

COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
CIVIL ACTION NO: 10-CI-3986

NOTICE

If you were employed as a driver by Haynes Trucking, and worked on a public works project at any time between 1995 and 2017, but were not paid the “prevailing wage,” a class action lawsuit may affect your rights.

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

- Several former employees of Haynes Trucking have sued Haynes Trucking and other defendants alleging that Haynes Trucking’s employees who worked on public works projects were not paid prevailing wage as required by Kentucky law.
- The Court has certified a class action on behalf of all drivers who were employed by Haynes Trucking, at any time between 1995 and 2017, who have not been paid the prevailing wage rate or proper overtime for certain work (described below) on public works projects
- The Court has not decided whether Haynes Trucking or any other defendant did anything wrong. There is no money available now, and no guarantee there will be. However, your legal rights are 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 settlement. But, you give up any rights to sue Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd. (also known as ATS Construction) 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 Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd., 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 **April 25, 2019**.
- Lawyers must prove the claims against Haynes Trucking and the other defendants at a trial. If money or benefits are obtained from these defendants, and you choose to remain a part of this Class, you will be notified about how to ask for a share.
- **Any questions? Read on and visit <https://www.garmerprather.com/TruckingClassAction.shtml>.**

WHAT THIS NOTICE CONTAINS

BASIC INFORMATION	PAGE 3
1. Why did I get this notice?	
2. What is this lawsuit about?	
3. What is a class action and who is involved?	
4. Why is this lawsuit a class action?	
THE CLAIMS IN THE LAWSUIT	PAGE 4
5. What does this lawsuit complain about?	
6. How do Haynes Trucking and L-M Asphalt Partners answer?	
7. Has the Court decided who is right?	
8. What are Plaintiffs asking for?	
9. Is there any money available now?	
WHO IS IN THE CLASS	PAGE 5
10. Am I part of this Class?	
11. Which current and former employees are included?	
12. Are any truck drivers who worked for Haynes Trucking not included in the Class?	
13. I'm still not sure if I'm included.	
YOUR RIGHTS AND OPTIONS	PAGE 6
14. What happens if I do nothing at all?	
15. Why would I ask to be excluded?	
16. How do I ask the Court to exclude me from the Class?	
THE LAWYERS REPRESENTING YOU	PAGE 7
17. Do I have a lawyer in this case?	
18. Should I get my own lawyer?	
19. How will the lawyers be paid?	
THE TRIAL	PAGE 7
20. How and when will the Court decide who is right?	
21. Do I have to come to the trial?	
22. Will I get money after the trial?	
GETTING MORE INFORMATION	PAGE 8
23. Are more details available?	

BASIC INFORMATION

1. Why did I get this notice?

Haynes Trucking's records show that you currently work, or previously worked, for Haynes Trucking as a truck driver. 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. This lawsuit is to decide whether the claims being made against Haynes Trucking, LLC, and L-M Asphalt Partners, Ltd. (also known as ATS Construction), on your behalf, are correct. Judge Ernesto Scorsone of the Fayette Circuit Court, is overseeing this class action. The lawsuit is known as *Hensley, et al. v. Haynes Trucking, et al.*, Case No. 10-CI-03986.

2. What is this lawsuit about?

This lawsuit is about whether Haynes Trucking, LLC, did not pay prevailing wage to truck drivers who were entitled to prevailing wage for certain work on public works projects between 1995 and January 9, 2017.

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

In a class action lawsuit, one or more people called "Class Representatives" (in this case James Melvin Hensley, Danny Lainhart, James D. Fetters, Charles Bussell and William E. Abney) sued on behalf of other people who have similar claims. The people together are a "Class" or "Class Members." The truck drivers who sued—and all the Class Members like them—are called the Plaintiffs. The organizations they sued (in this case Haynes Trucking, LLC, and L-M Asphalt Partners, Ltd.) are called the Defendants. One court resolves the issues for everyone in the Class and all of them are bound by the decision of the court—except for those people who choose to exclude themselves from the Class.

4. Why is this lawsuit a class action?

The Court decided that this lawsuit can move forward as a class action because it meets the requirements of Kentucky Rule of Civil Procedure 23, which governs class actions in Kentucky courts. Specifically, the Court found that:

- Haynes Trucking, LLC has employed at least 139 truck drivers who could meet the class definition;
- There are questions of law and fact common to each of them;
- The claims of the Class Representatives are typical of the claims of the rest of the Class;
- The Class Representatives will fairly and adequately protect the interests of the Class;
- The common questions of law and fact predominate over any questions affecting only individual members;

- The lawyers for the Class are sufficiently experienced and qualified to serve as Class counsel, and
- This class action is the superior method to resolve the common issues in this case.

More information about why the Court is allowing this lawsuit to be a class action is in the Court's Amended Order Certifying the Class, which is available at <https://www.garmerprather.com/TruckingClassAction.shtml>.

THE CLAIMS IN THE LAWSUIT

5. What does the lawsuit complain about?

Plaintiffs allege that the Defendants violated Kentucky law, KRS 337.505 to 337.550, by not paying prevailing wage to truck drivers when they worked on public works projects. You can read Plaintiffs' Amended Class Action Complaint at <https://www.garmerprather.com/TruckingClassAction.shtml>.

6. How do Haynes Trucking and L-M Asphalt Partners answer?

Haynes Trucking, LLC, and L-M Asphalt Partners, Ltd. deny liability and contend that they were not required to pay Plaintiffs prevailing wage under the Kentucky prevailing wage law in effect at the time. You can read the Defendants' Answer to the Amended Class Action Complaint at <https://www.garmerprather.com/TruckingClassAction.shtml>.

7. Has the Court decided who is right?

The Court has not decided whether Plaintiffs or Defendants are correct. By establishing the Class and issuing this Notice, the Court is not suggesting that the Plaintiffs will win or lose this case. The Plaintiffs must prove their claims at a trial. (See "The Trial" below on page 7.)

8. What are Plaintiffs asking for?

The Plaintiffs are seeking money damages for underpaid wages for past and current employees who are class members, for all periods dating from 1995 until January 9, 2017.

9. Is there any money available now?

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

WHO IS IN THE CLASS

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

10. Am I part of this Class?

Judge Scorsone decided that all persons who were employed by Haynes Trucking as truck drivers, at any time since 1995 (through January 9, 2017), who were not paid prevailing wages or proper overtime for certain kinds of work on public works projects are Class Members. The precise definition of the Class is as follows:

All persons who were employed by Haynes Trucking, at any time since 1995, who have not been paid prevailing wages or proper overtime but who transported asphalt, gravel, sand and/or other road building materials to various locations on the site of public works projects in the Commonwealth, distributed road building materials from the truck bed in a controlled manner on the site of the project, unloaded asphalt directly into paving machinery at a specific regulated rate so that such machinery could lay asphalt concurrently on the site of the project, and/or loaded recyclable and non-recyclable materials in conjunction with other heavy machinery for removal of the same from the site of the project.

11. Which current and former employees are included?

All current and former employees who were truck drivers are members of the Class as long as they were employed by Haynes Trucking, performed certain kinds of work on public works projects that is described in the class definition, at any time between 1995 and January 9, 2017, and were not paid prevailing wage or proper overtime for that work.

12. Are any truck drivers who worked for Haynes Trucking not included in the Class?

Yes. If you did not do the kinds of work on a public works project that is described above in the class definition, or your work on a public works project was not between 1995 and January 9, 2017, or if you were paid prevailing wage for all qualifying work during that time, you are NOT a Class Member.

13. I'm still not sure if I am included.

If you are still not sure whether you are included, you can get free help at <https://www.garmerprather.com/TruckingClassAction.shtml>, or by calling or writing to the lawyers in this case, at the phone number, address, or website listed in the answer to question 23.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or ask to be excluded before Plaintiffs' claims are resolved, and you have to decide this now.

14. What happens if I do nothing at all?

You do not 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, either as a result of trial or a settlement, you will be notified about how to apply for a share (or how to ask to be excluded from any settlement). Keep in mind that if you do nothing now, regardless of whether the Plaintiffs win or lose the trial, you will not be able to sue, or continue to sue, Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd. as part of any other lawsuit about the same legal claims that are the subject of this lawsuit. This means that, if you stay in the Class, you will be legally bound by all of the orders the Court issues and judgments the Court makes in this class action, and you may be asked to provide evidence relating to your work should you seek to claim a portion of any recovery.

15. Why would I ask to be excluded?

You may request to be excluded from the Class if you do not want to be part of it for any reason. If you exclude yourself from the Class—which also means to remove yourself from the Class, and is sometimes called “opting-out” of the Class—you will not get any money or benefits from this lawsuit even if the Plaintiffs obtain them as a result of a trial or from any settlement (that may or may not be reached) between the Plaintiffs and the Defendants. However, you may then be able to sue or continue to sue Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd., for underpaying you for work on public works projects at any time after 1995 until January 9, 2017. If you exclude yourself, you will not be legally bound by the Court's judgments in this class action.

Additionally, if you already have your own lawsuit against Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd., for not paying you prevailing wage for time worked on a public works project and you want to continue with it, you need to ask to be excluded from the Class. If you start your own lawsuit against Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd., after you exclude yourself, you will have to hire and pay for your own lawyer for that lawsuit, and you'll have to prove your claims. If you do exclude yourself so you can start or continue your own lawsuit against Haynes Trucking, LLC, or L-M Asphalt Partners, Ltd., you should talk to your own lawyer soon, because your claims are subject to a statute of limitations.

If you are unsure whether you should ask to be excluded, you should consult a lawyer of your choosing.

16. How do I ask the Court to exclude me from the Class?

To ask to be excluded, you must send an “Exclusion Request” in the form of a letter sent by mail, stating that you want to be excluded from *Hensley v. Haynes Trucking*. Be sure to include your name and address, and sign the letter. You must mail your Exclusion Request postmarked by **April 25, 2019**, to: Hensley v. Haynes Class Action Exclusions, 141 North Broadway, Lexington, KY 40507. You may also use the Exclusion Request form attached to this Notice or may download the form at the website <https://www.garmerprather.com/TruckingClassAction.shtml> or call Garmer & Prather, PLLC, at 859-254-9351 to request one.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

The Court decided that the law firms Garmer & Prather, PLLC, Caldwell Law Firm, PLLC, and Stout Law Office, PSC, all of Lexington, Kentucky, are qualified to represent you and all Class Members. Together the law firms are called “Class Counsel” in this case.

18. Should I get my own lawyer?

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

19. How will the lawyers be 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. If the Court grants Class Counsel's request, the fees and expenses will either be deducted from any money obtained for the Class or paid separately by Defendants.

THE TRIAL

The Court will schedule a trial to decide who is right in this case. If the Plaintiffs and Defendants reach a settlement on this lawsuit, then the Court may (or may not) approve that settlement without a trial.

20. How and when will the Court decide who is right?

As long as the case is not resolved by a settlement or otherwise, Class Counsel will have to prove the Plaintiffs' claims at trial. The trial will be held in the Fayette Circuit Court, located at 120

North Limestone, Lexington, Kentucky, 40507. 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 Defendants 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 some or all of the Class Members.

21. Do I have to come to the trial?

You are not required to attend the trial simply because you choose to remain a Class Member. Class Counsel will present the case for the Plaintiffs, and lawyers for the Defendants will present the defenses. If either Class Counsel or lawyers for the Defendants believe that your testimony is important to the case, you may be required to appear at the trial as a witness. If you are not asked to appear as a witness, you or your own lawyer are still welcome to attend at your own expense.

22. Will I get money after the trial?

If the Plaintiffs obtain money or benefits as a result of the trial or settlement, you will be notified about how to participate. We do not know how long this will take.

GETTING MORE INFORMATION

23. Are more details available?

Visit the website, <https://www.garmerprather.com/TruckingClassAction.shtml> , where you will find the Court's Amended Order Certifying the Class, the Amended Complaint that the Plaintiffs filed, the Defendants' Answers to the Amended Complaint, as well as an Exclusion request form. You may also submit questions via e-mail by using the "contact" option on the website or writing to Garmer & Prather, PLLC, 141 North Broadway, Lexington, KY 40507, or you may contact the firm via telephone at 859-254-9351.