

**As a current or former over-the-road driver for P.A.M. Transport, you are eligible to get a payment from a class action settlement.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- The settlement will provide up to \$3,450,000 to resolve all claims that P.A.M. Transport failed to pay its drivers minimum wage under federal and state law during the Class Period of August 22, 2010 through December 5, 2013.
- The court-appointed lawyers will ask the Court for up to 33 1/3% of the maximum \$3,450,000 settlement amount as fees and costs for investigating the case, litigating the case, and negotiating the settlement.
- The two sides disagree as to who would win, and how much could be won, if the case went to trial.
- **Your legal rights will be affected whether you act or don't act.** Read this Notice carefully.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>Do Nothing</b>	No action is required of you to remain in the case. If the Court grants final approval of the settlement, you will automatically be sent a payment.
<b>Exclude Yourself</b>	Get no payment. This is the only option that allows you to ever be part of any other lawsuit against P.A.M. Transport for the legal claims that are being released in this settlement.
<b>Object</b>	Write to the Court about what you don't like in the settlement.
<b>Go to a Hearing</b>	Ask to speak in Court about the fairness of the settlement.

- These 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 approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

**QUESTIONS? CALL CLASS COUNSEL TOLL-FREE 1-877-529-9501  
OR VISIT WWW.SWARTZ-LEGAL.COM**

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*Please note that, as set forth in detail in this Notice and in the Settlement Agreement on file with the Federal Court, if the Court grants final approval of the Settlement, then any and all wage and hour claims that you may have against P.A.M. Transport (and/or any of its parents, subsidiaries, affiliates, divisions, predecessors and successors, and each of their present and former officers, directors, shareholders, members, managers, employees, fiduciaries, trustees, employee benefit plan administrators, agents, attorneys, insurers, successors and assigns) for the non-payment of compensation alleged to be owed to you in the Lawsuit during the Claims Period, will be permanently released (i.e., forever waived/forgiven).*

**THIS IS NOT AN ADVERTISEMENT.**

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF ARKANSAS**

DIANNA ESTES, *et al.*

Plaintiffs,

v.

P.A.M TRANSPORT, INC., *et al.*

Defendants.

Case No.: 13-5199

**NOTICE OF CLASS AND COLLECTIVE ACTION SETTLEMENT**

*A Federal Court authorized this Notice. This is not a solicitation from a lawyer.*

***PLEASE READ THIS NOTICE CAREFULLY.***

**1. Why did I get this Notice package?**

You are receiving this Notice because records indicate that you worked as an over-the-road commercial truck driver for and were paid by P.A.M. Transport, Inc. (“P.A.M.”) at some point between August 22, 2010 and December 5, 2013. The above-referenced lawsuit, *Dianna Estes, et al. v. P.A.M. Transport, Inc., et al.*, 13-5199 (the “Lawsuit”), is pending in the United States District Court for the Western District of Arkansas in Fayetteville, Arkansas (the “Federal Court”). You are receiving this Notice because the Federal Court has ordered that it be mailed to you.

The Federal Court has preliminarily approved a settlement (“Settlement”) of the Lawsuit. The Settlement provides for current and former over-the-road drivers of P.A.M. to receive a portion of a Three Million, Four-Hundred Fifty Thousand Dollar (\$3,450,000) fund (“Settlement Fund”). The Federal Court will conduct a hearing (Final Approval Hearing) to determine if the Settlement should be approved.

This Notice describes the Settlement and describes how you can obtain a money recovery from the Settlement. This Notice also describes how you can exclude yourself from, or object to, the Settlement.

**2. What is this lawsuit about and why did it settle?**

The Lawsuit alleges that P.A.M. violated the federal Fair Labor Standards Act (“FLSA”) and the Arkansas Minimum Wage Law by failing to pay over-the-road drivers an amount equal to at least the federal minimum and state minimum hourly wage for compensable work. The Lawsuit contends that P.A.M. violated the law by failing to pay for certain activities which the Plaintiffs allege are compensable as a matter of law, including driving time, on-duty not driving time, and time spent in a truck’s sleeper berth beyond 8 hours per day.

Even though P.A.M. denies that it has violated any law and has what it believes are meritorious defenses to the claims alleged, it has decided to settle the Lawsuit. The Settlement enables P.A.M. to avoid the costs and business distraction of protracted litigation and to dedicate its time and resources to ongoing business operations and, as such, benefits both its employees and customers.

The employees’ attorneys, who are referred to as “Class Counsel,” believe that the Settlement benefits the class members. The Settlement provides a benefit to a large number of present and former drivers, and enables the class members to avoid the risk that P.A.M. could win the Lawsuit, in which case class members would recover nothing. The Settlement also enables class members to recover money without the delay of protracted litigation.

The parties’ attorneys negotiated the Settlement after nearly two years of litigation that has enabled each side to understand the risks of proceeding with adversarial litigation. Pay and time records for over one thousand drivers in the class were analyzed. Class Counsel believe that the Settlement is fair and serves the best interests of the class members. The Federal Judge overseeing the Lawsuit has “preliminarily approved” the Settlement as fair. The Federal Judge will make his final decision regarding the fairness of the Settlement at the Final Approval Hearing described in Section 7 below.

**3. What does the Settlement provide and how much will I be paid?**

Under the Settlement, P.A.M. has agreed to pay a Settlement amount of Three Million, Four-Hundred Fifty Thousand Dollars (\$3,450,000) to resolve all claims asserted in the Lawsuit. Your “Individual Settlement Payment” will be calculated based upon the settlement formula stated in the settlement agreement on file with the Court.

After litigation costs, attorneys' fees, service payments, and certain taxes are subtracted from the Settlement Fund, the remaining fund (the "Net Fund") will be divided into two equal funds, the FLSA Fund and the Arkansas State Law Fund. If you submitted a Consent Form to join this action prior to March 31, 2015, you will receive a payment out of the FLSA Fund. If you did not submit a Consent Form to join this action prior to March 31, 2015, you will receive a payment out of the Arkansas State Law Fund.

For individuals who submitted a Consent Form prior to March 31, 2015, their settlement payment will be equal to \$50 plus an additional amount per each workweek they were employed by P.A.M. The weekly amount will be calculated by dividing the total amount left in the FLSA Fund (after making the \$50 payments to such individuals) by the total number of weeks worked by such individuals. The entire FLSA Fund will be paid to individuals who submitted an FLSA Consent Form prior to March 31, 2015.

For individuals who did not submit a Consent Form prior to March 31, 2015, their settlement payment will be equal to \$35 plus an additional amount per each workweek they were employed by P.A.M. The weekly amount will be calculated by dividing the total amount left in the Arkansas State Law Fund (after making the \$35 payments to such individuals) by the total number of weeks worked by such individuals. The entire Arkansas State Law Fund will be paid to individuals who did not submit a Consent Form prior to March 31, 2015.

One-half of your settlement amount will be paid in the form of a payroll check less all ordinary payroll taxes and withholdings. This payment will be reported on an IRS Form W2 issued after the end of the tax year. The other half of your settlement amount will be paid in the form of a non-payroll check with no deduction for payroll taxes or withholdings. This payment will be reported on an IRS Form 1099 issued after the end of the tax year.

At the Final Approval Hearing, Class Counsel will apply to receive up to one-third of the Total Settlement (equivalent to \$1,150,000) for the services they provided and for reimbursement of the out-of-pocket expenses they incurred in the Lawsuit. This amount will be requested based on the substantial work Class Counsel performed in the Lawsuit and the risk Class Counsel took in bringing the Lawsuit. Class Counsel has conducted extensive investigation in prosecuting the Lawsuit, including, but not limited to, interviewing hundreds of employees, taking and defending numerous depositions, reviewing thousands of documents related to the Lawsuit, including hundreds of thousands of electronic records, propounding discovery, answering discovery for a substantial number of class members, reviewing and analyzing substantial amounts of payroll and time data, drafting and filing of motions, and hiring and consulting with experts.

At the Final Approval Hearing, Named Plaintiff Dianna Estes will apply for a service payment of \$10,000. The Service Payment is requested because the Named Plaintiff provided service to the Settlement Class by helping Class Counsel formulate claims and by assisting in bringing the Lawsuit forward. The Named Plaintiff answered questions under oath in a deposition and assisted in discovery. The Service Payment is separate from, and in addition to, the portion of the Settlement Fund that Named Plaintiff may receive as a member of the Settlement Class.

Additionally, at the Final Approval Hearing, each class member who sat for a deposition in this matter will request a service payment of three hundred dollars (\$300). There are fifteen class members who sat for deposition in this matter. These service payments are requested because these individuals volunteered to be deposed to assist in providing representative testimony for the benefit of all class members.

#### **4. How can I receive my payment?**

You do not need to take any further action to receive a payment. However, if your address has changed since you filed a Consent Form and/or worked for P.A.M., or if you move prior to receiving a check, you should contact the Claims Administrator at 1-866-490-6053 to notify the Claims Administrator of your new address. You may also provide change of address information via facsimile to (877) 311-4781 or by e-mail to PAMTransportSettlement@kccllc.com.

The parties anticipate that the settlement checks will be issued in the Second Quarter of 2016.

#### **5. What am I giving up as a Class member?**

If the Federal Court grants final approval of the Settlement, the Lawsuit will be dismissed with prejudice.

If you have previously filed a Consent Form to join this action, you will fully and forever release any and all Wage and Hour claims, including FLSA claims and state law Wage and Hour claims, if any, relating back to the beginning of time through the the end of the December 5, 2013 class period, including but not limited to orientation claims, training claims, travel-time claims, mileage pay claims, meal and rest break claims, and any and all other Wage and Hour claims that were or could have been asserted in this matter, against P.A.M., and including, without limitations, all state and federal claims for wages, penalties, interest, and liquidated damages, as well as all claims for attorneys' fees, costs, and expenses.

If you have not previously filed a Consent Form to join this action, you will release all wage and hour claims, excluding FLSA claims, if any, relating back to the beginning of time through the end of the December 5, 2013 class period, including but not limited to state-law orientation claims, training claims, travel-time claims, mileage pay claims, meal and rest break claims, and any and all other state-law Wage and Hour claims that were or could have been asserted in this matter, against P.A.M., and including, without limitations, all state claims for wages, penalties, interest, and liquidated damages, as well as all claims for attorneys' fees, costs, and expenses.

## **6. How do I exclude myself (opt-out) from this Settlement?**

You will release your legal claims, as described in Section 5 above, unless you affirmatively exclude yourself from the Settlement. If you exclude yourself, you will not release or waive any legal claims, and you will preserve your right to sue P.A.M. on your own for alleged violations of the Released Claims. If you exclude yourself from the Settlement, you will not receive money in this Settlement.

To exclude yourself from the Settlement, you must mail a written request to opt-out of the settlement to *Estes v PAM Transport* Claims Administrator, P.O. Box 40007, College Station, TX 77842-4007, or you may send your request via facsimile to (877) 311-4781 or by e-mail to PAMTransportSettlement@kccllc.com. Your request for exclusion must be postmarked or submitted on or before December 9, 2015 to be valid. To be valid, the Request for Exclusion from Class Settlement must be signed and dated by you, and must include the name of the case. You should also provide your phone number on the request in case the Claims Administrator needs to contact you regarding same.

## **7. Final Approval of Settlement at Final Approval Hearing**

The Federal Judge presiding over this Lawsuit will conduct a Final Final Approval Hearing at 1:30 p.m. on January 20, 2016 in Courtroom 310 of the United States Courthouse, Judge Isaac C. Parker Federal Building, 30 South 6th Street, Fort Smith, Arkansas, 72901-2437. At the Final Approval Hearing, the Judge will decide whether the Settlement is sufficiently fair and reasonable to warrant final court approval. You are not required or expected to attend the Final Approval Hearing. However, you are welcome to attend at your own expense. If you plan on attending, please contact Class Counsel so that the Court can be notified to ensure that there is enough space and time allotted for you.

## **8. How do I object to the Settlement?**

If you believe the proposed Settlement is unfair or inadequate in any respect, you may object to the Settlement, either personally or through an attorney, at your own expense, by filing a written objection with the Court and mailing a copy of your written objection to: *Estes v PAM Transport* Claims Administrator, P.O. Box 40007, College Station, TX 77842-4007 or you may send your objection via facsimile to (877) 311-4781 or by e-mail to PAMTransportSettlement@kccllc.com. In order to object to the Settlement, you must remain a class member and may not opt-out from the Settlement.

All objection(s) to any part of the Settlement must be signed by you or your counsel and set forth your address, telephone number, and the name of the Action: *Dianna Estes v. P.A.M. Transport, Inc.* (Civ. No. 13-5199). All objections must be postmarked or submitted no later than December 9, 2015. If you submit a timely objection, you may appear, either personally or through an attorney, at your own expense, at the Final Approval Hearing discussed above. Your objection should clearly explain why you object to the proposed Settlement and must state whether you or someone on your behalf intends to appear at the Final Approval Hearing. If you object to the Settlement, Class Counsel will not represent you in your objection.

Any class member who does not object in the manner described above shall be deemed to have waived any objections, and shall forever be foreclosed from objecting to the fairness and adequacy of the proposed Settlement, the payment of attorneys' fees, service payments, and litigation costs, the claims process, and any and all other aspects of the Settlement.

Likewise, regardless of whether you file an objection, you will be deemed to have released all of the Released Claims against P.A.M. and subject to the Release contained in the Settlement Agreement as explained in Section 5 above unless you properly request exclusion from the Settlement in accordance with Section 6 above. Please note that if you exclude yourself from the Settlement by following the procedures set forth in Section 6 above, you will not have standing to object to the Settlement, and the Court will not consider your objection at the Final Final Approval Hearing.

## **9. Are there more details about the Settlement? Questions?**

Yes. This Notice summarizes the most important aspects of the Settlement. You can get a copy of the written Settlement Agreement and obtain further information regarding the Lawsuit and the Settlement by calling Class Counsel. Their contact information is listed below. You will not be charged any money for communicating with Class Counsel.

## **10. Do I have an attorney in this case?**

The Court has appointed Swartz Swidler, LLC, Richard Swartz, and Justin Swidler as "Class Counsel" to represent the interests of class members in the Lawsuit. Class Counsel will represent you in the Lawsuit and can answer questions for you regarding the Lawsuit and the Settlement. Class Counsel's contact information is below. You will not be charged any money for Class Counsel's representation of you; rather Class Counsel will be paid out of the class-wide Settlement Fund. You also have the right to get your own attorney at your own expense in which case Class Counsel will not represent you in the Lawsuit or Settlement. If you object to the Settlement, Class Counsel will not represent you in your objections.

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