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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10 (Fresno Division)
11

12 DAVID FUSON, individually)	CASE NO. CV-F-06-0766 LJO SMS
and on behalf of all others)	
13 similarly-situated,)	ORDER AND JUDGMENT
)	ON FINAL APPROVAL OF CLASS
14 Plaintiff,)	ACTION SETTLEMENT
)	
15 vs.)	
)	
16 C.L. BRYANT, et al.,)	
)	
17 Defendants.)	
)	

18
19 Pursuant to the Order On Preliminary Approval Of Class Action
20 Settlement filed herein October 11, 2007 (Doc. 37) and subsequently
21 amended to continue the hearing to February 5, 2008 (Doc. 39), a
22 Final Approval Hearing was held at 8:30 a.m. on February 5, 2008 in
23 Courtroom 4 of this Court. Plaintiff, individually and on behalf
24 of all others similarly situated (collectively "plaintiffs"),
25 appeared at the hearing by telephone through class counsel, Jerry
26 Budin. Defendants C.L. Bryant and C. Bryant Transport, Inc.
27 ("Bryant") appeared at the hearing by telephone by counsel Daniel
28 Pyne of Hopkins & Carley. The case was called at the hearing and

1 the Court inquired whether anyone else in the courtroom was present
2 to participate in the hearing. There was no response to this
3 inquiry. The Court then inquired of counsel whether they expected
4 anyone to appear at the hearing. Both counsel responded in the
5 negative.

6 Having considered Plaintiff's Memorandum Of Points And
7 Authorities and Class Counsel's Declaration In Support Of Final
8 Approval Of Class Action Settlement and the papers previously filed
9 herein, the Court makes the following Findings:

10 1. No class member or interested individual appeared
11 personally at the time and place for the Final Approval Hearing
12 (February 5, 2008, 8:30 a.m., Courtroom 4) which was contained in
13 the Notice Of New Date For Fairness Hearing (Exhibit B attached to
14 Declaration of Jerry Budin).

15 2. The Court finds that notice to the class was
16 the best practicable under the circumstances and was satisfied and
17 timely mailed as previously ordered by the Court.

18 3. The Court finds that the consideration for the
19 proposed settlement is fair, adequate, and reasonable.

20 4. The Court finds that there were no objections to or
21 requests for exclusion from the proposed settlement.

22 5. The Court finds that the settlement was not
23 collusive, and that the parties have engaged in sufficient
24 discovery to understand the strengths and weaknesses of their own
25 and their opponent's cases.

26 6. The Court finds that the lawyers representing the
27 parties were competent and experienced counsel, and that no party
28 has been subjected to any undue influence in reaching the

1 settlement.

2 7. The Court finds that the attorney's fees and costs
3 requested by Class Counsel, Jerry Budin, in the total sum of
4 \$41,786.86 are fair and reasonable.

5 8. The Court finds that the formula for disbursement
6 of the settlement proceeds to the Class and the procedure for
7 administration of that disbursement as set forth in the Stipulation
8 And Settlement Agreement are fair, adequate and reasonable.

9 9. The Court finds that a payment of \$10,000.00 to
10 Class Representative David Fuson for his efforts and services on
11 the behalf of the Class in this litigation is fair and reasonable.

12 10. The Court finds that the Settlement Class members
13 are similarly-situated and meet the requirements for certification
14 of a class action under F.R.C.P. 23 and as a collective action
15 under 29 U.S.C. §216(b).

16 IT IS HEREBY ADJUDGED AND ORDERED that:

17 1. The Stipulation Regarding Settlement Of Class Action is
18 approved in full;

19 2. Defendants Bryant shall pay attorneys fees and costs in
20 the total sum of \$41,786.86 to class counsel, Jerry Budin, pursuant
21 to the procedures set forth in the Stipulation;

22 3. Defendants Bryant shall make payments to the Settlement
23 Class members pursuant to the procedures and formulas set forth in
24 the Stipulation Regarding Settlement Of Class Action;

25 4. Defendants Bryant shall make a payment of \$10,000.00 to
26 Class Representative David Fuson for his efforts and services on
27 behalf of the Class in this litigation;

28 5. This Court shall retain jurisdiction over this matter and

1 the parties for the purpose of enforcing compliance with said
2 Stipulation Regarding Settlement Of Class Action;

3 6. Upon defendants Bryant's satisfaction of their
4 obligations under said Stipulation Regarding Settlement Of Class
5 Action and the payment of all sums pursuant thereto, plaintiff's
6 counsel shall notify the court, whereupon this matter shall be
7 dismissed with prejudice.

8 **IT IS SO ORDERED.**

9 **Dated: February 5, 2008**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE