

Electronically Received 12/03/2024 05:17 PM

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

OLIVIER & SCHREIBER PC
Christian Schreiber – SBN 245597
christian@os-legal.com
475 14th Street, Suite 250
Oakland, California 94612
Telephone: (415) 484-0980
Facsimile: (415) 658-7758

CONN LAW, PC
Elliot Conn – SBN 279920
elliott@connlawpc.com
100 Bush Street, Suite 1580
San Francisco, CA 94104
Telephone: (415) 417-2780
Facsimile: (415) 358-4941

*Attorneys for Plaintiff Matthew Peterson and
the Proposed Class*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
UNLIMITED JURISDICTION

MATTHEW PETERSON, individually, on
behalf of all others similarly situated, and on
behalf of the general public,

Plaintiff,

v.

FLIXBUS, INC.; and DOES 1-10, inclusive,

Defendants.

FILED
Superior Court of California
County of Los Angeles
12/06/2024
David W. Slayton, Executive Officer / Clerk of Court
By: L. Ennis Deputy

Case No.: 23STCV06069

ASSIGNED TO FOR ALL PURPOSES: JUDGE
STUART M. RICE, DEPARTMENT 1

**AMENDED [~~PROPOSED~~] ORDER
GRANTING PRELIMINARY APPROVAL
OF SETTLEMENT AND APPROVAL OF
CLASS NOTICE**

Date: December 3, 2024
Time: 10:30 a.m.
Dept: 1

Complaint Filed: March 17, 2023

1 **BACKGROUND**

2 **THIS MATTER HAVING** come before this Court for an Order preliminarily certifying a
3 settlement class and preliminarily approving a settlement between Plaintiff Matthew Peterson,
4 individually and on behalf of the proposed Class, and Defendant FlixBus, INC., and this Court
5 having reviewed the Settlement Agreement and attachments thereto submitted to the Court with the
6 Motion for Preliminary Approval of Class Action Settlement, and the Parties having consented to
7 the entry of this Order;

8 **IT IS HEREBY ORDERED** as follows:

9 1. This Order of Preliminary Approval incorporates the Settlement Agreement, and the
10 terms used in this Order shall have the meanings and/or definitions given to them in the Settlement
11 Agreement, as submitted to the Court with the Motion for Preliminary Approval of Class Action
12 Settlement.

13 2. For purposes of the settlement, and conditioned upon the settlement receiving final
14 approval following the Final Approval Hearing, the Court hereby certifies a Class, defined as
15 follows and subject to the stated exclusions below:

16 “Class” means all individuals who purchased seat reservations for any FlixBus trip between
17 January 12, 2020 and January 15, 2023, who did not receive a refund of such seat
18 reservation payment before January 15, 2023.

19 3. The settlement provides for the following non-monetary relief. Upon final approval,
20 FlixBus agrees to make the following changes in business practices:

- 21 • The following language will appear on the FlixBus website for 12 months following the
22 entry of the Final Approval Order: “If you are unable to sit in your reserved seat during
23 your trip, we’ll gladly issue a refund of the seat reservation fee if you are eligible. A link to
24 instructions on how to obtain a refund will be included in your ticket.”
- 25 • The link to the refund will be printed or appear on the tickets for 18 months following the
26 Final Approval Order. An example of an electronic ticket showing this language is attached
27

1 as Exhibit C to the Settlement Agreement. If the customer clicks “link,” the link would lead
2 to the following:

3 *My seat reservation was cancelled. What should I do?*

4 *We’re sorry that you didn’t get to use your reservation because of a change in your*
5 *trip. The price of your reservation will be refunded to your original form of*
6 *payment. If you want to apply for a refund of the seat reservation fee, please click*
7 *on the contact button below and fill out the form.*

- 8 • FlixBus will not sell seat reservations for buses that FlixBus is aware lack seat number
9 labels.
- 10 • FlixBus will send periodic communications to operators reminding them of the need to use
11 seat number labels on any buses that are used for routes advertised on the FlixBus platform.
- 12 • FlixBus will request that operators provide written confirmation that buses used for routes
13 sold on its platform contain seat number labels.
- 14 • FlixBus will revise its standard operator agreement used for new partner relationships, and
15 as used when agreements with existing operators expire and/or become subject to renewal,
16 to include stricter contractual requirements governing the use of seat numbering on buses
17 used for routes advertised on the FlixBus platform, including the provision of photographic
18 proof of seat labels and reimbursement to FlixBus for damages suffered as a result of the
19 operator’s breach of its obligations. FlixBus makes no representation regarding final
20 contract terms negotiated by operators.

21 4. The monetary terms of the settlement are as follows:

22 Gross Settlement Amount (¶4.1):	\$1,490,000.00
23 Maximum Administrator Expense (¶4.2(c)):	\$250,000.00
24 Maximum Class Representative Service Award Sought (¶4.2(a)):	\$7,500.00
25 Maximum Attorneys' Fees Sought (1/3 of 26 Gross Settlement Amount) (¶4.2(b)):	\$496,666.67
27 Maximum Costs and Expenses Sought (¶4.2(b)):	\$30,000.00

Minimum Net Settlement Amount to Be Distributed to Class (¶4.2(d)):	\$735,833.33
---	--------------

5. The court preliminarily approves the National Consumer Law Center and Consumer Federation of America as *cy pres* recipients of the residue of any unclaimed individual class payments and preliminary finds them to meet the criteria set forth in California Code of Civil Procedure § 384. The Parties have averred that they have no interest or involvement in the governance or work of either proposed *cy pres* recipient.

6. The Court finds that the Class is ascertainable and sufficiently numerous, there exists a well-defined community of interest, and a class is superior to alternative proceedings. (*Brinker Rest. Corp. v. Super. Ct.* (2012) 53 Cal. 4th 1004, 1021; Code Civ. Proc. § 382.) There are approximately 516,135 Class Members, making it impracticable to bring them all before the court.

7. The Court is satisfied that common questions of fact and law exist that predominate over individual issues for purposes of certifying a settlement class. Plaintiff's claims are the same as those of the proposed Class and will be resolved in the same way. All Class members allegedly faced the same issue of paying for seat reservations without receiving the promised service. The Court concludes that Plaintiff's claims are typical of all other Class Members. The adequacy requirement is met because Plaintiff has provided fair and adequate representation for the settlement Class. Plaintiff has no conflicts of interest with other Class Members, has experienced the same alleged legal violations, and has vigorously prosecuted the class claims by actively participating in the investigation and settlement of the claims. Additionally, Plaintiff's Counsel have considerable experience litigating complex class actions, including consumer protection cases, are familiar with the legal and factual issues involved, and are well qualified to serve as Class Counsel. Finally, a class action is superior to any other available method for litigating Class members' claims against FlixBus. It would be inefficient and a waste of judicial resources to resolve these relatively small, but highly similar claims in separate trials.

8. Without prejudice to final approval of the proposed class settlement, the Settlement, on the terms and conditions stated in the Settlement Agreement, is preliminarily approved by this Court as being fair, reasonable and adequate, free of collusion or indicia of unfairness, and within

1 the range of possible final judicial approval. The Court specifically finds that the Settlement
2 resulted from extensive arm's-length negotiation, the Settlement is sufficient to warrant
3 dissemination of notice of the Settlement and of the final approval hearing to the Class. The Court
4 further finds that the Plaintiff and Class Counsel have and will fairly and adequately represent the
5 interests of the Class and satisfy the requirements to be representatives of and counsel to the Class,
6 respectively.

7 9. The Court therefore appoints Olivier & Schreiber PC and Conn Law, PC as Class
8 Counsel and Plaintiff Matthew Peterson as the Class Representative.

9 10. A final approval hearing shall be held on April 14, 2025, at 10:30 a.m., in
10 Department 1 of the of the above-entitled Spring Street Courthouse, located at 312 North Spring
11 Street, Los Angeles, California 90012, to consider: (a) the fairness, reasonableness and adequacy of
12 the proposed settlement; (b) whether the settlement should be finally approved by this Court; (c)
13 the application of Class Counsel for an award of Attorneys' Fees and Costs; (d) the application of a
14 service award to the Class Representative; (e) approval of *cy pres* recipients; and (f) such other
15 matters as the Court may deem proper and necessary.

16 11. The Court approves of Verita as the Class Administrator, to perform the duties set
17 forth in the proposed Settlement Agreement.

18 12. The Class Notice attached to the Settlement Agreement as Exhibit A is hereby
19 approved for the purpose of notifying the Class as to the proposed settlement, the final approval
20 hearing, and the rights of members of the Class, and it shall be provided via email and posted on a
21 settlement website substantially in the form approved to the members of the Class in both English
22 and Spanish. The website domain will be FlixBusSettlement.com.

23 13. As set forth in the Settlement Agreement, the Class Administrator shall provide
24 notice to the Class as defined above. The Class Notice shall be emailed to the respective members
25 of the Class in English and Spanish, via email within 31 days of the issuance of this Order of
26 Preliminary Approval.

1 14. Not later than 5 days before the date by which Plaintiff is required to file the motion
2 for final approval, the Administrator will provide to Class Counsel and Defense Counsel, a signed
3 declaration suitable for filing in Court attesting to its due diligence and compliance with all of its
4 obligations under this Agreement, including, but not limited to, its administration of Class Notice
5 and the number of written objections. The Administrator will supplement its declaration as needed
6 or requested by the Parties and/or the Court. Class Counsel is responsible for filing the
7 Administrator’s declaration(s) in Court.

8 15. The Class Notice, as set forth in Exhibit A to the Settlement Agreement, and
9 approved by this Order, is the best notice practicable, and is reasonably calculated, under the
10 circumstances, to apprise the Class of the pendency of the Action and their right to participate in,
11 object to, or exclude themselves from the Settlement. The Court further finds that the Class Notice
12 is due and sufficient notice of the final approval hearing, the Settlement, the application for
13 attorneys’ fees, and expenses, and service awards, and other matters set forth therein, and that the
14 Class Notice fully satisfies California Rules of Court and due process of law, to all persons entitled
15 thereto.

16 16. Any Class member who intends to object (“Objector”) to the fairness,
17 reasonableness and adequacy of the Settlement (“Objections”) by filing a written objection, must
18 file a written Objection with the Court and serve it on the Administrator, by mail or email, no later
19 than sixty (60) days after the date the Class Notice is emailed to the Class.

20 Mailing Address of Class Administrator:

21 Verita
22 Peterson v. Flixbus, Inc.
23 P.O. Box 301134
24 Los Angeles, CA 90030-1134

25 Email Address of Class Administrator:

26 Admin@FlixbusSettlement.com

27 17. If an Objection is overruled, the Objector will be bound by the terms of the
28 Settlement Agreement. Any Class member who files Objections may not also elect to exclude

1 himself or herself from the Settlement Agreement. Notwithstanding the foregoing, absent good
2 cause found by the Court, the Court will allow Objectors to be heard at the Final Approval Hearing
3 even if the Objector has not filed a written objection.

4 18. Class members may elect to exclude themselves from the Settlement Agreement,
5 relinquishing their rights to any and all benefits under the Settlement Agreement. Class members
6 who exclude themselves from the settlement will not release their claims pursuant to the release set
7 forth in the Settlement Agreement. A Class member wishing to exclude himself/herself from the
8 settlement must email or mail a signed written request letter postmarked no later than sixty (60)
9 days after the date the Class Notice is emailed to the Class Administrator at the mailing address or
10 email address set forth above, which in all respects complies with the terms and conditions for
11 exclusion as set forth in the Class Notice, approved herein and Settlement Agreement.

12 19. FlixBus will not be bound by the terms of the Settlement Agreement or any Final
13 Approval Order in the case as to any Class member who timely and properly requests exclusion
14 from the Class.

15 20. All discovery and other pretrial proceedings in this Action are stayed and suspended
16 until further order of this Court, except such actions as may be necessary to implement the
17 Settlement Agreement and this Order.

18 21. In the event that (a) this Court does not finally approve the Settlement as provided
19 in the Settlement Agreement; (b) this Court does not enter the Final Approval Order and Judgment
20 as provided in all material respects and substantial form set forth in the Settlement Agreement; or
21 (c) the Settlement does not become final for any other reason, the Settlement Agreement shall be
22 null and void and any order or judgment entered by this Court in furtherance of this settlement
23 shall be vacated *nunc pro tunc*. In such a case, the Parties shall proceed in all respects as if the
24 Settlement Agreement had not been executed and the Parties shall in no way be prejudiced in
25 proceeding with or defending this litigation, the conditional class certification effected herein will
26 be null and void, and FlixBus shall have the right to object to certification of the Class or any other
27 class at any future time.

