

If you have experienced a wage payment problem at work, you may have rights under a class action settlement.

A New Mexico state court authorized this notice. This is not an advertisement from a lawyer.

This notice is about a proposed settlement in a class action lawsuit against the Labor Relations Division of the New Mexico Department of Workforce Solutions (LRD), a New Mexico government agency. Workers and nonprofit groups filed this lawsuit to require LRD to strengthen enforcement of New Mexico's wage payment laws.

The proposed settlement covers all employees who have experienced a violation of New Mexico's wage payment laws. It requires LRD to take specific steps to strengthen its investigations of employees' unpaid wage claims and enforce the law. The settlement also requires LRD to investigate unpaid wage claims for some employees whose cases LRD may not have investigated the first time.

This case is about policy changes. This means no money will be paid to class members or the attorneys. However, the settlement ensures that people with unpaid wage claims against their employers can access the government's help.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	You will be bound by the settlement, if the judge approves it. This means LRD will be required to investigate any valid and enforceable unpaid wage claim you file against your employer. Some people may ask LRD to re-investigate an older unpaid wage claim.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
OBJECT	Write to the Court about why you don't like the settlement.

These rights and options—**and the deadlines to exercise them**—are explained in this notice.

What is this lawsuit about?

The lawsuit claimed that LRD did not investigate unpaid wage claims in the way the New Mexico law requires. Specifically, the lawsuit claimed:

- LRD did not investigate or take enforcement action on unpaid wage claims worth \$10,000 or more.
- LRD did not investigate or take enforcement action on unpaid wage claims that went back more than one year from the date an employee filed a claim.
- LRD did not hold employers liable for damages at the administrative enforcement phase of a case.
- LRD closed wage claims for improper reasons, regardless of whether the employer owed wages.

The lawsuit claimed that the effect of these policies was to deny the class members wages and damages owed to them.

The lawsuit asked the judge to declare that DWS's policies were unlawful, and to order LRD to comply with its legal obligations by (a) rescinding its old policies and writing enhanced policies, (b) translating all LRD forms and letters to claimants into Spanish, (c) training LRD employees on the law, (d) collaborating with employee representatives to monitor DWS's compliance, (e) fully resolving all future wage claims, (f) publicizing all changes to the investigation and enforcement procedures, and (g) re-opening and investigating prior wage claims that LRD improperly investigated.

Why is this a class action?

In a class action like this one, one or more people called Class Representatives (in this case José Olivas, Octavio Rios Olivas, Alvaro Bravo, and Blake Cahill) sue on behalf of people who have similar claims. All these people are a class or class members. One court resolves the issues for all class members. First Judicial District Judge David Thomson is in charge of this class action.

Why is there a settlement?

Judge Thomson did not decide in favor of Plaintiffs or DWS. Instead, both sides agreed to a settlement. The settlement will provide class members almost all of the policy changes and rights that the Class Representatives wanted in the lawsuit. The Class Representatives and the attorneys think the settlement is best for everyone whose claims have been impacted by prior DWS policies.

Who is in the settlement?

Judge Thomson decided that everyone who fits this description is a class member: *All persons who have experienced a violation of the wage statutes, regardless of income level.*

What are my rights under the settlement?

Under the settlement, LRD has a duty to all people who have experienced a violation of New Mexico's wage payment laws. These duties are:

- LRD must no longer apply the practices that this lawsuit challenged, including the \$10,000 cap, the one-year time limitation, omitting damages owed to employees, and the closure of wage claims for insufficient reasons.
- LRD must adopt a revised Investigations Manual so that there is a clear, enhanced process for LRD to investigate violations of the wage payment laws and take enforcement action when appropriate.
- LRD must meet with attorneys for the class to discuss and correct any violations of the settlement agreement or for enforcement problems on individual cases.

What if I had a problem with a LRD wage claim in the past?

LRD has additional duties to some people who previously filed wage claims. People who fall into one of the following two categories may be able to ask LRD to re-open their wage claims. These people can ask LRD to re-open their claims if the judge approves the settlement.

CATEGORY 1: People whose wage claims LRD closed, refused to accept for filing, or only partially investigated due to the \$10,000 cap policy or the one-year policy, which are described above. Your prior claim may fall into this category if:

- LRD said you were ineligible to file a wage claim because of your dates or work or the amount you were owed.
- LRD returned your claim form or refused to accept it because of your dates of work or the amount you were owed.
- LRD wouldn't take your claim form unless you limited the dates to one year.
- LRD wouldn't take your claim form unless you limited the amount to \$10,000.
- LRD only investigated your wage claim up to \$10,000, even though you were owed more.
- LRD only investigated your wage claim going back one year from the date you filed it, even though you were underpaid for longer.

CATEGORY 2: Claims LRD rejected, closed, or insufficiently resolved in the employer's favor. Your prior claim may fall into this category if:

- LRD didn't let you file a claim.
- LRD said you were not eligible to file a claim.
- LRD wouldn't help you fill out the claim form.
- LRD sent your claim form back to you without investigating it.
- LRD told you it didn't have jurisdiction over your case.
- LRD closed your case without sufficiently investigating it.
- LRD closed your case after it didn't receive something in writing from you on time.
- LRD closed your case after you didn't appear for a hearing.
- LRD closed your case after your employer didn't appear for a hearing.
- LRD closed your case because you didn't have documents proving your claim.

Since every case is unique, it is only possible to know whether your case can be re-investigated based on your individual situation. You may call LRD or Class Counsel for more information.

I'm not sure if I am included.

If you are not sure whether you are included, you have a right to free help. You can discuss your situation with any of the Class Counsel at the phone numbers or addresses below, or you may contact LRD at 121 Tijeras NE, Suite 3000, Albuquerque, NM 87102. Tel: (505) 841-4400.

Do I have a lawyer in this case?

The Court has approved attorneys with the New Mexico Center on Law and Poverty (Elizabeth Wagoner and Gail Evans), Somos un Pueblo Unido (Gabriela Ibañez Guzmán), and Daniel Yohalem to represent you and other class members. Together, the lawyers are called Class Counsel. You will not be charged for these lawyers. These lawyers are not asking the Court to award any fees for their work on this case. If you want to be represented by your own lawyer, you may hire one at your own expense. You may contact any of the Class Counsel at the following addresses and phone numbers:

New Mexico Center on Law and Poverty
924 Park Avenue SW, Suite C
Albuquerque, NM 87102
Phone: (505) 255-2840

Daniel Yohalem
1121 Paseo de Peralta
Santa Fe, New Mexico 87501
Phone: (505) 983-9433

Somos Un Pueblo Unido
1804 Espinacitas St.
Santa Fe, NM 87505
Phone: (505) 983-6247

How do I tell the Court I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to *Olivas v. Bussey*. Be sure to include your name, address, telephone number, your signature, and the reasons you object to the

settlement. Please also state whether you would like to speak at a hearing about the fairness of the settlement. Mail or email the objection to these three different places postmarked **no later than March 6, 2018**. You must submit your objection by this date if you want to speak at the hearing.

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Honorable Judge David K. Thomson sfeddiv6proposedtxt@nmcourts.gov First Judicial District Court 225 Montezuma Ave Santa Fe, NM 87501	Elizabeth Wagoner elizabeth@nmpovertylaw.org NEW MEXICO CENTER ON LAW AND POVERTY 924 Park Avenue SW, Suite C Albuquerque, NM 87102 Phone: (505) 255-2840	David C. Mann General Counsel David.Mann2@state.nm.us 401 Broadway NE Albuquerque, NM 87102 Phone: (505) 841-8471

When and where will the Court decide whether to approve the settlement?

The Court will hold a final hearing **at 1:30 p.m. on March 9, 2018** in Judge David K. Thomson's Courtroom, located at the Santa Fe County District Court for the First Judicial District, 225 Montezuma Ave., Santa Fe, NM 87501. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Thomson will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the settlement.

Do I have to come to the hearing?

No. Class Counsel will answer questions Judge Thomson may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it.

What happens if I do nothing?

If you do nothing, and the judge approves the settlement, you will gain the rights described in the settlement and this Notice. However, you will not have the right to sue LRD over the claims raised in this case.

How do I get more information?

This notice summarizes the proposed settlement. More details are in a Settlement Agreement. You can get a copy of the Settlement Agreement by visiting the LRD website at <https://www.dws.state.nm.us/> and clicking on the "Notice of Settlement" link under "Department News." You may also contact Class Counsel or DWS.