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SACRAMENTO COURTS
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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 FOR THE COUNTY OF SACRAMENTO

20 JOHN TAUCHMAN, as an individual and on
21 behalf of all others similarly situated, CHRIS
22 TAUCHMAN, as an individual and on behalf
23 of all others similarly situated, and MELVIN
24 LOCKETT, as an individual and on behalf of
25 all others similarly situated,

26 Plaintiffs,

27 v.

28 OUTERWALL, INC., a corporation, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: 34-2013-00154815

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT AND
FOR CLASS CERTIFICATION FOR
SETTLEMENT PURPOSES**

Date: February 24, 2017
Time: 2:00 p.m.
Place: Department 53

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[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION FOR FINAL APPROVAL OF CLASS ACTION
SETTLEMENT AND FOR CLASS CERTIFICATION FOR SETTLEMENT PURPOSES

1 This matter came before this Court on Plaintiffs' Motion for Final Approval of Class Action
2 Settlement and for Class Certification for Settlement Purposes.

3 WHEREAS, the Court has received and reviewed the Settlement Agreement entered into
4 between the Class Representatives, on the one hand, and Defendant Outerwall, Inc. on the other hand,
5 (the "Settlement Agreement"), and has considered the terms of the proposed Settlement set forth
6 therein (the "Settlement");

7 WHEREAS, all terms contained herein shall have the same meanings as set forth in the
8 Settlement Agreement, unless otherwise defined herein;

9 WHEREAS, on October 4, 2016, the Court entered its order preliminarily approving the
10 Settlement of this class action, approving the form and method of notice, and setting a date and time
11 for a final approval and fairness hearing to consider whether the Settlement should be finally approved
12 by the Court pursuant to California Code of Civil Procedure Section 382 as fair, adequate, and
13 reasonable;

14 WHEREAS, the order granting preliminary approval further directed that all class members be
15 given notice of the Settlement and of the date for the final approval and fairness hearing;

16 WHEREAS, the Court has received the declaration of Nathalie Hernandez of ILYM Group,
17 Inc., the Settlement Administrator, attesting to the mailing of the Class Notice in accordance with the
18 preliminary approval order;

19 WHEREAS, the settlement administration went forth as ordered by this Court;

20 WHEREAS, there have been no objections regarding the Settlement;

21 WHEREAS, there have been no requests for exclusion from the Settlement;

22 WHEREAS, the Court having conducted a final approval and fairness hearing, and having
23 considered the arguments presented, all papers filed and all proceedings had therein;

24 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

25 1. The Court retains jurisdiction over the subject matter of this action, all class members
26 (including Class Representatives) and Defendants to enforce the terms of the judgment.

27 2. In accordance with California Code of Civil Procedure Section 382, California Rule of
28 Court 3.769 and the requirements of due process, all class members have been given proper and

1 adequate notice of the Settlement. Based upon the evidence submitted by the parties, the Settlement
2 Agreement, the arguments of counsel, and all the files, records and proceedings in this case, the Court
3 finds that the Class Notice and notice methodology implemented pursuant to the Settlement
4 Agreement and the Court's preliminary approval order: (a) constituted the best practicable notice
5 under the circumstances; (b) constituted notice that was reasonably calculated, under the
6 circumstances, to apprise Class Members of the pendency of the litigation, their right to object to the
7 Settlement, and their right to appear at the final approval and fairness hearing; (c) was reasonable and
8 constituted due, adequate and sufficient notice to all persons entitled to notice; and (d) met all
9 applicable requirements of California Code of Civil Procedure Section 382, California Rule of Court
10 3.769, and any other applicable law.

11 3. The Settlement Agreement in this action warrants final approval pursuant to California
12 Code of Civil Procedure Section 382 because it is fair, adequate, and reasonable to those it affects, and
13 resulted from vigorously contested litigation, substantial discovery, motion practice, and extensive
14 good-faith arm's length negotiations between the parties, and is in the public interest considering the
15 following factors:

- 16 (a) the strength of the Plaintiffs' case;
- 17 (b) the risk, expense, complexity and likely duration of further litigation;
- 18 (c) the risk of maintaining class action status throughout the trial;
- 19 (d) the amount offered in settlement;
- 20 (e) the extent of discovery completed, and the stage of the proceedings;
- 21 (f) the experience and views of counsel; and
- 22 (g) the reaction of the class members to the proposed settlement.

23 *Clark v. Am. Residential Servs. LLC*, 175 Cal. App. 4th 785, 799 (2009). Settlements that follow
24 sufficient discovery and genuine arm's length negotiation are presumed fair. *Dunk v. Ford Motor Co.*,
25 48 Cal. App. 4th 1794, 1802 (1996), *as modified* (Sept. 30, 1996). The Court finds the settlement is
26 entitled to a presumption of fairness.

27 4. The final approval motion is hereby GRANTED, and the Settlement Agreement is
28 hereby APPROVED as fair, reasonable, adequate, and in the public interest, and the terms of the

1 Settlement Agreement are hereby determined to be fair, reasonable and adequate, for the exclusive
2 benefit of the Settlement Class. The Parties are directed to consummate the Settlement Agreement in
3 accordance with its terms.

4 5. The Court APPROVES the funding of the Settlement in accordance with the terms of
5 the Settlement Agreement.

6 6. The Court APPROVES payment of Enhancement Payments in the amount of \$3,500.00
7 to Terry Tauchman, by and through his successors of interest, Plaintiffs John Tauchman and Chris
8 Tauchman, and \$3,500.00 to Plaintiff Melvin Lockett, in accordance with the terms of the Settlement
9 Agreement.

10 7. The Court APPROVES payment of attorneys' fees in the amount of \$65,000.00 and
11 costs in the amount of \$16,958.37 to Class Counsel in accordance with the terms of the Settlement
12 Agreement.

13 8. The Court approves the deduction of \$6,312.49 from the amount of \$23,270.86
14 originally designated in the Settlement as reimbursement for Class Counsel's litigation costs. The
15 amount shall be reallocated to the nine new class members hired after the Settlement was reached as
16 follows:

- 17 a. \$833.33;
- 18 b. \$958.34;
- 19 c. \$833.33;
- 20 d. \$791.67;
- 21 e. \$770.82;
- 22 f. \$750.00;
- 23 g. \$729.17;
- 24 h. \$687.50;
- 25 i. \$645.83.

26 9. The Court APPROVES the PAGA Payment of \$1,000.00 of the gross settlement
27 amount to be allocated to claims under the Labor Code Private Attorney General Act of 2004,
28 California Labor Code §§ 2698 *et seq.*, with \$750.00 being awarded to the State of California and

1 \$250.00 being awarded to Settlement Class Members by adding that sum to the net settlement amount.

2 10. The Court APPROVES payment of costs to the Settlement Administrator, ILYM
3 Group, Inc. for Settlement Administration Costs in the amount of \$3,500.00 in accordance with the
4 terms of the Settlement Agreement, which is *included* in the cost award to Class Counsel.

5 11. The allocation plan is hereby APPROVED as fair, adequate, and reasonable. The net
6 settlement amount, as well as the Class Representatives' Enhancement Payments, the PAGA Payment,
7 and Court-approved Class Counsel's attorneys' fees and litigation costs, shall be distributed in
8 accordance with the terms of the Settlement Agreement and any further orders of this Court.

9 12. In consideration of the net settlement amount, and for other good and valuable
10 consideration, each class member who has not timely excluded himself/herself from this Settlement
11 pursuant to the terms of the Settlement Agreement shall have fully, finally, and forever released,
12 relinquished, and discharged all claims against Defendant in accordance with the terms of the
13 Settlement Agreement and as the Released Claims, are defined in the Settlement.

14 13. Without affecting the finality of this Order in any way, this Court retains jurisdiction
15 over: (a) implementation of the Settlement and the terms of the Settlement Agreement; (b) distribution
16 of the net settlement amount, the Class Representatives' Enhancement Payments, the attorneys' fees
17 and costs amount, and the PAGA Payment, and (c) all other proceedings related to the
18 implementation, interpretation, administration, consummation, and enforcement of the terms of the
19 Settlement Agreement and/or the Settlement, and the administration of claims by Class Members.

20 14. Per California Rules of Court, Rule 3.771(b), ILYM Group, Inc. is directed to post the
21 final judgment, once entered, on its website.

22 15. This Court finds that there is no just reason for delay and expressly directs entry by the
23 Clerk of the Court of final judgment.

24 **IT IS SO ORDERED.**

25 Dated this 24th day of February, 2017.

DAVID I. BROWN

Hon. David I. Brown
JUDGE OF THE SUPERIOR COURT

28

1 *Terry Tauchman v. Outerwall, Inc.*
2 Superior Court of California, County of Sacramento Case No. 34-2013-00154815

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