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Superior Court of California
County of Los Angeles



AUG 19 2016

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By *[Signature]*, Deputy
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27 SUPERIOR COURT OF THE STATE OF CALIFORNIA
28 COUNTY OF LOS ANGELES

JAMES TYRER, JR., AND HEATHER
FIERRO, INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS SIMILARLY
SITUATED,

Plaintiff,

v.

FIRST STUDENT, INC., AND DOES 1
THROUGH 100, INCLUSIVE,

Defendants.

Case No. BC459305

ASSIGNED FOR ALL PURPOSES TO
JUDGE WILLIAM F. HIGHBERGER
DEPT. 322

~~PROPOSED~~ ORDER GRANTING
PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT

Date: 8/19, 2016
Time: _____ a.m.
Dept.: 322

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Attorneys for Defendant
FIRST STUDENT, INC.

1 Plaintiffs' Motion for Preliminary Approval of Class Action Settlement came on for hearing
2 before this Court, the Honorable William F. Highberger, on August 19, 2016, at 2:30 p.m.
3 Defendant First Student, Inc. (hereinafter referred to as "Defendant") did not oppose the Motion.
4 The Court having considered the papers submitted in support of the motion and having heard oral
5 argument of the parties, hereby finds and orders as follows:

6 1. The Court hereby preliminarily approves the proposed class settlement upon the
7 terms and conditions set forth in the Stipulation and Settlement of Class Action Claims, subject to
8 reservation of any determination on sums to be awarded for fees, costs and enhancements. The
9 Court finds that on a preliminary basis the Settlement appears to be within the range of
10 reasonableness necessary for preliminary approval by the Court. It appears to the Court that the
11 Settlement amount is fair, adequate, and reasonable as to all potential Settlement Class Members
12 when balanced against the probable outcome of further litigation, and ultimately relating to liability
13 and damages issues. It further appears that investigation and research has been conducted such that
14 counsel for the parties at this time are reasonably able to evaluate their respective positions. It
15 further appears to the Court that the Settlement at this time will avoid substantial additional costs by
16 all parties, as well as the delay and risks that would be presented by the further prosecution of the
17 litigation. It appears that the Settlement has been reached as a result of arms-length negotiations.

18 2. The Settlement Class is defined as:

19 All persons who are or were employed by First Student, Inc. as bus
20 drivers at First Student, Inc.'s Riverside (location 20816) and Corona
21 (location 20414) locations from April 12, 2007 through the date of
22 entry of the Preliminary Approval Order.

23 3. The Settlement proposed has been negotiated at arm's length and is preliminarily
24 determined to be fair, reasonable, adequate and in the best interest of the Settlement Class defined
25 above and in the Settlement Agreement;

26 4. The Court conditionally finds that, for the purposes of approving this Settlement only
27 and for no other purpose, the proposed Settlement Class meets the requirements of certification of
28 California Code of Civil Procedure §382 and Rules 3.766 and 3.769 of the California Rules of Court:
(a) the proposed Settlement Class is ascertainable and so numerous that joinder of all members of the
Settlement Class is impracticable; (b) there are questions of law or fact common to the proposed

1 Settlement Class; (c) the claims of Plaintiff Heather Fierro are typical of the claims of the members
2 of the proposed Settlement Class; (d) Plaintiff and her counsel will fairly and adequately protect the
3 interests of the proposed Settlement Class; and (e) a Class Action is superior to the other available
4 methods for an efficient resolution of this controversy.

5 5. The Court hereby preliminarily appoints for settlement purposes only, Thomas W.
6 Falvey of the Law Offices of Thomas W. Falvey and Carol L. Gillam of The Gillam Law Firm as
7 Settlement Class counsel.

8 6. The Court confirms CPT Group, Inc. as the Settlement Administrator. Within twenty
9 (20) business days of Preliminary Approval of this Settlement by the Court, Defendant shall provide
10 to the Settlement Administrator the Class Data, which shall consist of a database which will list the
11 names, most current mailing address and telephone number, Social Security Number, and the weeks
12 of employment of each Settlement Class Member in the Settlement class during the applicable Class
13 Period.

14 7. All Settlement Class Members shall be given notice of this Settlement as set forth in
15 the Notice of Class Action Settlement attached as Exhibit ²A ("Notice"); *to Gillam Dec.*

16 8. The Notice (and dates selected for the mailing and distribution of the Notice set forth
17 herein) fully complies with the requirements of California Code of Civil Procedure §382, Rules
18 3.766 and 3.769 of the California Rules of Court and due process, and constitutes the best notice
19 practicable under the circumstances, and is due and sufficient notice to all persons entitled to notice
20 of settlement.

21 9. Settlement Class Members wishing to be excluded from the Settlement Class must
22 submit a written Request for Exclusion requesting exclusion from the Settlement on or before the
23 expiration of the opt out period (45 days after the date that the Notice is mailed). Such Request for
24 Exclusion must contain the name, address, telephone number, and the last four digits of the Social
25 Security number of the person requesting exclusion and a request to be excluded from the
26 Settlement. The Request for Exclusion must be returned to the Settlement Administrator, as
27 described in the Notice ~~attached as Exhibit A.~~

28 10. Any Class Member who does not request exclusion from the Settlement Class during
the opt out period may object to the Settlement, either personally or through an attorney, by

1 providing written notice that the Class Member is objecting to the Settlement Administrator, which
2 written notice must be postmarked no later than 45 days after the date of mailing Notice. The Notice
3 of Objections must include the Class Member's name, address, telephone number and the name of
4 this case (*Tyrer, et al. v. First Student, Inc.*). Any Class Member who has provided timely notice
5 that the Class Member is objecting may appear, personally or through an attorney, at the Final
6 Approval Hearing to present the Class Member's objections. Any objecting Class Member may also
7 file a brief or other legal memorandum in support of the Class Member's objections by submitting
8 such brief or legal memorandum to the Settlement Administrator with the Class Member's Notice of
9 Objections or by direct filing with the Court no later than fifteen (15) days prior to the Final
10 Approval Hearing.

11 11. In the event the Settlement Administrator receives back a Settlement Class Member's
12 Notice with a forwarding address, the Settlement Administrator will send the Notice to the
13 forwarding address. In the event a Settlement Class Member's Notice is returned without a
14 forwarding address, the Settlement Administrator will perform one skip trace in an effort to identify
15 a new address, to which the Settlement Administrator will then send the Notice.

16 12. The Court will conduct a final approval and fairness hearing on 2/15/17 at
17 Haw-, in Department 322 of the above captioned Court to determine the overall fairness of the
18 settlement and to fix the amount of attorneys' fees and costs to class counsel and enhancement to the
19 named Plaintiffs.

20 13. All further proceedings in this action shall be stayed except such proceedings
21 necessary to review, approve, and implement this Settlement.

22 14. In the event the Settlement does not become effective in accordance with the terms of
23 the Settlement Agreement or the Settlement is not finally approved or is terminated, this Order shall
24 be rendered null and void and shall be vacated, and the parties shall revert to their respective
25 positions prior to notifying the Court of the settlement of the action.

26 15. The Court orders the following schedule of dates for further proceedings:

see attached implementation schedule

27 1. First Mailing of Notice, etc. to the Class: Within fifteen (15) business days after
28 receipt of the Class Data

2. Follow-up mailing to class (when mail 5. 5 business days after receipt of returned

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returned):

mail

3. Deadline to postmark Requests for Exclusion/Objections:

45 calendar days from the First Mailing of Notice, etc. to the Class; extended additional 15 calendar days for re-mailing of returned Notices

4. Filing Date for Final Approval Papers re: Attorneys' Fee, Enhancement Fees, and Reimbursement of Costs:

1/20/17

5. Filing Date for Final Approval of Settlement:

1/20/17

6. Final Approval Hearing:

2/15/17 11am.

Dated:

8/19/16

W.F. Highberger
Hon. William F. Highberger
Judge of the Superior Court

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IMPLEMENTATION SCHEDULE

Deadline	Activity
07/28/16	Plaintiffs file Motion for Preliminary Approval.
08/19/16	Court conducts Preliminary Approval Hearing.
08/19/16	Court enters Preliminary Approval Order.
09/19/16	Defendant provides Settlement Administrator with Class List and Data Report within twenty (20) business days of entry of Preliminary Approval Order. S.A. § 3.14(c).
10/11/16	Settlement Administrator calculates the estimated Gross Individual Settlement Amount payable to each Settlement Class Member, runs a NCAD search and mails Notice to Settlement Class Members within fifteen (15) business days of receipt of list of Class List and Data Report from Defendant. S.A. §§ 3.14(d), 3.17(a).
11/28/16	Deadline for mailing requests for exclusion and objections forty-five (45) days after mailing of Notice. S.A. §§ 1.18, 1.19, 3.17(b).
12/05/16	Deadline for Settlement Administrator to re-mail Notices returned as undeliverable five (5) business days following return on or before the opt-out and objection deadline.. S.A. § 3.17(c).
12/20/16	Deadline for mailing requests for exclusion and objection in response to second mailing of notice fifteen (15) days from re-mailing of Notice. S.A. § 3.17(c)
01/05/17	Settlement Administrator to provide Parties' counsel a report showing (1) names of Settlement Class Members who opted-out, (2) names of Settlement Class Members who objected, (3) names of each Participating Class Member and the Gross Individual Settlement Amount to be distributed to each Participating Class Member and (4) the total amount of employer-side taxes on the Wage Component of the Gross Individual Settlement Amounts ten (10) business days following the expiration of the extended deadline to opt-out or submit objections. S.A. § 3.14(f).
01/30/17	Defendant's last day to revoke settlement based on number of requests for exclusion within fifteen (15) business days of receipt of list of opt-outs from Settlement Administrator. S.A. § 3.18(d).