

1 SHANNON LISS-RIORDAN - #310719
sliss@llrlaw.com
2 ADELAIDE PAGANO, *pro hac vice*
apagano@llrlaw.com
3 LICHTEN & LISS-RIORDAN, P.C.
729 Boylston Street, Suite 2000
4 Boston, MA 02116
Telephone: 617.994.5800
5 Facsimile: 617.994.5801

6 MATTHEW D. CARLSON - #273242
LICHTEN & LISS-RIORDAN, P.C.
7 mcarlson@llrlaw.com
466 Geary Street, Suite 201
8 San Francisco, CA 94102
Telephone: 415.630.2651
9

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA

12 SHERRY SINGER, RYAN WILLIAMS,
13 RYDER VANDERHEYDEN, STEVEN
GRANT, and MICHAEL TSAPATSARIS,
14 individually and on behalf of all others
similarly situated,

15 Plaintiffs,

16 v.

17 POSTMATES, INC,

18 Defendant.
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4:15-cv-01284-JSW

~~PROPOSED~~ ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

AS MODIFIED

Judge: Hon. Jeffrey S. White

Courtroom: 5

Complaint Filed: March 19, 2015

1 Plaintiffs have filed a Motion for Preliminary Approval of the class action settlement
2 reached with Defendant Postmates Inc. The Court has carefully considered the Settlement
3 Agreement together with all exhibits thereto, all the filings related to the Settlement, the
4 arguments of counsel, and the record in this case. The Court hereby gives its preliminary
5 approval of the Settlement; finds that the Settlement and Settlement Agreement are sufficiently
6 fair, reasonable and adequate to allow dissemination of notice of the Settlement to the Settlement
7 Class and Putative Settlement Collective and to hold a Fairness Hearing; orders the Class Notice
8 be sent to the Settlement Class and Putative Settlement Collective in accordance with the
9 Settlement Agreement and this Order; and schedules a Fairness Hearing to determine whether the
10 proposed Settlement is fair, adequate and reasonable.

11 **IT IS HEREBY ORDERED THAT:**

- 12 1. The Settlement Agreement is hereby incorporated by reference in this Order, and all terms
13 or phrases used in this Order shall have the same meaning as in the Settlement Agreement.
- 14 2. The Court finds that the terms of the Settlement Agreement preliminarily appears to be
15 fair, reasonable, and adequate, and within the range of possible approval and sufficient to
16 warrant providing notice to the Settlement Class and Putative Settlement Collective, when
17 balanced against the probable outcome of further litigation, given the risks relating to
18 liability and damages. It further appears that investigation and research has been
19 conducted such that counsel for the Parties are reasonably able to evaluate their respective
20 positions. It further appears to the Court that the Settlement will avoid substantial
21 additional costs by all parties, as well as the delay and risks that would be presented by the
22 further prosecution of the Action, and that it will provide substantial benefits to Settlement
23 Class and Putative Settlement Collective Members going forward. It appears that the
24 Settlement has been reached as a result of intensive, arm's-length negotiations utilizing an
25 experienced third party neutral mediator.
- 26 3. The Court certifies, for settlement purposes only, the following Settlement Classes:
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- a. All individuals classified by Postmates as independent contractor couriers who used the Postmates mobile application to complete at least one delivery to customers in California from February 24, 2011, through September 1, 2017.
- b. All individuals classified by Postmates as independent contractor couriers who used the Postmates mobile application to complete at least one delivery to customers in Massachusetts from March 19, 2012, through September 1, 2017.
- c. All individuals classified by Postmates as independent contractor couriers who used the Postmates mobile application to complete at least one delivery to customers in New York from March 19, 2009, through September 1, 2017.
- d. All individuals classified by Postmates as independent contractor couriers who used the Postmates mobile application to complete at least one delivery to customers in Washington D.C., from August 25, 2012, through September 1, 2017.

- 4. The Court certifies, for settlement purposes only, the following Putative Settlement Collective: All individuals classified by Postmates as independent contractor couriers who used the Postmates mobile application to complete at least one delivery from September 26, 2011 through September 1, 2017.
- 5. The Court appoints as representatives of the Settlement Classes and Putative Settlement Collective, for settlement purposes only, Named Plaintiffs Sherry Singer, Ryan Williams, Ryder Vanderheyden, Steven Grant, Michael Tsapatsaris, Lamont Adair, and Chito Pepler. The Court finds, for settlement purposes only, that the Named Plaintiffs will adequately represent the Settlement Classes and Putative Settlement Collective.
- 6. For settlement purposes only, the Court designates as Class Counsel for the Settlement Classes and Putative Settlement Collective the law firms of Lichten & Liss-Riordan, P.C. (lead counsel), Law Office of James Farinaro, Catalano Law Group, and Migliaccio & Rathod LLP. The Court preliminarily finds that, based on the work Class Counsel have done identifying, investigating, and prosecuting the claims in this action; Class Counsel's experience in handling class actions and claims of this type asserted in this Action; Class

1 Counsel's knowledge of the applicable law; and the resources Class Counsel have and will
2 commit to representing the class, that Class Counsel have represented and will represent
3 the interests of the Settlement Classes and Putative Settlement Collective fairly and
4 adequately.

5 7. Garden City Group, LLC shall administer the Settlement in accordance with the terms and
6 conditions of this Order and the Settlement Agreement.

7 8. The Court hereby conditionally certifies the proposed Settlement Classes and
8 conditionally finds that, solely for the purposes of approving this Settlement and for no
9 other purpose and with no other effect on this litigation, the proposed Settlement Classes
10 meet the requirement for certification under Rule 23(a) of the Federal Rules of Civil
11 Procedure including that: (a) the proposed Settlement Classes are sufficiently numerous so
12 that joinder of all members is impracticable; (b) there are questions of law or fact common
13 to the proposed Settlement Classes; (c) the Named Plaintiffs' claims are typical of the
14 claims of the proposed Settlement Class; (d) the Named Plaintiffs and their Counsel will
15 fairly and adequately protect the interests of the proposed Settlement Classes.

16 Additionally, the Court finds that, solely for the purposes of approving this Settlement and
17 for no other purpose and with no other effect on this litigation, the proposed Settlement
18 Classes meet the requirement for certification under Rule 23(b)(3) of the Federal Rules of
19 Civil Procedure including that: (a) questions of law or fact common to proposed
20 Settlement Class Members predominate over any questions affecting individual members
21 of the proposed Settlement Classes; and (b) a class action is superior to other available
22 methods for fairly and efficiently adjudicating the controversy.

23 9. The Court hereby conditionally certifies the Putative Settlement Collective and
24 conditionally finds that, solely for the purposes of approving this Settlement and for no
25 other purpose and with no other effect on this litigation, the individuals in the Putative
26 Settlement Collective are similarly situated as required by 28 U.S.C. § 216(b).

27 10. The Court hereby approves, as to form and content, the Notice of Class Action Settlement.
28 This approval is subject to the parties ensuring that the Notice is modified to reflect the
Court's changes to the parties' proposed dates, indicated below.

1 The Court finds that the distribution of the Notice of Class Action Settlement in
2 accordance with the Settlement Agreement meets the requirements of due process and is
3 the best notice practicable under the circumstances and shall constitute due and sufficient
4 notice to all persons entitled thereto.

- 5 11. The Court approves the procedures set forth in the Settlement Agreement and the Notice
6 of Settlement of Class Action for exclusions from and objections to the Settlement.
- 7 12. Any Settlement Class Members who wishes to opt out from the Agreement must do so
8 by January 2, 2018
~~within 60 days of the Mailed Notice Date~~ and in accordance with the terms of the
9 Agreement.
- 10 13. Any Settlement Class Members or Settlement Collective Members who wish to object to
11 the Agreement must do so ~~within 60 days of the Mailed Notice Date~~
12 by January 2, 2018, or appear at the
13 Fairness Hearing, in accordance with the terms of the Agreement.
- 14 14. The Court directs that a hearing be scheduled for February 9, 2018, at 9:00 a.m. (the
15 “Fairness Hearing”) to assist the Court in determining whether the Settlement is fair,
16 reasonable and adequate; whether Final Judgment should be entered in this Action;
17 whether Class Counsel’s application for fees and expenses should be approved; and
18 whether Class Counsel’s request for enhancement payments to the Named Plaintiffs
19 should be approved. Plaintiffs shall file a Motion for Attorneys’ Fees, Costs, and Class
20 Representative Service Awards no later than December 9, 2017. Plaintiffs shall file a
21 Motion for Final Approval of Class Action Settlement no later than January 26, 2018.
- 22 15. The Court hereby preliminarily approves the plan of allocation of the Settlement Fund as
23 described in the Settlement.
- 24 16. Neither the Settlement, nor any exhibit, document or instrument delivered thereunder shall
25 be construed or interpreted as or deemed to be evidence of an admission or concession by
26 Postmates (a) of any liability or wrongdoing by Postmates, (b) of the appropriateness of
27 certifying a class or collective for purposes of litigation, (c) that Plaintiffs’ claims may
28 properly be prosecuted on a class, collective or representative basis, (d) that any

1 arbitration agreement maintained by Postmates is unenforceable, or (e) of the truth of any
2 allegations asserted by Plaintiffs, members of the Settlement Classes or Putative
3 Settlement Collective, or any other person.

4 17. If the Settlement is not finally approved, or the Effective Date does not occur, or the
5 Settlement is terminated under its terms, then:(a) the Settlement shall be without force and
6 effect upon the rights of the Parties hereto, and none of its terms shall be effective or
7 enforceable; (b) the Parties shall be deemed to have reverted nunc pro tunc to their
8 respective status as of the day immediately before the Parties entered into this Agreement,
9 with the Parties to meet and confer regarding any discovery or case management deadlines
10 that were pending at the time the Parties stayed litigation to; (c) Postmates shall be
11 refunded any amounts paid pursuant to this Agreement but not yet spent or disbursed; (d)
12 all Orders entered in connection with the Settlement, including the certification of the
13 Settlement Class and Settlement Collective, shall be vacated without prejudice to any
14 Party's position on the issue of class or conditional certification, or any other issue, in this
15 Action or any other action, and the Parties shall be restored to their litigation positions
16 existing on the date of execution of Settlement Agreement; and (e) the Parties shall
17 proceed in all respects as if the Settlement Agreement and related documentation and
18 orders had not been executed, and without prejudice in any way from the negotiation or
19 fact of the Settlement or the terms of the Settlement Agreement. In such an event, this
20 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall
21 not be used or referred to in litigation, or any arbitration or other civil or administrative
22 proceeding, for any purpose. Nothing in the foregoing paragraph is intended to alter the
23 terms of the Settlement Agreement with respect to the effect of the Settlement Agreement
24 if it is not approved.

25 18. The Court directs that the following deadlines are established by this Preliminary
26 Approval Order:
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- a. Notice to be Provided to Members of the Settlement Classes and Settlement Collective: no later than October 31, 2017.
- b. Motion for Attorneys' Fees, Costs, and Class Representative Service Awards to be filed: no later than December 9, 2017.
- c. Motion for Final Approval of Class Action Settlement to be filed: no later than January 26, 2018.
- d. Opt-Out Deadline: ~~December 30, 2017~~ January 2, 2018.
- e. Objection Deadline: ~~December 30, 2017~~ January 2, 2018. Class Members may also appear at the Fairness Hearing to object to the Settlement.
- f. Fairness Hearing: February 9, 2018, at 9:00 a.m.

The Court's approval is conditioned on the parties ensuring that the Class Notice is modified to reflect the changes made by the Court to the above dates.

IT IS SO ORDERED.

Date: September 1, 2017



 District Court Judge