

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT

Juvenal Gaona Vargas v. Cal-Citrus Labor Service, Inc., et al.

Tulare Superior Court

Case No.: VCU282013

To: All current and former non-exempt employees of Defendant Cal-Citrus Labor Service, Inc. in California who were subject to Wage Order 14 and performed work for five days or more for Defendants Cecelia Packing Corporation, and/or Fancher Creek Packing, Inc. and/or Visalia Citrus Packing Group, Inc., at any time during the period of February 7, 2016, to April 26, 2021 (“Class Period”) (“Settlement Class” or “Settlement Class Members”).

**PLEASE READ 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 settlement (the “Settlement”) in the matter of *Juvenal Gaona Vargas v. Cal-Citrus Labor Service, Inc., et al.*, Tulare County Superior Court, Case No. VCU282013 (the “Lawsuit”). Because your rights may be affected by the Settlement, it is important that you read this Notice carefully.

You may be entitled to money from this Settlement. Cal-Citrus Labor Service, Inc.’s (“Cal-Citrus”) records show that you were employed by Cal-Citrus as a non-exempt employee subject to the requirements of Wage Order 14 and worked at least five shifts performing work for Defendants Cecelia Packing Corporation, and/or Fancher Creek Packing, Inc., and/or Visalia Citrus Packing Group, Inc. (Cecelia Packing Corporation, Fancher Creek Packing, Inc., and Visalia Citrus Packing Group, Inc. are referred to herein collectively as the “Packing Group”) (Cal-Citrus and the Packing Group are collectively referred to herein as “Defendants”) in California between February 7, 2016, and April 26, 2021 (the “Class Period”). Wage Order 14 is a California regulation that sets working conditions for agricultural workers, including workers that harvest agricultural goods on farms owned by the Packing Group. 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 Approval Order approving the Settlement, you will be bound to the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Juvenal Gaona Vargas (“Plaintiff” or “Class Representative”) brought this Lawsuit against Defendants seeking to assert claims on behalf of a class of all current and former non-exempt employees subject to Wage Order 14 who were employed by Defendant Cal-Citrus and worked at least five shifts for the Packing Group in California from February 7, 2016, to April 26, 2021. 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.”

The Lawsuit alleges that Defendants: (i) failed to pay employees all earned minimum and overtime wages, (ii) failed to provide all legally required meal and rest periods, (iii) failed to provide accurate and itemized wage statements, (iv) failed to reimburse necessary business expenses, (v) failed to timely pay all weekly wages due or final wages due, and (vi) as a result of the above-mentioned alleged violations, engaged in unlawful business practices and are liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Defendants deny that they have done anything wrong. Defendants also deny that they owe Settlement Class Members any wages, restitution, penalties, damages, or other amounts. Accordingly, the Settlement is a compromise of disputed claims and should not be considered as an admission of liability on the part of Defendants, by whom all liability is expressly denied.

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 the Court not allowing the case to proceed as a class action, the risk of trial on the merits, and the delays and uncertainties associated with ongoing litigation.

The Court has not ruled on Plaintiff’s claims. In granting preliminary approval of the Settlement the Court has determined only that there is sufficient evidence to suggest that the Settlement might be fair, adequate, and reasonable. A final determination on whether the Settlement is fair, adequate, and reasonable will be made at the Final Approval hearing.

Your decision about whether to participate in the Settlement will not affect your employment. California law and Defendants’ policies strictly prohibit unlawful retaliation. Defendants will not take any adverse action against or otherwise target, retaliate, or discriminate against any Settlement Class Member because of his/her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class:

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What are the terms of the Settlement?

Defendants have agreed to jointly pay \$625,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Settlement Class Members, payment of the State of California’s share of PAGA Penalties to the Labor and Workforce Development Agency, Class Counsel’s attorneys’ fees and expenses, Settlement administration costs, and the Class Representative’s Enhancement Payment.

The following deductions from the Maximum Settlement Amount will be requested by the Parties:

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit on behalf of 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 up to one-third of the Maximum Settlement Amount, which is currently estimated at \$208,125.00, 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 \$10,000.00 in verified costs incurred in connection with the Lawsuit.

Settlement Administration Costs. The Court has approved Phoenix Settlement Administrators to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. The Court has approved setting aside up to \$11,975.00 from the Maximum Settlement Amount to pay the settlement administration costs.

Class Representative Enhancement Payment. Class Counsel will ask the Court to award the Class Representative an Enhancement Payment in the amount of \$5,000.00 to compensate him for his service and extra work provided on behalf of the Class Members.

Payment to State of California. The Parties have agreed to allocate \$10,000.00 towards the Settlement of the PAGA claims in the Lawsuit. \$7,500.00 will be paid to the State of California Labor and Workforce Development Agency, representing its 75% share of the civil penalties. The remaining \$2,500 will be allocated to Class Members as part of the Net Settlement Fund described below.

Defendants Share of Payroll Taxes. Defendants’ share of payroll taxes shall be paid by Defendants separate and apart from the Maximum Settlement Amount.

Calculation of Class Members' Settlement Awards. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Fund, which will be distributed to all Class Members who do not submit a valid and timely Request for Exclusion Form ("Settlement Class Members") (described below). The Net Settlement Fund is estimated at approximately \$382,400.00, and will be divided as follows:

- (i) 30% of the Net Settlement Fund shall be designated as the "Waiting Time Amount" and will be allocated in equal amounts to all Settlement Class Members whose employment with Cal-Citrus ended at any time between February 7, 2017, to April 26, 2021.
- (ii) 20% of the Net Settlement Fund shall be designated as the "Wage Statement Amount" and will be allocated to Settlement Class Members who were employed by Cal-Citrus to perform work for the Packing Group at any time from February 7, 2019, to April 26, 2021, based on the proportionate number of Eligible Workweeks (defined as any workweek in which the Settlement Class Member worked at least one day during the workweek for Cal-Citrus performing work for the Packing Group based on Cal-Citrus' records) he or she worked from February 7, 2019, to April 26, 2021.
- (iii) \$2,500.00 of the Maximum Settlement Amount has been designated as the "PAGA Amount." Each Class Member who was employed by Cal-Citrus to perform work for the Packing Group at any time from February 7, 2019, to April 26, 2021, shall receive a portion of the PAGA Amount based on the number of proportionate Eligible Workweeks he or she worked from February 7, 2019, to April 26, 2021.
- (iv) The remainder of the Net Settlement Fund will be distributed to each Settlement Class Member based on the proportionate number of Eligible Workweeks that he or she worked during the Class Period.

Payment of the Settlement. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Class Members for their portion of the PAGA Amount regardless of whether they submit a Request for Exclusion Form. In addition, Settlement Class Members will receive additional compensation as part of their Individual Settlement Awards comprised of their portion of the Net Settlement Fund as described above.

Allocation and Taxes. For tax purposes, each Settlement Award shall be treated as follows: 20% as "wages," for which an IRS Form W-2 will be issued; and 80% as penalties and interest, for which an IRS Form 1099 will be issued. Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members should consult with their tax advisors concerning the tax consequences and treatment of awards they receive under the Settlement.

Release. If the Court approves the Settlement, Plaintiff and every member of the Settlement Class (except those who opt out, as described below) will fully release and discharge Defendants, their past and present officers, directors, shareholders, employees, agents, principals, heirs, representatives, and their respective successors and predecessors in interest, subsidiaries, affiliates, parents, and attorneys (collectively the "Released Parties") for all claims that were pled or could have been pled based on the factual allegations in the FAC, including: (a) minimum wage violations (b) failure to pay all overtime wages; (c) meal period violations; (d) rest period violations; (e) failure to reimburse necessary business expenses; (f) wage statement violations; (g) waiting time penalties; (h) all claims arising out of unfair business practices under Business & Professions Code § 17200, *et seq.* that could have been premised on the claims that were pled or could have been pled based on the factual allegations in the FAC; and (i) all claims for civil penalties under the PAGA, that could have been premised on the claims that were pled or could have been based on the factual allegations in the FAC (collectively, the "Released Claims"). For members of the Settlement Class who do not validly opt out, the release period shall run from February 7, 2016, to April 26, 2021 ("Class Period"). Specifically excluded from this release is any claims any individual might otherwise have in the putative wage and hour class action entitled *Maria Del Carmen Espinoza v. Juan C. Gutierrez, dba J.C. Gutierrez Labor Service, et al.*, Case No. VCU286326.

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

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your share of the Settlement based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of Eligible Workweeks you worked between February 7, 2019, and April 26, 2021, and whether you separated your employment from Cal-Citrus between February 7, 2017, and April 26, 2021, as stated in this Notice. 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 Settlement Award. Your award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of Eligible Workweeks you worked between February 7, 2019, and April 26, 2021, and, whether you have separated employment from Defendants between February 7, 2017, and April 26, 2021. The information contained in Cal-Citrus' records regarding each of these factors, along with your estimated Individual Settlement Award, is listed below. If you disagree with the information listed below, you may submit a dispute, along with any supporting documentation, to Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773. Any disputes, along with supporting documentation, must be postmarked no later than **April 18, 2022**. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Settlement Administrator will determine whether any adjustments are warranted, and if so, will consult with the Parties and make a determination as to whether an adjustment will be made.

According to Defendants Cal Citrus' records:

- (a) you worked for Cal-Citrus in California from _____ to _____;
- (b) you worked ____ Eligible Workweeks between February 7, 2016, and April 26, 2021, for Cal-Citrus assigned to the Packing Group;
- (c) you worked ____ Eligible Workweeks between February 7, 2019, and April 26, 2021, for Cal-Citrus assigned to the Packing Group; and
- (d) your employment with Cal-Citrus <<DID/DID NOT>> end between February 7, 2017, and April 26, 2021.

Based on the above, your Individual Settlement Award is estimated at \$ _____. The lowest Individual Settlement Award to a Settlement Class Member is estimated at _____. The highest Individual Settlement Award to a Settlement Class Member is estimated at _____.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by completing the Request for Exclusion Form included with this Notice, and sending it to the Settlement Administrator postmarked no later than **April 18, 2022**, with your name, address, telephone number, last four digits of your social security number, and your signature.

Send the Request for Exclusion Form directly to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773. Any person who submits a timely Request for Exclusion Form, shall, upon receipt by the Settlement Administrator, not be a Settlement Class Member and shall be barred from participating in any portion of the Net Settlement Fund (except the applicable portion of the PAGA Amount).

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 complete the Objection Form or timely submit a written objection directly to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773. Your written objection must include your name, address, the case name and number, each specific reason in support of your objection, and any legal or factual support for each objection, together with any evidence in support of your objection. Objection Forms or written objections must be postmarked on or before **April 18, 2022**.

You may also object by appearing at the Final Approval Hearing scheduled for May 23, 2022 at 8:30 a.m. in Department 02 of the Tulare County Superior Court, located at 221 S. Mooney Blvd., Visalia, California 93291. You have the right to appear either in person or through your own attorney at this hearing, although you do not need to appear at the Final Approval Hearing for your objection to be considered. All objections or other correspondence must state the name and number of the case, which is *Juvenal Gaona Vargas v. Cal-Citrus Labor Service, Inc., et al.*, Tulare Superior Court, Case No. VCU282013.

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.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on May 23, 2022 at 8:30 a.m., in Department 02 of the Tulare County Superior Court, located at 221 S. Mooney Blvd., Visalia, California 93291. 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, although any Class Member is welcome to attend the 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 Office of the Clerk of the Tulare County Superior Court, located at 221 S. Mooney Blvd., Visalia, California 93291, during regular court hours. You may also view the Settlement Agreement, complaint, and other relevant documents by going to the website: Phoenixclassaction.com/Vargas-v-Cal-Citrus. You may also contact Class Counsel using the contact information listed above for more 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 a Request for Exclusion Form, Objection Form, or any dispute is **April 18, 2022**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON JANUARY 28, 2022.