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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

PHILLIP BERNAL, TRUHILL NOEL,
KHYELL MARTIN, DAMIEN
MCNORTON, WADDIE EARNEST,
GILBERT ESTRADA, CARMEN
HERNANDEZ, and WENDY QUINTERO,
individually, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

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

Defendants.

Case No. CIVSB2319614

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Joseph Ortiz
Department S-17

CLASS AND REPRESENTATIVE ACTION

**[PROPOSED] JUDGMENT AND ORDER
GRANTING MOTION FOR: 1) FINAL
APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT
AND 2) APPROVAL OF ATTORNEYS' FEES
AND COSTS, ADMINISTRATION COSTS,
AND CLASS REPRESENTATIVES' SERVICE
AWARDS**

Date: July 21, 2026
Time: 1:30 p.m.
Dept. S-17

Complaint filed: August 15, 2023
Trial date: Not set

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1 **[PROPOSED] FINAL JUDGMENT AND ORDER**

2 This matter came before the Court on July 21, 2026, at 1:30 p.m. in Department S-17 of the
3 San Bernardino Superior Court, Honorable Joseph Ortiz presiding, for a hearing on Plaintiffs’
4 Motion for: 1) Final Approval of Class and Representative Action Settlement and 2) Approval of
5 Attorneys’ Fees and Costs, Administration Costs, and Class Representatives’ Service Awards. Due
6 and adequate notice having been given to Class Members as required by the Court’s February 20,
7 2026 Order Granting Plaintiffs’ Motion for Preliminary Approval of Class and Representative
8 Action Settlement, which required Notice to be given to the Class, the Court having considered all
9 papers filed and proceedings in this action, and determining that the settlement (“Settlement”) is
10 fair, adequate, and reasonable, and otherwise being fully informed and good cause appearing
11 therefore, it is hereby ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

12 1. This Order hereby incorporates by reference the definitions in the Settlement
13 Agreement as though fully set forth herein, and all terms used herein shall have the same meaning
14 as set forth in the Class and Representative Action Settlement Agreement (“Agreement”).

15 2. This Court has jurisdiction over the claims of the members of the Class asserted in
16 this proceeding, personal jurisdiction over the Plaintiffs and Defendant, and the members of the
17 Class, as defined in the Agreement.

18 3. The Court certifies and approves, for settlement purposes only, the following
19 Settlement Class as set forth in the Agreement: “All current and former non-exempt employees,
20 employed by Defendant from July 23, 2019 through May 24, 2025, excluding any period covered
21 by the PAGA settlement of *Knox et al. v. Express Messenger Systems, Inc. dba OnTrac* (San
22 Bernardino County Superior Court Case No. CIV-DS-1932323). The Settlement Class will include
23 all non-exempt employees, whether or not they signed arbitration agreements with the Defendant,
24 and regardless of their job title(s) while employed with Defendant.”

25 4. Notice given to the Settlement Class fully and accurately informed Class Members
26 of all material elements of the proposed Settlement and of their opportunity to exclude themselves
27 from, object to, or comment on the Settlement, and to appear at the final approval hearing. The
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1 notice was reasonable and the best notice practicable under the circumstances. Accordingly, this
2 Court finds that the notice program described in the Agreement and completed by the Settlement
3 Administrator complied fully with the requirements of due process, Rules 3.766 and 3.769 of the
4 California Rules of Court, and all other applicable laws.

5 5. The Agreement is not a concession or an admission by Defendant or by any other
6 Released Parties nor is this Order a finding of the validity of any allegations or of any wrongdoing
7 by Defendant or any other Released Parties. The “Released Parties” are defined to mean Defendant
8 OnTrac Logistics, Inc. (formerly Express Messenger Systems, Inc. dba OnTrac) (“OnTrac”) and
9 each of its subsidiaries, officers, directors, members, partners, owners, shareholders, employees,
10 former employees, agents, servants, attorneys, assigns, affiliates, independent contractors,
11 volunteers, predecessors, successors, parent companies and organizations, insurers, and any and all
12 other persons, firms and corporations in which Defendant may have an interest, including, without
13 limitation, LaserShip, Inc., ASP LS Intermediate Holdings, Inc., ASP LS Parent Holdings, Inc., and
14 ASP LS Holdings LP. Neither this Order, the Agreement, nor any document referred to herein, nor
15 any action taken to carry out the Agreement, may be construed as, or may be used as, an admission
16 of any fault, wrongdoing, omission, concession, or liability whatsoever by or against Defendant or
17 any of the Released Parties.

18 6. There were no objections to the Settlement and one (1) Class Member opted out
19 (Gordon Yeung). All Class Members who did not submit a valid Request for Exclusion are bound
20 by this Final Approval Order and by the terms of the Parties’ Agreement, including releases
21 provided for in the Agreement and this Final Approval Order. As of the effective date of
22 Settlement, by operation of the entry of this Final Approval Order, each Settlement Class Member,
23 including Plaintiffs, shall be deemed to have fully released, waived, relinquished and discharged, to
24 the fullest extent permitted by law, all Released Claims that he or she may have against the
25 Released Parties. Class Members are enjoined from prosecuting the Released Claims, and are
26 enjoined from initiating or continuing other proceedings regarding the Released Claims, as provided
27 in the Agreement. Effective on the date when Defendant fully funds the Gross Settlement Amount,
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1 Plaintiffs and all Class Members – except for Gordon Yeung – will fully, finally and forever
2 release, settle, compromise, relinquish, and discharge Defendant and all of the Released Parties
3 from any and all claims, rights, demands, liabilities, and causes of action of every nature and
4 description, arising from July 23, 2019 through May 24, 2025, including statutory, contractual, or
5 common law claims for wages, damages, penalties, liquidated damages, interest, attorneys’ fees,
6 litigation costs, restitution, or equitable relief – whether asserted under the California Labor Code,
7 Business and Professions Code sections 17200, *et seq.*, the applicable wage orders at California
8 Code of Regulations, Title 8, sections 11000, *et seq.*, or otherwise – that arise out of or are
9 reasonably related to the factual allegations that were alleged or could have been alleged in
10 Plaintiffs’ operative Complaints (including any amended complaints filed pursuant to this
11 agreement) and PAGA notices relating to Plaintiffs’ claims, including but not limited to: (a) failure
12 to pay minimum, regular, overtime, and/or double time wages pursuant to Cal. Labor Code sections
13 218, 218.5, 218.6, 510, 1194, 1194.2, 1197, 1197.1, 1198, and the applicable wage orders,
14 including but not limited to claims alleging failure to pay for all hours worked, “off the clock”
15 work, and failure to pay overtime at the correct regular rate of pay; (b) failure to provide lawful
16 meal periods or premiums in lieu thereof under Cal. Labor Code sections 226.7, 512, and the
17 applicable wage orders; (c) failure to authorize and permit rest periods or premiums in lieu thereof
18 under Cal. Labor Code section 226.7, and the applicable wage orders; (d) failure to pay reporting
19 time pay in violation of Cal. Labor Code section 558 and the applicable wage orders; (e) failure to
20 reimburse business expenses in violation of Cal. Labor Code sections 2800 and 2802; (f) failure to
21 timely pay wages owed during employment and upon separation from employment under Cal.
22 Labor Code sections 201, 202, 203 and 204; (g) failure to comply with itemized wage statement
23 provisions in violation of Cal. Labor Code section 226, including allegations that Defendant omitted
24 required information, failed to accurately include all applicable hourly rates and corresponding
25 number of hours worked, did not maintain accurate records pertaining to total hours worked, did not
26 include the amount of paid sick leave available (Cal. Lab. Code §§ 245-248.5); (h) failure to
27 produce requested employment records in violation of Cal. Labor Code sections 1198.5(a), 226(f),
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1 and 432, and also derivative violations for the above-stated Labor Code claims; (i) violation of the
2 Unfair Competition Law (Bus. & Prof. Code §§ 17200, *et seq.*); (j) failure to pay split shift wages
3 and/or premiums (Cal. Lab. Code §§ 510, 1194; Cal. Code Regs. Tit. 8, § 11050, and applicable
4 wage orders); (k) unlawful deductions in violation of Cal. Labor Code section 221; (l) failure to pay
5 vested vacation/paid time off in violation of Cal. Labor Code section 227.3; (m) unlawful criminal
6 and background history inquiries in violation of Cal. Labor Code sections 432.7; and 1024.5; Cal.
7 Civ. Code sections 1786, *et seq.* and 15 U.S.C. section 1681; (n) failure to pay wages semi-monthly
8 (Cal. Lab. Code § 226); (o) unlawful PAGA waiver (Cal. Lab. Code § 432.5); (p) any and all claims
9 for attorneys' fees and costs; (q) any and all claims for PAGA penalties.

10 7. Settlement Class Members were given a full opportunity to participate in the Final
11 Approval hearing, and all Settlement Class Members and other persons wishing to be heard have
12 been heard. All Class Members, except for those who submitted a valid Request for Exclusion, are
13 bound by this Order.

14 8. The Court has considered all relevant factors for determining the fairness of the
15 Settlement and has concluded that all such factors weigh in favor of granting final approval. In
16 particular, the Court finds that the Settlement was reached following meaningful discovery and
17 investigation; that the Settlement is the result of serious, informed, adversarial and arm's-length
18 negotiations between the Parties; and that the terms of the Settlement are in all respect fair,
19 adequate, and reasonable.

20 9. In so finding, the Court has considered all evidence presented, including evidence
21 regarding the strength of the Plaintiffs' case; the risk, expense, and complexity of the claims
22 presented; the likely duration of further litigation; the amount offered in settlement; the extent of
23 investigation and discovery completed; and the experience and views of Plaintiffs' counsel.

24 10. The settlement of civil penalties under the Labor Code Private Attorneys General
25 Act ("PAGA") in the amount of \$450,000 is hereby approved. Seventy-Five Percent (75%) or
26 \$337,500, shall be paid to the California Labor and Workforce Development Agency ("LWDA").
27 The remaining Twenty-Five Percent (25%), or \$112,500, will be distributed to the PAGA-Eligible
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1 Employees as set forth in the Agreement. Effective on the date when Defendant fully funds the
2 Gross Settlement Amount, Plaintiffs, as agents and proxies of the State of California, and the State
3 of California (including the LWDA), acting on behalf of the PAGA-Eligible Employees, and each
4 and all of the PAGA-Eligible Employees, regardless of whether they choose to exclude themselves
5 from the Class Settlement, shall release Defendant and all the Released Parties from any and all
6 claims, rights, demands, liabilities, and causes of action arising from February 1, 2022 through May
7 24, 2025, arising out of the California Private Attorneys General Act of 2004, Labor Code sections
8 2698, *et seq.*, that are based on or are reasonably related to the factual allegations that were alleged
9 or could have been alleged in Plaintiffs' operative Complaints (including any amended complaints
10 filed pursuant to this agreement) and PAGA notices relating to Plaintiffs' claims, including but not
11 limited to: (a) failure to pay minimum, regular, overtime, and/or double time wages owed pursuant
12 to Cal. Labor Code sections 218, 218.5, 218.6, 510, 1182.2, 1194, 1194.2, 1197, 1197.1, 1198 and
13 the applicable wage orders, including but not limited to claims alleging failure to pay for all hours
14 worked, "off the clock" work and failure to pay overtime at the correct regular rate of pay; (b)
15 failure to provide lawful meal periods or premiums in lieu thereof under Cal. Labor Code sections
16 226.7, 512, and the applicable wage orders; (c) failure to authorize and permit rest periods or
17 premiums in lieu thereof under Cal. Labor Code sections 226.7, and the applicable wage orders; (d)
18 failure to pay reporting time pay in violation of Cal. Labor Code section 558 and the applicable
19 wage orders; (e) failure to reimburse business expenses in violation of Cal. Labor Code sections
20 2800 and 2802; (f) failure to pay split shift wages and/or premiums (Cal. Lab. Code §§ 510, 1194;
21 Cal. Code Regs. Tit. 8, §11050, and in violation of the applicable wage orders); (g) failure to
22 provide suitable seating in violation of the applicable wage orders; (h) failure to provide suitable
23 resting facilities in violation of the applicable wage orders; (i) unlawful deductions in violation of
24 Cal. Labor Code section 221, (j) violation of California Day of Rest Law under Cal. Labor Code
25 sections 551 and 552; (k) failure to provide supplemental paid sick leave in violation of Cal. Labor
26 Code sections 248.2 and 248.6; (l) failure to pay vested vacation/paid time off in violation of Cal.
27 Labor Code section 227.3; (m) unlawful criminal and background history inquiries in violation of
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1 Cal. Labor Code sections 432.5, 432.7, and 1024.5; Cal. Civ. Code sections 1786, *et seq.* and 15
2 U.S.C. section 1681; (n) failure to provide a safe and healthful workplace in violation of Cal. Labor
3 Code sections 6400-6404, 6406-6407, as well as Cal-OSHA COVID-19 Emergency Temporary
4 Standards; (o) failure to timely pay wages owed during and upon separation from employment
5 under Cal. Labor Code sections 201, 202, 203 and 204; (p) knowing and intentional failure to
6 comply with itemized wage statement provisions in violation of Cal. Labor Code section 226, and
7 failure to keep accurate payroll records in violation of Cal. Labor Code sections 1174(d), 1198,
8 1199, including allegations that Defendant omitted required information, failed to accurately
9 include all applicable hourly rates and corresponding number of hours worked, did not maintain
10 accurate records pertaining to total hours worked, and did not include the amount of paid sick leave
11 available (Cal. Lab. Code §§ 245-248.5), did not provide supplemental sick leave (Cal. Lab. Code §
12 248.2), did not provide notice of paid sick leave rights (Cal. Lab. Code § 2810.5), and failure to
13 maintain standard conditions; (q) failure to produce requested employment records in violation of
14 Cal. Labor Code sections 1198.5(a), 226(f), and 432, and also derivative violations for the above-
15 stated Labor Code claims; (r) violation of the Unfair Competition Law (Bus. & Prof. Code §§
16 17200, *et seq.*; (s) unlawful PAGA waiver (Cal. Lab. Code § 432.5); (t) failure to pay wages semi-
17 monthly (Cal. Lab. Code § 226); (u) any and all claims for attorneys' fees and costs; and (v) any
18 and all claims for PAGA penalties. It is the intent of the Parties that, to the fullest extent permitted
19 by law, the PAGA-Eligible Employees will be deemed to have released all such PAGA claims
20 arising between February 1, 2022, and May 24, 2025. The "PAGA-Eligible Employees" are defined
21 as "all current and former non-exempt employees of Defendant in non-exempt positions in
22 California between February 1, 2022, and May 24, 2025."

23 11. The Court hereby finds the Individual Settlement Payments provided to Participating
24 Class Members under the terms of the Settlement to be fair and reasonable in light of all the
25 circumstances. The Court, therefore, orders the calculations and payments to be made and
26 administered in accordance with the terms of the Agreement.

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1 12. The Court finds that the services provided by the Settlement Administrator were for
2 the benefit of the Class, and the cost of \$89,650 is fair, reasonable, and appropriate for
3 reimbursement. The Court approves payment to ILYM Group, Inc. for administration fees, which
4 include all costs and fees incurred to date, as well as estimated costs and fees involved in
5 completing the administration of the Settlement.

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

13 14. The Court finds that Class Counsel have the sufficient experience, knowledge, and
14 skill to promote and safeguard the interests of the Class. The Court therefore finds that Plaintiffs'
15 counsel satisfies the professional and ethical obligations of Class Counsel.

16 15. The Court further approves an award of attorneys' fees of \$1,575,000.00. The Court
17 finds that this amount is supported by both the application of the percentage fee and the lodestar-
18 plus-multiplier methods for awarding reasonable attorneys' fees.

19 16. In the course of this litigation, Class Counsel incurred \$30,916.43 in litigation costs
20 including in the form of court filing fees, mediation fees and costs, research and delivery charges.
21 The Court approves the reimbursement to Class Counsel for the Litigation Expenses pursuant to the
22 terms of the Agreement.

23 17. The Court finds that Phillip Bernal, Truhill Noel, Khyell Martin, Damien McNorton,
24 Gilbert Estrada, Waddie Earnest, Carmen Hernandez, and Wendy Quintero are suitable
25 representatives for the Settlement Class and are hereby appointed as Class Representatives. The
26 Court finds that Plaintiffs' investment and commitment to the litigation and its outcome ensured
27 adequate and zealous advocacy for the Settlement Class, and their interests are aligned with those of
28

1 the Settlement Class.

2 18. The Court finds the Service Awards to be paid to Plaintiffs Phillip Bernal, Truhill
3 Noel, Khyell Martin, Damien McNorton, Gilbert Estrada, and Waddie Earnest, in the amount of
4 Ten Thousand Dollars (\$10,000.00) per person, and to Plaintiffs Carmen Hernandez and Wendy
5 Quintero in the amount of Seven Thousand Five Hundred Dollars (\$7,500.00) per person are fair
6 and reasonable compensation based upon the evidence presented regarding the services provided
7 and risks incurred by Plaintiffs in assisting Class Counsel.

8 19. Without affecting the finality of this Final Approval Order, the Court reserves
9 continuing jurisdiction over the parties to the Settlement, including Defendant, Plaintiffs, and
10 Participating Class Members, to administer, supervise, construe and enforce the Settlement in
11 accordance with its terms.

12 20. This document shall constitute a judgment for purposes of California Rules of Court,
13 Rule 3.796(h). Without affecting the finality of this judgment in any way, the Court retains
14 jurisdiction solely for the purposes of addressing the interpretation and enforcement of the terms of
15 the Settlement, Settlement Administration matters, and such post-Final Judgment matters as may be
16 appropriate under court rules or as otherwise set forth in the Settlement pursuant to California Code
17 of Civil Procedure, section 664.6.

18 21. Pursuant to Labor Code section 2699(s)(3), Plaintiffs shall submit a copy of this
19 Order and Judgment to the California Labor and Workforce Development Agency within 10 days
20 after entry of this Order and Judgment.

21 22. The Parties will bear their own costs and attorneys' fees except as otherwise
22 provided by this Court's Order awarding Class Counsels' attorneys' fees and litigation costs.

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1 23. The Court sets a Hearing Re: Distribution of Settlement Funds for April 16, 2027, at
2 8:30 a.m. Class Counsel are ordered to file a Final Report Re: Distribution of the Settlement Funds
3 by the Administrator fifteen (15) days prior.

4 **IT IS SO ORDERED.**

5
6 Date: _____

Honorable Joseph Ortiz
Judge of the Superior Court