

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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JOSE ORTEGA, on his own  
behalf, and on behalf of those similarly situated,

Case No.15-cv-07387-NGG-JO

Plaintiff,

- against -

UBER TECHNOLOGIES, INC., RASIER, LLC, UBER  
USA, LLC, UBER NEW YORK LLC, UBER  
TRANSPORTATION LLC, JOHN DOE “UBER  
AFFILIATES,” fictitious name used to identify presently  
Unknown entities,

Defendants.

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**[PROPOSED] ORDER PRELIMINARILY APPROVING MODIFIED  
CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE, CONDITIONALLY  
CERTIFYING SETTLEMENT CLASS, DIRECTING NOTICE OF PROPOSED CLASS  
SETTLEMENT AND SCHEDULING A FINAL FAIRNESS HEARING DATE**

WHEREAS, Plaintiff Jose Ortega (“Plaintiff”) and Defendants Uber Technologies, Inc., Raiser, LLC, and Uber USA, LLC, (“Defendants”), (collectively, the “Parties”) have reached a proposed settlement and compromise of the claims in the above-captioned matter (“Settlement”), which is embodied in the Parties’ Modified Class Action Settlement Agreement and Release (the “Agreement”) filed with the Court; and

WHEREAS, the Parties have applied to the Court for preliminary approval of the proposed Settlement, the terms and conditions of which are set forth in the Agreement; and

WHEREAS, the Capitalized Terms herein shall have the same meaning as in the Agreement;

NOW, THEREFORE, the Court, having read and considered the Agreement and accompanying documents, as well as Plaintiff’s Unopposed Motion for Preliminary Approval

and supporting papers, and the Parties to the Agreement having consented to the entry of this Order, AND GOOD CAUSE APPEARING,

IT IS HEREBY ORDERED AS FOLLOWS:

1. Subject to further consideration by the Court at the time of the Final Fairness Hearing, the Court preliminarily approves the Settlement as fair, reasonable, and adequate to the Settlement Class, as falling within the range of possible final approval, and as meriting submission to the Settlement Class for their consideration.

2. For purposes of the Settlement only, the Court conditionally certifies the Settlement Class, defined as:

All individuals who: (i) have provided transportation services arranged using the Uber App within the State of New York at any time between December 29, 2009 and the date of this Order, and (ii) purported to opt-out of arbitration, or whose most recent agreement with Defendants and/or the Released Parties otherwise does not contain an arbitration provision, as determined by Defendants' records. The Settlement Class does not include individuals who exclusively provided transportation services arranged using Uber's "uberTAXI" product.

3. The Court preliminarily finds, solely for purposes of considering this Settlement, that (i) the requirements of Federal Rule of Civil Procedure 23 appear to be satisfied, including requirements for the existence of numerosity, typicality, commonality, adequacy of representation, and manageability, (ii) common issues of law and fact predominate over individualized issues, and (iii) a class action is superior to alternative means of resolving the claims and disputes at issue in this Action. The Court recognizes that certification under this Order is for settlement purposes only, and shall not constitute or be construed as an admission on the part of Defendants that this Action is appropriate for class treatment for litigation purposes.

Entry of this Order is without prejudice to Defendants' rights to oppose certification of a class in this Action, and/or to seek decertification or modification of a class should the proposed Settlement not become final. If, for whatever reason, the Settlement does not become final, the Parties' stipulation to class certification as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not be admissible, in this case or any other matter, in connection with, the issue of whether or not certification would be appropriate in a non-settlement context. In addition, the Parties' Settlement shall not impact the enforceability of any of the arbitration agreements Plaintiffs Jose Ortega and Joce Martinez, or Settlement Class Members, entered into with Uber, its subsidiaries, or any of the Released Parties.

4. The Court preliminarily finds that Plaintiff Ortega, and Class Counsel have, and will, fairly and adequately represent and protect the interests of the Settlement Class in accordance with Federal Rule of Civil Procedure 23.

5. Plaintiff Jose Ortega shall serve as Class Representative of the Settlement Class.

6. The Court appoints the following counsel as Class Counsel for purposes of this settlement:

Jonathan W. Greenbaum  
COBURN & GREENBAUM, PLLC  
1710 Rhode Island Avenue, NW  
Second Floor  
Washington, DC 20036  
jg@coburngreenbaum.com

**NEW YORK OFFICE:**

99 Hudson Street  
Fifth Floor  
New York, NY 10013

Marc Held  
Phil Hines  
Scott Richman

HELD & HINES, LLC  
370 Lexington Avenue  
Suite 800  
New York, NY 10017

7. The Court approves the nomination of Garden City Group to administer the Settlement per the terms of the Parties' Agreement.

8. A Final Fairness Hearing shall be held before this Court at the U.S. District Court for the Eastern District of New York, 225 Cadman Plaza East, Room 1416S, on \_\_\_\_\_, \_\_\_\_\_, to determine: (i) whether the proposed Settlement is fair, just, reasonable and adequate, and in the best interest of the Settlement Class, and should be approved by the Court, and whether a Final Approval Order and Final Judgment, as provided in the Agreement, should be entered; (ii) whether Class Counsel's application for attorney's fees, costs and expenses, and Plaintiff Ortega's Service Payment and Individual Settlement Payment should be approved; (iii) whether Plaintiffs Ortega and Martinez's general release of claims, including claims under the Fair Labor Standards Act, should be approved; and (iv) any other matters that the Court deems appropriate.

9. With the exception of such proceedings as are necessary to implement, effectuate and grant final approval of the terms of the Agreement, all proceedings in this Action are stayed.

10. The Court has reviewed, and hereby approves, as to form and content, the Settlement Notice, and finds that the Parties' plan for mailing and distribution of the Settlement Notice constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to the Settlement Class of the pendency of the Action, certification of the Settlement Class, the terms of the Agreement, and the Final Fairness Hearing, and complies fully with the requirements of the Federal Rules of Civil Procedure, the United States Constitution, and any other applicable law. The Settlement Administrator shall complete dissemination of

notice in the manner prescribed in the Agreement no later than thirty (30) days after the date of this Order.

11. The Court further finds that the notice plan described in the Settlement Notice will adequately inform members of the Settlement Class of their right to exclude themselves from the Settlement Class so as not to be bound by the terms of the Agreement. Any member of the Settlement Class who desires to be excluded from the Settlement Class, and not to be bound by the terms of the Agreement, must submit to the Settlement Administrator, pursuant to the instructions set forth in the Settlement Notice, a timely and valid written request for exclusion in accordance with the terms set forth in the Agreement.

12. Any member of the Settlement Class who does not submit such a request may object to the Agreement, to Class Counsel's application for attorney's fees, costs and expenses, to Plaintiff Ortega's Service Payment and Individual Settlement Payment, or to the proposed Final Approval Order and Final Judgment. Class Members who wish to present objections to the proposed Settlement at the Final Fairness Hearing must first do so in writing. To be considered, the written objection must be mailed to the Settlement Administrator via United States First Class Mail, postage prepaid, and be postmarked by the United States Postal Service on or before the Bar Date. The written objection must reference "*Ortega v. Uber Technologies, Inc.*, Case No. 1:15-cv-7387 (NGG) (JO)," and must include all reasons for the objection. The written objection must also include the name, address, and telephone number of the Settlement Class Member making the objection, and must bear his or her signature. No member of the Settlement Class shall have the right to appear and be heard at the Final Fairness Hearing, either personally or through an attorney, unless written notice of the Class Member's objection and any supporting papers have been submitted in conformance with the procedure set forth in the Agreement.

13. Any member of the Settlement Class who does not make an objection in the time and manner provided in this Order, and per the terms set forth in the Agreement, shall be deemed to have waived such objection and be forever foreclosed from making any objection to the fairness or adequacy of the proposed Settlement as incorporated in the Agreement, the payment of attorney's fees, costs and expenses, Plaintiff Ortega's Service Payment and Individual Settlement Payment, the allocation of the Settlement funds, or the Final Approval Order and Final Judgment.

14. In the event that the proposed Settlement is not approved by the Court, or in the event that the Agreement becomes null and void pursuant to its terms, this Order and all orders entered in connection therewith shall become null and void, shall be of no further force and effect, and shall not be used or referred to for any purposes whatsoever in this Action or in any other case or controversy. In such event the Agreement and all negotiations and any and all proceedings directly related thereto shall be deemed to be without prejudice to the rights of any and all of the Parties, who shall be restored to their respective positions as of the date and time immediately preceding the execution of the Agreement.

15. Class Counsel may file any motion seeking an award of attorneys' fees, costs and expenses, as well as a Service Award for Plaintiff Ortega, no later than \_\_\_\_\_, 2018.

16. All papers in support of Plaintiff's contemplated motion for final approval of the proposed Settlement shall be filed no later than fifteen (15) days before the Final Fairness Hearing.

17. The Court may, for good cause, extend any of the scheduled dates or deadlines set forth in this Order, and in such event will determine whether further notice to the members of the

Settlement Class is appropriate and the form of such notice. The Final Fairness Hearing may, from time to time and without further notice to the Settlement Class, be continued by order of the Court. The Settlement Administrator shall send notice of any such adjournment to any Settlement Class Member who has timely filed an objection to the Settlement, consistent with the terms of the Agreement. The Court may approve the Settlement, with such modifications as may be agreed to by the settling parties, if appropriate, without further notice to the Settlement Class.

**IT IS SO ORDERED.**

Dated:

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Hon. Nicholas G. Garaufis