

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION**

**PAUL LOVE, on behalf of himself and  
all others similarly situated,**

**Plaintiff,**

v.

**VIRGINIA LAND IMPROVEMENT  
CORPORATION and CROSSING  
PLACE TRANSPORT INC.,**

**Defendants.**

**Case No. 1:19-cv-00252-TSE-TCB**

**ORDER GRANTING  
PLAINTIFF'S UNOPPOSED MOTION  
FOR PRELIMINARY APPROVAL OF  
THE JOINT STIPULATION OF CLASS  
SETTLEMENT AND RELEASE**

On behalf of himself and other Class Members, Plaintiff Paul Love (“Plaintiff” or “Class Representative”) alleges that Defendants Virginia Land Improvement Corporation and Crossing Place Transport, Inc. (collectively, “Defendants”) regularly failed to compensate Plaintiff and similarly situated truck drivers for all hours worked during weeks in which the drivers worked over forty hours, in violation of the federal Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* (“FLSA”) and Virginia state common law (collectively, the “Class Claims”). (Dkt. No. 1, Complaint (“Compl.”) ¶¶ 1-2, 43.) Defendants deny liability for the Class Claims. (Dkt. No. 5, Joint Stipulation and Proposed Order Regarding Defendants’ Answer at 1.)

The Parties to this Lawsuit entered into a Joint Stipulation of Class Settlement and Release, which was fully executed on December 14, 2018 (“Settlement Agreement,” “Settlement,” or “Agreement”).

Upon review and consideration of all motion papers on file, the Settlement Agreement, and all exhibits thereto, including the parties’ proposed Notice of Settlement of Class Action (“Class Notice”), the Court finds that there is sufficient basis to: (i) grant preliminary approval of the

Settlement Agreement; (ii) provisionally certify the proposed Rule 23 Settlement Class and FLSA Collective Action for settlement purposes pursuant to Federal Rule of Civil Procedure 23 and 29 U.S.C. § 216(b); (iii) appoint Named Plaintiff Paul Love as Class Representative, Sanford Heisler Sharp, LLP as Class Counsel, and RG/2 Claims Administration LLC as the Settlement Administrator to perform the duties set forth in the Settlement Agreement; (iv) approve the method and manner of providing notice to the Class as set forth in the Settlement Agreement; and (v) set a schedule for the Final Approval Hearing and other remaining procedures.

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. Plaintiff's Motion for Preliminary Approval of the Joint Stipulation of Class Settlement and Release ("Plaintiff's Motion for Preliminary Approval") is hereby GRANTED.
2. All terms contained and not otherwise defined herein shall have the same meaning set forth in the Settlement Agreement.

**Preliminary Approval of Settlement Agreement**

3. The Court has reviewed the terms of the Settlement Agreement and the papers submitted by Class Counsel in support of Plaintiff's Motion for Preliminary Approval. The Court hereby concludes that: (i) the Settlement is the result of extensive, arm's-length, informed negotiations among the Parties after Class Counsel investigated the Class Claims and became familiar with the strengths and weaknesses of the Class Claims; (ii) the settlement process was non-collusive; (iii) the Settlement resolves a bona fide dispute over Fair Labor Standards Act provisions; and (iv) the Settlement Agreement appears to be within the range of a fair and reasonable settlement of the Class Claims, such that disseminating notice to the Class is appropriate.

4. Accordingly, the Court preliminarily approves the Settlement Agreement as fair, reasonable, adequate, and in the best interests of the Class.

**Provisional Certification of the Proposed Rule 23 Class Action**

5. The Court makes the following findings for settlement purposes only, subject to final approval at the Final Approval Hearing:

- a. Plaintiff satisfies Federal Rule of Civil Procedure 23(a)(1), as the members of the Class are so numerous as to make joinder impracticable;
- b. Plaintiff satisfies Federal Rule of Civil Procedure 23(a)(2) because Plaintiff and Class Members share common questions of fact and law;
- c. Plaintiff satisfies Federal Rule of Civil Procedure 23(a)(3) because Plaintiff's claims for unpaid wages arise from the same factual and legal circumstances that form the bases of the Rule 23 Class Members' claims;
- d. Plaintiff satisfies Federal Rule of Civil Procedure 23(a)(4) because Plaintiff and Class Counsel can protect and have fairly and adequately protected the interests of Class Members; and
- e. Plaintiff also satisfies Federal Rule of Civil Procedure 23(b)(3), as Class Members' common factual allegations and common legal theory predominate over any factual or legal variations among Class Members. Further, a class action is superior to all other available methods for fairly and efficiently resolving the Class Claims.

6. Accordingly, for purposes of settlement only, pursuant to Federal Rule of Civil Procedure 23, the Court provisionally certifies a Class defined as:

All persons employed by Defendants as non-exempt dump truck drivers at any time between January 29, 2013 and July 31, 2015, during which they worked at least one workweek in which they (i) worked at least four days, (ii) drove a truck of Defendants that was not registered to operate outside of Virginia for each of the workdays, and (iii) had not driven a truck of Defendants that was registered to operate outside of Virginia during the prior four months.

**Appointment of Class Representative, Class Counsel, and Settlement Administrator**

7. The Court hereby appoints Named Plaintiff Paul Love as the Class Representative.
8. The Court hereby appoints Sanford Heisler Sharp, LLP as Class Counsel.
9. The Court hereby appoints RG/2 Claims Administration LLC as the Settlement

Administrator to perform the duties set forth in the Settlement Agreement.

**Provisional Certification of the Proposed FLSA Collective Action**

10. The Court makes the following findings for settlement purposes only, subject to final approval at the Final Approval Hearing:

- a. The factual circumstances underlying the claims of the proposed FLSA Collective Action members are more similar than disparate;
- b. Individualized defenses do not predominate; and
- c. Collective treatment of the FLSA claims provides an efficient and cost-effective means of resolving common issues pertaining to Class Members.

11. Accordingly, for purposes of settlement only, pursuant to 29 U.S.C. § 216(b), the Court provisionally certifies the FLSA Collective Action as follows:

All persons employed by Defendants as non-exempt dump truck drivers at any time between January 29, 2013 and July 31, 2015, during which they worked at least one workweek in which they (i) worked at least four days, (ii) drove a truck of Defendants that was not registered to operate outside of Virginia for each of the workdays, and (iii) had not driven a truck of Defendants that was registered to operate outside of Virginia during the prior four months.

**Approval of Establishment of Qualified Settlement Fund**

12. The Court hereby approves the establishment of a Qualified Settlement Fund pursuant to Internal Revenue Code Section 468B and the Treasury Regulations promulgated thereunder.

**Approval of Class Notice and Notice Plan**

13. The Court approves, as to form and content, the proposed Class Notice (Exhibit A to the Settlement Agreement) and finds that the mailing and distribution of the Class Notice substantially in the manner and form set forth in the Settlement constitutes the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all persons in the Class, complying fully with due process, the requirements of Federal Rule of Civil Procedure 23, the Constitution of the United States, and any other applicable laws. The Parties are directed to mail the Notice by United States first class mail following entry of this Order.

14. Within five (5) business days following entry of this Preliminary Approval Order, Class Counsel shall retain the Settlement Administrator.

15. Within fourteen (14) calendar days following entry of this Preliminary Approval Order, Defendants shall work with Class Counsel to provide the Settlement Administrator a list of all Class Members, including the following information for each individual: (i) name, (ii) social

security number, (iii) last known address, (iv) last known telephone number(s), (v) specific days worked during the Damages Period (regardless of truck driven), and (vi) specific days worked during the Damages Period driving a truck that was not registered to operate outside of Virginia.

16. Within twenty (20) calendar days after entry of this Preliminary Approval Order, Defendants shall provide Class Counsel a list of the following information for all Class Members: (i) name, (ii) last known address, (iii) last known telephone number(s), (iv) specific days worked during the Damages Period (regardless of truck driven), and (v) specific days worked during the Damages Period driving a truck that was not registered to operate outside of Virginia.

17. Within thirty (30) calendar days after entry of this Preliminary Approval Order, the Settlement Administrator shall mail the Class Notice to Class Members by United States first class mail, postage prepaid.

18. Class Members may opt-out or exclude themselves from the Settlement Agreement by mailing to the Settlement Administrator a signed, written request for exclusion (“Exclusion Request”), post-marked no later than forty-five (45) calendar days after the Class Notices were originally mailed by the Settlement Administrator (the “Opt-out Deadline”). The Exclusion Request must clearly identify the Class Member’s name and address, be personally signed by the Class Member who seeks to opt-out, and clearly express the Class Member’s intent to be excluded from the Settlement.

19. Class Members may object to the Settlement Agreement by mailing to the Settlement Administrator a written statement describing the objection (an “Objection”), post-marked no later than forty-five (45) calendar days after the Class Notices were originally mailed by the Settlement Administrator. The Objection must state with specificity the grounds for the objection and identify whose interests are asserted in the Objection.

20. No later than fourteen (14) calendar days after the Opt-out Deadline, the Settlement Administrator shall provide to the Parties' Counsel a declaration detailing the completed Class Notice process performed in accordance with the Settlement and the Preliminary Approval Order and certifying due diligence ("Settlement Administrator's Certification"). The Settlement Administrator's Certification shall also include a statement detailing the Settlement Administrator's costs of administration. Class Counsel shall file the Settlement Administrator's Certification with the Court at least seven (7) calendar days prior to the Final Approval Hearing.

21. On or before July 16, 2019, 2019 [*approximately 90 days after the entry of the Preliminary Approval Order*], Class Counsel shall move the Court, by one or more motions, for a Final Approval Order:

- (i) Granting final approval to the Settlement Agreement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- (ii) Granting final certification of the Class for settlement purposes pursuant to Rule 23 of the Federal Rules of Civil Procedure and 29 U.S.C. § 216(b);
- (iii) Approving a Service Award for the Class Representative, based upon his time and effort expended on behalf of the Class, the benefit provided to the Class due to his effort, and the risk in coming forward and asserting the Class claims;
- (iv) Awarding Class Counsel attorneys' fees and reasonable expenses incurred in this Lawsuit;
- (v) Awarding the Settlement Administrator its fees and costs; and
- (vi) Dismissing the Released Claims (as defined by the Settlement Agreement) with prejudice and permanently barring all members of the Class, including the Class

Representative, from prosecuting against any Released Parties (as defined by the Settlement Agreement) any of the Released Claims.


22. The Court hereby schedules a hearing (“the Final Approval Hearing”) for August 9, 2019, at 10:00am .m. to determine (i) whether the Settlement Agreement is fair, reasonable, and adequate and should be granted final approval; (ii) whether the Class should be granted final certification for settlement purposes; (iii) whether to approve the Service Award sought by Class Counsel on behalf of the Class Representative; (iv) the amount of attorneys’ fees and expenses to be paid to Class Counsel; and (v) the amount of fees and costs to be paid to the Settlement Administrator.

23. No later than five (5) business days before the Final Approval Hearing, Class Counsel may file supplemental briefing in support of the motion for Final Approval of the Settlement, the request for the Settlement Administrator’s reasonable fees and expenses, the requested Service Award, and/or Class Counsel’s attorneys’ fees and expenses.

24. The Court reserves the right to adjourn or reschedule the date of the Final Approval Hearing without further notice to Class Members.

**IT IS SO ORDERED.**

DATED: 4/16/19

  
/s/  
**Theresa Carroll Buchanan**  
**United States Magistrate Judge**  
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HONORABLE THERESA C. BUCHANAN  
UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF VIRGINIA