

1 KENNETH S. GAINES, ESQ. SBN 049045  
ken@gaineslawfirm.com  
2 DANIEL F. GAINES, ESQ. SBN 251488  
daniel@gaineslawfirm.com  
3 ALEX P. KATOFSKY, ESQ. SBN 202754  
alex@gaineslawfirm.com  
4 SEPIDEH ARDESTANI, ESQ. SBN 274259  
sepideh@gaineslawfirm.com  
5 **GAINES & GAINES, APLC**  
27200 Agoura Road, Suite 101  
6 Calabasas, CA 91301  
Telephone: (818) 703-8985  
7 Facsimile: (818) 703-8984

8 Attorneys for Plaintiff Edgar Fierro  
and Proposed Class Counsel  
9

Filed 11-8-18  
ROSA JUNQUEIRO, CLERK  
By [Signature]  
DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN JOAQUIN**

13 EDGAR FIERRO, on behalf of himself and  
all other similarly situated,  
14  
15 **Plaintiffs,**  
16 v.  
17 CAN'T LIVE WITHOUT IT, LLC, a  
Delaware limited liability company; FIRST  
18 CALL RESOLUTION, LLC, an Oregon  
limited liability company; and DOES 1  
through 10, inclusive,  
19 **Defendants.**

CASE NO: STK-CV-UMC-2018-0012053  
*Assigned to the Hon. Roger Ross, Department 11B*  
**CLASS ACTION**  
**~~PROPOSED~~ ORDER GRANTING MOTION  
FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**  
**Requested Dates: November 7, 2018**  
**November 8, 2018**  
**November 9, 2018**  
**Time: 9:00 a.m.**  
**Dept.: 11B**  
*Complaint Filed: September 29, 2018*  
*Trial Date: None*

Filed By Fax  
River City Process Service

23  
24 Plaintiff's motion for preliminary approval of class action settlement came on for hearing  
25 before this Court in Department 11B, the Honorable Roger Ross presiding, on  
26 11/7, 2018. The Court, having considered the papers submitted in support of the  
27 motion and having heard oral argument of the parties, **HEREBY ORDERS THE**  
28 **FOLLOWING:**

9102 L I 130

1           1.     The Court grants preliminary approval of the settlement based upon the terms set  
2 forth in the Settlement Agreement and Release of Claims ("Settlement Agreement") filed with the  
3 Court;

4           2.     The settlement appears to be fair, adequate, and reasonable to the class, falls  
5 within the range of reasonableness, and appears to be presumptively valid, subject only to any  
6 objections that may be raised at the final hearing;

7           3.     The Court approves, as to form and content, the Class Notice, attached as Exhibit  
8 "A" to the Settlement Agreement, and the Claim Form, attached as Exhibit "B" to the Settlement  
9 Agreement;

10          4.     The Court directs the mailing of the Class Notice by first class mail to the  
11 Settlement Class Members in accordance with the schedule set forth below. The Court finds that  
12 the dates selected for the mailing and distribution of the Class Notice, as set forth herein, meet the  
13 requirements of due process and provide the best notice practicable under the circumstances and  
14 shall constitute due and sufficient notice to all persons entitled thereto;

15          5.     It is ordered that the Settlement Class is preliminarily certified for settlement  
16 purposes only;

17          6.     The Court confirms Kenneth S. Gaines, Esq., Daniel F. Gaines, Esq. and Alex P.  
18 Katofsky, Esq. of Gaines & Gaines, APLC as Class Counsel, and grants preliminary approval of  
19 an award of attorneys' fees of up to \$805,000 and litigation costs of up to \$15,000 to Class  
20 Counsel, subject to final approval by the Court following a further motion by Class Counsel;

21          7.     The Court confirms Edgar Fierro as the Class Representative and grants  
22 preliminary approval to a proposed service payment to the Plaintiff in an amount not to exceed  
23 \$10,000, subject to final approval by the Court following a further motion by Class Counsel;

24          8.     The Court hereby approves ILYM Group, Inc. as the settlement administrator and  
25 grants preliminary approval of the payment of fees and other charges of the settlement  
26 administrator in an amount estimated to be \$30,000; and

27          9.     The Court orders the following schedule of dates for the specified actions/further  
28 proceedings:

EVENT	TIMING
Last day for Defendants to provide to settlement administrator the list of last known addresses, telephone numbers, and email addresses for members of the Settlement Class, if available ("Settlement Class Information")	20 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for settlement administrator to mail Class Notice to members of the Settlement Class	40 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for settlement administrator to publish a settlement website at <a href="http://www.CaliforniaSwellCallRecording.com">www.CaliforniaSwellCallRecording.com</a> (or similar) which includes the all relevant settlement documents, the approval motions, the Class Notice, and the Claim Form, including a means by which Claims Forms may be submitted online	40 calendar days after entry of Court's Order granting preliminary approval of Settlement
Last day for Claim Forms by members of the Settlement Class to be postmarked or returned via the Settlement Website	60 calendar days after mailing of Class Notice
Last day for exclusion requests by members of the Settlement Class to be postmarked to settlement administrator	60 calendar days after mailing of Class Notice
Last day for written objections to the settlement by members of the Settlement Class to be postmarked to settlement administrator	60 calendar days after mailing of Class Notice
Last day for Class Counsel to file and serve moving papers in support of final settlement approval and request for attorneys' fees and costs	10 calendar days before the final settlement approval hearing date
Last day for Class Counsel to file with the Court and serve declaration by settlement administrator specifying the due diligence undertaken with regard to the mailing of the Notice	10 calendar days prior to the final settlement approval hearing date
Final settlement approval hearing	<u>March 14</u> , 2019, at <u>9:00am</u> (approximately 120 days after entry of this Order).

Dated: 11-8-18, 2018

  
 HON. ROGER ROSS  
 SUPERIOR COURT JUDGE