

NOTICE OF SETTLEMENT

Leslie Avant v. VXL Enterprises LLC and Matthew Crouse
Johnnye Duff, et al. v. VXL Enterprises LLC and Matthew Crouse
United States District Court for the Northern District of California
Case No. 4:21-cv-02016-YGR

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. IT MAY AFFECT YOUR LEGAL RIGHTS TO A MONETARY SETTLEMENT RELATED TO YOUR EMPLOYMENT WITH VXL ENTERPRISES, LLC DURING THE PERIOD FROM MAY 1, 2020, TO NOVEMBER 30, 2020 (THE “RELEVANT PERIOD”). THIS IS A COURT-ORDERED NOTICE AND NOT A SOLICITATION FROM A LAWYER. YOU ARE NOT BEING SUED. YOUR RIGHTS AND OPTIONS AND THE DEADLINES TO EXERCISE THEM ARE EXPLAINED IN THIS NOTICE.

IF YOU WERE HIRED BY VXL ENTERPRISES, LLC AS AN INDEPENDENT CONTRACTOR TO PROVIDE TREATMENT FOR INMATES SUFFERING FROM COVID-19 AT VARIOUS STATE AND FEDERAL PRISONS IN CALIFORNIA, THEN YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE ELIGIBLE FOR A PAYMENT FROM A SETTLEMENT IN THIS CASE, AS DESCRIBED BELOW.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS PROPOSED SETTLEMENT	
CLASS MEMBERS WHO DO NOTHING	You will receive a payment from the Settlement. No action is required for you to receive a share of the Settlement.
EXCLUDE YOURSELF	You may submit a timely and valid Request for Exclusion and receive no benefits from the Settlement. This is the only option that allows you to start or continue your own lawsuit against Defendants for any of the claims at issue in the Settlement. You must submit your Request for Exclusion by mail, or email to exclude yourself. Your Request for Exclusion must be emailed, or postmarked by November 7, 2023.
OBJECT	As a member of the Class, you may write to the Court about why you do not like the Settlement. You must submit or file your objection by November 7, 2023. You may not, however, exclude yourself from the settlement and also object.
GO TO A HEARING	Ask to speak in Court about the fairness of the Settlement at a hearing scheduled for January 16, 2024.

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BASIC INFORMATION

1. WHY IS THERE A NOTICE?

A Court authorized this notice because you have a right to know about the proposed Settlement of this putative class action lawsuit, and about all of your options before the Court decides whether to approve the Settlement.

This notice explains the lawsuit, the Settlement, your legal rights, what benefits are provided by the Settlement, who is eligible for them, and how to get them. If the Court approves the Settlement and after any objections and appeals are resolved, then the payments agreed to in the Settlement will be made.

Judge Yvonne Gonzalez Rogers of the United States District Court for the Northern District of California is overseeing this case. The person who sued is called the “Plaintiff.” VXL Enterprises, LLC and Matthew Crouse are the “Defendants.”

2. WHAT IS THIS LAWSUIT ABOUT?

The lawsuit alleges that Defendants VXL Enterprises, LLC and Matthew Crouse (“Defendants”) failed to pay Settlement Class Members overtime compensation during the Class Period, including because they are alleged to have been misclassified as independent contractors.

Defendants vigorously deny and continue to dispute all of the claims and contentions alleged in the lawsuit, and deny any and all allegations of wrongdoing, fault, liability, or damage of any kind. Defendants also contend that, absent a settlement, class certification should be denied.

The Settlement Agreement, and other settlement-related documents are posted on the Settlement Website, www.VXLSettlement.com. The Settlement, if approved, resolves the lawsuit. The Court has not decided whether Plaintiffs’ allegations or Defendants’ defenses have any merit.

3. WHY IS THERE A SETTLEMENT?

Both sides have agreed to the Settlement based on their belief that the Settlement is a fair, reasonable, and adequate compromise. The Settlement is the result of good faith, arm’s length negotiations based on independent consideration of the risks of litigation and benefits of settlement. By agreeing to the Settlement, the parties avoid the costs and uncertainty of a trial, and if the Settlement is approved by the Court, Settlement Class Members will receive the benefits described in this notice. This Settlement is a compromise and is not an admission of liability on the part of Defendants.

THE SETTLEMENT BENEFITS AND WHO IS INCLUDED IN THE SETTLEMENT

4. WHAT DOES THE SETTLEMENT PROVIDE?

The Defendants have agreed to pay a Gross Settlement Amount of \$1,200,000 which will cover: (1) payments to Settlement Class Members (called “Individual Settlement Awards”); (2) payment to Plaintiff Leslie Avant for his individual breach of contract claim; (3) any Class Representative Enhancement Payments to Plaintiffs Leslie Avant, Johnnye Duff, and Janelle Hernandez Avitia that are approved by the Court; (4) any Attorneys’ Fees and Costs to Class Counsel that are approved by the Court; and (5) any Settlement Administration Costs for the settlement administration. The portion of the Gross Settlement Amount available to pay Individual Settlement Awards to (i) Named Plaintiffs; (ii) all California Class Members who do not opt out of the Settlement; and (iii) all California State Prison Sub Class Members (collectively, “Settlement Class Members”) after subtracting items (2)-(5) listed above is referred to as the Net Settlement Amount.

5. WHAT IF I AM NOT SURE WHETHER I AM INCLUDED IN THE SETTLEMENT?

If you are not sure whether you are part of the Settlement or if you have any other questions about the Settlement, visit the Settlement Website at www.VXLSettlement.com or call the toll-free number, 1-833-711-6612. You also may send questions to the Settlement Administrator at VXL Class Action Settlement, P.O. Box 2002, Chanhassen, MN 55317-2002. Please do not address any questions about the Settlement to Defendants, the Clerk of the Court, or the Judge.

HOW YOU WILL RECEIVE PAYMENT

6. HOW WILL I RECEIVE PAYMENT?

If the Settlement is approved by the Court and you are a Settlement Class Member who does not exclude yourself from the Settlement, (see Question 10, below), you will receive your Individual Settlement Award by checks in the mail (see Question 7, below, for information on how your Individual Settlement Award is calculated).

7. HOW MUCH WILL MY PAYMENT BE AND WHEN WILL I RECEIVE IT?

If you are a Settlement Class Member who does nothing, you will receive monetary payment after this Settlement receives final court approval and the settlement becomes effective. The Settlement will be paid in three distributions over approximately three years.

The amount that you will receive as payment under the Settlement is called your “Individual Settlement Award.” All Settlement Class Members will receive a pro rata share of the Net Settlement Amount based on the total number of overtime hours each Settlement Class Member worked based on Defendants’ records during the relevant time period. Settlement Class Members shall receive a pro rata portion of the Net Settlement Amount as follows:

1. For each overtime hour (i.e., hours worked over 8 hours a day) worked at Lompoc, a federal facility during the Relevant Time Period, each Settlement Class Member shall receive one (1) settlement share.
2. To reflect the increased value of the legal protections offered to those Settlement Class Members who worked at California state prisons, including San Quentin, overtime hours (i.e., hours worked over 8 hours a day) during which work was performed at San Quentin or other California state prisons will be equal to one-and-a quarter (1 $\frac{1}{4}$) settlement shares.
3. The total number of settlement shares for all Settlement Class Members will be added together and the resulting sum will be divided into the Net Settlement Amount to reach a per share dollar figure. That figure will then be multiplied by each Settlement Class Member’s number of settlement shares to determine the Settlement Class Member’s Settlement Award.

The number of overtime hours and your estimated amount of your payment is stated above. If you dispute the number of overtime hours you may dispute the data (see Question 8, below).

Settlement Class Members who do not request to exclude themselves from the Settlement will first receive their Individual Settlement Awards only after the Court grants final approval to the Settlement and after any appeals are resolved (see “The Court’s Final Approval/Settlement Fairness Hearing,” below). If there are appeals, resolving them can take time. It is estimated that these payments will begin within six months if there are no appeals. You will have 180 days from issuance to cash any checks you receive.

It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your monetary Settlement Award. If you fail to keep your address current, you may not receive all of your checks.

Tax Treatment of Awards: All settlement payments to the Settlement Class Members shall be paid via IRS Form 1099s, except for those Settlement Class Members who were characterized during the Relevant Time Period only as W2 employees. For these individuals, 50% of their settlement payment shall be characterized as wages and recorded via W2 and 50% shall be characterized as a Form 1099 payment, and VXL shall provide the payroll checks for these individuals (and shall be reimbursed from the Gross Settlement Amount for these amounts). You will be responsible for correctly reporting this for tax purposes and for paying any taxes on the amounts received. You will be responsible for the tax obligations and consequences of all payments received from the Settlement. None of the Parties or attorneys makes any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement.

8. WHAT IF I DISAGREE WITH THE DATA ON MY NOTICE?

You have the opportunity to dispute the data set forth on the first page of this Notice, including the number of hours used

to calculate your settlement payment, if you believe the data is incorrect. You may produce evidence to the Settlement Administrator establishing the hours you contend to have worked for Defendants. To do so, send a letter to the Settlement Administrator at VXL Class Action Settlement, P.O. Box 2002, Chanhassen, MN 55317-2002 explaining the basis for your dispute and attach copies of the supporting evidence. Unless you present convincing evidence proving you worked more hours than shown by VXL's records, your Settlement Award will be determined based on VXL's records. To dispute the data on this Notice, you must send a letter, signed under penalty of perjury, to the Settlement Administrator disputing the data on this Notice and providing any supporting documentation you have. To be valid, the dispute must be submitted (postmarked) by no later than **November 7, 2023**. The Settlement Administrator's determination will be final and binding.

9. WHAT AM I GIVING UP TO GET A PAYMENT AND STAY IN THE CLASS?

Upon payment of the entirety of the Gross Settlement Amount Fund has been paid by Defendants, all Settlement Class Members shall and hereby do release and discharge Matthew Crouse, VXL and all Releasees, finally, forever and with prejudice, from any and all state wage and hour claims, as well as all unpaid overtime allegations and causes of action asserted or that could have been asserted in Plaintiffs' Consolidated Complaint based upon the facts asserted, for work performed by Settlement Class Members for VXL during the Relevant Time Period, including claims for liquidated or other damages, unpaid costs, restitution or other compensation or relief arising under state law, state wage law, state wage payment law, state minimum wage law, any other wage payment or wage and hour law, or state common law claims (including unjust enrichment or quantum meruit) that arose during the Relevant Time Period.

Specifically, as to the release of claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., by cashing any settlement check, Settlement Class Members who have not already done so thereby opt into the Settlement and expressly release their claims under the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq.

You can talk to the law firms representing the Settlement Class listed in Question 11, below, for free, or you can, at your own expense, talk to your own lawyer if you have any questions about the released claims or what they mean.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want to receive any benefits from the Settlement, and you want to keep any right you might have to sue the Defendants for the claims that are being released in this Settlement, then you must take steps to get out of the Settlement. This is called excluding yourself – or is sometimes referred to as “opting out” of the Class.

10. HOW DO I OPT OUT OF THE SETTLEMENT?

To exclude yourself from (or “opt out” of) the Settlement, you must send a signed letter by email, or U.S. mail to the Settlement Administrator including:

- a) your full name;
- b) address;
- c) a clear statement communicating that you want to be excluded from the Settlement Class in *Leslie Avant v. VXL Enterprises LLC and Matthew Crouse; Johnnye Duff, et al. v. VXL Enterprises LLC and Matthew Crouse* or “VXL Class Action”)

You may also submit the letter via the website at www.VXLSettlement.com.

You must email or submit your Request for Exclusion by **November 7, 2023 at 11:59 p.m. PST** or mail your exclusion request postmarked no later than **November 7, 2023** to:

VXL Class Action Settlement
P.O. Box 2002
Chanhassen, MN 55317-2002
Email: info@VXLSettlement.com

If you send an opt-out by U.S. Mail, the date of the postmark on the return-mailing envelope will be the exclusive means used to determine whether a request for exclusion has been timely submitted.

QUESTIONS? CALL 1-833-711-6612 OR VISIT WWW.VXLSETTLEMENT.COM

You cannot ask to be excluded on the phone. You must use one of the methods identified above.

No opt-out request may be made on behalf of a group.

If you exclude yourself from or “opt-out” of the Settlement, you will not receive payment of your Individual Settlement Award, and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Defendants in the future. Members of the Settlement Class who fail to submit a valid and timely request for exclusion on or before **November 7, 2023** will be bound by all terms of this Settlement Agreement and the Final Approval Order and Judgment, regardless of whether they have requested exclusion from the Settlement.

THE LAWYERS REPRESENTING YOU IN THE CASE

11. DO I HAVE A LAWYER IN THE CASE?

The Court has appointed the following lawyers as “Class Counsel” to represent all members of the Settlement Class in the case:

Daniel Feder, Bar No. 130867
daniel@dfederlaw.com
Law Offices of Daniel Feder
235 Montgomery Street Suite 1019
San Francisco, CA 94104
Telephone: (415) 391-9476

Eric Lechtzin, Bar No. 248958
elechtzin@edelson-law.com
EDELSON LECHTZIN LLP
411 S. State Street, Suite N-300
Newtown, PA 18940
Telephone: (215) 867-2399

You will not separately be charged for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own expense.

12. HOW WILL THE LAWYERS BE PAID?

Class Counsel have actively litigated this case since 2021 without being paid anything to date. Pursuant to applicable law, the Court may award reasonable attorneys’ fees to Class Counsel as well as reimbursement for costs and expenses Class Counsel have expended in their work. Class Counsel intends to request up to 30% of the Gross Settlement Amount (or \$360,000.00) for reasonable attorneys’ fees, plus reimbursement of reasonable, actual out-of-pocket expenses up to \$20,000.00 incurred in the litigation. The fees and expenses awarded by the Court will be paid out of the Gross Settlement Amount. The Court will decide the actual amount of fees and expenses that will be awarded.

Plaintiffs have also assumed risk and expended time and effort prosecuting this case. Class Counsel will request Class Representative Enhancement Payments of up to \$5,000 for each of the three Plaintiffs be paid from the Gross Settlement Amount as compensation for the work they have done and risks they have assumed on behalf of the Class. The Court will decide the actual amount of any Class Representative Enhancement Payment that will be awarded.

OBJECTING TO THE SETTLEMENT

13. HOW DO I TELL THE COURT IF I DO NOT LIKE THE SETTLEMENT?

If you are a Settlement Class Member, you can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out, and the lawsuit will continue. If this is what you want to happen, you should object.

QUESTIONS? CALL 1-833-711-6612 OR VISIT WWW.VXLSETTLEMENT.COM

Any objection to the proposed Settlement must be in writing. If you submit a timely written objection, you may, but are not required to, also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney you are responsible for hiring and paying that attorney.

All written objections and supporting papers must (a) clearly identify the case name and number (*Leslie Avant v. VXL Enterprises LLC and Matthew Crouse; Johnnye Duff, et al. v. VXL Enterprises LLC and Matthew Crouse*, Case No. 4:21-cv-02016-YGR), (b) be submitted to the Court either by filing them electronically or in person at any location of the United States District Court for the Northern District of California or by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, and (c) be filed or postmarked on or before **November 7, 2023**.

Your objections **must** (i) contain your full name, signature and address; (ii) state all grounds for the objection; (iii) contain copies of any documents or authorities that you wish to submit in support of your position; (iv) state whether you intend to appear at the Final Approval Hearing; and (v) state whether the objection applies only to you, to a specific subset of the Class, or to the entire Class.

14. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND ASKING TO BE EXCLUDED?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object to the Settlement only if you do not exclude yourself. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object to the Settlement because it no longer affects you.

THE COURT'S FINAL APPROVAL/SETTLEMENT FAIRNESS HEARING

The Court will hold a hearing to decide whether to approve the Settlement and any requests for fees and expenses ("Final Approval Hearing").

15. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court has scheduled a Final Approval Hearing for **January 16, 2024 at 2:00 p.m.**, at the United States District Court for the Northern District of California at the Oakland Federal District Courthouse, 1301 Clay Street, Courtroom 1, Fourth Floor, Oakland, CA 94612. The hearing may be moved to a different date or time without additional notice, or conditions related to the COVID-19 pandemic might require that the hearing be held remotely, so it is a good idea to check www.VXLSettlement.com and /or the Court's PACER system at <https://ecf.cand.uscourts.gov> for updates.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court will also consider the requests by Class Counsel for reasonable attorneys' fees and expenses and for Class Representative Enhancement Payments. If there are objections, the Court will consider them at that time. After the hearing, the Court will decide whether to approve the Settlement. It is unknown how long these decisions will take.

16. DO I HAVE TO ATTEND THE HEARING?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you file your written objection on time with the Court, and it complies with the other requirements set forth above, the Court will consider it. You also may pay your own lawyer to attend the hearing, but it is not necessary.

IF YOU DO NOTHING

17. WHAT HAPPENS IF I DO NOTHING AT ALL?

If you are a Settlement Class Member, you will automatically receive your Individual Settlement Award and you will be bound by the judgment entered by the Court. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit or proceeding against the Defendants regarding the claims for violation of the wage and hour laws this Settlement resolves.

GETTING MORE INFORMATION

18. HOW DO I GET MORE INFORMATION?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.VXLSettlement.com, by contacting Class Counsel (see Question 11), by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. You may also write with questions to the Settlement Administrator at VXL Class Action Settlement, P.O. Box 2002, Chanhassen, MN 55317-2002, or call the toll-free number, 1-833-711-6612, or e-mail at info@VXLSettlement.com.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT.