

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Jose Alberto Fonseca Pina, et al.,

NO. C 10-00100 JW

Plaintiffs,

**ORDER MODIFYING CLASS
DEFINITION; ADOPTING PLAINTIFFS'
PROPOSED LANGUAGE FOR CLASS
NOTICE**

v.

Con-Way Inc.,

Defendant.

Presently before the Court is the parties' Proposed Form of Notice of Class Certification.¹ Although the parties have submitted a Joint Proposed Notice Form, they disagree over certain language in the Form and over whether notice should be disseminated before the Ninth Circuit rules on Defendant's petition for permission to appeal the Court's Class Certification Order.² In addition, the parties request that the Court modify the class period such that its end date is set before notice is distributed. (Id. at 4.) Finally, Defendant asks that the Court stays dissemination of class notice until the Ninth Circuit issues a decision on Defendant's interlocutory appeal.

Upon review, the Court ORDERS as follows:

¹ (See Proposed Notice of Class Certification, hereafter, "Proposed Notice," Docket Item No. 68-1; see also Submission of Proposed Form of Notice of Class Certification, hereafter, "Joint Submission," Docket Item No. 68.)

² (Joint Submission at 2-3.) Defendant has filed a petition with the Ninth Circuit pursuant to Fed. R. Civ. P. 23(f) seeking to appeal the Court's April 12, 2012 Order granting Plaintiffs' Motion for Class Certification. (See Docket Item No. 69.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

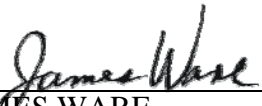
- (1) The Court DENIES Defendant's request to stay dissemination of class notice until the Ninth Circuit issues a decision on Defendant's Petition.
- (2) The Court finds good cause to modify the class definition as certified to include a class period with a firm end-date. Accordingly, the Court MODIFIES the class as previously certified as follows:

All persons who worked for Defendant in Pickup and Delivery Assignments in California during the class period (four years prior to the date of the filing of the Complaint in this action through April 12, 2012).

- (3) The Court finds that the language proposed by Plaintiffs provides a clearer explanation of class members' rights. Accordingly, the Court ADOPTS Plaintiffs' proposed language in all disputed portions of the notice.

On or before **July 16, 2012**, the parties shall file a modified Proposed Notice consistent with the terms of this Order for the Court's approval prior to dissemination.

Dated: July 3, 2012



JAMES WARE
United States District Chief Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Barrett Kenneth Green bgreen@littler.com
3 Erica H. Kelley ekelley@littler.com
4 Jonathan Che Gettleman jonathangettleman@yahoo.com
5 Kenneth Richard O'Brien kobrien@littler.com
6 Lawrence R Cagney lcagney@wkalaw.com
7 Michael L. Carver carverm@aol.com
8 Michelle MacEachern Lunde mlunde@carverlaw.com

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: July 3, 2012

Richard W. Wieking, Clerk

**By: /s/ JW Chambers
William Noble
Courtroom Deputy**