

SACRAMENTO SUPERIOR COURT, STATE OF CALIFORNIA

*Davit Pitshikyan, on behalf of himself and all others similarly situated v. Dependable Highway Express, Inc.*  
Case No. 34-2015-00182832

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND FINAL APPROVAL  
HEARING**

*A court authorized this notice. This is not a solicitation.*

*This is not a lawsuit against you and you are not being sued.*

*However, your legal rights are affected by whether you act or don't act.*

**TO: All current or former California-based truck drivers contracted with Dependable Highway Express, Inc. ("Defendant" or "DHE") as independent contractor truck drivers ("Drivers") at any time from August 10, 2011, through December 30, 2016 ("Class Members").**

Based on information in DHE's records, you may be a Class Member whose legal rights will be affected by this Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT.

PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

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### **1. Why Have I Received This Notice?**

DHE's records indicate that you may be a Class Member. The settlement will resolve all Class Members' claims described below during the Class Period, which covers August 10, 2011 through December 30, 2016.

A Preliminary Approval Hearing was held on November 30, 2016, in the Sacramento Superior Court, California. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

This Notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement ("Stipulation of Settlement and Release" or "Settlement Agreement") available at the website related to this case, located at [www.Pitshikyan-DHEsettlement.com](http://www.Pitshikyan-DHEsettlement.com) (the "Website"), by contacting class counsel for Plaintiffs, whose contact information is located below at paragraph 5, by accessing the Court docket in this case through the Court's website <https://www.saccourt.ca.gov>, or by visiting the office of the Clerk of the Court for Sacramento Superior Court, located at 813 Sixth Street, 2nd Floor, D54, Sacramento, CA 95814. Any terms used in this Notice will have the same meaning as set forth in the Stipulation of Settlement and Release.

The Court will hold a Final Approval Hearing to determine whether the proposed Settlement is fair, reasonable and adequate on February 28, 2017, at 9:00 a.m., in Department 35 of Sacramento Superior Court, located at 813 Sixth Street, 2nd Floor, D54, Sacramento, CA 95814. If you wish to be heard at the Final Fairness Hearing, you must submit a timely and valid objection to the settlement as set forth in Section 8 below.

This date may change without further notice to the Class. You are advised to confirm the hearing date remains as scheduled, by checking the Website, located at [www.Pitshikyan-DHEsettlement.com](http://www.Pitshikyan-DHEsettlement.com), or the Court's website at <https://www.saccourt.ca.gov>, by clicking on "online services" then "Public Case Access Site," then "Civil" (located at the top), and then case number 2015-00182832.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.

### **2. What Is This Case About?**

This case involves claims against DHE for alleged violations of wage and hour laws brought by Named Plaintiff Davit Pitshikyan, on behalf of himself and all other Class Members. On August 10, 2015, Plaintiff Davit Pitshikyan filed a lawsuit against DHE in the Superior Court for the State of California, County of Sacramento, Case Number 34-2015-00182832 and on December 7, 2016, Plaintiff filed an Amended Complaint ("Action"). Named Plaintiff alleged that DHE misclassified its independent owner-operators as independent contractors and should have classified them as employees, entitled to the protections of California's Labor Code. Named Plaintiff also alleged that DHE failed to pay minimum wages, designated rates, and overtime; failed to reimburse work-related expenses/made illegal deductions; failed to provide meal and rest breaks; failed to provide accurate itemized wage statements, failed to pay wages timely upon termination, was unjustly enriched because it did not pay for all hours worked, violated California's Unfair Competition Law (Cal. Bus. & Prof. Code § 17200, *et seq.*) and violated the Private Attorney's General Act ("PAGA") (Cal. Lab. Code § 2698 *et seq.*).

DHE denies all allegations made by Named Plaintiff, individually and on behalf of Class Members, in the Action and denies liability for any wrongdoing with respect to the alleged facts or causes of action asserted in the Action.

### **3. Am I A Class Member?**

You are a Class Member if you are a current or former California-based truck driver who contracted with DHE as an independent contractor truck driver at any time from August 10, 2011 through December 30, 2016, ("Class Period"). There are an estimated 390 Class Members. "California-based" refers to Drivers (i) who had a residential address in California at any time during the Class Period; and/or (ii) who were assigned or associated with any warehouses and/or service centers in California at any time during the Class Period.

#### **4. How Does This Class Action Settlement Work?**

In this Action, Named Plaintiff sued on behalf of himself and all other drivers who were contracted as independent owner-operators with DHE. Named Plaintiff and these others similarly situated comprise a “Class” and are “Class Members.” As discussed in Section 9 below, the settlement of this Action resolves the claims of all Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

**The Court did not decide in favor of Plaintiffs or DHE. Instead, both sides agreed to resolve the Action with no decision or admission of who is right or wrong.** By agreeing to resolve the Action, all parties avoid the risks and cost of a trial. The Settlement is the result of good faith negotiations between Plaintiff and DHE, through their respective attorneys, and with the assistance of an experienced mediator. Plaintiff and the attorneys believe the settlement is fair and reasonable.

DHE expressly denies the allegations of wrongdoing and violations of law alleged by Plaintiff and the Class and further denies any liability whatsoever to Plaintiff or to the Class. DHE is settling the lawsuit as a compromise of these claims.

The Court file has the settlement documents which explain the settlement in greater detail. The Court must review the terms of the settlement and determine if it is fair and reasonable to the Class Members.

#### **5. Who Are the Attorneys Representing the Parties?**

##### Attorneys for Plaintiff or Drivers:

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The Court has decided that Humphrey & Rist, LLP, and Tower Legal Group are qualified to represent you and all other Class Members simultaneously.

You do not need to hire your own attorney because Plaintiffs’ Counsel are working on your behalf. But, if you want your own attorney, you may hire one at your own expense.

#### **6. What Are My Options?**

The purpose of this Notice is to inform you of the proposed settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

**Important Note: DHE will not retaliate against you in any way for either participating or not participating in this Settlement.**

- **DO NOTHING:** To receive a Settlement Award check, you do not have to do anything. If you do not expressly request to be excluded, i.e. “Opt Out,” from the settlement, you will be a Settlement Class Member and will receive your share of the settlement monies. The amount you receive (“Settlement Award”) will be based upon your total workweeks for the Class Period in relation to the total workweeks of all Settlement Class Members during the Class Period. By not requesting to exclude yourself from the settlement, in addition to being able to receive your share of the settlement monies, you will release the Released Claims against the Released Parties as set forth in Section 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may “Opt Out,” which will remove you from the Class and this Action. If the Court grants final approval of the Settlement, you will not receive a Settlement Award and you will not give up the right to sue Defendant for the Released Claims.
- **OBJECT:** If you are a Settlement Class Member (meaning you did not Opt Out of the Settlement), you can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out and the Action will continue. If that is what you want to happen, you must object. If you would like to object, you must not opt out of this case.

The procedures for opting out and objecting are set forth below in the sections entitled, “How Do I Opt Out or Exclude Myself From This Settlement?” and “How Do I Object To The Settlement?”

#### **7. *How Do I Opt Out or Exclude Myself From This Settlement?***

If you do not want to take part in the settlement, you must sign and mail a written Request for Exclusion to the Settlement Administrator. The written request must: (a) state the name of the Action, (b) state your name (and former names, if any), address, telephone number, and the last four (4) digits of your Social Security Number; (c) state that “I wish to be excluded from the Settlement of this case, Davit Pitshikyan v. Dependable Highway Express, Inc., et. al., Case No. 34-2015-00182832. I understand that by requesting to be excluded from the Settlement, I will receive no money from the Settlement and I may bring a separate action. I understand that in any separate action, I may receive nothing or may receive less than I would have received if I had not asked to be excluded from the Settlement. I understand that I should consult with an attorney, at my own expense, regarding the applicable statute of limitations.”; (d) be addressed to the Settlement Administrator at P.O. Box 2031, Tustin, CA 92781; (e) be signed by you; and (f) be postmarked no later than January 30, 2017.

If you submit a valid and timely request to opt out of the Settlement in compliance with the procedure above, you will no longer be a member of the Class, and you will not receive a Settlement Award. By opting out of the Class, you will retain whatever rights or claims you may have against DHE for the Released Claims as defined in Section No. 9 below and any monies to which you would have been entitled under the Settlement will be distributed to the rest of the participating Class Members proportionately.

**The Final Judgment entered following final approval of the Settlement by the Court will bind all Class Members who do not request exclusion from the class action settlement.**

#### **8. *How Do I Object To The Settlement?***

If you are a Settlement Class Member (meaning you did not opt out of the Settlement), you may object to the Settlement in writing. If you object to the Settlement according to the procedure below, you may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your attorney, you are responsible for paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number, (b) be submitted to the Court either by mailing them to the Clerk of the Court for

Sacramento Superior Court located at 813 Sixth Street, 2nd Floor, D54, Sacramento, CA 95814, or by filing them in person at that location, and (c) be filed or postmarked on or before January 30, 2017.

In addition, your objection should (a) state your full name, address, and telephone number; (b) include the words “Notice of Objection” or “Formal Objection”; (c) describe the legal and factual arguments supporting the objection; (d) list identifying witness(es) you may call to testify at the fairness hearing; and (e) provide true and correct copies of any exhibit(s) the objector intends to offer at the hearing. It should also be signed by you and clearly state the basis for your objection.

Again, to be valid and effective, any objections must be filed with the Court, either by mail or in person, and postmarked on or before January 30, 2017. Late objections will not be considered.

If the Court rejects the objection, you will automatically receive a Settlement Award and will be bound by the terms of the Settlement.

#### **9. *How Does This Settlement Affect My Rights? What are the Released Claims?***

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not request to be excluded from the Settlement will be bound by the Court’s Final Judgment and will release DHE and its past and present parent corporations, subsidiaries, divisions, and affiliates, related companies, successors and assigns and each of their respective past, present and future officers, directors, employees, partners, shareholders, representatives, attorneys, and agents (the “Released Parties”) from the Released Claims. These Released Claims are as follows:

##### **A. Released Claims.**

All claims asserted in the Complaints, including but not limited to DHE’s alleged failure to pay the California minimum wage for all hours worked; DHE’s alleged failure to pay overtime; DHE’s alleged failure to reimburse Settlement Class Members for business expenses in violation of Cal. Labor Code §2802; DHE’s allegedly unlawful deductions from compensation in violation of Cal. Labor Code §§ 221, 223 and 400-410 and IWC Wage Order number 9, § 8; DHE’s alleged requirement to provide a cash bond in violation of § 406 or to purchase items from DHE in violation of § 450; DHE’s alleged failure to provide meal periods and/or rest periods; DHE’s alleged failure to timely furnish accurate wage statements; DHE’s alleged failure to pay all wages owed upon termination; DHE’s alleged unlawful, unfair, and deceptive business practices in violation of the Cal. Business & Professions Code § 17200, et seq. (“Section 17200”), and any penalties, liquidated damages, interest, attorneys’ fees, or litigation costs allegedly due and owing by virtue of any of the foregoing; as well as any and all wage and hour claims, whether known or unknown, at law or in equity, which Settlement Class Members may now have or may have as of the execution of the Stipulation of Settlement and Release under Section 17200, the California Labor Code, the wage orders of the California Industrial Welfare Commission, or other federal, state, or local law based upon the factual allegations in the Complaint including, but not limited to, Plaintiff’s allegation that DHE has misclassified Plaintiff and the Settlement Class Members as independent contractors. Released Claims also includes, but is not limited to, claims for failing to promptly pay all wages due and owing at the time of termination or discharge in violation of Cal. Labor Code § 203; engaging in unlawful/unfair/fraudulent business practices in violation of Section 17200; failing to provide accurate itemized wage statements in violation of Cal. Labor Code § 226; and any and all penalties pursuant to the Private Attorney General Act of 2004 (“PAGA”) based on the factual allegations of the Complaint including but not limited to Plaintiff’s allegation that DHE has misclassified Plaintiff and the Settlement Class Members as independent contractors.

#### **10. *How Much Can I Expect to Receive From This Settlement?***

DHE will pay, subject to Court approval, a Gross Settlement Amount of \$2,500,000.00 to cover: (1) the Settlement Award to all Settlement Class Members; (2) the Service Award to Named Plaintiff Davit Pitshikyan in an amount up to \$15,000.00 for prosecution of the Action, risks undertaken for the payment of attorneys’ fees and costs, and a general release of all claims; (3) the Settlement Administration Costs to the Settlement

Administrator, ILYM Group, in an amount up to \$15,000.00; (4) Attorneys' Fees in an amount up to \$825,000 for Plaintiff's attorneys' fees; (5) Litigation costs and expenses in an amount up to \$25,000.00 to Plaintiff's counsel; (6) an allocation to the Labor Workforce and Development Agency ("LWDA") of \$20,000 for resolution of Plaintiff's claim for penalties under PAGA, \$15,000 of which will be paid to the LWDA.

After deducting items 2-6 above, the remaining sum, estimated at \$1,605,000.00, ("Net Settlement Fund"), shall be distributed to all Settlement Class Members. The Settlement Administrator will pay a portion of the Net Settlement Fund to each Settlement Class Member based on his or her total workweeks as a Driver for DHE during the Class Period in relation to the total workweeks of all Settlement Class Members during the Class Period. The Settlement Award will be allocated as reimbursement of business expenses and/or penalties the Settlement Administrator will issue you an IRS Form 1099 for the Settlement Award and you will be fully responsible for paying any federal, state or local income taxes due on the Settlement Award. The number of weeks you worked as a Driver during the Class Period and the estimated aggregate amount you may expect to receive are shown in the enclosed Class Member Information Sheet.

It is strongly recommended that, upon receipt of your Settlement Award check, you immediately cash it or cash it before the 180-day void date shown on each check. All uncashed checks will be remitted to the Department of Industrial Relations where you can claim your money if the check remains uncashed.

If you believe the number of weeks you worked as a Driver during the Class Period is wrong, you must submit an explanation in writing describing why you believe the information is wrong, along with any supporting information and/or documentation. Your challenge, together with any supporting documentation, must be signed by you and delivered to the Settlement Administrator postmarked on or before January 30, 2017. Late information will not be considered.

#### ***11. How Will the Attorneys for the Settlement Class and the Named Plaintiff Be Paid?***

The attorneys for the Named Plaintiff and the Settlement Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed \$825,000.00 in attorney fees and litigation costs and expenses not to exceed \$25,000.00.

The Named Plaintiff, Davit Pitshikyan, will also be paid, subject to Court approval, an amount not to exceed \$15,000.00, as a Service Award for the initiation of and prosecution of this case, the risks undertaken for the payment of costs in the event this case had been lost, and a general release of all claims. The Service Award is in addition to any Settlement Award he will receive.

**IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS**, you may contact any of the attorneys listed above, or the Settlement Administrator at the telephone number below, toll free. Please refer to the Pitshikyan v. DHE Class Action Settlement. For more information, you can visit the Website, located at [www.Pitshikyan-DHEsettlement.com](http://www.Pitshikyan-DHEsettlement.com). This Website contains links to important documents in this case, including this Notice, the Settlement Agreement, and any motions for Preliminary Approval and attorneys' fees filed in this Action.

This Notice does not contain all of the terms of the proposed settlement or all of the details of these proceedings. For more detailed information, you may refer to the documents posted on the Website or the underlying documents and papers on file with the Court at Sacramento Superior Court, located at 813 Sixth Street, 2nd Floor, D54, Sacramento, CA 95814.

**PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT.**