

CALIFORNIA SUPERIOR COURT, COUNTY OF LOS ANGELES

*Worren Jackson et al. v. LMS Transportation LLC. et al.*

Case No. BC635316

**NOTICE OF CLASS ACTION SETTLEMENT**

**YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.**

*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 by whether you act or don't act.*

**TO: All current and former employees employed by Defendant LMS Transportation LLC (“LMS”) in the State of California as salaried, non-exempt industrial vehicle drivers, truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from September 27, 2012 through February 7, 2022.**

The California Superior Court, County of Los Angeles (the “Court”) has granted preliminary approval of a proposed settlement (“Settlement”) of the above-referenced class action lawsuit (“Lawsuit”). Because your rights may be affected by this proposed Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Settlement Class” or “Settlement Class Members”):

All current and former employees employed by Defendant LMS Transportation LLC (“LMS”) in the State of California as salaried, non-exempt industrial vehicle drivers, truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from September 27, 2012 through February 7, 2022.

The purpose of this Notice is to provide a brief description of the claims alleged in the Lawsuit, the key terms of the Settlement, and your rights and options with respect to the Settlement.

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## **1. Why Have I Received This Notice?**

Greg Southern and Andrea Southern are Defendants in this lawsuit and are referred to as “Defendants” in this notice. LMS’s records indicate that you are a Settlement Class Member. The Settlement will resolve all Settlement Class Members’ Released Claims, as described below, from September 27, 2012 through February 7, 2022 (this time period is called the “Class Period”).

A Preliminary Approval Hearing was held on February 7, 2022, in the California Superior Court, County of Los Angeles. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Approval Hearing concerning the proposed Settlement on July 13, 2022 at 8:30 a.m., before Judge Yvette M. Palazuelos in Department 9, located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012.

Should you wish and be permitted to attend the Final Approval Hearing in person, please be mindful of the California Superior Court, County of Los Angeles’ current procedures and requirements in light of the COVID-19 pandemic, which requires:

- All persons entering any courthouse or courtroom shall wear a face mask over their nose and mouth at all times within public areas of the courthouse or courtroom.
- Non-exempt<sup>1</sup> individuals who decline or refuse to wear a face mask will be denied entry to the courthouse and/or courtroom.
- Individuals who remove their face masks after entering the courthouse or courtroom will be reminded to wear them. If they refuse, they may be denied services, may have their legal matters rescheduled and/or will be asked to leave the courthouse or courtroom immediately.
- Persons who refuse to leave voluntarily will be escorted out of the courthouse and/or courtroom by Los Angeles County Sheriff’s Department’s personnel.
- Individuals are required to maintain at least (6) six feet of physical distance from all persons (except those within their household) at all times. Comply with social distancing signage throughout the courthouse.
- Use hand sanitizer when entering the courthouse, practice good hand-washing hygiene and cover coughs and sneezes, preferably with a tissue.

## **2. What Is This Case About?**

The action entitled *Worren Jackson on behalf of himself, all others similarly situated, and on behalf of the general public, vs. LMS Transportation LLC, et al.*, was commenced by Plaintiff Jackson (“Plaintiff”) on September 27, 2016 and is pending in the Los Angeles County Superior Court (Case Number BC635316). Plaintiff brought this action seeking damages, restitution, penalties, interests, costs and attorney’s fees and other relief based on the following alleged causes of action: 1) failure to pay straight time wages; 2) failure to pay overtime wages; 3) failure to provide meal periods; 4) failure to authorize and permit rest periods; 5) failure to provide accurate itemized wage statements; 6) waiting time penalties for failure to pay all wages due at time of termination; and 7) violation of the Unfair Competition Law.

The Court has not made any determination as to whether the claims advanced by the Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants or LMS; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial. Defendants and LMS contend that Settlement Class Members were properly compensated and expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiff or to the Class.

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<sup>1</sup> Persons with a medical condition, mental health condition, or disability that precludes them from wearing a face mask, are exempt from the Order. Nevertheless, they must take whatever protective measures their condition permits, such as wearing a face shield with a drape on the bottom edge as long as their medical condition allows it. Individuals with disabilities who seek an exemption from this Order as a reasonable accommodation pursuant to the Americans with Disabilities Act (ADA) or Rule 1.100 of the California Rules of Court, should contact the ADA liaison at each courthouse. A list of liaisons is available at [www.lacourt.org/ada/adahome.aspx](http://www.lacourt.org/ada/adahome.aspx).

**3. Am I A Settlement Class Member?**

You are a Settlement Class Member if you are or were a salaried, non-exempt industrial vehicle driver, truck worker, industrial truck worker, industrial truck driver, industrial vehicle driver, industrial worker, or another similar job designation or title who worked for LMS in California at any time between September 27, 2012 through February 7, 2022.

**4. How Does This Class Action Settlement Work?**

The settlement of the Lawsuit resolves the Released Claims of all Settlement Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class.

The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

**5. Who Are the Attorneys Representing the Parties?**

Class Counsel / Attorneys for Plaintiff	Attorneys for Defendants
<p style="text-align: center;"><b>MARA LAW FIRM, PC</b>            David Mara, Esq.            Matthew Crawford, Esq.            2650 Camino Del Rio North, Suite 205            San Diego, California 92108            Telephone: (619) 234-2833            Fax: (619) 234-4048</p> <p style="text-align: center;"><b>LAW OFFICES OF KEITH J. STONE</b>            Keith J Stone, Esq.            555 West Beech Street, Suite 210            San Diego, CA 9101            Telephone: (619) 531-2022            Fax: (619) 531-8824</p>	<p style="text-align: center;"><b>MCGUIREWOODS LLP</b>            Matthew C. Kane, Esq.            Kerri H. Sakaue, Esq.            1800 Century Park East, 8th Floor            Los Angeles, CA 90067            Telephone: (310) 315-8200            Fax: (310) 315-8210</p>

The Court has decided that Mara Law Firm, PC and Law Offices of Keith J. Stone are qualified to represent you and all other Settlement Class Members. You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

**6. What Are My Options?**

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

**Important Note: Defendants will not retaliate against you in any way for participating or not participating in this Settlement.**

- 1. DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of the Lawsuit and will receive a payment from the Settlement. You will release the Released Claims (defined in Section 9 below) and give up your right to pursue the Released Claims against Defendants and the Released Parties (defined in Section 9 below).
- 2. OPT OUT:** If you do not want to participate as a Settlement Class Member, you may “opt out,” which will remove you from the Class and this Lawsuit. If the Court grants final approval of the Settlement, you will **not** receive a Settlement payment and you will **not** give up the right to sue Defendants and the Released Parties for the Released Claims. **See Section 7 for more details.**
- 3. OBJECT:** You may file a legal objection to the proposed Settlement. If you would like to object, you may not opt out of this case. **See Section 8 for more details.**

## **7. *How Do I “Opt Out” Or Exclude Myself From This Settlement?***

If you do not want to take part in the Settlement (i.e. you want to “opt out” of the Settlement), you must submit a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state the Class Member’s name, address, telephone number, and social security number or employee identification number; (b) state the Settlement Class Member’s intention to exclude themselves from or opt-out of the Settlement (e.g. “I elect to opt-out of the *Jackson v. LMS Transportation LLC, et al.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement, and will not receive a share of the settlement proceeds.”); (c) be addressed to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863; (d) be signed by the Settlement Class Member or his or her lawful representative; and (e) be postmarked no later than **September 24, 2022**.

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement.

## **8. *How Do I Object To The Settlement?***

If you wish to object to the Settlement, you cannot opt out of the Settlement. You may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than **September 24, 2022**. The objection must state: (a) the case name (e.g. Jackson v. LMS Transportation) and case number (BC635316); (b) the objecting person’s or his/her attorney’s full name; (c) the words “Notice of Objection” or “Formal Objection;” and (d) describe, in clear and concise terms, the legal and factual arguments supporting the objection.

Settlement Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector’s own counsel. If the Court rejects your objection, you will receive a Settlement payment and you will be bound by the terms of the Settlement.

## **9. *How Does This Settlement Affect My Rights? What are the Released Claims?***

If the Court approves the proposed Settlement, the Court will enter a Judgment. All Settlement Class Members who do not opt out of the Settlement will be bound by the Judgment and will release Defendants, LMS and the Released Parties from the Released Claims.

The “**Released Parties**” are: Defendants and LMS and each of their affiliates, parent companies, subsidiaries, shareholders, officers, officials, partners, directors, members, owners, servants, employees, employers, agents, contractors, attorneys, insurers, predecessors, representatives, accountants, executors, personal representatives, successors and assigns, past, present, and future, and each and all of their respective officers, partners, directors, members, owners, servants, agents, shareholders, employees, employers, agents, contractors, representatives, executors, personal representatives, accountants, insurers, attorneys, pension, profit sharing, retirement savings, health and welfare, and any other employee benefit plans of any nature and the respective trustees, administrators, sponsors, fiduciaries, successors, agents and employees of all such plans, predecessors, successors and assigns, past, present, and future, and all persons acting under, by, through, or in concert with any of them, including without limitation LMS.

The “**Released Claims**” are: Any and all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses, attorneys’ fees, damages, obligations or liabilities of any and every kind, contingent or accrued, that are, were or reasonably could have been asserted based on the facts and/or theories alleged in the Class Action Complaint and Amendment thereto, and/or in any other pleading filed in the Lawsuit including but not limited to those that were, are or could be the basis of any of the claims (including without limitation under theories of successor liability, joint employer liability, agency and/or conspiracy) that the Released Parties failed to pay or underpaid wages of any type (including minimum, regular, overtime, and double time wages), failed to provide or pay for missed or non-compliant meal breaks, failed to provide or authorize and permit or pay for missed or non-compliant rest breaks, failed to furnish accurate itemized wage statements, failed to timely pay wages of any type, failed to reimburse business expenses, violated the California Unfair Competition Law (“UCL”), based in whole or in part on any direct or imputed violation of any federal, state, local or administrative constitution, charter, law, rule, regulation or ordinance and whether for economic damages, noneconomic damages, restitution, statutory penalties, civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, costs of suit or other monies.

## **10. How Much Can I Expect to Receive From This Settlement?**

The total maximum amount that Defendants could be required to pay under this Agreement shall be up to but no more than \$100,000 (“Gross Settlement Fund” or “GSF”).

The following deductions (subject to the Court’s approval) will be made from the \$100,000.00 Gross Settlement Fund:

- (1) the Class Representative Enhancement Award, which will not exceed \$10,000.00 to Plaintiff;
- (2) Class Counsel’s attorneys’ fees, which will not exceed 1/4 of the Gross Settlement Fund (\$25,000.00);
- (3) Class Counsel’s actual litigation costs, which will not exceed \$7,500.00; and
- (4) the Settlement Administration Costs to Phoenix Settlement Administrators, estimated not to exceed \$7,500.00.

After deducting the above-referenced items, the remainder (the “Net Settlement Fund”) will be distributed amongst all Settlement Class Members who have not requested exclusion from the Settlement.

### **A. How Are Settlement Payments Calculated?**

Each Settlement Class Member’s shares of the net settlement fund will be allocated on a pay periods pro rata basis. Each Settlement Class Member’s share of the NSF shall be calculated by multiplying the NSF by a fraction, the numerator of which is the total number of pay periods the Participating Class Member who was employed by LMS in California during the Settlement Class Period and the denominator of which is the total number of pay periods all of the Settlement Class Members worked for LMS in California during the Settlement Class Period. Such workweeks shall be calculated by the Settlement Administrator from LMS’s records.

### **B. How Much Will I Receive From the Settlement?**

Based upon the calculation above, your approximate share of the Net Settlement Fund, is as follows: \$ \_\_\_\_\_, less your employee taxes. This is based on LMS’s records, which shows you worked \_\_\_ pay periods as a Settlement Class Member during the Class Period.

### **C. How Do I Dispute My Pay Periods Allotment?**

If you disagree with the number of pay periods you worked as stated in this Notice, you must notify the Settlement Administrator by mail at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863 and provide a statement of the number of total pay periods you worked while employed with LMS as a Settlement Class Member during the Class Period. Your statement must be postmarked by **September 24, 2022**.

If you have any documentation supporting your dispute, you are encouraged to submit it for review. In the absence of such documentation, LMS’s records will be presumed correct and you will receive a settlement payment according to the pay periods listed in this Notice.

### **D. What Taxes Will be Withheld From Settlement Class Members’ Settlement Payments?**

Twenty-five percent (25%) of each Settlement Class Member’s settlement payment is intended to settle each Settlement Class Member’s claims for unpaid wages (the “Wage Portion”). The Wage Portion will be reduced by applicable employee payroll tax withholdings and deductions. Defendants’ share of legally required payroll taxes for the Wage Portion will be paid separate and apart from this Settlement. The Settlement Administrator will issue an IRS Form W-2 for the Wage Portions of each Settlement Class Member’s settlement payment.

Twenty-five percent (25%) of each Settlement Class Member’s settlement payment is intended to settle each Settlement Class Member’s claims for interest, twenty-five percent (25%) is intended to settle claims for statutory penalties, and the remaining twenty-five (25%) is intended to settle claims for statutory or other non-wage damages (“Non-Wage Portion”). The Non-Wage Portion will not be reduced by payroll tax withholdings and deductions. The Settlement Administrator will issue an IRS Form 1099 for the Non-Wage Portion of each Class Member’s settlement payment.

### **E. What Will Happen to Uncashed Settlement Checks?**

You will have 180 days from the date of issuance to cash or deposit your Settlement check. It is strongly recommended that you immediately cash your Settlement check upon receipt. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will cancel the checks and pay the uncashed amounts to the State of California Unclaimed Property Fund in your name, to be held by the State Controller’s Office for your benefit until such time as you claim your property, as allowed by law.

**11. How Will Class Counsel and the Plaintiff be Paid?**

Payments to Class Counsel and Plaintiff are subject to Court approval. Class Counsel will be paid up to \$25,000.00 (which is one-fourth of the Gross Settlement Fund) for attorneys' fees and an additional amount in actual litigation costs incurred in litigating this matter, which will not exceed \$7,500.00.

Plaintiff will be paid an amount not to exceed \$10,000, for the initiating and prosecuting this case, and undertaking the risks of paying litigation costs in the event this Lawsuit had been lost.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting <http://www.phoenixclassaction.com/jackson-v-lms-transportation/>, a website maintained by the Settlement Administrator. Please refer to the LMS Class Action Settlement.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012.<sup>2</sup> You may also contact Class Counsel, whose contact information is above, and they will provide you with a copy of the Settlement documents or case documents free of charge.

**PLEASE DO NOT TELEPHONE THE COURT OR COURT'S  
CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.**

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<sup>2</sup> Should you wish to review the Court's files in person, please be mindful of the California Superior Court, County of Los Angeles' current procedures and requirements in light of the COVID-19 pandemic, as noted on Page 2.