

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

ROADWAY EXPRESS, INC., and YRC, INC.,

Defendants.

**06-cv-4805, 08-cv-5555
Magistrate Judge Cox**

**WILLIAM BANDY, TOBY LEE, LUSHAWN SMITH,
MARK WILLIAMS CLARENCE STOKES,
FRED THOMPSON, CLARENCE ROYSTER,
ANTAWON L. MARSHAL, NERVILLE COX
and CLEOPHUS MARSHALL,**

Plaintiffs,

v.

ROADWAY EXPRESS, INC. and YRC, INC.,

Defendants.

**Re) 10-cv-5304
Magistrate Judge Cox**

PRELIMINARY APPROVAL ORDER

Upon consideration of the Intervening-Plaintiffs' and EEOC's Unopposed Motion for Preliminary Approval of Consent Decree, and separate supporting memoranda and materials filed by the parties, including the parties' proposed Consent Decree, it is hereby ordered that the Motion be, and it is, **GRANTED**.

The Court further makes the following findings and rulings:

1. Jurisdiction. This Court has jurisdiction over the subject matter of the litigation and over all parties to this litigation, including all members of the §1981 Settlement Class as defined below.

2. No Determination. This Court hereby decrees that neither the Consent Decree, nor this preliminary approval order, nor the fact of a settlement, are an admission regarding any claims or

potential claims or any defenses whatsoever.

3. Proposed Settlement. The Court finds preliminarily that the parties' proposed Consent Decree is fair, adequate and reasonable, and, therefore, warrants submission to members of the §1981 Settlement Class for their consideration and a formal fairness hearing under Fed. R. Civ. P. 23(e) ("Fairness Hearing").

4. §1981 Settlement Class Certification. The Court provisionally finds that the requirements of Fed. R. Civ. P. 23(a) have been satisfied, and that the class-wide claims pursuant to 42 U.S.C. § 1981 asserted in the Amended Complaint in Intervention, case number 10-cv-5304, may be certified pursuant to Fed. R. Civ. P. 23(b)(2). The §1981 Settlement Class shall consist of:

All African-American employees of the Defendants working at their Chicago Heights or Elk Grove Village facilities as a dockworker, including switchers, seniority list, percenter and casual positions, at any point between April 9, 2003 and the present.

This Court's certification of the §1981 Settlement Class is for purposes of the settlement agreement and is provisional pending final approval of the Consent Decree. If the Consent Decree is not approved, this certification will be null and void.

5. Appointment of Class Representatives and Class Counsel. The Court finds that plaintiffs and their counsel are adequate representatives of the §1981 Settlement Class. Accordingly, the Court appoints William Bandy, Toby Lee, Lushawn Smith, Mark Williams Clarence Stokes, Fred Thompson, Clarence Royster, Antawon L. Marshal, Nerville Cox And Cleophus Marshall, as Class Representatives, and Jeffrey L. Taren and Joanne Kinoy of Kinoy, Taren & Geraghty P.C. as §1981 Class Counsel.

6. Claims Administrator. The Court approves the parties' agreement that Settlement Services Inc., whose duties are set forth in the Consent Decree, will serve as the Claims Administrator.

¹ Four years prior to the April 10, 2007 filing of the interveners' class action complaint in intervention. *See Jones v. Donnelley & Sons Inc.*, 541 U.S. 369, 124 S. Ct. 1836 (2004).

7. Notice and Claim Form. The attached Notice of Class Action, Proposed Settlement Agreement and Settlement Hearing ("Notice") are hereby approved as reasonable, adopted and incorporated herein. The parties are directed to serve the Notice and EEOC Claim Forms on class members as set forth in the proposed Consent Decree.

8. Requests for Exclusion. The Notice sets forth the procedures pursuant to which members of the §1981 Settlement Class may exclude themselves ("opt-out") from the § 1981 Settlement Agreement. Any request for exclusion must be received by November 1, 2010, which is ten (10) days before the fairness hearing described below, pursuant to the terms of the Consent Decree.

9. Objections to the Proposed Settlement. The Notice sets forth the procedures pursuant to which members of the §1981 Settlement Class may object to the terms of the Settlement Agreement. Any objection must be received by November 1, 2010, which is ten (10) days before the fairness hearing described below, pursuant to the terms of the Consent Decree.

10. Fairness Hearing. The Court shall hold a fairness hearing on the proposed § 1981 settlement on November 10, 2010, which, pursuant to the terms of the Consent Decree, is a date at least thirty-five (35) days after notice of preliminary approval of the consent decree has been issued.

11. Motion for Final Approval. The parties are to file motions for final approval of their proposed class settlement and to address any objections to the Settlement Agreement, no later than December 13, 2010, which, pursuant to the terms of the Consent Decree, is at least ninety (90) days after preliminary approval of the consent decree. The parties will appear to present their motions for final approval on December 16, 2010.

12. Final Approval. A decision on final approval shall be entered on or after December 20, 2010, to allow Defendant to satisfy notice obligations under the Class Action Fairness Act.

ENTERED this 14th DAY OF September, 2010

A handwritten signature in black ink, appearing to read "Susan E. Cox", written over a horizontal line.

SUSAN E. COX
U.S. Magistrate Judge