

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FRED BOWERMAN, et al.,
Plaintiffs,
v.
FIELD ASSET SERVICES, INC., et al.,
Defendants.

Case No. 13-cv-00057-WHO
ORDER ADOPTING CLASS NOTICE
Re: Dkt. Nos. 91, 92

United States District Court
Northern District of California

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I have reviewed the competing class notices presented by the parties and the accompanying briefs. The notice that shall be used is attached as Exhibit A.

I used the plaintiffs' notice as my starting place because it was more appropriate. This is not an opt-in class and the questionnaire proposed by defendants is both improper and likely to discourage class members from participating in the class. Similarly, I did not use the defendants' proposed language concerning trial participation because of its potential to discourage participation. It is not necessary to appear at trial in order to be a class member, as plaintiffs' version states. While it is possible that some currently unidentified class members may need to provide evidence in this case, at this point it is speculative whether they will be required to testify, who they are or how many would testify.

I am unclear if there is an issue over the list that plaintiffs will use to notify the class. Defendants ask that plaintiffs be limited to the revised list of vendors that defendants have provided. Plaintiffs describe their proposed notice plan, which seems reasonable, but do not directly respond to defendants' request. If there is a dispute over this, the parties shall submit a joint five-page letter on or before May 12, 2015 describing their conflicting views. Otherwise, plaintiffs shall use the revised list as suggested by defendants.

IT IS SO ORDERED.

Dated: May 7, 2015


WILLIAM H. ORRICK
United States District Judge

Exhibit A

ENVELOPE TO STATE:

“Court-ordered Notice: If you were or are a vendor for Field Asset Services, a class action may affect your legal rights.”

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA
Bowerman v. Field Asset Services, LLC, Case No. 13-cv-00057-WHO

If you have performed property preservation work in California as a vendor for Field Asset Services, Inc. or Field Asset Services, LLC at any time from January 7, 2009 to the present, a class action lawsuit may affect your rights.

A court authorized this notice. This is not a solicitation from a lawyer.

- Vendors of Field Asset Services, Inc. and Field Asset Services, LLC (collectively, “FAS”) have brought a class action lawsuit claiming that FAS misclassified them as “independent contractors” rather than employees and denied them wages, expense reimbursement, and other benefits under California law.
- The Court has allowed the lawsuit to be a class action on behalf of the following group of vendors:

Persons who at any time from January 7, 2009 to the present (the “Class Period”) (1) were designated by FAS as independent contractors; (2) personally performed property preservation work in California pursuant to FAS work orders; and (3) while working for FAS during the Class Period did not work for any other entity more than 30 percent of the time.

- Persons excluded from this class action are:

Persons who primarily performed remodel or rehabilitation work (rather than property preservation work) for FAS.

- The Court has not decided whether FAS did anything wrong. There is no money available now, and no guarantee that there will be. However, if you qualify as a member of the Class, your legal rights may be affected, and you have a choice to make now.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
DO NOTHING	Stay in this lawsuit. Await the outcome. Give up certain rights. By doing nothing, you keep the possibility of getting money or benefits that may come from a trial or a settlement in this lawsuit. But you give up any rights to sue FAS separately about the same legal claims in this lawsuit.
ASK TO BE EXCLUDED	Get out of this lawsuit. Get no benefits from it. Keep rights. If you ask to be excluded and money or benefits are later awarded, you won’t share in those. But you keep any rights to sue FAS separately about the same legal claims in this lawsuit.

- Your options are explained in this notice. To ask to be excluded, you must act before **[DATE]**.

QUESTIONS? CALL [ADD] OR VISIT [ADD].COM

BASIC INFORMATION

1. Why did I get this notice?

FAS's records show that you may have performed property preservation services for FAS in California while being classified by FAS as an independent contractor between January 7, 2009 and the present. This notice explains that the Court has allowed, or "certified," a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial will decide whether the claims being made against FAS on behalf of certain persons (including, potentially, you) are correct. The lawsuit is pending in federal court in San Francisco, California. It is known as *Bowerman v. Field Asset Services, Inc.*, Case No. 13-cv-00057-WHO.

2. What is this lawsuit about?

This lawsuit is about whether FAS denied certain persons wages, expense reimbursement, and other benefits by unlawfully misclassifying them as "independent contractors" rather than employees. Plaintiffs maintain that FAS is violating the law. FAS denies that it engaged in any wrongful conduct or violated the law in any way. The Court has not yet decided whether FAS violated the law. You can read the Plaintiffs' Complaint at [\[ADD\].com](#).

3. What is a class action and who is involved?

In class action lawsuits, one or more people called "Class Representatives" (in this case Fred Bowerman and Julia Bowerman) sue on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The Class Representatives are called the Plaintiffs. The person or entity they sue (in this case FAS) is called the Defendant. One court resolves the issues for all Class Members. The Court has decided that the lawsuit can move forward as a class action because it will be more efficient than having many individual lawsuits.

4. What are the Plaintiffs asking for?

The Plaintiffs are asking FAS to reclassify Class Members as "employees" and to begin paying them wages and other benefits under the California Labor Code. The Plaintiffs also want to recover money for Class Members in the form of lost wages, reimbursement of certain business expenses, lost benefits, and other penalties for Class Members, as well as attorneys' fees and costs related to the lawsuit. The Court has not yet ruled on the merits of any of the positions taken by Plaintiffs or FAS on these issues.

5. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether FAS did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits will ever be obtained. If they are, you will be notified about how to ask for a share.

WHO IS IN THE CLASS

You need to determine whether you are affected by this lawsuit.

6. Am I part of the Class?

The Class includes all persons who at any time from January 7, 2009 to the present (the "Class Period") (1) were designated by FAS as independent contractors; (2) personally performed property preservation work in California pursuant to FAS work orders; and (3) while working for FAS during the Class Period did not work for any other entity more than 30 percent of the time.

The Class excludes persons who primarily performed remodel or rehabilitation work (rather than property preservation work) for FAS.

QUESTIONS? CALL [\[ADD\]](#) OR VISIT [\[ADD\].COM](#)

7. I'm still not sure if I'm included in the Class.

If you are still not sure whether you are included in the Class, you can get free help at [ADD].com or by calling or writing the lawyers in this case. The contact information for the lawyers is listed in Question 10 below.

YOUR RIGHTS AND OPTIONS

You have been sent this notice because FAS's records indicate that you may be a member of the Class. If you are a Class Member, you have to decide whether to stay in the Class or ask to be excluded before the case proceeds. You have to make this decision **now**.

8. What happens if I do nothing at all?

You don't have to do anything now if you want to keep the possibility of getting money or benefits from this lawsuit. By doing nothing, you are staying in the Class. If you stay in and the Plaintiffs obtain money or benefits, as a result of either the trial or a settlement, you will be notified about how to obtain any share to which you may be entitled. If you do nothing now, regardless of whether the Plaintiffs win or lose, you will not be able to sue FAS as part of any other lawsuit about the same legal claims at issue in this lawsuit. You will also be legally bound by all orders and judgments of the Court.

9. What if I want to be excluded from the Class?

You have the right to exclude yourself from this lawsuit. This is also called "opting out" of the class. If you exclude yourself, you won't get any money or benefits from this lawsuit even if Plaintiffs obtain them as a result of a trial or settlement. You will still have the right to pursue your own claims with counsel of your own choice at your own expense, provided you pursue that right within certain legal deadlines. If you do exclude yourself so that you can start your own lawsuit against FAS, you should talk to your own lawyer soon to determine any deadlines you have.

To ask to be excluded, you must send an "Exclusion Request" in the form of a letter sent by mail stating that you have read this notice and that you want to be excluded from the Class in this case. The letter must also include your name, address, telephone number, and signature. You must mail this letter postmarked by [DATE] to [ADDRESS]. You may also download an Exclusion Request form at [ADD].com.

THE LAWYERS REPRESENTING THE CLASS

10. Do I have a lawyer in this case?

The Court decided that the law firm of Duckworth Peters Lebowitz Olivier LLP of San Francisco, California is qualified to represent the interests of the Class in this lawsuit. This firm is called "Class Counsel." It is experienced in handling similar cases. More information about this law firm, its practice, and its lawyers' experience is available at <http://www.dplolaw.com>. The following attorneys from the firm are handling the case, and you are welcome to contact them:

Tom Duckworth
tom@dplolaw.com
Duckworth Peters Lebowitz Olivier LLP
100 Bush Street, Suite 1800
San Francisco, CA 94104
Telephone: (415) 433-0333 x 1
Facsimile: (415) 449-6556

Monique Olivier
monique@dplolaw.com
Duckworth Peters Lebowitz Olivier LLP
100 Bush Street, Suite 1800
San Francisco, CA 94104
Telephone: (415) 433-0333 x 6
Facsimile: (415) 449-6556

QUESTIONS? CALL [ADD] OR VISIT [ADD].COM

11. Should I get my own lawyer?

You may if you want. If you want your own lawyer, you will have to pay that lawyer. For example, you can hire a lawyer to ask her or him to appear in Court for you if you want someone other than Class Counsel to speak for you. However, you do not need to hire your own lawyer because Class Counsel is working on your behalf, and you will not have to pay Class Counsel directly.

12. How will Class Counsel get paid?

If Class Counsel gets money or benefits for the Class, they may ask the Court for fees and expenses. You won't have to pay these fees and expenses out of your own pocket. If the Court grants Class Counsel's request, the fees and expenses would either be deducted from any money obtained for the Class or paid separately by FAS. In either case, any money to Class Counsel will have to be approved by the Court.

THE NEXT STEPS IN THE LAWSUIT

13. What happens next in the lawsuit?

As long as the case isn't resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at a trial. The trial is set to start on August 22, 2016 in the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA 94102. During the trial, a Jury or the Judge will hear all of the evidence to help them reach a decision about whether the Plaintiffs or FAS are right about the claims in the lawsuit. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

14. Do I have to come to the trial?

You do not need to appear in court or otherwise participate in this trial to be a Class Member or to be eligible for a monetary recovery should the plaintiffs prevail on their claims. You or your own lawyer are welcome to come at your own expense.

15. Will I get money after the trial?

If the Class obtains money or benefits as a result of a trial or settlement, members of the Class will be notified about how they may qualify to receive a portion of any money or benefits obtained. We do not know how long this will take.

16. How can I get additional information?

You can visit the website [\[ADD\].com](#) where you will find the Court's Order Certifying the Class, the Complaint that Plaintiffs submitted, and FAS's Answer to the Complaint. You may also contact Class Counsel at any time by calling, writing, or emailing them:

Tom Duckworth, tom@dplolaw.com, (415) 433-0333 x 1
Monique Olivier, monique@dplolaw.com, (415) 433-0333 x 6

**PLEASE DO NOT CALL OR WRITE THE JUDGE OR CLERK OF THE COURT.
DIRECT ALL INQUIRIES TO CLASS COUNSEL OR AN ATTORNEY OF YOUR CHOICE.**

*By order of the United States District Court
for the Northern District of California*

QUESTIONS? CALL [\[ADD\]](#) OR VISIT [\[ADD\].COM](#)