



Jantz has asked drivers to oppose the lawsuit. Please be advised that it is illegal for Jantz or Xray to retaliate against you for deciding to remain in this case, rather than opt out of the case, as will be discussed below. It is also unlawful for Jantz to refuse to pay overtime compensation that is owed, even if Jantz entered into an agreement with some drivers to pay them a fixed sum each pay period. If Jantz entered into such agreements on behalf of Xray, overtime compensation may still be owed to such drivers.

### **3. WHAT IS A CLASS ACTION?**

A class action is a type of lawsuit in which one or a few named plaintiffs bring suit on behalf of all members of a similarly situated group to recover damages for all members of a group, without the necessity of each member filing an individual lawsuit or appearing as an individual plaintiff. Class actions may be used by courts where the claims appear to raise issues of law or fact that are common to all members of the class, thereby making it fair to bind all class members to the orders and the judgment in the case, without the necessity of filing multiple lawsuits, and assures that all class members are bound by results in a single lawsuit.

### **4. WHAT RECOVERY DOES THE ACTION SEEK?**

If Plaintiffs are successful in proving that Xray and Foxx failed to pay overtime compensation, Tow Truck Operators and Casual Drivers will be entitled to recover one and one half times their regular rate of compensation for any hours they spent working over 8 hours in one day or over 40 hours in a week, and double their rate of pay for any hours spent working in excess of 12 hours in one day, or in excess of 8 hours on the seventh consecutive day of work. The Tow Truck Drivers and Casual Drives will also be entitled to recover ten per cent interest on each sum they are due for overtime compensation, from the date of each such payment due, up to the date of entry of judgment, and a penalty for thirty days wages for each Tow Truck Driver or Casual Driver who no longer works for Xray. Plaintiffs will also seek to recover a statutory penalty for each driver based on Xray's failure to maintain accurate itemized wage statements

If Plaintiffs prove that Xray and Foxx failed to furnish rest and meal breaks to drivers, then Plaintiffs will recover individually and on behalf of the drivers' one hour's wages for each day that a break was not furnished to each driver, and pre-judgment interest on these sums.

If Plaintiffs are successful in their claims against Xray and Jantz, they may also be awarded penalties against Xray and Jantz of \$100.00 or more for each driver on each payroll period during which any of the violations occurred.

### **5. WHAT ARE MY RIGHTS IN REGARD TO THIS MATTER?**

If you wish to remain as a member of this class and have your interests represented by class counsel appointed and approved by the Court, you need do nothing at this time. You will receive further notice as the case progresses.

If you wish, the Court will exclude you from the class if your request is postmarked by May 20, 2009. If you wish to be excluded from the class, you must send the enclosed exclusion form to the court appointed administrator below:

Desmond, Marcello & Amster  
6060 Center Drive, Suite 825  
Los Angeles, California 90045

If you exclude yourself, you will receive no benefits from any judgment or settlement obtained by the class. However, you remain free to pursue individually any legal rights you may have against Xray or Jantz. If you elect to exclude yourself from the class, the statute of limitations for any damage claims described herein will begin to run again from the date the request for exclusion form is postmarked. Consult an attorney to advise you as to the applicable statute of limitations.

If you do not choose to exclude yourself from the class, any judgment rendered, whether favorable or not, will be binding upon you. If you do not choose to exclude yourself from the class, you may, if you so desire, enter an appearance through counsel of your choice.

**6. WHO REPRESENTS THE CLASS?**

Kevin Hosannah and Isidro Panameno have been approved by the court to act as the class representatives. They are former drivers of Xray who worked for Xray as Tow Truck or Casual Drivers.

The following attorneys are representing the class:

Stephen M. Harris, Esq.  
Knapp Petersen & Clarke  
550 North Brand Boulevard, Suite 1500  
Glendale, CA 91203  
Telephone: (818) 547-5149  
Facsimile: (818) 547-5329  
Email: smh@kpclegal.com

Robert L. Starr, Esq.  
The Law Offices of Robert L. Starr  
23277 Ventura Boulevard  
Woodland Hills, CA 91364-1002  
Telephone: (818) 225-9040  
Facsimile: (818) 225-9042  
Email: Starresq@hotmail.com

**7. WHAT FEES AND COSTS ARE INVOLVED?**

Class Counsel are representing the class on a contingent fee basis. Class members may participate in any ultimate judgment or settlement without incurring any out-of-pocket costs. Class Counsel shall make a request to the Court for attorneys' fees and costs, to be paid from any judgment or settlement funds. All applications for attorneys' fees and expenses are subject to court approval. Class Counsel have invested substantial time and money to prosecute the class claims asserted in this case, without receiving any compensation to date. In class actions, counsel who generate a monetary recovery for the benefit of the class are entitled to an award of reasonable attorneys' fees and costs.

**8. WHAT DO I NEED TO DO NOW?**

If you wish to remain a member of the class and share in the results of any settlement reached or judgment obtained, you need do nothing at this time. However, Class Counsel are preparing this matter for trial and you may contact them and offer to assist them in gathering evidence or to have questions answered. If you would prefer to be excluded from the class, please follow the instructions set forth in paragraph 5 of this notice.

**9. PROHIBITION AGAINST RETALIATION**

California law prohibits retaliation by Xray or Jantz against any person who participates in or assists in the litigation of a wage and hour lawsuit, such as this one. Whichever option you choose will in no way affect your relationship with Xray or Jantz, and it is unlawful for them to pressure you not to participate in the class action or to opt out of the class.

**PLEASE DO NOT ADDRESS ANY QUESTIONS TO THE COURT.**

Dated: April 20, 2009

Ann I. Jones - Dept. 40  
Judge of the Superior Court of the State of California