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10 and all others similarly situated

11 *[Additional Counsel listed on following page]*

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF SAN BERNARDINO**

14 PHILLIP BERNAL, TRUHILL NOEL,
15 KHYELL MARTIN, DAMIEN
16 MCNORTON, WADDIE EARNEST,
17 GILBERT ESTRADA, CARMEN
18 HERNANDEZ, and WENDY QUINTERO,
19 individually, on behalf of themselves and all
20 others similarly situated,

21 Plaintiffs,

22 v.

23 EXPRESS MESSENGER SYSTEMS, INC.,
24 dba ONTRAC, a Minnesota Corporation,
25 ONTRAC LOGISTICS, INC., a Delaware
26 Corporation, and DOES 2-10, Inclusive,

27 Defendants.

Case No. CIVSB2319614

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Joseph Ortiz

Department S-17

CLASS AND REPRESENTATIVE ACTION

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' [UNOPPOSED] MOTION FOR
PRELIMINARY APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: January 6, 2026

Time: 1:30 p.m.

Dept. S-17

Complaint filed:

August 15, 2023

Trial date:

Not set

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1 This matter came on for a hearing on January 6, 2026 in Department S-17 of the above-
2 captioned Court on Plaintiffs' Unopposed Motion for Order Granting Preliminary Approval of Class
3 and Representative Action Settlement ("Motion"). Having fully reviewed the Motion, supporting
4 memorandum of Points and Authorities and Declarations, the Settlement Agreement and Release of
5 Class and PAGA claims ("Agreement"), and the proposed Notice of Class Action Settlement ("Class
6 Notice") attached as Exhibit 1 to the Agreement, having carefully analyzed the Agreement and Class
7 Notice, and in recognition of the Court's duty to make a preliminary determination as to the
8 reasonableness of any proposed class action settlement, and if preliminarily determined reasonable,
9 to ensure proper notice is provided to Class Members in accordance with due process requirements,
10 and to set a Final Approval Hearing to consider the good faith, fairness, adequacy and reasonableness
11 of the proposed Settlement, THE COURT MAKES THE FOLLOWING DETERMINATIONS AND
12 ORDERS:

13 1. The Court conditionally finds, for purposes of approving this settlement only, the
14 proposed Class meets the requirements for certification under section 382 of the California Code of
15 Civil Procedure: (a) the proposed Class is ascertainable and so numerous joinder of all members of
16 the Class is impracticable; (b) there are questions of law or fact common to the proposed Class, and
17 a well-defined community of interest among members of the proposed Class with respect to the
18 subject matter of the class action; (c) the claims of the Class Representatives are typical of the claims
19 of the members of the proposed Class; (d) the Class Representatives have and will fairly and
20 adequately protect the interests of the Members of the Class; (e) a class action is superior to other
21 available methods for an efficient adjudication of this controversy in the context of settlement; and
22 (f) counsel of record for Class Representatives are qualified to serve as Counsel for the Class.

23 2. The Court finds on a preliminary basis the Agreement, attached as Exhibit A to the
24 Declaration of Isam C. Khoury, incorporated, and made a part of this Order of preliminary approval,
25 appears to be within the range of reasonableness of a settlement which could ultimately be given
26 final approval by this Court.

27 3. It appears to the Court on a preliminary basis: (a) the Gross Settlement Amount is fair
28 and reasonable to Class Members when balanced against the probable outcome of further litigation

1 relating to class certification, liability and damages, and potential appeals; (b) significant
2 investigation, research, and informal discovery were conducted, and counsel for the Parties are able
3 to reasonably evaluate their positions; (c) settlement will avoid substantial costs, delays, and risks of
4 further prosecution of the case; and (d) the proposed Settlement was reached through serious, non-
5 collusive negotiations facilitated by an experienced mediator.

6 4. For purposes of this settlement, Class Members are defined as, “All current and
7 former non-exempt employees, employed by Defendant from July 23, 2019 through May 24, 2025,
8 excluding any period covered by the PAGA settlement of *Knox et al. v. Express Messenger Systems,*
9 *Inc. dba OnTrac* (San Bernardino County Superior Court Case No. CIV-DS-1932323). The
10 Settlement Class will include all non-exempt employees, whether or not they signed arbitration
11 agreements with the Defendant, and regardless of their job title(s) while employed with Defendant.”

12 5. Accordingly, good cause appearing, the Motion for Order Granting Preliminary
13 Approval of Class and Representative Action Settlement is GRANTED, and the Court incorporates
14 the Agreement in this Order.

15 6. The Court finds the proposed Class Notice fairly and adequately advises Class
16 Members of (a) pendency of the Class Action Settlement; (b) conditional Class certification for
17 settlement purposes only; (c) preliminary Court approval of the proposed Settlement; (d) the date,
18 time and place of the Final Approval Hearing; (e) the terms of the proposed Settlement and the
19 benefits available to Class Members under the Settlement; (f) their right to receive a proportionate
20 share of the Net Settlement Amount without returning a claim form and their right, procedure and
21 deadline to dispute the number of compensable workweeks upon which their share of the settlement
22 is based upon; (g) their right to request exclusion, and procedure and deadline for doing so; (h) their
23 right to object to the Settlement, and the procedure and deadline for doing so; and, (i) their right to
24 file documents in opposition to the Settlement, and appear at the Hearing.

25 7. The Court finds the proposed Class Notice provides the best practicable notice to the
26 Class and comports with all constitutional requirements, including those of due process.
27 Accordingly, good cause appearing, the Court APPROVES the Class Notice.

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1 8. The Court further finds mailing of the Class Notice to the last known address of Class
2 Members with measures taken for address verification and skip tracing of bad addresses, as described
3 in the Agreement, is an effective method of notifying Class Members of their rights in the class action
4 and the Settlement.

5 Accordingly, IT IS ORDERED:

6 9. ILYM Group, Inc. shall be appointed as the Settlement Administrator to administer
7 the Settlement of this matter as more specifically set forth in the Agreement.

8 10. David R. Markham and Lisa R. Brevard of The Markham Law Firm; Isam C. Khoury,
9 Michael D. Singer, and Maggie K. Realin of Cohelan Khoury & Singer; Walter L. Haines of United
10 Employees Law Group; Haig B. Kazandjian of Haig B. Kazandjian Lawyers, APC; Chad Saunders,
11 Brandon Brouillette, and Zachary M. Crosner of Crosner Legal, PC; Samuel A. Wong and Kashif
12 Haque of Aegis Law Firm, PC; Arby Aiwarzian, Joanna Ghosh, and Yasmin Hosseini of Lawyers
13 For Justice, P.C.; and Tyler J. Woods and James Yoo, and Ruby Carrera of Wilshire Law Firm be
14 appointed as Class Counsel.

15 11. Plaintiffs Phillip Bernal, Truhill Noel, Khyell Martin, Damien McNorton, Gilbert
16 Estrada, Waddie Earnest, Carmen Hernandez, and Wendy Quintero be appointed as the Class
17 Representatives.

18 12. Within twenty-one (21) calendar days (or, if that date falls on a weekend or holiday,
19 the next business day) after the date the Court enters an Order Granting Preliminary Approval,
20 Defendant shall provide the Settlement Administrator the Class Data containing the following
21 information: the names, last known addresses and telephone numbers, and social security numbers
22 of the Class Members, along with data indicating the number of Qualifying Workweeks worked by
23 each class member during the relevant class period, as reflected in Defendant's records.

24 13. Within fourteen (14) calendar days (or, if that date falls on a weekend or holiday, the
25 next business day) after receipt of the Class Data and after checking Class Member information
26 against the National Change of Address Database, the Settlement Administrator shall send the Court-
27 approved Class Notice to Class Members via First Class U.S. mail, using the most current, known
28 mailing addresses for each Class Member.

1 14. On or before forty-five (45) calendar days from the date the Settlement Administrator
2 first mails the Class Notice (or, if the 45th day falls on a Sunday or holiday), Class Members who
3 wish to exclude themselves from the Class must submit a written request for exclusion in the manner
4 set forth in the Class Notice. In the event that a Class Notice is re-mailed to a Class Member, the
5 Response Deadline for that Class Member shall be the extended by fourteen (14) calendar days.

6 15. On or before forty-five (45) calendar days from the date the Settlement Administrator
7 first mails the Class Notice (or, if the 45th day falls on a Sunday or holiday, the next business day),
8 Class Members who wish to dispute the information upon which their Settlement Payment will be
9 calculated must submit a written dispute in the manner set forth in the Class Notice. In the event that
10 a Class Notice is re-mailed to a Class Member, the Response Deadline for that Class Member shall
11 be the extended by fourteen (14) calendar days.

12 16. On or before forty-five (45) calendar days from the date the Settlement Administrator
13 first mails the Class Notice (or, if the 45th day falls on a Sunday or holiday, the next business day),
14 Class Members who Object to the Settlement must submit a written objection in the manner set forth
15 in the Class Notice. Class Members may also appear at the Final Approval Hearing to orally object,
16 even if they have not submitted a written objection. In the event that a Class Notice is re-mailed to
17 a Class Member, the Response Deadline for that Class Member shall be the extended by fourteen
18 (14) calendar days.

19 17. IT IS FURTHER ORDERED the Final Approval Hearing shall be held at ____
20 a.m./p.m. on _____, 2026 in Department S-17 of the Superior Court of California, County
21 of San Bernardino, San Bernardino Justice Center, 247 W. Third Street, San Bernardino, California,
22 92415 to consider the fairness, adequacy, and reasonableness of the proposed Settlement
23 preliminarily approved by this Order of Preliminary Approval, and to consider the application for
24 Class Representative Service Awards, and Class Counsel's Attorneys' Fees and Costs incurred.

25 18. IT IS FURTHER ORDERED if the Court does not enter Judgment in accordance with
26 the Agreement, or it is vacated or reversed, the Parties will retain all rights, status quo ante, and this
27 matter shall proceed.

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19. IT IS FURTHER ORDERED that pending further order of this Court, all proceedings in this matter, except those contemplated by this Order and the Agreement are stayed.

20. The Court reserves the right to adjourn or continue the Final Approval Hearing without further notice to Class Members. If written objections are submitted, Class Counsel shall notify objecting Class Members of the new date and time set for the Final Approval Hearing.

21. The following dates shall govern for the purpose of this Settlement:

Schedule for Execution of Settlement	
No later than 21 calendar days after the entry of this Order [by _____, 2026]	Last day for Defendants to provide Class Data to Settlement Administrator.
No more than 14 calendar days after Settlement Administrator receives Class Data [by _____, 2026]	Last day for Settlement Administrator to mail Notice to Class Members.
No more than forty-five (45) calendar days after mailing of Notice [on or before _____, 2026, unless extended by re-mailing]	Last day to object to or opt out of the Settlement.
No later than sixteen (16) court days before the Final Approval Hearing [by _____, 2026]	Last day to file papers in support of the Settlement and any application for reimbursement of attorneys' fees and expenses, Class Representatives' Service Awards, including any expenses associated with or incurred by the Settlement Administrator.
No later than five (5) court days before the Final Approval Hearing [by _____, 2026].	Last day for Plaintiffs' counsel and/or Defendant's counsel to file a response to any properly filed objection to the Settlement by a Class Member.
_____, 2026 at _____ a.m. / p.m.	Final Approval Hearing.

IT IS SO ORDERED.

Dated: _____, 2026

The Honorable Joseph Ortiz
Judge of the Superior Court