

STATE OF SOUTH CAROLINA)	FIFTEENTH JUDICIAL CIRCUIT
IN THE COURT OF COMMON PLEAS)	COUNTY OF HORRY
)	CASE NO. 2015-CP-26-6938
Kevin Mulcahy, Kevin T. Oppel, and)	
Daniel Prince, individually and as)	
Class Representatives,)	
)	
Plaintiffs,)	
vs.)	
Heritage Hauling, Inc., Lewis Services, Inc.,)	
Christopher Lewis, Dayna Lewis, and Elisa)	
Richardson,)	
)	
Defendants.)	

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

You are NOT being sued.

This notice informs you of a proposed settlement of certain class action claims against the Defendants concerning Heritage Hauling’s calculation of wages paid to you during the September 6, 2012 to June 25, 2015 class period. **This notice advises you of your rights with respect to the settlement, including your right to receive an automatic payment, as well as your right to opt out of the settlement or object to the settlement.** This notice is being sent to you because you have been identified as a member of a class of persons who may be entitled to the benefits provided by the Settlement Agreement.

This Notice affects your legal rights -- Please read this Notice carefully.

READ THIS FIRST

WHY DID I RECEIVE THIS NOTICE? You were sent this notice because you are in the Class certified by the Court, as a former driver for Heritage Hauling, Inc. who was paid on a commission basis in the class period, September 6, 2012 to June 25, 2015.

DO I HAVE TO DO ANYTHING? If the court approves the settlement and it becomes effective, you will be entitled to receive an **automatic payment** based on the number of weeks you worked as a commission driver during the class period according to Heritage Hauling’s payroll records. You may object to the proposed settlement during the Objection Period if you wish, and you may exclude yourself from the class.

WHAT WILL I RECEIVE? Heritage Hauling records indicate you worked ___ weeks during the Class Period. The projected/estimated payout per week is \$40 approximately so the estimated payment to you after fees and costs is:

**Weeks worked _____ X \$40 approximately/week = \$_____ your
estimated payment.**

WHAT IF MY ADDRESS HAS CHANGED? To assure correct delivery, if your address is different from the one on this envelope, or if you are moving, please notify Class Counsel at 843-238-2676 or by email at nfata@fatalaw.com.

The Basis of the Claims Against Defendants. This matter is before the Court because the Class Representatives have alleged that Defendants did not properly calculate the wages and made improper deductions in wages during the class period. The Plaintiffs have asserted claims for violation of the S.C. Wage Act, breach of contract and accounting. The Defendants have denied the allegations and have asserted several defenses. The parties engaged in discovery and mediation of the claims, resulting in the proposed settlement here.

Reasons for Settlement. The settlement is between the Class on the one hand and the Defendants on the other, and it includes a release and dismissal with prejudice of the claims of the Class against the Defendants. Class Counsel views this settlement's benefits as advantageous to the Class in light of risks to recovery if litigation continues. The Defendants, while denying that they are liable to anyone and denying that they have committed any wrongdoing, wish to avoid further lengthy, costly, and time-consuming litigation, to obtain total and final settlement of the Class claims, and to extinguish any liability of the Defendants with respect to the Class claims.

Who is In the Class and What is the Settlement. The "Class" consists of all former truck driver employees of Heritage Hauling as of December 16, 2016 who were paid on a commission basis during the Class Period. Under the settlement, you are entitled an automatic payment based on the number of weeks you worked as a commission driver during the class period.

You have received this Notice because you were determined to be a member of the Class.

Binding Effect. In completing the settlement approval process, Plaintiffs and the Defendants will petition the Court for a Final Order dismissing this Action as to the Class Members with prejudice, and any person in the Class who does not request exclusion from ("opt out of") the settlement will be bound by it.

Attorneys' Fees and Costs. Mulcahy, Oppel and Prince will each petition the Court for a class representative incentive award for Two Thousand Five Thousand and 00/100 Dollars (\$2,500.00) each for their work on behalf of the Class and for an award of attorneys' fees of one-third of the Three Hundred Thousand and 00/100 Dollar (\$300,000.00) settlement fund plus costs not to exceed Twelve Thousand and 00/100 Dollars (\$12,000.00) as more fully described in the Settlement Agreement.

Obtaining Benefits Under the Settlement. If you are a Class Member as reflected in Defendants' records, you will be entitled to an Automatic Payment. If the proposed settlement is finally approved, settlement benefits will be administered in accordance with the Settlement Agreement and the automatic payment will be mailed to you within sixty (60) days of the Effective Date of Settlement.

If you wish to obtain benefits under the Settlement, but dispute the number of weeks you worked as a commission driver, you may submit a written request for arbitration of your dispute to be arbitrated by the claims arbitrator who will make a final, binding, non-appealable decision. You must submit your own documents and your own evidence in writing to Class Counsel by **June 20, 2017**. The arbitrator may assess his fees against your recovery or the Fund, in his discretion.

Exclusion Requests – "Opting Out." You have the right to request exclusion from ("opt out of") this settlement by advising Class Counsel and Defendants' Counsel in writing at the addresses given below. If you elect to opt out, then you will not receive a payment or receive any benefits of the settlement. If you elect to opt out, you must mail a request for exclusion on or before **May 1, 2017**. Opt-out requests received after such date shall be of no force or effect. If you elect to opt out, you have thirty (30) days from the date of this Notice to do so. You must fill out, sign, and date the

enclosed Opt-Out Form and mail it to Class Counsel and Defendants' Counsel on or before **May 1, 2017**.

Objections. If you are a member of the Class, you have the right to object in writing to any part of the proposed settlement. To object, you must both file with the Court and mail to Class Counsel and Defendants' Counsel, no later than **May 15, 2017**, a written objection referring specifically to the Kevin Mulcahy, Kevin T. Oppel and Daniel Prince vs. Heritage Hauling, Inc., Lewis Services, Inc., Christopher Lewis and Dayna Lewis pending before the Court of Common Pleas for Horry County, Civil Action No. 2015-CP-26-6938, that includes: (a) your full name and address sufficient to identify your membership in the Class; (b) a notice of intention to appear; (c) the specific grounds for the objection, as well as all documents or writings that you desire the Court to consider; and (d) identification of any previously filed objections in state or federal courts by the Class member and any attorney representing the Class Member and any attorney representing the Class Member. Except for good cause shown, an objector who has not timely filed and served written objections with the requisite information will not be allowed to be heard at the hearing. Any person who fails to appear at the hearing will be deemed to have waived any such objections. To file the objection with the Court, you must mail or personally deliver the original of the written objection by the date specified in this Paragraph to:

*Horry County Clerk of Court
Horry County Government & Justice Center
Conway, South Carolina, 29526*

PLEASE DO NOT CALL THE COURT.

You must also mail copies of your written objections by the same date specified in the paragraph above to these attorneys' offices:

Class Counsel:

Nate Fata, Esq.
Nate Fata, P.A.
P. O. Box 16620
Surfside Beach, SC 29587
843-238-2676
nfata@fatalaw.com

Defendants' Counsel

Gene M. Connell, Jr., Esq.
Kelaher, Connell & Connor, P.C.
P.O. Drawer 14547
Surfside Beach, SC 29587
843-238-5050
gconnell@classactlaw.net

Hearing on the Settlement. The Court will hold a hearing to consider the fairness and adequacy of this proposed settlement and to consider Class Counsel's petition for fees and costs on **May 30, 2017**, at **9:00 a.m.**, at the **Horry County Courthouse, Third Floor, 1301 Second Avenue, Conway, South Carolina 29526**.

Release. The proposed settlement is intended to resolve and terminate all claims that were raised by or on behalf of the Class members concerning calculation of wages by Heritage Hauling, Inc. and the Defendants. The proposed settlement, if finally approved by the Court, will result in the release by each Class member of all such claims, as more specifically provided in the Settlement Agreement.

The claims against the Defendants alleged in the Complaint will be dismissed with prejudice as to all Class members.

Further Information. The descriptions in this Notice of the claims and settlement documents in this case are only summaries. The Settlement Agreement and all papers filed in the lawsuit may be inspected at the Office of the Clerk of Court for Horry County, Horry County Courthouse, 1301 Second Avenue, Conway, South Carolina 29526. If you have any questions with respect to this Notice or the lawsuit generally, please call Class Counsel at the Law Offices of Nate Fata, Esquire, Nate Fata, P.A., P.O. Box 16620, Surfside Beach, SC 29587 www.fatalaw.com (843) 238-2676. In addition you may view the settlement documents at www.fatalaw.com.

PLEASE DO NOT CONTACT THE COURT OR THE CLERK'S OFFICE FOR INFORMATION.

Date of Notice: **March 31, 2017.**

The Honorable Larry B. Hyman
Presiding Judge, Court of Common Pleas
FOR HORRY COUNTY

OPT-OUT FORM

I, _____, am a former employee of
***Print Full Name**

Heritage Hauling and do hereby opt out of the Class Action lawsuit entitled Kevin Mulcahy, Kevin T. Oppel and Daniel Prince vs. Heritage Hauling, Inc., Lewis Services, Inc., Christopher Lewis and Dana Lewis, 2015-CP-26-6938. **I understand that by opting out I will receive no benefits or compensation from the lawsuit.**

*Date: _____

***Former Employee**

*Street Address: _____

*City, State and Zip Code: _____

*Area Code and Phone Number: _____

MUST BE POSTMARKED BY May 1, 2017.

TO BE RETURNED TO:

Class Counsel
Nate Fata, Esquire
Nate Fata, P.A.
P.O. Box 16620
Surfside Beach, SC 29587

and a copy to

Defendants' Counsel
Gene M. Connell, Jr., Esq.
Kelahr, Connell & Connor, P.C.
P.O. Drawer 14547
Surfside Beach, SC 29587

*******PLEASE COMPLETE ENTIRE FORM*******