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**FILED**  
Superior Court of California  
County of San Francisco

JUN 29 2017

CLERK OF THE COURT

BY:   
Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

Case No.: CGC-15-547146

LORRETTA NESBITT, JAMAL ST.  
LOUIS, and ARIAN NUNEZ, individually  
and as representatives of the class,

Plaintiffs,

v.

POSTMATES, INC.,

Defendant.

**ORDER  
PRELIMINARILY APPROVING  
CLASS ACTION SETTLEMENT**

Case No.: CGC-15-547146

1 Plaintiffs Lorretta Nesbitt, Jamal St. Louis and Arian Nunez (“Plaintiffs”), on  
2 behalf of themselves and the Settlement Class Members, and Defendant Postmates Inc.  
3 “Postmates” (collectively, the “Parties”), have entered into a Settlement Agreement dated  
4 May 25, 2017 (the “Settlement Agreement”), providing for the settlement of this case (the  
5 “Settlement”).

6 Plaintiffs have moved for, and Postmates has indicated that it does not oppose,  
7 entry of this Order which, *inter alia*, (a) conditionally certifies the Settlement Class  
8 (defined below) for settlement purposes only; (b) appoints the Settlement Administrator;  
9 (c) provides for Notice of the Settlement to affected persons in accordance with the terms  
10 of the Settlement Agreement; (d) establishes procedures for objections to, and exclusions  
11 from, the proposed Settlement, and (e) sets a date for the Fairness Hearing.

12 Having considered the terms of the Settlement Agreement in light of the issues  
13 presented by the pleadings, the record in this case, the complexity of the proceedings, the  
14 absence of any evidence of collusion between the Parties, and the experience of Class  
15 Counsel in this matter, and being preliminarily satisfied that the Settlement Agreement is  
16 fair, reasonable and adequate, and being satisfied that the proposed Notice of Settlement  
17 Class Members and the plan for the mailing of that Notice is adequate and sufficiently  
18 informative as to the terms and effect of the proposed Settlement and the conditional  
19 certification of the Settlement Class,

20 IT IS ORDERED THAT:

21 1. This Court has jurisdiction over the subject matter of this Action pursuant  
22 to 15 U.S.C. § 1681p and Cal. Code Civ. Proc. § 410.10. This Court also has jurisdiction  
23 over all parties to this Action, including all members of the Settlement Class, as defined in  
24 paragraph 3, below.

25 2. This Order incorporates by reference the definitions in the Settlement  
26 Agreement, and all capitalized terms used in this Order will have the same meanings as  
27 set forth in the Settlement Agreement, unless otherwise defined in this Order.

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1           3.     The Parties have agreed to and the Court provisionally certifies the  
2 following class for the purposes of settlement (the "Settlement Class"):

3           Category 1681b(b)(2) Settlement Class Members includes all individuals  
4 who signed up to be couriers utilizing Postmates' platform at any time  
5 from July 31, 2013 to May 1, 2016 and were subject to a background  
6 check procured by Postmates, excluding those individuals who are  
7 Category 1681b(b)(3) Settlement Class Members.

8           Category 1681b(b)(3) Settlement Class Members includes all individuals  
9 who had unfavorable results on a Postmates' background check and were  
10 not granted access to Postmates' platform as a courier, at any time from  
11 July 31, 2013 to September 24, 2015.

12           4.     Based on the Court's review of the Settlement Agreement, the Motion for  
13 Preliminary Approval, the supporting brief, declarations of counsel, argument of counsel  
14 and the entire record, the Court finds that certification of the Settlement Class under Cal.  
15 Code of Civ. Proc. § 382 because there is a well-defined community of interest in the  
16 litigation, the Settlement Class is so numerous that joinder would be impracticable, this  
17 Action presents common issues of law and fact that predominate over any individual  
18 questions, the named Plaintiffs and their counsel are adequate representatives of the  
19 Settlement Class, and Plaintiffs' claims are typical of the claims of the members of the  
20 Settlement Class. The following counsel are hereby appointed to represent the Settlement  
21 Class: Berger & Montague, P.C. and Fitapelli & Schaffer, LLP.

22           5.     Based on the Court's review of the Settlement Agreement, the Motion for  
23 Preliminary Approval, the supporting brief, declarations, argument of counsel and the  
24 entire record, the Court finds that the Settlement is fair, reasonable and adequate. The  
25 Plaintiffs' Motion to preliminarily approve the Settlement and certify the Settlement Class  
26 is granted.

27           6.     JND Class Action Administration is appointed as Settlement  
28 Administrator. By accepting this appointment, the Settlement Administrator has agreed to  
be subject to this Court's jurisdiction solely for the purposes of enforcement of the  
Settlement Administrator's obligations under the Settlement Agreement.

1           7.     The Court finds that the forms of notice to the Settlement Class regarding  
2 the pendency of the action and of this settlement, and the methods of giving notice to  
3 members of the Settlement Class are reasonable. These forms and methods constitute the  
4 best notice practicable under the circumstances and constitute valid, due, and sufficient  
5 notice of the Settlement Class. They comply fully with the requirements of Cal. Code  
6 Civil Procedure § 382, California Rules of Court 3.766 and 3.769, the California and  
7 United States Constitution, and other applicable law.

8           8.     The Settlement Administrator shall email the Notices of the proposed  
9 Settlement in the manner described in Section IV of the Settlement Agreement. Such  
10 Notice shall be substantially in the form of Exhibits A-C to the Settlement Agreement.  
11 Non-substantive changes may be made to the Notice by agreement of Parties without  
12 further order of this Court.

13           9.     The Court finds and determines that the method of providing notice to  
14 Settlement Class Members specified in Section IV of the Settlement Agreement and the  
15 manner of providing for opt-outs specified in Section IV.A of the Settlement Agreement  
16 are reasonable and appropriate, and satisfy the requirements of due process and the  
17 applicable California rules. Thereby the Court hereby explicitly adopts and incorporates  
18 those processes as if fully set forth herein.

19           10.    The Settlement Administrator is directed to file with the Court no later than  
20 seven days after the opt-out deadline established in paragraph 22, a sworn declaration (a)  
21 confirming that the Settlement Class Members' email addresses were updated, and that the  
22 Notice was provided to all Settlement Class Members, as required by Section IV of the  
23 Settlement Agreement; and (b) providing an accurate list of persons who opted out of the  
24 Settlement Class pursuant to Section IV.A of the Settlement Agreement.

25           11.    If the Court does not enter the Final Judgment of the Settlement attached as  
26 Exhibit G to the Settlement Agreement without material modification, or if the Final  
27 Judgment is reversed in whole or in part on appeal, certification of the Settlement Class  
28 will be vacated and the Parties will be returned to their positions *status quo ante* with

1 respect to the Action as if the Settlement had not been entered into. In the event that Final  
2 Approval is not granted, (a) any Court order preliminarily or finally approving the  
3 certification of any class contemplated by the Settlement and any other orders entered  
4 pursuant to the Settlement Agreement shall be null, void, and vacated, and shall not be  
5 used or cited thereafter by any person or entity in support of claims or defenses or in  
6 support or in opposition to a class certification motion or for any other purpose, and (b)  
7 the Settlement Agreement will become null and void and the fact of the Settlement, that  
8 Postmates did not oppose the certification of any class under the Settlement, or that the  
9 Court preliminarily approved the certification of a settlement class, or any information  
10 disclosed or exchanged as part of the settlement negotiations, settlement agreement, or  
11 settlement approval process shall not be used or cited thereafter by any person or entity for  
12 any purpose, including in any contested proceeding relating to the certification of any  
13 class. In addition, if the Final Judgment is reversed in whole or in part on appeal, the  
14 release of claims set forth in Section V of the Settlement Agreement shall be rescinded.  
15 Furthermore, in the event certification of the Settlement Class must be vacated, the parties  
16 agree, and this Court so orders, that Postmates is deemed not to have waived any  
17 arguments pertaining to the defense of this case, including but not limited to arbitration, as  
18 to the Named Plaintiffs and any putative class members.

19       12. All materials and information provided by Postmates to Class Counsel or  
20 the Settlement Administrator with respect to the members of the Settlement Class is  
21 confidential information and may be used only for purposes of providing the Notice to  
22 Settlement Class Members or administering the Settlement and for no other purpose  
23 whatsoever. Class Counsel and the Settlement Administrator are directed to limit access  
24 to such materials and information to those persons who have a need to know such  
25 information to provide the Notice of the Settlement Class.

26       13. A hearing ("Fairness Hearing") shall be held before this Court on the date  
27 established in paragraph 22 hereof to hear objections and determine (a) whether the  
28 proposed Settlement and compromise of this Action as set forth in the Settlement

1 Agreement is fair, reasonable, and adequate to the Settlement Class Members and should  
2 be approved by the Court; (b) whether the Final Judgment should be entered approving  
3 the Settlement; (c) whether a Final Judgment should be entered, dismissing the Action, on  
4 the merits and with prejudice, and to determine whether the release of claims, as set forth  
5 in the Settlement Agreement, should be approved; (d) the amount of attorneys' fees and  
6 expenses reasonably incurred in prosecution of the litigation to be paid to Class Counsel;  
7 (e) the amount of the Service Payment to be paid to the Settlement Class Representatives;  
8 and (f) such other matters as the Court may deem appropriate.

9       14.    Objections may be raised through appearing at the Fairness Hearing or by  
10 submitting a written objection. Any interested person who has not opted out of the  
11 Settlement Class may appear at the Fairness Hearing to show cause why the proposed  
12 Settlement should or should not be approved as fair, reasonable, and adequate. As set  
13 forth in Section IV.A of the Settlement Agreement, any interested person who has not  
14 opted out of the Settlement Class may submit a written objection and any supporting  
15 papers or brief to the Court before the date established in paragraph 22 hereof. Copies of  
16 such written objections must also be served, so that they are postmarked no later than the  
17 last date for filing established in paragraph 22 hereof, on the Settlement Administrator at  
18 the following address: JND Class Action Administration, P.O. Box 6878, Broomfield, CO  
19 80021. The above methods for raising objections are not mutually exclusive and any  
20 interested person who has not opted out of the Settlement Class may both attend the Final  
21 Fairness Hearing and submit a written objection. All properly submitted objections shall  
22 be considered by the Court. Any Settlement Class Member who does not submit an  
23 objection in the manner provided above shall be deemed to have waived any objection to  
24 the Settlement and shall forever be foreclosed from making any objection to class  
25 certification, to the fairness, adequacy or reasonableness of the Settlement, and to any  
26 attorneys' fees and reimbursements approved by the Court.

1           15. Class Counsel's request for approval of attorneys' fees, costs and  
2 reimbursement of expenses shall be filed on or before the date established in paragraph 22  
3 hereof.

4           16. All memoranda, declarations and other evidence in support of the request  
5 for Final Approval shall be filed on or before the date established in paragraph 22 hereof.

6           17. All proceedings in this Action other than such as may be necessary to carry  
7 out the terms and conditions of this Order or the responsibilities incidental thereto are  
8 stayed and suspended as between the Plaintiffs and Postmates until further order of the  
9 Court.

10           18. The Parties have advised the Court that there are, to their knowledge, no  
11 lawsuits pending in any state or federal court or in any arbitral forum asserting claims that  
12 would be foreclosed by Final Approval of this Settlement.

13           19. This Order is intended to immediately stop all litigation involving the  
14 claims released by the Settlement Agreement in all courts and other judicial and arbitral  
15 tribunals throughout the United States. Any individual who wishes to object to, or  
16 comment on, this Settlement or certification will have the opportunity to be heard at the  
17 Fairness Hearing scheduled by this Court.

18           20. The Court expressly reserves its right to adjourn the Fairness Hearing from  
19 time to time without further notice other than to counsel of record and to approve the  
20 proposed Settlement and request for approval of attorneys' fees and expenses at or after  
21 the originally scheduled Fairness Hearing.

22           21. The Court retains exclusive jurisdiction over the Action and all matters  
23 arising out of or connected with the proposed Settlement.

24           22. Pursuant to this Order, the schedule for dissemination of Notice, requesting  
25 exclusion from or objecting to the proposed Settlement, briefing, and the Fairness  
26 Hearing, is as follows:  
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Deadline for first e-mail notice	August 1, 2017
Deadline for Settlement Class Members to opt out	October 2, 2017
Deadline for filing Class Counsel's Motion for Attorneys' Fees and Class Representative Service Payments	September 18, 2017
Deadline for objections to proposed Settlement	October 2, 2017
Deadline for Claims to be submitted	October 17, 2017
Deadline for filing Motion for Final Approval	October 9, 2017
Deadline for filing responses to objections to proposed Settlement	October 9, 2017
Hearing of Motion for Final Approval	November 7, 2017 at 9:30 a.m.

IT IS SO ORDERED.

Dated: 6/29/17

  
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JUDGE OF THE SUPERIOR COURT  
HON. HAROLD KAHN