



**FILED**  
San Francisco County Superior Court

AUG 22 2017

CLERK OF THE COURT  
BY: [Signature] Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

IAN D'SA ET AL.,  
Plaintiffs  
vs.  
AMBER INDIA CORP., ET AL.,  
Defendants

Case No. CGC – 15-544578

ORDER ON PRELIMINARY APPROVAL  
OF CLASS ACTION SETTLEMENT AND  
SETTING A HEARING THEREON

On June 20, 2017, I heard argument on Plaintiffs' motion for preliminary approval of a class action settlement, and expressed concerns with certain aspect so the settlement. On August 1, 2017, Plaintiffs submitted supplemental materials, including an amended settlement agreement intended to address the court's concerns. Many of the issues have been addressed, some remain. The parties are directed to provide further supplemental materials addressing the issues below, to be filed not later than September 29, 2017. A hearing is set for **October 5, 2017 at 9:00 a.m.** Below I ask the parties to also serve D'Sa with a motion, which should be served in time for the October 5 date.

Eighteen issues were noted at the last hearing. These remain:

**Issue 7:** Fairness of settlement allocation amongst class members: The records are generally insufficient to ensure perfect fairness in the settlement allocation. However, Plaintiffs

1 state that waiting time penalties, which can only be recovered by the subset of putative class  
2 members whose employment relationship terminated during the appropriate statutory period,<sup>1</sup>  
3 account for 10% of the value of the settlement. As a result, it appears that 90% of the net  
4 settlement proceeds should be apportioned to all of the class members using the formula  
5 proposed by the parties, but the remaining 10% should be distributed pro rata among appropriate  
6 former employees. The parties should comment on this proposal, including by identifying any  
7 practical impediments or costs it would create.  
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10 **Issue 8: Plaintiff D'Sa's Status:** The parties ask the Court to determine that D'Sa is not a  
11 suitable class representative and to effectively treat him as any other absent class member. But it  
12 appears that he has not been given notice of the present preliminary approval motion in spite of  
13 his status as a pro per Plaintiff in this action. He should be given notice. Counsel should notice  
14 for the next hearing date a motion (i) informing D'Sa of the pending motion for preliminary  
15 approval and (ii) seeking to disqualify him as a class representative.  
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18 **Issue 12:** It is not clear that the address verification efforts described in the Amended  
19 Settlement amount to a "skip trace." The parties should comment.  
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22 **Issue 13:** The Settlement requires putative class members to mail objections and opt outs  
23 to *both* the settlement administrator and Plaintiffs' Counsel. This appears to pose unnecessary  
24 burdens on opt outs and objectors. The parties should comment.  
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27 <sup>1</sup> The statutory period for waiting time penalties is shorter than the limitations period attendant to some other claims  
in this action.

1           **Issue 14:** The Parties have rejected in-store notice based on a new estimate that only  
2 25% of the putative class members are current employees. This is still a large number of people .  
3 The Parties have not identified any costs or difficulties in posting notice in the handful of  
4 restaurants at issue. The parties should inform me why this should not be required.  
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7 Dated: August 22, 2017



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8 Curtis E.A. Karnow

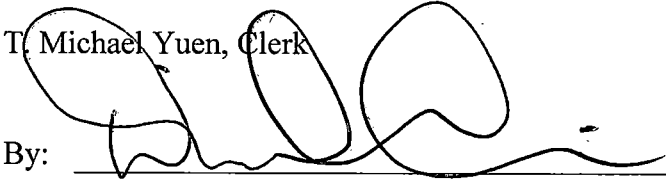
9 Judge Of The Superior Court  
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**CERTIFICATE OF ELECTRONIC SERVICE**  
(CCP 1010.6(6) & CRC 2.260(g))

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 **AUG 23 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: **AUG 23 2017**

T. Michael Yuen, Clerk  
By:   
DANIAL LEMIRE, Deputy Clerk