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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF KING**

**JOSEPH LOWRY, JAMES PHILIP,
MARK SANDERS, AARON TAYLOR,
individually and as representatives for the
class of similarly situated employees,**

Plaintiffs,

v.

**RALPH'S CONCRETE PUMPING, INC.,
and Washington corporation,**

Defendant.

Case No. 12-2-40087-3 KNT

CLASS ACTION

Hon. John F. McHale

**DECLARATION OF JEREMIAH
KINCANNON
REGARDING NOTICE AND
SETTLEMENT ADMINISTRATION**

Date: December 10, 2018

Time: 9:00 a.m.

1 **DECLARATION OF JEREMIAH KINCANNON**

2
3 I, JEREMIAH KINCANNON, declare the following facts to be true and correct and if called as a
4 witness would testify competently to the same:

5 1. I am employed as a Case Manager by Simpluris, Inc. (“Simpluris”), the claims
6 administrator in the above-entitled action. My business address is 3194-C Airport Loop Drive, Costa
7 Mesa, CA 92626. My telephone number is (714) 640-5653. I am over 21 years of age and authorized
8 to make this declaration on behalf of Simpluris and myself.

9
10 2. Simpluris is a class action settlement administration company headquartered in Costa
11 Mesa, California. It was founded by individuals who have each managed hundreds of settlements
12 along with professionals in the areas of software development, third-party claims administration,
13 mail-house operations and call center support management.

14
15 3. Simpluris was appointed by the Court as Settlement Administrator to administer the
16 settlement in accordance with the terms of the Class Action Settlement Agreement entered into by
17 the parties on or about September 17, 2018, (the “Settlement”). Simpluris has been responsible,
18 among other things, for: (a) printing and mailing the Notice of Class Action Settlement (“Class
19 Notice”); (b) receiving undeliverable Notice Packets; (c) receiving and validating requests for
20 exclusion; (d) and answering questions from Class Members. If the Court grants final approval of
21 the Settlement, Simpluris will be responsible, among other things, for: (e) calculating individual
22 settlement payments, distributing funds, and tax-reporting following final approval; (f) mailing
23 settlement checks; (g) and for such other tasks as the Parties mutually agree or the Court orders
24 Simpluris to perform.

25
26
27 **WEBSITE AND TOLL-FREE NUMBER**

28 4. Simpluris established a toll-free number dedicated to answering calls from members
of the Settlement Classes. Simpluris also established a link on their case information website

1 dedicated to the Settlement. The website provides access to settlement documents and key pleadings.
2 Once it is filed, Simpluris will post Class Counsel's request for attorney's fees and costs, settlement
3 administration expenses, and service awards for the named Plaintiffs on the settlement website.

4 NOTIFICATION TO THE CLASS

5
6 5. On October 3, 2018, Simpluris received the Court-approved Class Notice from
7 Plaintiffs' Counsel with Exclusion Rights, to be sent to those Class Members who were not
8 previously mailed a Notice, as well as the Class Notice without Exclusion Rights, to be sent to those
9 Class Members who had previously received Notice. The Class Notice advised Class Members of
10 their right to opt out from the Settlement for those who received the Notice with Exclusion Rights,
11 and both Notices advised how to object to the Settlement, or do nothing, and the implications of
12 each such action. The Class Notice advised Class Members of applicable deadlines and other events,
13 including the Final Approval Hearing, and how Class Members could obtain additional information.
14 A sample Notice Packet is attached hereto as **Exhibit A**.

15
16 6. On October 11, 2019, Counsel for Defendant provided Simpluris with a mailing list
17 containing the name, last known address, Social Security Number, and pertinent employment
18 information during the Class Period for the Class Members. The Class List contained data for 200
19 unique Class Members, 122 of which had previously been mailed a Notice, and 78 individuals who
20 had not previously received Notice.

21
22 7. The mailing addresses contained in the Class List were processed and updated
23 utilizing the National Change of Address Database ("NCOA") maintained by the U.S. Postal
24 Service. The NCOA contains changes of address filed with the U.S. Postal Service. In the event
25 that any individual had filed a U.S. Postal Service change of address request, the address listed with
26 the NCOA was utilized in connection with the mailing of the Notice Packets.

27
28 8. On October 16, 2018, after updating the mailing addresses through the NCOA, Notice

1 Packets were mailed via First Class Mail to 200 Class Members contained in the Class List.

2 9. As of today's date, 1 Notice Packet was returned by the post office. For those without
3 forwarding addresses, Simpluris attempted to find a forwarding address using Accurint, a reputable
4 research tool owned by Lexis-Nexis. Simpluris used the Class Member's name and previous address
5 to locate a current address. Simpluris re-mailed 1 Notice Packet to either; a new forwarding address
6 provided by the Post Office, a newfound address using Accurint, or a forwarding address provided by
7 the Class. Ultimately, no Notice Packets remain undeliverable.
8

9 **EXCLUSIONS AND OBJECTIONS**

10 10. As of this date, Simpluris has not received any requests for exclusion from the
11 Settlement.
12

13 11. Class Members who wished to object to the settlement were directed to file their
14 objection with the Court. As of this date, Simpluris has not received any objections.
15

16 **BREAKDOWN OF SETTLEMENT FUND**

17 12. As of this date, there are 200 Participating Class Members who will be paid their
18 portion of the Net Settlement Amount, estimated to be \$1,114,500.00. The Net Settlement Amount
19 available to pay Participating Class Members was determined as follows:

20	Gross Settlement Fund:	\$2,550,000.00
21	Less Attorneys' Fees	-\$1,400,000.00
22	Less Settlement Administration	-\$5,500.00
23	<u>Less Plaintiff Service Awards</u>	<u>-\$30,000.00</u>
24	NET SETTLEMENT FUND	\$1,114,500.00

25
26 As of this date, the *highest* Settlement Share to be paid is approximately \$20,291.45 and the
27 *average* Settlement Share to be paid is approximately \$5,572.50. These amounts are not final since
28 timely responses can be received several days after the November 15, 2018 postmark deadline.

EXHIBIT A

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a lawsuit against you, and you are not being sued. But your legal rights are affected whether you act or not. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. A Class Action Settlement may affect your rights. You may be entitled to a payment from the Class Action Settlement. You do not need to do anything to receive a payment so long as your contact information is current.

«Previously_Mailed_to_Class_Notice» «Previously_Mailed_to_Class_Notice»
 SIMID «SIMID»
 «FirstName» «LastName»
 «Address1» «Address2»
 «City» «State» «Zip»

TO: All persons who worked for Ralph's Concrete Pumping ("Ralph's") as a concrete pump operator in Washington between December 19, 2009 and August 15, 2018.

- Four former concrete pump operators employed by Ralph's—Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders ("Plaintiffs")—sued Ralph's on behalf of themselves and other concrete pump operators. The Plaintiffs allege that Ralph's failed to pay the pump operators for missed rest and meal breaks, standby time, prevailing wage premiums for time spent traveling to and from Washington state prevailing wage jobs, and any associated overtime pay. Ralph's denies these allegations. The parties have reached a proposed Class Action Settlement.
- Ralph's has agreed to pay a total of \$2,550,000 as part of the Class Action Settlement.
- Listed below is the estimated gross amount of your share of the Class Fund before taxes. (The final amount may be different.)

Your Estimated Gross Recovery from Settlement
\$«MERGED_EstSettAmnt»

- The Court, Ralph's, the Settlement Administrator, and Class Counsel cannot provide tax advice regarding your estimated payment. You should consult with a tax professional regarding the tax consequences of any payment received.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	You will be eligible to get a payment for your share of the Class Fund. (You may need to provide the Settlement Administrator any updated contact information to ensure you receive your payment.)
OBJECT	Write to the Court if you do not like the Settlement and explain why.
GO TO A HEARING	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. If the Court approves the Settlement, payments will be made after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this Notice?

Ralph's records show that you worked as a concrete pump operator in Washington at some point between December 19, 2009 and August 15, 2018. The Court has allowed this Notice to be sent to you to inform you about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to eligible members of the Settlement Classes.

This Notice explains the Case, the Class Action Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is the Case about?

The Plaintiffs claim that Ralph's violated Washington state wage and hour laws. More specifically, the Plaintiffs claim that Ralph's failed to pay for missed rest and meal breaks, standby time, prevailing wage premiums for time spent traveling to and from Washington state prevailing wage jobs, and any associated overtime pay. Ralph's denies that it violated any laws.

3. What is a class action and who is involved?

In a class action lawsuit, people called "Plaintiffs" or "Class Representatives" (in this case Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders) sue on behalf of other people who have similar claims. The people together are called the "Class" or "Classes," and the individuals in these groups are called "members." The company Plaintiffs sued (in this case Ralph's) is called the Defendant. One court resolves the issues for everyone in the Classes—except for those people who have excluded themselves from the Classes.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. This allows the parties to avoid the cost of a trial, and the people affected will be entitled to compensation. The Class Representatives and Class Counsel think the Settlement is best for everyone in the Classes.

WHO IS IN THE SETTLEMENT

5. How do I know whether I am part of the Settlement?

If approved, the Settlement will cover all people who fall in one or both of the following Classes and have not excluded themselves from the Case:

- A. *For the breaks and standby time claims, all Washington concrete pump operators employed by Ralph's between December 19, 2009 and July 1, 2012 (the "Breaks and Standby Time Class");*
- B. *For the prevailing wage claims, all Washington concrete pump operators employed by Ralph's between December 19, 2009 and August 15, 2018 (the "Prevailing Wage Class").*

If you are a member of one or both of the Classes and the Settlement Administrator has your correct address, you will receive money pursuant to the Settlement.

THE TERMS OF THE SETTLEMENT

6. What claims are covered by the Settlement?

The Settlement will resolve all of the claims Plaintiffs and members of the Settlement Classes could have brought against Ralph's regarding any failure to comply with any timekeeping or recordkeeping requirements, failure to allow rest or meal periods that comply with WAC 296-126-092, failure to pay for all hours worked, failure to pay overtime compensation, failure to pay prevailing wages, and any assertion of rights related to these claims.

7. What are the basic terms of the Settlement?

Subject to Court approval, the essential terms of the Settlement are as follows:

Ralph's will pay a total of \$2,550,000 as part of the Settlement, apportioned as follows:

- **Class Fund:** Ralph's will pay \$1,100,000, which will be available for the payment of Settlement Awards to members of the Settlement Classes who have not excluded themselves from the Case.
- **Service Awards:** Ralph's will pay up to \$7,500 each to Plaintiffs and Class Representatives Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders (\$30,000 total) as service awards in recognition of their efforts in prosecuting the Case.
- **Settlement Administration Expenses Award:** Ralph's will pay up to \$20,000 to the Settlement Administrator for the processing of the Settlement, including the expenses of providing notice of the Settlement to members of the Settlement Classes, handling the claims administration process, processing payments, and handling tax reporting requirements.
- **Attorneys' Fees and Costs Award:** Ralph's will pay \$1,400,000 to Plaintiffs' attorneys for the attorneys' fees and litigation costs they have incurred and will incur through final judgment in representing the Plaintiffs and Settlement Classes.

Monetary Relief: The amount available to the Classes is intended to compensate members for the wages and other compensation they allegedly lost and damages they are allegedly owed as a result of the practices alleged in the Case.

Distribution of Settlement Fund: Each member of the Settlement Classes who did not submit a valid and timely request for exclusion will automatically receive a settlement payment. Settlement payments will be calculated based on the number of weeks worked during the respective class periods. Each member of the Breaks and Standby Time Class shall be entitled to a proportional share of 45.7% of the Class Fund, and this share shall be calculated as the number of weeks worked by that member from December 19, 2009 to July 1, 2012 divided by the total number of weeks worked by all members of the Breaks and Standby Time Class during that same period. Each member of the Prevailing Wage Class shall be entitled to a proportional share of 54.3% of the Class Fund, and this share shall be calculated as the number of weeks worked by that member from December 19, 2009 to August 15, 2018 divided by the total number of weeks worked by all members of the Prevailing Wage Class during that same period. The Settlement Administrator will mail checks to members of the Settlement Classes. If any checks have not been deposited within 165 days after distribution, the funds from those checks will be considered Residual Funds. These Residual Funds will be distributed by the Settlement Administrator to the Legal Foundation of Washington (50 percent) and the Fair Work Center (50 percent). Ralph's will not receive funds from any uncashed checks.

If more than ten percent of the members of the Prevailing Wage Class who did not have a notice form mailed to them in relation to the certification order entered in November 2013 elect to opt out of the Settlement, then the proportional shares that those new opt outs would have been entitled to under the Settlement will be returned to Ralph's. Ralph's has agreed that it will not encourage or entice any member of the Prevailing Wage Class to opt out, and it is unlawful for the company to retaliate against any employee for receiving a payment from this Settlement.

Tax Treatment of Settlement Awards: Fifty percent of each settlement award paid to a member of the Settlement Classes will be treated as wages and subject to normal tax withholding and shall be reported to the taxing authorities and the member on an IRS Form W-2. The other fifty percent of the settlement award will be treated as non-wages (penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which an IRS Form 1099 (marked "Other Income") shall be issued to the taxing authorities and the member. In addition to the money it is contributing to the Class Fund described above, Ralph's is also paying all required employer-side taxes incurred as part of the Settlement. Ralph's' payment of these employer-side taxes will not decrease the funds available to members of the Settlement Classes.

Release of Claims: Upon final approval by the Court, each member of the Settlement Classes who has not submitted a valid and timely written request to be excluded from the Settlement will irrevocably release all claims against Ralph's that were brought or that could have been brought in this Case. This Release specifically includes, but is not limited to, any claims for unpaid wages, exemplary damages, interest, fees, costs, attorneys' fees and all other claims and allegations made in the Action, including claims alleging failure to comply with any timekeeping or recordkeeping requirements, failure to allow rest or meal periods that comply with WAC 296-126-092, failure to pay for all hours worked, failure to pay overtime compensation, failure to pay prevailing wages, or any assertion of rights relating to any of the foregoing.

Dismissal of Action: Upon final approval, the Court will enter a judgment of dismissal of the Case with prejudice but shall retain jurisdiction to enforce the terms of the settlement.

HOW YOU CAN GET PAYMENT

8. How can I get a payment?

If your address listed on the envelope containing this notice is correct, you will receive a payment. If you need to update your address, please call 888-369-3780 toll-free.

9. When will I get my payment?

King County Superior Court will hold a hearing on December 10, 2018 at 9:00 a.m. to decide whether to finally approve the settlement. If the King County Superior Court approves the settlement, the parties will then have to wait to see whether there is an appeal. This will take at least 30 days and, if there is an appeal, can take up to a year or more to resolve. In the event of an appeal, information regarding the appeal's progress will be available at Simpluris.com/Case-Info or by calling 888-369-3780 toll-free. If there is no appeal, we expect payments will go out approximately 60 days after the Court's final approval of the Settlement. Please be patient.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

William W. Houck of The Houck Law Firm, PS; Robert B. Kornfeld of Kornfeld, Trudell, Bowen and Lingenbrink, PLLC; David C. Burkett, Attorney at Law; and Toby Marshall of Terrell Marshall Law Group PLLC represent all members of the Settlement Classes. These lawyers are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorneys' fees in the amount of \$1,400,000, which must be approved by the Court as part of the final approval of this Settlement. Class Counsel have been working on this case since November 2012 and have not received any fees or reimbursements for the costs of the lawsuit.

OBJECTING TO THE SETTLEMENT

12. If I don't like the Settlement, how do I tell the Court?

If you are a member of one or both of the Settlement Classes and do not like the Settlement or the fees and costs request, you can object. You **must** do so in writing and you **must** state the reasons why you think the Court should not approve the Settlement. If you object, be sure to include your name, address, and telephone number, the name of the case (*Lowry et al. v. Ralph's Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT), the reasons you object to the Settlement (along with any supporting documentation that you wish the Court to consider), and a signature. You **must** file your objection with the Clerk of the Court and send a copy of your objection to the Settlement Administrator. Send your written objection to the following addresses **postmarked no later than November 15, 2018**:

CLERK OF THE COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court King County Superior Court 401 Fourth Avenue N, Room 2231 Kent, WA 98032	Toby Marshall Terrell Marshall Law Group PLLC 936 North 34th St., Suite 300 Seattle, WA 98103	Andrew Kinstler Helsell Fetterman 1001 Fourth Avenue, Suite 4200 Seattle, WA 98154

THE COURT'S FAIRNESS HEARING

13. When and where will the Court decide to approve the Settlement?

The Court will hold a Fairness Hearing 9 a.m. on December 10, 2018 at King County Superior Court, 401 Fourth Avenue N, Kent, Washington 98032 in Courtroom 4C. If there are objections, the Court will consider them. The judge will listen to people who have asked to speak at the hearing (see Section 15). After the hearing, the Court will decide whether to finally approve the Settlement, including Class Counsel's request for attorneys' fees and costs, the Settlement Administration Expenses, and Service Awards for the named Plaintiffs. We do not know how long that decision will take.

14. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

15. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you **must** send a letter saying it is your "Notice of Intention to Appear at the Fairness Hearing in *Lowry et al. v. Ralph's Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT." Be sure to include your name, address, phone number, and your signature. Your Notice of Intention to Appear **must** be **postmarked no later than November 15, 2018**, and be sent to the Court, Class Counsel, and Defense Counsel at the three addresses set forth below:

CLERK OF THE COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court King County Superior Court 401 Fourth Avenue N, Room 2231 Kent, WA 98032	Toby Marshall Terrell Marshall Law Group PLLC 936 North 34th St., Suite 300 Seattle, WA 98103	Andrew Kinstler Helsell Fetterman 1001 Fourth Avenue, Suite 4200 Seattle, WA 98154

IF YOU DO NOTHING

16. What happens if I do nothing at all?

If you do nothing, you will be entitled to a share of the Settlement if it is approved by the Court. Please contact the Settlement Administrator at 888-369-3780 toll-free if you need to update your address.

GETTING MORE INFORMATION

17. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can download, view and print a copy of the Settlement Agreement by visiting Simpluris.com/CaseInfo. Plaintiffs' motion for final approval of the settlement agreement, including Class Counsel's request for attorneys' fees and costs, Settlement Administration Expenses, and Service Awards for the named Plaintiffs will also be available for you to review by December 17, 2018 at Simpluris.com/Case-Info. All other documents filed in the case are available in the King County Superior Court file for *Lowry et al. v. Ralph's Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT.

SUPERIOR COURT FOR THE STATE OF WASHINGTON IN AND FOR KING COUNTY

Lowry et al. v. Ralph's Concrete Pumping, Inc., Case No. 12-2-40087-3 KNT

NOTICE OF CLASS ACTION SETTLEMENT

A court authorized this notice. This is not a lawsuit against you, and you are not being sued. But your legal rights are affected whether you act or not. This is not a solicitation from a lawyer.

PLEASE READ THIS NOTICE CAREFULLY. A Class Action Settlement may affect your rights. You may be entitled to a payment from the Class Action Settlement. You do not need to do anything to receive a payment so long as your contact information is current.

«Previously_NotMailedTo_Class_Notice_En» «Previously_NotMailedTo_Class_Notice»
SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

TO: All persons who worked for Ralph's Concrete Pumping ("Ralph's") as a concrete pump operator in Washington between December 19, 2009 and August 15, 2018.

- Four former concrete pump operators employed by Ralph's—Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders ("Plaintiffs")—sued Ralph's on behalf of themselves and other concrete pump operators. The Plaintiffs allege that Ralph's failed to pay the pump operators for missed rest and meal breaks, standby time, prevailing wage premiums for time spent traveling to and from Washington state prevailing wage jobs, and any associated overtime pay. Ralph's denies these allegations. The parties have reached a proposed Class Action Settlement.
Ralph's has agreed to pay a total of \$2,550,000 as part of the Class Action Settlement.
Listed below is the estimated gross amount of your share of the Class Fund before taxes if you do not exclude yourself. (The final amount may be different.)

Table with 1 column and 2 rows: Your Estimated Gross Recovery from Settlement, \$«MERGED_EstSettAmnt»

- The Court, Ralph's, the Settlement Administrator, and Class Counsel cannot provide tax advice regarding your estimated payment. You should consult with a tax professional regarding the tax consequences of any payment received.

Table with 2 columns and 4 rows: YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT. Rows include DO NOTHING, ASK TO BE EXCLUDED, OBJECT, and GO TO A HEARING with corresponding descriptions.

- 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. If the Court approves the Settlement, payments will be made after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this Notice?

Ralph's records show that you worked as a concrete pump operator in Washington at some point between December 19, 2009 and August 15, 2018. The Court has allowed this Notice to be sent to you to inform you about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the Settlement. If the Court approves the Settlement, and after any appeals are resolved, payments will be made to eligible members of the Settlement Classes.

This Notice explains the Case, the Class Action Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is the Case about?

The Plaintiffs claim that Ralph's violated Washington state wage and hour laws. More specifically, the Plaintiffs claim that Ralph's failed to pay for missed rest and meal breaks, standby time, prevailing wage premiums for time spent traveling to and from Washington state prevailing wage jobs, and any associated overtime pay. Ralph's denies that it violated any laws.

3. What is a class action and who is involved?

In a class action lawsuit, people called "Plaintiffs" or "Class Representatives" (in this case Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders) sue on behalf of other people who have similar claims. The people together are called the "Class" or "Classes," and the individuals in these groups are called "members." The company Plaintiffs sued (in this case Ralph's) is called the Defendant. One court resolves the issues for everyone in the Classes—except for those people who choose to exclude themselves from the Classes.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or Defendant. Instead, both sides agreed to a Settlement. This allows the parties to avoid the cost of a trial, and the people affected will be entitled to compensation. The Class Representatives and Class Counsel think the Settlement is best for everyone in the Classes.

WHO IS IN THE SETTLEMENT

5. How do I know whether I am part of the Settlement?

If approved, the Settlement will cover all people who fall in one or both of the following Classes and who do not exclude themselves from the Case:

- A. *For the breaks and standby time claims, all Washington concrete pump operators employed by Ralph's between December 19, 2009 and July 1, 2012 (the "Breaks and Standby Time Class");*
- B. *For the prevailing wage claims, all Washington concrete pump operators employed by Ralph's between December 19, 2009 and August 15, 2018 (the "Prevailing Wage Class").*

If you are a member of one or both of the Classes and the Settlement Administrator has your correct address, you will receive money pursuant to the Settlement unless you exclude yourself.

THE TERMS OF THE SETTLEMENT

6. What claims are covered by the Settlement?

The Settlement will resolve all of the claims Plaintiffs and members of the Settlement Classes could have brought against Ralph's regarding any failure to comply with any timekeeping or recordkeeping requirements, failure to allow rest or meal periods that comply with WAC 296-126-092, failure to pay for all hours worked, failure to pay overtime compensation, failure to pay prevailing wages, and any assertion of rights related to these claims.

7. What are the basic terms of the Settlement?

Subject to Court approval, the essential terms of the Settlement are as follows:

Ralph's will pay a total of \$2,550,000 as part of the Settlement, apportioned as follows:

- **Class Fund:** Ralph's will pay \$1,100,000, which will be available for the payment of Settlement Awards to members of the Settlement Classes who do not timely opt out of this Settlement.
- **Service Awards:** Ralph's will pay up to \$7,500 each to Plaintiffs and Class Representatives Joe Lowry, James Philp, Aaron Taylor, and Mark Sanders (\$30,000 total) as service awards in recognition of their efforts in prosecuting the Case.

- **Settlement Administration Expenses Award:** Ralph's will pay up to \$20,000 to the Settlement Administrator for the processing of the Settlement, including the expenses of providing notice of the Settlement to members of the Settlement Classes, handling the claims administration process, processing payments, and handling tax reporting requirements.
- **Attorneys' Fees and Costs Award:** Ralph's will pay \$1,400,000 to Plaintiffs' attorneys for the attorneys' fees and litigation costs they have incurred and will incur through final judgment in representing the Plaintiffs and Settlement Classes.

Monetary Relief: The amount available to the Classes is intended to compensate members for the wages and other compensation they allegedly lost and damages they are allegedly owed as a result of the practices alleged in the Case.

Distribution of Settlement Fund: Each member of the Settlement Classes who does not submit a valid and timely request for exclusion will automatically receive a settlement payment. Settlement payments will be calculated based on the number of weeks worked during the respective class periods. Each member of the Breaks and Standby Time Class shall be entitled to a proportional share of 45.7% of the Class Fund, and this share shall be calculated as the number of weeks worked by that member from December 19, 2009 to July 1, 2012 divided by the total number of weeks worked by all members of the Breaks and Standby Time Class during that same period. Each member of the Prevailing Wage Class shall be entitled to a proportional share of 54.3% of the Class Fund, and this share shall be calculated as the number of weeks worked by that member from December 19, 2009 to August 15, 2018 divided by the total number of weeks worked by all members of the Prevailing Wage Class during that same period. The Settlement Administrator will mail checks to members of the Settlement Classes. If any checks have not been deposited within 165 days after distribution, the funds from those checks will be considered Residual Funds. These Residual Funds will be distributed by the Settlement Administrator to the Legal Foundation of Washington (50 percent) and the Fair Work Center (50 percent). Ralph's will not receive funds from any uncashed checks.

If more than ten percent of the members of the Prevailing Wage Class who did not have a notice form mailed to them in relation to the certification order entered in November 2013 elect to opt out of the Settlement, then the proportional shares that those new opt outs would have been entitled to under the Settlement will be returned to Ralph's. Ralph's has agreed that it will not encourage or entice any member of the Prevailing Wage Class to opt out, and it is unlawful for the company to retaliate against any employee for receiving a payment from this Settlement.

Tax Treatment of Settlement Awards: Fifty percent of each settlement award paid to a member of the Settlement Classes will be treated as wages and subject to normal tax withholding and shall be reported to the taxing authorities and the member on an IRS Form W-2. The other fifty percent of the settlement award will be treated as non-wages (penalties, enhancements, and prejudgment interest) on which there will be no tax withholding and for which an IRS Form 1099 (marked "Other Income") shall be issued to the taxing authorities and the member. In addition to the money it is contributing to the Class Fund described above, Ralph's is also paying all required employer-side taxes incurred as part of the Settlement. Ralph's' payment of these employer-side taxes will not decrease the funds available to members of the Settlement Classes.

Release of Claims: Upon final approval by the Court, each member of the Settlement Class who has not submitted a valid and timely written request to be excluded from the Settlement will irrevocably release all claims against Ralph's that were brought or that could have been brought based on any facts alleged in the Complaint in this Case. This Release specifically includes, but is not limited to, any claims for unpaid wages, exemplary damages, interest, fees, costs, attorneys' fees and all other claims and allegations made in the Action, including claims alleging failure to comply with any timekeeping or recordkeeping requirements, failure to allow rest or meal periods that comply with WAC 296-126-092, failure to pay for all hours worked, failure to pay overtime compensation, failure to pay prevailing wages, or any assertion of rights relating to any of the foregoing.

Dismissal of Action: Upon final approval, the Court will enter a judgment of dismissal of the Case with prejudice but shall retain jurisdiction to enforce the terms of the settlement.

HOW YOU CAN GET PAYMENT

8. How can I get a payment?

To get a payment, DO NOT submit a request for exclusion. If your address listed on the envelope containing this notice is correct and you do not request exclusion, you will receive a payment. If you need to update your address, please call, toll-free at 888-369-3780.

9. When will I get my payment?

King County Superior Court will hold a hearing on December 10, 2018 at 9:00 a.m. to decide whether to finally approve the settlement. If the King County Superior Court approves the settlement, the parties will then have to wait to see whether there is an appeal. This will take at least 30 days and, if there is an appeal, can take up to a year or more to resolve. In the event of an appeal, information regarding the appeal's progress will be available at Simpluris.com/Case-Info or by calling 888-369-3780 toll-free. If there is no appeal, we expect payments will go out approximately 60 days after the Court's final approval of the Settlement. Please be patient.

THE LAWYERS REPRESENTING YOU

10. Do I have a lawyer in this case?

William W. Houck of The Houck Law Firm, PS; Robert B. Kornfeld of Kornfeld, Trudell, Bowen and Lingenbrink, PLLC; David C. Burkett, Attorney at Law; and Toby Marshall of Terrell Marshall Law Group PLLC represent all members of the Settlement Classes. These lawyers are called "Class Counsel." You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

11. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorneys' fees and costs in the amount of \$1,400,000, which must be approved by the Court as part of the final approval of this Settlement. Class Counsel have been working on this case since 2012 and have not received any fees or reimbursements for the costs of the lawsuit.

EXCLUDING YOURSELF FROM THE SETTLEMENT

12. How do I exclude myself from the Settlement?

If you are a member of one or both of the Settlement Classes and want to exclude yourself from the Settlement (i.e., "opt out"), you must send an exclusion request in writing, **postmarked by** November 15, 2018. The exclusion request letter should state: "I request that I be excluded from the Classes in the lawsuit of *Lowry et al. v. Ralph's Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT." The exclusion request letter must also include your name, address, and your signature. You must mail a copy of the letter **postmarked no later than** November 15, 2018 to Lowry v. Ralph's, P.O. Box 26170, Santa Ana, CA 92799.

If you exclude yourself from the Settlement (i.e., "opt out"), you will not receive any payment from the Settlement. You will also not be entitled to object to the Settlement. If you exclude yourself, you will not be bound by the terms of the Settlement, including the Release described in Section 7, above. This means you will retain the right to pursue any claims you may have against Ralph's at your own expense.

OBJECTING TO THE SETTLEMENT

13. If I don't like the Settlement, how do I tell the Court?

If you are a member of one or both of the Settlement Classes, have not excluded yourself from the Settlement, and do not like the Settlement or the fee request, you can object. You must do so in writing and you must state the reasons why you think the Court should not approve the Settlement. If you object, be sure to include your name, address, and telephone number, the name of the case (*Lowry et al. v. Ralph's Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT), the reasons you object to the Settlement (along with any supporting documentation that you wish the Court to consider), and a signature. You must file your objection with the Clerk of the Court and send a copy of your objection to the Settlement Administrator. Send your written objection to the following addresses **postmarked no later than November 15, 2018**:

CLERK OF THE COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court King County Superior Court 401 Fourth Avenue N, Room 2231 Kent, WA 98032	Toby Marshall Terrell Marshall Law Group PLLC 936 North 34th St., Suite 300 Seattle, WA 98103	Andrew Kinstler Helsell Fetterman 1001 Fourth Avenue, Suite 4200 Seattle, WA 98154

THE COURT'S FAIRNESS HEARING

14. When and where will the Court decide to approve the Settlement?

The Court will hold a Fairness Hearing at 9 a.m. on December 10, 2018 at King County Superior Court, 401 Fourth Avenue N, Kent, Washington 98032 in Courtroom 4C. If there are objections, the Court will consider them. The judge will listen to people who have asked to speak at the hearing (see Section 16). After the hearing, the Court will decide whether to finally approve the Settlement, including Class Counsel's request for attorneys' fees, costs, the Settlement Administration Expenses, and Service Awards for the named Plaintiffs. We do not know how long that decision will take.

15. Do I have to come to the hearing?

No. Class Counsel will answer any questions the judge may have. But you are welcome to attend at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you filed and mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

16. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying it is your “Notice of Intention to Appear at the Fairness Hearing in *Lowry et al. v. Ralph’s Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT.” Be sure to include your name, address, phone number, and your signature. Your Notice of Intention to Appear must be **postmarked no later than November 15, 2018**, and be sent to the Court, Class Counsel, and Defense Counsel at the three addresses set forth below:

CLERK OF THE COURT	CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court King County Superior Court 401 Fourth Avenue N, Room 2231 Kent, WA 98032	Toby Marshall Terrell Marshall Law Group PLLC 936 North 34th St., Suite 300 Seattle, WA 98103	Andrew Kinstler Helsell Fetterman 1001 Fourth Avenue, Suite 4200 Seattle, WA 98154

IF YOU DO NOTHING

17. What happens if I do nothing at all?

If you do nothing – that is, if you do not mail or deliver a timely exclusion request – you will be entitled to a share of the Settlement if it is approved by the Court. Please contact the Settlement Administrator at 888-369-3780 toll-free, if you need to update your address.

GETTING MORE INFORMATION

18. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can download, view and print a copy of the Settlement Agreement by visiting Simpluris.com/Case-Info. Plaintiffs’ motion for final approval of the settlement agreement, including Class Counsel’s request for attorneys’ fees and costs, Settlement Administration Expenses, and Service Awards for the named Plaintiffs will also be available for you to review by December 17, 2018 at Simpluris.com/Case-Info. All other documents filed in the case are available in the King County Superior Court file for *Lowry et al. v. Ralph’s Concrete Pumping, Inc.*, Case No. 12-2-40087-3 KNT.