

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

SILVIA VALDIVIA DE CABRERA, et al. v. SWIFT BEEF COMPANY, Case No. 5:18-CV-02551-PSG-E
EDDIE DURON, et al. v. JBS USA FOOD COMPANY HOLDINGS, Case No. 5:19-CV-00702 PSG(Ex)

NOTICE OF CLASS ACTION AND PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT

A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.

However, your legal rights are affected by whether you act or don't act.

TO: All current and former non-exempt employees employed by Defendant in the State of California at any time from November 2, 2014, to June 25, 2020.

The United States District Court, Central District of California, has granted preliminary approval of a proposed settlement ("Settlement") of the above-captioned actions (collectively, the "Class Action") against Swift Beef Company and JBS USA Food Company Holdings (collectively, "Defendant").

The Court has conditionally certified the following class for settlement purposes ("Class" or "Class Members"):

All current and former non-exempt employees employed by Defendant in the State of California at any time from November 2, 2014, to June 25, 2020.

The Court has also preliminarily approved a settlement of claims under the Private Attorneys General Act ("PAGA") for "PAGA Employees" who are:

All current and former non-exempt employees employed by Defendant in the State of California at any time from November 30, 2017, to June 25, 2020.

The purpose of this Notice is to provide a brief description of the claims alleged, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

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1. *Why Have I Received this Notice?*

Defendant's records indicate you may be a Class Member and/or PAGA Employee. The Settlement will resolve all Class Members' Released Claims, as described below, from November 2, 2014 through June 25, 2020 (the "Release Period"). You are a member of the Class if you were employed as a non-exempt employee by Defendant in the State of California during the period of November 2, 2014 to June 25, 2020.

A Preliminary Approval Hearing was held on June 25, 2020 in the United States District Court, Central District of California. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice. The Court also approved the PAGA settlement (described in Question 12 below).

The Court has determined only that there is sufficient evidence to suggest that the proposed Settlement might be fair, adequate, and reasonable, and that any final determination of these issues will be made at the Final Fairness Hearing.

The Court will hold a Final Fairness Hearing concerning the proposed Settlement on November 16, 2020 at 1:30 p.m. before Judge Philip S. Gutierrez located in Department 6A at the United States District Court, Central District of California, 350 West 1st Street, 6th Floor, Los Angeles, California 90012.

2. *What is this Class Action About?*

The action entitled *SILVIA VALDIVIA DE CABRERA, et al. v. SWIFT BEEF COMPANY*, Case No. 5:18-CV-02551-PSG-E, was commenced in the United States District Court, Central District of California as a putative class action. The action entitled *EDDIE DURON, et al. v. JBS USA FOOD COMPANY HOLDINGS*, Case No. 5:19-CV-00702 PSG(Ex), was commenced in the Riverside County Superior Court of the State of California as a putative class action and then removed to the United States District Court, Central District of California. Plaintiffs Silvia Valdivia De Cabrera and Eddie Duron are referred to herein as "Plaintiffs."

Relating to this Settlement, Plaintiffs' action against Defendant seeks damages, restitution, penalties, interests, costs, attorney's fees, and other relief based on the following alleged causes of action: 1) failure to provide meal periods; 2) failure to provide rest periods; 3) failure to pay overtime wages; 4) failure to pay minimum wage; 5) failure to maintain required records; 6) failure to provide accurate wage statements; 7) failure to pay wages upon separation of employment; 8) violation of Business and Professions Code Sections 17200, *et seq.*; and 9) enforcement of the Private Attorneys General Act ("PAGA").

The Court has not made any determination as to whether the claims advanced by Plaintiffs have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiffs or Defendant. Instead, both sides agreed to resolve the Class Action with no decision or admission of who is right or wrong. By agreeing to resolve the Class Action, all parties avoid the risks and cost of a trial.

Defendant expressly denies that it did anything wrong or that it violated the law and further denies any liability whatsoever to Plaintiffs, the Class, or PAGA Employees.

3. *Am I a Class Member?*

You are a member of the Class if you were employed as a non-exempt employee by Defendant in the State of California at any time during the period of November 2, 2014 to June 25, 2020.

4. *How Does this Class Action Settlement Work?*

In this Class Action, Plaintiffs sued on behalf of themselves and all other similarly-situated employees. Plaintiffs and these other current and former employees comprise a "Class" and are "Class Members" for purposes of Settlement. The Settlement of this Class Action resolves the Released Claims of all Class Members except for Class Members who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiffs and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class. The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Plaintiffs' counsel, whose contact information is below, and they will provide you with a copy via e-mail free of charge.

5. Who are the Attorneys Representing the Class?

Attorneys for Plaintiff and the Class	
<p>Andranik Tsarukyan, Bar No. 258241 Armen Zenjiryanyan, Bar No. 261073 REMEDY LAW GROUP LLP 610 E. Providencia Avenue, Unit B Burbank, CA 91501 Telephone: 818.422.5941</p> <p>Shaun Setareh, Bar No. 204514 Thomas Segal, Bar No. 222791 SETAREH LAW GROUP 315 S. Beverly Drive, Suite 315 Beverly Hills, CA 90212 Telephone: 310.888.7771 Fax: 310.888-0109</p> <p>Attorneys for Plaintiffs, SILVIA VALDIVIA DE CABRERA and EDDIE DURON</p>	

The Court has conditionally decided that REMEDY LAW GROUP LLP and SETAREH LAW GROUP are qualified to represent you and all other Class Members simultaneously. As part of this Settlement, Plaintiffs' Counsel is working on your behalf. If you want your own attorney, you may hire one at your own cost.

6. What are My Options?

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendant will take no actions against you in any way because you participate or do not participate in this Settlement.

- **DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of this Class Action and will receive an Individual Settlement Share based on the total number of workweeks you were employed by Defendant during the Release Period. As a result, you will waive all of the Released Claims, as defined in Section 9 below, against Defendant and all Released Parties, and you will give up your right to file a lawsuit against any Released Parties based on the Released Claims as defined in Section 9 below.
- **OPT OUT:** If you do not want to participate as a Class Member, you may "opt out," which will remove you from the Class and this Class Action. If the Court grants final approval of the Settlement, you will not receive an Individual Settlement Share and you will not give up the right to sue the Released Parties for any of the Released Claims as defined in Section 9 below. If you are a PAGA Employee, you will, however, still release the PAGA Released Claims and receive a payment from the PAGA Fund (described in Question 12).
- **OBJECT:** You may file a legal objection to the proposed Settlement. If you would like to object, you may not opt out of this Settlement.

The procedures for opting out and objecting are set forth below in the sections entitled "How do I Opt Out or Exclude Myself from this Settlement?" and "How do I Object to the Settlement?"

7. How do I Opt Out or Exclude Myself from this Settlement?

If you do not wish to participate in the Settlement, you may be excluded (i.e., “opt out”) by sending a timely written Request for Exclusion that contains your name, address, telephone number, the last four digits of your Social Security number, and the names of the cases and case numbers for the Class Action (*Silvia Valdivia De Cabrera v. Swift Beef Company*, Case No. 5:18-CV-02551-PSG-E, and *Eddie Duron v. JBS USA Food Company Holdings*, Case No. 5:19-CV-00702-PSG-E). If you opt out of the Settlement, you will not be releasing the claims set forth in Question 9.

The Exclusion Form must be signed, dated, and mailed by First Class U.S. Mail, postmarked no later than October 5, 2020, to: De Cabrera & Duron Class Action, c/o Phoenix Class Action Administration Solutions, 1411 N. Batavia St., Suite 105, Orange, CA 92863.

The Court will exclude any Class Member who submits a complete and timely Exclusion Form as described in the paragraph above. Any Class Member who fails to submit a valid and timely Exclusion Form on or before the above-specified deadline will be bound by all terms of the Settlement, Release and any Judgment entered in the Class Action if the Settlement receives final approval from the Court.

8. How do I Object to the Settlement?

If you are a Class Member who does not opt out of the Settlement, you may choose to object to the Settlement, personally or through an attorney, by mailing a written objection to the Settlement Administrator at De Cabrera & Duron Class Action, c/o Phoenix Class Action Administration Solutions, 1411 N. Batavia St., Suite 105, Orange, CA 92863 by October 5, 2020. The written objection must: (a) state your full name, address, and telephone number; (b) state the words “Notice of Objection” or “Formal Objection”; (c) describe, in clear and concise terms, the grounds for your objection; (d) indicate whether you are represented by counsel; (e) indicate whether you would like to appear at the Final Approval Hearing; and (f) identify the name of the Class Action (*Silvia Valdivia De Cabrera v. Swift Beef Company*, Case No. 5:18-CV-02551-PSG-E, and *Eddie Duron v. JBS USA Food Company Holdings*, Case No. 5:19-CV-00702-PSG-E).

Class Members who timely file valid objections to the Settlement may appear at the Final Approval Hearing, either in person or through the objector’s own counsel, provided the objector has first notified the Settlement Administrator by sending his/her written objections to the Settlement Administrator, postmarked no later than October 5, 2020. Class Members’ timely and valid objections to the Settlement will still be considered even if the objector does not appear at the Final Approval Hearing.

If the Court rejects the Notice of Objection, the Class Member will receive an Individual Settlement Share and will be bound by the terms of the Settlement.

9. How does this Settlement Affect My Rights? What are the Released Claims?

If the proposed Settlement is approved by the Court, a Final Judgment will be entered by the Court. All Class Members who do not validly opt-out of the Settlement will be bound by the Court’s Final Judgment and will fully release and discharge Defendant and its past, present and future parent companies, subsidiaries, affiliates, divisions, and agents and their respective partners, principals, managers, officers, directors, employees, shareholders, members, advisors, consultants, insurers and reinsurers, subrogees, auditors, heirs, personal or legal representatives, accountants, attorneys, trustees, assigns, real or alleged alter egos, predecessors, successors, transferees, managing agents, and investors (collectively, “Released Parties”) from the Released Claims. Without limiting the foregoing, Released Parties include Swift Beef Company, JBS USA, LLC, JBS USA Holdings, Inc., JBS USA, JBS USA, Inc., Swift & Company, Inc., Pilgrim’s Pride Corporation, JBS USA Food Company, and JBS USA Food Company Holdings. The “Released Claims” are as follows:

Plaintiffs and the other Class Members who do not opt out are releasing, in exchange for the consideration provided for by the Settlement, all claims, liabilities, demands, causes of actions, rights, and obligations for (1) failure to provide meal periods; (2) failure to provide rest periods; (3) failure to pay overtime wages; (4) failure to pay minimum wages; (5) failure to maintain required records; (6) failure to provide accurate wage statements; (7) failure to pay wages upon separation of employment; (8) any related claims, including for unfair business practices in violation of California’s Business and Professions Code, Sections 17200, *et seq.*, and (9) any and all claims under federal or state law, statutory, constitutional, contractual or common law claims that were or could have been pled based upon the factual allegations contained in the Class Action complaints, except those under the Fair Credit Reporting Act, Investigative Consumer Reporting Agencies Act, or Consumer Credit Reporting Agencies Act.

Without limiting the foregoing, the Released Claims include all claims described above—that is, those claims that are or reasonably could have been asserted in the Class Action by Plaintiffs, except those under the Fair Credit Reporting Act, Investigative Consumer Reporting Agencies Act, or Consumer Credit Reporting Agencies Act—whether known or unknown, which may arise out of or directly or indirectly relate to such facts alleged in the Class Action pleadings, including all claims for wages, overtime pay, bonuses, commissions, premium pay such as meal and rest period premiums, final wages, waiting time penalties, minimum wages, penalties such as penalties for incorrect wage statements, wages due on termination, any and all equitable relief, liquidated damages or any pay, premium, or civil or statutory penalty provided for under the California Labor Code, California’s Business and Professions Code, or other applicable wage-and-hour statutes.

Thus, if a Class Member participates in the Settlement, then even if the Class Member discovers facts in addition to, or different from, those that he or she now knows or believes to be true or otherwise fails to discover facts with respect to the subject matter of the Released Claims, those claims will remain released and forever barred. Class Members who do not timely opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Class Action are undisputed. The Released Claims will be as to the Released Parties for the period from November 2, 2014 to June 25, 2020.

10. How Much Can I Expect to Receive From This Settlement?

The total maximum amount that Defendant could be required to pay under this Settlement shall be \$750,000.00 (“Gross Settlement Amount”) plus the employer’s share of applicable payroll taxes.

The “Net Settlement Amount” means the portion of the Gross Settlement Amount available for distribution to Class Members after the deduction of the following:

- Attorneys’ Fee Award (up to \$249,999.99),
- Cost Award (up to \$10,000.00),
- Class Representative Enhancements (up to \$7,500.00 for each named plaintiff),
- PAGA Payment (\$7,500.00) and
- Administration Costs (up to \$15,000.00).

All of these payments are subject to Court approval.

After deducting the above-referenced items, the remaining Net Settlement Amount will be distributed amongst all Class Members who have not opted-out. The Settlement Administrator will calculate the Individual Settlement Shares for Participating Class Members. Each Participating Class Member will receive a proportionate share of the Net Settlement Amount that is equal to (i) the number of weeks he or she worked based on the data provided by Defendant, divided by (ii) the total number of weeks worked by all Class Members who did not opt out, which is then multiplied by the Net Settlement Amount.

Although your exact share of the Net Settlement Amount cannot be precisely calculated until after the time during which individuals may object or seek exclusion from the Settlement, based upon the calculation above, your approximate share of the Net Settlement Amount is «Est_Set_Amt» (your “Individual Settlement Share”), less tax withholdings customarily made from employee’s wages. This is based on Defendant’s records, which show you worked «Total_Weeks» workweeks during the period of November 2, 2014 to June 25, 2020.

If you believe the number of workweeks is incorrect, you may provide documentation and/or an explanation to show contrary information to the Settlement Administrator at De Cabrera & Duron Class Action, c/o Phoenix Class Action Administration Solutions, 1411 N. Batavia St., Suite 105, Orange, CA 92863 on or before October 5, 2020.

Twenty percent (20%) of your Individual Settlement Share will be treated as unpaid wages. Applicable taxes will be withheld from the wages portion of your Individual Settlement Share only and reported on an IRS Form W-2. The remaining eighty percent (80%) of your Individual Settlement Share will be treated as penalties and interest and will be paid pursuant to an IRS Form 1099.

It is strongly recommended that upon receipt of your Individual Settlement Share check, you immediately cash it. If any Settlement checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the uncashed checks to the State Controller’s Office Unclaimed Property Division as unclaimed property.

11. How Will the Attorneys for the Class and the Class Representative be Paid?

The attorneys for Plaintiffs and the Class will be paid from the Gross Settlement Amount. Subject to Court approval, the attorneys for Plaintiff and the Class shall be paid an amount not to exceed one-third of the Gross Settlement Amount (or \$249,999.99) for attorney fees and up to \$10,000 for litigation costs.

The Plaintiffs will also be paid a Class Representative Enhancement Payment, up to \$7,500.00 each, subject to Court approval.

12. What are the PAGA Released Claims?

If you were employed by Defendant at any time in the State of California during the period of November 30, 2017 to June 25, 2020, you are a “PAGA Employee.” The Court approved the PAGA settlement on June 25, 2020.

As part of the Settlement, Defendant has agreed to pay a PAGA Payment of \$7,500. Seventy-five percent (75%) of the PAGA Payment goes to the California Labor and Workforce Development Agency (“LWDA”) and twenty-five percent (25%) is divided among PAGA Employees. The 25% that goes to PAGA Employees is called the PAGA Fund.

The PAGA Fund is allocated to each PAGA Employee based on the number of weeks worked by each PAGA Employee during the period of November 30, 2017 to June 25, 2020. The amount to be paid per workweek worked by a PAGA Employee will be calculated on a pro rata basis by dividing the value of the portion of the PAGA Fund that will be paid to each PAGA Employee by the total number of weeks worked by all PAGA Employees during the PAGA Period.

In consideration for the PAGA Payment, Plaintiffs and the other PAGA Employees are releasing all claims, liabilities, demands, causes of action, rights, penalties, and obligations of any nature under the California Private Attorneys General Act of 2004 (Cal. Labor Code §§ 2698 *et seq.*) against all Released Parties (as defined above). Without limiting the generality of the foregoing, “PAGA Released Claims” include all claims that are or reasonably could have been asserted in the Class Action under PAGA, whether known or unknown, which may arise out of or directly or indirectly relate to such facts alleged, including all claims for wages, overtime pay, premium pay such as meal and rest period premiums, final wages, waiting time penalties, minimum wages, penalties such as penalties for incorrect wage statements, wages due on termination, any and all equitable relief, liquidated damages or any pay, premium, or civil or statutory penalty, and any derivative violation under PAGA. The PAGA Released Claims shall extend from November 30, 2017 June 25, 2020.

If you are a Class Member who does not opt-out of the Settlement and is a PAGA Employee, you will only receive one check that combines your Individual Settlement Share and your payment related to the PAGA Fund.

It is strongly recommended that upon receipt of your check, you immediately cash it. If any checks remain uncashed or not deposited by the expiration of the 180-day period after mailing, the Settlement Administrator will, within two hundred (200) calendar days after the checks are mailed, pay the amount of the uncashed checks to the State Controller’s Office Unclaimed Property Division as unclaimed property.

* * *

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above or the Settlement Administrator at the telephone number listed below, toll free. When contacting the Settlement Administrator, please refer to the De Cabrera & Duron Class Action.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court at the United States District Court, Central District of California at 350 West 1st Street, Los Angeles, California 90012 between 8:30 a.m. and 4:00 p.m.

You may also contact Plaintiffs’ counsel, whose contact information is above, and they will provide you with a copy via email of the Settlement documents or case documents free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR COURT’S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.