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11 Attorneys for Plaintiffs ROBERT COHEN and
12 ASHLEY BELTRAN, on behalf of themselves and
others similarly situated

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

15 ROBERT COHEN and ASHLEY BELTRAN,
16 on behalf of themselves and others similarly
17 situated,

18 Plaintiffs,

19 v.

20 FEDEX OFFICE AND PRINT SERVICES,
21 INC.; and DOES 1 through 10, inclusive,

22 Defendant.

Case No. Case No. CIVDS1818604

CLASS ACTION

~~PROPOSED~~ ORDER GRANTING
MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT

Preliminary Approval Hearing

Hearing Date: Dec. 20, 2018

Time: 8:30 a.m.

Dept.: S26

Judge: Hon. David Cohn

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

DEC 31 2018

BY 
VERONICA GONZALEZ, DEPUTY

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25 On December 20, 2018, this Court heard Plaintiffs Robert Cohen and Ashley Beltran's
26 ("Plaintiffs") Motion for Preliminary Approval of Class Action Settlement ("Motion"). This Court
27 reviewed the Notice of Motion and Motion, the Memorandum of Points and Authorities in support of
28

1 the Motion, and all exhibits, declarations, and evidence submitted in support of the Motion,
2 including the Stipulated Settlement Agreement and Release (“Settlement Agreement”). Based on
3 this review and the findings below, the Court finds good cause to GRANT Plaintiffs’ Motion for
4 Preliminary Approval of Class Action Settlement. The Court **HEREBY FINDS AS FOLLOWS:**

5 1. Unless otherwise specified, the defined or capitalized terms in this Order have the
6 same meanings as set forth in the Settlement Agreement.

7 2. The Settlement Agreement falls within the range of possible approval as fair,
8 reasonable and adequate, and appears to be presumptively valid, subject to any objections that may
9 be raised at the Final Fairness Hearing.

10 3. The Court finds that (a) the Summary Notice, Banner Notice, and Full Notice
11 constitute the best notice practicable under the circumstances, (b) constitute valid, due and sufficient
12 notice to all members of the Settlement Class, (c) the method of notice is reasonably calculated to
13 reach a substantial percentage of Settlement Class Members, and is expected to reach, at a minimum,
14 seventy percent of the Settlement Class, and (d) the content, form and method of notice comply fully
15 with the requirements of California Code of Civil Procedure section 382, California Rules of Court
16 3.766 and 3.769, the California and United States Constitutions, and other applicable law.

17 4. For settlement purposes only, the Court finds that the Settlement Class is so numerous
18 that joinder of all Settlement Class Members is impracticable, Plaintiffs’ claims are typical of those
19 of the Class, there are questions of law and fact common to the Settlement Class and such common
20 questions predominate over any questions affecting only individual members of the Settlement
21 Class, and certification of the Settlement Class is superior to other available methods for the fair and
22 efficient adjudication and resolution of the controversy.

23 **IT IS HEREBY ORDERED THAT:**

24 5. **Settlement Approval.** The Settlement Agreement attached as Exhibit “1” to the
25 Declaration of Anthony Orshansky In Support of Motion For Preliminary Approval (“Orshansky
26 Decl.”) filed with the Court, is preliminarily approved.

27 6. **Preliminary and Conditional Certification.** The Settlement Class is preliminarily
28 and conditionally certified for settlement purposes only, as follows: “All consumers, as defined by

1 15 U.S.C. §1681a(c), in the United States of America who made a payment at a FedEx Office Self-
2 Service Express Pay kiosk for services and received an electronically printed FedEx Office receipt
3 between January 2017 and August 2017 displaying the first two and last four digits of their credit or
4 debit card number.”

5 **7. Preliminary and Conditional Appointment of Class Representatives.** The Court
6 conditionally appoints Named Plaintiffs Robert Cohen and Ashley Beltran as the Class
7 Representatives of the Settlement Class and grants preliminary approval to a proposed service
8 enhancement payment to each Named Plaintiff in an amount not to exceed \$5,000, subject to final
9 approval by the Court following a further motion by Class Counsel.

10 **8. Preliminary and Conditional Appointment of Class Counsel.** The Court
11 conditionally appoints the law firms of CounselOne, P.C. and Aiman-Smith & Marcy as Class
12 Counsel for the Settlement Class, and grants preliminary approval of an award of attorneys’ fees and
13 documented litigation costs of up to \$510,000 to Class Counsel, subject to final approval by the
14 Court following a further motion by Class Counsel. The Court finds that Plaintiffs and Class
15 Counsel will fairly and adequately represent the Settlement Class and fairly and adequately protect
16 the interests of the Settlement Class Members.

17 **9. Provision of Class Notice.**

18 a. The Court hereby approves, as to form and content, the [Proposed] Notice Of Class
19 Action Settlement (the “Full Notice”), along with the short form “Summary Notice” and “Banner
20 Notice”, that are separately set forth as Exhibit “2” to Orshansky Decl. filed with the Court.

21 b. Further, the Court hereby approves, as to form and content, the [Proposed] Claim
22 Form (the “Claim Form”) to be sent to Settlement Class Members which is set forth as Exhibit “3” to
23 Orshansky Decl. filed with the Court. The Court also approves the use of an administrator of the
24 Settlement (“Settlement Administrator”) and Defendant will pay the costs associated with the
25 administration of claims and providing notice of the Settlement.

26 c. The Court directs that the Defendant, no later than twenty (20) business days after
27 issuance and entry of this Order granting Preliminary Approval, post the Summary Notice on or near
28 each FedEx Express Pay kiosk or self-serve machine in each FedEx Office Store located in the

1 United States of America. This Summary Notice will be posted for a period of forty-five (45)
2 calendar days.

3 d. The Court directs that the Defendant, no later than twenty (20) business days after
4 issuance and entry of this Order granting Preliminary Approval, run the Banner Notice
5 advertisements on the Internet, for a period of at least fourteen (14) calendar days.

6 e. The Court directs that the Parties and Settlement Administrator, no later than twenty
7 (20) business days after issuance and entry of this Order granting Preliminary Approval, coordinate
8 and cause to be published on the Internet a case-specific Settlement Website that will set forth a
9 summary of the terms of the Settlement, contact information for Class Counsel and the Settlement
10 Administrator, and instructions for participating, objecting, or requesting exclusion (opting out) of
11 the Settlement. The Parties are to agree on the language and content of the Settlement Website prior
12 to posting and it must contain at least all of the information agreed upon in the Settlement
13 Agreement, along with the Full Notice and Claim Form.

14 **10. Objections to and Request for Exclusion from the Settlement.** The Court orders
15 that any and all objections or requests for exclusion (opt outs) from the Settlement, and/or any and
16 all notices of intent to appear at the Final Fairness Hearing must be postmarked, electronically-
17 submitted, or personally delivered, and, where applicable, filed with the Court and served on counsel
18 for the Parties, pursuant to the terms of the Settlement Agreement, no later than forty-five (45)
19 calendar days after the date Summary Notice is first posted by Defendant FedEx Office & Print
20 Services. Inc. ("FedEx Office").

21 **11. Failure to Object to the Settlement.** Any Settlement Class Member who fails to
22 object to the Settlement in the manner specified in Section 17 of the Settlement Agreement will: (1)
23 be deemed to have waived their right to object to the Settlement; (2) be foreclosed from objecting
24 (whether by a subsequent objections, intervention, appeal or any other process) to the Settlement;
25 and (3) not be entitled to speak at the Final Fairness Hearing.

26 **12. Failure to Request Exclusion from the Settlement.** Any Settlement Class Member
27 who fails to exclude himself or herself (opt-out) from the Settlement in the manner specified in
28 Section 16 of the Settlement Agreement will be bound by the terms of the Settlement.

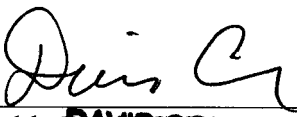
1 the Final Order and Judgment

Final Fairness Hearing

2 This Court may order the Final Fairness Hearing to be postponed, adjourned, or continued. If that
3 occurs, the updated hearing date shall be posted on the Settlement Website but, other than the
4 website posting, the Parties will not be required to provide any additional notice to Settlement Class
5 Members.

6 **IT IS SO ORDERED.**

7
8 Date: December ³¹~~29~~ 2018



Honorable **DAVID GOHN**
Superior Court Judge