

1 SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

2 JEFFREY MERRITT and a class of)
3 similarly situated individuals,)
4 Plaintiffs,)
5 v.)
6 KING COUNTY, a political subdivision of)
7 the State of Washington,)
8 Defendant,)
9 and)
10 DEPARTMENT OF RETIREMENT)
11 SYSTEMS,)
Intervenor.)

No. 18-2-05070-7 SEA
NOTICE OF CLASS ACTION
SETTLEMENT

12 **WHY YOU ARE RECEIVING THIS NOTICE**

13 You are receiving this notice because records show that you are a Class Member in the
14 *Merritt* class action case. The class is defined as:

15 Present or former King County Medic One paramedics who are current
16 members of PERS and/or LEOFF who did not receive retirement service prior to
17 December 31, 2003 while they were paramedic trainees. The class does not
include PERS Plan 1 members who already have 30 years of service.

18 **SUMMARY OF RELIEF CLASS MEMBERS OBTAINED IN SETTLEMENT**

19 The *Merritt* case was brought to obtain retirement service credit for the time spent in
20 paramedic training. The Class Members obtain that relief in this Settlement. They are eligible
21 for retirement service credit for the time they were paramedic trainees. For class members who
22 are current King County employees as of the effective date of the settlement agreement, King
23 County will pay to the Department of Retirement Systems (DRS) both the employer
24 contributions and the employee contributions (the amounts that would have been deducted for
25 the employees' pay). These class members will reimburse King County for the employee
26 contributions through payroll deductions. For class members who are not current King County
27 employees as of the effective date of the settlement agreement, King County will pay to DRS
the employer contributions and the class members will be responsible to pay directly to DRS
the employee contributions after receiving notice of the amount of those contributions from
DRS. DRS is not charging interest for the employer or employee contributions. The amount of
the contributions (employer and employee) to be paid is approximately \$180,000.

King County will pay class counsel Bendich, Stobaugh & Strong, P.C. \$42,000 in
attorney fees. Class members will have no responsibility for class counsel's fees.

1 **HISTORY OF LITIGATION**

2 Merritt contended the following in his February 18, 2019 Complaint: Between 1976
3 and 2002 King County hired plaintiff Jeff Merritt and a class of similarly situated employees
4 (the “Paramedics”) to work as paramedics. The paramedics were eligible for the Public
5 Employee Retirement System (PERS) when hired by the County, but the County failed to
6 enroll them because it wrongly classified them as “independent contractors” during their first
7 year of employment when they were undergoing mandatory paramedic training. The County
8 did not enroll the Paramedics in PERS until they were reclassified as “employees” in their
9 second year of employment. Starting in 2003 the County recognized this error in classifying
paramedics as independent contractors and reclassified paramedic trainees as employees and
enrolled them in PERS during their first year of employment. It did not, however, correct the
service record of the Paramedics employed before 2003. Merritt sought injunctive and
declaratory relief, an order requiring King County to report Class Member’s service and make
all omitted contributions, and for attorney fees under RCW 49.48.030.

10 King County responded to Merritt’s contentions in an Amended Answer filed on May 8,
11 2019 as follows: All paramedics hired by King County, who are not lateral hires, need to
12 complete the University of Washington medical school’s paramedic training program (the
13 “Program”). While King County paramedic trainees were in the Program, the County paid
14 them a stipend. Prior to 2003 the County did not enroll paramedic trainees in PERS because it
15 thought their body of work was not PERS eligible. The County starting enrolling the
16 paramedic trainees in PERS in 2003 not because they had misclassified the paramedics but
17 because it determined that paramedic trainees were eligible for PERS service credit during their
18 training time.

19 King County and Plaintiff Merritt agreed the class should be certified and submitted an
20 agreed order certifying the class. The Court granted class certification pursuant to CR 23(a)
21 and (b)(2). The class was certified as (Order August 7, 2018 p. 3):

22 All present or former King County Medic One paramedics who were not
23 enrolled in PERS prior to 2002 while they were paramedic trainees.

24 King County and Plaintiffs parties subsequently learned that King County did
25 not enroll paramedic trainees in PERS until 2003, not 2002 as those parties
26 initially believed.

27 After 2003, paramedics were given the option of transferring from PERS to LEOFF.
Some class members took that option and transferred to LEOFF.

On September 11, 2018, the Washington State Department of Retirement Systems
moved the Court for an order permitting the Department to join this case. The Department
moved to intervene because the Department is legislatively-mandated with the duty to
administer PERS, including determining the amount of required contributions to the PERS fund
from PERS members and their employers and setting interest rates of these contributions
pursuant to RCW 41.50.030 and 41.50.

Neither party objected to the Department’s intervention in this matter.

1 After the class was certified, the Court granted an order permitting the Washington
2 Department of Retirement Systems to intervene in this action.

3 For purposes of settlement, the parties agree that the class definition should be modified
4 to the following:

5 Present or former King County Medic One paramedics who are current
6 members of PERS and/or LEOFF who did not receive retirement service prior to
7 December 31, 2003 while they were paramedic trainees. The class does not
8 include PERS Plan 1 members who already have 30 years of service.

9 The parties have engaged in extensive arms-length negotiations to achieve this
10 Settlement. The Settlement is a compromise.

11 **WHAT ACTION DO I NEED TO TAKE**

12 If you approve of the Settlement, you do not need to take any action. However, if you
13 approve of the Settlement and wish to comment on it, you may do so by submitting a written
14 comment to Class Counsel, Bendich, Stobaugh & Strong, P.C., 126 NW Canal Street, Suite
15 100, Seattle, WA 98107 or via email at lawfirm@bs-s.com.

16 If you do not approve of the Settlement, you may submit a written objection to Class
17 Counsel as specified above. All comments in favor of the Settlement and objections to the
18 Settlement must be submitted in writing and received by Class Counsel no later than September
19 30, 2020. Class Counsel will file copies of the comments and objections with the Clerk of the
20 Court and provide copies to the Court, counsel for King County, and counsel for the
21 Department of Retirement Systems.

22 **WHERE CAN I GET A COPY OF THE SETTLEMENT AGREEMENT**

23 The foregoing is a brief summary of the lengthy Settlement Agreement. That
24 Agreement, not this summary, determines your rights. Copies of the complete agreement may
25 be obtained from Class Counsel's website (www.bs-s.com), King County's website
26 (<https://kingcounty.gov/depts/health/emergency-medical-services/medic-one.aspx>), and from
27 the bargaining agent for King County paramedics, IAFF Local 2595, 20811 84th Ave S, Suite
102, Kent, WA 98032.

28 **FINAL APPROVAL PROCEDURE**

29 The Settlement Agreement is a product of extensive negotiations and constitutes a
30 compromise. Class Counsel has concluded that the terms and conditions of the Settlement are
31 fair and reasonable and in the best interest of the class. Class Counsel, the King County
32 attorneys, and the attorneys for the Department of Retirement Systems have approved the
33 Settlement and recommend it be approved by the Court and Judge Nelson Lee, the King
34 County Superior Court Judge assigned to the case, has given tentative approval. The
35 Settlement Agreement is subject to final approval by Judge Lee.

36 By approval of the content of this notice, the Court expresses no final opinion on the
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1 merits of the case or the terms of the Settlement. A final hearing will be held by Judge Lee via
2 Zoom on the 12th day of October, 2020 at 9:00 a.m. to decide whether the Court should
3 approve the Settlement. The hearing may be viewed at [https://kingcounty.zoom.us/j/
4 99671606898](https://kingcounty.zoom.us/j/99671606898). The Zoom meeting ID is 996 7160 6898. The passcode to join the Zoom
5 meeting is 916929. You do not have to view this hearing via Zoom to receive the above-
6 described benefits of the Settlement. Final approval of the Settlement will make its terms
7 binding upon you.

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Summary approved by the Honorable Nelson Lee, Superior Court Judge.