

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

**IF YOU WORKED AS A MERCHANDISER FOR RETAIL MERCHANDISING
SOLUTIONS, INC. IN THE STATE OF CALIFORNIA, YOU MAY OBTAIN
PAYMENTS FROM A SETTLEMENT REACHED IN A PROPOSED CLASS ACTION
LAWSUIT**

PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.

This Notice is court approved. This is not a solicitation from an attorney.

YOUR LEGAL RIGHTS AND OPTIONS IN THE SETTLEMENT	
DO NOTHING	<p>Receive compensation but lose rights to sue separately.</p> <p>If you do nothing, you will receive compensation for your claims alleged in this lawsuit. You will also give up your rights to ever sue RMSI about any of the claims in this case.</p>
EXCLUDE YOURSELF FROM THE SETTLEMENT	<p>Get no compensation but keep rights to sue separately.</p> <p>If you ask to exclude yourself from the settlement you will not receive any compensation from the settlement, but you will keep your rights to file a separate claim. Please be advised, however, that the time limits for filing a separate claim may have expired.</p>
OBJECT OR COMMENT	<p>Tell the Court why you like or don't like the settlement.</p> <p>You may write to the Court, or you may appear personally or through your own attorney and your own expense, and tell the Court about why you do or do not like the settlement. You must remain a part of the lawsuit to comment or object to the settlement, and you cannot object if you also ask to be excluded.</p>
<p>These rights and options – and the time deadlines for exercising them – are explained further in this Notice.</p>	

WHY DID I GET THIS NOTICE?

You have received this Notice because we believe that you are a class member who may be entitled to money from this settlement.

This Notice describes a proposed settlement of the lawsuit *George v. Retail Merchandising Solutions, Inc.*, pending in the Alameda County Superior Court, Case No. RG16828194 (the "Lawsuit"). This Notice is being sent to you by the order of the Alameda County Superior Court, which preliminarily approved the settlement and conditionally certified the Settlement Class on May 22, 2018. At that time, the class population was believed to only include approximately 3,700 individuals. Subsequently, the Parties became aware that approximately 409 individuals were inadvertently excluded. You are receiving this because you are one of those 409 individuals who may be entitled to money from this settlement.

Any Questions? Call Phoenix Settlement Administrators, (800) 523-5773.

This Notice informs you of the terms of the proposed settlement, describes your rights and options in connection with the settlement, and explains what steps you may take to participate in, object to, or exclude yourself from, the settlement. **If you do not exclude yourself from the settlement and the settlement is finally approved by the Court, you will receive a settlement payment and be bound by the terms of the settlement and any final judgment.**

WHAT IS THIS LAWSUIT ABOUT?

The Lawsuit was filed by Plaintiff Kimberly George (“Plaintiff”) on behalf of individuals who worked as Merchandisers for Retail Merchandising Solutions, Inc. (“RMSI”) in California between August 22, 2012 and April 10, 2017.

The Lawsuit alleges RMSI failed to pay Merchandisers for all hours worked, particularly with respect to drive time, in violation of California law. The Lawsuit also alleges RMSI failed to properly and fully reimburse Merchandisers for work-related mileage expenses. Finally, the Lawsuit alleges Merchandisers missed meal and rest breaks because drive time was not properly recorded. RMSI denies each and all of the claims and contentions alleged by the Plaintiff. The Court has not made any rulings regarding the merits of the Lawsuit.

After engaging in extensive investigation and a full day of mediation before an experienced mediator, in which both sides recognized the substantial risks of an adverse result in the Lawsuit for either side, Plaintiff and Defendant agreed on a class settlement that was preliminarily approved by the Court on May 22, 2018. At that time, the class population was believed to only include approximately 3,700 individuals. Subsequently, the Parties became aware that approximately 409 individuals were inadvertently excluded. Now, using the same formula applied to the 3,700 individuals initially a part of this settlement, RMSI has agreed to pay an additional \$32,740.47 to the 409 incorrectly excluded class members. Plaintiff and Class Counsel support this solution and the proposed payments to the individuals mistakenly excluded.

The settlement represents a compromise of highly disputed claims. Nothing in the settlement is intended to or will be construed as an admission by RMSI that Plaintiff’s claims in the Lawsuit have merit or that it has any liability to Plaintiff or the Class on those claims.

The parties and their counsel have concluded that the settlement is advantageous, considering the risks and uncertainties to each side of continued litigation and trial.

WHAT IS A CLASS ACTION?

In a class action lawsuit, one or more persons, called Class Representatives, sue on behalf of other people who have similar claims. Kimberly George is the Class Representative in the Lawsuit, and she asserts claims on behalf of herself and the Class Members. All of the Class Members form a Class. A class action allows one court to resolve the claims of all the Class Members at the same time. A California Superior Court judge, Judge Brad Seligman, is in charge of this class action.

WHY IS THERE A SETTLEMENT?

The Court did not decide in favor of Plaintiff or RMSI. Instead, both sides agreed to a settlement. That way, both sides avoid the risks and costs of a trial, and people affected will quickly receive compensation. The Class Representative and the attorneys think the settlement is best for the Class.

WHO IS INCLUDED IN THE SETTLEMENT CLASS?

All individuals who worked for RMSI as a Merchandiser in California from August 22, 2012 through the April 10, 2017, are included in the Class. This includes individuals who held the job titles of Project Merchandiser, Project Trainer, Remodel Merchandiser, Remodel Team Lead, Team Lead, Wave Merchandiser, Wave Trainer, or any similar position however titled.

According to RMSI's records, you are member of the Class and eligible for payments under the settlement. If you are still not sure if you are entitled to participate in the settlement, please call Phoenix Settlement Administrators at (800) 523-5773.

WHAT ARE THE TERMS OF THE CLASS SETTLEMENT?

In exchange for the release of claims against it through April 10, 2017, and final disposition of the Lawsuit, RMSI has thus far paid One Million Two Hundred Thousand Dollars and Zero Cents (\$1,200,000.00). Now, in exchange for the release of claims against it and final disposition of the Lawsuit with respect to the 400 incorrectly excluded class members, RMSI will make a further payment of Thirty-Two Thousand Seven Hundred Forty Dollars and Forty-Seven Cents (\$32,740.47) plus taxes ("Class Settlement Amount"). In total, RMSI will have paid a total of One Million Two Hundred Thirty-Two Thousand Seven Hundred Forty Dollars and Forty-Seven Cents (\$1,232,740.47) plus taxes. After attorney's fees and costs, a service payment to the Plaintiff, a payment to the California Labor and Workforce Development Agency, and settlement administration costs are deducted from the Class Settlement Amount, the remaining "Net Settlement Amount" was distributed to Participating Class Members. With Court approval, the Class Settlement Amount was allocated as follows:

- **Individual Settlement Payment: Each Participating Class Member received or will receive a payment based on factors specific to them, including the total compensation they were paid by RMSI during the relevant time period.**

Individual Settlement Payments were calculated as follows: first, each Class Member's total compensation during the relevant time period was totaled. Then, each Class Member received his or her percentage of the Net Settlement Amount based what that Class Member's percentage share of the total wages paid to all Class Members was. For example, if a Class Member was paid 0.025% of all wages RMSI paid to Merchandisers during the relevant time period, then that Class Member received 0.025% of the Net Settlement Amount. This way, Merchandisers who worked for RMSI for longer periods of time, were paid more, and/or drove more miles, received a larger share of the settlement than Merchandisers who worked for shorter periods of time, worked fewer shifts and hours, and/or did less driving.

Your settlement portion will be calculated using the same formula and your payment will the same as if you had been included in the settlement from the beginning.

- **Class Representative Service Payment:** For acting as the Class Representative, Plaintiff has requested, and the Court has granted, an award of \$2,500.00 in recognition of and as compensation for her efforts, such as starting the Lawsuit, volunteering time to assist with the case, and providing information and documents, as well as risks she assumed in starting and assisting with the prosecution of the Lawsuit. Your settlement portion is unaffected by the Class Representative Service Payment.
- **Class Counsel's Attorney's Fees and Costs:** Class Counsel has requested, and the Court has granted, thirty percent (30%) of the Class Settlement Amount (\$360,000.00) as attorney's fees for litigation and resolution of the Lawsuit. Class Counsel also requested and received from the Court reimbursement for litigation costs advanced on behalf of the Class, which were \$10,000.00. Your settlement portion is unaffected by Class Counsel's Attorney's Fees and Costs.
- **PAGA Payment:** \$10,000.00 from the Class Settlement Amount was allocated for payment to the State of California under the Private Attorneys General Act of 2004. Upon Court approval 75% of the allocation (\$7,500.00) was paid to the California Labor and Workforce Development Agency, and 25% (\$2,500.00) of the allocation was distributed to the Class as part of the Net Settlement Amount. Your settlement portion is unaffected by the PAGA payment.
- **Settlement Administration:** The Court previously approved settlement administration costs of \$21,000.00. All additional costs of settlement administration will be paid for separately by RMSI and will not affect your settlement portion.

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- All checks issued to Participating Class Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of their issuance. After that time, half of the money corresponding to any unclaimed or uncashed checks will be sent to the East Bay Community Law Center, which is a non-profit charitable organization dedicated to providing a wide variety of free legal services to low-income and disadvantaged individuals in the Bay Area community. The other half of the money corresponding to any unclaimed or uncashed checks will be sent to the California State Treasury, as required by law, for deposit in the Trial Court Improvement and Modernization Fund and the Equal Access Fund of the Judicial Branch.

WHAT DO I NEED TO DO TO RECEIVE A SETTLEMENT PAYMENT, AND HOW MUCH WILL I RECEIVE?

You do not need to do anything to receive a payment from the settlement.

RMSI's records show that, while you worked as a Merchandiser during the relevant time period, you were paid total compensation of \$____. Accordingly, your anticipated settlement share is \$_____.

25% of your payment will be issued in a check representing unpaid wages with applicable federal, state, and local tax withholdings taken out, and you will be sent an IRS Form W-2 for tax purposes (just like a paycheck). 75% of your payment will be issued in a check representing unreimbursed expenses, penalties, and interest, and you will be issued an IRS Form 1099 for tax purposes. You will need to speak with an accountant or other tax professional about any tax issues related to your settlement checks.

If you dispute the information about the amount of your anticipated settlement share, you must advise the Settlement Administrator and follow the steps below to substantiate your dispute.

To dispute the amount of your anticipated settlement share you must send in the mail any records (such as paystubs, pay checks or other records) supporting your calculation of the total amount of compensation you were paid by RMSI while working as a Merchandiser along with a letter explaining the dispute, and be sure to include the last four digits of your social security number by July 27, 2019. The date of the post-mark will determine if it was timely mailed. The Settlement Administrator will review the information you submit along with RMSI's records and make a final determination as to the correct amount of your settlement share.

The Settlement Administrator is:

George v. RMSI
c/o Phoenix Settlement Administrators
PO Box 7208
Orange, CA 92863

WHAT AM I GIVING UP TO STAY IN THE CLASS AND GET COMPENSATION?

Unless you ask to be excluded, you will remain a part of the Settlement Class, and that means you can't sue, continue to sue, or be a part of any other lawsuit or proceeding making any of the same claims and allegations made in *this* case. It also means all of the Court's orders will apply to you and legally bind you. If stay in the Settlement Class, you will be deemed to have released and discharged RMSI as well as any and all of its affiliates, employees, directors, officers, shareholders, agents, attorneys, successors and assigns, from any and all claims, causes of action or obligations of any kind or nature whatsoever (including claims that have been or could have been asserted against them in this lawsuit or in any other lawsuit or claim in any other court or forum), known or unknown, that were alleged or could have been alleged based on the factual allegations regarding unpaid wages, unpaid expense reimbursement, and missed meal and rest breaks alleged in the First Amended Complaint or identified in the Joint Stipulation of Class Action Settlement and Release.

The Settlement Agreement contains additional details about the scope of the Release and Released Claims, and may be viewed online at the Settlement Administrator's website listed below.

DO I HAVE A LAWYER IN THIS CASE?

The Court has decided the law firm below is qualified to represent you and the Settlement Class. This law firm is called "Class Counsel."

Law Offices of J. Kirk Donnelly, APC
4370 La Jolla Village Drive, Suite 800
San Diego, California 92122
Telephone: (858) 260-6170
kdonnelly@jkd-law.com

If you want to be represented by your own lawyer, you may hire one at your own expense.

WHAT IF I DON'T WANT TO PARTICIPATE IN THIS SETTLEMENT?

You have the right to request exclusion from the settlement. To do so, you must submit a written opt out request to the Settlement Administrator at the following address:

George v. RMSI
c/o Phoenix Settlement Administrators
PO Box 7208
Orange, CA 92863

To be valid, a written request for exclusion must: (1) state your name, address, telephone number, and last four digits of your social security number; (2) be signed by you; (3) be mailed by first-class mail no later than July 27, 2019 to the Settlement Administrator at the above address; and (4) clearly state that you do not wish to be included in the settlement. The date of the postmark will determine if your opt out request was timely mailed. Unless you timely request to be excluded from the settlement, you will be bound by the judgment upon final approval of the settlement and payment of the Class Settlement Amount, including the Release described in this Notice.

If you timely request to be excluded from the settlement, you will not be entitled to receive any payment under the settlement. Class Counsel will not represent your interests if you request to be excluded.

WHAT IF I WANT TO OBJECT TO THIS SETTLEMENT?

Any Class Member who has **not** asked to be excluded from the settlement may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through an attorney at your own expense, provided you notify the Court of your intent to do so. The Final Approval Hearing is scheduled to take place on September 10, 2019, at 3:00 p.m. in Department 23 of the Superior Court of the State of California for the County of Alameda, located at 1221 Oak Street, Oakland, California 94612.

To be valid, all written objections and supporting papers if any, and/or notices of intent to appear at the Final Approval Hearing must: (1) state your full name, address and telephone number; (2) provide a written statement of all grounds for the objection accompanied by any legal support for the objection or a brief statement of why you wish to appear at the Final Approval Hearing; (3) state the last four digits of your social security number (4) be signed by you or your counsel; and (5) clearly identify the case name and number. The case name is "George v. Retail Merchandising Solutions, Inc." and the case number is "RG16828194." You may submit both an objection and a notice of intent to appear, and may include both as part of the same document.

You must submit your written objection and all supporting papers if any, and/or any notice of intent to appear at the Final Approval Hearing to the Settlement Administrator by mailing to the following address:

George v. RMSI
c/o Phoenix Settlement Administrators
PO Box 7208
Orange, CA 92863

To be valid, your written objection, all supporting papers, and/or any notice of intent to appear at the Final Approval Hearing must be postmarked on or before July 27, 2019.

WHAT HAPPENS IF I DO NOT EXCLUDE MYSELF FROM THIS SETTLEMENT?

The settlement, if finally approved by the Court, will bind all Class Members who do not request to be excluded from the settlement whether or not they receive or timely cash their Individual Settlement Payment. Final approval of the settlement will bar any Class Member who does not request to be excluded from the settlement from initiating a lawsuit or proceeding regarding the Released Claims.

WHAT IF MY CONTACT INFORMATION CHANGES?

If, after you receive this Notice, you change your mailing address or telephone number, it is your responsibility to inform the Settlement Administrator of your updated information.

FURTHER INFORMATION

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at (800) 523-5773, <http://www.phoenixclassaction.com/george-v-retail-merch-solutions/> or Class Counsel listed above. Please refer to the RMSI Class Action Settlement.

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT WITH QUESTIONS OR FOR INFORMATION REGARDING THIS SETTLEMENT.