

**Notice of Class Action Settlement**  
***Center for Workers' Rights v. California Employment Development Department, et al.***  
**Alameda County Superior Court Case No. RG21106525**

**TO:** Claimants who either (1) have an existing unemployment insurance claim, have received at least one payment on that claim from the California Employment Development Department (“EDD”), have certified their eligibility for benefits for at least one additional week, and are currently having their eligibility for payments investigated by EDD, or (2) have a pending appeal from a determination terminating an existing unemployment insurance claim where the claimant received at least one payment and certified eligibility for benefits for at least one additional week. You are members of the proposed “**Continued Claims Status Class.**”

**TO:** Claimants who were paid benefits by EDD for any week after October 1, 2019 to whom EDD issued notices of overpayment more than one year after the end of the benefit year in which the claimant received those benefits without a finding that the claimant engaged in fraud, misrepresentation, or willful nondisclosure. You are members of the proposed “**Late Notice-of-Overpayment Class.**”

**This Notice contains important information about a proposed class action settlement that may affect your rights.**

**Overview of Proposed Settlement**

There is a proposed settlement of a class action lawsuit filed by the Center for Workers’ Rights (“CWR”) on behalf of the two proposed classes above against the EDD and its Director in Alameda County Superior Court. The Settlement Agreement (“Settlement”) and other documents in the case are available at <https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>.

This notice is being posted pursuant to an order of the Court.

**A final settlement approval hearing will be held in Alameda Superior Court on May 26, 2023, at 9:30 a.m., to determine whether the Settlement should be granted final approval.** You are not required to attend that hearing. This notice is to inform you that if the Court grants final approval, the Settlement will resolve and release certain claims you may have against Defendants, as explained in the Settlement Agreement.

***Brief Description of the Lawsuit***

CWR, on behalf of the Continued Claims Status Class, challenged EDD’s practice of stopping benefits payments indefinitely while EDD investigates the eligibility of Continued Claims Status Class members. CWR sought injunctive relief on behalf of the class that would require EDD to change its practices, plus statutory attorneys’ fees and costs.

On behalf of the Late Notice-of-Overpayment Class, CWR challenged EDD’s practice of issuing Notices of Overpayment after more than one year has passed since the end of the benefits year in which benefits were paid, in cases where EDD did not find the claimant was engaged in fraud,

misrepresentation, or willful nondisclosure. CWR sought injunctive relief on behalf of the class, including to require EDD to change its practices and to refund money paid by claimants in response to late Notices of Overpayment, plus statutory attorneys' fees and costs.

More details about the allegations are in the complaint available here:

<https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>. EDD continues to deny that it violated the law.

### ***What the Settlement Provides for Continuing Claims Status Class Members***

A complete description of the relief provided by the Settlement is available here:

<https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>. Briefly, the Settlement requires EDD:

- To continue benefits payments to Continuing Claims Status Class members while EDD determines their eligibility, if the eligibility question concerns past weeks only.
- If the eligibility question concerns current and future weeks and if EDD does not make an eligibility determination by the end of the week after the week that EDD became aware of the question, EDD will provide conditional payments to the class member, unless the class member (1) is fully employed or reported excessive earnings; (2) is serving a prior false statement penalty; (3) has an existing disqualification; or (4) has a prior outstanding overpayment. If EDD provides a conditional payment, EDD will provide a notice informing the class member that the conditional payment will be considered an overpayment if EDD later finds the class member ineligible, unless the class member qualifies for an overpayment waiver. EDD will also inform the class member of the basis for EDD's eligibility review and how the class member may provide information to EDD to resolve such eligibility issues. If EDD later determines that the class member must return the conditional payment, EDD shall inform the class member of the class member's right to seek a waiver and provide an overpayment waiver form.
- Promptly after determining a class member's eligibility, and in no event after EDD stops payment of benefits, EDD shall provide the class member with a Notice of Determination. If the Notice of Determination makes any findings against the class member, that Notice will describe the claimant's appeal rights and will clearly identify the basis for EDD's decision and state whether the disqualification is for a past period or ongoing.
- EDD shall not require a class member to communicate with EDD by telephone during any step of the benefits process, unless EDD provides a guaranteed window of time when an EDD representative will be available. EDD will also provide oral and signed language unemployment insurance services in real time by qualified interpreters or qualified bilingual staff, as further explained in the Settlement.

Pursuant to the Settlement, EDD has already implemented these measures.

### ***What the Settlement Provides for Late Notice-of-Overpayment Class Members***

A complete description of the relief provided by the Settlement is available here: <https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>. Briefly, the Settlement requires EDD to:

- Instruct EDD staff to stop issuing notices of overpayment more than one year after the end of the benefits year in which a claimant received the overpayment, unless EDD has determined that the claimant engaged in fraud, misrepresentation, or willful nondisclosure.
- Issue to all proposed Late Notice-of-Overpayment Class members a Notice of Cancellation of Overpayment.
- Refund to all proposed Late Notice-of-Overpayment Class members any amounts already repaid to EDD in response to a notice of overpayment issued more than one year after the end of the benefits year in which the overpayment was made; provided that, where a class member has an outstanding overpayment obligation concerning benefits that were paid to that claimant, if no timely appeal has been filed and if an appeal decision by the California Unemployment Insurance Appeals Board has not been rendered as to that overpayment, EDD shall apply the refund amount to satisfy or offset that outstanding overpayment, and EDD shall refund to the class member the balance remaining after the outstanding overpayment is satisfied.
- Provide training to EDD staff to prevent issuing late overpayment notices and develop an Unemployment Insurance Program Notice clearly informing EDD staff that they are prohibited from issuing notices of overpayment to affected claimants whom EDD has not found to have engaged in fraud, misrepresentation, or willful nondisclosure after one year has passed since the close of the benefits year in which EDD paid the benefits in question.
- As part of EDD's modernization of its technology system, EDD shall automate the process of ensuring that late overpayment notices are not issued.

The Settlement also requires EDD to monitor its compliance with these requirements and to report its compliance to CWR. Pursuant to the Settlement, EDD has already implemented these measures.

### ***Release of Claims***

If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind all class members and bar class members from bringing certain claims against Defendants. You will be giving up or “releasing” the claims described below, as set forth more fully in the Settlement.

**Continuing Claims Status Class Members:** Any and all claims against Defendants asserted in the lawsuit based upon events or actions that occurred up to and including July 22, 2021. The claim asserted in the lawsuit on behalf of the Continued Claims Status Class is a claim for injunctive relief under 42 U.S.C. §§503(a)(1) and 1983, alleging that EDD unlawfully failed to maintain

methods of administration reasonably calculated to insure full payment of unemployment insurance to Continued Claims Status Class members when due.

Late Notice-of-Overpayment Class Members: Any and all claims against Defendants asserted in the lawsuit based upon events or actions that occurred up to and including February 16, 2023. The claims asserted in the lawsuit on behalf of this class are claims for declaratory and injunctive relief and restitution/money had and received (that is, a claim for refunds of money paid by class members in response to notices of overpayment CWR contends were unlawful under California Unemployment Insurance Code §1376).

CWR has also agreed to forbear for three months, on behalf of itself and its clients, from filing certain claims against EDD for violations of the Due Process Clauses of the United States and California Constitutions, unless the parties agree to change that time period later. CWR has reserved its right, and the right of the class members, to pursue litigation regarding practices not addressed by the Settlement.

The information provided in this class notice is only a summary. The terms of the Settlement, available here, <https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>, will be binding on class members if the Settlement is approved by the Court.

### ***Attorneys' Fees***

Under the proposed settlement, CWR and its attorneys are entitled to their reasonable statutory attorneys' fees and expenses for their successful efforts in this litigation, subject to court approval. CWR and its attorneys will not request more than their "lodestar," which is calculated by multiplying the reasonable number of hours devoted to this matter by the attorneys' reasonable hourly rates as determined by the Court. CWR will negotiate with EDD regarding those attorneys' fees and expenses and will try to reach agreement on a reasonable amount, which the parties would then submit to the Court for approval. If the parties are unable to agree on a reasonable amount, they will present their positions on fees and expenses to the Court, which will determine the amount of fees and expenses to award.

### **Your Options – Do Nothing or Object**

If you do nothing, EDD will continue implementing the negotiated relief and you will be bound by the release of claims described above and in the Settlement.

If you think the Court should not approve the settlement for any reason, you may object to the proposed Settlement. You may object by submitting a written statement. Your written statement must include your full name, current address, phone number, and EDD case number. The written statement should include the name of the case (*Center for Workers' Rights v. California Employment Development Department*, Alameda Superior Court Case No. RG21106525), a statement that you wish to object to the settlement, and the reasons that you object to the settlement. You must sign the statement. If you intend to appear at the final approval hearing and wish to speak at the hearing, you must include that request in your written statement.

You may also object by appearing at the final approval hearing, regardless of whether you submitted a written objection. You do not need to be represented by a lawyer to object. However, if you choose to retain a lawyer to represent you, you will be solely responsible for any attorneys' fees and costs incurred.

Written objections must be mailed to the following address, postmarked no later than May 23, 2023:

CWR v. EDD Objections  
Altshuler Berzon LLP  
177 Post Street, Suite 300  
San Francisco, CA 94108

CWR v. EDD Objections  
300 South Spring Street, Suite 1702  
Los Angeles, CA 90013  
Attn: Brian Wesley

If the Court approves the Settlement over the objection of any class members, all class members will be bound by the release of claims described above and in the Settlement.

### **Hearing on the Settlement**

The Court has scheduled a final settlement approval hearing at the Alameda County Superior Court, Department 23, René C. Davidson Courthouse, 1225 Fallon Street, Oakland, CA 94612, at 9:30 a.m. on May 26, 2023. The Court will review the proposed settlement and decide whether it is fair, reasonable, and adequate, and whether it should be finally approved. You are welcome, but not required, to attend this hearing, whether you agree with or object to the proposed settlement. The date of the final approval hearing may be changed without further notice to the Class. Before attending, please confirm the date of this hearing by checking the Court's website or contacting CWR's counsel.

### **More Information**

If you have any questions or would like more information, you may contact any of the counsel for the class listed below:

Michael Rubin  
Amanda Lynch  
Altshuler Berzon LLP  
177 Post St., Suite 300  
San Francisco, CA 94108  
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916-905-5857

More information about the case is also available on the Center for Workers' Rights' website, <https://www.rightscenter.org/our-work/edd-notice-of-class-action-settlement/>. The documents filed in this case may also be viewed on the Alameda County Superior Court's website, eCourt

Public Portal, at <https://eportal.alameda.courts.ca.gov>. Click the “Searches” tab at the top of the page, then select the “Document Downloads” link, enter the case number and click “Submit.” All documents filed in the case may be viewed for a small charge. You may also view all documents filed in the case free of charge by using one of the computer terminal kiosks available at the René C. Davidson Courthouse and the Hayward Hall of Justice.