

OFFICIAL COURT NOTICE OF CLASS AND COLLECTIVE ACTION SETTLEMENT

[NAME]
[ADDRESS]
[CITY, STATE ZIP]

If you worked for ShopKeep and/or Lightspeed Commerce USA as a Sales Representative, Point of Sale Specialist, or Account Executive, you may be entitled to a payment from a class and collective action lawsuit settlement.

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

- You have received this Notice because records indicate that you were employed as a Sales Representative, Point of Sale Specialist, or Account Executive (collectively, “Sales Representatives”) by ShopKeep, Inc. and/or Lightspeed Commerce USA Inc. (collectively, “Defendants”) in the State of New York between January 8, 2015 and April 1, 2021; in the State of Oregon between January 8, 2018 and April 1, 2021; or anywhere else in the United States between January 8, 2018 and April 1, 2021.
- Former Sales Representatives (“Plaintiffs”) filed a lawsuit asserting that Defendants failed to pay them and other Sales Representatives proper overtime wages for all overtime hours worked, as well as related wage and hour claims. Defendants deny these allegations and the Court has not made any ruling on the merits of Plaintiffs’ claims. The parties have entered into a settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense.
- Under the allocation formula created by the settlement, your potential settlement payment is estimated to be approximately **\$[AMOUNT]**, subject to deductions for applicable taxes.

Your legal rights may be affected by this settlement, and you have a choice to make:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
SUBMIT A CLAIM FORM	If you wish to participate in the settlement and be eligible to receive a settlement payment of approximately \$[AMOUNT] , subject to applicable taxes and withholdings, you must complete and return the enclosed “Claim Form” to the Settlement Administrator, as discussed in Section 8 below. The Claim Form must be postmarked by or otherwise received on or before January 10, 2022 . If you choose to participate in the settlement, you will release the Released Collective Claims discussed in Section 10 below. If you worked as a Sales Representative in New York or Oregon during the relevant time period, you will also release the Released Class Claims discussed in Section 10 below.
DO NOTHING	If you do nothing, you will not be eligible to receive a settlement payment. If you worked as a Sales Representative in New York or Oregon during the relevant time period, you will release the Released Class Claims, but not the Released Collective Claims.
EXCLUDE YOURSELF	If you worked as a Sales Representative in New York or Oregon during the relevant time period and you do not want to participate in the settlement but want to retain your right to sue Defendants for unpaid wages and related wage and hour claims under

	<p>federal and applicable state law, you must submit a written Opt-out Statement to the Settlement Administrator, as discussed in Section 11 below.</p> <p>If you submit an Opt-out Statement, you will not be eligible to receive a settlement payment or object to the settlement.</p>
OBJECT	<p>If you worked as a Sales Representative in New York or Oregon during the relevant time period and you do not submit an Opt-out Statement, you may write to the Court about why you object to the settlement. More information about objecting is set forth in Section 15 below.</p>

- These rights and options – **and the deadlines to exercise them** – are explained in greater detail in this Notice.
- The Court in charge of this case still has to decide whether to approve the settlement. Settlement payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this notice?

The Court ordered that you be sent this Notice because you have a right to know about a proposed class and collective action settlement, and about all of your options, before the Court decides whether to approve the settlement. This Notice explains the lawsuit, your legal rights, and what benefits are available.

The Court overseeing this case is the New York State Supreme Court, Kings County. The litigation is *Lombardi, et al. v. ShopKeep, Inc.*, Index No. 521461/2021.

2. Am I covered by this settlement?

Defendants’ records state that you were employed by ShopKeep, Inc. and/or Lightspeed Commerce USA Inc. as a Sales Representative in the State of New York between January 8, 2015 and April 1, 2021; in the State of Oregon between January 8, 2018 and April 1, 2021; or anywhere in the United States between January 8, 2018 and April 1, 2021.

If you worked for as a Sales Representative in New York or Oregon during the relevant time period, you are considered a “Class Member.” If you worked as a Sales Representative anywhere else in the United States during the relevant time period, you are considered a “Collective Member.”

3. What is the litigation about?

The litigation is about whether Defendants failed to pay Sales Representatives proper overtime wages for all overtime hours worked, and failed to provide proper wage notices and wage statements in New York and pay timely wages upon separation in Oregon. Defendants deny these allegations in their entirety and believe that Sales Representatives received all wages and payments to which they were entitled. The Court has not made any ruling on the merits of the claims, and no party has prevailed in this action.

4. Why is this a class/collective action?

In a class action, one or more people called “class representatives” sue not only for themselves, but on behalf of other people who have similar claims. The people are called “class members” and together are the “class.” Similarly, in a collective action, one or more people can seek to represent a “collective” of similarly situated

people. The individuals who initiated this class/collective action are called the “Plaintiffs.” In a class/collective action, the Plaintiffs ask the court to resolve the issues for every member of the class and collective.

5. Why is there a settlement?

The Court did not decide in favor of Plaintiffs or Defendants. Both sides believe they will prevail in the litigation, but there was no decision in favor of either party. Instead, the parties have agreed to resolve this matter solely in order to avoid the burden, expense and risks associated with continued litigation. Plaintiffs and Class Counsel think the settlement is in the best interests of all Class and Collective Members.

THE SETTLEMENT BENEFITS – WHAT YOU GET

6. What does the settlement provide?

Defendants have agreed to pay a Maximum Settlement Amount of up to \$1,775,000.00 (the “Maximum Settlement Amount”). The Maximum Settlement Amount will be used to pay: (1) Participating Class and Collective Members; (2) attorneys’ fees of up one-third of the Maximum Settlement Amount (\$591,666.66) plus reimbursement of actual litigation expenses and costs; (3) Service Awards of \$12,500.00 each (\$75,000.00 total) to the Plaintiffs; and (4) the Settlement Administrator’s fees and costs of up to \$15,000.00.

7. How much will my settlement payment be and how was it calculated?

Based on the formula that has been preliminarily approved by the Court, your settlement payment is estimated to be **\$[AMOUNT]**, half of which is subject to payroll deductions for applicable taxes and withholdings like any other paycheck, for which you will receive a Form W-2, and half of which is not subject to deductions and will be reported on a Form 1099. Neither Class Counsel nor Defendants’ counsel can advise you regarding the tax consequences of the settlement. You may wish to consult with your own personal tax advisor in connection with the settlement.

The formula that has been approved by the Court and used to calculate your settlement payment considers the number of weeks you worked during the relevant time period and whether you worked in New York, Oregon, or elsewhere in the United States for all or part of such number of weeks worked. The Settlement Agreement contains the exact allocation formula. You may obtain a copy of the Settlement Agreement by contacting the Settlement Administrator at (888) 250-6810 or using the information in Section 8 below.

The Settlement Administrator used information from Defendants’ records to calculate your payment. If you have questions about your calculation, you may contact the Settlement Administrator at (888) 250-6810 or using the information in Section 8 below. If you dispute Defendants’ records and/or the calculation of your settlement payment, please note your dispute on the Claim Form and provide written documentation supporting your contention in connection with submitting your Claim Form. Defendants’ records are presumed to be correct unless you prove otherwise with documentary evidence. The Settlement Administrator will evaluate the information you provide and will make the final decision as to any dispute.

Settlement checks that are not cashed within 120 days of issuance will expire and revert to Defendants.

HOW YOU GET A PAYMENT

8. How can I get my payment?

You must sign and return the enclosed Claim Form by the deadline to be eligible to receive a settlement payment. **Your Claim Form must be postmarked by, or otherwise received on or before, January 10, 2022.**

The Settlement Administrator is ILYM Group, Inc. You may return the Claim Form in the pre-stamped return envelope or by mailing, emailing, or faxing it to:

ILYM Group, Inc,
P.O. Box 2031

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ILYM ID: [ILYM ID]

Tustin, CA 92781
Telephone: (888) 250-6810
Fax: (888) 845-6185
Email: claims@ilymgroup.com
Website: www.ShopKeepOvertimeSettlement.com

9. When will I get my settlement payment?

The Court is scheduled to hold a hearing on April 13, 2022, at 3:00 p.m. to determine whether to give final approval to the settlement. If the Court approves the settlement, and there are no appeals, settlement checks will be mailed within fourteen (14) days after the expiration date of the time for an appeal to have been filed. If there is an appeal, settlement checks will be mailed within fourteen (14) days after all appeals are resolved in favor of final approval of the settlement. Please be patient.

10. What am I giving up by releasing my claims?

If you sign and return a Claim Form, you will give up (also called “release”) the Released Collective Claims. This means that you release any Fair Labor Standards Act claims pled in the Complaint that accrued during your employment in a covered Sales Representative position, relating back to the full extent of the applicable statutes of limitations, including any period tolled by the parties’ January 8, 2021 tolling agreement and continuing through August 13, 2021, including, without limitations, claims for unpaid overtime wages and related claims for penalties, interest, liquidated damages, attorneys’ fees, costs, and expenses.

If you worked as a Sales Representative in New York or Oregon during the relevant time period, unless you exclude yourself (as explained in Section 11) you will release the Released Class Claims. This means that you release any New York and/or Oregon state and local wage and hour claims pled in the Complaint that accrued during your employment in a covered Sales Representative position, relating back to the full extent of the applicable statutes of limitations, including any period tolled by the parties’ January 8, 2021 tolling agreement, and continuing through August 13, 2021 including, without limitations, all state claims for unpaid overtime wages, premium pay of any kind, and related claims for penalties, interest, liquidated damages, attorneys’ fees, costs, and expenses.

EXCLUDING YOURSELF FROM THE SETTLEMENT

If you worked as a Sales Representative in New York or Oregon during the relevant time period, and you do not wish to give up the Released Class Claims, then you must take steps to exclude yourself. This is sometimes referred to as “opting out” of the settlement.

11. How do I opt out of the settlement?

If you wish to exclude yourself from the settlement, you must submit a written Opt-out Statement to the Settlement Administrator, stating: (i) your name, address, telephone number, and email address; and (ii) a statement indicating your intent to exclude yourself from the settlement, such as “I opt out of the ShopKeep wage and hour settlement.” The Opt-out Statement must be postmarked by or otherwise received on or before **January 10, 2022**.

If you submit an Opt-out Statement, you will not be eligible to receive a settlement check. You will retain the right to bring your own legal action against Defendants. You should be aware that your claims are subject to a statute of limitations, which means that they will expire on a certain date.

If you ask to be excluded, you cannot object to the settlement.

12. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not be eligible to receive a settlement check.

THE LAWYERS REPRESENTING YOU

13. Do I have a lawyer in this case?

The Court has decided that the lawyers at the law firm of Outten & Golden LLP are qualified to represent you and all Class and Collective Members. These lawyers are called “Class Counsel.” You will not be charged separately for these lawyers; their fees are being covered by the Maximum Settlement Amount. You do not need to retain your own attorney in order to participate as a Class or Collective Member. If you do not opt out of the Class and want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of up to one-third of the Maximum Settlement Amount (\$591,666.66) for their attorneys’ fees. These fees would compensate Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. Class Counsel will also ask the Court to approve payment for the out-of-pocket costs they incurred litigating the case.

OBJECTING TO THE SETTLEMENT

If you worked as a Sales Representative in New York or Oregon during the relevant time period, you can tell the Court that you do not agree with the settlement or some part of it.

15. How do I tell the Court that I disapprove of the settlement?

If you worked for Defendants in New York or Oregon, and you have not submitted an Opt-out Statement, you can object to any portion of the settlement which you disapprove. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object to the settlement, send a letter to the Settlement Administrator saying that you object to the settlement which includes all of the following: (i) all reasons for objecting to the settlement, and any supporting documentation; and (ii) your name, address, and telephone number.

As an Objector, you also have the right to appear at the Fairness Hearing before the Court (explained in Sections 17 and 18 below) either in person or through your own counsel. If you wish to appear at the Fairness Hearing, you should state your intention to do so in your letter to the Settlement Administrator.

Objections should be mailed to the Settlement Administrator at:

ILYM Group, Inc,
P.O. Box 2031
Tustin, CA 92781

Your objection must be postmarked by or otherwise received on or before **January 10, 2022**.

16. What’s the difference between objecting and opting out?

Objecting is telling the Court that you do not like something about the settlement and asking the Court not to approve the settlement as is. You can object only if you stay in the Class.

Opting out (also known as excluding yourself) is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you. If you submit both an objection and an Opt-out Statement, the Settlement Administrator will attempt to contact you to determine whether you intended to object or exclude yourself. If the Settlement Administrator cannot reach you, it will be presumed that you intended to exclude yourself, and your objection will not be considered.

THE COURT’S FAIRNESS HEARING

17. When and where will the Court decide whether to approve the settlement?

The Court will hold the Fairness Hearing on April 13, 2022 at 3:00 p.m., in IAS Part 84.

At the hearing, the Court will determine whether the settlement is fair, adequate, and reasonable and will consider any properly submitted objections. Please be advised that the Court may adjourn the date of the hearing without further notice to Class and Collective Members, and the Court may opt to hold the Fairness Hearing via telephone or video conference. Please visit the Court's website, <http://ww2.nycourts.gov/courts/2jd/kings/civil/index.shtml>, or contact Class Counsel using the contact information provided in Section 20 below if you have any questions about the date, time, or location of the Fairness Hearing.

18. Do I have to come to the fairness hearing?

No. Class Counsel will attend to answer questions the Court may have. But, you are welcome to come at your own expense. If you send an objection, you do not have to come to Court in person. As long as you have not excluded yourself and have mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

GETTING MORE INFORMATION

19. Are there more details about the settlement?

This Notice summarizes the proposed settlement. More details are in a Settlement Agreement. You can get a copy of the Settlement Agreement from the Settlement Administrator or Class Counsel using the contact information below.

20. How do I get more information?

If you have other questions about the settlement or want more information, you can contact the Settlement Administrator, or Class Counsel at:

Melissa L. Stewart
Jared W. Goldman
OUTTEN & GOLDEN LLP
695 Third Avenue, 25th Floor
New York, NY 10017
Telephone: (212) 245-1000
ShopKeepSettlement@outtengolden.com

DATED: November 10, 2021

Do not contact the Court directly for any reason.