



## Judge OK's \$8.75 Million Postmates Settlement

Insights

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A federal judge in California recently gave his blessing to an \$8.75 million settlement in the ongoing litigation by delivery drivers against the food courier service, Postmates. In the class action suit, which was filed in March 2015, delivery drivers claimed that they were misclassified as independent contractors and were paid less than minimum wage. They contended that by labeling them independent contractors instead of employees, Postmates violated California labor statutes, the federal Fair Labor Standards Act (FLSA), and the California Private Attorneys General Act (PAGA). The plaintiffs asked the court to grant them nationwide class status, which ratcheted up the stakes significantly.

Rather than wage war in the courtroom, the two sides agreed to work out a deal. In order to approve the proposed settlement, the judge had to decide whether it was fair to both sides, in light of the issues that were in dispute in the case and their chances of success. In a decision issued September 1, the judge ruled that the settlement was fair, especially because no California court has definitively ruled whether gig workers like Postmates' drivers are, in fact employees or independent contractors. In light of the uncertainty, it was not clear that the Postmates drivers would actually win at trial and recover damages. Adding to the uncertainty was the fact that 70% of the couriers had arbitration agreements, which could keep them out of court altogether. "A class recovery through settlement may be the best hope for most of these couriers recovering anything at all on these claims, given the very low number of couriers who would file individual claims, if required to do so," the judge noted.

Under the settlement deal, the attorneys will receive 25% of the gross payment, or \$2.187 million, for their fees and costs. \$100,000 will go to settle the PAGA claims, while \$300,000 will be allotted for the settlement administrator. The remainder – some \$2.41 million – will go to the drivers in the class. The class covers thousands of couriers in California, New York, Massachusetts, and other states throughout the country.

In addition to money, under the settlement, Postmates agreed to change some of its practices. It has agreed to adopt a new provision that says Postmates can only end drivers' contracts for specific reasons and allows couriers to challenge individual termination decisions. The company also agreed to offer couriers occupational accident insurance.

The Postmates settlement follows recent deals in other cases in which gig economy workers have sued for allegedly being misclassified as independent contractors. For example, in March, the court

sued for allegedly being misclassified as independent contractors. For example, in March, the court approved a deal for \$27 million in a case that alleged Lyft Inc. misclassified drivers and thereby failed to pay tips and expenses. However, not all cases are settling. As readers of this blog are well aware, another lawsuit involving claims that GrubHub misclassified drivers is currently in trial in California.