

## **NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT**

A court authorized this notice. It is not a solicitation from a lawyer. It relates to matters that may be of interest to blind and visually impaired customers of the Los Angeles County Metropolitan Transportation Authority, also known as Metro.

This notice may affect your rights. Please read the complete notice carefully. Unless otherwise stated, this notice incorporates by reference the definitions set forth in the parties' Settlement Agreement described below.

### **THIS NOTICE IS DIRECTED TO THE FOLLOWING INDIVIDUALS:**

All visually impaired individuals who, at any time since July 8, 2002:

- Were passengers or potential passengers on any bus operated by Metro; or
- Attempted to obtain (or, due to their visual impairment, were deterred from attempting to obtain) information from Metro regarding bus services (including without limitation via Metro's website or telephone lines, or seeking or requesting information from Metro in any accessible or alternate format – e.g., Braille, large print, audio format); or
- Otherwise believe they experienced discrimination or were denied full and equal access as a passenger or potential passenger on a Metro bus on account of their visual impairment.

A class action lawsuit entitled *Boggs, et al. v. Los Angeles County Metropolitan Transportation Authority*, Case No. BC336334 (the "Action"), is currently pending in the Superior Court of the State of California for the County of Los Angeles. This Notice explains the nature of the litigation and the general terms of a proposed settlement of the Action.

## BASIC INFORMATION

### 1. What is this Action about?

Two individuals named Rick Boggs and Amber McLain Boggs (“Plaintiffs”) have filed a class action lawsuit against the Los Angeles County Metropolitan Transportation Authority (“Metro”), alleging that Metro has violated California disability access laws by failing to call out stops on buses; failing to stop and pick up visually impaired passengers; failing to provide schedule and route information in accessible formats; and failing to make its public website accessible by screen-readers commonly used by the visually impaired. Metro denies these allegations and denies that it has violated disability access laws.

### 2. Why is this a class action?

The Plaintiffs filed this case as a class action. In a class action, one or more individuals, called “Class Representatives” (in this case, Rick and Amber Boggs), file suit on behalf of other people with similar alleged claims. All of these people together are members of a proposed class. If the Court certifies the case as a class action, the issues are resolved in one proceeding for all class members. The Honorable Ann I. Jones of the Los Angeles Superior Court is presiding over the case.

### 3. Why is there a settlement?

The Plaintiffs and their attorneys believe the claims asserted in the Action have merit. Metro disputes the claims and denies that it has violated disability access laws or otherwise discriminated against the visually impaired. The Court has not decided in favor of the Plaintiffs or Metro. Instead, both sides have voluntarily agreed to a settlement of the Action and have signed a written Settlement Agreement. This way, the parties avoid the costs and uncertainties of a trial and other legal proceedings, and the Plaintiffs and the other individuals in the class will receive the benefits described below. The Plaintiffs, as the Class Representatives, and their attorneys, as Class Counsel, believe that the settlement is fair, reasonable, adequate, and in the best interests of the Class Members.

## WHO IS IN THE CLASS

### 4. How do I know if I am in the class?

Everyone who fits the following description is automatically a Class Member unless you "opt out" (i.e., request to be excluded) from the Class as set forth below:

All visually impaired individuals who, at any time since July 8, 2002:

- Were passengers or potential passengers on any bus operated by Metro; or
- Attempted to obtain (or, due to their visual impairment, were deterred from attempting to obtain) information from Metro regarding bus services (including without limitation via Metro's website or telephone lines, or seeking or requesting information from Metro in any accessible or alternate format – e.g., Braille, large print, audio format); or
- Otherwise believe they experienced discrimination or were denied full and equal access as a passenger or potential passenger on a Metro bus on account of their visual impairment.

### 5. How do I opt out of the settlement?

If you remain a member of the Class, you will be bound by the Court's order and judgment (if the settlement is approved by the Court) granting final approval to the settlement terms and dismissing the Action, and you will waive and release all specified claims against Metro. If you wish to be excluded from the settlement and/or pursue your own claim or lawsuit, you must submit a written request for exclusion or "opt out." Your written "opt out" request must state your name, address and telephone number, and state "I wish to opt out of the class action settlement in the Boggs lawsuit" or similar language. You must sign the opt out request and send it by (1) first class mail (postage paid) postmarked on or before February 22, 2010 to Boggs v. MTA Claims Administrator, c/o Desmond, Marcello & Amster, P.O. Box 451999, Los Angeles, CA 90045; (2) email to [boggssettlement@dmaaction.com](mailto:boggssettlement@dmaaction.com) on or before February 22, 2010; or (3) fax to (310) 216-0800 on or before February 22, 2010. If you submit a timely request to opt out, you will not participate in the settlement and you will not be a Class Member. If you opt out, you may not object to the settlement in court and you may not submit a claim for the free Bus Pass Benefit.

## THE SETTLEMENT TERMS

### 6. What does the settlement provide?

Under the basic terms of the settlement, Metro has agreed to the following improvements to its services:

- 1) Metro has agreed that its automated announcement system will continue to call out all stops on bus routes for a minimum of three years, and Metro will require and train its bus drivers to verbally announce all stops should the automated system not be operational;
- 2) Metro will upgrade its website to ensure that bus schedule, route, and fare information, the Trip Planner feature, and the online Customer Comment Form are accessible (in accordance with W3C standards) with commonly used screen-reader software for the visually impaired;
- 3) Metro will install Braille and raised number signage at 500 frequently used multi-zone bus stop locations to enable visually impaired customers to identify the routes serving those stops through the upcoming "511" automated phone system;
- 4) Metro will install Braille and raised number signage onboard all Metro buses to enable visually impaired customers to identify the coach number of the bus;
- 5) Metro will enhance its undercover monitoring program and procedures for investigating accessibility complaints by visually impaired customers;
- 6) Subject to certain limitations, Metro will provide Braille schedules for bus routes upon request from visually impaired persons;
- 7) Metro will establish a sub-committee of its existing Accessibility Advisory Committee to address accessibility concerns unique to the visually impaired;
- 8) Metro will conduct a survey of visually impaired passengers about their use of Metro's buses to determine whether additional changes to policies or practices are warranted to improve accessibility of bus services for the visually impaired;
- 9) Metro will provide free bus passes good for a one-year period for unlimited use on Metro buses for all qualifying visually impaired claimants ("Bus Pass Benefit"). To obtain a Claim Form for the Bus Pass Benefit, you may choose from the following methods: (1) submit a request to Boggs v. MTA Claims Administrator, c/o Desmond, Marcello & Amster, P.O. Box 451999, Los Angeles, CA 90045, or by e-mail [boggssettlement@dmaclassaction.com](mailto:boggssettlement@dmaclassaction.com), or fax (310) 216-0800; (2) pick up a Claim Form in person from Metro Legal Services at One Gateway Plaza, 3<sup>rd</sup> Floor, Los Angeles, CA 90012; or (3) download a Claim Form from the Internet at <http://www.metro.net/notice>.

## RELEASE OF CLAIMS

### 7. What will happen if the settlement is approved?

If the Court approves the proposed settlement, the Court will enter a judgment that will dismiss the Action on the merits and with prejudice as to all Class Members, and Metro will proceed to implement the improvements to its services in accordance with the Settlement Agreement. In addition, each qualifying Class Member who submits a timely and complete application will receive the Bus Pass Benefit. All Class Members will be deemed to have agreed to the terms of the Settlement and will be barred from prosecuting any claims they may have against Metro concerning the matters at issue in the Action arising at any time up until the final approval of the Settlement.

Each Class Member who does not timely opt out of the Settlement, and their respective heirs, executors, estates, predecessors, successors, assigns, agents and representatives, will forever and fully release and discharge Metro, its past, present and future officers, directors, employees, attorneys, predecessors, successors, divisions, subsidiaries, parent and affiliated entities, representatives, agents, contractors, assigns, and all persons acting by, through, under or in concert with any of them, including any party that was or could have been named as a defendant in the Action (collectively, "Released Parties") from any and all past and present claims, demands, and causes of action arising during the Class Period as alleged in the Complaint or the First Amended Complaint (collectively, "Released Claims").

## THE LAWYERS AND PLAINTIFFS REPRESENTING THE CLASS

### 8. Do I have a lawyer in this case?

The Court has approved the law firm of Arias, Ozzello & Gignac LLP and Eugene Feldman, Esq. to represent you and the other Class Members in this matter. Together, these lawyers are referred to as "Class Counsel." You will not be charged for the services provided by Class Counsel.

### 9. How will the lawyers be paid?

Class Counsel will ask the Court for an award of attorney's fees up to \$350,000 and reimbursement of litigation-related expenses up to \$57,000. In accordance with the terms of the Settlement Agreement, Metro will pay the fees and expenses that the Court awards and has agreed not to oppose an application to the Court for an award of attorney's fees and reimbursement of expenses in these amounts. In addition, the two Class Representatives will ask the Court for an award for services rendered on behalf of the Class up to \$20,000 each. Under the Settlement Agreement, Metro will pay the service payments that the Court awards to the two Class Representatives.

## **OBJECTING TO THE SETTLEMENT**

You have the right to tell the Court that you object to the settlement or some part of it.

### **10. How do I tell the Court that I don't like the settlement?**

If you are a Class Member and believe the Settlement is not fair, reasonable, and adequate, you have the right to object to it and to give the reasons why you think the Court should not approve it. The Court will consider your objection but is not required to follow it. If you wish to object, you must do so in writing, stating that you object to the Settlement and including your name, address, telephone number, your signature, a reference to the pending lawsuit, and the reasons for your objection. To submit your objection, you may choose from the following methods: (1) first class mail (postage paid), postmarked on or before February 22, 2010, to Boggs v. MTA Claims Administrator, c/o Desmond, Marcello & Amster, P.O. Box 451999, Los Angeles, CA 90045; (2) e-mail to boggssettlement@dmaaction.com on or before February 22, 2010; or (3) fax to (310) 216-0800 on or before February 22, 2010.

## **THE COURT'S FINAL APPROVAL 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 are not required to do so.

### **11. When and where will the Court decide whether to approve the settlement?**

The Court will hold a final approval hearing at 10:00 a.m. on March 29, 2010, in Department 308 of the Los Angeles Superior Court, 600 South Commonwealth Avenue, Los Angeles, California 90005. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. The Court will also decide how much Class Counsel will be paid for attorneys' fees and costs and how much the Class Representatives will be paid for their time and effort on behalf of the Class. After the hearing, the Court will decide whether to approve the settlement. It is not known how long these decisions will take.

### **12. Do I have to come to the hearing?**

No. Class Counsel will advise the Court of any objections received from Class Members and answer any questions that the Court may have. However, you are welcome to come at your own expense. If you submit a timely objection, you do not have to come to Court to talk about it. As long as you submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but you are not required to do so.

### 13. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must submit a written notice, stating that you intend to appear at the Final Approval Hearing and including your name, address, telephone number, your signature, and a reference to the Boggs v. Metro lawsuit. To submit your notice, you may choose from the following methods: (1) first class mail (postage paid), postmarked on or before February 22, 2010, to all of the attorneys listed below; (2) e-mail on or before February 22, 2010, to all of the attorneys listed below; or (3) fax on or before February 22, 2010, to all of the attorneys listed below.

| CLASS COUNSEL   | DEFENSE COUNSEL   |
|---|---|
| <p>Mike Arias, Esq.<br/>Mikael Stahle, Esq.<br/>Mark Bloom, Esq.<br/>Arias Ozzello &amp; Gignac LLP<br/>6701 Center Drive West, 14th Floor<br/>Los Angeles, California 90045<br/>Fax: (310) 670-1231<br/>e-mail: <a href="mailto:mstahle@aogllp.com">mstahle@aogllp.com</a></p> | <p>Donna Mezas, Esq.<br/>John Sasaki, Esq.<br/>Jones Day LLP<br/>555 South Flower Street, 50th Floor<br/>Los Angeles, CA 90071<br/>Fax: (213) 243-2539<br/>e-mail: <a href="mailto:dmezas@jonesday.com">dmezas@jonesday.com</a></p> |
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### 14. How do I get more information?

The description of the litigation and the Settlement set forth in this Notice is general and does not cover all of the issues and details. More details are set forth in the parties' Settlement Agreement. You can get a copy of the Settlement Agreement by writing to Class Counsel at the address listed above.

You can also obtain more information about the lawsuit from the case file, which is available from the Clerk of the Court, Superior Court of the State of California for the County of Los Angeles, 600 South Commonwealth Avenue, Los Angeles, California 90005. The Clerk will make the file relating to this litigation available to you for inspection and copying, at your own expense, during the Court's normal business hours.