

1 David Mara, Esq. (SBN 230498)  
2 Matthew Crawford, Esq. (SBN 310230)  
3 **MARA LAW FIRM, PC**  
4 2650 Camino Del Rio North, Suite 205,  
San Diego, CA 92108  
Telephone: 619-234-2833  
Facsimile: 619-234-4048

5 Attorneys for KENDRON FRYER, on behalf  
6 of himself, all others similarly situated,  
and on behalf of the general public

**FILED**  
ALAMEDA COUNTY

APR 07 2022

CLERK OF THE SUPERIOR COURT  
By *[Signature]* Deputy

7  
8  
9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF ALAMEDA**

11 KENBRON FRYER on behalf of himself, all  
12 others similarly situated, and on behalf of the  
13 general public,

14 Plaintiffs,

15 v.

16 TRANSFORCE, INC. and DOES 1-100,

17 Defendants.

Case No. RG20071048

[Consolidated with Case No. HG20075197]

**[PROPOSED] ORDER GRANTING  
PLAINTIFF KENDRON FRYER'S  
MOTION FOR PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT, CONDITIONAL  
CERTIFICATION, APPROVAL OF  
CLASS NOTICE, SETTING OF FINAL  
APPROVAL HEARING DATE**

Date: February 22, 2022

Time: 10:00 a.m.

Dept.: 21

Reservation #: 219437275500

22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**I. RECITALS**

This action is currently pending before this Court as a putative class action (the “Action”). Plaintiff Kendron Fryer has applied to this Court for an order preliminarily approving the settlement of the Action in accordance with the Joint Stipulation and Settlement Agreement (the “Agreement”), which together with the exhibits annexed thereto, sets forth the terms and conditions for a proposed settlement and entry of judgment upon the terms and conditions set forth therein. The Court has read and considered the Memorandum of Points and Authorities in support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, Conditional Certification, Approval of Class Notice, Setting of Final Approval Hearing Date; and Declaration of David Mara, Esq., in Support of Plaintiff’s Motion for Preliminary Approval of Class Action Settlement, and attached exhibits. For purposes of this Order, the Court adopts all defined terms as set forth in the Agreement.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**II. FINDINGS**

After review and consideration of the Agreement and Plaintiff’s motion for preliminary approval and the papers in support thereof, the Court hereby finds and orders as follows:

1. The Agreement falls within the range of reasonableness meriting possible final approval.
2. The certification of the Class solely for purposes of settlement is appropriate in that: (1) the Class Members are ascertainable and so numerous that joinder of all Class Members is impracticable; (2) there are questions of law and fact common to the Class which predominate over any individual questions; (3) Plaintiff’s claims are typical of the claims of the Class; (4) Plaintiff and his Counsel have fairly and adequately represented and protected the interests of the Class; and (5) a class action, and class-wide resolution of the action via class settlement procedures is superior to other available methods for the fair and efficient adjudication of the controversy.
3. The Agreement, and the obligations of the Parties as set forth therein, is fair, reasonable, and is an adequate settlement of this case and is in the best interests of the Class in light of the factual, legal, practical, and procedural considerations raised by this case.

- 1 4. Plaintiff does not have any conflicts that would preclude him from serving as Class  
2 Representative, and his appointment comports with the requirements of due process.
- 3 5. Class Counsel does not have any conflicts that would preclude them from acting as Class  
4 Counsel, and they meet the requirements for appointment as Class Counsel and the  
5 requirements of due process.
- 6 6. The Notice of Proposed Class Settlement attached as Exhibit A hereto and to the  
7 Agreement complies with due process because the Notice of Proposed Class Settlement is  
8 reasonably calculated to adequately apprise Class Members of: (i) the pending lawsuit;  
9 (ii) the terms of the proposed Agreement; and (iii) their rights, including the right to  
10 either participate in the settlement, exclude themselves from the settlement, or object to  
11 the settlement. Plaintiff's proposed plan for class notice and settlement administration is  
12 the best notice practicable under the circumstances.

### 13 **III. ORDER**

14 The Court having considered the papers submitted in support of the motion for  
15 preliminary approval, HEREBY ORDERS THE FOLLOWING:  
16

- 17 1. The Court finds on a preliminary basis that the provisions of the Agreement are fair, just,  
18 reasonable, and adequate and, therefore, meet the requirements for preliminary approval.
- 19 2. The following Class is conditionally certified for purposes of settlement only: All hourly  
20 or non-exempt individuals employed as drivers by Defendant in California from August  
21 14, 2016, through September 1, 2021.
- 22 3. The Agreement provides for the following release as to Settlement Class Members,<sup>1</sup>  
23 which is hereby approved conditionally: all claims made or that could have been made  
24 against the Releasees based on the facts and circumstances alleged in the Complaints,  
25 including claims under California Labor Code sections 201-204, 205.5, 218, 218.5, 222-  
26 224, 226, 226.7, 233-234, 246, 246.5, 510, 512, 515, 558, 1174-1175, 1194-1197.1, 1199,  
27 California Code of Regulations, Title 8, Sections 11090, 11040, and 11070, the federal  
28

<sup>1</sup> Settlement Class Members are Class Members who do not properly and timely request to be excluded from the Settlement.

1 Fair Labor Standards Act, California Business and Professions Code section 17200, *et*  
2 *seq.*, California Wage Order No. 9-2001; and any claim for attorneys' fees and costs  
3 related to the above-referenced released claims. This release shall apply to claims arising  
4 at any point during the period of time from August 14, 2016, through September 1, 2021.

5 4. The Agreement also provides for the following release <sup>by the CWA of</sup> ~~as to Aggrieved Employees,~~  
6 ~~which is hereby approved conditionally.~~ all claims under the California Private Attorney  
7 General Act ("PAGA"), Cal. Lab. Code § 2698, *et seq.* ~~to the extent such claims are~~  
8 ~~predicated on a Released Class Claim.~~ This release shall apply to claims arising at any  
9 point during the period of time from July 9, 2019, through September 1, 2021.

10 5. The settlement appears to be fair, adequate and reasonable to the Class. The settlement  
11 falls within the range of reasonableness and appears to be presumptively valid, subject  
12 only to any objections that may be raised at the final approval hearing and final approval  
13 by this Court.

14 6. Plaintiff Kendron Fryer is conditionally approved as the Class Representative for the  
15 Class.

16 7. A final approval hearing on the question of whether the settlement, attorneys' fees and  
17 costs to Class Counsel, the Class Representative Enhancement, the claims administration  
18 fees and expenses, and amount allocated to Plaintiff's claims under the PAGA should be  
19 finally approved as fair, reasonable and adequate as to Class Members is scheduled in  
20 Department 21 on the date and time set forth in the Implementation Schedule below.

21 8. The Court confirms Phoenix Settlement Administrators as the Settlement Administrator.

22 9. The Court approves, as to form and content, the Notice in substantially the form attached  
23 as Exhibit A hereto and to the Agreement. The Court approves the procedure for Class  
24 Members to participate in, to opt out of, and to object to, the settlement as set forth in the  
25 Notice.  
26  
27  
28

<sup>2</sup> ~~Aggrieved Employees are all hourly or non-exempt individuals employed as drivers by Defendant in California from July 9, 2019 through September 1, 2021.~~

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

10. The Court directs the mailing of the Notice by first class mail to Class Members in accordance with the implementation schedule set forth in the Implementation Schedule below. The Court finds the dates selected for the mailing and distribution of the Notice, as set forth in the Implementation Schedule, meet the requirements of due process and provide the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

11. To facilitate administration of the settlement pending final approval, the Court hereby enjoins Plaintiff and all Class Members from filing or prosecuting any claims, suits or administrative proceedings (including, but not limited to, filing claims with the Division of Labor Standards Enforcement of the California Department of Industrial Relations) regarding claims released by the Agreement unless and until such Class Members have filed valid Requests for Exclusion with the Settlement Administrator and the time for filing valid Requests for Exclusion with the Settlement Administrator has elapsed. This provision shall not apply to claims not alleged in the Action.

**IV. IMPLEMENTATION SCHEDULE**

The Court orders the following Implementation Schedule for further proceedings:

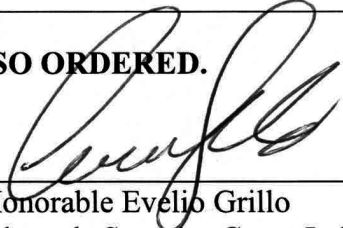
Deadline for Defendant to submit Class Information to Settlement Administrator:	[14 calendar days after Preliminary Approval Order]
Deadline for Settlement Administrator to Mail the Notice to Class Members	[14 calendar days after receipt of Class Information]
Deadline for Class Members to Postmark Requests for Exclusion Forms	[60 calendar days after mailing of Notice to Class Members]
Deadline for Receipt by Court and Counsel of any Objections to the Settlement	[60 calendar days after mailing of Notice to Class Members]

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

Deadline for Class Counsel to file Motion for Final Approval of Settlement	[16 Court days before Final Approval Hearing]
Deadline for Class Counsel to file Motion for Attorneys' Fees, Costs and Class Representative Payment	[16 Court days before Final Approval Hearing]
Final Approval Hearing and Final Approval	_____, 2022 _____

**IT IS SO ORDERED.**

Dated: **APR 07 2022**, 2022

BY   
\_\_\_\_\_  
Honorable Evelio Grillo  
Alameda Superior Court Judge