

THOMAS A. PAULSEN, et al.,

Plaintiffs,

v.

CNF, INC., et al.,

Defendants.

CASE NO. C 03-03960 JW (PSG)

**NOTICE OF PENDENCY OF CLASS ACTION,
PROPOSED SETTLEMENT, AND FINAL APPROVAL HEARING DATE**

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED**

If you are a participant in or a beneficiary of the Consolidated Freightways Corporation defined benefit pension plan (“CFC Plan”), whose pension benefits have been or will be reduced due to the termination of the CFC Plan, a settlement in a class action lawsuit may affect your rights.

A court authorized this Notice. This is not a solicitation from a lawyer. You have not been sued.

PLEASE TAKE NOTICE that a class action lawsuit is now pending in the United States District Court for the Northern District of California before the Honorable James Ware. You may have previously received a notice about this class action lawsuit. This Notice is to advise you of a settlement in that lawsuit that may affect your rights and under which you may be entitled to a settlement payment.

Plaintiffs, who are five participants in the Consolidated Freightways Corporation defined benefit pension plan (“CFC Plan”) and Class Representatives, have sued Defendant Towers, Perrin, Forster & Crosby, Inc. (“Towers Perrin”), an actuarial consulting company that performed actuarial services relating to the CFC Plan, alleging that Towers Perrin committed professional negligence under California law. Towers Perrin has denied these allegations. The records of the Pension Benefit Guaranty Corporation (“PBGC”) show that you are a participant in or a beneficiary of the CFC Plan whose pension benefits have been reduced or will be reduced due to the termination of the CFC Plan. You should have received a Benefit Determination Letter from PBGC in approximately 2006 that explained the pension benefit reduction.

A settlement has been reached between the parties in this lawsuit (which will be referred to in this Notice as “the Settlement”). On June 21, 2011, the Court entered an order preliminarily approving the proposed settlement and authorizing this Notice. The purpose of this Notice is to inform you of the lawsuit and the Settlement, so you can make an informed decision as to whether you should participate in the Settlement and receive a Settlement payment or, alternatively, how you can request to be excluded from the Settlement if you choose to do so. If you do not request exclusion, you can also object to the Settlement or any part of the Settlement.

In summary, the Settlement calls for Towers Perrin to create a settlement fund of \$9.2 million, which will be distributed to the Class Members after deduction of any Court-approved attorneys’ fees, litigation costs, service payments to the Class Representatives, and costs of settlement administration. The amount remaining after deduction of these amounts will be allocated among the Class Members in proportion to the present value of the amount by which their pensions have been reduced. Together with this Notice, you are receiving a statement of your estimated share of the Net Settlement Fund. If you are a Class Member, you do not need to do anything to receive a payment in the event that the Settlement is approved by the Court. If you are a Class Member and wish to be excluded from the Class (and not receive a payment), you need to submit a request for exclusion as described in this Notice.

Your Legal Rights and Options in the Settlement

You Can Do Nothing (and receive a settlement payment)	If the Settlement is approved by the Court and you are a member of the Class, then you will receive a share of the Settlement Fund. Your estimated settlement share is shown on a separate statement that you are receiving with this Notice.
You Can Object to the terms of the Settlement (by September 6, 2011)	As discussed below in Section VIII, if you wish to object to any part of the Settlement, you may (as discussed below) write to the Court and Class Counsel to explain why you do not like the Settlement.
You Can Request Exclusion From (or “opt out of”) the Settlement (by September 6, 2011)	As discussed below in Section VII, if you do not wish to be included in the Settlement and do not wish to receive a Settlement payment, you may prepare, sign, date, and timely mail to the Settlement Administrator a request to exclude yourself from the settlement of this Class Action. If you file a Request for Exclusion, you will not receive any payment as a result of this Settlement.
You Can Go to a Hearing (to be held on October 24, 2011)	If you have submitted a written objection to the Settlement to the Court and Class Counsel, you may (but do not have to) attend the Court hearing about the Settlement and present your objections to the Court. You may attend the hearing even if you do not file a written objection, but you will only be allowed to speak at the hearing if you file written comments in advance of the hearing, except by leave of the Court.

These rights and options – and the deadlines to exercise them – are explained more fully below.

I. Definitions

1. **ACTION:** This class action lawsuit, filed in the Northern District of California and currently pending before Chief Judge James Ware, Case No. 03-3960 JW (PSG).
2. **CLASS REPRESENTATIVE:** a person who sues on behalf of a group of plaintiffs in a class action. In this case, the Class Representatives are Thomas Paulsen, Robert Newell, Robert Bowden, Chester Madison, and Lloyd M. O'Connell III.
3. **CLASS MEMBERS:** the group of people potentially affected by this Settlement, defined as follows: all participants in or beneficiaries of the CFC Plan whose pension benefits have been reduced or will be reduced due to the termination of the CFC Plan. In approximately 2006, the PBGC sent Benefit Determination Letters to CFC Plan participants and beneficiaries whose benefits were reduced due to the termination of the CFC Plan. There are 211 Class Members.
4. **CLASS COUNSEL:** The attorneys appointed by the Court to represent the Class (whose names and contact information are listed below in Section IX).
5. **SETTLEMENT ADMINISTRATOR:** A settlement administrator is a company that assists in managing a class action by communicating information to Class Members about a settlement and managing settlement funds disbursement. The Settlement Administrator's name and contact information is listed below in Section VII.
6. **REQUEST FOR EXCLUSION:** A document that a member of the Class must prepare, sign, date, and timely mail to the Settlement Administrator to exclude himself or herself from the settlement of this Class Action. If you file a Request for Exclusion, you will not receive any payment as a result of this Settlement.
7. **OBJECTION:** A document that a Class Member submits to the Court to tell the Court that he or she does not like the Settlement or a part of the Settlement.
8. **NET SETTLEMENT FUND:** The remaining dollar amount after any attorneys' fees, costs, service payment to the Class Representatives (if approved by the Court), and Settlement Administrator costs are deducted from the total amount of the proposed Settlement of \$9,200,000. The formula for determining this amount is described in more detail below.

II. Nature and Status of the Action

This lawsuit is about whether Towers Perrin was professionally negligent under California law in providing actuarial services relating to the CFC Plan. Plaintiffs claim that Towers Perrin was negligent by using unreasonable actuarial assumptions that Plaintiffs claim resulted in the underfunding of the CFC Plan at its inception, and in its continued underfunding until its distress termination in 2003. This lawsuit was filed in August 2003, and has been vigorously litigated by the parties since that time.

Towers Perrin denies that it was professionally negligent, denies that participants or beneficiaries in the CFC Plan have any rights to recover from Towers Perrin since it had no duty, obligation, or relationship with any plan participant or beneficiary, denies that its actions with regard to the CFC Plan were improper in any way, and denies that any of its actions caused the reduction in benefits that resulted from the termination of the CFC Plan.

The Court has not decided whether Plaintiffs or Towers Perrin are correct. This Notice is not an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by either side in this lawsuit. On June 21, 2011, the Court granted preliminary approval of a Settlement Agreement signed by the parties.

III. About Class Actions

In a class action lawsuit, one or more people called "Class Representatives" (in this case, Thomas Paulsen, Robert Bowden, Chester Madison, Robert Newell, and Lloyd Michael O'Connell) sue on behalf of other people who purportedly have similar claims. The people together are called a "Class" or "Class Members." The company they sued (in this case, Towers Perrin) is called the Defendant. One court resolves the issues for everyone in the Class, except for those people who choose to exclude themselves from the Class.

IV. Summary of the Proposed Settlement

A. Settlement Formula

The total amount of the proposed Settlement is nine million, two hundred thousand dollars (\$9,200,000), out of which will be deducted attorneys' fees and costs (if approved by the Court), service payments to the Class Representatives (if approved by the Court), and Settlement Administrator costs, leaving a "Net Settlement Fund" (defined above in Section I(8)). Settlement awards will be paid out of the Net Settlement Fund to all Class Members who do not opt out of the Settlement, based on the amount that their pension benefits have been reduced as a result of the termination of the CFC Plan, as determined by the PBGC.

If the Settlement is approved by the Court, the Settlement Administrator will pay settlement awards to each Class Member who does not submit a request for exclusion.

The settlement amount shall be paid from the Net Settlement Fund according to the following formula: a *pro rata* share of the Net Settlement Fund shall be paid to each Class Member who does not request exclusion from the Settlement, based on the amount that his or her pension benefits have been reduced as a result of the termination of the CFC Plan, as determined by the Pension Benefit Guaranty Corporation ("PBGC"). In an actuarial analysis dated September 7, 2006, the PBGC determined the amount of each Class Member's monthly pension reduction and calculated the lump-sum total present value of Class Members' pension reductions. In this Settlement, each Class Member's *pro rata* share of the Net Settlement Fund will be calculated by determining the present value, according to the analysis of September 7, 2006, of that Class Member's share of the total loss. The percentage of the total loss attributable to each Class Member will be that Class Member's percentage share of the Net Settlement Fund. For example, if the present value of a Class Member's loss was \$220,000, which represents 1% of the total loss, then that Class Member would receive 1% of the Net Settlement Fund as his or her *pro rata* share. Present value is calculated by determining the expected duration of payments (based on the life expectancy of the participant and, if applicable, the participant's spouse), then determining the value of that income stream as of a specific date by using an interest rate factor. The mortality and interest rate assumptions used will be those selected by PBGC for purposes of its valuation of September 7, 2006.

Your estimated settlement share is shown on a separate statement that you are receiving with this Notice.

B. Release

The Settlement Agreement between Plaintiffs and Towers Perrin contains a release of claims against Towers Perrin. Upon final approval by the Court of this Settlement, and except as to such rights or claims as may be created by the Settlement, each Class Member who has not submitted a valid Request for Exclusion, fully releases and discharges Towers Perrin, together with its current and former officers, directors, shareholders, parent corporation, affiliates and subsidiaries, employees, insurers, attorneys, and assigns, and its successors (including any persons or entities that may acquire all or substantially all of its assets, stock or other ownership interests) from any and all actual or potential claims, counterclaims, actions, causes of action, liabilities, damages (whether actual, nominal, punitive, exemplary, statutory, or otherwise), injunctive relief, costs, fees, attorneys' fees, or penalties of any kind alleged in the Action or that reasonably arise out of the facts alleged in the Action, whether known or unknown, suspected or unsuspected, discovered or undiscovered, and which arise in whole or in part from actuarial services Towers Perrin provided at any time relating to the Consolidated Freightways Inc. Pension Plan and/or the Consolidated Freightways Corporation Pension Plan ("Released Claims").

C. Service Payment for Class Representatives' Service

The five Class Representatives have applied for a service payment in an amount of \$7,500 each (or a total of \$37,500, which is equal to less than 1/2 of 1 percent of the total amount of the Settlement). This payment is to recognize Plaintiffs' service as Class Representatives bringing and litigating this case on behalf of the proposed Class Members since August 2003. The Class Representatives' work on the case included answering discovery requests, providing documents and other information regarding the lawsuit, having their depositions taken, attending the mediation and court hearings, and communicating with Class Counsel and other Class Members throughout nearly eight years of litigation.

D. Attorneys' Fees and Costs

Class Counsel have applied to the Court for an award of fees in the amount of 27.5% of the total settlement fund, or \$2,530,000, to be paid from the Settlement Fund. In addition, Class Counsel have applied to the Court for reimbursement from the Settlement Fund of up to \$430,000 in expenses they have incurred in prosecuting the case on behalf of the Class. Class Counsel's application for attorneys' fees, costs, and Class Representative service payments is available to review on Class Counsel's website at www.lewisfeinberg.com.

E. Settlement Administrator

Kurtzman Carson Consultants is the Settlement Administrator in this case and will receive an estimated payment of \$9,500 for sending this class notice and for handling all aspects of the Settlement administration, including the calculation and distribution of settlement payments.

V. Final Settlement Approval Hearing

The Court will hold a hearing on October 24, 2011, at 9:00 a.m. in Courtroom 5, 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve Class Counsel's request for attorneys' fees, reimbursement of costs, and any service payment to the Class Representatives. The hearing may be continued without further notice to the Settlement Class. It is not necessary for you to appear at this hearing unless you wish to argue an objection.

VI. Procedures for Participating in the Settlement

If you are a participant in or beneficiary of the CFC Plan whose pension benefits have been reduced or will be reduced due to the termination of the CFC Plan, you are automatically included in the Settlement Class. Any Class Member who wishes to share in the Settlement need not do anything. After deducting from the settlement funds the costs of notice and settlement administration, and attorneys' fees, costs and expenses, and Class Representative service payments, in amounts approved by the Court, the Settlement Administrator shall pay the Settlement Class Members a pro rata portion of the resulting Net Settlement Fund. Your individual pro rata portion shall be calculated as described above in Section IV(A) and in the separate statement of your estimated settlement share that you are receiving with this Notice.

The amount that your pension has been reduced as a result of the termination as determined by the PBGC as well as the amount of your estimated settlement share is included in the attached "Estimated Settlement Share" document. The calculation assumes that the amounts that will be requested for attorneys' fees, costs, and class representative service payments, and administrative costs (as described above) will be granted by the Court. If the Court reduces these amounts, your settlement share may be larger.

VII. Procedures for Opting Out of the Class

Any person who does not wish to participate in the Settlement may exclude themselves from (*i.e.*, "opt-out of") the Class. If you wish to be excluded from this Class, you must send a request for exclusion to the Settlement Administrator in the form of a letter expressly indicating that you have received notice of the Settlement, have decided not to participate in the Settlement, and desire to be excluded from the Settlement. Your Request for Exclusion must state your full name and address. It must also be signed, dated, and mailed by First-Class United States Mail, or the equivalent, to the Settlement Administrator by September 6, 2011. If you wish to exclude yourself, you must mail your Request for Exclusion to the Settlement Administrator at the following address:

Paulsen/CNF Class Action Settlement
c/o Kurtzman Carson Consultants LLC
P.O. Box 6177, Novato, CA 94948-6177
1-800-207-0343

If you timely request exclusion from the Class, you will: (1) be excluded from the Class; (2) not be bound by any determination or judgment entered in the litigation; (3) not participate in the Settlement and **not receive any Settlement payments available under the Settlement**; and (4) not be precluded, by reason of your decision to request exclusion from the Class, from otherwise prosecuting an individual action against Towers Perrin, if timely. If you remain in the Class and do not request exclusion, you will be bound by the Settlement.

The Settlement provides that if 21 or more of the 211 Class Members request exclusion from the Class, or if the settlement shares of the Class Members who request exclusion from the Class add up to a total of \$920,000 (or 10% of the total amount of the Settlement) or more, Towers Perrin will have the option to void the Settlement. If that occurs, Settlement payments will not be made, and the case continues as if the Settlement were not entered into. If 21 or more Class Members request exclusion from the Class or if the settlement shares of Class Members who request exclusion from the Class total \$920,000 or more and Towers Perrin chooses *not* to withdraw from the Settlement, the portion of the Settlement fund that Towers Perrin is required to pay shall be reduced by the total amount allocable to the Settlement Class Members who have requested exclusion.

If you choose to request exclusion from the Settlement, you are encouraged, though not required, to make a copy of your Request for Exclusion letter for your own records and to confirm delivery by sending your Request for Exclusion *via* certified mail, return receipt requested. Do not use a postage meter because that may not result in a postmark appearing on the envelope containing your Request for Exclusion.

VIII. Objection to the Settlement

If you remain in the Class and decline to opt-out, you may choose to object to the terms of the Settlement before final approval. However, you will still be bound by the terms of the Settlement as a Class Member upon entry of final judgment, even if the Court rejects your objection. To object to the Settlement, you must file with the Court Clerk a written objection and a notice of intention to appear at the final approval hearing, currently set for October 24, 2011, at 9:00 a.m. in Courtroom 5, 17th Floor, 455 Golden Gate Avenue, San Francisco, CA 94102 and send copies of the written objection to the following:

Class Counsel:

Teresa Renaker
Catha Worthman
Lewis Feinberg Lee Renaker & Jackson, PC
476 Ninth Street
Oakland, CA 94607

Steven M. Tindall
Rukin Hyland Doria & Tindall LLP
100 Pine Street, Suite 2150
San Francisco, CA 94111

Counsel for Towers Perrin:

Robert E. Mangels
Susan Allison
Jeffer, Mangels, Butler & Mitchell LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067

Any written objections must be filed by September 6, 2011, which is 48 days prior to the final approval hearing date, and must state specific reasons in support of your objection and any legal support for each objection. Your objection must also state your full name and address. If you choose to file an objection to the terms of this Settlement, you may represent yourself or appear through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. **DO NOT TELEPHONE THE COURT.**

IX. Additional Information

The information contained in this Notice is only a summary of the litigation. For more detailed information, you may review the complete court files of the Action at the office of the Clerk of the Court for the United States District Court for the Northern District of California, 455 Golden Gate Avenue, San Francisco, CA 94102, during regular business hours or electronically at www.cand.uscourts.gov. Additionally, more detailed information regarding the Action or this Notice may also be obtained from Class Counsel.

Class Counsel:

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PLEASE DO NOT CONTACT THE COURT BY TELEPHONE REGARDING THIS LAWSUIT.

BY ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

DATE: June 21, 2011