

**NOTICE OF CLASS ACTION SETTLEMENT**

*This is a court-authorized notice. This is not a solicitation from a lawyer.*

*You are not being sued. This Notice affects your rights. Please read it carefully. There are important deadlines below.*

**To: All persons who were employed by USA Waste of California, Inc. in the State of California as hourly non-exempt employees at any time from August 28, 2014 until January 22, 2021 (“Class Members” or “Class”).**

Judge David C. Mathias of the Tulare County Superior Court (the “Court”) has granted preliminary approval of a proposed class action settlement (the “Settlement”) and ordered the litigants to notify all Class Members of the settlement terms. You have received this notice because Defendant USA Waste of California, Inc.’s (“USA Waste”) records indicate that you are a Class Member, and therefore may be eligible to receive a payment from the Settlement.

Unless you choose to opt out of the Settlement by following the procedures described below, you will be deemed a Settlement Class Member and, if the Court grants final approval of the Settlement and after resolution of any appeals, you will be mailed a check for your share of the Net Settlement Amount. Please be patient. Your legal rights are affected whether you act or do not act. Read this notice carefully.

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 8:30 a.m. on March 24, 2022 in Department 1 of the Tulare County Superior Court, 221 South Mooney Blvd., Visalia, CA, 93921. You are not required to attend the Hearing.

**Summary of the Litigation**

Plaintiffs Rosny Aguilar and Janetira Reed Thom (“Plaintiffs”), on their behalf and on behalf of other non-exempt employees of USA Waste, have alleged that USA Waste violated California state labor laws as follows: (1) Failure to pay overtime on bonuses; (2) Failure to include bonus payments in the regular rate of pay, (3) Failure to provide accurate itemized wage statements; (4) Failure to timely pay all wages owed to employees who quit or are terminated; (5) Unfair competition; and (6) Penalties pursuant to California’s Private Attorneys General Act (“PAGA”).

After exchanging information and evidence, Plaintiffs and USA Waste (collectively, the “Parties”) had a mediation to attempt to informally resolve the claims in the case. With the assistance of private mediator Jeffrey Ross, the Parties agreed to settle the case, subject to approval by the Court.

Counsel for Plaintiffs, Ari E. Moss, Jeremy F. Bollinger, and Dennis F. Moss of Moss Bollinger, LLP, William L. Marder of Polaris Law Group, LLP, Larry W. Lee of Diversity Law Group, P.C., Dennis S. Hyun of Hyun Legal, APC, and Edward W. Choi of the Law Offices of Choi & Associates, APLC (collectively referred herein as “Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation and the uncertainty of recovery justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

The Settlement is a compromise. The two sides disagree on how much money, if any, might have been awarded if the lawsuit went to trial. The Court did not find that USA Waste violated the law. USA Waste denies all allegations of wrongdoing and maintains it complied at all times with applicable laws, rules, and regulations at issue in the litigation.

**Summary of the Proposed Settlement Terms**

**Settlement Allocation**

Plaintiffs and USA Waste have agreed to settle the underlying class claims in exchange for a Gross Settlement Payment of \$1,500,000 allocated as follows: (1) a Net Settlement Amount used to pay Individual Settlement Payments to Settlement Class Members as described below in an amount to be determined; (2) a Class Representative Service Award of \$10,000 for each of the named Plaintiffs for their services on behalf of the Class; (3) attorneys’ fees in an amount to be approved by the Court, estimated to be \$525,000; (4) litigation costs and expenses in an amount to be approved by the Court and estimated to be \$30,000; (5) reasonable Settlement Administrator’s fees and expenses, estimated to be \$17,850; (6) \$100,000 in settlement of the PAGA claims, of which \$75,000 (75%) will be paid to the California Labor and Workforce Development Agency (“LWDA”); and \$25,000 (25%) will be paid to Class Members (“PAGA Members Payment”). The Net Settlement Amount will be equal to the Gross Settlement Payment less of the amounts ordered in categories (2) through (6), estimated to be \$807,150.

**Questions? Contact the Settlement Administrator toll free at (800) 523-5773**

Individual Settlement Payments and PAGA Members Payments

Individual Settlement Payments will be available for distribution to Settlement Class Members from the Net Settlement Amount and PAGA Members Payment. Settlement Class Members are divided into two groups: (1) Sub-Class 1, which includes all Class Members employed in a driver position and/or subject a collective bargaining agreement during the Class Period and (2) Sub-Class 2, which includes all Class Members not employed in a driver position and/or subject to a collective bargaining agreement during the Class Period. Seventy percent of the Net Settlement Amount and PAGA Members Payment shall be distributed to Sub-Class 1. Thirty percent of the Net Settlement Amount and PAGA Members Payment shall be distributed to Sub-Class 2.

The Net Settlement Amount and PAGA Members Payment for each Sub-Class will be apportioned based on each Class Member’s full or partial workweeks worked in California, which is the total weeks worked in California by the individual Class Member in each respective Sub-Class during the Class Period, which is from August 28, 2014 through January 22, 2021 (“Individual Workweeks”) and during the PAGA Period, which is from August 28, 2017 to January 22, 2021 (“PAGA Pay Periods”).

The Individual Workweeks for each Sub-Class Member will be added together to arrive at the Total Workweeks for each Sub-Class, which means the total full or partial weeks worked in California by all members of each Sub- Class during the Class Period. The PAGA Pay Periods will be added together to arrive at the Total PAGA Pay Periods for each Sub-Class, which means the total full or partial pay periods worked in California by all members of each Sub-Class during the PAGA Period.

To determine each Class Member’s estimated “Individual Settlement Payment,” the Settlement Administrator will use the following formula: [(Individual Class Member’s Individual Workweeks in the Sub-Class ÷ Total Workweeks for the Sub-Class) × the Net Settlement Amount for the Sub-Class] + [(Individual PAGA Member’s PAGA Pay Periods in the Sub-Class ÷ Total PAGA Pay Periods for the Sub-Class) x the PAGA Members Payment for the Sub-Class] = Individual Settlement Payment.

Each Individual Settlement Payment is subject to applicable deductions and tax withholdings. IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting payments distributed pursuant to the Settlement. Class Members should consult their tax advisors concerning the tax consequences of any payments received under the Settlement. Class Members are solely responsible for the payment of any taxes and penalties assessed on their Individual Settlement Payments. For purposes of this Settlement, 1/3 of each Individual Settlement Payment will be allocated as wages for which IRS Forms W-2 will be issued; 2/3 will be allocated as interest and penalties for which IRS Forms 1099 will be issued. For Class Members who opt-out of the non-PAGA portion of the Settlement, the entirety of the Individual Settlement Payments will be allocated to penalties for which IRS 1099 Forms shall be issued to the PAGA Members.

The entire Net Settlement Amount and will be disbursed to all Class Members who do not submit timely and valid Requests for Exclusion (“Participating Class Members”), except as explained below. Class Members may opt-out of the class action portion of the settlement but may not opt-out of the PAGA portion of the Settlement. Prior to distributing any Individual Settlement Payments, the Settlement Administrator will recalculate the Total Workweeks by excluding the Individual Workweeks for any Class Member who submits a valid and timely Request for Exclusion and accounting for any adjustments in Individual Workweeks for any Class Member required as a result of dispute procedure outlined in Option 2 below. Based on any recalculation of Total Workweeks, the Settlement Administrator will recalculate the portion of the Individual Settlement Payment based on the Net Settlement Amount using the formula stated above.

Funds represented by Individual Settlement Payment checks returned as undeliverable and Individual Settlement Payment checks remaining un-cashed for more than one hundred and eighty (180) calendar days after issuance will be delivered to the Treasurer of the State of California to be administered under the Unclaimed Property Law (CCP 1300 et seq.). Participating Class Members and PAGA Members who fail to cash their checks within the 180-day period shall remain bound by the Settlement, including the release of claims described herein.

According to USA Waste’s records, your Individual Workweeks in California during the time period of August 28, 2018 to January 22, 2021 are \_\_\_\_\_ weeks in Sub-Class 1 and \_\_\_\_\_ weeks in Sub-Class 2.

Your PAGA Pay Periods during the time period of August 28, 2017 to January 22, 2021 are \_\_\_\_\_ weeks in Sub-Class 1 and \_\_\_\_\_ weeks in Sub-Class 2.

Accordingly, your estimated gross Individual Settlement Payment is approximately \$\_\_\_\_\_.

## **Your Options Under the Settlement**

### **Option 1 – Automatically Receive a Payment from the Settlement**

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your Individual Settlement Payment from the Settlement Administrator if and when the Settlement receives final approval by the Court and after any appeals are resolved.

### **Option 2 – Dispute the Information in this Notice**

If you believe the information provided above concerning the number of weeks you worked in California in each Sub-Class during the relevant period is incorrect, you may send a notice of dispute to the Settlement Administrator. The Notice of Dispute to the Settlement Administrator must: (1) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member submitting the dispute;

(2) be signed by the Class Member; (3) be timely returned to the Settlement Administrator; and (4) clearly state the reason(s) that the Class Member disputes the information above with accompanying supporting documentation. The Notice of Dispute must be faxed or postmarked no later than February 7, 2022. The contact information of the Settlement Administrator is on the last page of this Notice. If you submit a Notice of Dispute which is not faxed or postmarked by February 7, 2022, your Notice of Dispute will be rejected.

If you dispute the information stated above, USA Waste’s records will control unless you are able to provide documentation that establishes otherwise. The Settlement Administrator will resolve any such disputes.

### **Option 3 – Opt Out of the Settlement**

If you do not wish to participate in the class portion of the settlement and/or you wish to bring your own lawsuit on the claims in this case, except for the PAGA claims, you should exclude yourself from participating by submitting a written request to the Settlement Administrator. You may only opt-out of the class portion of the settlement but cannot opt-out of the PAGA portion of the settlement. The Request for Exclusion to the Settlement Administrator must: (1) set forth the name, address, telephone number and last four digits of the Social Security Number of the Class Member requesting the exclusion; (2) be signed by the Class Member; (3) be timely returned to the Settlement Administrator; and (4) clearly state that the Class Member does not wish to be included in the class portion of the settlement and does not wish to receive any payment for the class portion of the settlement. You may copy the following statement, add your information and signature, and submit it to the Settlement Administrator:

I wish to be excluded from the class portion of the settlement in *Aguilar v. USA Waste of California, Inc.* I understand that because I am asking to be excluded from the class portion of the settlement, I will not receive any money from the class portion of the settlement (the payment based on the Net Settlement Amount) but will still receive a settlement payment from the PAGA Members Payment and will still be bound by the release of the Released PAGA Claims.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City and State: \_\_\_\_\_

Last 4 digits of Social Security Number: X X X - X X - \_\_\_\_\_

Signature: \_\_\_\_\_

The Request for Exclusion must be faxed or postmarked no later than February 7, 2022. The contact information of the Settlement Administrator is on the last page of this Notice. If you submit a Request for Exclusion which is not faxed or postmarked by February 7, 2022, your Request for Exclusion will be rejected, and you will be included in the Settlement Class.

#### **Option 4 – Object to the Settlement**

If you wish to object to the settlement because you find it unfair or unreasonable, you may submit an objection to the Settlement Administrator stating why you object to the settlement. Your objection to the Settlement Administrator must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) be timely returned to the Settlement Administrator; (4) copies of any papers, briefs, or other documents upon which the objection is based; and (5) a statement about whether you intend to appear at the Final Approval Hearing. The objection must be faxed or postmarked no later than February 7, 2022. The contact information of the Settlement Administrator is on the last page of this Notice. If you submit an objection which is not faxed or postmarked by February 7, 2022, your objection will be rejected.

By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above under “Option 3.” You cannot both object to the settlement and exclude yourself. You must choose one option only.

If you wish to object, you may also appear at the Final Approval Hearing set for March 24, 2022 at 8:30 a.m. in Department 1 of the Tulare County Superior Court, 221 South Mooney Blvd., Visalia, CA, 93921, and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney, at your own expense, to represent you at the hearing.

If you choose **Option 1**, and if the Court grants final approval of the settlement and after any appeals are resolved, you will be mailed a check for your share of the settlement funds. In addition, you will be considered to be fully releasing and forever discharging USA Waste of California, Inc., its past, present, and future parents, subsidiaries, divisions, affiliates and related entities and their respective past, present, and future officers, directors, employees, partners, shareholders, owners, agents, vendors, affiliates, insurers, legal representatives, attorneys and all of their successors (including persons or entities who may acquire them in the future), assigns, representatives, heirs, executors, and administrators and all other persons acting by, through, under or in concert with them that could be liable (“Released Parties”) from the following claims (“Released Claims”):

Any and all claims, debts, rights, demands, obligations or liabilities of every nature and description, whether known or unknown, for damages, premiums, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief alleged, in whole or in part, in the Actions based on the facts alleged in the original and amended Complaints in *Aguilar* and/or *Thom*, or the letters to the Labor and Workforce Development Agency, with the exception of claims premised on the failure to provide rest breaks, arising during the Class Period on behalf of Class Members, including without limitation: (i) failure to pay overtime on bonuses and incentive payments, (ii) failure to include bonuses and incentive payments in calculating the regular rate of pay, (iii) failure to issue complete and accurate itemized wage statements, (iv) waiting time penalties, (v) violations of and civil penalties set forth in California Labor Code §§ 200, 201, 202, 203, 204, 210, 218.5, 226.3, 510, 558 and 1194; (vi) PAGA penalties; (vii) violations of California Business & Professions Code § 17200 *et seq.*; (viii) violations of IWC Wage Orders, including without limitation IWC Wage Orders 9-1998, 9-2000 and 9-2001; (ix) as it relates to the claims referenced above, interest, attorneys’ fees and costs, for the duration of the Class Period. The release of the foregoing claims and definition of Released Claims extends to all theories of relief regardless of whether the claim is, was or could have been alleged as separate claims, causes of action, lawsuits or based on other theories of relief, whether under federal law, California law or any state law or common law (including, without limitation, as violations of the California Labor Code, the Wage Orders, applicable regulations, California’s Business and Professions Code section 17200), any and all claims under the Fair Labor Standards Act and any benefits under any benefit plan, program or policy sponsored or maintained by the Company, including, but not limited to the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.*, but not vested benefits under any pension or 401(k) plan or other ERISA-governed benefit plan. ‘Released Claims’ includes all types of relief available for the above-referenced claims, including any claims for damages, restitution, losses, premiums, penalties, fines, liens, attorneys’ fees, costs, expenses, debts, interest, injunctive relief, declaratory relief, or liquidated damages.

In addition, all Class Members, including those who select **Option 3**, will release the Released Parties from the Released PAGA Claims:

Any and all claims, debts, rights, demands, obligations or liabilities of every nature and description, whether known or unknown, under PAGA for penalties based on the facts alleged in the original and amended Complaints in *Aguilar* and/or *Thom*, or the letters to the Labor and Workforce Development Agency, with the exception of claims premised on the failure to provide rest breaks, arising during the PAGA Period, including without limitation: (i) failure to pay overtime on bonuses and incentive payments, (ii) failure to include bonuses and incentive payments in calculating the regular rate of pay, (iii) failure to issue complete and accurate itemized wage statements, (iv) waiting time penalties, (v) violations of and civil penalties set forth in California Labor Code §§ 200, 201, 202, 203, 204, 210, 218.5, 226.3, 510, 558 and 1194; (vi) PAGA penalties; (vii) violations of California Business & Professions Code § 17200 *et seq.*; (viii) violations of IWC Wage Orders, including without limitation IWC Wage Orders 9-1998, 9-2000 and 9-2001.

If you choose **Option 2** and if the Court grants final approval of the settlement and after any appeals are resolved, you will be mailed a check for your share of the settlement funds. The Settlement Administrator will determine the amount that you shall receive. By choosing not to exclude yourself from the settlement, you will be considered to have released the Released Parties from the Released Claims and Released PAGA Claims, both described above.

If you choose **Option 3**, you will no longer be a Class Member for purposes of the class portion of the settlement, and you will: (1) be barred from participating in the class portion of the settlement, but you will not be considered to have released the Released Parties from the Class Released Claims; (2) be barred from filing an objection to the settlement; (3) not receive a payment from the Net Settlement Amount; (4) still receive a payment from the PAGA Members Payment and release the Released Parties from the Released PAGA Claims, described above, and (5) be able to bring your own lawsuit regarding the non-PAGA claims in this case.

If you choose **Option 4**, you will still be eligible to receive money from the settlement. If the Court overrules your objection and grants final approval, you will be considered to have released the Released Parties from the Released Claims and the Released PAGA Claims, both described above.

**Additional Information**

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case, which may be inspected at the Tulare County Superior Court, 221 South Mooney Blvd., Visalia, CA, 93921, during regular business hours of each court day, or at <http://www.phoenixclassaction.com/>.

Any inquiries by Class Members regarding this Class Notice and/or the settlement may be directed to the Settlement Administrator or Class Counsel:

SETTLEMENT	CLASS COUNSEL	DEFENSE COUNSEL
Phoenix Settlement P.O. Box 7208 Orange, CA 92863 (800) 523-5773	DIVERSITY LAW GROUP, P.C. Larry W. Lee 515 S. Figueroa St., Suite 1250 Los Angeles, CA 90071 (213)488-6555  MOSS BOLLINGER, LLP Ari E. Moss Jorge A. Flores 15300 Ventura Blvd., Ste 207 Sherman Oaks, CA 91403 (310)982-2984	LITTLER MENDELSON, P.C. David Dow 501 West Broadway, Suite 900 San Diego, CA 91901 (619)232-0441

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

**Questions? Contact the Settlement Administrator toll free at (800) 523-5773**