

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Sica and Ellis v. Construction & Turnaround Services, L.L.C.

Case No. 4:21-cv-00188-JSW

**NOTICE OF CLASS ACTION SETTLEMENT**

*A court authorized this notice. This is not a solicitation.*

*This is not a lawsuit against you and you are not being sued.*

*However, your legal rights are affected whether you act or don't act.*

This class action settlement will affect your rights if you worked as an hourly non-exempt unionized on-site employee for Construction & Turnaround Services, L.L.C. in California at any time during the period October 26, 2016 through January 31, 2020, inclusive.

- Former employees Frank Sica and Gary Ellis (“Class Representatives” or “Plaintiffs”) sued Construction & Turnaround Services, L.L.C. (“CTS” or “Defendant”) on behalf of themselves and certain current and former CTS employees in California and have alleged that Defendant violated the California Labor Code and the California Unfair Competition Law.
- The claims of the Class Representatives and the Class have been settled. The Court has preliminarily approved the Settlement.
- If you qualify as a Class Member, you could receive money from the Settlement.
- Your legal rights are affected whether you act or don't act. Read this Notice carefully.
- **You are not being sued.** Plaintiffs sued CTS in a class action on behalf of themselves and similarly situated employees like you.

**WHAT ARE YOUR OPTIONS?**

<b>DO NOTHING</b>	If you do nothing, you will receive a Settlement payment. In exchange for this payment, you will give up any rights to sue for the same claims that were part of this Settlement.
<b>EXCLUDE YOURSELF</b>	Give up all benefits, including money, from the Settlement. Retain all rights you may have against CTS, as explained below.
<b>OBJECT</b>	Write to the Court about why you don't agree with the Settlement. The Court may or may not agree with your objection. If the Court approves the settlement, you will receive a Settlement payment.
<b>HOW MUCH CAN I GET?</b>	Based on Defendant's records, your gross Individual Settlement Payment is estimated to be \$_____. This is based on your total Qualified Hours worked: _____.

- Your rights and options – and the deadlines to exercise them – are explained in this Notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will be made to Class Members who do not opt out of this Settlement if the Court approves the Settlement and after any appeals are resolved.

**WHY AM I RECEIVING THIS NOTICE?**

Defendant's records show that you worked for CTS as an hourly non-exempt unionized on-site employee in California during the period October 26, 2016 through January 31, 2020, inclusive. You received this Notice because you have a right to know about a proposed settlement of a class action lawsuit and about your options before the Court decides whether to grant final approval of the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, a Settlement Administrator appointed by the Court will make the payments that the Settlement allows.

This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

### **WHAT IS THIS LAWSUIT ABOUT?**

Plaintiffs Frank Sica and Gary Ellis filed a putative class action lawsuit on October 26, 2020 and a First Amended Complaint on January 27, 2021, on behalf of themselves and other hourly non-exempt unionized on-site employees who worked for CTS in California during the Class Period, October 26, 2016 through January 31, 2020, inclusive. The operative First Amended Complaint alleges causes of action against Defendant on a class basis for: (1) unfair business practices; (2) failure to provide meal periods; (3) failure to pay wages for all hours worked; and (4) waiting time penalties.

### **DO I HAVE AN ATTORNEY?**

**You do not need to hire your own attorney.** You are already represented by Class Counsel (see below for their contact information). However, you may hire your own attorney at your own expense if you choose.

### **WHAT IS THE CASE STATUS?**

CTS denies all of Plaintiffs' allegations, or that it violated any law, and contends that at all times it complied with federal, state and local laws. The settlement is not an admission by CTS of any wrongdoing or an indication that any law was violated.

The Court did not decide in favor of Plaintiffs or Defendant. Nor has it decided whether this case could proceed as a class action.

Instead of going through class certification or to trial, after a thorough investigation into the facts of this lawsuit, both sides agreed to a settlement. The class claims were settled because Class Counsel and the Class Representatives believe that the terms of the Settlement, which include monetary benefits, are fair and reasonable in light of the strength and weaknesses of the claims and other factors.

### **WHO IS IN THE CLASS?**

You are part of the Settlement if you are a member of the Class, which includes all individuals who worked for CTS as an hourly non-exempt unionized employees in California during the period October 26, 2016 through January 31, 2020, inclusive.

### **WHAT ARE THE TERMS OF THE SETTLEMENT?**

In exchange for the release of claims against it and final judgment on the Action, Defendant will pay \$465,000 plus the employer's share of payroll taxes ("Maximum Settlement Amount"), which includes all payments contemplated by the Settlement, including all payments to Class Members, service awards to Plaintiffs, Class Counsel's attorneys' fees and costs, employee-side taxes, and settlement administration costs. The "Net Settlement Amount" is the amount remaining after deduction of Class Counsel's attorneys' fees and costs, the service awards to Plaintiffs, and the settlement administration costs, which will be distributed to Class Members who do not opt out.

Subject to Court approval, the Maximum Settlement Amount will be allocated as follows:

- **Individual Settlement Payments:** Class Members who do not opt out are eligible to receive money from the Net Settlement Amount as an Individual Settlement Payment, which is calculated as described below. The Net Settlement Amount is estimated to be approximately \$320,250.00. Your estimated gross Individual Settlement Payment from the Net Settlement Amount is listed on the first page of this Notice.

- **Class Representative Service Awards:** Plaintiffs will request from the Court an award of \$5,000 each in recognition of their efforts and risks in assisting with the prosecution of the Action. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- **Class Counsel Award:** Class Counsel will request that the Court approve up to 25% of the Maximum Settlement Amount (\$116,250 of the \$465,000 settlement) as attorneys' fees for litigation and resolution of this Action and actual costs and expenses (estimated not to exceed \$8,500), as supported by declaration. This amount will be paid from the Maximum Settlement Amount, and any amount not awarded will revert to the Net Settlement Amount for distribution.
- **Settlement Administration:** The cost of settlement administration shall not exceed \$10,000, which pays for tasks such as mailing and tracking this Notice, tracking Requests for Exclusion and Notices of Objection, mailing checks and tax forms, and reporting to the parties and the Court.
- **All checks issued to Class Members shall remain valid and negotiable for 180 calendar days after the date of their issuance. Any undeliverable or uncashed checks will then be voided and sent to Legal Aid at Work.**

### **WHAT CAN I RECEIVE FROM THE SETTLEMENT?**

If you do not opt out of the Settlement, you will automatically receive your share of the Net Settlement Fund after the Court approves the Settlement. Your estimated share, that is your estimated gross Individual Settlement Payment, and your total Qualified Shifts from Defendant's records used to calculate it, are listed on the first page of this Notice. 30% of the Individual Settlement Payment will be designated as wages for which an IRS Form W-2 shall issue, and 70% shall be designated as penalties and interest, for which an IRS Form 1099 may issue.

### **HOW IS MY PORTION OF THE SETTLEMENT CALCULATED?**

Your Individual Settlement Payment is your pro rata share of the Net Settlement Amount based on your total Qualified Shifts, which is the total number of individual days that you worked as an hourly non-exempt unionized employee for CTS in California (based on Defendant's records) during the Class Period (October 26, 2016 through January 31, 2020, inclusive). Your Qualified Hours worked will be divided by the total number of Qualified Hours worked for all Settlement Class Members, resulting in your Payment Ratio. The Payment Ratio then will be multiplied by the Net Settlement Amount to determine your gross Individual Settlement Payment, except that no gross Individual Settlement Payment will be less than \$25.

Your Individual Settlement Payment may vary from the estimated payment listed on this form if any Class Members opt out of the Settlement and depending upon the amounts that the Court approves for awards to Class Counsel, the Class Representative, and the Settlement Administrator.

ONLY if you disagree with the Qualified Hours worked stated on page one of this Notice, mail a letter to the Settlement Administrator explaining why you disagree. Be as specific as possible and include copies of any supporting documents, such as paystubs. The decision of the Settlement Administrator will be final. Disputes must be mailed to the address below and must be postmarked no later than November 1, 2021:

**Phoenix Settlement Administrators**  
**P.O. Box 7208**  
**Orange, CA 92863**  
**Telephone: (800) 523-5773**  
**Facsimile: (949) 209-2503**

## WHAT HAPPENS IF I DO NOTHING?

If you do nothing and the Court approves the Settlement at the Final Approval Hearing, you will be issued your Individual Settlement Payment without any further action needed from you.

To ensure receipt of your Individual Settlement Payment, you must notify the Settlement Administrator of any change in your name, mailing address and/or telephone number. **It is your responsibility to keep the Settlement Administrator informed of your updated information, and your Individual Settlement Payment will be mailed to the last known address that the Settlement Administrator has on file for you.**

## WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will hold the Final Approval Hearing on January 7, 2022 at 9:00 a.m. in Courtroom 5, 2nd Floor, of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California 94612, to decide whether to approve the Settlement. If the Court approves the Settlement, your Settlement share will be mailed to you within approximately 30 days from the Effective Date of the Settlement.

Please be advised that the date of the final approval hearing may change without further notice to the class. Class Members are therefore advised to check the Court's website (<https://www.cand.uscourts.gov/judges/jsw/>) or contact Class Counsel or the Settlement Administrator to confirm that the date and location has not been changed.

## WHAT CLAIMS AM I GIVING UP IF I REMAIN PART OF THE SETTLEMENT?

Unless you exclude yourself, you will remain a Settlement Class Member, and you will be bound by the terms of the Settlement, including the Release of the Released Claims as described below. That means you will be unable to sue, or to continue to sue, or be part of any other lawsuit about the Released Claims. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

### Released Claims

The "Released Claims" means the claims in the operative First Amended Class Action Complaint under California Labor Code §§ 201, 202, 203, 226.7, 510, 512, 1194, 1194.2, 1197, and 1197.1 and Business & Professions Code §§ 17200, together with interest, fees, and costs related to those claims. The Release Period for the Released Claims shall be the same as the Class Period, i.e., from October 26, 2016 through January 31, 2020, inclusive.

The Release will extend to Defendant Construction & Turnaround Services, L.L.C. and all of Defendant's parent companies, subsidiaries, divisions, related or affiliated companies, and its' or their shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity that could be liable for any of the Released Claims (collectively, the "Released Parties").

## WHAT SHOULD I DO IF I DO NOT WANT TO BE PART OF THE SETTLEMENT?

If you do not wish to participate in this Settlement, you may exclude yourself (generally called "opting out") by submitting a written Request for Exclusion to the Settlement Administrator. Your request to opt-out must (a) be in writing; (b) state your name, address, and the last four digits of your social security number or Employee ID number; and (c) include a typed or handwritten statement requesting exclusion from the Settlement Class and stating in substance: "I wish to opt out of the settlement of the class action lawsuit entitled *Sica and Ellis v. Construction & Turnaround Services*."

You must personally sign the Request for Exclusion and may not have someone sign for you, nor may you submit a Request for Exclusion on behalf of a group or anyone else. Your Request for Exclusion must be signed and mailed via United States first class mail postmarked no later than November 1, 2021 to:

**Phoenix Settlement Administrators  
P.O. Box 7208  
Orange, CA 92863  
Telephone: (800) 523-5773  
Facsimile: (949) 209-2503**

If you submit a timely Request for Exclusion, then upon its receipt you shall not be a member of the Settlement Class, you shall be barred from participating in any portion of the Settlement, and you may not object to the Settlement.

If you submit a timely Request for Exclusion, you may then pursue, at your own expense, any claims you may have against CTS. If you do not submit a complete and timely written Request for Exclusion, you will be included in the Settlement Class, and be bound by the terms of the Settlement (including the Released Claims described above), whether or not you objected to the Settlement.

### **WHAT SHOULD I DO IF I WANT TO OBJECT TO THE SETTLEMENT?**

Any Class Member who has not asked to be excluded from this Settlement may object to the Settlement. You can ask the Court to deny approval by filing an objection. You can't ask the Court to order a different settlement; the Court can only approve or reject the Settlement. If the Court denies approval, no Settlement Payments will be sent out and the Action will continue. Please also keep in mind that objecting is not the same as requesting to be excluded. Submitting an objection will **not** exclude you from the Settlement Class. **If your objection is overruled, you will still be bound by the Settlement.**

If you wish to object to the Settlement, you may submit your written Notice of Objection to the Court at the address below in person or by mail stating the basis or reason(s) for your objection to the Settlement. You may object to any of the terms in the Settlement Agreement. A written Notice of Objection must be signed by you and include: (1) the case name and number (*Sica and Ellis v. Construction & Turnaround Services, L.L.C.*, Case No. 21-cv-00188-JSW); (2) your name; (3) your address; (4) the last four digits of your Social Security number or Employee ID number; (5) the basis for your objection and any supporting documents; and (6) if you intend to appear at the final approval hearing. Class Members who fail to make objections in the manner specified above may be deemed to have waived any objections and be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement. The failure to submit a written objection does not waive a Settlement Class Member's right to appear and orally object at the final approval hearing.

The written Notice of Objection must be filed in person or mailed via United States first class mail postmarked no later than November 1, 2021 to:

**United States District Court  
Class Action Clerk  
1301 Clay Street, Suite 400S  
Oakland, California 94612**

If you have submitted a written objection, you may, but are not required to, appear at the Final Approval Hearing set for January 7, 2022 in Courtroom 5, 2nd Floor, of the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, California 94612 and discuss your objections with the Court and the parties. The Final Approval Hearing may be continued to another date without further notice.

You have the right to retain your own attorney, at your own expense, to submit a Notice of Objection or appear on your behalf at the Final Approval Hearing.

**You cannot both object and opt-out. If you submit both a Request for Exclusion and a Notice of Objection, the Notice of Objection will be invalid, while the Request for Exclusion will be valid.**

## HOW DO I GET ADDITIONAL INFORMATION?

This Notice only summarizes the proposed Settlement and its terms. For more information: contact Class Counsel at the below address, phone number or email addresses; access relevant case documents including the Settlement Agreement and the motions for final approval and attorneys' fees and costs at the Settlement Administrator's website (<http://www.phoenixclassaction.com/>); access the Court docket by visiting the office of the Clerk of Court at any of the locations listed at <https://cand.uscourts.gov/about/locations/> between 9:00 a.m. and 4:00 p.m.; or access the Court docket for a fee at the Court's PACER website, <https://ecf.cand.uscourts.gov/>.

If you have further questions regarding this case or Settlement, you may contact Class Counsel, whose contact information is provided below:

Eric A. Grover

[egrover@kellergrover.com](mailto:egrover@kellergrover.com)

Robert W. Spencer

[rspencer@kellergrover.com](mailto:rspencer@kellergrover.com)

KELLER GROVER LLP

1965 Market Street

San Francisco, California 94103

Telephone: (415) 543-1305

Facsimile: (415) 543-7861

In addition to contacting Class Counsel, you may contact the Settlement Administrator at **(800) 523-5773** or visit the Settlement Administrator's website at (<http://www.phoenixclassaction.com/>).

**PLEASE DO NOT WRITE OR TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.**