



FILE
San Francisco County Superior

OCT 25 2017

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

IAN D'SA, MARIO DIAZ, JORGE VALDIVIA, and FRANCISCO ROMERO on behalf of themselves, all others similarly situated, and the State of California,

Plaintiffs,

vs.

AMBER INDIA CORPORATION, AMBER INDIA COMMERCIAL, INC., AMBER INDIA ENTERPRISE, INC., VIJAY BIST, VIJAY KUMAR, and DOES 1-25,

Defendants.

Class Action Case No. CGC-15-544578

ORDER GRANTING MOTION FOR:

- (1) **PRELIMINARY APPROVAL OF SETTLEMENT AND PROVISIONAL CERTIFICATION OF SETTLEMENT CLASS;**
- (2) **APPROVING THE NOTICE OF PROPOSED CLASS SETTLEMENT, APPOINTING SETTLEMENT ADMINISTRATOR AND SETTING FINAL APPROVAL HEARING DATE;**
- (3) **DISQUALIFYING PLAINTIFF D'SA AS CLASS REPRESENTATIVE**

Plaintiffs' unopposed motion for an order preliminarily approving a class action settlement and setting a settlement hearing came on for hearing on June 20, 2017 at 9:00 a.m.

At the hearing, the Court expressed concerns about a number of provisions of the

1 proposed Settlement Agreement. Thereafter, the parties submitted supplemental
2 briefing materials to address those concerns, and on October 12, 2017, the Court held a
3 second hearing on the motion and provided further guidance to the parties. The parties
4 have submitted two addendums to the proposed Settlement Agreement. The Court has
5 considered the Stipulation Re: Settlement of Class Action (and its exhibits and
6 addendums), the submissions of counsel, and all other papers filed in this action. The
7 matter having been submitted and good cause appearing therefor, the Court finds as
8 follows:

- 9 1. All defined terms contained herein shall have the same meanings as set forth in
10 the Stipulation Re: Settlement of Class Action executed by the Settling Parties and
11 filed with this Court (the "Stipulation," including its amendments and addendums);
- 12 2. The Class Representatives and Defendants, through their counsel of record in
13 the Litigation, have reached an agreement to settle all claims in the Litigation;
- 14 3. For the purposes of approving this settlement only, the proposed Class meets the
15 requirements for certification under section 382 of the California Code of Civil
16 Procedure: (a) the proposed Class is ascertainable and so numerous that joinder of all
17 members of the class is impracticable; (b) for purposes of effectuating this settlement,
18 there are questions of law or fact common to the proposed Class, and there is a well-
19 defined community of interest among members of the proposed Class with respect to
20 the subject matter of the Litigation; (c) the claims of Class Representatives are typical
21 of the claims of the members of the proposed Class; (d) the Class Representatives have
22 and will fairly and adequately protect the interests of the Members of the Class; (e) for
23 purposes of effectuating this settlement, a class action is superior to other available
24

1 methods for an efficient adjudication of this controversy; and (f) the counsel of record
2 for the Class Representatives is qualified to serve as counsel for the Class
3 Representative in their own capacities as well as their representative capacities and for
4 the Class;

5 4. The moving parties also have presented to the Court for review a Stipulation Re:
6 Settlement of Class Action and its addendums. The Stipulation meets the requirements
7 for preliminary approval; and

8 5. The moving parties have also presented to the Court for review a plan to provide
9 notice to the proposed Class of the terms of the settlement and the options facing the
10 Class including, inter alia: to opt out of the class action, to be represented by counsel of
11 their choosing, to object to the settlement, and/or to remain in the Settlement Class
12 and become a Participating Settlement Class Member. The notice plan proposed by the
13 Settling Parties is the best practical under the circumstances.

14
15 IT IS HEREBY ORDERED that:

16 1. Pursuant to California Rule of Court 3.769(d), the Stipulation of Settlement is
17 preliminarily approved and the Class is provisionally certified, Hoyer & Hicks are
18 hereby appointed as Class Counsel, and Moving Plaintiffs Mario Diaz, Francisco
19 Romero, and Jorge Valdivia are hereby designated the Class Representative for
20 purposes of Settlement and Rust Consulting is hereby designated the Settlement
21 Administrator;

22 2. Notice of the proposed settlement, and the rights of Class Members, including
23 the right to opt out of the settlement, shall be given by mailing of the Notice to Class
24 Members Re: Pendency of a Class Action by first class, postage prepaid, to all Class

1 Members pursuant to the applicable provisions in the Stipulation, in English, Hindi,
2 and Spanish per the Administrator's quote. Defendants shall provide the Settlement
3 Administrator with the information necessary to conduct this mailing as set forth in
4 the Stipulation;

5 3. A hearing shall be held before this Court on Friday, February 16, 2018 at 2:00
6 p.m. to consider whether the settlement should be given final approval by the Court;

7 a. Written objections and opt outs by Class Members to the proposed
8 settlement will be considered if received by the Settlement Administrator on or before
9 the Notice Response Deadline, 60 days from the date the Notice Packages are mailed;

10 b. At the Settlement Hearing, Class Members may be heard orally in support
11 of or in opposition to the settlement;

12 c. Class Counsel and counsel for Defendants should be prepared at the
13 hearing to respond to objections filed by Class Members, and to provide other
14 information as appropriate, bearing on whether or not the settlement should be
15 approved; and

16 d. At the Settlement Hearing, the Court shall consider any motions or
17 applications for attorney fees, costs and litigation expenses consistent with the
18 Stipulation.

19 e. All papers supporting Final Approval shall be filed no later than January
20 25, 2018.


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22 4. In the event that the Effective Date occurs, all Settlement Class Members will be
23 deemed to have forever released and discharged the Released Claims. In the event that
24 the Effective Date does not occur for any reason whatsoever, the Stipulation shall be

1 deemed null and void and shall have no effect whatsoever.

2 5. All other proceedings in this action are hereby stayed pending the outcome of the
3 parties' request for final approval of the Settlement.

4 6. Plaintiff D'sa, who has not appeared or participated in the action since Moving
5 Plaintiffs' counsel successfully moved to be relieved as D'sa's counsel in April (the
6 Court granted that motion on July 26, 2016), has been provided notice of the Motion for
7 Preliminary Approval, and also of Moving Plaintiffs' Motion to Disqualify him as a
8 class representative, which came on for hearing on October 12, 2017. Mr. D'sa did not
9 appear at the October 12 hearing, did not file any opposition to the either motion, and
10 has not contacted the Court or his erstwhile counsel. Good cause having been shown,
11 the Court hereby grants the motion to disqualify D'sa as a Class Representative. Mr.
12 D'sa's individual claims remain, and he shall be given notice of the proposed
13 Settlement Agreement in the same manner as other putative class member.
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17 DATED: October 25, 2017



Curtis E. A. Karnow
Judge of the Superior Court

CERTIFICATE OF ELECTRONIC SERVICE
(CCP 1010.6(6) & CRC 2.260(g))

I, DANIAL LEMIRE, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

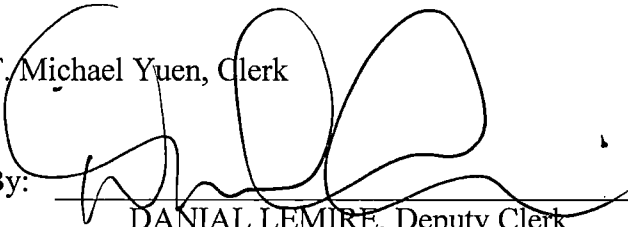
On **OCT 25 2017**, I electronically served THE ATTACHED DOCUMENT via File & ServeXpress on the recipients designated on the Transaction Receipt located on the File & ServeXpress website.

Dated:

OCT 25 2017

T. Michael Yuen, Clerk

By:



DANIAL LEMIRE, Deputy Clerk