

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

CLIFFORD MCQUARRIE, Individually and On Behalf of  
All Others Similarly Situated,

Plaintiffs,

v.

RICHARD D. SIMON and ALBAN B. LANG,

Defendants.

Case No: 2:02CV1028

Judge: Honorable Dee Benson

**NOTICE OF PENDENCY AND SETTLEMENT OF CLASS  
ACTION AND SETTLEMENT HEARING THEREON**

**TO: ALL PERSONS WHO PURCHASED THE COMMON STOCK OF SIMON TRANSPORTATION SERVICES, INC. ("SIMON TRANSPORTATION") DURING THE PERIOD FROM JULY 13, 1998 THROUGH AND INCLUDING JANUARY 14, 2002.**

A federal court authorized this Notice to be sent to you. This is not a solicitation from a lawyer.

**Security and Time Period:** Simon Transportation Services, Inc. ("Simon Transportation") common stock purchased, sold, or otherwise acquired, or disposed of between July 13, 1998, through and including January 14, 2002.

**Settlement Fund:** \$275,000.00 in cash. Your recovery will depend on the amount of stock you purchased and the timing of your purchases and any sales. It will also depend on the number of eligible shares that participate in the settlement and when those share were purchased and sold. Assuming that all of the Simon Transportation investors who purchased shares during the relevant period and suffered damages participate in this settlement, the estimated average recovery per share will be approximately \$0.041 before deduction of court-approved fees and expenses. See Paragraph 9 in the Basic Information section for additional information concerning, among other things, the allocation of the Settlement Fund.

**Reasons for Settlement:** Provides for a substantial dollar recovery while avoiding the costs and risks associated with continued litigation, including danger of no recovery.

**If the Case Had Not Settled:** Continuing with the case could have resulted in dismissal or loss at trial. The two sides do not agree on the amount of money that could have been won if the Lead Plaintiffs prevailed at trial. The parties disagree about: (1) the method for determining whether Simon Transportation stock was artificially inflated during the relevant period, and if so, the extent of that inflation; (2) the amount of any such inflation; (3) whether the various facts alleged by the Lead Plaintiffs were materially false or misleading; (4) whether the various facts alleged by the Lead Plaintiffs influenced the trading price of Simon Transportation common stock during the relevant period; and (5) whether the facts alleged were material, false, misleading or otherwise actionable under the securities laws.

**Fees and Expenses:** Plaintiffs' counsel have not received any payment for their work investigating the facts, conducting this litigation and negotiating the settlement on behalf of the Lead Plaintiffs and the Settlement Class. Plaintiffs' counsel will ask the court for attorneys' fees not to exceed 25% of the Settlement Fund and reimbursement of out-of-pocket expenses not to exceed \$50,000 to be paid from the Settlement Fund. If the above amounts are requested and approved by the Court, the average cost per share will be approximately \$0.018.

**Deadlines:**

Submit Claim: February 5, 2007  
Request Exclusion: November 14, 2006  
File Objection: November 14, 2006

**Court Hearing on Fairness of Settlement:** December 5, 2006

**More Information:**

Simon Transportation Securities Litigation  
c/o The Garden City Group, Inc.  
Claims Administrator  
P.O. Box 9000 #6459  
Merrick, NY 11566-9000  
1(866) 503-0459

**Lead Plaintiffs' Counsel:**

GLANCY BINKOW & GOLDBERG LLP  
LIONEL Z. GLANCY  
1801 Avenue of the Stars, Suite 311  
Los Angeles, CA 90067

CATANZARITE LAW CORPORATION  
KENNETH J. CATANZARITE  
2331 W. Lincoln Avenue  
Anaheim, CA 92801

**Your legal rights are affected whether you act or do not act.  
Read this Notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>SUBMIT A CLAIM FORM</b>	The only way to get a payment from this Settlement.
<b>EXCLUDE YOURSELF</b>	Get no payment. This is the only option that allows you to commence or participate in another lawsuit against the Defendants relating to the legal claims in this case.
<b>OBJECT</b>	You may write to the Court if you don't like this settlement.
<b>GO TO A HEARING</b>	You may ask to speak in Court about the fairness of this settlement.
<b>DO NOTHING</b>	Get no payment; forfeit right to sue in another action.

These rights and options - **and the deadlines to exercise them** - are explained in this Notice.

The Court in charge of this case must decide whether to approve the settlement. Payments will be made if the Court approves the settlement and, if there are any appeals, after appeals are resolved. Please be patient.

**BASIC INFORMATION**

**1. Why Did I Get This Notice Package?**

You or someone in your family may have purchased, sold, acquired, or disposed of shares of Simon Transportation common stock between July 13, 1998 and January 14, 2002.

The Court sent you this Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it and after any objections or appeals are resolved, the Claims Administrator appointed by the Court will make the payments that the settlement allows.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the United States District Court for the District of Utah and the case is known as McQuarrie v. Simon, et al., Case No: 2:02CV1028. The Persons who sued are called the Lead Plaintiffs, and the individuals the Lead Plaintiffs sued, Richard D. Simon and Alban A. Lang, are called the Defendants.

**2. What Is This Lawsuit About?**

Lead Plaintiffs, The McQuarrie Plaintiffs Group, filed an Amended Class Action Complaint (the "AC") on February 6, 2004, asserting claims under Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 promulgated by the Securities and Exchange Commission ("SEC") pursuant thereto, for Defendants' various alleged misrepresentations and/or materially misleading statements relating to Simon Transportation Services, Inc. ("Simon Transportation" or "the Company").<sup>1</sup>

While many securities cases involve the overstatement of a company's revenues, this case involves the alleged under-reporting of Simon Transportation's expenses and liabilities. In this case, Lead Plaintiffs alleged that the Defendants artificially inflated the Company's stock price during the Class Period by recklessly under reporting accident related expenses and liabilities; misrepresenting its training and safety practices for drivers which misled investors and resulted in increased insurance expense and liability; and failing to disclose that the Company had a \$126.1 million potential liability for guaranteed residual lease values on their leased tractors and trailers (a potential liability that exceeded the total value of assets held by the Company at the end of fiscal 2000). In the AC, Lead Plaintiffs generally alleged that as a result of the various alleged material omissions and misstatements, Defendants artificially inflated the price of the Company's shares between July 13, 1998 and January 14, 2002, and that the share price fell drastically upon the subsequent revelation of the truth, thereby injuring the Company's shareholders.

Defendants assert that the allegations of the complaint are without merit. All Defendants deny that they did anything wrong, and contend that if the case were to proceed to trial, they would prevail.

**3. Why Is This a Class Action?**

In a class action, one or more people called class representatives (in this case the court-appointed Lead Plaintiffs Clifford McQuarrie and Joseph Turner, collectively "The McQuarrie Plaintiffs Group" or "McQuarrie"), sue on behalf of people who have similar claims. Here, all these people, together, are called a Settlement Class or Settlement Class Members. In a class action, one court resolves the issues for all Settlement Class Members at the same time, except for those who voluntarily exclude themselves from the Settlement Class. Judge Dee Benson is in charge of this class action.

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<sup>1</sup>Simon Transportation filed for protection under Chapter 11 of the Bankruptcy Code on February 25, 2002, and the United States Bankruptcy Court for the District of Utah entered its Order Confirming the Amended Joint Plan of Liquidation for the Company and its related entities on March 11, 2003. Consequently, Simon Transportation was not named as a defendant in the AC and is not a party to this Settlement.

#### **4. Why Is There a Settlement?**

The Court did not decide in favor of Lead Plaintiffs or Defendants. Instead, both sides agreed to a settlement based on a compromise of the claims and defenses. That way, they avoid the cost and risk of a trial, and eligible Settlement Class Members who make a valid claim will get compensation.

The settlement was arrived at through arms-length negotiations. The Lead Plaintiffs and Lead Plaintiffs' Counsel agreed to the settlement terms after considering the results of their factual and legal investigation of the Settlement Class' claims.

Based on their investigation and discovery of the claims, the experience that the Lead Plaintiffs' attorneys have in litigating similar complex actions, the procedural protections provided by the settlement terms, and the valuable consideration that the Settlement Class can obtain from the settlement, the Lead Plaintiffs and their attorneys think the settlement is best for all Settlement Class Members.

#### **WHO IS IN THE SETTLEMENT**

To see if you will get money from this settlement, you first have to determine if you are a Settlement Class Member.

#### **5. How Do I Know If I Am Part of the Settlement?**

The Settlement Class includes all persons who **purchased, sold, acquired, or disposed of Simon Transportation common stock between July 13, 1998, and January 14, 2002, except those persons and entities that are excluded, as described below.**

#### **6. What Are The Exceptions to Being Included?**

You are not a Settlement Class Member if you are a Defendant, a member of the immediate family of one of the individual defendants listed in question 1, an entity in which any Defendant has or had a controlling interest, a current or former director or officer of Simon Transportation, or a legal representative, heir, successor, or assign of any excluded party.

If you sold Simon Transportation common stock between July 13, 1998, and January 14, 2002, that alone does not make you a Settlement Class Member. You are a Settlement Class Member only if you PURCHASED Simon Transportation common stock between July 13, 1998, and January 14, 2002.

#### **7. I'm Still Not Sure if I Am Included.**

If you are still not sure whether you are included, you can ask for free help. You can call the Claims Administrator, The Garden City Group, Inc., at 1(866) 503-0459 for more information. Or you can fill out and return the claim form described in question 10, to see if you qualify.

#### **THE SETTLEMENT BENEFITS - WHAT YOU GET**

#### **8. What Does the Settlement Provide?**

Defendants have agreed to pay \$275,000.00 in cash in settlement of this case. These funds will be distributed to eligible Settlement Class Members who send in valid claim forms, after payment of court-approved legal fees and attorney and Lead Plaintiffs' expenses and the costs of claims administration, including the costs of printing and mailing this Notice and the cost of publishing newspaper notice.

#### **9. How Much Will My Payment Be?**

Your share of the funds will depend on (a) the number of valid claim forms that Settlement Class Members send in (the fewer the number of Settlement Class members who choose to participate in the Settlement, the larger will be the recovery for each participating Settlement Class Member) and (b) how many shares of stock you purchased during the relevant period and when you bought and sold them.

In order to recover damages, you must have suffered an actual monetary loss on the shares of Simon Transportation stock that you purchased during the Settlement Class Period. That is, (i) for shares that you purchased and sold during the Settlement Class Period, the purchase price must have been greater than the sales price; or (ii) for shares that you purchased during the Settlement Class Period and held at the end of that period, the purchase price must have been greater than \$0.788 a share. The date of purchase or sale is the "contract" or "trade" date as distinguished from the "settlement date."

The payment you get will reflect your pro rata share of the amount in the relevant settlement fund (as a fraction, your recognized loss divided by the total of all recognized losses for the relevant fund) after deduction of court-approved fees and expenses. Depending on the number of eligible shares that participate in the settlement and when those shares were purchased and sold, the estimated average payment will be approximately \$0.041 per share before deduction of court-approved fees and expenses (with an approximate average cost per share of \$0.018). The number of claimants who send in claims varies widely from case to case. You could get more or less money per share than described above.

## HOW YOU GET A PAYMENT - SUBMITTING A CLAIM FORM

### 10. How Will I Get a Payment?

To qualify for payment, you must be an eligible Settlement Class Member and you must send in a claim form. A claim form is enclosed with this Notice. Read the instructions carefully, fill out the form, include all the documents the form asks for, sign it, and mail it in the enclosed envelope postmarked no later than February 5, 2007.

### 11. When Will I Get My Payment?

The Court will hold a hearing on December 5, 2006, to decide whether to approve the settlement. If Judge Benson approves the settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps several years. Everyone who sends in a claim form will be informed of the determination with respect to their claim. Please be patient.

### 12. What Am I Giving Up to Get a Payment or Stay in the Settlement Class?

Unless you exclude yourself, you are staying in the Settlement Class, and that means that you cannot sue, continue to sue, or be part of any other lawsuit against the Defendants about the same legal and factual issues in this case. It also means that all of the Court's orders will apply to you and legally bind you and, in return for your participation in the Settlement, you will release your claims in this case against the Defendants. The terms of the release are included in the claim form that is enclosed.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this settlement, but you want to keep the right to sue or continue to sue the Defendants on your own about the same legal and factual issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or is sometimes referred to as opting out of, the Settlement Class.

### 13. How Do I Get Out of the Settlement Class?

To exclude yourself from the Settlement Class, you must send a letter by mail stating that you want to be excluded from McQuarrie v. Simon, et al., Case No. 2:02CV1028. You must include your name, address, telephone number, your signature, and the number of shares of Simon Transportation common stock you purchased, sold, acquired, or disposed of between July 13, 1998 and January 14, 2002, the number of shares sold during this time period, if any, and the dates of such purchases and sales. Your exclusion request must be received no later than twenty-one (21) calendar days prior to the Settlement Hearing to:

Simon Transportation Securities Litigation Exclusions  
c/o The Garden City Group, Inc.  
Claims Administrator  
P.O. Box 9000 #6459  
Merrick, NY 11566-9000

You cannot exclude yourself on the phone or by e-mail. If you ask to be excluded, you are not eligible to get any settlement payment, and you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit.

### 14. If I Do Not Exclude Myself, Can I Sue the Defendants for the Same Thing Later?

No. Unless you exclude yourself, you give up any right to sue the Defendants for the claims resolved by this settlement. If you have a pending lawsuit against any of the Defendants, speak to your lawyer in that case immediately. Remember, the exclusion deadline is twenty-one (21) days prior to the Settlement Hearing.

### 15. If I Exclude Myself, Can I Get Money from This Settlement?

No. If you exclude yourself, do not send in a claim form. But, you may sue, continue to sue, or be part of a different lawsuit against the Defendants.

## THE LAWYERS REPRESENTING YOU

### 16. Do I Have a Lawyer in This Case?

The Court appointed the law firms of Glancy Binkow & Goldberg, LLP and the Catanzarite Law Corporation to represent you and other Settlement Class Members.

These lawyers are called Co-Lead Counsel. You will not be charged for these lawyers' work. If you want to be represented by your own lawyer, you may hire one at your own expense.

**17. How Will the Lawyers Be Paid?**

Lead Plaintiffs' counsel, including Co-Lead Counsel, will ask the Court for attorneys' fees not to exceed 25% of the Settlement Fund (an average of \$0.01 per share) and for reimbursement of out-of-pocket expenses up to \$50,000 (\$0.008 per share), which were advanced in connection with the Litigation. Such sums as may be approved by the Court will be paid from the Settlement Fund. Settlement Class Members are not personally liable for any such fees or expenses.

The attorneys' fees and expenses requested, to the extent they are awarded by the Court, will be the only payment to Plaintiffs' counsel for their efforts in achieving this settlement and for their risk in undertaking this representation on a wholly contingent basis. To date, Plaintiffs' counsel have not been paid for their services for conducting this litigation on behalf of the Lead Plaintiffs and the Settlement Class or for their substantial out-of-pocket expenses. The fee requested, if awarded, will compensate Plaintiffs' counsel for their work and risk in achieving the settlement and is well within the range of fees awarded to Class Counsel under similar circumstances in other cases of this type. The Court may award less than this amount.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you don't agree with the settlement or some part of it.

**18. How Do I Tell the Court that I Don't Like the Settlement?**

If you are a Settlement Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter saying that you object to the settlement in McQuarrie v. Simon, et al., Case No. 2:02CV1028. Be sure to include your name, address, telephone number, your signature, the number of shares of Simon Transportation common stock purchased, sold, acquired, or disposed of between July 13, 1998 and January 14, 2002, and the reasons you object to the settlement. Any objection to the settlement must be mailed or delivered such that it is received by each of the following no later than twenty-one (21) days prior to the Settlement Hearing:

**(1)The Court, addressed to:**  
CLERK OF THE COURT  
UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH  
150 Frank E. Moss United States Courthouse  
350 South Main Street  
Salt Lake City, UT 84101

**(2)Lead Plaintiffs' Counsel, addressed to:**  
GLANCY BINKOW & GOLDBERG LLP  
LIONEL Z. GLANCY  
1801 Avenue of the Stars, Suite 311  
Los Angeles, CA 90067

and

CATANZARITE LAW CORPORATION  
KENNETH J. CATANZARITE  
2331 W. Lincoln Avenue  
Anaheim, CA 92801

**(3)Defendants' Counsel, addressed to:**  
WILSON, SONSINI, GOODRICH & ROSATI  
LLOYD WINAWER  
650 Page Mill Road  
Palo Alto, CA 94304

**19. What's the Difference Between Objecting and Excluding?**

Objecting is simply telling the Court that you don't like something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to.

**20. When and Where Will the Court Decide Whether to Approve the Settlement?**

The Court will hold a Fairness Hearing at 2:30 p.m., on December 5, 2006, at the United States District Court for the District of Utah, 150 Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, UT 84101. At this hearing the Court will consider

whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Benson will listen to people who have asked to speak at the hearing. The Court will also consider how much to pay to Plaintiffs' counsel and the extent to which counsel and Lead Plaintiffs will be reimbursed for their costs and expenses. The Court may decide these issues at the hearing or take them under consideration and decide them at a later time. We do not know how long these decisions will take.

**21. Do I have to Come to the Hearing?**

No. Lead Counsel will answer questions Judge Benson may have. But, you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you 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.

**22. May I Speak at the Hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your intention to appear in McQuarrie v. Simon, et al., Case No. 2:02CV1028. Be sure to include your name, address, telephone number, your signature, and the number of shares of Simon Transportation common stock purchased, sold, acquired, or disposed of between July 13, 1998, and January 14, 2002. Your notice of intention to appear must be received no later than twenty-one (21) days prior to the hearing date, and be sent to the Clerk of the Court, Lead Counsel, and Defendants' counsel, at the three addresses listed in question 18. You cannot speak at the hearing if you exclude yourself from the Settlement Class.

**IF YOU DO NOTHING**

**23. What Happens if I Do Nothing at All?**

If you do nothing, you will get no money from this settlement. But, unless you exclude yourself, you won't be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against the Defendants about the same legal or factual issues in this case.

**GETTING MORE INFORMATION**

**24. Are There More Details About the Settlement?**

This Notice summarizes the proposed settlement. More details are in the Stipulation of Settlement dated as of June 6, 2006. You can get a copy of the Stipulation of Settlement from the Clerk's office at the United States District Court for the District of Utah, 150 Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, UT 84101 during regular business hours.

**25. How Do I Get More Information?**

For further information regarding this Settlement you may contact: Lionel Z. Glancy, Glancy Binkow & Goldberg LLP, 1801 Avenue of the Stars, Suite 311, Los Angeles, California 90067, telephone: (310) 201-9150 or Kenneth J. Catanzarite, Catanzarite Law Corporation, 2331 W. Lincoln Ave., Anaheim, CA 92801, telephone: (714) 520-5544. Please do not call any representative of Defendants.

**DO NOT TELEPHONE THE COURT REGARDING THIS NOTICE**

**SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you hold shares of any Simon Transportation common stock purchased between July 13, 1998 and January 14, 2002 as nominee for a beneficial owner, then, within ten (10) days after you receive this Notice, you must either: (1) send a copy of this Notice by first class mail to all such Persons; or (2) provide a list of the names and addresses of such Persons to the Claims Administrator:

**Simon Transportation Securities Litigation  
c/o The Garden City Group, Inc.  
Claims Administrator  
P.O. Box 9000 #6459  
Merrick, NY 11566-9000**

If you choose to mail the Notice and Proof of Claim yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of this Notice and Proof of Claim as you will need to complete the mailing.

Regardless of whether you choose to complete the mailing yourself or elect to have the mailing performed for you, you may obtain reimbursement for or advancement of reasonable administrative costs actually incurred or expected to be incurred in connection with forwarding the Notice and which would not have been incurred but for the obligation to forward the Notice, upon submission of appropriate documentation to the Claims Administrator.

DATED: August 9, 2006

BY ORDER OF THE COURT  
UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH