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12 *Attorneys for Plaintiff and the Class*

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 FOR THE COUNTY OF LOS ANGELES
15 SPRING STREET COURTHOUSE

15 MICHAEL VINNITSKY, individually,
16 and on behalf of all other aggrieved
17 employees,

17 Plaintiff,

18 v.

19 L.A. OVERNIGHT, LLC, a California
20 limited liability company doing business
21 as WORLDWIDE EXPRESS, INC., and
22 DOES 1 through 50, inclusive,

23 Defendants.

Case No.: BC 655 314

CLASS ACTION

[Assigned to the Hon. Elihu M. Berle, Dept. 6]

**[PROPOSED] ORDER AND JUDGMENT
GRANTING PLAINTIFFS' MOTION FOR
FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND REQUEST FOR
ATTORNEYS' FEES**

Hearing Date: July 13, 2018

Time: 10:00 a.m.

Dept.: 6

Action Filed: March 21, 2017

Trial Date: None Set

RECEIVED
LOS ANGELES SUPERIOR COURT

MAY 14 2018

R. NAZARYAN

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

AUG 06 2018

Sherri R. Carter, Executive Officer/Clerk
By Marisela Fregoso, Deputy

[PROPOSED] ORDER

1
2 On March 23, 2018, this Court issued an order granting preliminary approval of the
3 proposed class action settlement between Plaintiff Michael Vinnitsky (“Plaintiff”) and Defendant
4 L.A. Overnight, LLC (“Defendant”). Plaintiff now seeks an order granting final approval of the
5 Class Action Settlement Agreement and Release (“Settlement Agreement”).

6 The Court preliminarily approved that this litigation could be maintained as a class action
7 for settlement purposes only. It conditionally certified the following class (“Class” or “Settlement
8 Class”) for settlement purposes only:

9 All current and former non-exempt employees who performed work for Defendant
10 in the State of California at any time from March 24, 2013 until March 23, 2018.

11 The Court appointed, for settlement purposes only, the Law Offices of Scott E. Wheeler
12 and the Wand Law Firm and as Class Counsel, Plaintiff as representative for the Class, and Atticus
13 Administration, LLC as the Settlement Administrator.

14 The Court further directed the Parties to provide notice to the Class, which informed absent
15 Class Members of: (a) the proposed Settlement and the Settlement’s key terms; (b) the date, time,
16 and location of the Final Approval Hearing; (c) the right of any Class Member to object to the
17 proposed Settlement, and an explanation of the procedures to exercise that right; (d) the right of
18 any Class Member to exclude themselves from the proposed Settlement, and an explanation of the
19 procedures to exercise that right; and (e) an explanation of the procedures for Class Members to
20 participate in the proposed Settlement.

21 Thereafter, Plaintiff filed an unopposed Motion for Final Approval of Class Action
22 Settlement and Request for Attorneys’ Fees and Costs (“Final Approval Motion”) and supporting
23 documents.

24 The Court, upon Notice having been given as required in the Preliminary Approval Order,
25 and having considered the proposed Settlement, as well as all papers filed, hereby ORDERS,
26 ADJUDGES, AND DECREES AS FOLLOWS:

27 1. This Court has jurisdiction over the subject matter of the action and over all Parties
28 to the action, including all members of the Settlement Class.

1 2. The Settlement is in all respects fair, reasonable, and adequate, and it is hereby
2 approved.

3 3. The Settlement Class is properly certified as a class for settlement purposes only.

4 4. The Notice provided to the Settlement Class conforms with the requirements of
5 California Code of Civil Procedure section 382, California Civil Code section 1781, California
6 Rules of Court 3.766 and 3.769, the California and United States Constitutions, and any other
7 applicable law, and constitutes the best notice practicable under the circumstances, by providing
8 individual notice to all Class Members who could be identified through reasonable effort, and by
9 providing due and adequate notice of the proceedings and of the matters set forth therein to the
10 other Class Members. The notice fully satisfied the requirements of due process.

11 5. The Court finds the Settlement was entered into in good faith, that the settlement is
12 fair, reasonable, and adequate, and that the Settlement satisfies the standards and applicable
13 requirements for final approval of this class action settlement under California law, including the
14 provisions of California Code of Civil Procedure section 382 and California Rules of Court, Rule
15 3.769.

16 6. Upon entry of this Order, compensation to the participating members of the
17 Settlement Class shall be effected pursuant to the terms of the Settlement.

18 7. In addition to any recovery that Plaintiff may receive as a Settlement Class
19 Member under the Settlement, and in recognition of Plaintiff's efforts on behalf of the Settlement
20 Class, the Court hereby approves the payment of an enhancement award to Plaintiff Michael
21 Vinnitsky in the amount of \$5,000 for his services as class representative, and Defendant shall
22 cause this sum to be paid to Plaintiff in accordance with the Settlement Agreement.

23 8. The Court approves the payment of attorney's fees to Class Counsel in the amount
24 of \$33,333.00 and reimbursement of reasonable litigation expenses in the amount of \$9,669.00,
25 and Defendant shall cause this sum to be paid to Class Counsel in accordance with the Settlement
26 Agreement.

27 9. The Court approves the payment of actual settlement administration costs in the
28 amount of \$3,000.00 to Atticus, and Defendant shall cause this sum to be paid to Atticus in

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1 accordance with the Settlement Agreement.

2 10. The Court approves and orders payment in the amount of \$7,500.00 (which
3 represents 75% of the \$10,000.00 allocated for the PAGA payment) to the California Labor and
4 Workforce Development Agency, which represents a fair and equitable sum for resolution of
5 claims raised pursuant to Labor Code section 2698 *et seq.*, and Defendant shall cause this sum to
6 be paid to the LWDA in accordance with the Settlement Agreement.

7 11. The Gross Settlement Amount, the Net Settlement Amount, and the methodology
8 used to calculate and pay each Settlement Class Member's individual settlement payment are fair
9 and reasonable, and the Court authorizes the Settlement Administrator to issue individual
10 settlement payments to each Settlement Class Member in accordance with the Settlement
11 Agreement.

12 12. Upon the Effective Date, Plaintiff and all members of the Settlement Class, shall
13 have, by operation of this Order and the accompanying Judgment, fully, finally, and forever
14 released, relinquished, and discharged Defendant from all Released Claims as defined by the
15 terms of the Settlement.

16 13. Upon completion of the administration of the Settlement, Plaintiff shall file a
17 declaration from the Settlement Administrator concerning the amount of money distributed and
18 certifying completion of the administration of the Settlement.

19 14. This Judgment is intended to be a final disposition of the above captioned action in
20 its entirety, and is intended to be immediately appealable.

21 15. This Court shall retain jurisdiction with respect to all matters related to the
22 administration and consummation of the Settlement, and any and all claims, asserted in, arising
23 out of, or related to the subject matter of the lawsuit, including but not limited to all matters
24 related to the Settlement and the determination of all controversies relating thereto.


25 16. An OSC re: compliance with the terms of the Settlement is set for ~~4/5/19, 2018~~
26 at 8:30 a.m. in Department 6. A report from Atticus re: distribution of the Settlement funds shall
27 be filed by on or before ~~3/29/19, 2018~~. *Amended judgment in compliance*
with CCP § 384 to be submitted by 3/29/19.

28 17. Plaintiff's Motion for Final Approval of Class Action Settlement and Request for

1 Attorneys' Fees and Costs is hereby granted and the Court directs that a judgment shall be entered
2 in accordance with the terms of this Order.

3 **IT IS SO ORDERED AND ADJUDICATED.**

4
5 DATED: 8/6/18
6


7 HON. ELIHU M. BERLE
8 JUDGE OF THE SUPERIOR COURT
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