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FILED
 ALAMEDA COUNTY

SEP 01, 2018

CLERK OF THE SUPERIOR COURT

By S. DeBary Deputy

Attorneys for Plaintiffs,
 NIKOLAY LEVIN and DAMON ROGERS
 (additional attorneys for Plaintiff listed on next page)

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
 FOR THE COUNTY OF ALAMEDA
 (UNLIMITED JURISDICTION)**

NIKOLAY LEVIN, on behalf of himself,
 and all others similarly situated, and as an
 "aggrieved employee" on behalf of other
 "aggrieved employees" under the Labor
 Code Private Attorneys General Act of 2004.

Case No.: RG16812703
 Consolidated with Case No. RG16812720

**[PROPOSED] ORDER AND JUDGMENT
 GRANTING FINAL APPROVAL OF THE
 CLASS SETTLEMENT**

Plaintiff(s),

Action filed: 04/21/2016
 Hearing Date: 09/25/2018
 Hearing Time: 3:00 p.m.
 Hearing Dept.: 23, Hon. Brad Seligman

vs.

MYDATT SERVICES, INC., an Ohio
 Corporation, dba Block By Block; SMS
 HOLDINGS CORPORATION; a Delaware
 corporation; and DOES 1 through 50,
 inclusive,

Defendant(s).

Case No.: RG16812720

DAMON ROGERS, on behalf of himself,
 and all others similarly situated, and as an
 "aggrieved employee" on behalf of other
 "aggrieved employees" under the Labor
 Code Private Attorneys General Act of 2004.

Action filed: 04/21/2016

Plaintiff(s),

vs.

MYDATT SERVICES, INC., an Ohio

SEP 26 2018



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1 Corporation, dba Block By Block; SMS
2 HOLDINGS CORPORATION; a Delaware
3 corporation; and DOES 1 through 50,
4 inclusive,

Defendant(s).

5 **ADDITIONAL ATTORNEYS FOR PLAINTIFFS**

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1 This matter came on for hearing on September 25, 2018 in Department 23 of the above-
2 captioned court on Plaintiffs' Motion for Final Approval of a Class Action Settlement pursuant
3 to California Rules of Court, Rule 3.769, as set forth in the Second Amended Stipulation of
4 Settlement of Class Action and Release of Claims (the "Settlement") filed herewith which
5 provides for a Gross Settlement Amount ("GSA") of \$884,000 in compromise of all disputed
6 wage and hour claims on behalf of hourly employees of Defendants Mydatt Services, Inc. dba
Block-by-Block and SMS Holdings Corporation ("Defendants" or "BBB") in California.

7 For purposes of this Settlement and this Order and Judgment Granting Final Approval
8 of the Class Settlement ("Final Approval Order and Judgment"), the "Class Members" consist
9 of all persons Defendants employed in California as hourly employees, including but not
10 limited to, safety ambassadors, special projects ambassadors, team leaders, lead ambassadors,
11 supervisors, security guards, and in other comparable positions with different titles, at any time
12 during the period beginning four years prior to the filing of this Action, April 21, 2012, and
13 ending on the date this Final Approval Order and Judgment is entered in this Action.

14 In accordance with the Court's prior Order Preliminarily Approving Class Action
15 Settlement, Class Members have been given notice of the terms of the Settlement and the
16 opportunity to submit a request for exclusion, comment upon or object to it or to any of its
17 terms. Having received and considered the Settlement, the supporting papers filed by the
18 Parties, and the evidence and argument received by the Court in conjunction with the motions
19 for preliminary and final approval of the Settlement, the Court grants final approval of the
20 Settlement and HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE
FOLLOWING DETERMINATIONS:

21 1. The Court has jurisdiction over the subject matter of the Action and over all
22 Parties to the Action, including all Class Members. Pursuant to this Court's Order Preliminarily
23 Approving Class Action Settlement of June 13, 2018, the Notice Packet was sent to each Class
24 Member by First Class U.S. mail. The Notice Packet informed Class Members of the terms of
25 the Settlement, their right to receive their proportional share of the Settlement, their right to
26 request exclusion, their right to comment upon or object to the Settlement, and their right to
27 appear in person or by counsel at the final approval hearing and be heard regarding final
28 approval of the Settlement. Adequate periods of time were provided by each of these
procedures. No member of the Settlement Class presented written objections to the proposed



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1 Settlement as part of this notice process, stated an intention to appear, or actually appeared at
2 the final approval hearing.

3 2. The Court finds and determines that the notice procedure afforded adequate
4 protections to Class Members and provides the basis for the Court to make an informed
5 decision regarding final approval of the Settlement based on the responses of Class Members.
6 The Court finds and determines that the notice provided in this case was the best notice
7 practicable, which satisfied the requirements of law and due process as to all persons entitled to
8 such notice.

9 3. The Court further finds and determines that the terms of the Settlement are fair,
10 reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and
11 provisions of the Settlement, including the release of claims contained therein, should be and
12 hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement
13 according to its terms. As of the Effective Date, and for the duration of the Covered Period, all
14 Settlement Class Members are hereby deemed to have waived and released all Released Claims
15 and are forever barred and enjoined from prosecuting the Released Claims against the Released
16 Parties as fully set forth in the Settlement no objections were received by the Parties or the
17 Court through the date of this Final Approval Order and Judgment. The Court finds two Class
18 Member(s) submitted a valid request for exclusion from the Settlement as determined by the
19 Settlement Administrator.

20 5. The Court finds and determines that (a) the Individual Settlement Payments to
21 be paid to Settlement Class Members and (b) the PAGA Payment for civil penalties under the
22 California Labor Code Private Attorneys General Act of 2004, as amended, California Labor
23 Code sections 2699 et seq., as provided for by the Settlement are fair and reasonable. The Court
24 hereby grants final approval to, and orders the payment of, those amounts be made to the
25 Settlement Class Members, in accordance with the terms of the Settlement.

26 6. The Court further grants final approval to and orders that the following
27 payments be made in accordance with the terms of the Settlement:

28 a. A Class Counsel Award of \$265,200.00 in attorneys' fees and
\$14,630.89 in litigation costs to Class Counsel; 10% withheld until compliance hearing

b. Class Representative Service Awards to Plaintiffs Damon Rogers and
Nikolay Levin in the amounts of \$10,000.00 each for their service as Class Representatives;



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1 and

2 c. Settlement Administration Costs in the amount of 17,000.00 payable to
3 CPT Group, Inc. for its services as the Settlement Administrator.

4 7. The Settlement shall proceed as directed in the Settlement, and no payments
5 pursuant to the Settlement shall be distributed until after the Effective Date. Without affecting
6 the finality of this Final Approval Order and Judgment in any way, the Court retains
7 jurisdiction of all matters relating to the interpretation, administration, implementation,
8 effectuation and enforcement of this Order and the Settlement pursuant to California Rule of
9 Court 3.769(h).

10 8. Defendants shall deposit the Gross Settlement Amount as follows. Within five
11 (5) calendar days following the Effective Date, Defendants shall remit to the Settlement
12 Administrator an amount equal to the Gross Settlement Amount as set forth in the Settlement.
13 Defendants' payment of such sums shall be the sole financial obligation of Defendants under
14 this Agreement, and shall be in full satisfaction of all claims released herein, including, without
15 limitation, all claims for wages, penalties, interest, attorneys' fees, costs and expenses.

16 9. Nothing in this Final Approval Order and Judgment shall preclude any action to
17 enforce the Parties' obligations under the Settlement or hereunder, including the requirement
18 that Defendants deposit funds for distribution by the Settlement Administrator to Settlement
19 Class Members in accordance with the Settlement.

20 10. The Court hereby enters final Judgment in this case in accordance with the terms
21 of the Settlement, Order Preliminarily Approving Class Action Settlement, and this Final
22 Approval Order and Judgment.

23 11. The Parties are hereby ordered to comply with the terms of the Settlement.

24 12. The Parties shall bear their own costs and attorneys' fees except as otherwise
25 provided by the Settlement and this Final Order and Judgment.

26 13. The Settlement is not an admission by Defendants nor is this Final Approval
27 Order and Judgment a finding of the validity of any claims in the Action or of any wrongdoing
28 by Defendants. Furthermore, the Settlement is not a concession by Defendants and shall not be
used as an admission of any fault, omission, or wrongdoing by Defendants. Neither this Final
Approval Order and Judgment, the Settlement, any document referred to herein, any exhibit to
any document referred to herein, any action taken to carry out the Settlement, nor any



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1 negotiations or proceedings related to the Settlement are to be construed as, or deemed to be
2 evidence of, or an admission or concession with regard to, the denials or defenses of
3 Defendants, and shall not be offered in evidence in any proceeding against the Parties hereto in
4 any Court, administrative agency, or other tribunal for any purpose whatsoever other than to
5 enforce the provisions of this Final Order and Judgment. This Final Approval Order and
6 Judgment, the Settlement and exhibits thereto, and any other papers and records on file in the
7 Action may be filed in this Court or in any other litigation as evidence of the settlement by
8 Defendants to support a defense of res judicata, collateral estoppel, release, or other theory of
9 claim or issue preclusion or similar defense as to the Released Claims.

10 14. This document shall constitute a Judgment for purposes of California Rule of
11 Court 3.769(h).

12 15. A compliance hearing is set for March 26, 2019 at 8:30 a.m. in Department 23 to
13 determine the amount of unclaimed funds and submission of amended judgment directing
14 payments to CCP 384 beneficiaries, + to disperse 10% fees. parties to

15 **IT IS SO ORDERED, ADJUDGED AND DECREED.** report 5 days before
16 hearing & submit proposed
17 Judgment

18 Date: 10/1/18

19 The Honorable Brad Seligman,
20 Judge of the Alameda County Superior Court



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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

Case Number: RG16812703

Case name: Levin vs. Mydatt Services, Inc.

CLERK'S CERTIFICATE OF SERVICE

I certify that I am not a party to this cause and that a true and correct copy of this Order was emailed to the addresses shown on at the bottom of this document.

Dated: October1, 2018

Sonya De Baca
Courtroom Clerk-Floater, Dept. 23

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