

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

Courtless Rampey and Bridget Cunningham,  
individually and as representatives of a Class of  
Participants and Beneficiaries on Behalf of the West  
Corporation 401(k) Retirement Plan,

Plaintiffs,

v.

West Corporation and Retirement Committee of  
West Corporation 401(k) Retirement Plan,

Defendants.

Case No. 1:19-cv-00220-JB-B

**NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING**

**If you have participated in the West Corporation Employee 401(k)  
Retirement Plan, or have been a beneficiary of the Plan, a proposed class  
action settlement of a lawsuit may affect your rights.**

*A court authorized this notice. It is not junk mail, an advertisement, or a solicitation from a lawyer.*

**Your legal rights may be affected if you are a member of the following class:**

All persons who participated in the West Corporation's 401(k) Retirement Plan ("Plan") at any time between May 7, 2013 through July 12, 2022 ("Class Period"), including any beneficiary of a deceased person who participated in the Plan at any time during the Class Period, and/or Alternate Payee, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plan at any time during the Class Period, except for past and present members of the Plan Committee.

**PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY**

- The Court has given its preliminary approval to a proposed settlement (the "Settlement") of a class action lawsuit brought by certain Plan participants, alleging that West Corporation and the Retirement Committee of West Corporation Employee 401(k) Retirement Plan ("Defendants") violated the Employee Retirement Income Security Act of 1974 ("ERISA") based on Defendants' management, operation, and administration of the Plan. Defendants deny any and all claims and allegations of wrongdoing, and nothing in the Settlement is an admission or concession on Defendants' part of any fault or liability whatsoever.

- The Settlement will provide, among other things, for an \$875,000 gross Qualified Settlement Fund that will be allocated to eligible Class Members after payment of any Court-approved deductions for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation. Class Members with one or more accounts with a positive balance in the Plan at the time the settlement monies are to be distributed to Class Members (referred to herein as "Current Participants") will automatically receive allocations directly to their 401(k) accounts so long as they maintain a positive balance through the time Settlement monies are distributed. As explained further under Question 4 below, Class Members who do not have an account with a positive balance in the Plan at the time the settlement monies are to be distributed to Class Members (referred to herein as "Former Participants") will receive payments (by check) if the Settlement Administrator determines that they are due \$10 (ten dollars) or more. You may be subject to state and/or federal taxes on your settlement payments, including income taxes and payroll taxes, as well as other regular deductions. You are responsible for all taxes that may be due on your settlement payments and you should consult with your own accountants or other tax professionals to determine what, if any, taxes may be owed.
- The terms and conditions of the Settlement are set forth in the Settlement Agreement dated May 4, 2022. Capitalized terms used but not defined in this Settlement Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.RampeyLitigation.com](http://www.RampeyLitigation.com). Certain other documents related to the case also will be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit, including important case documents. All papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may also be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Southern District of Alabama, 155 Saint Joseph Street, Mobile, Alabama, 36602.
- Your rights and the choices available to you — and the applicable deadlines to act — are explained in this Settlement Notice. Please note that neither Defendants nor any employees or representatives of Defendants may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court approves the Settlement and that final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on November 9, 2022 at 9:30 am before the Honorable Jeffrey U. Beaverstock at the United States District Courthouse, 155 Saint Joseph Street, Mobile, Alabama, 36602 in Courtroom 4A, to determine whether to grant final approval of the Settlement and approve the requested Attorneys' Fees and Costs, Administrative Expenses, and Class Representative's Compensation. The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at [www.RampeyLitigation.com](http://www.RampeyLitigation.com). If you intend to speak at the Fairness Hearing, you must mail a notice of intent to appear to Class Counsel, Defendants' Counsel, and the Clerk of Court, 155 Saint Joseph Street, Mobile, Alabama, 36602, at least **30 days** before the Fairness Hearing.

- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, Administrative Expenses, or Class Representative’s Compensation, along with any supporting documents, must be mailed to Class Counsel and Defendants’ Counsel, as identified under Question 11 of this Settlement Notice. Objections must also be sent to the Clerk of Court at the following address: 155 Saint Joseph Street, Mobile, Alabama, 36602. Any objection must be received at least **30 days** before the Fairness Hearing.

<b>YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT</b>	
<b>YOU CAN OBJECT ON OR BEFORE OCTOBER 10, 2022</b>	If you wish to object to any part of the Settlement, or to the request Attorneys’ Fees and Costs, Administrative Expenses, or Class Representatives’ Compensation, you must mail and objection with any supporting documents to Class Counsel and Defendants’ Counsel (as identified under Question 11 below, as well as to the Clerk of the Court.
<b>YOU CAN ATTEND A HEARING ON NOVEMBER 9, 2022</b>	You may also attend the Fairness Hearing and speak at the Fairness Hearing on November 9, 2022. You may attend the hearing without filing a notice of your intention to appear, but you will not be permitted to make an objection if you do not comply with the requirements for making objections. If you intend to speak at the Fairness Hearing, you must mail a notice of intent to appear to Class Counsel, Defendants’ Counsel, and the Clerk of Court, at least <b>30 days</b> before the Fairness Hearing.

- Your rights and options under the Settlement – **and the deadlines to exercise them** – are explained below.
- The Court presiding over this case still has to decide whether to approve the Settlement. If it does, and after any appeals are resolved, payments will be distributed to those who qualify.

**The Class Action**

The case is called *Rampey v. West Corporation*, Case No. 1:19-cv-00220-JB-B (S.D. Ala.) (the “Class Action” or “lawsuit”). It has been pending since May 6, 2019. The Court supervising the case is the United States District Court for the Southern District of Alabama. The Plaintiffs (the individuals who brought this lawsuit) are called the Class Representatives, and the entities they have sued are called Defendants. The Class Representatives, Courtless Rampey and Bridget Cunningham, are former Plan participants. The Defendants are West Corporation and Retirement Committee of West Corporation Employee 401(k) Retirement Plan. The Class Representatives’ claims are described below, and additional information about those claims is available at [www.RampeyLitigation.com](http://www.RampeyLitigation.com).

## **Statement of Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation Sought in the Class Action**

Class Counsel has devoted many hours to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from Defendants and third parties, and negotiating the Settlement. They also have advanced all costs necessary to pursue the case, and have not been paid for any of their time while this case has been pending.

Class Counsel will apply to the Court for payment of Attorneys' Fees for their work in the case. The amount of fees that Class Counsel will request will not exceed 33% of the Qualified Settlement Fund (\$290,000 (two hundred ninety thousand dollars)). In addition, Class Counsel will also seek to recover their costs and the administrative expenses associated with the settlement, up to \$50,000 (fifty thousand dollars). Any Attorneys' Fees and Costs and Administrative Expenses awarded by the Court will be paid from the Qualified Settlement Fund.

Class Counsel also will ask the Court to approve payments, not to exceed \$5,000 (five thousand dollars), for the Class Representatives who took on the risk of litigation and committed to spend the time necessary to bring the case to conclusion. Any Class Representatives Compensation awarded by the Court also will be paid from the Qualified Settlement Fund.

A full and formal application for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation will be filed with the Court on or before September 25, 2022. This application will be made available at [www.RampeyLitigation.com](http://www.RampeyLitigation.com). You may also obtain a copy of this application through the Public Access to Court Electronic Records System (PACER) at <http://www.pacer.gov>.

### **1. Why Did I Receive This Settlement Notice?**

The Court caused this Settlement Notice to be sent to you because our records indicate that you may be a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among Class Members according to a Court-approved Plan of Allocation.

### **2. What Is The Class Action About?**

In the Class Action, the Class Representatives claims that Defendants breached their fiduciary duties to the Plan and Plan participants by failing to properly manage and administer the Plan, including by monitoring and controlling the expenses paid by the Plan. The Class Representatives further claim that Plan participants suffered losses as a result of these alleged breaches of fiduciary duty.

Defendants deny all allegations of wrongdoing and deny all liability for the allegations and claims made in the Lawsuit. Defendants contend that the Plan has been managed, operated and administered at all relevant times in compliance with applicable law and that they have always acted prudently and in the best interests of participants and beneficiaries.

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

The Court has not reached a final decision as to the Class Representatives' claims. Instead, the Class Representatives and Defendants have agreed to the Settlement. The Settlement is the product of extensive negotiations between the Class Representatives, Defendants, and their counsel. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representatives and Class Counsel believe that the Settlement is best for all Class Members. Nothing in the Settlement Agreement is an admission or concession on Defendants' part of any fault or liability whatsoever. The Settlement has been entered into to avoid the uncertainty, expense, and burden of additional litigation.

### **4. What Does The Settlement Provide?**

Under the Settlement, Defendants will pay a total of \$875,000 (eight hundred and seventy-five thousand dollars) into a Qualified Settlement Fund to resolve the claims of the Class. The Net Settlement Amount (after deduction of any Court approved Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation) will be allocated to Class Members according to a Plan of Allocation to be approved by the Court (as explained further under Question 5 below). Allocations to Current Participants who are entitled to a distribution under the Plan of Allocation will be made into their existing accounts in the Plans. Former Participants who are entitled to a distribution of \$10 (ten dollars) or more will receive their payment as a check. If the Settlement Administrator determines that a Former Participant (other than the Class Representatives) is not entitled to a distribution of at least \$10 (ten dollars), that Former Participant shall receive no payment. Any funds that are not distributed because of this minimum threshold will be reallocated to other Class Members under the Plan of Allocation.

All Class Members, and their Beneficiaries/Alternate Payees, will fully release the Released Parties from Released Claims. The Released Parties include, but are not limited to, (1) Defendants; (2) Defendants' parent companies, subsidiaries, and affiliates; (3) persons who served on the Committee; (4) shareholders, directors, officers, employees, attorneys, partners, predecessors, successors, and any person or agent acting on their behalf; (5) the Plan, and any and all administrators, fiduciaries, parties in interest, service providers, and trustees of the Plan; and (6) their insurers and reinsurers. Generally, the release means that Class Members will not have the right to sue the Released Parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit or the Plan. The entire release language is set forth in the Settlement Agreement, which is available at [www.RampeyLitigation.com](http://www.RampeyLitigation.com).

### **5. How Much Will My Distribution Be?**

The amount, if any, that will be allocated to you will be based upon records maintained by the Plan's recordkeeper. Calculations regarding the individual distributions will be performed by the Settlement Administrator, whose determinations will be final and binding, pursuant to the Court approved Plan of Allocation.

To receive a distribution from the Net Settlement Amount, you must either be a (1) “Current Participant,” (2) a “Former Participant,” or (3) a Beneficiary or Alternate Payee of a person identified in (1) or (2).

The Net Settlement Amount will be divided pro rata among Class Members based on each eligible Class Member’s quarterly Balance invested in the Plan beginning with June 30, 2013 and ending with June 30, 2022. For purposes of making this determination, the Balance shall be calculated based on the quarter-ending account balance for each Former Participant and Current Participant for each quarter during the Class Period.

If you are an Alternate Payee pursuant to a Qualified Domestic Relations Order, your portion of the Settlement will be distributed pursuant to the terms of that order.

The Net Settlement Amount will also depend on the amount of any Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation that are awarded by the Court, as these will be paid out of the Gross Settlement Amount of \$875,000 (eight hundred and seventy-five thousand dollars). Class Counsel will file a motion for an award of Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation at least 30 days prior to the objection deadline. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys’ Fees to not more than thirty-three percent (33%) of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and administrative expenses associated with the Settlement, up to \$50,000 (fifty thousand dollars). In addition, Class Counsel will seek compensation for the Class Representatives of no more than \$5,000 (five thousand dollars). The Court will determine the amount of Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation that will be awarded, if any. All papers filed in this action, including Class Counsel’s motion for Attorneys’ Fees and Costs, Administrative Expenses, and Class Representatives’ Compensation, will be available for review via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

## **6. How Can I Receive My Distribution?**

**Payments will be distributed automatically to your 401(k) account if you are a Current Participant, and by check if you are a Former Participant entitled to \$10 (ten dollars) or more. You do not need to take any action to receive an automatic distribution or check payment.**

## **7. When Will I Receive My Distribution?**

The timing of the distribution of the Net Settlement Amount depends on several matters, including the Court’s final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the final approval order may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution likely will occur within three months of the Court’s Final Approval Order.

**There will be no payments under the Settlement if the Settlement Agreement is terminated.**

## **8. Can I Get Out of the Settlement?**

No. The Class has been certified for settlement purposes under Federal Rule of Civil Procedure 23(b)(1). Therefore, as a Class Member, you are bound by the Settlement (if it receives final Court approval) and any judgments or orders that are entered in the Class Action. If you wish to object to any part of the Settlement, you may write to counsel about why you object to the Settlement, as discussed below.

## **9. Do I Have a Lawyer in the Case?**

The Court has appointed the following law firms as Class Counsel in the Class Action:

Kara A. Elgersma  
WEXLER BOLEY & ELGERSMA LLP  
311 S. Wacker Drive  
Suite 1450  
Chicago IL 60606  
Telephone: (312) 589-6274  
kae@wbe-llp.com

Arthur Stock  
MILBERG COLEMAN BRYSON PHILLIPS  
GROSSMAN, PLLC  
800 South Gay Street, Suite 1100  
Knoxville, Tennessee 37929  
Telephone: (865) 247-0080 astock@milberg.com

Charles Crueger  
CRUEGER DICKINSON LLC  
4532 North Oakland Avenue Whitefish Bay,  
Wisconsin 53211 Telephone: (414) 210-3868  
cjc@cruegerdickinson.com

Jordan Lewis JORDAN LEWIS, P.A.  
4473 N.E. 11th Avenue  
Fort Lauderdale, Florida 33334 Telephone:  
(954) 616-8995 jordan@jml-lawfirm.com

Charles J. Potts  
BRISKMAN & BINION, P.C.  
P.O. Box 43  
Mobile, Alabama 36601  
Telephone: (251) 433-7600  
cpotts@briskman-binion.com

If you want to be represented by your own lawyer, you may hire one at your own expense.

## **10. How Will The Lawyers Be Paid?**

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, Administrative Expenses, and Class Representative's Compensation at least 30 days prior to the objection deadline. This motion will be made available at [www.RampeyLitigation.com](http://www.RampeyLitigation.com) and be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys' Fees to not more than one-third of the Gross Settlement Amount. Class Counsel also will seek to recover all actual and anticipated litigation costs and Administrative Expenses associated with the Settlement. In addition, Class Counsel will seek compensation for the Class Representative of no more than \$5,000 (five thousand dollars). The Court will determine the amount of fees, costs, administrative expenses, and Class Representative's compensation that will be awarded, if any. All papers filed in this action, including Class Counsel's motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representative's Compensation, will be available via the Public Access to Court Electronic Records System (PACER), available online at <http://www.pacer.gov>.

## **11. How Do I Tell The Court If I Don't Like The Settlement?**

**Questions? Visit [www.RampeyLitigation.com](http://www.RampeyLitigation.com)**



If you are a Class Member, you can object to the Settlement by mailing a written objection and any supporting documents to Class Counsel and to Defendants' Counsel at the addresses below. Class Counsel will respond to your objection in their motion for final approval of the Settlement. You must also mail a copy of all objection documents to the Clerk of Court, at the following address: 155 Saint Joseph Street, Mobile, Alabama, 36602.

Your written objection must be mailed no later than October 10, 2022 to be considered.

CLASS COUNSEL	DEFENDANTS' COUNSEL
Kara A. Elgersma WEXLER BOLEY & ELGERSMA LLP 311 S. Wacker Drive Suite 1450 Chicago IL 60606 Telephone: (312) 589-6274 kae@wbe-llp.com	Michael J. Prame Samuel I. Levin GROOM LAW GROUP, CHARTERED 1701 Pennsylvania Ave., N.W. Washington, D.C., 20006 Telephone: (202) 857-0620 mprame@groom.com slevin@groom.com

## 12. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold a Fairness Hearing at 9:30 a.m. on November 9, 2022 at the United States Courthouse, 155 Saint Joseph Street, Mobile, Alabama, 36602, in Courtroom 4A. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys' Fees and Costs, Administrative Expenses, and Class Representatives' Compensation. If there are objections, the Court will consider them then. The date and time of the Fairness Hearing are subject to change by Court Order, but any changes will be posted at [www.RampeyLitigation.com](http://www.RampeyLitigation.com).

## 13. Do I Have To Attend The Fairness Hearing?

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it.



#### **14. May I Speak At The Fairness Hearing?**

Yes. Any person wishing to speak at the Fairness Hearing shall file and serve a notice of intent to appear within the time limitation set forth above for objecting. You must also comply with the requirements for making an objection (set forth above) if you wish to object.

#### **15. What Happens If I Do Nothing At All?**

If you do nothing at all, and all conditions of the Settlement are met, you will receive your share of the Settlement as deposit into your account if you are a Current Participant, or as a check if you are a Former Participant entitled to \$10 (ten dollars) or more. You will be bound by the Settlement of the Class Action as described above in this Settlement Notice if the Settlement is finally approved, whether or not you not receive any money.

#### **16. How Do I Get More Information?**

If you have questions regarding the Settlement, you can visit [www.RampeyLitigation.com](http://www.RampeyLitigation.com), call (877) 354-3788, or write to the Settlement Administrator at West ERISA Administrator c/o A.B. Data, Ltd., PO Box 173099, Milwaukee, WI 53217 papers filed in this lawsuit are also available via the Public Access to Court Electronic Records System (PACER), at <http://www.pacer.gov>, and may be reviewed in person, as allowed by the Court, during regular business hours at the Office of the Clerk of the United States District Court for the Southern District of Alabama, 155 Saint Joseph Street, Mobile, Alabama, 36602.