

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**SUPERIOR COURT OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES
DEMAR APARICIO V. LINEAGE LOGISTICS LLC, ET AL., CASE NO. BC722764**

A court authorized this notice. This is not a solicitation from a lawyer.

ATTENTION: IF YOU HAVE WORKED AT U.S. GROWERS COLD STORAGE, INC. AS A NON-EXEMPT EMPLOYEE DURING THE PERIOD SEPTEMBER 21, 2014 TO NOVEMBER 17, 2017, YOU ARE ENTITLED TO A SHARE OF A PROPOSED CLASS ACTION SETTLEMENT.

TO UNDERSTAND YOUR RIGHTS, READ THIS NOTICE CAREFULLY.

- A proposed class action settlement (“the Settlement”) has been reached between plaintiff Demar Aparicio (“Plaintiff”), on behalf of himself and the below-defined Class Members, and Defendant U.S. Growers Cold Storage, Inc. (“Defendant”).
- The Settlement resolves a putative class action lawsuit alleging that Defendant: failed to pay minimum wage and/or overtime wages for all hours worked; failed to provide reimbursement for business-related expenses; failed to provide proper meal and rest periods; failed to provide accurate itemized wage statements; failed to timely pay final wages; engaged in unfair competition; and violated the Private Attorneys General Act (the “Action”).
- Defendant has denied, and continues to deny, the factual allegations and legal claims asserted in the Action and believes that Plaintiff’s claims have no merit. By agreeing to this Settlement, Defendant is not admitting liability on any of the factual allegations or claims asserted in the Action, or that the Action can or should proceed as a class action. Defendant has agreed to settle the Action solely for economic efficiency.
- The Settlement provides for settlement payments based on the number of work weeks you worked for Defendant as a non-exempt employee, at any time from September 21, 2014 to November 17, 2017.

Your estimated minimum settlement payment and covered work weeks worked during the relevant period are printed on the enclosed sheet.

| OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT | |
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| DO NOTHING | Subject to the Court’s final approval of the Settlement, you will receive a settlement payment at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator). In exchange, you will give up your claims in this case within the scope of the release set forth below. |
| EXCLUDE YOURSELF | If you submit a Request for Exclusion, you will <u>not</u> receive a settlement payment but you will keep your claims against Defendant. You are not permitted to object to the Settlement if you exclude yourself from the Settlement. |
| OBJECT | If you wish to object to the Settlement, you must submit a written Objection and supporting papers to the Settlement Administrator that is postmarked or faxed no later than November 13, 2020. |

- **These rights and options, and how to exercise them, are explained in more detail in this notice.**
- **The Court handling this case still has to decide whether to grant final approval of the Settlement. Settlement payments will only be issued if the Court grants final approval of the Settlement.**
- **Additional information regarding the Settlement is available through the Settlement Administrator Class Counsel, or Defendant’s counsel, whose contact information is provided in this notice.**

BASIC INFORMATION

1. Why did I get this notice?

Defendant's records show that you have worked at least one work week for U.S. Growers Cold Storage, Inc. as a non-exempt employee at some point from September 21, 2014 to November 17, 2017. This notice explains the Action, the Settlement, and your legal rights.

2. What is the Action about?

The lawsuit is known as *Demar Aparicio v. Lineage Logistics LLC, et al.*, and is pending in the Superior Court of California for the County of Los Angeles, Case No. BC722764 (the "Action"). Demar Aparicio is called the Plaintiff, and the company he sued, U.S. Growers Cold Storage, Inc., is called the Defendant. Lineage Logistics, LLC was dismissed from the lawsuit.

The Action generally involves claims under California's wage and hour laws. Plaintiff worked for Defendant as a non-exempt employee. He alleges that Defendant did not: properly pay minimum wage and overtime compensation for all hours worked; provide meal and rest periods in compliance with California law; reimburse employees for all necessary business expenditures; provide itemized wage statements in compliance with California law; and pay timely final wages upon separation of employment. Plaintiff further claims that Defendant engaged in unfair competition and violated the California Private Attorneys' General Act ("PAGA"). As a result, Plaintiff alleges that he and the Settlement Class (defined in response to Question 4 below) are entitled to recover unpaid wages, interest, and statutory and civil penalties.

Defendant denies all of Plaintiff's claims, denies that it violated the law in any way, and has agreed to settle the Action solely for economic efficiency. The Court has not decided whether there is any merit to Plaintiff's claims. However, both Plaintiff and Defendant believe that the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the of the Settlement Class members.

3. Why is this lawsuit a class action?

In a class action, one or more people called the "Plaintiff" sues on behalf of people who the Plaintiff alleges have similar claims. All of these people are part of a putative "class" or putative "class members." If the Court certifies the putative class, the Court resolves the issues for all class members, except for those who exclude themselves from the class. On August 17, 2020, the Honorable Ann I. Jones issued an order conditionally certifying the Settlement Class for purposes of settlement only.

4. Who is in the Settlement Class?

"Class Members" or the "Settlement Class" means all former non-exempt employee who have worked for Defendant in California at any time between September 21, 2014 to November 17, 2017.

5. Why is there a settlement?

After conducting substantial fact discovery, including but not limited to reviewing policies, payroll records, time records, and emails, both sides agreed to the Settlement to avoid the cost and risk of further litigation. The Settlement does not mean that any law was broken. Defendant denies all of the claims asserted in the Action, denies that it has violated any laws, and believes it has at all times paid its nonexempt employees correctly and fully complied with all applicable laws. Plaintiff and his lawyers think the Settlement is in the best interests of all Settlement Class Members.

THE SETTLEMENT BENEFITS—WHAT YOU GET

6. What does the settlement provide?

Under the terms of the Settlement, Defendant agrees to pay a Maximum Settlement Amount of \$1,000,000.00. Deducted from this Maximum Settlement Amount will be sums approved by the Court for attorneys' fees (not to exceed \$333,333.33, or one-third of the Maximum Settlement Amount), attorneys' actual costs (not to exceed \$12,000), Class Representative Enhancement Awards to the Plaintiff for his service to the Class (not to exceed \$10,000), payment of \$37,500 to the State of California Labor and Workforce Development Agency for alleged civil penalties under the PAGA, and the fees and expenses of the Settlement Administrator, Phoenix Settlement Administrators (estimated not to exceed \$9,000). The Settlement Administrator will distribute the remaining Net Settlement Amount to Settlement Class Members who do not opt out ("Participating Class Members") pursuant to the formula described below.

Individual Settlement Payment: The Net Settlement Amount will be distributed to Participating Class Members as follows:

Compensable work weeks will be all work weeks Participating Class Members worked for Defendant between September 21, 2014 to November 17, 2017. The dollars per compensable Work Week (“Work Week Value”) will be calculated by dividing the Net Settlement Amount by the total number of Work Weeks worked by the Participating Class Members. The Work Week Value will be multiplied by the number of Work Weeks worked as a member of the Settlement Class during the period from September 21, 2014 to November 17, 2017 to determine the distribution for the Participating Class Member. All Participating Class Members will be entitled to payment for at least one Work Week.

20% of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form W-2 as unpaid wages subject to all applicable tax withholdings. 80% of the Individual Settlement Award paid to each Participating Class Member shall be reported on an IRS Form 1099 as non-wage penalties and interest not subject to payroll tax withholdings. Each Participating Class Member will be responsible for correctly characterizing the compensation for tax purposes and for payment of any taxes on any amount received. Defendant will be responsible for paying its share of payroll taxes.

Your estimated minimum settlement payment is «**Est_Set_Amt**» and your covered Work Weeks worked between September 21, 2014 to November 17, 2017 are «**Total_Weeks**». To the extent you dispute the number of Work Weeks, you must make your dispute (“Work Week Dispute”) in writing and send it to the Settlement Administrator via fax or mail. Your Work Week Dispute must be postmarked or faxed no later than **November 13, 2020** (the “Response Deadline”) to:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863

Your Work Week Dispute must be in writing and contain: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of Work Weeks you contend is correct; and (c) any evidence supporting your contention. Defendant’s records will be presumed correct unless you prove otherwise by credible evidence. The Settlement Administrator will resolve and decide all Work Week Disputes, and its decisions will be final and non-appealable.

The Settlement will become final on the Effective Date. The Effective Date of the Settlement will be 65 days after the Court has held a formal fairness hearing and entered a final Order and Judgment certifying the Settlement Class if there are no written objections to the proposed Settlement, or if written objections are filed with the Court and later withdrawn or denied. If written objections are filed which are *not* later withdrawn or denied, the Effective Date of the Settlement is five (5) business days after the period for filing any appeal opposing the Court’s final Order, or five (5) business days after any appeal has been finally and conclusively dismissed.

Once the Settlement becomes final (as defined above), Defendant will have 21 days to deposit the settlement funds into a bank account. Within 14 days after Defendant deposits the funds, the settlement payments to Participating Class Members will be made, in addition to any service payments to the Class Representatives, and any payment to Class Counsel for their awarded attorneys’ fees and expenses.

7. What am I giving up in exchange for the settlement benefits?

In exchange for the settlement payment, each member of the Settlement Class who does not submit a valid Request for Exclusion (defined in response to Question 10 below), *i.e.*, Participating Class Members, will release Defendant and all of its present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims (defined below), and Defense counsel of record in the Action (collectively, the “Released Parties”), of all claims under state, federal or local law, whether statutory, common law or administrative law, arising out of the claims expressly pleaded in the Action and all other claims that could have been pleaded based on the facts pleaded in the Action, including but not limited to: claims for minimum wage violations; failure to pay overtime wages; unreimbursed expenses; failure to provide rest periods and/or pay penalties for missed rest periods; failure to provide meal periods and/or pay penalties for missed meal periods; itemized wage statement violations; waiting time penalties; unfair competition; declaratory relief; and claims for violation of the PAGA; including, but not limited to, injunctive relief; punitive damages; liquidated damages, penalties of any nature; interest; fees including but not limited to California Code of Civil Procedure 1021.5; costs; and all other claims and allegations made or which could have been made in the Action based on the facts and allegations pled in the operative Complaint from September 21, 2014 to November 17, 2017 (collectively, “Released Claims”). Further, those Class Members who cash, deposit, or otherwise negotiate their Individual Settlement Payment checks will be deemed to have opted in for purposes of the Fair Labor

Standards Act (“FLSA”) and to have released all of the Released Parties of all minimum wage and overtime claims which arose under the FLSA during the Class Period.

HOW TO GET A SETTLEMENT PAYMENT

8. How do I get a settlement payment?

Subject to the Court’s final approval of the terms of the Settlement, you will automatically be sent a settlement payment at the address where this Notice was mailed (unless you timely provide a forwarding address to the Settlement Administrator) in exchange for which you will release the Released Parties for any of the Released Claims (as defined in Section 7 above).

9. When will I get my check?

Checks will be mailed to Participating Class Members eligible to receive benefits under the Settlement after the Court grants “final approval” of the Settlement. If the judge approves the Settlement after a hearing on January 11, 2021 (see “The Court’s Final Approval Hearing” below), there may be appeals. If there are any appeals, resolving them could take some time, so please be patient. Please also be advised that you will only have 180 days from the date that the checks are issued to cash them. If you do not cash your check within 180 days of the date of its issuance, your Individual Settlement Payment shall be voided. The funds from all checks that are not cashed within 180 days will be transmitted to the California State Controller’s Office pursuant to California’s unclaimed property laws in the name of the Participating Class Members whose checks were not cashed. Please note that in the event that you do not cash your Individual Settlement Payment check, you shall nevertheless remain bound by the Settlement.

EXCLUDING YOURSELF FROM THE SETTLEMENT

10. How do I ask the Court to exclude me from the Settlement Class?

If you do not wish to participate in the Settlement, you must send a written Request for Exclusion to the Settlement Administrator to “opt out” of the Settlement. The Request for Exclusion must be in writing and must: (a) be signed; (b) contain your name, address, telephone number, and the last four digits of your Social Security number; and (c) clearly state that you do not wish to be included in the Settlement. The Request for Exclusion must be postmarked or faxed no later than the Response Deadline, **November 13, 2020** to:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863

The date of the fax or postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. A Class Member who does not request exclusion from the Settlement will be deemed a “Participating Class Member” and will be bound by all terms of the Settlement if the Settlement is granted final approval by the Court.

11. If I exclude myself, can I get anything from the settlement?

No. If you ask to be excluded, and the Settlement is granted final approval by the Court, you will not get a settlement payment and you will not be bound by the Settlement. You are also prohibited from objecting to the Settlement if you exclude yourself from the Settlement.

OBJECTING TO THE SETTLEMENT

12. How do I object to the Settlement?

If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing and state your objections to the Court, you can have an attorney object for you, or you can submit a simple written statement of objection to the Settlement Administrator. The written objection must be faxed or postmarked no later than the Response Deadline, **November 13, 2020** to:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863

If you submit a written objection to the proposed Settlement, it must include: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number, (b) a written statement of all grounds for your objection accompanied by any legal support for your objection, and (c) copies of any papers, briefs, or other documents upon which your objection is based. If you fail to object in the manner and by the deadline specified in this Notice, the Court may find that you have waived your objection. However, in the discretion of the Court, any Participating Class Member, or person purporting to object on behalf of any Participating Class Member, may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Settlement Administrator.

13. What's the difference between objecting and asking to be excluded?

Objecting is simply telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. By submitting an objection you are not excluding yourself from the Settlement; you will remain eligible to receive monetary compensation from the Settlement and be bound by the Settlement if the Court grants final approval. Please note that you cannot both object to the Settlement and exclude yourself from the Settlement. You can only choose one of those options (but you can also choose to do nothing if you have no objections and just want to get a payment).

IF YOU DO NOTHING

14. What happens if I do nothing at all?

If you do nothing, you will automatically receive a payment from this Settlement as described above and you will be bound by the release of claims, subject to the Court's final approval of the terms of the Settlement.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. If you have not asked to exclude yourself from the Settlement, you may attend and you may ask to speak, but you don't have to.

15. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval/Settlement Fairness Hearing on January 11, 2021 at 11:00 a.m. in Department 11 at the Superior Court of California for the County of Los Angeles, located at 312 N. Spring St., Los Angeles, 90012. The hearing may be moved to a different date and/or time without additional notice. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will only listen to people who have asked to speak at the hearing. The Court will also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website created by the Settlement Administrator for this case for a period of at least 90 days following the entry of that Order in the Court record. That website is: www.phoenixclassaction.com/aparicio-v-lineage.

16. Do I have to come to the hearing?

No. Class Counsel and Defendant's counsel will answer any questions the judge 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 (at your own expense) another lawyer to attend, but it is not required.

17. May I speak at the hearing?

If a Participating Class Member wishes to appear at the Final Approval Hearing and orally present his or her objection to the Court, the Court will determine whether and for how long any Participating Class Member may be received or considered by the Court at the Final Approval Hearing, regardless of whether a written notice of objection is filed or delivered to the Parties.

GETTING MORE INFORMATION

18. How do I get more information?

This Settlement Notice is only a summary of the Action and the Settlement. Class Members should contact the Settlement Administrator at (800) 523-5773 with any concerns or questions regarding the Settlement. You may also refer to the pleadings, the FIRST AMENDED JOINT STIPULATION OF CLASS AND PAGA RELEASE BETWEEN PLAINTIFF DEMAR APARICIO, ON BEHALF OF HIMSELF AND ALL OTHERS SIMILARLY SITUATED, AND DEFENDANT U.S. GROWERS COLD STORAGE, INC. attached to the Supplemental Declaration of H. Scott Leviant in Support of Plaintiff's Motion for Preliminary Approval, and other papers filed in the Action, which may be inspected at the Office of the Clerk for the Superior Court of California for the County of Los Angeles, 312 N. Spring St., Los Angeles, 90012.

All inquiries by Class Members regarding this Notice and/or the Settlement should be directed to the Settlement Administrator or Counsel for the Parties, at the addresses set forth below.

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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH QUESTIONS.