

United States District Court – Central District
Anita Trejo v. Lyneer Staffing Solutions, LLC, Ciera Staffing, LLC, Employers HR, LLC, and Yusen Logistics (Americas), Inc. Wage and Hour Putative Class Action and PAGA Representative Action
Case No. 2:19-cv-04132 DSF (JCx)

NOTICE OF SETTLEMENT OF CLASS ACTION

TO UNDERSTAND YOUR RIGHTS, READ THIS NOTICE CAREFULLY.

PLEASE READ THIS NOTICE CAREFULLY. This Notice relates to the proposed Settlement of the Action. If you are a Class Member, it contains important information affecting your rights to participate in the Settlement as further described below. This Notice advises you of the terms of the Settlement and your rights and options under it.

ATTENTION: If you were assigned by Lyneer Staffing Solutions, LLC, Ciera Staffing, LLC, and Employers HR, LLC to perform work for Yusen Logistics (Americas), Inc. in California at any time from July 1, 2017 to August 25, 2019 (“Class Period”), you are a “Class Member” and may be eligible to receive money from a proposed Settlement in the above-captioned class action lawsuit (the “Action”).

To be eligible for your share of the Settlement, you **are not** required to make a claim. However, **if you have moved or plan to move, you must update** the Claims Administrator, Phoenix Settlement Administrators P.O. Box 7208, Orange, CA, 92863, with any change of address.

What is this proposed Settlement about?

Plaintiff Anita Trejo (“Plaintiff”) filed a lawsuit on March 27, 2019 against Defendants. The Action alleges that Defendants failed to provide meal periods; failed to provide rest periods; failed to pay hourly wages; rounded time entries to deprive Class Members of wages; required Class Members to work “off the clock”; required Class Members to arrive to work early without compensation; failed to pay minimum wage; failed to pay overtime compensation; failed to provide accurate itemized wage statements; and failed to pay all wages due to discharged and quitting employees and incurred penalties under the California Labor Code’s Private Attorneys General Act of 2004 (Lab. Code, § 2698, *et seq.*, “PAGA”) (“Claims”). The Action was brought as a putative class action and Plaintiff sought damages, penalties, injunctive relief, and restitution, as well as interest, attorneys’ fees, and costs on behalf of himself and Class Members.

The proposed Settlement is not an admission of liability by Defendants. Throughout the pendency of the Action, Defendants has denied any liability or wrongdoing, or that any compensable injury arose out of any of the matters alleged in the Action. Defendants contend that they have complied with all California and Federal laws regarding the claims alleged in this matter.

The Action has been vigorously litigated since it was filed. Substantial discovery has taken place. Additionally, Plaintiff and Defendants (collectively referred to herein as the “Parties”) participated in a mediation conducted by a professional mediator. During the course of negotiations following mediation, the Parties reached an agreement to settle the Action.

Under the proposed Settlement, Defendants agreed to make payments to Class Members who do not opt out of the Settlement (“Settlement Class Members”). These payments will be based on the number of Compensable Work Weeks each Settlement Class Member worked during the Class Period, as more fully described below.

Defendants also agree to pay the settlement administration costs, an enhancement payment to Plaintiff, a payment to the California Labor & Workforce Development Agency (“LWDA”), and attorneys’ fees and costs to Plaintiff’s counsel (“Class Counsel”) up to an amount described below, subject to court approval. Defendants’ maximum total obligation under the proposed Settlement is four hundred eighty thousand dollars (\$480,000.00) exclusive of Defendants’ share of employer taxes.

Class Counsel believes that the proposed Settlement is in the best interests of the Class Members. Further proceedings would be very expensive and take a long time. Moreover, no one can predict the precise outcome of the disputed issues in this case. Therefore, Class Counsel believes that the proposed Settlement is fair, reasonable, and adequate for the Class Members.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, reasonable, and adequate. Any final determination of those issues will be made at the Final Approval Hearing.

Summary of the proposed Settlement

Defendants have agreed to pay four hundred eighty thousand dollars (\$480,000.00) (“Gross Settlement Amount”) to resolve all claims that were alleged in the Action or any subsequent amendment thereto or that could have been alleged based on the facts alleged in the Action and for Class Members’ release of claims described below. If finally approved by the Court, the proposed Settlement will distribute money as follows:

Awards to Settlement Class Members: Settlement Class Members (Class Members who do not timely exclude themselves from the Settlement) will be paid a pro-rata share of the Net Settlement Amount. “Net Settlement Amount” means the Gross Settlement Amount of four hundred eighty thousand dollars (\$480,000.00) minus the payment of (a) any award of attorneys’ fees and Litigation costs, (b) Settlement Administration Costs, (c) Plaintiff’s Enhancement Payment, and (d) the portion of the PAGA Payment allocable to the LWDA, all of which are described below. The Net Settlement Amount is (\$266,500.00).

The Claims Administrator will calculate each Settlement Class Member’s pro-rata share of the Settlement as follows: The Claims Administrator will calculate the number of total Compensable Work Weeks for each Settlement Class Member. Work Weeks will be calculated according to records and information provided by Defendants. For employees eligible for a share under the California Labor Code’s Private Attorneys General Act of 2004 (Lab. Code, § 2698 *et seq.*) (“PAGA”), the Claims Administrator will also calculate the employee’s share of the PAGA Allocation based on records and information provided by Defendants on eligible employees’ Pay Periods. Settlement Awards shall be subject to applicable withholding taxes. Defendants’ share of payroll taxes arising from the Settlement Awards will not be deducted from the Gross Settlement Fund.

Based on Defendants’ records, your total “Work Weeks” during the Class Period are _____. Based on the same, your individual Settlement Payment will be \$ _____. [IF APPLICABLE/ELIGIBLE FOR PAGA PENALTIES] Your total “Pay Periods” are _____, and based on the same, your share of the PAGA Allocation will be \$ _____. If you wish to participate in the Settlement **but you do not agree** with the number of Work Weeks shown on the form, **you must** ask the Claims Administrator to resolve the matter by returning the Class Member Information Sheet with a statement of the number of Work Weeks that you contend were worked and include any documentation you have to support your contention.

Fee and Expense Award to Class Counsel: Upon approval by the Court, Defendants agree they will pay as part of the Gross Settlement Amount, attorneys’ fees and out-of-pocket costs/expenses to Mahoney Law Group, APC. The proposed Settlement permits Class Counsel to request up to 1/3 of the Gross Settlement Amount or one hundred sixty thousand dollars (\$160,000.00) as its fees for prosecuting this case. Further, the Settlement permits Class Counsel to recover costs of up to sixteen thousand dollars (\$16,000.00) for reimbursement of their out-of-pocket costs/expenses incurred in the Action. You are not personally responsible for any of Class Counsel’s attorneys’ fees or costs/expenses.

LWDA Payment: The proposed Settlement provides for a payment of twenty thousand dollars (\$20,000.00) for resolution of the PAGA claims alleged in the Action. Of that amount, 75%, or fifteen thousand dollars (\$15,000.00), representing 75% of the PAGA Allocation, will be paid to California’s Labor Workforce Development Agency. The remaining five thousand dollars (\$5,000.00), representing 25% of the PAGA Allocation, shall be part of the Net Settlement Amount to be distributed to employees who are eligible for a portion of the PAGA Allocation.

Other Payments: The proposed Settlement provides for seven thousand five hundred dollars (\$7,500.00) as an Enhancement to Plaintiff Anita Trejo. The proposed Settlement further provides for payment estimated, but not to exceed, fifteen thousand dollars (\$15,000.00) to the Claims Administrator for its services in mailing the Class Notice and processing Settlement Awards.

What are my rights and options?

1. You can exclude yourself from the Settlement: If you do not want a Settlement Award and do not want to be bound by any of the proposed Settlement's terms, you must submit a timely written Request for Exclusion Form. You should submit the Request for Exclusion form that you received along with this Notice. Your Request for Exclusion must be mailed to the Claims Administrator and must be postmarked by September 10, 2021. **You should not request exclusion if you wish to receive money from the Settlement.**

You can object to the Settlement: You can object to the Settlement before the Court's final approval of the Settlement. To object, you must submit a written objection to the Claims Administrator by September 10, 2021. Class Counsel's application for fees, costs, and enhancement payment to Plaintiff will be available on the Settlement Administrator's website www.phoenixclassaction.com/ on August 11, 2021 for you to review.

You may also include a statement in your written objection that you would like to attend the hearing and be heard at the Final Approval Hearing currently set for 1:30 p.m. on September 27, 2021, in Courtroom 7D of the United States District – Central District of California – Western Division located at 350 West 1st Street, Los Angeles, CA 90012. You may appear and speak at the Final Approval Hearing if you want to do so. You are not required to appear, either personally or through counsel, at the Final Approval Hearing in order for your objection to be considered. You may appear via Zoom. Information to attend the hearing via Zoom is located at the following website: <https://www.cacd.uscourts.gov/honorable-dale-s-fischer>.

Your objection and, if applicable, statement of intention to appear at the Final Approval Hearing must be submitted to the Claims Administrator and must be postmarked no later than September 10, 2021. You may object to the Settlement only if you do NOT submit a Request for Exclusion.

2. You can do nothing: If you do nothing, you will automatically receive a settlement payment in exchange, whether or not you cash or deposit the payment, you will be bound by all terms of the Settlement as to your state law claims and any Final Judgment entered in this Action if the Settlement receives final approval by the Court, and you will give up your rights to be part of any other lawsuit against Defendants involving the same or similar legal claims as the ones in this case. You will be mailed a settlement check at the address where this Notice was mailed (unless you timely provide a forwarding address to the Claims Administrator).

What claims am I releasing by participating in the Settlement?

In exchange for the consideration given by Defendants in the proposed Settlement, all Class Members who do not timely opt out of the Settlement (the Settlement Class Members) will expressly release, waive and discharge, and will be deemed to have released, waived and discharged, all Released Claims against Defendants, including Lyneer Staffing Solutions, LLC, Ciera Staffing, LLC, Employers HR, LLC, and Yusen Logistics (Americas), Inc.

“Released Claims” means all claims in the Actions, as well as any and all claims (known or unknown) that were asserted or could have been asserted against Defendants and all of their affiliated entities, related entities, owners, officers, directors, members, parents, subsidiaries, affiliates, employees, agents, successors and assigns (the “Released Parties”) based on the facts pled in the Actions (including those alleged in Plaintiff's Letters to the LWDA), or that arise out of the Actions, including, without limitation, claims that Defendants failed to provide meal periods; failed to provide rest periods; failed to pay hourly wages; rounded time entries to deprive Class Members of wages; required Class Members to work “off the clock”; required Class Members to arrive to work early without compensation; failed to pay minimum wage; failed to pay overtime compensation; failed to provide accurate itemized wage statements; and failed to pay all wages due to discharged and quitting employees. The released claims include but are not limited to claims brought under California Labor Code sections 201-203, 204, 226, 226.7, 510, 512, 1174, 1174.5, 1194, 1197, 2698 *et seq.*, the applicable IWC Wage Order, and Section 17200 of the California Business and Professions Code. Such claims include claims for wages, statutory penalties, civil

penalties, or other relief under the California Labor Code and any other related state or municipal law, relief from unfair competition under California Business and Professions Code section 17200 *et seq.*; attorneys' fees and costs; and interest, and waives the protection of California Civil Code section 1542 with respect to such claims. In exchange for the Service Award to Plaintiff, Plaintiff will sign a general release of all claims, including but not limited to a 1542 waiver under the California Civil Code, against the Released Parties. This release excludes any current and/or future claims that cannot be waived as a matter of law.

When is the next Court hearing?

A Final Approval Hearing will be held before the Honorable Dale S. Fischer in Courtroom 7D of the United States District – Central District of California – Western Division located at 350 West 1st Street, Los Angeles, CA 90012 on September 27, 2021 at 1:30 p.m. to determine whether the Settlement is fair, reasonable, and adequate. Judge Dale S. Fischer will be asked to approve the plan for distributing the Settlement Awards, Class Counsel's Fee and Expense Award, the Enhancement Payment for Plaintiff, the LWDA Payment, and payment to the Claims Administrator for its services. A motion for final approval of these items should be on file with the Court no later than August 11, 2021 and will be available for review after that date. This hearing may be continued without further notice to Class Members. It is not necessary for you to appear at this hearing.

What if I need more information?

Capitalized terms in this Notice have the same meaning they are given in the Joint Stipulation of Class Action Settlement and Release ("Agreement"), filed with the Court on June 15, 2021 as an attachment to the Declaration of Katherine J. Odenbreit in Support of the Motion for Preliminary Approval of Class Action Settlement. For the precise terms and conditions of the Settlement, you should consult the detailed Agreement and the Preliminary Approval Order, which is also on file with the Court. If you have any questions, you can contact the Claims Administrator at 1-800-523-5773. You can also contact Class Counsel at:

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**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION
ABOUT THIS SETTLEMENT**