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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 30 2023

BY *Victoria Sanchez*
VICTORIA SANCHEZ, DEPUTY

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO**

ERIC MENDEZ, on behalf of himself, all
others similarly situated, and on behalf of the
general public,

Plaintiff,

v.

M & N CONSULTING, INC. DBA A-LINE
MESSENGER SERVICE, and DOES 1-100,

Defendants.

Case No.: CIVDS1923624

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: August 30, 2023

Time: 9:00 a.m.

Dept.: S26



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TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

The Motion for Preliminary Approval of Class Action Settlement came before this Court, the Honorable David S. Cohn presiding, on August 30, 2023. The Court having considered the papers submitted in support of the Motion, HEREBY ORDERS THE FOLLOWING:

1. The following Class is conditionally certified for purposes of settlement only: all individuals who worked for Defendant in California as a non-exempt hourly driver employee from August 12, 2015 through October 13, 2021.

2. The Court grants preliminary approval of the Settlement and the Class based upon the terms set forth in the Settlement Agreement filed herewith. Capitalized terms shall have the definitions set forth in the Settlement.

3. The Settlement appears to be fair, adequate and reasonable to the Class. The Settlement falls within the range of reasonableness and appears to be presumptively valid, subject only to any objections that may be raised at the final approval hearing and final approval by this Court.

5. Plaintiff Eric Mendez is conditionally approved as the Class Representative for the Class.

6. The proposed Class Representative Enhancement Payment of \$10,000 payable to the Plaintiff for his services as the class representative is conditionally approved.

7. David Mara and Matthew Crawford of Mara Law Firm, PC are conditionally approved as Class Counsel for the Class.

8. The proposed awards of up to \$328,111 in attorneys' fees and up to \$35,000 in actual costs payable to Class Counsel are conditionally approved.

9. A final approval hearing on the question of whether the Settlement, attorneys' fees and costs to Class Counsel, and the Class Representative Enhancement Payment should be finally approved as fair, reasonable and adequate as to Class Members is scheduled in Department S26 on the date and time set forth in Paragraph 16 below.

10. The Court confirms Phoenix Class Action Administration Solutions ("Phoenix")

1 as the Settlement Administrator.

2 11. The proposed payment of no more than \$15,000 in costs to Phoenix for its
3 services as the Settlement Administrator is conditionally approved.

4 12. The Court hereby preliminarily approves the allocation of \$50,000 of the Gross
5 Fund Value Amount to Plaintiff's PAGA claims. Of this amount, 75% will be paid to the Labor
6 and Workforce Development Agency ("LWDA") and the remaining 25% will be distributed to
7 the Aggrieved Employees. At the Final Approval Hearing, the Court will determine the
8 sufficiency of the PAGA payment. If the Court decides to award less than the amounts set forth
9 by the Parties, then excess amount will become part of the available Net Settlement Amount.

10 13. The Court approves, as to form and content, the Notice in substantially the form
11 attached as Exhibit A to the Settlement. The Court approves the procedure for Class Members to
12 participate in, to opt out of, and to object to, the Settlement as set forth in the Notice of
13 Settlement.

14 14. The Court directs the mailing of the Notice by first class mail to Class Members
15 in accordance with the implementation schedule set forth in Paragraph 16 below. The Court
16 finds the dates selected for the mailing and distribution of the Notice, as set forth in the
17 Implementation Schedule, meet the requirements of due process and provide the best notice
18 practicable under the circumstances and shall constitute due and sufficient notice to all persons
19 entitled thereto.

20 15. To facilitate administration of the Settlement pending final approval, the Court
21 hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or
22 administrative proceedings (including, but not limited to, filing claims with the Division of
23 Labor Standards Enforcement of the California Department of Industrial Relations) regarding
24 claims released by the Settlement unless and until such Class Members have filed valid Requests
25 for Exclusion with the Settlement Administrator and the time for filing valid Requests for
26 Exclusion with the Settlement Administrator has elapsed. This provision shall not apply to
27 claims not alleged in the Action.
28

1 16. The Court orders the following **Implementation Schedule** for further
2 proceedings:

| | | |
|------|---|---|
| 3 a. | Deadline for Defendant to submit Class Data to Settlement Administrator: | [14 days after entry of the Preliminary Approval Order] |
| 4 b. | Deadline for Settlement Administrator to Mail the Notice to Class Members | [14 days after receipt of the Class Data] |
| 5 c. | Deadline for Class Members to Postmark Requests for Exclusion Forms | [30 days after mailing of Notice to Class Members] |
| 6 d. | Deadline for Receipt by Court and Counsel of any Objections to the Settlement | [30 days after mailing of Notice to Class Members] |
| 7 e. | Deadline for Class Counsel to file Motion for Final Approval of Settlement | [16 Court days before Final Approval Hearing] |
| 8 f. | Deadline for Class Counsel to file Motion for Attorneys' Fees, Costs and Service Awards | [16 Court days before Final Approval Hearing] |
| 9 g. | Final Approval Hearing and Final Approval | <u>Nov. 27</u> , 2023 <u>AT 8:30 AM</u> |

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20 **IT IS SO ORDERED.**

21 Dated: 8/30, 2023

22 BY 

~~Honorable David S. Cohn~~ *Jessica Molewan*
San Bernardino Superior Court Judge