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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

DAMONTAE LEVINGSTON, KEVIN
PEARSON, MARK GUTIERREZ, and
PAUL RODRIGUEZ, as individuals and
on behalf of all others similarly situated,

Plaintiffs,

v.

COMMERCE DISTRIBUTION
COMPANY LLC., a California Limited
Liability Company; SMART & FINAL
LOGISTICS LLC, a Delaware limited
liability company; SMART & FINAL
STORES, LLC, a California limited
liability company, and SMART & FINAL
LLC, a Delaware limited liability company
and DOES 1 through 50, inclusive,

Defendants.

CASE NO. 22STCV05730

*[Assigned for all purposes to the Hon. Randolph
M. Hammock; Dept. 49]*

**~~[PROPOSED]~~ ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT, ATTORNEYS' FEES AND
COSTS, AND CLASS REPRESENTATIVE
SERVICE AWARDS**

Date: August 3, 2023
Time: 8:30 a.m.
Dept.: 49

Action Filed: February 15, 2022
Trial Date: None Set

FILED
Superior Court of California
County of Los Angeles

08/03/2023

David W. Slayton, Executive Officer / Clerk of Court

By: F. Rojas Deputy

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1 **[PROPOSED] ORDER**

2 Having read and considered Plaintiffs Damontae Levingston, Kevin Pearson, Mark
3 Gutierrez, and Paul Rodriguez's (collectively, "Plaintiffs") Motion for Final Approval of Class
4 Action Settlement, Attorneys' Fees and Costs, and Class Representative Service Awards, the
5 Stipulation of Settlement ("Settlement Agreement" or "Settlement") brought pursuant to
6 California Rule of Court 3.769, and all other documents and evidence presented in support
7 thereof, and recognizing the sharply disputed factual and legal issues involved in this case, the
8 risks of further prosecution, and the benefits to be received by the participating Settlement Class
9 members, the Court hereby makes a final ruling that the proposed Settlement is fair, reasonable,
10 and adequate, and is the product of good faith, arms-length negotiations between the parties. Good
11 cause appearing therefore, the Court hereby GRANTS Plaintiffs' Motion for Final Approval of
12 Class Action Settlement, Attorneys' Fees and Costs, and Class Representative Service Awards,
13 and HEREBY ORDERS THE FOLLOWING:

14 1. For purposes of this Order granting final approval of the class action settlement, the
15 Court adopts all defined terms as set forth in the Settlement Agreement, incorporated by reference
16 herein.

17 2. The Court has jurisdiction over the subject matter of this action, and over all parties
18 to this action, including all Settlement Class members.

19 3. The Court hereby approves the Settlement as set forth in the Settlement Agreement
20 as being fair, reasonable, and adequate to the Settlement Class members, and directs the parties
21 to effectuate the Settlement Agreement according to its terms.

22 4. The Court finds that that zero (0) Settlement Class members objected to the
23 Settlement and only thirteen (13) Settlement Class members requested to be excluded from the
24 Settlement, and the 99.96% participation rate supports final approval.

25 5. The conditional class certification contained in this Court's Order Granting
26 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Preliminary Approval
27 Order") is hereby made final, and the Court thus certifies, for Settlement purposes, a Settlement
28 Class consisting of:

1 All current and former non-exempt employees of Defendants Smart & Final
2 Logistics, LLC, Commerce Distribution Company, LLC, and Smart & Final Stores,
3 LLC (“Defendants”) who worked for Defendants in California at any time from
4 February 2, 2018, through February 7, 2023 (the “Class Period”).

5 6. For purposes of settlement only, the Court finds that: (a) the members of the
6 Settlement Class are ascertainable and so numerous that joinder of all members is impracticable;
7 (b) there are questions of law or fact common to the Settlement Class and there is a well-defined
8 community of interest among members of the Settlement Class with respect to the subject matter
9 of the litigation; (c) the claims of the Class Representatives are typical of the claims of the
10 members of the Settlement Class; (d) the Class Representatives have fairly and adequately
11 protected the interests of the Settlement Class members; (e) a class action is superior to other
12 available methods for an efficient adjudication of this controversy; and (f) Class Counsel are
13 qualified to serve as counsel for the Class Representatives and the Settlement Class members.

14 7. Notice was provided to the Settlement Class members as set forth in the Settlement
15 Agreement, which was approved by the Court on April 5, 2023, and the notice process has been
16 completed in conformity with the Court’s Preliminary Approval Order. The Court finds that said
17 notice constituted reasonable notice under the circumstances, and constituted valid, due, and
18 sufficient notice to all Settlement Class members. The Notice of Class Action Settlement (“Class
19 Notice”) and the Notice of Settlement Award (collectively, the “Notice Packet”) provided due
20 and adequate notice of the proceedings and matters set forth therein, informed Settlement Class
21 members of their rights, and fully satisfied the requirements of California Rule of Court 3.769,
22 the California and United States Constitutions, and other applicable law.

23 8. Plaintiffs Damontae Levingston, Kevin Pearson, Mark Gutierrez, and Paul
24 Rodriguez are hereby confirmed as the Class Representatives, and Haines Law Group, APC,
25 Diversity Law Group, P.C., Polaris Law Group, Law Offices of Choi & Associates, JCL Law
26 Firm, Zakay Law Group, APLC, and Blumenthal Nordrehaug Bhowmik De Blouw LLP are
27 hereby confirmed as Class Counsel.

28 9. The Court finds that the Class Representative Service Awards in the amount of
\$40,000.00 (\$10,000.00 each) is appropriate in recognition of the risks undertaken by Plaintiffs;
for the amount of time and effort spent by Plaintiffs as the Class Representatives; for Plaintiffs’

1 general release of claims provided as part of the Settlement Agreement; and for the service
2 Plaintiffs provided to the Settlement Class members. The Court finds that this amount is fair,
3 reasonable, and adequate, and orders that the Settlement Administrator make this payment in
4 conformity with the terms of the Settlement.

5 10. The Court finds that attorneys' fees in the total amount of \$1,666,666.67 and
6 litigation costs of \$42,131.66 for Class Counsel's actual litigation costs are fair, reasonable, and
7 adequate. The Court orders the Settlement Administrator to distribute these payments to Class
8 Counsel in conformity with the terms of the Settlement. The Court finds that the time devoted to
9 the matter by Class Counsel was reasonably necessary in the investigation and prosecution of this
10 action and that the fees are appropriately awarded in light of the benefit provided to the Settlement
11 Class by Class Counsel's efforts.

12 11. The Court finds that the payment to the State of California Labor and Workforce
13 Development Agency in the amount of \$75,000.00 for its 75% share of the civil penalties
14 allocated under the Private Attorneys General Act is fair, reasonable, and adequate, and orders
15 the Settlement Administrator to distribute this payment in conformity with the terms of the
16 Settlement.

17 12. The Court orders that ILYM Group, Inc., the Settlement Administrator, shall be paid
18 \$90,000.00 from the Gross Settlement Amount for all of its work done and to be done until the
19 completion of this matter and finds that sum appropriate.

20 13. The Court orders Defendants to deposit the entire Gross Settlement Amount of Five
21 Million Dollars and Zero Cents (\$5,000,000.00) with the Settlement Administrator within
22 fourteen (14) calendar days of the Effective Date, as that term is defined in the Settlement
23 Agreement.

24 14. The Court finds that the Individual Settlement Awards, as provided for in the
25 Settlement, are fair, reasonable, and adequate, and orders the Settlement Administrator to
26 distribute these payments to the participating Settlement Class members in conformity with the
27 terms of the Settlement.

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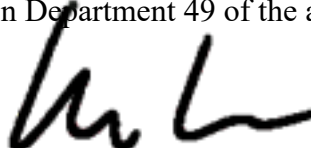
1 15. Any funds from Individual Settlement Awards remaining uncashed after the 180-
2 day check-cashing deadline shall be distributed to the Controller of the State of California to be
3 held pursuant to the Unclaimed Property Law, California Civil Code section 1500, *et seq.*, for the
4 benefit of those individuals who did not cash their checks, until such time that they claim their
5 property.

6 16. Pursuant to California Code of Civil Procedure section 664.6 and Rule 3.769(h) of
7 the California Rules of Court, the Court will retain jurisdiction over this action and the Parties
8 until final performance of the Settlement Agreement.

9 17. The Settlement Administrator shall prepare a final accounting declaration
10 summarizing all distributions made pursuant to the Settlement, which shall be filed by Plaintiff
11 no later than March 19, 2025. A Non-Appearance Case Review Re Distribution will be set for
12 4/16/25, at 8:30 a.m./~~p.m.~~ in Department 49 of the above-entitled Court.

13 **IT IS SO ORDERED.**

14 Dated: 08/03/2023



15 Hon. Randolph M. Hammock
16 Judge of the Superior Court
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