

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

If you are a delivery driver who has personally made deliveries for Exel Direct and/or MXD in California at any time from 6/14/2008 to the present, a class action lawsuit may affect your rights.

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

- Delivery drivers of Exel Direct Inc. and MXD Group, Inc. (“Exel Direct/MXD”) have alleged in a class action lawsuit that Exel Direct/MXD has denied them wages, expense reimbursement, meal and rest periods, and other benefits under the California Labor Code and California’s Unfair Competition Law, as a result of misclassifying them as “independent contractors” rather than “employees.”
- The Court has allowed the lawsuit to be a class action on behalf of all individuals who have personally provided delivery services for Exel Direct/MXD in California, while being classified by Exel Direct/MXD as independent contractors, at any time beginning June 14, 2008 until resolution of this action.
- The Court has not decided whether Exel Direct/MXD 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	<p>Stay in this lawsuit. Await the outcome. Give up certain rights.</p> <p>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 Exel Direct/MXD separately about the same legal claims in this lawsuit.</p>
ASK TO BE EXCLUDED	<p>Get out of this lawsuit. Get no benefits from it. Keep rights.</p> <p>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 Exel Direct/MXD separately about the same legal claims in this lawsuit.</p>

- Your options are explained in this notice. **Any questions? Read on and visit <http://cases.gcginc.com/Exel-MXD/>.**

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BASIC INFORMATION

1. Why did I get this notice?

Exel Direct/MXD's records show that you may have personally provided delivery services for Exel Direct/MXD in California while being classified by Exel Direct/MXD as an independent contractor between June 14, 2008 and the present ("Class Members"). This notice explains that the Court has allowed, or "certified," class action lawsuits that may affect you. You have legal rights and options that you may exercise before the Court holds a trial. The trial is to decide whether the claims being made against Exel Direct/MXD, on your behalf, are correct. The Honorable Joseph C. Spero of the United States District Court for the Northern District of California is overseeing these class actions. The lawsuits are known as *Villalpando, et al., v. Exel Direct, Inc., et al.*, Civil Action No. 3:12-cv-04137, and *Shekur, et al., v. Exel Direct, Inc., et al.*, Civil Action No. 4:13-cv-03091.

2. What is this lawsuit about?

These lawsuits are about whether Exel Direct/MXD denied the delivery drivers (Class Members) wages, expense reimbursement, meal and rest periods, and other benefits to which they may be entitled as "employees," by unlawfully misclassifying them as "independent contractors." The Plaintiffs maintain that Exel Direct/MXD is in violation of the law. Exel Direct/MXD denies that it engaged in any wrongful conduct or that it violated the law in any way.

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

In class action lawsuits, one or more people called "Class Representatives" (in this case Daniel Villalpando and Tafari Shekur) 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 company they sued (in this case Exel Direct/MXD) is called the Defendant. One court resolves the issues for everyone in the Class, except for those who choose to exclude themselves from the Class.

4. Why is this lawsuit a class action?

The Court decided that these lawsuits can be a class action and move toward a trial because they meet the requirements of Federal Rule of Civil Procedure 23, which governs class actions in federal courts. Specifically, the Court found that:

- There are hundreds of delivery drivers who contracted to work with Exel Direct/MXD at some point since June 14, 2008;
- There are legal questions and facts that are common to each of them;
- The claims of the named Plaintiffs (Daniel Villalpando and Tafari Shekur) are typical of those of the Class;
- The named Plaintiffs (Daniel Villalpando and Tafari Shekur), and the lawyers representing the Class will fairly and adequately represent the Class' interests;
- The common legal questions and facts are more important than questions that affect only individuals; and
- These class actions will be more efficient than having many individual lawsuits.

More information about why the Court is allowing these lawsuits to be class actions is in the Court's Order Certifying the Class, which is available at <http://cases.gcginc.com/Exel-MXD/>.

THE CLAIMS IN THE LAWSUIT

5. What does the lawsuit complain about?

In the lawsuits, the Plaintiffs say that Exel Direct/MXD misclassified the delivery drivers as independent contractors. They claim that as a result of this misclassification, the delivery drivers did not receive the wages, meal and rest periods, and other benefits to which employees are entitled under the California Labor Code. Plaintiffs' Complaint is available at <http://cases.gcginc.com/Exel-MXD/>.

6. How does Exel Direct/MXD answer?

Exel Direct/MXD denies that it did anything wrong and says that the delivery drivers were correctly classified as independent contractors and properly compensated. Exel Direct/MXD's Answer to the Complaint is also available at <http://cases.gcginc.com/Exel-MXD/>.

7. Has the Court decided who is right?

The Court hasn't decided whether Exel Direct/MXD or the Plaintiffs are correct. By establishing the Class and issuing this notice, the Court is not suggesting that the Plaintiffs will win or lose these cases. The Plaintiffs must prove their claims at a trial. The Court has scheduled a trial to determine whether Exel Direct/MXD has unlawfully misclassified the delivery drivers as "independent contractors" rather than "employees." This trial is scheduled to begin on November 30, 2015. If the Plaintiffs prevail, then there may be another trial or proceeding on whether Exel Direct/MXD also violated the law by denying wages, expense reimbursement and meal and rest periods that are owed to employees. On the other hand, if Exel Direct/MXD prevails on its defense that the delivery drivers were properly classified as independent contractors, then a further trial may not be necessary (See "The Trial" below at questions 18-20).

8. What are the Plaintiffs asking for?

The Plaintiffs are asking Exel Direct/MXD to reclassify Class Members as "employees" and begin paying them wages and benefits under the California Labor Code. The Plaintiffs also want to recover money for Class Members in the form of lost wages, benefits, and other penalties for Class Members, as well as attorneys' fees and costs related to the lawsuit.

9. Is there any money available now?

No money or benefits are available now because the Court has not yet decided whether Exel Direct/MXD did anything wrong, and the two sides have not settled the case. There is no guarantee that money or benefits ever 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 these lawsuits.

10. Am I part of this Class?

Judge Spero decided that all individuals who have personally provided delivery services for Exel Direct/MXD in California while being classified by Exel Direct/MXD as independent contractors, at any time beginning June 14, 2008 until resolution of this action, are Class Members.

11. Which drivers are covered by the Class and which are not?

Delivery drivers Exel Direct/MXD classified as independent contractors are in the Class as long as they worked with Exel Direct/MXD any time from June 14, 2008, through the resolution of this action. If Exel Direct/MXD classified you as an independent contractor and you ***never*** personally made deliveries for Exel Direct/MXD, but always hired others to do so on your behalf, you are not included in these lawsuits. However, if Exel Direct/MXD classified you as an independent contractor and you personally made ***any*** deliveries for Exel Direct/MXD at any time since June 14, 2008 to the present—even once—you are included in these lawsuits.

12. 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 <http://cases.gcginc.com/Exel-MXD/> or by calling or writing to the lawyers in this case, at the phone number or address listed in question 21.

YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or ask to be excluded before the trial, and you have to decide this now.

13. 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 these lawsuits. 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 the trial or a settlement, you will be notified about how to obtain any share to which you may be entitled. 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, Exel Direct/MXD—as part of any other lawsuit—about the same legal claims that are the subject of these lawsuits. You will also be legally bound by all of the Orders the Court issues and judgments the Court makes in this class action.

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

You have the right to exclude yourself from this Class and these lawsuits. (This also means to remove yourself from the Class, and is sometimes called “opting-out” of the Class.) If you exclude yourself from the Class, you won't get any money or benefits from these lawsuits even if the Plaintiffs obtain them as a result of the trial or from any settlement. If you exclude yourself, however, you will still have the right to pursue your own claims with counsel of your choice at your own expense. If you do exclude yourself so you can start or continue your own lawsuit against Exel Direct/MXD, you should talk to your own lawyer soon because your claims may be subject to a statute of limitations. To ask to be excluded, you must send a letter by mail, stating that you have read the class action notice in *Villalpando, et al. v. Exel Direct, et al./ Shekur, et al., v. Exel Direct, Inc., et al.*, and that you want to be excluded from the class in this case. The letter must include your name, address, telephone number, and signature. This is called an “Exclusion Request.” You must mail your Exclusion Request postmarked by February 21, 2015 to: Villalpando v. Exel Exclusions, c/o GCG, PO Box 35100, Seattle, WA 98124-1100

THE LAWYERS REPRESENTING YOU

15. Do I have a lawyer in these cases?

The Court decided that the law firm of Schneider Wallace Cottrell Konecky Wotkyms, LLP, of San Francisco, CA, is qualified to represent you and all Class Members. This firm is called “Class Counsel.” They are experienced in handling similar cases. More information about this law firm, its practice, and its lawyers' experience is available at <http://www.schneiderwallace.com/index.php>. The following attorneys are handling the case:

- Joshua Konecky; 180 Montgomery St., San Francisco, CA 94104; jkonecky@schneiderwallace.com; (415) 421-7100.
- Nathan Piller; 180 Montgomery St., San Francisco, CA 94104; npiller@schneiderwallace.com; (415) 421-7100.

16. 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.

17. How will the lawyers be paid?

If Class Counsel get 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 Counsels' request, the fees and expenses would be either deducted from any money obtained for the Class or paid separately by Exel Direct/MXD.

THE TRIAL

The Court has scheduled a trial to decide who is right in these cases.

18. How and when will the Court decide the claims of these cases?

As long as the case isn't resolved by a settlement or otherwise, it will need to be resolved by the Court, or at trial. The first part of the trial will address the question of whether Exel Direct/MXD unlawfully misclassified the delivery drivers as "independent contractors" rather than "employees," and is set to start on November 30, 2015, in the United States District Court for the Northern District of California, 450 Golden Gate Avenue, San Francisco, CA, in Courtroom G, Floor 15. If the Plaintiffs prevail on this initial question, then there may be a second trial or proceeding to address whether Exel Direct/MXD has unlawfully denied the delivery drivers any wages, expense reimbursements, meal and rest breaks, or other benefits that employees have the right to receive under California law. 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 Exel Direct/MXD are right about the claims in these lawsuits. There is no guarantee that the Plaintiffs will win, or that they will get any money for the Class.

19. Do I have to come to the trial?

You do not need to attend the trial. Class Counsel will present the case for the Plaintiffs, and Exel Direct/MXD will present the defenses. You or your own lawyer are welcome to come at your own expense.

20. Will I get money after the trial?

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

GETTING MORE INFORMATION

21. Are more details available?

Visit the website, <http://cases.gcginc.com/Exel-MXD/>, where you will find the Court's Order Certifying the Class, the Complaint that the Plaintiffs submitted, and Exel Direct/MXD's Answer to the Complaint. You may also speak to one of the lawyers by calling, writing, emailing, or visiting the website of one of the attorneys listed below:

- Joshua Konecky; 180 Montgomery St., San Francisco, CA 94104; jkonecky@schneiderwallace.com; (415) 421-7100.
- Nathan Piller; 180 Montgomery St., San Francisco, CA 94104; npiller@schneiderwallace.com; (415) 421-7100.

DO NOT CALL, WRITE OR OTHERWISE CONTACT THE COURT OR ANYONE EMPLOYED BY THE COURT.