

NOTICE OF CLASS ACTION LAWSUIT SETTLEMENT

*Ramon Gonzalez, Victor Rodriguez Ortiz, and Addelyn Marte v.
RXO Last Mile, Inc.*

U.S. District Court, District of Massachusetts
Case No. 1:19-cv-10290-FDS

***Este documento está disponible en español en (e está disponível em português em):
[website]***

You may be eligible to participate in the proposed settlement of a lawsuit. The lawsuit was filed as a class action by three former delivery drivers (listed above) who made deliveries in Massachusetts to Lowe's customers arranged by RXO Last Mile, Inc. ("RXO," which previously was known as XPO Last Mile, Inc.).

The lawsuit claims that RXO failed to classify delivery drivers as RXO employees, in violation of Massachusetts law. Based on that claim, the lawsuit seeks money based on two allegations:

- Delivery drivers had deductions taken from their pay based on customer complaints.
- Delivery drivers were not provided with employment benefits by RXO, including vacation pay, earned sick time, and other benefits.

RXO denies that delivery drivers were its employees, denies that it violated any laws, and denies that it did anything wrong. The Court has not decided whether RXO is liable for the alleged violations.

WHO IS AFFECTED?

This settlement applies to the following group of drivers (referred to as the "Class"): **All drivers who performed deliveries in Massachusetts on behalf of RXO to Lowe's customers within the period of July 20, 2015 to [DATE], excluding helpers and any drivers who signed contracts with RXO.**

THE PROPOSED SETTLEMENT

Although RXO denies that it engaged in any wrongdoing, the parties want to resolve the case to avoid the cost, uncertainty, and risks of continued litigation. The amount of the proposed settlement is \$2,250,000. If approved by the Court, one-third of the settlement proceeds will be used to pay attorneys' fees for bringing and prosecuting this lawsuit, which has been pending since 2018. The three drivers who brought the case, and who assisted in the prosecution of these claims for over five years, will receive service awards to compensate them for the risk they took and their efforts, in an amount of no more than \$25,000 each. Seven individuals who had to take time off of work to sit for depositions in this case, will receive \$2,500 each in service awards. In addition, the settlement proceeds will be used to pay for litigation and settlement expenses, all in amounts to be reviewed and approved by the Court. If you would like to review a copy of the proposed agreement or any other information about the settlement, please contact Class Counsel (see below for contact information).

Based on our analysis of the risks of litigation, we believe that this is a fair settlement. Given disputes about the facts and the governing law in this case, the outcome of a trial is uncertain. If a jury returned a verdict in favor of RXO, drivers would receive nothing. Under the proposed settlement, the Class is guaranteed to recover money. Another benefit of the settlement is that drivers would receive money sooner. If the case went to trial and a jury returned a verdict in favor of the Class, RXO could appeal, so a final recovery could take years to recover.

The net proceeds of the settlement (after deducting attorneys' fees, expenses, and service awards) will be distributed in proportion to each drivers' potential damages. The actual amount that each eligible driver receives will depend on

the number of valid claims submitted and on estimates of the number of deliveries each driver made to Lowe's customers in Massachusetts since 2015. RXO has provided some data about deliveries, but drivers can also provide their own estimates on the attached claim form. Any data provided by drivers will be considered and relied on in the discretion of Class Counsel.

WHAT YOU NEED TO DO

You have the following options.

- (1) In order to be eligible to receive a payment from the settlement fund, you must complete and sign the enclosed claim form and return it to **[INSERT ADMINISTRATOR]** by **[INSERT DATE 45 DAYS FROM DATE OF MAILING]**. All eligible drivers who submit a claim form on time will receive a settlement check in or around **[FOUR MONTHS AFTER MONTH OF MAILING]**, assuming the court approves the proposed settlement. If you do not submit a timely and valid claim form, you may not be eligible to receive any part of the settlement fund.
- (2) You may object to the settlement. You may object to the settlement regardless of whether you file a claim form. In order to object to the proposed settlement, you must send your written objection to Civil Clerk, United States District Court, District of Massachusetts, 1 Courthouse Way, Boston, MA 02210, referencing Case No. 1:19-cv-10290-FDS, by **[INSERT DATE 45 DAYS FROM DATE OF MAILING]**, stating the basis for your objection.
- (3) If you do not wish to be bound by the settlement, you may opt out, but then you will not receive any money available under the settlement and you cannot object to the settlement. In order to opt out of the case, you must send your written request to opt out to Class Counsel (see address below) by **[INSERT DATE 45 DAYS FROM DATE OF MAILING]**.

You may contact Class Counsel, at no charge, to discuss these options. You may also consult or retain other counsel at your expense to evaluate these options, if you choose to do so.

If the settlement is approved by the Court and you have not opted out, you will be bound with respect to the claims alleged in this case even if you do not submit a claim form to receive money from the settlement.

There will be a Court hearing at **[LOCATION]** at **[DATE AND TIME]**. You have the right to attend the hearing but you are not required to attend. At this hearing, the Court will consider whether to approve the settlement. If the settlement is not approved by the Court, the litigation will continue and it is unknown when it will reach a final judgment, which might also bind you.

IMPORTANT: In order to claim your share of the settlement, you must complete and sign the enclosed claim form, and return it to **[INSERT ADMINISTRATOR]** by **[INSERT DATE 45 DAYS FROM DATE OF MAILING]**.
If you have any questions, please contact:

FOR CASE-RELATED QUESTIONS:

Stephen Churchill or Rachel Smit
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Boston, MA 02111
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FOR CLAIM-RELATED QUESTIONS:

[INSERT ADMINISTRATOR]