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8 and ALONDRA TACHIQUIN, on behalf of themselves and

all others similarly situated and aggrieved

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

13 CHARLENE AMERICA MURILLO and
14 ALONDRA TACHIQUIN, as individuals, and
on behalf of all others similarly situated,

15
16 Plaintiffs,

17 v.

18 IKON MOTORSPORTS, INC., a California
19 corporation, SUITABLE STAFFING
20 SOLUTIONS, INC., a California corporation;
and DOES 1 through 100, inclusive,

21
22 Defendants.

CASE NO.: 22STCV30656

[Assigned to the Hon. Timothy Patrick Dillon
in Dept. 15]

[PROPOSED] **ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
AND REPRESENTATIVE ACTION
SETTLEMENT AND CERTIFYING
CLASS FOR SETTLEMENT PURPOSES
ONLY**

1 This Court, having considered the Motion of plaintiffs Charlene America Murillo and
2 Alondra Tachiquin (collectively, “Plaintiffs”) for Preliminary Approval of Class and Representative
3 Action Settlement and Provisional Class Certification for Settlement Purposes Only (“Motion for
4 Preliminary Approval”), the Declarations of Brandon M. Chang, David D. Bibiyan, Charlene
5 America Murillo, Alondra Tachiquin, and Anthony Rogers, the Class and PAGA Settlement
6 Agreement (“Settlement,” “Agreement” or “Settlement Agreement”), the proposed Notice of
7 Proposed Class Action Settlement and Date for Final Approval Hearing (“Class Notice”), and other
8 documents submitted in support of the Motion for Preliminary Approval, hereby **ORDERS,**
9 **ADJUDGES AND DECREES THAT:**

10 1. The definitions set out in the Settlement Agreement are incorporated by reference
11 into this Order; all terms defined therein shall have the same meaning in this Order.

12 2. The Court certifies the following settlement class (“Settlement Class,” “Settlement
13 Class Members,” “Class Members”) for the purpose of settlement only: all persons currently or
14 formerly employed by defendant Advance Tuning, LLC, dba Ikon Motorsports, Inc. (“Ikon”), either
15 directly or through any subsidiary, staffing agency, or professional employer organization, including
16 defendant Suitable Staffing Solutions, Inc. (“Suitable,” collectively with Ikon, the “Defendants”),
17 as non-exempt, hourly-paid employees during the period from September 19, 2018, through August
18 19, 2024 (“Class Period”) in the State of California.

19 3. The Court preliminarily appoints the named plaintiffs Charlene America Murillo and
20 Alondra Tachiquin (collectively, “Plaintiffs”) as Class Representatives, and David D. Bibiyan and
21 Vedang J. Patel of Bibiyan Law Group, P.C., as Class Counsel.

22 4. The Court preliminarily approves the proposed class settlement upon the terms and
23 conditions set forth in the Settlement Agreement. The Court finds, on a preliminary basis, that the
24 settlement appears to be within the range of reasonableness of settlement that could ultimately be
25 given final approval by the Court. It appears to the Court on a preliminary basis that the settlement
26 amount is fair, adequate, and reasonable as to all potential class members when balanced against the
27 probable outcome of further litigation relating to liability and damages issues. It further appears that
28 extensive and costly investigation and research has been conducted such that counsel for the parties

1 at this time are reasonably able to evaluate their respective positions. It further appears to the Court
2 that the settlement at this time will avoid substantial additional costs to all parties, as well as the
3 delay and risks that would be presented by the further prosecution of the Action. It further appears
4 that the settlement has been reached as the result of intensive, non-collusive and arms-length
5 negotiations utilizing an experienced third-party neutral.

6 5. The Court approves, as to form and content, the Class Notice that has been submitted
7 herewith.

8 6. The Court directs the mailing of the Class Notice by first-class regular U.S. mail to
9 the Class Members in accordance with the procedures set forth in the Settlement Agreement. The
10 Court finds that dissemination of the Class Notice set forth in the Settlement Agreement complies
11 with the requirements of law and appears to be the best notice practicable under the circumstances.

12 7. The Court hereby preliminarily approves the definition and disposition of the Gross
13 Settlement Amount of \$610,500.00, which is inclusive of: attorneys' fees of up to thirty-five percent
14 (35%) of the Gross Settlement Amount, which, if not escalated pursuant to the Agreement, amounts
15 to \$213,675.00, in addition to actual costs incurred of up to \$25,000.00; service award of up to
16 \$7,500.00 each to plaintiffs Charlene America Murillo and Alondra Tachiquin, for a total of
17 \$15,000.00 to Plaintiffs; costs of settlement administration of no more than \$7,250.00 and Private
18 Attorneys General Act of 2004 ("PAGA") penalties in the amount of \$40,000.00, of which
19 \$30,000.00 (75%) will be paid to the Labor and Workforce Development Agency ("LWDA") and
20 \$10,000.00 (25%) to "Aggrieved Employees," defined as all persons currently or formerly employed
21 by Ikon, either directly or through any subsidiary, staffing agency, or professional employer
22 organization, including Suitable, as non-exempt, hourly-paid employees during the period from
23 September 9, 2021 through the end of the Class Period ("PAGA Period") in the State of California.

24 8. The Gross Settlement Amount expressly excludes Employer's Share of Payroll
25 Taxes, which will be paid separately and apart by Defendant on the wages portion of the Gross
26 Settlement Amount.

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1 9. Class Member's "Workweek" shall mean any week during which a Class Member
2 worked for Defendants, for at least one day during the Class Period, based on hire dates, re-hire
3 dates (as applicable), and termination dates (as applicable).

4 10. Defendants represent that there are no more than 12,200 Workweeks (11,645
5 Workweeks attributable to Ikon and 555 Workweeks attributable to Suitable) worked during the
6 Class Period. In the event the number of Workweeks during the Class Period increases by more than
7 10% (i.e., an additional 1,220 Workweeks), then, at Defendants' election: (1) the Gross Settlement
8 Amount shall be increased proportionally by the Workweeks in excess of 13,420 multiplied by the
9 Workweek Value, on a pro-rata basis between the Defendant(s) responsible for such increase; or (2)
10 the Class Period shall end on the date the number of Workweeks reaches 13,420. The Workweek
11 Value shall be calculated by dividing the Gross Settlement Amount by 12,200. The Parties agree
12 that the Workweek Value amounts to \$50.00 per Workweek (\$610,500.00 / 12,200 workweeks).
13 Thus, for example, should there be 13,500 Workweeks in the Class Period, and Defendants elect
14 option (1) above, then the Gross Settlement Amount shall be increased by \$4,000 (13,500
15 Workweeks – 13,420 Workweeks x \$50.00/Workweek). Should Defendants elect option (2) above,
16 Defendants must provide written notice to Class Counsel within seven (7) days of receiving
17 sufficient information that the Workweeks exceed 13,420. Untimely notice shall cause Defendants'
18 election to shorten the Class Period to have no force or effect. Defendant's option (2) pursuant to
19 this section expires upon the Court's entry of this Order.

20 11. The Court deems ILYM Group, Inc. ("ILYM" or "Settlement Administrator"), the
21 settlement administrator, and preliminarily approves payment of administrative costs, not to exceed
22 \$7,250.00 out of the Gross Settlement Amount for services to be rendered by ILYM on behalf of
23 the class.

24 12. Not later than 14 days of this Order, Defendants will each deliver the Class Data to
25 the Administrator, in the form of Microsoft Excel spreadsheets. "Class Data" means Class Member
26 identifying information in Defendants' custody, possession, or control, including the Class
27 Member's (1) name; (2) last known address(es); (3) last known telephone number(s); (4) last known
28

1 Social Security Number(s); and (5) the dates of employment (i.e., hire dates, and, if applicable, re-
2 hire date(s) and/or separation date(s)).

3 13. To protect Class Members' privacy rights, the Administrator must maintain the Class
4 Data in confidence, use the Class Data only for purposes of the Settlement and for no other purpose,
5 and restrict access to the Class Data to Administrator employees who need access to the Class Data
6 to effect and perform under the Agreement.

7 14. Before mailing Class Notices, the Administrator shall update Class Member
8 addresses using the National Change of Address database.

9 15. Using best efforts to perform as soon as possible, and in no event later than 14 days
10 after receiving the Class Data, the Administrator will send to all Class Members identified in the
11 Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish
12 translation, substantially in the form attached to the Agreement as Exhibit A. The first page of the
13 Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or
14 Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA
15 Pay Periods (if applicable) used to calculate these amounts.

16 16. "Response Deadline" means forty-five (45) days after the Administrator mails Notice
17 to Class Members and Aggrieved Employees, and shall be the last date on which Class Members
18 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
19 Settlement. Class Members to whom Notice Packets are resent after having been returned
20 undeliverable to the Administrator shall have an additional 15 days beyond the Response Deadline
21 has expired.

22 17. Before the date by which Plaintiffs are required to file the Motion for Final Approval
23 of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a
24 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its
25 obligations under the Agreement, including, but not limited to, its mailing of Class Notice, the Class
26 Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members,
27 the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
28 number of written objections and attach the Exclusion List.

1 18. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
2 must send the Administrator, by mail, a signed written Request for Exclusion not later than 45 days
3 after the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
4 Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her
5 representative, signed by the Class Member, that reasonably communicates the Class Member's
6 election to be excluded from the Settlement and includes the Class Member's name, signature, the
7 last four digits of their Social Security Number, address, and email address or telephone number.
8 To be valid, a Request for Exclusion must be timely postmarked by the Response Deadline.

9 19. Every Class Member who does not submit a timely and valid Request for Exclusion
10 is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and
11 bound by all terms and conditions of the Settlement, including the Participating Class Members'
12 Releases under the Agreement, regardless whether the Participating Class Member actually receives
13 the Class Notice or objects to the Settlement.

14 20. Only Participating Class Members may object to the class action components of the
15 Settlement and/or the Agreement, including contesting the fairness of the Settlement, and/or
16 amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment
17 and/or Class Representative Service Payment. Participating Class Members may send written
18 objections to the Administrator, by mail. The Participating Class Member's written objection should
19 include their name, signature, the last four digits of their Social Security Number, address, email
20 address or telephone number, and a clear statement detailing all grounds for their objection, along
21 with whatever legal authority, if any, they intend to rely on in support of their objections and whether
22 they plan to appear at the Final Approval Hearing. Written objections must be postmarked or faxed
23 on or before the Response Deadline, and the date of the fax or postmark on the return mailing
24 envelope will be the exclusive means to determine whether a written objection has been timely
25 submitted. In the alternative, Participating Class Members may appear in Court (or hire an attorney
26 to appear in Court) to present verbal objections at the Final Approval Hearing. Class Members who
27 fail to object in the specific and technical manner specified above will be deemed to have waived
28 all objections to the Settlement and will be foreclosed from making any objections and seeking any

1 adjudication or review, whether by appeal or otherwise, to the Settlement Agreement. At no time
2 will any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to
3 submit written objections to the Settlement Agreement or appeal from the Order and Judgment.
4 Class Counsel will not represent any Class Members with respect to any such objections to the
5 Settlement.

6 21. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
7 Request for Exclusion will control, and the Objection will be overruled.

8 22. Each Class Member shall have 45 days after the Administrator mails the Class Notice
9 (plus an additional 15 days for Class Members whose Class Notice is re-mailed) to challenge the
10 number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the
11 Class Notice. The Class Member may challenge the allocation by communicating with the
12 Administrator via mail.

13 23. Defendants shall fully fund their respective portions of the Gross Settlement Amount,
14 and also fund the amounts necessary to fully pay Defendants' respective share of payroll taxes owed
15 on the Wage Portion of the Individual Class Payments, by transmitting the funds to the
16 Administrator no later than 14 days after the Effective Date, as defined in the Agreement. Ikon will
17 contribute \$600,000.00 toward the Gross Settlement Amount, and Suitable will contribute
18 \$10,500.00 toward the Gross Settlement Amount. Should the Gross Settlement Amount be increased
19 pursuant to the Agreement, the Defendant(s) responsible for the increase in Workweeks shall be
20 responsible for funding the increased Gross Settlement Amount.

21 24. Within 7 days after Defendants fully fund the Gross Settlement Amount, the
22 Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments,
23 the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees
24 Payment, the Class Counsel Litigation Expenses Payment, and the Class Representative Service
25 Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
26 Payment and the Class Representative Service Payment shall not precede disbursement of Individual
27 Class Payments, and the Individual PAGA Payments.

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1 25. For any Class Member whose Individual Class Payment check or Individual PAGA
2 Payment check is uncashed and cancelled after the void date (180 days after the date of mailing),
3 the Administrator shall transmit the funds represented by such checks to the California Controller's
4 Office, Unclaimed Property Fund, in the name of the Class Member, thereby leaving no "unpaid
5 residue" subject to the requirements of California Code of Civil Procedure section 384, subd. (b).

6 26. All papers filed in support of final approval, including supporting documents for
7 attorneys' fees and costs, shall be filed by _____.

8 27. A Final Approval Hearing shall be held with the Court on _____
9 at ____:____.m in Department 15 of the above-entitled Court to determine: (1) whether the proposed
10 settlement is fair, reasonable and adequate, and should be finally approved by the Court; (2) the
11 amount of attorneys' fees and costs to be awarded to Class Counsel; (3) the amount of service award
12 to the Class Representatives; (4) the amount to be paid to the Settlement Administrator; and (5) the
13 amount to be apportioned to PAGA and/or paid to the LWDA and Aggrieved Employees.

14
15 **IT IS SO ORDERED.**

16
17 Dated: _____

Judge of the Superior Court