

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

OWNER-OPERATOR INDEPENDENT
DRIVERS ASSOCIATION, et al.

Plaintiffs,

v.

MAYFLOWER TRANSIT, INC.,

Defendant.

Cause No. 1:98-0457-SEB-JMS

~~PROPOSED~~ FINAL ORDER APPROVING OFFER AND
ACCEPTANCE OF JUDGMENT, APPROVING NOTICE TO CLASS
MEMBERS, APPROVING DISTRIBUTION OF FUNDS, OVERRULING
OBJECTION, AND ENTERING JUDGMENT IN FAVOR OF
PLAINTIFFS AND CLASS

This matter comes before the Court on the motion of Plaintiffs Owner-Operator Independent Drivers Association, Inc. and William H. Owen and Defendant Mayflower Transit, LLC (“Mayflower”) (collectively “the Parties”), upon motion for an order and judgment to (1) grant final approval of the Offer and Acceptance of Judgment pursuant to Federal Rules of Civil Procedure 23(e); (2) approve the method of Notice to Class Members of the Offer and Acceptance of Judgment; (3) approve the distribution of monies to individual Class members in accordance with the terms of the Offer and Acceptance of Judgment; (4) overrule the objection submitted by Class member Donald Scott Richardson; and (5) enter judgment (a) in favor of Plaintiffs and the Class and against Mayflower in the amount of \$194,220.98, and (b) barring all Class members from instituting any action or suit for any claim that was or could have been asserted in this action by the Plaintiffs and Class members (or any of them) against Mayflower.

The District Court set a Fairness Hearing for November 14, 2008. The Plaintiffs appeared through their counsel, and Defendant Mayflower appeared through counsel.

Upon reviewing the Joint Motion of the parties, and upon hearing the evidence submitted at the November 14, 2008, Fairness Hearing, the Court makes the following findings:

The parties have properly effectuated notice to eligible members of the Class as defined in the Notice. The parties have sent the Notice to eligible members of the Class through the best means practicable under the circumstances.

The Offer and Acceptance of Judgment is a fair, reasonable and adequate compromise of the claims of Plaintiffs and the Class based on the allegations of Plaintiffs and the defenses raised by Defendant.

The Objection interposed by Class member Donald Scott Richardson is ~~without basis in fact~~. No other objections have been filed.

withdrawn, based on a separate agreement between him and the Defendant.

The parties have presented a fair and reasonable procedure for distribution of monies to individual Class members.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. This Court has jurisdiction over the subject matter of this Action, the Plaintiffs, all Class members, and the Defendant.
2. Notice of the Offer and Acceptance of Judgment met the requirements of Rule 23 of the Federal Rules of Civil Procedure, due process, and any other applicable law, constituted the best notice practicable under the circumstances, and constituted sufficient notice to all persons and entities entitled thereto. A full opportunity has been offered to the Class members to object to the proposed Offer and Acceptance of Judgment and to participate in the hearing thereon. Thus, it is hereby determined that all Class members who did not elect to exclude themselves by

written communication (as listed in Exhibit A to this Order) are bound by this Order and Judgment.

3. The Offer and Acceptance of Judgment is approved as fair, reasonable and adequate and in the best interests of Class members.

4. The distribution plan is approved as fair and reasonable to the Class members, and Plaintiffs' Counsel are directed to administer the distribution of the Offer and Acceptance of Judgment in accordance with its terms and provisions. Within 30 days after the entry of this Order, Mayflower shall tender to Class counsel the total amount of monies to be distributed to Class members. Class counsel shall, within 30 days after receiving the funds from Mayflower, send checks to individual Class members in the amount stated in the Offer of Judgment. Mayflower's financial responsibility for the distribution will terminate upon its transfer of the funds to Class counsel.

5. The Objection interposed by Class member Donald Scott Richardson is ~~overruled~~^{withdrawn}. No objections have been made to the fairness or reasonableness of the Offer and Acceptance of Judgment which demonstrate a sufficient basis upon which to deny approval of the Offer and Acceptance of Judgment.

6. Judgment is hereby entered in favor of Plaintiffs and the Class in the amount of \$194,220.98. This Judgment constitutes, with the exception of attorneys' fees as determined by this Court at a later date, the total and complete relief Plaintiffs and Class members will receive pursuant to the Offer and Acceptance of Judgment.

7. All Class members are hereby bound by this Judgment. Plaintiffs and individual Class members, on behalf of themselves and each their heirs, executors, representatives, successors and assigns, are permanently barred and enjoined from instituting, commencing or prosecuting any

and all claims or causes of action, both at law or in equity, that were asserted or could have been asserted in this action by the Plaintiffs and Class Members or any of them against Defendant.

Judgment is entered to allow the parties to enforce it and, though the issue of attorney fees remains unresolved, the parties shall not be permitted to reopen any of the issues otherwise resolved by this judgment.

Dated: November 14, 2008

Sarah Evans Barber

UNITED STATES DISTRICT JUDGE

EXHIBIT A

PERSONS WHO HAVE OPTED OUT OF THE CLASS

1. **Allan Avella**
P.O. Box 13649
Los Vegas, NV 89112
2. **Robert Bowman**
150 Cornelius Road
Mooresville, NC 28117
3. **Darwin D. Feldt**
P.O. Box 315
Wolflake, MN 56593
4. **Francisco M. Fonseca**
3246 NW 92nd Street
Miami, FL 33147
5. **John G. Hemmings**
224 E Mill Road
Long Valley, NJ 07853
6. **Lowell E. Holt**
200 Holburt Way
Piedmont, SC 29673
7. **Frederick R. Johnson**
3136 W. Woodridge Drive
Phoenix, AZ 85023
8. **Dale Munn, Sr.**
4016 Indian Summer S.E.
Olympia, WA 98513
9. **Alexander R. Nield**
5481 Gunshot Pass Drive
Colorado Springs, CO 80917
10. **Elizabeth A. Nield**
5481 Gunshot Pass Drive
Colorado Springs, CO 80917
11. **Francisco M. Quinones**

3604 SW 180th Street Apt 47
Sea-Tac, WA 98188

12. **Luis V. Rodas**
316 48th Street Apt 8
Union City, NJ 07087
13. **Henry M. Shifflette, Jr.**
290 Bennington Road
Charlottesville, VA 22901
14. **Timothy Suit**
1067 Fair Avenue
San Jose, CA 95122
15. **Terry L. Terracio**
401 Russell Road
New Brighton, PA 15066
16. **Paul Von Seggern**
812 S. 8th Street
Montrose, CO 81401
17. **Jeffery L. Wright**
P.O. Box 730058
Ormond Beach, FL 32173
18. **Gary C. Young**
1624 Country Charm Lane West
Jacksonville, FL 32225