

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT  
AND DATE FOR FINAL APPROVAL HEARING**

*Angela Duran v. Fresh Select, LLC.*  
(County of Tulare, California Superior Court Case No. VCU284892)

**As a current or former non-exempt, hourly-paid California employee of Fresh Select, LLC,  
you are entitled to receive money from a class action settlement.**

**Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.**

You have received this Notice of Class Action Settlement because the records of Fresh Select, LLC (“Defendant”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons currently or formerly employed by Defendant as non-exempt, hourly-paid employees in the State of California any time from October 22, 2016, through the date of preliminary approval (“Class Period”).

- The settlement resolves a class-action lawsuit, *Angela Duran v. Fresh Select, LLC* (the “Lawsuit”), which alleges that Defendant: (1) failed to pay Class Members for all hours worked, (2) failed to provide Class Members legally compliant meal and rest breaks under California law, (3) failed to provide accurate itemized wage statements; (4) failed to pay all wages owed upon separation from employment. Based on these and other alleged Labor Code violations; (5) failed to reimburse work expenses; and (6) failed to maintain and/or produce accurate records. Plaintiff also seeks penalties under the California Labor Code Private Attorney Generals Act (“PAGA”).
- On February 8, 2022, the Tulare County Superior Court granted preliminary approval of this class action Settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contend that they fully complied with all applicable laws.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>DO NOTHING AND RECEIVE PAYMENT</b>	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
<b>OPT OUT OF THE SETTLEMENT</b>	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you are also an Aggrieved Employee, you will still receive an individual settlement share for the PAGA claims and will be deemed to have released the PAGA claims.
<b>OBJECT TO THE SETTLEMENT</b>	If you do not opt out, you may write to the Settlement Administrator, Phoenix Settlement Administrators, about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. If you timely object, you or your attorney may also address the Court during the Final Approval Hearing scheduled for June 21, 2022 at 8:30 a.m. in the Tulare County Superior Court, located at 640 South Alta Avenue, Dinuba, California 93618.

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

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 8:30 a.m. on June 21, 2022 in the County Civil Center, Visalia Division of the Tulare County Superior Court, located at 221 South Mooney Boulevard, Visalia, California, 93291 in Department 7. You are not required to attend the Hearing, but you are welcome to do so.

### **Why Am I Receiving This Notice?**

Defendant's records show that you currently work, or previously worked, for Fresh Select, LLC as a non-exempt, hourly-paid employee in the State of California during the Class Period, or part of it. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a "Settlement Administrator" appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

### **What Is This Case About?**

Angela Duran was a non-exempt employee of Defendant in California. She is the "Plaintiff" in this case and is suing on behalf of herself and Class Members for Defendant's alleged failure to pay all wages due for all hours worked, failing to provide them with legally compliant rest and meal breaks, failing to provide accurate itemized wage statements, failing to pay all wages owed upon separation from employment, and failing to reimburse work expenses, failing to maintain accurate and required employment records, among other things. Based on these and other alleged Labor Code violations, Plaintiff also seeks to recover penalties under the California Labor Code Private Attorney Generals Act.

Defendant denies all of the allegations made by Plaintiff and denies that it violated any law. The Court has made no ruling on the merits of Plaintiff's claims. The Court has only preliminarily approved this Class Action Settlement. The Court will decide whether to give final approval to the Settlement at the Final Approval Hearing.

### **Summary of the Settlement Terms**

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and the Class Members for the Gross Settlement Amount of \$900,000. The Gross Settlement includes: (1) Administration Costs up to \$13,750; (2) a service payment of up to \$7,500 for the Plaintiff for her time and effort in pursuing this case and in exchange for a broader release of claims against Defendant; (3) 35% attorneys' fees which, unless escalated, shall amount to \$315,000; and up to \$25,000 in litigation costs to Class Counsel, according to proof; and (4) payment allocated to PAGA penalties in the amount of \$10,000, of which 75% (or \$7,500) will be paid to the California Labor and Workforce Development Agency. After deducting these sums, a total of approximately not less than \$528,750 will be available for distribution to Participating Class Members (*i.e.* Class Members who do not opt out of the class portion of this Agreement) ("Net Settlement Amount"). An additional \$2,500 will remain for distribution to Aggrieved Employees, who are all Class Members who worked for Defendant as a non-exempt, hourly-paid employee in California from July 27, 2019 through preliminary approval ("PAGA Period").

### **Distribution to Class Members**

Class Members who do not opt out will receive a pro-rata payment based on the number of verified actual weeks worked by Class Members for Defendant during the Class Period ("Eligible Weekly Pay Periods"). Specifically, Class Members' payments will be calculated by dividing the number of Eligible Weekly Pay Periods attributed to the Class Member by all Eligible Weekly Pay Periods attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (individual's Eligible Weekly Pay Periods ÷ total Settlement Class Eligible Weekly Pay Periods) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period will receive a pro rata share of the \$2,500 allocated as PAGA penalties, whether or not they opt out, based on the number of weekly pay periods worked by the Class Member during the PAGA Period.

Defendant's records indicate that you worked [Eligible Weekly Pay Periods] as a non-exempt employee in California during the "Class Period and [Eligible Weekly Pay Periods] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment for PAGA civil penalties would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than **May 6, 2022**. Please include any documentation you have that you contend supports your dispute.

### **Tax Reporting**

10% of each Settlement Payment will be allocated as wages and reported on an IRS Form W-2; and 90% will be allocated as penalties and interest reported on IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

### **Your Options Under the Settlement**

#### **Option 1 – Do Nothing and Receive Your Payment**

If you do not opt out, you are automatically entitled to your Settlement Check because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the settlement and receive a settlement payment. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment set forth above.**

Plaintiffs and all Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement and payment by Defendant to the Settlement Administrator.

"Released Claims" refers to (a) all claims for failure to pay overtime wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to provide compliant meal and rest periods and associated premium pay; (d) all claims for the failure to timely pay wages; (e) failure to timely pay all wages due upon termination or resignation; (f) all claims for non-compliant wage statements; and (g) all claims asserted through California Business & Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the Complaint ("Class Released Claims"). For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all claims released during the Class Period, as well as all claims for civil penalties under PAGA arising out of Labor Code Sections 210, 226.3, 558, 1197.1, and 2699 based on the factual allegations and Labor Code sections alleged to have been violated in the Complaint, which includes, without limitation, Labor Code sections 200, 201, 202, 203, 204, 226, 246, 404, 432, 510, 512, 558, 1174, 1194, 1197, 1198.5, 2699, 2802 and 2810.5 ("PAGA Released Claims" and, collectively with Class Released Claims, "Released Claims").

#### **Option 2 – Opt Out of the Settlement**

If you do not wish to participate in the Settlement, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, address, last four digits of your Social Security Number, and the following statement or something to its effect: "Please exclude me from the Settlement Class in the *Angela Duran v. Fresh Select, LLC* matter". Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

The proposed settlement includes the settlement of claims for civil penalties under PAGA. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, you will still receive an individual settlement share for the PAGA claims and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right to individually pursue only the Class Released Claims.

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

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

The written request to be excluded from the Settlement must be postmarked or received by the Administrator not later than **May 6, 2022**. If you exclude yourself from the Settlement then you will get no payment, and retain your legal rights to pursue claims that would otherwise be released by the settlement of the Lawsuit.

### ***Option 3 – File an Objection to the Settlement***

If you wish to object to the Settlement, you may file an objection in writing stating why you object to the Settlement. Your written objection must provide your full name, your address, a statement of the reasons why you believe that the Court should not approve the Settlement, the case name and number, and the last four digits of your Social Security Number. Your written objection must be signed by you and mailed the Administrator no later than **May 6, 2022**. Please note that you cannot both object to the Settlement and exclude yourself. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

### **Final Approval Hearing**

You may, if you wish, also appear at the Final Approval Hearing set for June 21, 2022 at 8:30 a.m. in the County Civil Center, Visalia Division of the Tulare County Superior Court, located at 221 South Mooney Boulevard, Visalia, California, 93291 in Department 7 and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

### **Additional Information**

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may visit <http://www.phoenixclassaction.com/>, call the Settlement Administrator at (800) 523-5773 or Class Counsel:

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You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Office of the Clerk of Tulare Superior Court, located at 221 South Mooney Boulevard, Visalia, California, 93291, during regular business hours of each court day.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,  
DEFENDANT, OR DEFENDANT’S ATTORNEYS WITH INQUIRIES.**