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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

15 **IN AND FOR THE COUNTY OF LOS ANGELES**

16 OSCAR ALMANZA, individually and on
behalf of all persons similarly situated,

17 Plaintiffs,

18 vs.

19 XTREME XPRESS, INC., a California
20 corporation and DOES 1 through 50,
21 Inclusive,

22 Defendants.
23

Case No. 20STCV15387

~~PROPOSED~~ ORDER GRANTING FINAL APPROVAL

Date: July 28, 2022

Time: 9:00 a.m.

Judge: Elihu M. Berle

Dept.: 6

FILED
Superior Court of California
County of Los Angeles
07/28/2022
Sherri R. Carter, Executive Officer / Clerk of Court
By: D. Wortham Deputy

1 Plaintiff's motion for an order finally approving the Second Amended Stipulation of
2 Settlement of Class Action Claims and Release of Claims ("Agreement") and motion for an award
3 of attorneys' fees, costs and service awards duly came on for hearing on July 28, 2022, before the
4 above-entitled Court. Zakay Law Group, APLC and the JCL Law Firm, APC appeared on behalf
5 of Plaintiff OSCAR ALMANZA ("Plaintiff"). Rupal Law appeared on behalf of Defendant
6 XTREME XPRESS, INC. ("Defendant").

7 **I.**
8 **FINDINGS**

9 Based on the oral and written argument and evidence presented in connection with the
10 motion, the Court makes the following findings:

11 1. All terms used herein shall have the same meaning as defined in the
12 Agreement.

13 2. This Court has jurisdiction over the subject matter of this litigation pending
14 in the California Superior Court for the County of Los Angeles ("Court"), Case No.
15 20STCV15387, entitled *Almanza v. Xtreme Xpress, Inc.* and over all Parties to this litigation,
16 including the Class.

17 **A. Preliminary Approval of the Settlement**

18 3. On March 30, 2022, the Court granted preliminary approval of a class-wide
19 settlement. At this same time the court approved certification of a provisional settlement class for
20 settlement purposes only. The Court confirms this Order and finally approves the settlement and
21 the certification of the Class.

22 **B. Notice to the Class**

23 4. In compliance with the Preliminary Approval Order, the Notice Packet was
24 mailed by first class mail to the Class Members at their last known addresses on April 29, 2022.
25 Mailing of the Notice Packet to their last known addresses was the best notice practicable under
26 the circumstances and was reasonably calculated to communicate actual notice of the litigation
27 and the proposed settlement to the members of the Class Members. The Court finds that the
28 Notice Packet provided fully satisfies the requirements of California Rules of Court, rule 3.769.

1 5. The Response Deadline for opting out or objecting was June 29, 2022.
2 There was an adequate interval between notice and deadline to permit Class Members to choose
3 what to do and act on their decision. No Class Members objected. Four (4) Class Members
4 requested exclusion. Curtis Mosely, Frank Linares, Latee Jack, and Rodrigo Garcia requested
5 exclusion.

6 **C. Fairness of the Settlement**

7 6. The Agreement provides for a Total Settlement Amount of \$467,309.60.
8 The Agreement is entitled to a presumption of fairness. (*Dunk v. Ford Motor Co.* (1996) 48
9 Cal.App.4th 1794, 1801.)

10 a. The settlement was reached through arms-length bargaining between
11 the parties. There is no evidence of any collusion between the parties in reaching the proposed
12 settlement.

13 b. The Parties' investigation and discovery have been sufficient to
14 allow the Court and counsel to act intelligently.

15 c. Counsel for all parties are experienced in similar employment class
16 action litigation and have previously settled similar class claims on behalf of employees claiming
17 compensation. All counsel recommended approval of the Settlement.

18 d. The percentage of objectors and requests for exclusion is small. No
19 objections were received. Four (4) requests for exclusion were received. Curtis Mosley, Frank
20 Linares, Latee Jack, and Rodrigo Garcia requested exclusion.

21 e. The participation rate is high. Approximately 99.35% of Class
22 Members will be participating in the Settlement and will be sent settlement payments.

23 7. The consideration to be given to the Settlement Class Members under the
24 terms of the Agreement is fair, reasonable, and adequate considering the strengths and weaknesses
25 of the claims asserted in this Action and is fair, reasonable, and adequate compensation for the
26 release of the Released Claims, given the uncertainties and risks of the litigation and the delays
27 which would ensue from continued prosecution of the Action.

28

1 8. The Agreement is finally approved as fair, adequate, and reasonable and in
2 the best interests of the Settlement Class Members.

3 **D. Attorneys' Fees and Litigation Expenses**

4 9. The Agreement provides for a Class Counsel Award in the amount of
5 \$170,769.86. Subject to Court approval, the Class Counsel Award consists of attorneys' fees
6 equal to one-third (1/3) of the of the Total Settlement Amount, or One Hundred Fifty-Five
7 Thousand, Seven Hundred Sixty-Nine Dollars and Eighty-Six Cents (\$155,769.86) and
8 reimbursement of costs and expenses not to exceed Fifteen Thousand Dollars and Zero Cents
9 (\$15,000.00).

10 10. A Class Counsel Award in the amount of \$166,269.86 comprised of
11 attorneys in the amount of One Hundred Fifty-Five Thousand, Seven Hundred Sixty-Nine Dollars
12 and Eighty-Six Cents (\$155,769.86) and reimbursement of costs and expenses not to exceed Ten
13 Thousand, Five Hundred Dollars and Zero Cents (\$10,500.00) is reasonable in light of the
14 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
15 achieved by Class Counsel. The requested attorneys' fee award represents 1/3 of the common
16 fund, which is reasonable and at the low end of the range for fee awards in common fund cases
17 and is supported by Class Counsel's lodestar.

18 **E. Class Representative Service Award**

19 11. The Agreement provides for a Class Representative Service Award of up to
20 \$10,000 for Plaintiff, Oscar Almanza, subject to the Court's approval. The Court finds that the
21 amount of \$10,000 is reasonable in light of the risks and burdens undertaken by the Plaintiff in
22 this class action litigation.

23 **F. Settlement Administration Costs**

24 12. The Agreement provides for Settlement Administration Costs to be paid in
25 an amount not to exceed \$14,000. The Declaration of the Settlement Administrator provides that
26 the actual claims administration expenses were \$14,000. The amount of this payment is
27 reasonable in light of the work performed by the Settlement Administrator.

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II.
ORDERS

Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

1. The Class is certified for the purposes of settlement only. The Settlement Class is hereby defined to include:

All of Defendant's current and former non-exempt employees employed in California between April 21, 2016, and March 18, 2021.

2. Every person in the Class who did not submit and timely and validly Request for Exclusion is a Settlement Class Member. There were four (4) Requests for Exclusion submitted by the Class Members. Curtis Mosley, Frank Linares, Latee Jack, and Rodrigo Garcia requested exclusion.

3. The Agreement is hereby approved as fair, reasonable, adequate, and in the best interest of the Class. The Parties are ordered to effectuate the Settlement in accordance with this Order and the terms of the Agreement.

4. The Court hereby confirms Jean-Claude Lapuyade, Esq., of the JCL Law Firm, APC and Shani Zakay, Esq., of the Zakay Law Group, APLC, as Class Counsel for the Settlement Class Members.

5. Class Counsel are awarded a Class Counsel Award in the total amount of \$166,269.86 comprised of attorneys' fees in the amount of \$155,769.86 and litigation expenses in the amount of ~~\$10,500~~ ^{AJÉ JI ÈH}. The attorneys' fees portion of the Class Counsel Award shall be allocated 50% to the JCL Law Firm, APC and 50% to the Zakay Law Group, APLC Class Counsel shall not seek or obtain any other compensation or reimbursement from Defendant, Plaintiff, or members of the Class. The Court finds such amounts to be fair and reasonable. The Court hereby orders the Settlement Administrator to make these payments in accordance with the terms of the Settlement Agreement.

6. The Court hereby confirms plaintiff Oscar Almanza as the Class Representative in this Action.

1 7. The Court hereby determines the Class Representative Service Award in the
2 sum of ~~\$10,000~~ ^{À Ì €€} to the Class Representative is fair and reasonable. The Court hereby orders the
3 Administrator to make this payment to the Class Representative in accordance with the terms of
4 the Settlement Agreement.

5 8. The payment of \$14,000 to the Settlement Administrator for Settlement
6 Administration Costs is approved.

7 9. The PAGA Settlement of \$15,000 is approved.

8 10. Final Judgment is hereby entered in this action. The Final Judgment shall
9 bind each Settlement Class Member. The Final Judgment shall operate as a full release and
10 discharge of Defendant from all claims alleged in the operative complaint which occurred during
11 the Class Period, specifically including claims for: (1) Failure to pay minimum wages; (2) Failure
12 to pay overtime wages; (3) Failure to provide required meal periods; (4) Failure to provide
13 required rest periods; (5) Failure to reimburse for required business expenses; (6) Failure to
14 provide accurate itemized wage statements; and (7) Failure to provide wages when due; as well as
15 any federal, state or local provisions. To the extent employees are required to “opt-in” to have this
16 release be deemed effective under federal law, the acceptance and negotiation of any settlement
17 check shall be deemed effective for that purpose. The Released Claims expressly exclude all other
18 claims, including claims for vested benefits, wrongful termination, unemployment insurance,
19 disability, social security, workers’ compensation, and class claims outside of the Class Period.

20 11. Final Judgment shall also bind Plaintiff, acting on behalf of the State of
21 California and all Aggrieved Employees, pursuant to the California Private Attorneys’ General
22 Act (“PAGA”) and shall release Defendant from claims which could have been alleged under
23 PAGA based on the facts disclosed to the LWDA in Plaintiff’s notice to the LWDA, which
24 occurred during the PAGA Period, including PAGA penalties for: (1) Failure to pay minimum
25 wages; (2) Failure to pay overtime wages; (3) Failure to provide required meal periods; (4) Failure
26 to provide required rest periods; (5) Failure to reimburse for required business expenses; (6)
27 Failure to provide accurate itemized wage statements; and (7) Failure to provide wages when due.
28 Excluded from the Released PAGA Claims are any claims under PAGA which were not and could

1 not have been alleged based upon the facts set forth in Plaintiff's Complaint and administrative
2 exhaustion letter and expressly excluding all other claims, including claims vested benefits,
3 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
4 and PAGA claims outside the PAGA Period.

5 12. The term "Aggrieved Employees" is hereby defined to mean the following:
6 "All of Defendant's current and former non-exempt employees employed in
7 California between February 13, 2019, and March 18, 2021."

8 13. In addition to the release given by each Settlement Class Member, Plaintiff
9 also generally releases Defendant from any and all of the Plaintiff's Released Claims as defined in
10 the Agreement. This general release by Plaintiff also includes a waiver of rights under California
11 Civil Code Section 1542.

12 14. The Agreement is not an admission by Defendant, nor is this Final
13 Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
14 wrongdoing by Defendant. Neither this Final Approval Order, the Settlement, nor any document
15 referred to herein, nor any action taken to carry out the Settlement is, may be construed as, or may
16 be used as an admission by or against Defendant of any fault, wrongdoing, or liability whatsoever.
17 The entering into or carrying out of the Agreement, and any negotiations or proceedings related
18 thereto, shall not in any event be construed as, or deemed to be evidence of, an admission or
19 concession with regard to the denials or defenses by Defendant and shall not be offered in
20 evidence in any action or proceeding against Defendant in any court, administrative agency or
21 other tribunal for any purpose as an admission whatsoever other than to enforce the provisions of
22 this Final Approval Order and Judgment, the Settlement, or any related agreement or release.
23 Notwithstanding these restrictions, any of the Parties may file in the Action or in any other
24 proceeding this Final Approval Order and Judgment, the Agreement, or any other papers and
25 records on file in the Action as evidence of the Settlement to support a defense of res judicata,
26 collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the
27 claims being released by the Settlement.

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FILED
Superior Court of California
County of Los Angeles
07/28/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: D. Wortham Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

OSCAR ALMANZA, individually and on)
behalf of all persons similarly situated,)

) Plaintiff,)

) v.)

XTREME XPRESS, INC., a California)
corporation and DOES 1 through 50,)
Inclusive,)

) Defendants.)

Case No. 20STCV15387

~~PROPOSED~~ JUDGMENT

Hearing Date: July 28, 2022
Hearing Time: 9:00 AM

Honorable Judge Elihu M. Berle
Department 6

Trial Date: Not Set
Action Filed: April 21, 2020

Plaintiff's motion for an order finally approving the Second Amended Stipulation of Settlement of Class Action Claims and Release of Claims ("Agreement") and motion for an award of attorneys' fees, costs and service awards duly came on for hearing on July 28, 2022, before the above-entitled Court. The parties having settled this action and the Court having entered an Order Granting Motion for Final Approval of Settlement Class Action and good cause appearing therefor,

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1 **IT IS HEREBY ORDERED, ADJUDICATED AND DECREED THAT:**

2 1. The certification of the Settlement Class is confirmed for the purposes of
3 settlement. The Class is defined as all of XTREME XPRESS, INC.'s ("Defendant") current and
4 former non-exempt employees employed in California between April 21, 2016, and March 18,
5 2021.

6 2. All persons who meet the foregoing definition are members of the Settlement
7 Class, except for those individuals who filed a valid request for exclusion ("opt out") from the
8 Class. There were only four (4) opt outs. Curtis Mosely, Frank Linares, Latee Jack, and Rodrigo
9 Garcia requested exclusion.

10 3. Except as set forth in the Agreement, the Order Granting Motion for Final
11 Approval of Settlement Class Action and this Final Judgment, Plaintiff, and all members of the
12 Settlement Class, shall take nothing in the Action. Each party shall bear its own attorneys' fees
13 and costs, except as otherwise provided in the Agreement, the Order Granting Motion for Final
14 Approval of Class Action Settlement and in this Final Judgment.

15 4. The Court shall retain jurisdiction to construe, interpret, implement, and enforce the
16 Agreement, to hear and resolve any contested challenge to a claim for settlement benefits, and to
17 supervise and adjudicate any dispute arising from or in connection with the distribution of
18 settlement benefits.

19 5. As of the date the Defendant funds the Total Settlement Amount, each Class
20 Member who has not validly opted out has released the "Released Claims" against the Defendant
21 and all of the "Released Parties" as set forth in the Agreement.

22 6. As used in paragraph 5 above, the quoted terms have the meanings set forth below:
23 The Released Claims are defined as all class claims alleged in the operative complaint which
24 occurred during the Class Period, and expressly excluding all other claims including claims for
25 vested, benefits, wrongful termination, unemployment, insurance, disability, social security,
26 workers' compensation, and class claims outside of the Class Period. The "Released Parties"
27 means Defendant.
28

1 7. The Released PAGA Claims are defined as any and all PAGA Claims alleged in
2 the operative complaint and Plaintiff’s notice to the LWDA which occurred during the PAGA
3 Period, and expressly excluding all other claims, including claims for vested, benefits, wrongful
4 termination, unemployment, insurance, disability, social security, workers’ compensation, and
5 PAGA Claims outside the PAGA Period.

6 8. This Court hereby grants final approval and awards the following: ~~(i) \$166,269.86~~
7 for the Class Counsel Award comprised of one-third of the Total Settlement Amount, or One
8 Hundred Fifty-Five Thousand, Seven Hundred Sixty-Nine Dollars and Eighty-Six Cents
9 (\$155,769.86) and expenses not to exceed ~~Ten Thousand, Five Hundred Dollars and Zero Cents~~
10 ~~(\$10,500.00)~~; (ii) the enhancement payment to Class Representative, Oscar Almaza, of ~~Ten~~
11 ~~Thousand Dollars and Zero Cents (\$10,000.00)~~ in exchange for a general release (“Class
12 Representative Service Award”); (iii) settlement administration costs of Fourteen Thousand
13 Dollars and Zero Cents (\$14,000.00) to ILYM Group, Inc. (“Settlement Administration Cost”);
14 and (iv) Eleven Thousand, Two Hundred Fifty Dollars and Zero Cents (\$11,250.00) (75% of the
15 PAGA Settlement) to the Labor and Workforce Development Agency (“LWDA Payment”).

16 9. Plaintiff shall give notice of this Judgment to the Labor and Workforce
17 Development Agency within ten (10) days after entry of the Judgment or order pursuant to
18 California Labor Code section 2699(1)(3).

19 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO**
20 **ORDERED.**

21
22
23 DATED: R 1st AG , 2022



Elihu M. Berle

Elihu M. Berle / Judge

Hon. Elihu M. Berle
Judge, Superior Court for the State of California,
County of Los Angeles

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