserves exclusive and continuing jurisdiction over the Action, the
11 Class Representative, the Class Members, the Aggrieved Employees, the LWDA, and Defendant
12 for the purposes of supervising the implementation, enforcement, construction, administration,
13 and interpretation of the Settlement Agreement and this Judgment.

14 IT IS SO ORDERED.

15 Dated: _____

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17 Hon. Noël Wise
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