

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

JUAN M. MARTINEZ, an individual; on behalf of)
himself and all others similarly situated,)

Plaintiffs,)

v.)

HARBOR EXPRESS, INC.; and DOES 1 through 10,)
inclusive,)

Defendants.)

Case No. 22STCV12159

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

To: All current and former drivers who worked with HARBOR EXPRESS, INC. (“Harbor Express”) who were California residents and were classified as “independent contractors,” at any time from April 11, 2018 through May 22, 2024 (the “Class Period”) (the described persons are “Settlement Class” or “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 *Juan Martinez, on behalf of himself and others current and former employees similarly situated v. Harbor Express, Inc.*, Los Angeles Superior Court Case No. 22STCV12159 (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. Harbor Express’s records show that you worked with Harbor Express as a driver at some point between April 11, 2018 and May 22, 2024. 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. If you ask to be excluded, you will not get any Settlement payment based on your eligibility to be in the Settlement class, and you cannot object to the settlement.

What is this case about?

Plaintiff Juan Martinez (the named “Plaintiff”) brought this Lawsuit against Harbor Express, Inc. (“Defendant”), seeking to assert claims on behalf of a “settlement class” of drivers who worked with Harbor Express. Plaintiff is 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 on top of misclassification of employees: (1) unpaid minimum wages; (2) failure to reimburse business expenses; (3) failure to furnish timely and accurate wage statements; (4) failure to pay all wages owed every pay period; (5) failure to pay all wages upon separation; (6) violation of the Business and Professions Code § 17200 et seq.; and (7) violation of the Private Attorneys General Act (“PAGA”).

Questions? Call the Settlement Administrator Toll Free at 888-427-3177

The lawsuit is about whether Defendants failed to properly pay Plaintiffs and other truck drivers whom Defendants classified as independent contractors. The Plaintiffs allege that the truck drivers should have been classified as employees and were not properly compensated for all compensable time worked, such as time spent loading and unloading, performing pre- and post-trip inspections, refueling, waiting, etc., among other wage and hour violations. Plaintiffs claim they should have been compensated for all the time spent working, but they were only paid for productive time, i.e., time spent advancing the load. Finally, Plaintiffs claim that they and other drivers did not receive reimbursement for work-related expenses. Plaintiffs seek actual damages as well as civil and statutory penalties for the alleged wage and hour violations under California law, including liquidated damages, double damages, and attorneys’ fees and costs.

Defendant denies that it has done anything wrong. Defendant further denies that it owes Class Members any wages, restitution, penalties, or other damages. Defendant strongly believes that the drivers who worked with Harbor Express have always been properly classified as independent Owner Operators. The Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, 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 the business operations, Defendant 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.

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

Who are the Attorneys?

<p>Attorneys for Plaintiff/Class Members:</p> <p>HAFFNER LAW P.C. Joshua H. Haffner Alfredo Torrijos Vahan Mikayelyan 15260 Ventura Blvd., Suite 1520 Sherman Oaks, California 91403 Telephone: (213) 514-5681 Facsimile: (213) 514-5682</p>	<p>Attorneys for Defendants:</p> <p>SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY, LLP Christopher C. McNatt, Jr. 2 North Lake Avenue, Suite 560 Pasadena, CA 91101 Telephone: (626) 795-4700 Facsimile: (626) 795-4790</p>
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What are the core terms of the Settlement?

On May 22, 2024, the Court preliminarily certified, for settlement purposes only, all current and former drivers who worked with Harbor Express who were California residents and were classified as “independent contractors,” at any time from April 11, 2018 through May 22, 2024.

If you ask to be excluded, you will not get any Settlement payment based on your eligibility to be in the Settlement class, and you cannot object to the settlement. 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 Defendants as described below (referred to as “Settlement Class Members”). All individuals who worked from April 11, 2021 through May 22, 2024 (referred to as “PAGA Members”) will be entitled to a payment and will release their right to pursue a Labor Code Private Attorney General Act (aka a “PAGA” claim) regardless of whether they request exclusion.

Harbor Express has agreed to pay \$655,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class Members, Class Counsel’s award and costs, administration costs, payment to the LWDA, payment to PAGA Members, and the Class Representative award. The Gross Settlement Fund will be paid out as described in Paragraph 81(a) of this Settlement Agreement.

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

- Administrator Costs. The Court has approved CPT Group, Inc. to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement Agreement. The Parties will request up to \$15,000.00 from the Gross Settlement Fund 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 Fund. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will ask for fees not to exceed 30% of the Gross Settlement Amount, 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 \$10,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.
- Enhancement Award. Class Counsel also intends to make a motion for an Enhancement award to the Class Representative in the amount of Twenty Thousand Dollars and Zero Cents (\$20,000.00). Such Enhancement award, subject to Court approval, is to compensate this individual for the time and expense he incurred in acting as the intermediary between Class Counsel and the Class, assisting Class Counsel in investigating and obtaining evidence, responding to discovery, providing testimony by way of declarations, and participating in mediation. The Enhancement award is also meant to compensate this individual for the significant risks he took in choosing to actively participate in the prosecution of this Class Action.
- PAGA Payment to the State of California. The parties have agreed to allocate \$25,000.00 towards the Settlement of the PAGA claims in the Lawsuit. \$18,750.00 will be paid to the State of California Labor and Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$6,250.00 will be allocated to PAGA Members.

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 Qualified Settlement Fund ("QSF"), which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion form (described below) and who do not appear at the Final Approval Hearing to request exclusion. Each Class Member who worked as a driver with Harbor Express from April 11, 2018 through May 22, 2024, will be entitled to a Settlement Payment based on the proportionate number of work weeks the Class Member worked as a driver with Harbor Express during the time period of April 11, 2018 through May 22, 2024.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Class Payments will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion or appear at the Final Approval Hearing to object.

Deadline to cash the checks: You will have 180 calendar days after mailing by the Settlement Administrator to cash your settlement check.

"Non-Reversionary" Settlement. This is a "non-reversionary" settlement. Under no circumstances will any portion of the Settlement Amount revert to Defendant. Any unclaimed funds in the Settlement Administrator's account as a result of a failure to timely cash a settlement check shall be handled by the Settlement Administrator and be issued to the Cy Pres recipient [General Services fund of the Legal Aid Foundation of Los Angeles].

Payments to PAGA Members. If the Court grants final approval of the Settlement, PAGA Payments will be mailed to all PAGA Members regardless of whether they request exclusion. The payment to PAGA Members will consist of a pro rata share of the \$6,250.00 portion of the \$25,000.00 PAGA allocation. The pro rata share will be based on the number of work weeks each individual worked between April 11, 2021 and the May 22, 2024, compared to the total number of work weeks worked by all PAGA Members during the same time period.

Allocation and Taxes. For tax purposes, each Settlement Payment will be treated as follows: any portion paid from the PAGA allocation will be deemed a settlement for statutory penalties; Individual Settlement Payments constitute as non-wage income. An IRS form 1099 will be issued for these payments. Settlement Class Members are responsible for the proper tax treatment of the Settlement Payments. The Administrator, Defendant 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 and when Harbor Express fully funds Gross Settlement Amount, each Class Member who has not submitted a valid Request for Exclusion, will fully release and discharge Defendant and its parents, predecessors, successors, subsidiaries, affiliates, related companies, brother and/or sister companies, divisions, joint venturers, assigns, any entities deemed a client employer or labor contractor of Defendant under Labor Code section 2810.3, service providers, insurers, consultants, subcontractors, any individual or entity deemed a statutory employer or joint employers (under any legal theory of joint employment) and all respective agents, employees, officers, directors, stockholders, shareholders, owners, fiduciaries, insurers, consultants,

subcontractors, and attorneys thereof (collectively the “Released Parties”) from the following “Released Claims” for the entire Class Period:

Released Claims” means all known and unknown claims, losses, damages, liquidated damages, demands, penalties, liabilities, declaratory relief, injunctive relief, interest (whether pre- or post-judgment), disbursements, attorneys’ fees and costs, causes of action, complaints or suits, at law or in equity, which arise from the facts asserted in the Complaint, including, without limiting the foregoing, claims for misclassification of Class Members as independent contractors, failure to pay minimum wage, , failure to reimburse for business expenses, failure to furnish timely, accurate, and itemized wage statements, failure to pay all wages owed every pay period, failure to pay all wages upon separation, claims made under California Labor Code sections 201, 202, 203, 204, 221, 223, 226, 226.3, 226.7, 226.8, 400 – 410, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 2802, all similar provisions or requirements of the California Industrial Welfare Commission Wage Order 9-2001 (including, but not limited to, sections 4, 11, and 12), California Labor Code Private Attorney General Act section 2698 et seq. (including, but not limited to, sections 2699 and 2699.3), California Business and Professions Code sections 17200, et seq.. This Agreement will release all claims that were expressly alleged in the Action or that could have been alleged in the Action based upon the factual and legal allegations in the Complaint.

If the Court approves the Settlement, each PAGA Member, regardless of whether exclusion was requested, will release the right to pursue claims under the California Labor Code Private Attorney General Act section 2698 et seq. (including, but not limited to, sections 2699 and 2699.3 based on misclassification as an independent contractor, unpaid minimum wage, unpaid overtime wages, failure to provide meal periods, failure to provide rest periods, failure to reimburse for business expenses, failure to furnish timely, accurate, and itemized wage statements, failure to pay all wages owed every pay period, and failure to pay all wages upon separation).

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.

You may also visit www.cptgroupcaseinfo.com/HarborExpressSettlement to view the Settlement Agreement, Notice of Pendency of Class Action, Request for Exclusion, or Final Judgment.

How much can I expect to receive from the Settlement?

The amount of money you are entitled to receive from this settlement (your “Individual Settlement Payment”) is based on the number of Work Weeks that you worked with Harbor Express during the Class Period. The amount of your Individual Settlement Payment and how it was calculated are set forth in the Notice of Estimated Individual Settlement Payment which accompanies this Notice. You may also be entitled to receive a portion of the PAGA Penalties awarded in this action (your “Individual PAGA Payment.”) If you are entitled to an Individual PAGA Payment, the amount of your Individual PAGA Payment and how it was calculated are also set forth in the Notice of Estimated Individual Settlement Payment.

Dispute Information in this Notice of Settlement.

Your award is based on the number of work weeks you worked with Harbor Express as a driver during the Class Period. The information contained in Harbor Express’s records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed in the Notice of Estimated Individual Settlement Payment form. If you disagree with the information listed in the Notice of Estimated Individual Settlement Payment form, you may submit a dispute, along with any supporting documentation, to: c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.; Email: HarborExpressSettlement@cptgroup.com; Tel.: 888-427-3177; Fax: (949) 419-3446. Any disputes, along with supporting documentation, must be postmarked no later than August 8, 2024. **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 Settlement Administrator. The Settlement 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

Remain part of the case and receive approximately the payment amount identified above **for the Settlement Class and, if applicable, PAGA Class.** 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. After final approval by the Court, the payment will be mailed to you at the same address as this Class Notice. If your address has changed, please notify the Settlement Administrator as explained below.

Questions? Call the Settlement Administrator Toll Free at 888-427-3177

2. Opt Out of the Settlement

Get no Class Member payment. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator executed signed Request for Exclusion Form postmarked no later than August 8, 2024, with your name, address, telephone number, last four digits of your social security number or full federal tax i.d. number, your signature, and the date.

Send the Request for Exclusion Form directly to the Administrator at: c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.; Email: HarborExpressSettlement@cptgroup.com; Tel.: 888-427-3177; Fax: (949) 419-3446. 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 except the PAGA portion as described immediately below.

If the Court approves the Settlement, PAGA Class Members will be subject to a release of PAGA claims and will be entitled to a portion of the allocation of PAGA penalties regardless of whether exclusion is requested.

You may also appear at the Final Approval Hearing to object.

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 in writing, or any portion of it, you may mail a written objection to the Settlement Administrator at: c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606.; Email: HarborExpressSettlement@cptgroup.com; Tel.: 888-427-3177; Fax: (949) 419-3446. Your written objection must include your name, the last four digits of your social security number or full federal tax i.d. number, and the basis for your objection. You may also include any evidence in support of your objection. Written objections must be postmarked on or before August 8, 2024.

You may also object by appearing at the Final Approval Hearing scheduled for September 19, 2024 at 10:00 a.m., in Department 7 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.

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.

4. Speak at the Final Approval Hearing

You may also appear at the Final Approval Hearing to object and give your reasons for objecting as to why the Court should not approve the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on September 19, 2024 at 10:00 a.m., in Department 7 of the Los Angeles County Superior Court, located at 312 N. Spring Street, Los Angeles, California 90012. Please contact the Settlement Administrator 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. You may also visit www.cptgroupcaseinfo.com/HarborExpressSettlement to check for updates to the Final Approval Hearing date, time, or location.

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.**

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 Class Counsel using the contact information listed above for more information.

Questions? Call the Settlement Administrator Toll Free at 888-427-3177

<<EmployeeName>>

CPT ID: <<ID>>

You may also visit www.cptgroupcaseinfo.com/HarborExpressSettlement to view the Settlement Agreement, Notice of Pendency of Class Action, Request for Exclusion, or Final Judgment.

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

When will I get my payment?

The settlement payments will be distributed only if the Court approves the Settlement. The Court will hold a Fairness Hearing on September 19, 2024 at 10:00 a.m., to decide whether to approve the Settlement. Even if the Court approves the Settlement, however, there may still be appeals of that approval order that will take additional time to resolve, which can last for more than a year. Please be patient, as the claims administration process takes time.

Your Individual Settlement Payment will be paid to you within twenty-four (24) days after the Effective Date. The Effective Date is the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no Class Member timely and properly intervenes or files a motion to vacate the judgment approving the Settlement Agreement under Code of Civil Procedure § 663, the date the Court enters an order granting Final Approval of the Settlement Agreement; (ii) if a Class Member intervenes or files a motion to vacate the judgment approving the Settlement Agreement, thirty-five (35) calendar days following the date the Court enters an order granting final approval, assuming no appeal is filed; or (iii) if a Class Member intervenes or files a motion to vacate the judgment approving the Settlement Agreement, and if a timely appeal is filed, the date of final resolution of that appeal (including any requests for rehearing and/or petitions for certiorari), resulting in final judicial approval of the Settlement Agreement.

In the event this Notice is returned to the administrator as undeliverable, the Claims Administrator shall conduct an in-depth search under which it shall promptly attempt to determine the correct address using a skip-trace or other search using the name, address, and/or social security number of the Class Member involved and shall then re-mail the returned check.

In the instance that the Class Member's Notice Packet is re-mailed, that Class Member's Objection/Exclusion/Dispute Deadline Date shall be recalculated so that Class Member shall have an additional fifteen (15) calendar days from the original Objection/Exclusion/Dispute Deadline to opt-out, object, or dispute the number of work weeks attributed to him or her.

REMINDER AS TO TIME LIMITS

Please submit a Request for Exclusion, Dispute or written Objection by August 8, 2024, or appear at the Final Approval Hearing.

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 MAY 22, 2024