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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION
MAY - 1 2019
VERONICA GONZALEZ, DEPUTY

6 **AIMAN-SMITH MARCY**
PROFESSIONAL CORPORATION
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Brent A. Robinson #289373
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12 Attorneys for Plaintiffs ROBERT COHEN and
ASHLEY BELTRAN, on behalf of themselves and
13 others similarly situated

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

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

Case No. CIVDS1818604

18 Plaintiffs,

CLASS ACTION

19 v.

~~PROPOSED AMENDED~~
ORDER GRANTING
FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
JUDGMENT

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

22 Defendant.

Final Approval Hearing
Hearing Date: April 12, 2019
Time: 8:30 a.m.
Dept.: S26
Judge: Hon. David Cohn

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FILED BY FAX

RECEIVED
APR 26 2019
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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2 **[PROPOSED AMENDED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION**
3 **SETTLEMENT AND JUDGMENT**

4 Plaintiffs' Motion for Final Approval of Class Action Settlement and Plaintiffs' Motion for
5 Award of Reasonable Attorneys' Fees, Costs, and Class Representative Enhancements came on for
6 hearing before this Court in Department S26, the Honorable David Cohn presiding, on April 12,
7 2019. The Court, having reviewed and considered all of the papers, exhibits, declarations, and
8 evidence submitted in support of the motions and in opposition thereto, including Objector Karen
9 Duncan's motions to stay final approval of the Settlement and for leave to issue discovery, and
10 having heard oral argument of the Parties and Objector Karen Duncan, finds good cause to grant
11 the Motion for Final Approval of the Class Action Settlement and the Motion for Award of
12 Reasonable Attorneys' Fees, Costs and Class Representative Enhancements, and therefore,

13 **IT IS ORDERED, ADJUDGED, AND DECREED THAT:**

14 1. This Court has jurisdiction over the subject matter of the Action and over all parties
15 to the Action, including the Settlement Class Members, pursuant to California Code of Civil
16 Procedure Section 664.6.

17 2. Terms used in this Order have the meaning assigned to them in the Stipulated
18 Settlement Agreement and Release ("Settlement Agreement" or "Settlement").

19 3. This Order Granting Final Approval of Class Action Settlement and Judgment (the
20 "Order" or "Judgment") incorporates and makes a part hereof the Settlement Agreement, which was
21 filed with the Court as Exhibit 1 to the Declaration of Anthony J. Orshansky in Support of Plaintiffs'
22 Motion for Preliminary Approval of Class Action Settlement.

23 4. The Court finds that the Settlement Class includes "All consumers, as defined by 15
24 U.S.C. §1681a(c), in the United States of America who made a payment at a FedEx Office Self-
25 Service Express Pay kiosk for services and received an electronically printed FedEx Office receipt
26 between January 2017 and August 2017 displaying the first two and last four digits of their credit or
27 debit card number." ("Settlement Class" or "Settlement Class Members").

28 5. The Court finds that the Notice of Class Action Settlement and Final Approval

1 Hearing, along with the Summary Notice, Banner Notice and Settlement Website, were
2 advertised on-line and posted at all FedEx Office retail locations, as previously ordered by the
3 Court on December 31, 2018, and were listed on or linked to various websites and social media,
4 and that such Notice fairly and adequately described the terms of the Settlement Agreement,
5 accurately informed Settlement Class Members about the lawsuit, the Settlement and the final
6 approval hearing, and provided sufficient information so that Settlement Class Members could
7 object to, participate in, or request exclusion from the Settlement and attend the hearing; was
8 the best notice practicable under the circumstances and, based on the evidence presented,
9 reached at least 74% of likely Settlement Class Members; was valid, due and sufficient notice
10 to all Settlement Class Members; and complied fully with California Code of Civil Procedure
11 §382, California Civil Code § 1781(e), California Rules of Court 3.766 and 3.769, due
12 process under the California and United States Constitutions, and all other applicable laws.
13 Specifically, the Court finds that the rather large participation further demonstrates the
14 adequacy of the Notice. Accordingly, the Court finds the Notice to the Settlement Class to be
15 fair, adequate and reasonable.

16 6. The Court further finds that a full and fair opportunity has been afforded to
17 Settlement Class Members to participate in the proceedings convened to determine whether the
18 proposed Settlement Agreement should be given final approval. Accordingly, the Court hereby
19 determines that all Settlement Class Members who did not file a timely and proper request to be
20 excluded from the Settlement are bound by this final Order. The Court further finds, as set forth
21 in the Settlement Agreement, that on the effective Settlement Date, the Settlement Class and all
22 Settlement Class Members who did not properly request exclusion are: (1) deemed to have
23 released and forever discharged Defendant and its releasees from all claims arising out of or
24 asserted in this action and claims released under the Settlement Agreement; and (2) barred and
25 permanently enjoined from asserting, instituting, or prosecuting, either directly or indirectly,
26 these claims.

27 7. The Court finds that the Settlement is fair, reasonable, and adequate as to the
28 Settlement Class, Plaintiffs, and Defendant, and is the product of good faith, arm's-length

1 negotiations between the parties, and further, that the Settlement is consistent with public policy,
2 and fully complies with all applicable provisions of California law.

3 8. In response to the objections made to the Settlement, the Court finds that it would
4 be an unusual and unnecessary procedure for the objector, Karen Duncan, to conduct discovery into
5 the litigation and Settlement. The Court finds that it appears from the evidence that an adequate
6 investigation was made by the parties. Therefore, for all of the reasons set forth herein, the
7 Court overrules Ms. Duncan's objection to the Settlement, and denies her Motion for Leave to
8 Issue Discovery and Motion to Stay Final Approval, as the issues set forth in Ms. Duncan's
9 objection and motions do not alter this Court's prior findings that the Settlement is fair,
10 adequate and reasonable such that final approval and judgment should be entered.

11 9. Accordingly, the Court hereby finally and unconditionally approves the
12 Settlement, and specifically:

13 a. Approves the distribution of Stored Value Cards in the amount of \$10.00 to
14 Settlement Class Members who made valid claims and did not submit proper documentation of a
15 printed receipt, and in the amount of \$25.00 to Settlement Class Members who made valid claims
16 and did submit proper documentation of a printed receipt, with the Stored Value Cards to have an
17 expiration date of six months from issuance;

18 b. Approves the application for a class representative incentive award of Five
19 Thousand Dollars (\$5,000.00) each to Plaintiffs Robert Cohen and Ashley Beltran, finding that it is
20 fair, reasonable and appropriate in light of: (a) Plaintiffs' risks (financial, professional and
21 emotional) in commencing this litigation as Class Representatives; (b) the time and effort Plaintiffs
22 spent litigating this action as Class Representatives; and (c) Plaintiffs' public interest service;

23 c. Approves Class Counsel's attorney's fees request in the amount of Four
24 Hundred Eighty-Two Thousand Two Hundred Fifty Dollars and Sixty-Eight Cents (\$482,250.68)
25 and litigation costs request in the amount of Twenty-Seven Thousand Seven Hundred Forty-Nine
26 Dollars and Thirty-Two Cents (\$27,749.32), for a total request of Five Hundred Ten Thousand
27 Dollars (\$510,000), finding that Class Counsel's hourly rates and their hours expended on the
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1 litigation, and costs advanced, are reasonable in light of the nature of this case, Class Counsel's
2 experience and efforts in prosecuting this action, and the results achieved for the Class; and

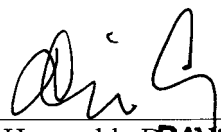
3 d. Approves that KCC shall be the settlement administrator.

4 10. A compliance hearing is set for October 22, 2019 at 8:30 A.M. If a satisfactory
5 compliance status report is filed at least 5 court days before the compliance hearing, no appearances
6 will be required.

7 11. The Court enters judgment pursuant to Rule 3.769 of the California Rules of Court,
8 provided, however, that without affecting the finality of this Order, the Court retains exclusive and
9 continuing jurisdiction over the litigation for purposes of supervising, implementing, interpreting
10 and enforcing this Order and the Settlement Agreement, and in order to conduct further hearing(s)
11 on certification of distribution procedures as specified above.

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13 **IT IS SO ORDERED.**

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16 Date: April 5/1, 2019

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19 Honorable **DAVID COHN**
20 Superior Court Judge
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1 **PROOF OF SERVICE**

2 I, the undersigned, hereby declare: I am employed in the County of Alameda,
3 California; I am over eighteen years of age and not a party to the within action. I am either
4 admitted to practice before this Court or employed in the office of an attorney admitted to
5 practice in this Court. My business address is 7677 Oakport, Suite 1150, Oakland, California
6 94621.

7 On this date, I served the following:

8 **[PROPOSED AMENDED] ORDER GRANTING FINAL APPROVAL OF CLASS ACTION
9 SETTLEMENT AND JUDGMENT**

10 by placing a true copy thereof, enclosed in a sealed envelope, addressed as follows:

| | |
|---|---|
| 11 Stephanie A. Sheridan, Esq. 12 Steptoe & Johnson LLP 1 Market Street 13 Steuart Tower, Suite 1800 14 San Francisco, CA 94105 15 415/365-6700 16 ssheridan@steptoe.com | Attorneys for Defendant FedEx Office and Print Services, Inc. **Via U.S. Mail |
| 17 Darlene Alt, Esq. 18 Stepto & Johnson LLP 115 South LaSalle Street, Suite 3100 19 Chicago, IL 60603 20 dalt@steptoe.com 312/577-1262 312/577-1370 fax | Attorneys for Defendant FedEx Office and Print Services, Inc. Via E-mail |
| 21 Anthony J. Orshansky, Esq. 22 Justin Kachadoorian, Esq. 23 Counselone, P.C. 9301 Wilshire Boulevard, Suite 650 24 Beverly Hills, CA 90210 25 310/277-9945 424/277-3727 fax 26 anthony@counselonegroup.com justin@counselonegroup.com | Co-counsel for Plaintiffs Via E-Mail |
| 27 Rafey S. Balabanian, Esq, 28 Todd Logan, Esq. J. Aaron Lawson, Esq. Edelson PC 123 Townsend Street, Suite 100 San Francisco, CA 94107 415/212-9300 415/373-9435 fax rbalabanian@edelson.com tlogan@edelson.com alawson@edelson.com | Attorneys for Objector Karen Duncan |

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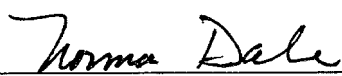
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|---|--|
| Andre Rekte, Esq. Girardi Keese 155 W. Hospitality Lane, Ste. 260 San Bernardino, CA 92408 909/381-1551 909/381-2566 fax | |
|---|--|

[By U.S. Mail]] I caused such envelope, with postage fully prepaid, to be placed in the United States mail at Oakland, California.

[By E-Mail]] I caused such document to be electronically transmitted via the Internet to (email address) from Oakland, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: April 25, 2019


Norma Dale