

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

**EZEQUIEL OLIVARES ABARCA et al.v. WERNER ENTERPRISES, INC., et al.**

Case No. 8:14-cv-00319-JFB-MDN

**William Smith v. Werner Enterprises, Inc., et al.**

Case No. 8:15-cv-00287-JFB-MDN;

**NOTICE OF PENDENCY OF CLASS ACTION**

*This notice was authorized by the Court. This is not a solicitation. You are not being sued.  
Please read carefully. Your legal rights may be affected.*

**INTRODUCTION**

The purpose of this notice is to: (1) inform you of the existence of a class action lawsuit filed against Werner Enterprises, Inc. and Drivers Management, LLC (collectively, “Werner”); and (2) advise you of how your rights may be affected by this lawsuit. This notice also provides instructions for how you can exclude yourself from the lawsuit if you do not wish to be a part of the class. **If you worked or work as a qualified driver for Werner at any time since June 4, 2010, you are part of a certified class in this case.**

**DESCRIPTION OF LAWSUIT**

This case (the “Lawsuit”) was originally filed on June 4, 2014 in the Superior Court of California, County of Alameda and was later removed to federal court and transferred to the District of Nebraska. The Plaintiffs in the Lawsuit are Ezequiel Olivares Abarca, Alfredo Alesna Jr., David Cagle, Stephen L. Davis, Frank Eads, William Smith, and Kenneth J. Surman. Plaintiffs have alleged that Werner violated both Nebraska and California Law in several ways: (1) Werner’s mileage-based pay system failed to compensate drivers for all hours worked; (2) Werner took unlawful deductions from drivers’ wages; and (3) the wage statements that Werner provided to drivers were inaccurate and inadequate. Plaintiffs also claim that, while drivers worked in California, they were not provided meal and rest breaks required under California law, and that Werner’s labor practices violate California’s unfair competition law. The Lawsuit seeks unpaid wages, penalties, and interest.

The Court has not ruled for or against any of the claims made in the case. The sole purpose of this notice is to inform you of the Lawsuit so that you may make an informed decision as to whether you wish to remain in or opt out of this class action.

**DEFINITION OF THE CLASS**

On March 20, 2018, the Court ordered that the Lawsuit may proceed as a class action on behalf of two classes:

- 1) All qualified truck drivers who, while residing in California and working for Werner, picked up or dropped off at least one load in California at any time since June 4, 2010. The claims on behalf of this class are only for work performed in California.
- 2) All truck drivers who worked or work as qualified drivers for Werner at any time since June 4, 2010.

**CLASS MEMBER RIGHTS**

**Join the Class:** You do not have to do or pay anything to be part of the class and you do not have to do anything at this time to confirm that you are a member of the class. Class Counsel, whose contact information is listed below, will represent the class in the Lawsuit at no out-of-pocket cost to you. If you wish, you may also hire your own counsel to represent you and participate in this Lawsuit on your behalf.

If you remain in the class, you will be bound by any judgment or settlement reached in this Lawsuit and may be entitled to compensation if Plaintiffs prevail or a settlement is reached on behalf of the class. You will also give up the right to bring or participate in any action based upon the same conduct that may be alleged in the Lawsuit against Werner.

**Exclude Yourself:** You have the right to exclude yourself from the class and this Lawsuit. If you wish to exclude yourself from the class and not participate in this Lawsuit, you must mail a request for exclusion to the Claims Administrator:

*Abarca v Werner Enterprises Inc*  
Claims Administrator  
P.O. Box 404081  
Louisville, KY 40233-4081

To be valid, your request should contain your name, phone number, address, email address, and signature; the name of the case; and a statement that you wish to exclude yourself from the class. You are not required to provide any reason for your decision. For your request to be valid, it must be postmarked no later than December 8, 2018. If you exclude yourself from the class, you will not be eligible to receive any compensation if Plaintiffs prevail on their claims, but you will also not be bound by the judgment or settlement in this case.

**CLASS COUNSEL**

The Court has found that the lawyers listed below are adequate to represent the class in this Lawsuit. If you have any questions regarding this notice or the Lawsuit, please contact any of the following attorneys, who represent Plaintiff and the class:

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**EXAMINATION OF PAPERS**

This notice does not fully describe the Lawsuit. You may inspect the Court's files at the United States District Court for the District of Nebraska, Roman L. Hruska Federal Courthouse, 111 South 18th Plaza, Suite 1152, Omaha, NE 68102, from 9:00 a.m. to 4:00 p.m., Monday through Friday (<https://www.ned.uscourts.gov>).

**NOTICE IN ACCORDANCE WITH LOCAL CIVIL RULE 23.1(b)**

All documents sent to the Court by any Class Member, including any letter or document expressing a Class Member's desire to be excluded from the class and any objection to a proposed settlement, voluntary dismissal, or compromise, are filed electronically by the clerk and therefore will be available for public review.

**PLEASE DO NOT CONTACT THE COURT OR THE COURT CLERK REGARDING THIS ACTION.**