

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

PEDRO GONZALEZ, individually, and on behalf of all others
similarly situated,

Plaintiff,

vs.

ARMS TRANS INC., d/b/a Arms logistics, and DOES 1
through 50, inclusive.

Defendant.

Case No. 19STCV37291

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former drivers who worked for Arms Trans Inc. (“ARMS”) as a driver while classified as an independent contractor from October 18, 2015 through September 8, 2021 (the “Class Period”) (the described persons are “Class Members”).

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Pedro Gonzalez. v. Arms Trans, Inc.*, Los Angeles Superior Court Case No. 19STCV37291 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this notice carefully.

You may be entitled to money from this Settlement. ARMS’s records show that you worked for ARMS in California as a driver while being classified by ARMS as an independent contractor at some point between October 18, 2015 and September 8, 2021, and have not entered into a separate settlement or release with ARMS of your claims arising from the performance of services as a truck driver for ARMS during this time period. The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain 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 Court finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.¹

What is this case about?

Plaintiff Pedro Gonzalez (“Plaintiff”) brought this Lawsuit against ARMS, seeking to assert claims on behalf of a “class” of drivers who worked for ARMS in California as a driver while being classified by ARMS as an independent contractor. Plaintiff is also known as the “Class Representative,” and his attorneys, who also represent the interests of all Class Members, are known as “Class Counsel.”

Plaintiff’s operative Complaint asserted the following causes of action: (1) misclassification of employees; (2) unlawful deductions and reimbursable expenses; (3) unpaid minimum wages; (4) waiting time penalties; (5) failure to pay all wages owed every pay period; (6) failure to provide meal periods; (7) failure to provide rest periods; (8) inaccurate wage statements; (9) violation of the unfair competition law; and (10) violation of the Private Attorneys General Act (“PAGA”).

ARMS denies that it has done anything wrong. ARMS further denies that it owes Class Members any wages, restitution, penalties, or other damages. ARMS strongly believes that the Drivers it contracts with have always been properly classified as independent Owner Operators. To the extent ARMS continues to contract with any Class Member in the future, it will do so as an independent contractor. The Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of ARMS, which expressly denies all liability. The Court has not ruled on the merits of Plaintiff’s claims. However, to avoid additional expense, attorney’s fees, costs, inconvenience, and interference with its business operations, ARMS has made the decision that it is in the best interests of all parties to settle the Lawsuit on the terms summarized in this Notice. The Court has only determined that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate and reasonable. A final determination on whether the Settlement is fair, adequate and reasonable will be made at the Final Approval hearing.

¹ Note that certain claims (i.e., the Private Attorney General Act claims) will be released regardless of whether you request exclusion.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to ARMS, ARMS’s current financial condition, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

Who are the Attorneys?

Attorneys for Plaintiff/Class Members (Subject to Court Approval):	Attorneys for Defendant ARMS:
<p>GOMEZ LAW GROUP Alvin M. Gomez Frank Zeccola 2725 Jefferson Street, Suite 7 Carlsbad, California 92008 Telephone: (858) 552-0000 Facsimile: (760) 542-7761</p>	<p>CALL & JENSEN John T. Egley Jacqueline Beaumont 610 Newport Center Drive, Suite 700 Newport Beach, California 92660 Telephone: (949) 717-3000 Facsimile: (949) 717-3100</p>

What are the core terms of the Settlement?

On September 8, 2021, the Court preliminarily certified, for settlement purposes only, all current and former drivers who worked for ARMS in California as drivers while being classified by ARMS as independent contractors from October 18, 2015 through September 8, 2021 (“Class Members”).

Class Members who do not exclude themselves from the Settlement pursuant to the procedures set forth in this Notice will be automatically bound by the Settlement and will release their claims against ARMS as described below (referred to as “Settlement Class Members”).

ARMS has agreed to pay \$270,000 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class Members, the Class Counsel Award and Costs, Administrator Costs, PAGA Civil Penalties Payment, and the Class Representative Enhancement.

The following deductions from the Gross Settlement Amount will be requested by the parties:

- Administrator Costs. The Court has approved Phoenix Class Action Administration Solutions to act as the “Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Parties will request up to \$5,750.00 from the Gross Settlement Amount to pay the administration costs.
- Class Counsel Award and Costs. Class Counsel have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Gross Settlement Amount. Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Gross Settlement Amount, which is estimated to be \$90,000.00, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$20,000 for verified costs Class Counsel incurred in connection with the Lawsuit.
- Class Representative Enhancement. Class Counsel will ask the Court to award the Class Representative an enhancement award in the amount of \$22,000 to compensate the Class Representative for his service and extra work provided on behalf of Class Members and in exchange for a broader General Release by the Class Representative of all known and unknown claims against ARMS and the Released Parties, in that the Class Representative has individual claims for retaliation that he released in exchange for a 1542 waiver.
- PAGA Civil Penalties Payment. The parties have agreed to allocate \$5,000 towards the Settlement of the PAGA claims in the Lawsuit. \$3,750 will be paid to the State of California Labor and Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$1,250 will be allocated to PAGA Employees, which are individuals who worked for ARMS in California as drivers while being classified by ARMS as independent contractors from October 18, 2018 through September 8, 2021. (“PAGA Period”) proportionately based on workweeks worked during the PAGA Period.

Calculation of Settlement Class Members' Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Fund ("NSF"), which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion form (described below). The NSF is estimated at approximately \$127,250, subject to final approval by the Court. This figure could increase or decrease depending on whether any Class Members opt-out from the settlement, the total amount of attorney's fees and costs approved by the Court, the requested enhancement to the Plaintiff, the total amount of settlement administration costs, and the approved PAGA Civil Penalties Payment. Each Settlement Class Member who worked for ARMS in California as a driver while being classified by ARMS as an independent contractor from October 18, 2015 through September 8, 2021 will be entitled to a Settlement Payment based on the proportionate number of weeks the Class Member worked for ARMS in California as a driver while being classified by ARMS as an independent contractor during the time period of October 18, 2015 through [Date of Preliminary Approval].

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Payments will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion.

Allocation and Taxes. For tax purposes no payment shall be deemed as wages and no contribution regarding taxes are to be paid by Arms. An IRS form 1099 will be issued for these payments. Settlement Class Members are responsible for the proper income tax treatment of the Settlement Payments. The Administrator, ARMS and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Settlement Class Member who has not submitted a valid Request for Exclusion will fully release and discharge ARMS and its present and former parents, subsidiaries, affiliates, related companies, divisions, joint venturers, predecessors, successors, assigns, any entities deemed a client employer or labor contractor of Defendant under Labor Code section 2810.3, service providers, any individual or entity deemed a statutory employer or joint employer (under any legal theory of joint employment), franchises, beneficiaries, grantees, transferees, accountants, auditors, advisors, representatives, consultants, pension and welfare benefit plans, plan fiduciaries, administrators, trustees, or general and limited partners, and all respective agents, employees, officers, directors, stockholders, shareholders, owners, fiduciaries, insurers, consultants, beneficiaries, grantees, transferees, accountants, auditors, advisors, representatives, pension and welfare benefit plans, plan fiduciaries, administrators, trustees, or general and limited partners, subcontractors, and attorneys thereof (collectively the "Released Parties") from the following "Released Claims" for the entire Class Period:

All known and unknown claims, losses, damages, liquidated damages, demands, penalties, interest, liabilities, causes of action, suits, at law or in equity, which arise from or are related to the facts asserted in the First Amended Complaint, including, without limiting the foregoing, claims for unpaid wages including failure to pay minimum wage and failure to pay premium wages for alleged meal and/or rest period violations, misclassification of employees, failure to reimburse for business expenses, unlawful deductions, failure to provide accurate and/or itemized wage statements, failure to timely pay wages every pay period and/or upon termination, waiting time penalties, claims made under California Labor Code sections 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, 210, 212, 213, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227, 227.3, 230, 230.1, 230.2, 230.3, 230.4, 230.7, 230.8, 231, 232, 232.5, 233, 256, 450, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, all similar provisions or requirements of the California Industrial Welfare Commission Wage Order 9-2001 (including, but not limited to, sections 4.7, 11, 12), California Labor Code Private Attorney General Act ("PAGA") section 2698 et seq. (including, but not limited to, sections 2699 and 2699.3), California Civil Code section 3287, California Business and Professions Code sections 17200 et seq. (unfair competition), any related claims for compensatory, consequential, punitive or exemplary damages, statutory damages, declaratory relief, injunctive relief, penalties, interest (whether pre- or post-judgment), disbursements, attorneys' fees and costs or any other federal, state, or local law, which the Class and/or any Class Member has ever had, or hereafter may claim to have, for the Class Period. This Settlement Agreement will release all claims that were expressly alleged in the Class Action or that could have been alleged in the Class Action based upon the factual and legal allegations in the First Amended Complaint.

With respect to claims under federal law under the Fair Labor Standards Act (FLSA), such federal claim will be deemed to be released only as to those Participating Class Members who negotiate their individual check, as negotiating the check will be deemed an action opting into an FLSA claim, other than as to the Named Plaintiff, who has specifically negotiated a general release including release of FLSA claims and thereby is deemed to have released such claims.

Participating Class Members will be deemed to have released any and all claims under the Fair Labor Standards Act ("FLSA") when they cash, deposit, or otherwise negotiate their first settlement check.

PAGA Employees will be deemed to have released or waived the following claims: all known and unknown causes of action for civil penalties under the Private Attorneys General Act ("PAGA"), California Labor Code section 2698 et seq. that were asserted in the letter sent to the Labor and Workforce Development Agency by Plaintiff during the PAGA Period and the operative complaint, and demands for related interest and attorneys' fees on the penalties ("PAGA Released Claims").

PAGA Released Claims include (1) Violation of Labor Code §§ 226.8(a)(a) (Misclassification of Employees); (2) Violation of Labor Code §§ 221, 224, 226 and 2802 (Unlawful Deductions and Reimbursable Expenses); (3) Violation of Labor Code §§ 1194, 1194.2 and 1197 (Unpaid Minimum Wages); (4) Violation of Labor Code § 203 (Waiting Time Penalties); (5) Violation of Labor Code § 204 (Failure to Pay All Wages Owed Every Pay Period); (6) Violation of Labor Code §§ 226.7 and 512 (Meal Periods); (7) Violation of Labor Code §§ 226.7 and 512 (Rest Periods); (8) Violation of Labor Code §§ 226 and 226.3 (Itemized Wage Statements).

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, and the entry of Judgment. The release will be effective only after the date Defendant pays the agreed-upon amounts.

How much can I expect to receive from the Settlement?

The amount of money you are entitled to receive as a Class Member from this settlement (your “Individual Settlement Payment”) is based on the number of weeks you worked for ARMS during the Class Period as a Class Member. According to ARMS’s records:

- (a) You worked for ARMS as a driver, as described above, for ____ weeks during the Class Period of October 18, 2015 through September 8, 2021.
- (b) The estimated settlement dollar value for each week you worked for ARMS as a driver, as described above, during the Class Period is \$ _____.

Based on the above, your Individual Settlement Payment is estimated at \$ _____.

Payments from PAGA Civil Penalties Payment: The amount of money you are entitled to receive from the PAGA Civil Penalties Payment, if any (your “Individual PAGA Payment”) is based on the number of weeks you worked for ARMS during the PAGA Period as a PAGA Employee. According to ARMS’s records:

- (a) You worked for ARMS as a driver, as described above, for ____ weeks during the PAGA Period of October 18, 2018 through September 8, 2021.
- (b) The estimated PAGA Civil Penalties Payment dollar value for each week you worked for ARMS as a driver, as described above, during the PAGA Period is \$ _____.

Based on the above, your Individual PAGA Payment is estimated at \$ _____.

Dispute Information in this Notice of Settlement.

Your award is based on the number of weeks you contracted with ARMS as a Driver during the Class Period, and as a PAGA Employee during the PAGA Period. The information contained in ARMS’s records regarding each of these factors, along with your estimated Individual Settlement Payment and Individual PAGA Payment, is listed above. If you disagree with the information listed above, you may submit a dispute, along with any supporting documentation, to Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. Any disputes, along with supporting documentation, must be postmarked no later than November 1, 2021. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties will investigate any dispute in consultation with the Administrator. The Administrator will make the final determination regarding the amount of your Individual Settlement Payment.

What are my options going forward?

1. Participate in the Settlement – Do Nothing

You do not need to file a claim in order to receive a payment from the Settlement. Under the settlement, if you **do nothing, you will automatically receive Individual Settlement Payments**, as described above. PAGA Employees will receive their Individual PAGA Payment and be deemed to have released the PAGA Released Claims.

2. Opt Out of the Settlement

If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Administrator executed signed Request for Exclusion Form postmarked no later than November 1, 2021, with your name, address, telephone number, last four digits of your social security number, your signature, and the date.

Send the Request for Exclusion Form directly to the Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Administrator, no longer be a Settlement Class Member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement; unless that person is a PAGA Employee, in which case the person will still receive their Individual PAGA Payment and be deemed to have released the PAGA Released Claims.

3. Object to the Settlement

You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, you may appear at the Final Approval Hearing. The Court will hear from any Class Member who attends the Final Approval Hearing and requests to speak regarding their objection. Class Members may, but are not required to, deliver a written objection by mailing a copy of the objection to the Claims Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863 by First-Class U.S. Mail no later than the Exclusion Deadline or, if re-mailed, no later than fifteen (15) days after the original Exclusion Deadline. Upon receipt of a Class Member's written objection, valid or otherwise, the Claims Administrator shall promptly mail a copy of the Class Member's written objection to Class Counsel and to Defense Counsel. The objection should include a written statement objecting to the Settlement. Do not file the objection with the Court. Even if no written objection is mailed, all Class Members may appear and be heard at the Final Approval Hearing, either in person or through a lawyer retained at their own expense.

If you choose to object to the Settlement, you may appear at the Final Approval Hearing scheduled for January 20, 2022, at 10:00 a.m., in Department 14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties prior to the Final Approval Hearing date.

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on January 20, 2022, at 10:00 a.m., in Department 14 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. Please contact Phoenix Settlement Administrators at (800) 523-5773 or Class Counsel for updates regarding the location of the Final Approval Hearing as the location of the Final Approval Hearing is subject to change. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Enhancement Awards to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class Members. **You are not required to attend the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing.**

If you appear at the hearing, check the Court's website for its social distancing protocols (http://www.lacourt.org/pdf/recovery_social_distancing_all.pdf). As of July 1, 2020, the following protocols were in place:

General Safety Measures to Prevent the Spread of Coronavirus/COVID-19

- People seeking court support services or self-help services must have a prescheduled appointment. Others seeking such services without an appointment are directed to the Court's website (www.lacourt.org) for assistance.
- Persons entering a courthouse who are displaying symptoms consistent with COVID-19 are prohibited from entering any court facility.
- Individuals entering the courthouse must wear facial coverings over the mouth and nose. Paper, disposable masks will be provided to persons who do not have one and who request to enter. ADA exceptions may apply.

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court's files and the Settlement Agreement at the Office of the Clerk of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012, during regular court hours. You may also contact the Administrator or Class Counsel using the contact information listed above for more information.

You may also visit <http://www.phoenixclassaction.com/> to view the Settlement Agreement, Notice of Pendency of Class Action, Request for Exclusion, or Final Judgment. Notice of Final Judgment will be posted on the Administrator website at <http://www.phoenixclassaction.com/>.

PLEASE DO NOT CALL OR WRITE THE COURT, ARMS, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting a Request for Exclusion or Dispute is **November 1, 2021**. These deadlines will be strictly enforced. Once again, if you want to receive your Individual Settlement Payment you do **not** have to submit any further paperwork.

BY ORDER OF THE COURT ENTERED ON SEPTEMBER 8, 2021.