

1 **BRADLEY/GROMBACHER, LLP**

2 Marcus J. Bradley, Esq. (SBN 174156)
3 Kiley L. Grombacher, Esq. (SBN 245960)
4 Lirit A. King, Esq. (SBN 252521)
5 31365 Oak Crest Drive, Suite 240
6 Westlake Village, California 91361
7 Telephone: (805) 270-7100
8 Facsimile: (805) 270-7589
9 mbradley@bradleygrombacher.com
10 kgrombacher@bradleygrombacher.com
11 lking@bradleygrombacher.com

12 **UNITED EMPLOYEES LAW GROUP, PC**

13 Walter L. Haines, Esq. (SBN 71075)
14 5500 Bolsa Avenue, Suite 201
15 Huntington Beach, California 92649
16 Telephone: (562) 256-1047
17 Fax: (562) 256-1006
18 walter@whaines.com

19 Attorneys for Plaintiffs LOUIS GARCIA and
20 MARLENA MCGOWEN

21 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
22 **COUNTY OF SAN BERNARDINO**

23 LOUIS GARCIA, an individual, on his
24 own behalf; MARLENA MCGOWAN, an
25 individual, on her own behalf; and on
26 behalf of all others similarly situated,

27 Plaintiffs,

28 v.

29 XPO LOGISTICS FREIGHT, INC., a
30 Delaware corporation; and DOES 1
31 through 100, inclusive,

32 Defendants.

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

APR 19 2021

BY


JESSICA MORALES, DEPUTY

CASE NO. CIVDS2015538

[Assigned to Hon. David Cohn, Dept. S26]

CLASS ACTION

**[PROPOSED] ORDER GRANTING MOTION
FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: April 19, 2021

Time: 10:00 a.m.

Dept.: S26

Complaint Filed July 27, 2020

1 Before the Court is the *Motion for Final Approval of Class Action Settlement* (the
2 "Motion") filed by Plaintiffs Louis Garcia and Marlena McGowan in the above-captioned case
3 seeking final Court approval of the parties' settlement of this action (the "Settlement") on the
4 terms set forth in the *Class Action Settlement Agreement and Release of Claims* (the "Settlement
5 Agreement"). The Court has considered the Motion, including the declarations filed in support
6 thereof, the relevant legal authority, and the record in this case. Having jurisdiction and venue to
7 consider the Motion and the relief requested therein, with due and proper notice of the Motion
8 having been provided to the Settlement Class, the Court after due deliberation now makes the
9 following FINDINGS AND ORDERS:

10 **IT IS HEREBY ORDERED:**

11 **Final Certification of Settlement Class**

12 1. Capitalized terms used in this Order that are not otherwise identified herein have
13 the meaning assigned to them in the Settlement Agreement.

14 2. The Court finds, for the purpose of Settlement, that the proposed Settlement Class
15 meets the criteria for certification under California Code of Civil Procedure Section 382. The
16 Court hereby orders confirmed class certification pursuant to California Code of Civil Procedure
17 Section 382 of the following class: all non-exempt workers except truck drivers employed by
18 XPO Logistics Freight, Inc. in California during the period April 29, 2015 through August 22,
19 2020.

20 3. For purposes of the Settlement, the Court orders confirmed the appointment of
21 Bradley Grombacher LLP and United Employees Law Group, PC as Class Counsel and further
22 orders confirmed the appointment of the Named Plaintiffs as Class Representatives.

23 **Final Approval of Class Action Settlement**

24 4. The Court grants and orders final approval of the terms set forth in the Settlement.
25 The Court finds that the terms of the Settlement are fair, adequate, and reasonable, and to have
26 been the product of serious, informed, and extensive arm's-length negotiations among the Parties.
27 In making this finding, the Court considers the nature of the claims, the relative strength of
28 Plaintiffs' claims, the amounts and kinds of benefits paid in settlement, the allocation of
settlement proceeds, and the fact that a settlement represents a compromise of the Parties'
respective positions rather than the result of a finding of liability at trial.

5. Specifically, the Court orders approved in full the Settlement Agreement, as
modified herein. The Parties are ordered to comply with and implement the Settlement Agreement
according to its terms, including those provisions not expressly stated in this Order.

1 6. By this final approval order and judgment, the Class Representatives shall release,
2 relinquish and discharge, and each of the Settlement Class Members shall be deemed to have, and
3 by operation of the judgment shall have, fully, finally, and forever released, relinquished and
4 discharged all Released Claims.

5 7. The Court also finds that the requested attorneys' fees in the amount of
6 \$983,235.00 are reasonable and hereby are approved.

7 8. The Court also finds that the requested attorneys' costs in the amount of
8 ~~\$17,648.10~~ ^{17,603.10} are reasonable and hereby are approved.

9 9. The Court approves the service award to the Named Plaintiffs as well. The Court
10 finds that service awards of \$10,000 to each of Plaintiff Garcia and Plaintiff McGowan are
11 reasonable and hereby are approved.

12 10. The Court approves payment to the Settlement Administrator, CPT Group Inc., in
13 an amount not to exceed \$22,500.00 out of the Gross Settlement Amount, based on the declaration
14 of Daniel P. La verifying the administrator's reasonable costs in fulfilling the settlement
15 administration in this case.

16 Class Notice

17 11. The Court finds that the Class Notice was given to the Settlement Class as required
18 by the Preliminary Approval Order, and that the Notice fairly and adequately described the
19 litigation, the Settlement, how they could object or exclude themselves from the Settlement, and
20 how they could dispute information on which individual settlement payments were calculated.
21 The Court further finds that the Class Notice was the best notice practicable under the
22 circumstances, and complied with due process, the California Rules of Court, and all other
23 applicable laws. The Court also finds and concludes that the Settlement Class was given a full
24 and fair opportunity to participate in the Final Approval Hearing.

25 12. The Court finds that no class member has objected to the settlement or disputed
26 the individual information set forth in his or her Class Notice on which his or her settlement
27 payment was calculated.

28 13. The Court finds that two (2) individuals have requested to opt out of the
Settlement. These individuals will not be bound by the orders or the judgment in this case.

Compliance Hearing

14 14. The Parties are ordered to appear at 10/18/23 ^{9:00} on
15 10/18/23 for a compliance hearing to report to the Court on the distributions to
16 Class Members, the LWDA, Class Counsel, the Named Plaintiffs, and performance by the

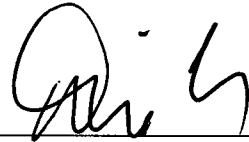
1 Settlement Administrator of other duties incumbent on it under the Settlement Agreement and
2 Order of this Court. No less than ten (10) days before the date scheduled for the compliance
3 hearing, the Settlement Administrator is ordered to deliver a Settlement Administrator
4 Declaration to Class Counsel and to Defendant's Counsel, which declaration shall detail the
5 Settlement Administrator's performance of its responsibilities after entry of the Final Approval
6 Order as the Settlement Agreement or Order of this Court describes. Said Settlement
7 Administrator Declaration is ordered to be filed with the Court and served no less than five (5)
8 dates before the compliance hearing.

9 15. The Court retains continuing jurisdiction to enforce this Settlement pursuant to
10 California Rule of Court 3.769(h), even after the entry of judgment based thereon. Without
11 affecting the finality of the Settlement or Judgment entered, this Court shall retain exclusive and
12 continuing jurisdiction over the action and the Parties, including all Settlement Class Members,
13 for purposes of enforcing and interpreting this Order and the Settlement.

14 **IT IS SO ORDERED.**

15 DATED: _____

4/19/21



The Honorable David Cohn
Judge of the Superior Court

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 COUNTY OF LOS ANGELES) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the age of
5 eighteen and not a party to the within action; my business address 31365 Oak Crest Drive, Suite
240, Westlake Village, CA 91361.

- 6 On April 1, 2021, I served the foregoing documents described as
- 7 1) **PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR FINAL APPROVAL OF**
 - 8 **CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND**
 - 9 **AUTHORITIES;**
 - 10 2) **DECLARATION OF MARCUS J. BRADLEY;**
 - 11 3) **DECLARATION OF WALTER HAINES;**
 - 12 4) **DECLARATION OF PLAINTIFF LOUIS GARCIA;**
 - 13 5) **DECLARATION OF PLAINTIFF MARLENA MCGOWAN;**
 - 14 6) **DECLARATION OF DANIEL P. LA WITH RESPECT TO NOTIFICATION AND**
 - 15 **SETTLEMENT ADMINISTRATION;**
 - 16 7) **[PROPOSED] ORDER; AND**
 - 17 8) **[PROPOSED] JUDGMENT**

18 on all interested parties in this action as follows: **SEE ATTACHED SERVICE LIST**

19 [] **(BY US MAIL)** I caused such envelope(s) to be deposited in the mail at Westlake Village,
20 California with postage thereon fully prepaid.

21 I am "readily familiar" with the firm's practice of collection and processing correspondence
22 for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary
23 course of business. I am aware that on motion of party served, service is presumed invalid
24 if postal cancellation date or postage meter date is more than one day after date of deposit
25 for mailing in affidavit.

26 [] **(BY PERSONAL SERVICE)** on the above date, I ordered delivery of the aforementioned
27 document by personal service to the party on the attached Service List. A Proof of Service
28 will be filed with the court once service has been effectuated.

[X] **(BY E-MAIL)** On the above date, I served the above-mentioned document(s) by electronic
mail to the parties' email addresses as they are known to me on the attached Service List.
My email address is sboucher@bradleygrombacher.com. I did not receive, within a
reasonable period of time, any indication that the transmission did not go through.

[X] **(STATE)** I declare under penalty of perjury under the laws of the State of California that
the above is true and correct.

[] **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this court
at whose direction the service was made.

Executed April 1, 2021, at Westlake Village, California.



Suzette Boucher

VANESSA CORTES, et al. v. XPO LOGISITICS FREIGHT, INC. et al.
San Bernardino County Superior Court Case No.: CIVDS2015538

Service List

SEYFARTH SHAW LLP

Michael J. Burns (SBN 172614)
mburns@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

Attorneys for Defendants

XPO LOGISTICS FREIGHT, INC.; XPO
ENTERPRISE SERVICES, INC.; XPO
LOGISTICS, INC.; and XPO LOGISTICS
WORLDWIDE, INC.

SEYFARTH SHAW LLP

David Jacobson (SBN 143369)
djacobson@seyfarth.com
2029 Century Park East, Suite 3500
Los Angeles, California 90067-3021
Telephone: (310) 277-7200
Facsimile: (310) 201-5219

SEYFARTH SHAW LLP

Zaher Lopez (SBN 272293)
zlopez@seyfarth.com
601 South Figueroa Street, Suite 3300
Los Angeles, California 90017-5793
Telephone: (213) 270-9600
Facsimile: (213) 270-9601