

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Sabid Ali et al
Plaintiff/Petitioner(s)
VS.
Daylight Transport, LLC
Defendant/Respondent
(s)

No. RG18915217

Date: 09/13/2024

Time: 11:46 AM

Dept: 21

Judge: Noël Wise

ORDER re: Ruling on Submitted

Matter filed by Sabid Ali

(Plaintiff); Eric Bland

(Plaintiff); Joel Gonzalez,

Jr. (Plaintiff) on

09/03/2024

The Motion for Preliminary Approval of Settlement filed by Eric Bland, Joel Gonzalez, Jr., Sabid Ali on 06/10/2024 is Granted.

The Court, having taken the matter under submission on 09/10/2024, now rules as follows: The motion of plaintiffs for preliminary approval of class action settlement is GRANTED.

The order of 8/20/24 identified certain concerns. The filing on 9/3/234 addressed the concerns.

The complaint alleges various Labor Code claims.

The case preliminarily settled for a total of \$8,000,000. Defendant has also paid \$360,000 to 107 Drivers in exchange for direct individual release agreements. Defendant will also pay \$100 per week to each Driver who it continues to engage as an independent contractor from June 1, 2024 through the final approval of the settlement.

The settlement agreement states there will be attorneys' fees of up to \$2,166,667 (27%), costs of up to \$55,000, service award of \$10,000 each for Plaintiffs Sabid Ali and Eric Bland, and \$5,000 for Joel Gonzalez, Jr., \$7,500 to plaintiff, settlement administration costs of up to \$7,750, and a PAGA payment of \$50,000 (\$37,500 to the LWDA). After these expenses, the amount available to be distributed to the Class would be \$6,063,833. Assuming that there are an estimated 185 Class Members, the average payment per Class Member would be \$31,168.

The motion makes an adequate analysis as required by Kullar v. Foot Locker Retail, Inc. (2008) 168 Cal.App.4th 116.

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The proposed class notice form and procedure are adequate.

The proposed class is appropriate for class certification.

The scope of the named plaintiff release is appropriate. The agreement for the named plaintiff may include a Civil Code 1542 waiver.

The scope of the LWDA's release for claims asserted under the PAGA is appropriate. (Agt Paragraph III(G)(4)) The scope of the LWDA's release is limited to the scope of the PAGA notice letter. (LaCour v. Marshalls of California, LLC (2023) 94 Cal.App.5th 1172, 1192-1196.)

The scope of the class release is [NOT] appropriate. The scope of the class release must be limited to the claims arising out of the claims in the complaint where the named plaintiffs are typical and can adequately represent the class. (Amaro v. Anaheim Arena Management, LLC (2021) 69 Cal.App.5th 521, 537-538.) The release of claims by the class is limited by the "factual predicate rule." (Hesse v. Sprint Corp. (9th Cir. 2010) 598 F.3d 581, 590.) (See also Hendricks v. Starkist Co (N.D. Cal. 2016) 2016 WL 692739 at * 2-4 [Denying motion for final approval of class settlement because scope of release overbroad].) The scope of the class release does not include a release of the LWDA's claims.

The Court notes and approves of the plan to distribute the settlement funds with no claims process.

The unclaimed funds will be distributed to Legal Aid at Work. (Agt para III(F)(9)(f).) This is consistent with CCP 384. Counsel has not provided a declaration in support of the motion that provides the information required by CCP 382.4. The court will not deny the motion on that basis, but counsel is to comply in the future.

Agreement Paragraph IV states that the Settlement Administrator is to pay any residual funds in the settlement fund to the cy pres beneficiary, 60 days after the date of expiration of settlement checks. The court ORDERS that the Settlement Administrator is to retain the funds until the court approves the final distribution.

The Court will not approve the amount of attorneys' fees and costs until the final approval hearing. The Court cannot award attorneys' fees without reviewing information about counsel's hourly rate and the time spent on the case. This is the law even if the parties have agreed that Defendants will not oppose the motion for fees. (Robbins v. Alibrandi (2005) 127 Cal. App. 4th 438, 450-451.)

"Because absent class members are not directly involved in the proceedings, oversight to ensure settlements are fair and untainted by conflict is the responsibility of both the class representative and the court." (Mark v. Spencer (2008) 166 Cal.App.4th 219, 227.)

"[T]horough judicial review of fee applications is required in all class action settlements and the fairness of the fees must be assessed independently of determining the fairness of the substantive settlement terms." (Consumer Privacy Cases (2009) 175 Cal.App.4th 545, 555-556.)

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The court sets out its standard analysis below. Counsel may address that analysis in the fee application.

The Ninth Circuit's benchmark is 25%. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495.)

This court's benchmark for fees is 30% of the total fund. (*Laffitte v. Robert Half Internat. Inc.* (2016) 1 Cal.5th 480, 495; *Schulz v. Jeppesen Sanderson, Inc.* (2018) 27 Cal.App.5th 1167, 1175; *Consumer Privacy Cases* (2009) 175 Cal.App.4th 545, 557 fn 13; *Chavez v. Netflix, Inc.* (2008) 162 Cal.App.4th 43, 66 fn 11.) The court recently reviewed and reaffirmed its use of a benchmark of 30%. (*Hurtubise v. Sutter East Bay Hosp.* (2021) 2021 WL 11134912.)

When cross-checking with the lodestar/multiplier, the court will evaluate the lodestar based on reasonable fees that would have been charged at hourly rates and then apply a multiplier. The multiplier includes contingent fee risk and other factors.

When considering risk, the court considers there is less risk in a case with fee shifting statutes because counsel's potential fees are not limited by and coupled to the monetary recovery. "The law does not mandate ... that attorney fees bear a percentage relationship to the ultimate recovery of damages in a civil rights case." (*Harman v. City and County of San Francisco* (2007) 158 Cal.App.4th 407, 419.) (See also *Heritage Pacific Financial, LLC v. Monroy* (2013) 215 Cal.App.4th 972, 1006-1007.)

The Court will not decide the amount of any service award until the final approval hearing. Plaintiff must provide evidence regarding the nature of his participation in the action, including a description of his specific actions and the amount of time he committed to the prosecution of the case. (*Clark v. American Residential Services LLC* (2009) 175 Cal.App.4th 785, 804-807.) The court's standard service award is \$7,500.

The Court ORDERS that 10% of any fee award to be kept in the administrator's trust fund until the completion of the distribution process and Court approval of a final accounting.

The Court will set a compliance hearing after the completion of the distribution process and the expiration of the time to cash checks for counsel for plaintiff and the Administrator to comply with CCP 384(b) and to submit a summary accounting how the funds have been distributed to the class members and the status of any unresolved issues. If the distribution is completed, the Court will at that time release any hold-back of attorney fees.

The court ORDERS that at the time of the final accounting that counsel for plaintiff transmit a copy of this order and the final judgment and the final accounting to the Judicial Council. (CCP 384.5; Govt Code 68520.)

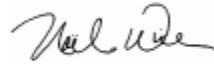
The court will sign the proposed order, which is modified by this order. Plaintiff must reserve a hearing for the motion for final approval.

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Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

Dated : 09/13/2024

A handwritten signature in black ink, appearing to read "Noel Wise", is centered on the page.

Noel Wise / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612		FILED Superior Court of California County of Alameda 09/13/2024 Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall
PLAINTIFF/PETITIONER: Sabid Ali et al		
DEFENDANT/RESPONDENT: Daylight Transport, LLC		
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6		CASE NUMBER: RG18915217

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter filed by Sabid Ali (Plaintiff); Eric Bland (Plaintiff); Joel Gonzalez, Jr. (Plaintiff) on 09/03/2024 entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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Dated: 09/13/2024

Chad Finke, Executive Officer / Clerk of the Court

By:

Nicole Hall

N. Hall, Deputy Clerk

<p align="center">SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA</p>		<p align="center">Reserved for Clerk's File Stamp</p>
<p>COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612</p>		<p align="center">FILED Superior Court of California County of Alameda 09/13/2024 Chad Finke, Executive Officer / Clerk of the Court By: <u>Nicole Hall</u> Deputy N. Hall</p>
<p>PLAINTIFF/PETITIONER: Sabid Ali et al</p>		
<p>DEFENDANT/RESPONDENT: Daylight Transport, LLC</p>		
<p align="center">CERTIFICATE OF MAILING</p>		<p>CASE NUMBER: RG18915217</p>

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the attached document upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Oakland, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Sara B. Tosdal
LEONARD CARDER, LLP
1999 Harrison Street
Suite 2700
Oakland, CA 94612-

Dated: 09/13/2024

Chad Finke, Executive Officer / Clerk of the Court

By:

Nicole Hall

N. Hall, Deputy Clerk

CERTIFICATE OF MAILING