



SUPREME COURT
STATE OF NEW YORK

JAMES H. FERREIRA
ACTING JUSTICE

CHAMBERS
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November 15, 2016

Thomas R. Fallati, Esq.
Tabner, Ryan & Keniry, LLP
18 Corporate Woods Blvd., Suite 8
Albany, New York 12211

Re: Albany County Supreme Court
Owner Operator Independent Drivers Assn et al v NYS Dept of Taxation et al
Index No.: 5551-13

Dear Mr. Fallati:

Enclosed is an executed Order with regard to the above referenced matter. The original is being forwarded to you for filing with the County Clerk and service. A copy of the Order and the original supporting papers have been sent to the County Clerk for placement in the file.

Sincerely,

A handwritten signature in cursive script, appearing to read "Helen L. Ashley".

Helen L. Ashley, Secretary to
Hon. James H. Ferreira
Acting Justice of the Supreme Court

Enclosure

cc: / Daniel E. Cohen, Esq.
Helena Lynch, Esq., AAG

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY**

-----	X
OWNER OPERATOR INDEPENDENT DRIVERS	:
ASSOCIATION, et al.,	:
	:
Plaintiffs,	:
	:
v.	:
	:
NEW YORK STATE DEPARTMENT OF TAXATION	:
AND FINANCE, et al.,	:
	:
Defendants.	:
-----	X

**Index No.: 5551-13
RJI No.: 01-13-111950
Hon. James H. Ferreira**

ORDER

WHEREAS, by Decision & Order & Judgment dated January 22, 2016, this Court granted summary judgment to Plaintiffs on their causes of action alleging that registration and decal fees collected by Defendants from class members in this action pursuant to Tax Law 502(1)(a), and Tax Law 502(6)(a), are unconstitutional under the Commerce Clause of the U.S. Constitution; and

WHEREAS, the Parties entered into a Settlement Agreement executed September 21, 2016 to resolve outstanding issues pertaining to, *inter alia*, damages and class administration; and

WHEREAS, pending before the Court is Plaintiffs' Motion for Preliminary Approval of the: (1) Settlement Agreement executed September 21, 2016; (2) Application for Attorneys' Fees, Expenses, Class Representative Awards, and Cy Pres Distribution; (3) Proposed Class Notice; and, (4) Class Distribution Plan; and

WHEREAS, Defendants have advised that they are not filing a response to the motion.

Accordingly, it is hereby

ORDERED that Plaintiffs' Motion for Preliminary Approval of the (1) Settlement Agreement executed September 21, 2016; (2) Application for Attorneys' Fees, Expenses, Class Representative Awards, and Cy Pres Distribution; (3) Proposed Class Notice; and, (4) Class Distribution Plan is granted ^{for the reasons provided in plaintiffs' motion papers} and it is further

Just

attached to the Affidavit of Danie E. Cohen as Exhibit H,

Just

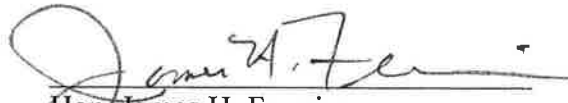
ORDERED that Plaintiffs shall send the Proposed Class Notice to absent class members within thirty (30) days of the date of this ORDER; and it is further

ORDERED that absent class members shall file any objections or notices to opt-out to the Class Administrator within thirty (30) days of the postmark date of the Class Notice; and it is further

ORDERED that Plaintiffs are directed to provide the Court a memorandum addressing objections or opt-out notices filed by class members within thirty (30) days of the deadline for the submission of such objections and opt-out notices; and it is further

ORDERED that a hearing regarding final approval of the Class Settlement and related matters shall be conducted within thirty (30) days of the deadline for Plaintiffs' memorandum addressing objections or opt-out notices filed by class members, or at such other date established by the Court.

Dated: November 15 2016


Hon. James H. Ferreira
Acting Justice of the Supreme Court