

1 **LEBE LAW, APLC**

2 Jonathan Lebe, Esq.

3 Jon@lebelaw.com

4 Annaliz Loera, Esq.

5 Annaliz@lebelaw.com

6 777 S. Alameda St, Fl 2

Los Angeles, CA 90021

Telephone: (213) 444-1973

Facsimile: (213) 457-3092

Attorneys for Plaintiff and the Putative Class

8 **PAUL HASTINGS LLP**

9 Stephen L. Berry, Esq.

10 stephenberry@paulhastings.com

Kelli Way

11 kelliway@paulhastings.com

12 695 Town Center Drive, Fl 17

Costa Mesa, CA 92626

13 Telephone: (714) 668-6200

Facsimile: (714) 668-6346

14 Attorneys for Defendant

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **COUNTY OF SAN BERNARDINO**

17 Scott Fiske, individually and on behalf of others
18 similarly situated;

19 Plaintiff,

20 v.

21 Robertson's Transport, Ltd.; and Does 1 through
22 20, Inclusive,,

23 Defendants.

Case No. CIVDS2018316

**DECLARATION OF ERIN LA
RUSSA (ON BEHALF OF CPT
GROUP, INC.) WITH RESPECT
TO NOTIFICATION AND
ADMINISTRATION**

*Assigned to the Honorable David Cohn
Dept.: S-26*

Complaint Filed: August 21, 2020

1 I, Erin La Russa, declare as follows:

2 1. I am employed by CPT Group, Inc., the Court-approved class action Settlement
3 Administrator for *Scott Fiske v. Robertson's Transport, LTD*, as a Case Manager. I have personal
4 knowledge of the facts set forth in this Declaration, and if called as a witness, I could and would
5 testify competently thereto.

6 2. Settlement Administrator ("CPT") has extensive experience in providing notice of
7 class actions and administering class action settlements. In the past 30 years, we have provided
8 notification and/or claims administration services in over one thousand class action cases.

9 3. CPT was selected by the parties to administer the settlement in this action. In this
10 capacity, CPT was charged with (a) printing and mailing to Class Members the *Notice of Class*
11 *Action Settlement*, hereinafter referred to as the "Notice"; (b) processing undeliverable mail and
12 locating updated addresses for Class Members; (c) receiving other communications about the
13 settlement; (d) notifying the parties of the number of Class Members who filed timely requests
14 for exclusion; (e) notifying the parties of the number of Class Members who filed untimely or
15 deficient requests for exclusion, and taking steps to cure the deficiencies; (f) establishing and
16 maintaining a toll free case hotline where Class Members can speak to case representatives
17 regarding case specific questions; and (g) will be responsible for calculating and mailing the
18 Individual Settlement Payments to Class Members as well as completing any associated tax
19 withholding and reporting to the State and Federal tax authorities.

20 4. CPT received the Court-approved text for the Notice from Counsel on November
21 17, 2021. CPT prepared a draft of the Notice for mailing to the class members. Attached hereto
22 as **Exhibit A** is a true and correct copy of the Notice.

23 5. On November 19, 2021, CPT received a data file from Defense Counsel containing
24 the Class List for the purpose of mailing Notices to Class Members. The initial mailing list
25 contained nine hundred thirty-four (934) Class Members.

26 6. On December 2, 2021, CPT ran a National Change of Address (NCOA) search in
27 attempt to update the addresses on the class list and ensure it was as accurate as possible. A search
28 of this database provided updated addresses for any individual who had moved in the previous

four years and notified the U.S. Postal Service of their change of address. As a result of the NCOA search, CPT was able to locate one hundred twelve (112) new addresses.

7. The Notices were enclosed in an envelope with the Class Member's name and known address printed on the envelope. On December 3, 2021, the Notice was mailed via U.S. first class mail to all nine hundred thirty-four (934) Class Members. The deadline to submit disputes, requests for exclusion or objections was January 3, 2022.

8. As of the date of this declaration, twenty-six (26) Notices have been returned to our office by the U.S. Postal Service, of which five (5) were provided a new address by the Post Office. For the remaining twenty-one (21) Notices, CPT performed a skip trace to locate a better address using Accurint, one of the most comprehensive address databases available. It utilizes hundreds of different databases supplied by credit reporting agencies, public records, and a variety of other national databases.

9. As a result of skip trace effort or re-mail requests from Counsel or the Class Members themselves, a total of sixteen (16) Notices have been re-mailed to date. In addition, four (4) Notices were also forwarded by CPT. As of the date of this declaration, a total of eleven (11) Notices are deemed undeliverable.

10. As of the date of this declaration, CPT has received six (6) requests for exclusion, zero (0) objections, and zero (0) disputes regarding weeks.

11. As of the date of this declaration, CPT has received one (1) late request for exclusion that has been deemed untimely and invalid.

12. As of the date of this declaration, CPT reports a total of nine hundred twenty-eight (928) Participating Class Members, representing 99.36% of the Settlement Class.

13. Pursuant to the Stipulation of Settlement and Release, the Total Settlement Amount shall increase proportionally for each full percent that the number of workweeks during the Covered Time Frame exceeds 125,177 workweeks (i.e., over 7.5% above the estimated workweeks above). Per CPT's calculations, and in consultation with Counsel, there is a total of 134,096 workweeks and an escalator amount of \$90,000.00 bringing the Total Settlement Amount from \$1,500,000.00 to \$1,590,000.00.

14. The entire Net Settlement Amount was used to calculate the estimated amount for each Settlement Class Member:

Total Settlement Amount	\$1,590,000.00
Less Class Counsel Fees	(\$500,000.00)
Less Class Counsel Costs	(\$15,000.00)
Less Enhancement Award to Plaintiff	(\$7,500.00)
Less LWDA Payment	(\$11,250.00)
<u>Less Settlement Administration Costs</u>	<u>(\$12,500.00)</u>
Net Settlement Amount	\$1,043,750.00

15. Based on estimated settlement calculations at this time, the average gross payment to each Settlement Class Member is \$1,124.73 and the highest is \$2,339.57

16. Pursuant to the terms set forth in the Stipulation of Settlement and Release, employer-side payroll taxes will be paid by Robertson's in addition to and separate from the Total Settlement Amount.

17. CPT will charge a total of \$12,500.00 in costs associated with the administration of the settlement. This includes all costs incurred to date, as well as estimated costs involved in completing the settlement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration is executed this 20th day of January 2022, at Irvine, California.

Erin La Russa
Erin La Russa

EXHIBIT A

SCOTT FISKE V. ROBERTSON'S TRANSPORT, LTD**Superior Court of the State of California, County of San Bernardino****Case No.: CIVDS 2018316**

If you are a current or former hourly-paid employee who worked for Robertson's Transport, Ltd. ("Robertson's" or "Defendant") as a transport driver in the State of California, at any time from April 6, 2016 through November 5, 2021, a class action lawsuit may affect your rights and you may be entitled to a payment under this settlement.

You are not being sued. A court authorized this notice. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. IT CONTAINS IMPORTANT INFORMATION ABOUT YOUR RIGHTS.

- This is a class action lawsuit that involves a class defined as all current and former non-exempt (hourly-paid) employees who work/worked for Robertson's as a transport driver in the State of California from April 6, 2016 through November 5, 2021."
- Plaintiff in this class action alleges that Defendant (a) failed to pay class members for all time worked, including and not limited to, overtime, (b) failed to pay class members overtime and other wages at the "regular rate of pay," (c) failed to provide class members with required meal and rest periods and failed to pay class members wages for meal and rest periods worked and not taken, (d) failed to timely pay class members all wages owed during employment and upon termination of employment, (e) took unauthorized deductions from class member wages, (f) failed to provide class members accurate, itemized wage statements, and (g) subjected class members to unfair business practices.
- Defendant denies Plaintiff's claims and asserts that it has complied with all of its legal obligations to its employees.
- There has been a settlement that affects your legal rights. Although the Court has authorized the Parties to provide this notice of the proposed settlement, the Court has expressed no opinion on the merits of Plaintiff's claims or Defendant's defenses.
- You have several options available to you:

DO NOTHING	By doing nothing, you <u>will</u> receive a share of the settlement proceeds, and you will give up any rights to sue Robertson's separately regarding all claims and causes of action of whatever kind or nature that are alleged, related to or that reasonably could have arisen out of the same facts alleged in this class action.
ASK TO BE EXCLUDED (OPT OUT)	Get out of this lawsuit. Get no benefits from the Settlement. Keep rights. If you ask to be excluded, you <u>will not</u> receive a share of the settlement proceeds, but you keep any rights you may have to sue Robertson's for the same legal claims alleged in the lawsuit.

OBJECT	Object to the terms of this Settlement.
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**Your options are explained in this notice.
To request exclusion or object, you must act by January 3, 2022.**

1. Why did I get this notice?

You have received this notice because Defendant's records indicate that you are a member of the Settlement Class as defined above.

2. What is this lawsuit about?

On August 21, 2020, Plaintiff filed a complaint on behalf of himself and all other current and former hourly-paid employees employed by Robertson's. The lawsuit was amended on December 21, 2020 to add a claim for civil penalties.

Plaintiff alleged several categories of claims, as described above.

Defendant denies Plaintiff's claims and asserts that it has complied with all of its legal obligations to its employees.

3. Has the Court decided who is right?

No. The Court has made no decision regarding the merits of Plaintiff's allegations or Robertson's defenses.

4. Why did this case settle?

The Parties reached a settlement in order to avoid the risk and expense of further litigation. Plaintiff and his attorneys believe the proposed settlement is fair, adequate and in the best interest of the class members to whom it applies given the outcome of their investigation, the consumption of time and resources required in connection with further litigation, and the uncertainty in the law governing some of the claims presented. Although Defendant disputes Plaintiff's claims and asserts it has complied with all of its legal obligations towards its employees, Defendant has also concluded that further litigation would be lengthy and expensive and would also divert resources and management and employee time.

5. What are the terms of the settlement and how much will I receive?

The total settlement amount is \$1,590,000. Under the proposed settlement, the following amounts will be deducted before any payments are made to employees, subject to final approval by the Court:

- Service Payment to Named Plaintiff – up to \$7,500
- Attorneys' fees – up to \$500,000
- Attorneys' Costs – up to \$15,000
- Payment under the California Private Attorneys' General Act of 2004 ("PAGA") -- \$15,000 (\$11,250 of which will be distributed to the California Labor & Workforce Development Agency and \$3,750 of which will be distributed to the Settlement Class)

- Settlement Administration Expenses – up to \$15,000

After these deductions, approximately \$1,037,500 will be available for payments to be made to the Settlement Class Members receiving this notice. This amount is called the “Net Settlement Amount.”

Each Settlement Class Member shall receive a lump sum based on the number of weeks he/she worked for Defendant from April 6, 2016 through November 5, 2021 (“Class Period”).

The lump sum payment to you will be determined based upon the total number of weeks you worked during the Class Period. The Settlement Administrator will calculate the lump sum payment to you by following this formula: First, the Settlement Administrator will calculate the total number weeks worked by all Settlement Class Members by adding the weeks worked by each individual Settlement Class Member during the Class Period. Second, the weeks worked by each individual Settlement Class Member will then be divided by the total number of weeks worked all Settlement Class Members, resulting in the Payment Ratio for each Settlement Class Member, which will then be multiplied by the Net Settlement Amount to calculate each Settlement Class Member’s estimated Individual Settlement Payment. Third, the Individual Settlement Payment of a Settlement Class Member who also was a class member in the case entitled, *Cano v. Robertson’s Transport, Inc.*, SBSC Case No. BC598309 (the “*Cano* case”), or is covered by the release in the court’s order granting final approval of the class action settlement in the *Cano* case, will be reduced by 10% by multiplying their Individual Settlement Payments in this case by .10, and this amount shall be subtracted from their Individual Settlement payment and added to the Individual Settlement Payments of the Settlement Class Members who did not get a payment under the settlement in the *Cano* case.

Defendant’s records indicated that you worked <<WorkWeeks>> weeks during the Class Period, and <<did/did not>> receive a payment under the *Cano* case settlement.

6. What if I disagree with the number work weeks or *Cano* case settlement participation attributed to me?

Your total weeks worked during the Class Period and participation in the *Cano* case settlement are shown above. This information is based on Defendant’s records. If you disagree with this information and would like someone to look into the matter, please provide the Settlement Administrator, in writing, with the number of weeks you believe you worked from April 6, 2016 through November 5, 2021 and/or proof that you requested to be excluded from the *Cano* case settlement. You must also provide any documentation you have to support your claim. Robertson’s records will control unless you are able to provide information and/or documentation which establishes that Robertson’s records are in error. If there is a dispute about whether Robertson’s information or yours is accurate, the court may be asked to resolve the dispute, and the court’s decision will be final. You must contest the number of weeks worked and/or *Cano* case settlement participation in writing no later than January 3, 2022. Please send your information to the Settlement Administrator at the address below.

7. What do I have to do to receive a share of the settlement?

If you wish to receive a payment under the terms of this settlement, you do not have to do anything. If your address has changed or changes, you should immediately notify the Settlement Administrator of the address change.

8. What rights am I giving up?

Upon the final approval of the settlement by the court, and except as to such rights or claims as may be created by this Stipulation of Settlement, the Class Members (other than those who timely request to be excluded in accordance with the terms of the Settlement) will release and discharge Robertson's and all of its former and present parents, subsidiaries, and affiliates, and its current and former officers, directors, employees, partners, shareholders and agents, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals ("Class Members' Released Parties"), from any and all claims, rights, demands, liabilities of every nature and description within the scope of or arising from the allegations of the Lawsuit (and all amendments thereto), and specifically, all claims for: (a) failure to pay wages owed, including unpaid minimum wages and overtime premium pay; (b) failure to pay wages at the correct rate, including overtime pay at the correct regular rate of pay; (c) failure to provide meal and/or rest periods in accordance with applicable law, including payments at the correct rate or at all for non-compliant meal and/or rest periods and alleged non-payment of wages for meal periods worked and not taken; (d) failure to timely pay wages, both during employment and upon termination and/or resignation of employment; (e) unlawful deductions from wages; (f) failure to provide accurate itemized wage statements; (g) unfair business practices; (h) recordkeeping violations; and (i) and all other civil and statutory penalties including those recoverable under the PAGA ("Class Members' Released Claims"), arising during the period from April 6, 2016 to the date on which the court grants preliminary approval of the Settlement ("Class Members' Release Period"). The Class Members' Released Claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation California Labor Code §§ 200, *et seq.*, including §§ 201-204, 210, 218, 218.6, 221, 223, 226, 226.2, 226.3, 226.7 and 256 in particular; California Labor Code §§ 500, *et seq.*, including §§ 510-512, 558, and 558.1 in particular; California Labor Code §§ 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 1199; California Labor Code §§ 2800, 2802 and 2804; the California Unfair Competition Act, and in particular, California Bus. & Prof. Code §§ 17200, *et seq.*; California Labor Code §§ 2698, *et seq.*; California Civil Procedure Code § 1021.5; and any other provision of the California Labor Code or any applicable California Industrial Welfare Commission Wage Orders, in all of their iterations.

9. What if I do not wish to be involved?

Anyone not wishing to participate in this settlement may exclude himself or herself ("opt out") by sending a written request for exclusion to the Settlement Administrator at the address below. The written request must contain your name, address, and telephone number, clearly refer to this lawsuit by title and/or case number and clearly state that you wish to exclude yourself from the class. The request for exclusion must be signed by you or your authorized representative indicating that you wish to exclude yourself from the Settlement. The request for exclusion must be postmarked by January 3, 2022.

If your Request for Exclusion is postmarked after January 3, 2022, it will be rejected, and you will be a Settlement Class Member and be bound by the settlement terms.

Anyone who submits a timely and valid Request for Exclusion shall not be deemed a Class Member and will not receive any payment as part of this settlement. Such persons will keep any rights to sue Defendant separately about the claims in this lawsuit. Requests for exclusion must be sent to:

Fiske v. Robertson's Transport, Ltd. Settlement Administrator
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Toll-Free Number: 1 (888) 431-2317

10. What if I have an objection?

Any objection to the settlement must be in writing, specify the reason(s) for the objection, and be mailed to the Settlement Administrator no later than January 3, 2022. Either of the Parties may file a responsive document to any objection with the Court. Do not submit both a request for exclusion and an objection. If you do, your request for exclusion will not be valid and you will be included in the settlement.

11. Do I need a lawyer?

You do not need to hire your own lawyer, because Class Counsel is working on your behalf. However, if you want your own lawyer, you are free to hire one at your own expense.

<u>Class Counsel:</u> LEBE LAW, APLC Jonathan Lebe, Esq. Annaliz Loera, Esq. 777 S. Alameda Street, Second Floor Los Angeles, CA 90021 Telephone: (213) 444-1973 Facsimile: (213) 457-3092	<u>Counsel for Robertson's Transport, Ltd.</u> PAUL HASTINGS LLP Stephen L. Berry, Esq. 695 Town Center Drive, Seventeenth Floor Costa Mesa, CA 92626 Telephone: (714) 668-6200 Facsimile: (714) 979-1921
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12. What happens next in the case?

The Settlement has only been preliminarily approved by the Court. The Court will hold a hearing in Dept. S-26, of the San Bernardino County Superior Court, 247 West Third Street, San Bernardino, CA 92415-0210, on the eighth floor, on March 9, 2022 at 10:00 a.m. (Pacific Time) to consider any objections and determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and costs and the costs of Settlement Administration. The hearing may be continued without further notice to you. It is not necessary for you to appear at this hearing.

13. How can I receive more information?

This notice is a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you may review the detailed “Stipulation of Settlement” on file with the Clerk of the Court. The pleadings and other records in this litigation may be examined at any time during regular business hours at the Office of the Clerk of the San Bernardino County Superior Court, 247 West Third Street, San Bernardino, CA 92415-0210.

For further information, you may also telephone the Settlement Administrator at 1 (888) 431-2317 or Class Counsel (listed above).

Please do not telephone the Court, the Office of the Clerk, or Robertson’s for information regarding this settlement.