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More Uber Drivers Object To \$100M Settlement

By **Matthew Bultman**

Law360, New York (May 6, 2016, 7:53 PM ET) -- The list of objections to Uber Technologies Inc.'s \$100 million settlement of a pair of high-profile driver class actions continues to grow in California federal court as more people speak out against the deal, including two drivers who on Thursday called the payout "insultingly low."

Leticia Alcala and Marc Borgen said that the settlement, which would end a legal battle over claims that Uber misclassified drivers as independent contractors and denied them proper tips, has caused an uproar due to its unfairness.

Under the deal, which was **announced in late April**, Uber would pay 385,000 California and Massachusetts drivers \$84 million, with an additional \$16 million to come if the company goes public and meets certain performance metrics.

Alcala and Borgen, who called it a "sweetheart deal" between Uber and lawyers for the class of drivers, said that based on information provided by the plaintiffs, more than half the settlement class could receive an average of \$24 or less.

"Only plaintiffs' counsel and the class representatives — who could receive upward of \$73,000 — stand to make any real money in this deal," the two wrote.

How much of the settlement each driver receives will be based on the number of miles he or she has driven during the relevant time period. The deal, which still needs to be approved by a federal judge, also includes several nonmonetary provisions, such as Uber agreeing to provide drivers with more information about their individual ratings and introducing a policy that explains the circumstances under which they could be deactivated from the service.

The settlement notably does not resolve the central issue in the litigation of whether Uber drivers should be classified as employees rather than independent contractors.

Alcala and Borgen called those nonmonetary provisions "mere window dressing for an otherwise deficient agreement," noting that they are set to expire within two years. Uber may, however, choose to keep them in place after that.

"Since its announcement, the proposed settlement has received a negative reaction from Uber drivers and the press," they wrote, citing as evidence a poll on Uberpeople.net, a forum for Uber drivers, in which more than 53 percent of the drivers polled felt the settlement was a "setback."

"Uber has a long, long road to travel before it is in compliance with the labor laws," Paul J. Napoli of Napoli Shkolnik PLLC, an attorney for Alcala and Borgen, told Law360 on Friday. "Technology cannot erase an employers obligations to maintain a workers basic rights."

The deal, which was announced on April 21, caught many by surprise, since both Uber and the drivers dug in hard in the class actions. Trial in the lead case, O'Connor v. Uber, was slated to begin in late June.

Shannon Liss-Riordan of Lichten & Liss-Riordan PC, an attorney for the class of drivers, told Law360 that the settlement is one of the largest of its kind and said that she is confident the nonmonetary relief would improve the work lives of Uber drivers across the country.

"While the court may well have specific feedback or questions on aspects of the settlement, I strongly believe this result was in the best interest of the class and am satisfied with this result," she said last week.

Still, the deal was almost immediately **met by objections** from a handful of drivers, including one late last month who called the settlement a "joke" and another who said that the ride-hailing service "control[s] us like puppets." Since then, at least 18 other drivers have lodged formal objections with the court, including Alcalá and Borgen.

Uber, which has pushed to keep some information in the case confidential, **on Wednesday agreed** to loosen restrictions on data regarding the total estimated value of claims brought by drivers, saying that making the information public could help class members evaluate the deals.

Uber "desires for absent class members to see for themselves the material benefits this settlement agreement will afford them in the face of the substantial costs and risks associated with further litigation," it told the court.

Representatives for Uber could not immediately be reached for additional comment.

Alcalá and Borgen are represented by Paul J. Napoli and Hunter Shkolnik of Napoli Shkolnik PLLC.

The drivers are represented by Shannon Liss-Riordan and Adelaide Pagano of Lichten & Liss-Riordan PC, and Matthew D. Carlson of Carlson Legal Services.

Uber is represented by Theodore J. Boutros Jr., Debra Wong Yang, Marcellus A. McRae, Theane D. Evangelis, Dhananjay S. Manthripragada, Brandon J. Stoker, Joshua S. Lipshutz and Kevin J. Ring-Dowell of Gibson Dunn.

The district court cases are O'Connor et al. v. Uber Technologies Inc. et al., case number 3:13-cv-03826, and Hakan Yucesoy v. Uber Technologies Inc. et al, case number 15-cv-00262, in the U.S. District Court for the Northern District of California.

--Additional reporting by Linda Chiem and Kerry Benn. Editing by Stephen Berg.

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