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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
DEPARTMENT 303

JACOB RIMLER, GIOVANNI JONES, DORA
LEE, KELLYN TIMMERMAN, and JOSHUA
ALBERT, on behalf of themselves and others
similarly situated and in their capacities as Private
Attorney General Representatives,

Plaintiff,

v.

POSTMATES, INC.

Defendant.

Case No. CGC-18-567868

TENTATIVE RULING RE MOTION FOR
PRELIMINARY APPROVAL OF REVISED
CLASS ACTION SETTLEMENT

TENTATIVE RULING

Plaintiffs filed their motion for preliminary approval of the Revised Class Action Settlement on December 14, 2020. A hearing was held on the matter on June 16, 2021. The matter was taken under submission. The Court issued an order directing supplemental filings to address certain issues on July 2, 2021, and continued the hearing to July 21, 2021. Plaintiffs submitted their supplemental filing on July

1 15, 2021. The Court finds the supplemental filing adequately addresses the Court’s concerns with the
2 exception of two issues briefed below.

3 **I. Notice**

4 **A. Process and The Dispute Resolution Fund**

5 In its most recent order and with respect to inadvertently excluded individuals, the Court asked
6 Plaintiffs to explain the following settlement provision: “To the extent an excluded individual may notify
7 the Settlement Administrator that he or she is a Settlement Class Member more than thirty days after the
8 distribution of the Settlement Class Notice, what does ‘the Parties shall endeavor to include the individual
9 in the Settlement Class’ mean?” (See July 2, 2021 Order, p. 2.)

10 In their supplemental filing, Plaintiffs explain that as long as it is feasible, the parties will include
11 the driver in the class. If the class member does not come forward until after all the funds have been
12 distributed, then it would not be possible to include the class member. But if the class member comes
13 forward before then, and if there are funds remaining in the dispute resolution fund or from uncashed
14 checks, and the settlement awards for all Settlement Class Members who submitted timely claims have
15 been allocated or paid, then the class member would be included. (See Plaintiffs’ Supplemental Briefing,
16 filed July 15, 2021, p. 7.)

17 The Court asks the parties to address the following questions and concerns. First, the Court notes
18 that the Settlement Agreement provides for a 30-day deadline after distribution of the class notice for
19 excluded individuals to identify themselves to the Settlement Administrator. (See Revised Agreement, ¶
20 6.11.) Presumably, if an individual notifies the Settlement Administrator within the 30-day timeframe,
21 that individual will have the opportunity to submit a claim form and receive payment, or opt-out.
22 Pursuant to the Settlement Agreement, if an individual notifies the Settlement Administrator after the 30-
day deadline, that individual is also provided the opportunity to submit a claim form and receive payment.
In either case, excluded individuals will be paid from the Dispute Resolution Fund. (See *ibid.*)

The Court requires further discussion regarding two scenarios. For those individuals who identify
themselves *within* the 30-day deadline and wish to opt-in, it appears to the Court that they should be paid

1 from the funds that have been earmarked for other class members in the event there are insufficient funds
2 in the Dispute Resolution Fund at the time of initial payment. Currently, the Settlement Agreement only
3 allows for these individuals to be paid from the Dispute Resolution Fund.

4 With respect to excluded individuals who come forward after the 30-day deadline, and in the event
5 the Dispute Resolution Fund is depleted, what happens to these class members? Are they considered part
6 of the class¹? Do they release their claims? Do they have the opportunity to opt-out? To the extent they
7 are allowed to opt-out, would this require the Court to amend its final approval order and the judgment to
8 include this individual?²

7 **II. Miscellaneous Issues**

8 The Court notes that the moving papers, and the Settlement Agreement and Class Notice were
9 filed under Case No. CGC-18-567868. Plaintiffs filed their supplemental filings under the coordinated
10 action, Case No. CJC-20-005068³. Before the Court grants preliminary approval, the Court requires
11 further clarification with respect to the governing case number and whether all papers filed in connection
12 with preliminary approval have been filed accordingly. This may require the parties to revise the
13 Settlement Agreement and Class Notice.

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16 ¹ It is unclear to the Court whether an excluded individual would be added to the class list if, for example,
17 the parties agreed the individual was a member of the class, but funds from the Dispute Resolution Fund
18 were insufficient for that individual's settlement share, or have already been distributed.

19 ² The Court's suggestion is as follows: Maintain a Dispute Resolution Fund, and set a firm 30-day
20 deadline for inadvertently excluded class members to identify themselves. In this case, the calculations of
21 all settlement amounts will be completed before proceeds are distributed to class members, including
22 those inadvertently excluded. Additionally, this will allow for distribution of the remaining funds in the
Dispute Resolution Fund to be added back to the general fund and distributed to *all* class members during
the initial distribution. As it stands now, only those class members for whom a second payment would be
at least \$50 are entitled to the remaining balance in the Dispute Resolution Fund. (See Revised
Agreement, ¶ 5.7.)

³ On June 17, 2020, the Court granted Petitioner Wendy Santana's Petition for Coordination.