

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA -EASTERN DIVISION**

Salvador Canava, Plaintiff, v. Rail Delivery Services, Inc. et al., Defendants	Case No. 5:19-cv-401-SB (KKx)
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**NOTICE OF RIGHT TO TAKE PART IN A LAWSUIT
SEEKING BACK WAGES AND OTHER RELIEF**

To: ALL DRIVERS WHO AT ANY TIME AFTER MARCH 3, 2015 OWNED OR LEASED A TRUCK THAT THEY PERSONALLY DROVE FOR RAIL DELIVERY SERVICES, INC. UNDER AN INDEPENDENT CONTRACTOR AGREEMENT.

**A FEDERAL COURT HAS AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION FROM A LAWYER.**

The purpose of this Notice is to inform you about a lawsuit that you have a right to take part in and to tell you how you can take part in it or how to exclude yourself from it.

To take part in the claims seeking federal minimum wages you must complete, sign and return FORM A “Consent to Join Form” attached to this Notice by email, fax or postmarked on or before March 28, 2021.

If you do not want to participate in the federal minimum wage claims you do not need to do anything.

You are already part of the California law claims in the lawsuit. You do not need to do anything to take part in those claims. If you do not want to take part in the California law claims you must complete and sign FORM B “Exclusion Form” attached to this notice and return it by email, fax or postmarked on or before March 28, 2021.

1. What Is The Lawsuit About?

Plaintiff Salvador Canava is a truck driver who drove for Rail Delivery Services, Incorporated (“RDS”) in 2017-2018 after signing an independent contractor agreement with RDS. On March 4, 2019, he filed a lawsuit against Defendants RDS, Greg P. Steffle, and Judi Girard Steffle (“Defendants”). Plaintiff Canava asserts that these Defendants misclassified Rail Delivery Services’ drivers as independent contractors instead of employees. He claims that Defendants did not pay drivers enough money for drivers to earn the federal minimum wage. He also alleges that Defendants violated California laws by failing to pay their drivers the California minimum wage, failing to provide meal and rest periods, failing to provide proper wage receipts, improperly making drivers pay for RDS business expenses, requiring drivers to purchase things from RDS, and failing to pay drivers all of their wages within 30-days after they quit or were terminated. Plaintiff also alleges that the independent contractor agreement that drivers signed with RDS was unconscionable and illegal. These California law claims and the claim that the agreement was unconscionable are referred to herein as the “California Claims” and apply to work performed any time after March 3, 2015. Plaintiff seeks money damages from Defendants for all of these violations.

The Defendants deny that they did anything wrong. This means Defendants deny that the drivers were employees, that the independent contractor agreements were unconscionable and illegal, and that the drivers are owed any money.

The Court has not yet decided whether Plaintiff’s claims are correct or not, but the Court has decided that the lawsuit may proceed as a collective and class action on behalf of all current and former truck drivers who personally drove a truck for RDS at any time

after March 3, 2015 under an independent contractor agreement. To be included in the lawsuit it does not matter whether a driver owned or leased his or her truck, either way the driver is still part of the class. Nor does it matter if a driver used more than one truck during the time he or she worked for RDS as long as the driver only owned or leased one truck at a time and drove it him or herself. However, work during weeks when a driver hired someone else to drive his truck or during which a Driver drove his truck for a person or company unrelated to RDS are not part of the case.

2. Why Did I Get This Notice?

You received this Notice because Rail Delivery Service's records show that you are a member of the class of drivers described above – that is, that you signed an independent contractor agreement to drive a truck for RDS and drove for RDS on or after March 4, 2015.

3. What Happens If I Choose To Take Part In The Lawsuit?

If you want to take part in the federal minimum wage claim and/or the California claims, you will be represented by the Plaintiff and his lawyers who will make decisions and agreements about the lawsuit on your behalf. You may be asked to produce documents and be a witness regarding your work as a truck driver for RDS. You will be bound by the Court's decision regarding the claims you choose to participate in, whether favorable or unfavorable. Being bound by the Court's decision means that if Plaintiff wins or the Court approves a settlement of the claims and Plaintiff is awarded money, you will receive your share of the money. If Plaintiff loses the claims you will receive nothing and your claims will be terminated.

4. What Happens If I Choose NOT To Take Part In The Lawsuit?

If you do not take part in either the FLSA or California claims you will not be bound by the decision of the Court on the claims you do not take part in. That means if Plaintiff wins money for those claims you will NOT receive a share of the money. The lawsuit will not affect your right to hire an attorney to file your own lawsuit about those claims as

long as you do so within the applicable time limitations and file a timely request to be excluded from the claims based on California laws.

5. How Do I Make My Choice To Participate Or Not?

a. The Federal Minimum Wage Claim – Submit FORM A to be INCLUDED.

If you drove for RDS at any time after March 3, 2016, and want to take part in the federal minimum wage claim you must fill out the enclosed FORM A (“Consent to Join Form”) and mail, email, or fax it to Plaintiff’s attorneys at:

GETMAN, SWEENEY & DUNN, PLLC
260 Fair Street
Kingston, NY 12401
(845) 255-8649
cmow@getmansweeney.com

Your FORM A must be received (or postmarked if mailed) by March 28, 2021. If you want to join the federal minimum wage claim you should send FORM A (“consent to Join” form) as soon as possible because every week you delay you risk losing claims to the statute of limitations. If you do NOT want to participate in the federal minimum wage claim you do not need to do anything.

b. The California Claims – Submit FORM B to be EXCLUDED.

The California claims work the opposite way from the federal minimum wage claims. You are already considered to be taking part in the California claims and, therefore, you do not need to do anything if you want to continue to take part in those claims. If you do NOT want to take part in the California claims you must ask to be excluded from those claims by signing the enclosed FORM B (“Exclusion Form”) and mailing, emailing or faxing it to:

GETMAN, SWEENEY & DUNN, PLLC
260 Fair Street
Kingston, NY 12401
(845) 255-8649
cmow@getmansweeney.com

If you do not want to participate, your Form B Exclusion Form must be received (or postmarked if mailed) no later than March 28, 2021.

6. What Happens Next?

You and other drivers have until March 28, 2021 to decide whether you want to participate in the case or not. After that date, the lawsuit will proceed toward trial on behalf of the Drivers who chose to participate in the federal minimum wage claims and/or do not exclude themselves from the California claims.

7. Can Defendants Retaliate Against Me If I Participate In The Lawsuit?

No. The law prohibits Defendants from retaliating against you in any way. For example, Defendants cannot give you an unfair review, cut your pay, fire you or give you less work because you have decided to participate in the lawsuit.

8. Who Will Be My Lawyer If I Participate In The Lawsuit?

If you choose to participate you will be represented by Plaintiff Salvador Canava’s lawyers. These lawyers will not charge you directly for representing you in this lawsuit. If Plaintiff wins and recovers money, the Court will decide how much Plaintiff’s attorneys should be paid. Those fees may be subtracted from the money awarded to the Drivers, or the fees may be paid by the Defendants, or they may be paid by a combination of the two. If Plaintiff loses and recovers no money from Defendants, the Plaintiff’s attorneys will not be paid and you will not owe the attorneys anything. The names of the Plaintiff’s attorneys and local counsel are as follows:

MICHAEL J.D. SWEENEY (<i>Pro Hac Vice</i>) GETMAN, SWEENEY & DUNN, PLLC 260 Fair St. Kingston, NY 12401 Telephone: (845) 255-9370 msweeney@getmansweeney.com	SUSAN MARTIN (<i>Pro Hac Vice</i>) JENNIFER KROLL (<i>Pro Hac Vice</i>) MARTIN & BONNETT, P.L.L.C. 4647 N. 32nd St., Suite 185 Phoenix, AZ 85018 Telephone: (602) 240-6900 smartin@martinbonnett.com jkroll@martinbonnett.com
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EDWARD TUDDENHAM (<i>Pro Hac Vice</i>) 23 Rue Du Laos Paris, France 33 684 79 89 30 <u>etudden@prismnet.com</u>	HOWARD Z. ROSEN (Local Counsel) ROSEN MARSILI RAPP LLP 3600 Wilshire Blvd., Suite 1800 Los Angeles, CA 90010 Telephone: (213) 389-6050 Facsimile: (213) 389-0663 <u>hzrosen@rmrllp.com</u>
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If you would rather hire your own attorney to represent you in the lawsuit you have a right to do so but you must make the arrangements yourself. If you do not hire your own attorney you will be represented by the Plaintiff's attorneys.

9. How Do I Get More Information?

If you have questions about this notice or the lawsuit, please contact Plaintiff's Counsel by writing, calling or emailing:

Getman, Sweeney & Dunn, PLLC
260 Fair Street
Kingston, NY 12401
(845) 255-9370
cmow@getmansweeney.com

When you write, email or call please indicate that you are a Rail Delivery driver and your question will be routed to the correct person.

PLEASE DO NOT CONTACT THE COURT

FORM A

CONSENT TO JOIN FORM

I WANT TO PARTICIPATE in the federal minimum wage lawsuit titled *Salvador Canava v. Rail Delivery Services, Inc., et al.*, Case No. 5:19-cv-00401-SB (KKx), to recover federal minimum wages that may be owed to me, if any.

I personally drove a truck for Rail Delivery Services, Incorporated under an independent contractor agreement from approximately _____ to _____ (fill in dates as best you can).

Print Name: _____ Date: _____

Signature: _____

Please fill out the information below so that we (your attorneys) can update you on the lawsuit's progress and give you your share of money that is recovered (if any) on your behalf. It is YOUR responsibility to keep us (your attorneys) informed as to your current address, telephone number(s), and email.

Street Address: _____

City, State, Zip: _____

Telephone Numbers: Cell: _____

Home: _____

Work: _____

Email Address(es): _____

Mail this Form To: GETMAN, SWEENEY & DUNN, PLLC, 260 Fair Street, Kingston, NY 12401, fax: (845) 255-8649, cmow@getmansweeney.com. **This form must be received or, if mailed, postmarked by March 28, 2021 if you WANT TO PARTICIPATE IN THE FEDERAL MINIMUM WAGE CLAIM.**

**FORM B
EXCLUSION FORM**

**ONLY FILL THIS FORM OUT IF YOU DO NOT
WANT TO PARTICIPATE IN THE CALIFORNIA CLAIMS**

I DO NOT WANT TO TAKE PART in the California Claims in this lawsuit titled *Salvador Canava v. Rail Delivery Services, Inc., et al.*, Case No. 5:19-cv-00401-SB (KKx), and I wish to be excluded from those claims. I understand that by asking to be excluded I will no longer be a Class Member, will not be eligible to receive any money that may result from the trial or settlement of the California law claims in this lawsuit, but will retain the right to bring my own lawsuit.

Print Name: _____ Date: _____

Signature: _____

Address: _____

City/State/Zip: _____

Email: _____

Phone Number: _____

Return this form by mail, email or fax to: GETMAN, SWEENEY & DUNN, PLLC, 260 Fair Street, Kingston, NY 12401, fax: (845) 255-8649, cmow@getmansweeney.com.

This form must be received or, if mailed, postmarked by March 28, 2021 if you DO NOT WANT TO PARTICIPATE in the California claims.