

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MONTEREY

PLATON ARVIZU, as an individual and on behalf of
all others similarly situated,

Plaintiff,

vs.

VASTAGO HARVESTING, INC., a California
corporation; MONTEREY PACIFIC, INC., a
California corporation; and DOES 1 through 100,

Defendants.

Case No. 19CV002574

NOTICE OF CLASS ACTION SETTLEMENT

To: All current and former non-exempt employees of Defendant Vastago Harvesting, Inc. who performed work for Defendant Monterey Pacific, Inc. from June 1, 2016 through November 18, 2019. Collectively, these employees will be referred to as “Settlement Class Members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Platon Arvizu v. Vastago Harvesting, Inc., et al.*, Monterey County Superior Court, Case No. 19CV002574 (the “Lawsuit”). Your rights may be affected by the Settlement, and it is important that you read this notice carefully.

You may be entitled to money from this Settlement. Defendant Vastago Harvesting, Inc.’s (“Vastago”) records show that you were employed by Vastago as a non-exempt employee in California and performed work for Defendant Monterey Pacific, Inc. (“Monterey Pacific”) between June 1, 2016 and November 18, 2019 (the “Class Period”). Vastago and Monterey Pacific are referred to collectively as “Defendants.” The Court ordered that this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

The purpose of this notice is to provide you with a brief description of the Lawsuit, to inform you of the terms of the Settlement, to describe your rights in connection with the Settlement, and to explain what steps you may take to participate in, object to, or exclude yourself from the Settlement. If you do not exclude yourself from the Settlement and the Court issues a final Order approving the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Platon Arvizu (“Plaintiff”) brought this lawsuit against Defendants, asserting claims on behalf of all Settlement Class Members. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class Members, are known as “Class Counsel.”

In the Lawsuit, Plaintiff alleges that Defendants: (i) failed to pay all minimum wages; (ii) failed to pay all overtime wages; (iii) failed to provide all meal periods; (iv) failed to authorize and permit all rest periods; (v) failed to issue accurate itemized wage statements; (vi) failed to timely pay all final wages at separation from employment; (vii) engaged in unfair unlawful business practices; and (viii) are liable for civil penalties under the Private Attorneys General Act (Labor Code § 2698 et seq.) (“PAGA”).

Defendants deny that they have done anything wrong. Defendants deny that they have engaged in any unlawful activity, that they have failed to comply with the law in any respect, and that they have any liability to anyone under the claims asserted in the Lawsuit. Defendants deny that they owe Settlement Class Members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendants, which expressly deny all liability.

The Court has not ruled on the merits of Plaintiff’s claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in the best interests of Defendants and the Settlement Class Members to settle the Lawsuit on the terms summarized in this Notice. After Defendants provided relevant information to Class Counsel, the Settlement was reached after mediation and arms’-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Defendants, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

If you are still employed by Vastago, your decision about whether to participate in the Settlement will not affect your employment. California law and Vastago policy strictly prohibit unlawful retaliation. Vastago will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of his or her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

<p>Attorneys for Plaintiff / Settlement Class Members:</p> <p>HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Fletcher W. Schmidt (SBN 286462) fschmidt@haineslawgroup.com Matthew K. Moen (SBN 305956) mmoen@haineslawgroup.com Alma V. Montenegro (SBN 323158) amontenegro@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com</p>	<p>Attorneys for Vastago:</p> <p>RAIMONDO & ASSOCIATES, a Law Corporation Anthony Raimondo, #200387 <i>apr@raimondoassociates.com</i> Gerardo V. Hernandez, #292809 <i>gvh@raimondoassociates.com</i> Steven R. Wainess, #106645 <i>srw@raimondoassociates.com</i> James D. Miller, #207709 <i>jdm@raimondoassociates.com</i> 7110 N. Marks Avenue, Suite 104 Fresno, California 93711 Telephone: (559) 432-3000 Facsimile: (559) 432-2242</p> <p>Attorneys for Monterey Pacific:</p> <p>BARSAMIAN & MOODY, A Professional Corporation Ronald H. Barsamian, #81531 Patrick S. Moody, #156928 Seth G. Mehrten, #292843 Faith L. Driscoll, #291486 Catherine M. Houlihan, #312113 1141 W. Shaw Avenue, #104 Fresno, CA 93711 Telephone: (559) 248-2360 Facsimile: (559) 248-2370 Email: <i>laborlaw@theemployerslawfirm.com</i></p>
--	---

What are the terms of the Settlement?

On **July 23, 2021**, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt employees of Vastago who performed work for Monterey Pacific during the Class Period. Settlement Class Members who do not submit a valid and timely Request for Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendants, as described below in the “Release” section.

Defendants agreed to pay \$362,500.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class Members, attorneys’ fees and verified cost reimbursement, settlement administration costs, payment to the California Labor and Workforce Development Agency (“LWDA”) for its share of PAGA civil penalties, and the Class Representative Enhancement Payment. The following deductions from the Maximum Settlement Amount will be requested by the parties:

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and who will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$12,000.00 from the Maximum Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of the Settlement Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Maximum Settlement Amount. Settlement Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount (which is currently estimated to be \$120,833.33) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$15,000.00 for verified costs which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award \$5,000.00 to Plaintiff as a Class Representative Enhancement Payment. This is meant to compensate Plaintiff for his general release of claims against Defendants and his service and extra work provided on behalf of the Settlement Class Members.

PAGA Payment to the State of California. The parties have agreed to allocate \$20,000.00 of the Maximum Settlement Amount as PAGA civil penalties. Per Labor Code Section 2699(i), 75% of such penalties (\$15,000.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$5,000.00) will be payable to the Settlement Class as part of the Net Settlement Amount.

Calculation of Settlement Class Members' Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Amount, which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) Wage Statement/PAGA Amount: Five percent (5%) of the Net Settlement Amount plus the \$5,000.00 payable to the Settlement Class Members as PAGA civil penalties shall be designated as the "Wage Statement/PAGA Amount." Each participating Settlement Class Member who was employed by Defendants at any time between June 27, 2018 to the end November 18, 2019, shall receive a portion of the Wage Statement/PAGA Amount proportionate to the number of Eligible Workweeks that he or she worked during the aforementioned time period. An "Eligible Workweek" shall be any workweek in which the Settlement Class Member worked at least one day during the workweek.
- (ii) Waiting Time Amount: Sixty-Five percent (65%) of the Net Settlement Amount shall be designated as the "Waiting Time Amount." The Waiting Time Amount shall be distributed in equal, pro-rata shares to each participating Settlement Class Member who separated their employment from Defendants at any time between June 27, 2016 and November 18, 2019.
- (iii) The remainder of the Net Settlement Amount will be distributed to each participating Settlement Class Member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Settlement Class Member's total Eligible Workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all participating Settlement Class members during the Class Period.

Individual Settlement Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Settlement Class Members who did not submit a valid and timely Request for Exclusion. Each participating Settlement Class Member who receives an Individual Settlement Payment must negotiate that check within 180 calendar days from the date the Settlement Administrator mails it. Any funds payable to participating Settlement Class Members whose checks are not negotiated within 180 calendar days after mailing will be distributed by the Settlement Administrator to California Farmworker Foundation, the Court-approved *cy pres* designee.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be allocated as two-thirds penalties and interest issued pursuant to an IRS Form 1099; and one-third as wages issued pursuant to an IRS Form W-2. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, Defendants and their respective counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class Members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, each Settlement Class Member who has not submitted a timely and valid Request for Exclusion will fully release and discharge Defendants and any of their former or present parents, subsidiaries, affiliates, investors, partners, owners, related organizations, predecessors or successors, and all agents, employees, officers, directors, members, managers, holding companies, insurers, and attorneys thereof, (collectively the "Released Parties") from any and all claims that were pled in the Lawsuit, or claims which could have been pled based on the factual allegations in the Lawsuit, that arose during the Class Period ("Released Claims").

Conditions of Settlement. The Settlement is conditioned upon the Court entering a final Order at or following the Final Approval Hearing approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class Members, and the entry of Judgment.

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment, which has been calculated for you based on the formula set forth above, as stated in the accompanying Notice of Individual Settlement Payment. You also will be bound by the Settlement, including the release of claims stated above.

What other options do I have?

Dispute Information in Notice of Individual Settlement Payment. Your award is based on the proportionate number of Eligible Workweeks that you worked during the relevant time periods and whether your employment separated during the relevant time period. The information contained in Vastago's records regarding this information, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Individual Settlement Payment. If you disagree with the information in your Notice of Individual Settlement Payment, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Payment. Any disputes, along with supporting documentation, must be postmarked no later than **October 23, 2021**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class Members. Should a consensus not be reached, any outstanding disputes will be submitted to the Court for a final determination.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written “Request for Exclusion” letter or card postmarked no later than **October 23, 2021**, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion must state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE *PLATON ARVIZU v. VASTAGO HARVESTING, INC., ET AL.*, LAWSUIT FILED IN THE MONTEREY COUNTY SUPERIOR COURT, CASE NO. 19CV002574. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at **Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863; fax (949) 209-2503**. Any person who submits a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class Member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the Settlement.

Objecting to the Settlement. You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the Settlement, or any portion of it, you may mail a written objection to the Settlement Administrator. Your written objection must include your full name and current address, as well as contact information for any attorney representing you regarding your objection, the case name and number, all objections and the factual and legal basis for the same, and any and all supporting papers, briefs, declarations, and/or other evidence supporting your objection. All objections or other correspondence must state the name and number of the case, which is *Platon Arvizu v. Vastago Harvesting, Inc., et al.*, Monterey County Superior Court, Case No. 19CV002574. Objections in writing must be postmarked on or before **October 23, 2021**.

You may also appear at the Final Approval Hearing scheduled for **November 16, 2021 at 8:30 a.m.** in Department 13 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California 93940. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing, if you wish to appear in person. You have the right to appear either in person or through your own attorney at this hearing, whether or not you submit a written objection. If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Settlement Class Members who do not object.

In light of the COVID-19 pandemic, the Monterey County Superior Court has implemented certain protocols that may impact your ability to appear in person at the Final Approval Hearing. Current information regarding how to access the Court’s services remotely, as well as additional rules, regulations, and safety protocols, can be viewed on the Court’s website, at <https://www.monterey.courts.ca.gov/covid-information>.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on **November 16, 2021 at 8:30 a.m.**, in Department 13 of the Monterey County Superior Court, Monterey Courthouse, located at 1200 Aguajito Road, Monterey, California 93940. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel’s request for attorneys’ fees and reimbursement of documented costs and expenses, the Enhancement Payment to the Class Representative, the Settlement Administrator’s costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing.**

How can I get additional information?

This Notice is only a summary of the Lawsuit and the Settlement. For more information, you may inspect the Court’s files and the Settlement Agreement at the Clerk’s Office, at the Monterey Courthouse, 2nd Floor, located at 1200 Aguajito Road, Monterey, California 93940, between the hours of 8:00 a.m. and 3:30 p.m. You may also contact Class Counsel using the contact information listed above for more information. In light of the COVID-19 pandemic, the Monterey County Superior Court has implemented certain protocols that may impact your ability to review the Court’s files in person. Current information regarding how to access the Court in person to review the Court’s files, as well as additional rules, regulations, and safety protocols, can be viewed on the Court’s website, at <https://www.monterey.courts.ca.gov/covid-information>.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANTS, OR THEIR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **October 23, 2021**.