

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

QUIRUZ v. ARCHER DANIELS MIDLAND COMPANY, et al.
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
Case No. 5:17-cv-03300-BLF

A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.

YOU ARE RECEIVING THIS NOTICE BECAUSE RECORDS SHOW THAT YOU ARE A MEMBER OF ONE OR MORE OF THE FOLLOWING GROUPS (A “**CLASS MEMBER**”) THAT MAY RECEIVE MONEY FROM A CLASS ACTION SETTLEMENT OF THE ABOVE-CAPTIONED ACTION IF THE COURT REVIEWING THE PROPOSED SETTLEMENT APPROVES IT:

1. **California Exempt Employee Subclass:** Persons who were employed by Defendants Archer Daniels Midland Company (“**ADM**”) or Specialty Commodities, Inc. (“**SCI**”) (ADM and SCI are the “**Defendants**”) in a salaried exempt position in California at any time from May 3, 2016 up to and including April 3, 2020.
2. **California Non-Exempt Employee Subclass:** Persons who were employed by Defendants in an hourly-paid or salaried non-exempt position in California at any time from May 3, 2013 up to and including April 3, 2020.
3. **FCRA Subclass:** Any persons who (1) were employed by Defendants at any time from September 26, 2012 up to and including April 3, 2020, or (2) applied for employment with Defendants at any time from September 26, 2012 up to and including April 3, 2020, in each case for whom a pre-employment background check was conducted at any time from September 26, 2012 up to and including April 3, 2020.

Also see below for information on the “**California FLSA Collective**” that the Court has certified for settlement purposes.

Why should you read this Notice?

A proposed settlement (the “**Settlement**”) has been reached in a class action lawsuit entitled *Andrew Quiruz v. Archer-Daniels-Midland Company (ADM) and Specialty Commodities, Inc. (SCI), et al.*, filed on May 3, 2017, and assigned Case Number 5:17-CV-03300-BLF, United States District Court for the Northern District of California (Hon. Beth Labson Freeman) (the “**Action**”). The purpose of this Notice of Proposed Class Action Settlement (“**Notice**”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement.

A hearing concerning final approval of the proposed Settlement will be held before the Hon. Beth Labson Freeman on Thursday, September 10, 2020, at 9:00 a.m. in Courtroom 3 of the United States District Court, located at 280 South 1st Street, San Jose, CA 95113, to determine whether the Settlement is fair, adequate and reasonable.

As a Class Member, you are eligible to receive an Individual Class Settlement Payment (as described below) under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement. Additionally, as a member of the California Non-Exempt Employee Subclass, if you do not timely request to be excluded from the Settlement, you also have the option (but no obligation) to opt into the California FLSA Collective (described below) by timely completing and submitting an FLSA Opt-In Consent Form enclosed with this Notice pursuant to the procedures described below. If (and only if) you do so, you also will release all claims arising under the federal Fair Labor Standards Act (“**FLSA**”), 29 U.S.C. § 201 et seq., and will receive a second settlement check for doing so (the “**Individual FLSA Settlement Payment**”), as described below.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

DO NOTHING	If you do nothing, you will be considered part of the Class (<i>i.e.</i> , a participating Class Member) and will receive an Individual Class Settlement Payment as explained more fully below. You will also give up rights to pursue a separate legal action against Defendants for the Released Claims asserted in the Action as explained more fully below. Note, however, that as a member of the California Non-Exempt Employee Subclass, if you do nothing, you will <u>not</u> release FLSA claims, nor will you receive an additional Individual FLSA Settlement Payment. <u>See</u> the “Opt Into the California FLSA Collective” section immediately below for further information.
OPT INTO THE CALIFORNIA FLSA COLLECTIVE	As noted, as a member of the California Non-Exempt Employee Subclass, if you do not timely request to be excluded from the Settlement, you also have the option (but no obligation) to opt into the California FLSA Collective by timely completing and submitting an FLSA Opt-In Consent Form enclosed with this Notice pursuant to the procedures described below. If (and only if) you do so, you also will release all claims arising under the FLSA, and will receive an Individual FLSA Settlement Payment, in addition to your Individual Class Settlement Payment as a Class Member.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS	You have the option to pursue separate legal action against Defendants about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement as described below. As a result, you will not receive any benefits under the Settlement including any Individual Class Settlement Payment or any Individual FLSA Settlement Payment.
OBJECT	To object to the Settlement, you must mail, fax or email a written explanation of why you don’t like the Settlement to the Settlement Administrator. This option is available only if you do <u>not</u> exclude yourself from the Settlement. Do <u>not</u> request to be excluded if you wish to object.

This Notice summarizes the proposed Settlement. The precise terms and conditions of the Settlement will control over this Notice, and can be obtained by contacting Class Counsel (contact information listed below), by visiting Class Counsel's Settlement website for this case at www.phoenixclassaction.com/quiruz-v-specialty-commodities, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays, subject to Court closures related to public health advisories.

Who is affected by this proposed Settlement?

The Court has certified, for settlement purposes only, the following sub-classes (collectively, the "Class," and each of the respective time periods described in items (1), (2) and (3) below generally referred to as a "Class Period"):

1. **California Exempt Employee Subclass:** Persons who were employed by Defendants ADM or SCI in a salaried exempt position in California at any time from May 3, 2016 up to and including April 3, 2020.
2. **California Non-Exempt Employee Subclass:** Persons who were employed by Defendants in an hourly-paid or salaried non-exempt position in California at any time from May 3, 2013 up to and including April 3, 2020.
3. **FCRA Subclass:** Any persons who were (1) employed by Defendants at any time from September 26, 2012 up to and including April 3, 2020, or (2) applied for employment with Defendants at any time from September 26, 2012 up to and including April 3, 2020, in each case for whom a pre-employment background check was conducted at any time from September 26, 2012 up to and including April 3, 2020.

According to Defendants' records, you are a member of the Class and thus are a "Class Member."

Additionally, the Court has certified, for settlement purposes only, the "California FLSA Collective," which consists of any and all members of the California Non-Exempt Employee Subclass who choose to opt into the FLSA claims in this case, thereby becoming a "California FLSA Collective Member," by timely completing and submitting an FLSA Opt-In Consent Form. According to Defendants' records, you are a member of the California Non-Exempt Employee Subclass. You therefore have the option to opt into the California FLSA Collective, and an FLSA Opt-In Consent Form is enclosed with this Notice.

What is this case about?

In the Action, Plaintiff Andrew Quiruz ("Plaintiff") alleges on behalf of himself and the Class the following causes of action: (1) Violation of 15 U.S.C. §§ 1681b(b)(2)(A) (Fair Credit Reporting Act); (2) Violation of 15 U.S.C. §§ 1681d(a)(1) and 1681g(c) (Fair Credit Reporting Act); (3) Violation of California Civil Code § 1786 et seq. (Investigative Consumer Reporting Agencies Act); (4) Violation of California Civil Code § 1785 et seq. (Consumer Credit Reporting Agencies Act); (5) Failure to Provide Meal Periods (Cal. Lab. Code §§ 204, 223, 226.7, 512, and 1198); (6) Failure to Provide Rest Periods (Cal. Lab. Code §§ 204, 223, 226.7, and 1198); (7) Failure to Pay Hourly Wages (Cal. Lab. Code §§ 223, 510, 1194, 1194.2, 1197, 1997.1, and 1198); (8) Failure to Provide Accurate Written Wage Statements (Cal. Lab. Code § 226(a)); (9) All claims or penalties under the wage and hour laws, including under California Labor Code § 558; (10) All damages, penalties, interest, and other amounts recoverable under California and federal law, including under the applicable Industrial Welfare Wage Order and the California Unfair Competition Law; (11) Unfair Competition (Cal. Bus. & Prof. Code §§ 17200, et seq.); (12) Civil Penalties under Cal. Lab. Code §§ 2698, et seq. (the "Private Attorneys General Act" or "PAGA"), which authorizes aggrieved employees to file lawsuits to recover civil penalties on behalf of themselves, other employees, and the State of California for California Labor Code violations; and (13) Failure to pay all minimum and overtime wages due under the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 et seq. Plaintiff seeks unpaid wages, actual damages, statutory penalties, civil penalties under PAGA, restitution, interest, attorneys' fees, and costs.

Defendants deny all liability and are confident that they have strong legal and factual defenses to these claims, but they recognize the inherent risks, distractions, and costs associated with litigation. Defendants contend that their conduct is and has been lawful at all times relevant and that Plaintiff's claims do not have merit and do not meet the requirements for class or collective certification.

This Settlement is a compromise reached after good faith, arm's length negotiations between Plaintiff and Defendants (the "Parties"), through their attorneys and resulting from a mediation with an experienced neutral third-party mediator, and is not an admission of liability on the part of Defendants or any of the other Released Parties (defined below). Both sides agree that, in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff's claims or Defendants' defenses.

Who are the attorneys representing the Parties?

The attorneys representing the Parties in the Action are:

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| 1. <u>Class Counsel</u> | 2. <u>Defendants' Counsel</u> | |
| Shaun Setareh | Aimee Mackay | Jonathan D. Lotsoff |
| shaun@setarehlaw.com | aimee.mackay@morganlewis.com | jonathan.lotsoff@morganlewis.com |
| William M. Pao | MORGAN, LEWIS & BOCKIUS LLP | MORGAN, LEWIS & BOCKIUS LLP |
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| 315 S. Beverly Dr., Suite 315 | Telephone: (213) 612-2500 | Telephone: (312) 324-1000 |
| Beverly Hills, California 90212 | Facsimile: (213) 612-2501 | Facsimile: (312) 324-1001 |
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| Facsimile: (310) 888-0109 | | |

What are the Settlement terms?

Subject to final Court approval, Defendants will pay an aggregate total of \$1,500,000.00 (the “**Total Settlement Amount**”) for: (a) Individual Class Settlement Payments to participating Class Members; (b) Individual FLSA Settlement Payments to any members of the California Non-Exempt Employee Subclass who timely opt into the California FLSA Collective; (c) the Court-approved Class Representative Service Award (described below) to Plaintiff; (d) the Court-approved attorneys’ fees and costs to Class Counsel; (e) payment to the California Labor and Workforce Development Agency (“**LWDA**”) for PAGA penalties; (f) the employer-share of payroll and other taxes on any settlement payments; and (g) settlement administration costs.

Individual Class Settlement Payments and Individual FLSA Settlement Payments. After deduction from the Total Settlement Amount for Class Counsel attorneys’ fees and costs, the Class Representative Service Award to Plaintiff, the PAGA payment to the LWDA, and settlement administration costs, there will be (1) an Aggregate Class Payment Amount, and (2) a California FLSA Collective Payment, each as described below.

A. Aggregate Class Payment Amount and Individual Class Settlement Payments

Defendants will pay an “**Aggregate Class Payment Amount**” comprised as follows: (1) an aggregate total of \$300,000.00 will be allocated to the FCRA Subclass Members; (2) an aggregate total of \$510,000.00 will be allocated to the California Non-Exempt Employee Subclass Members; (3) an aggregate total of \$50,000.00 will be allocated to the California Exempt Employee Subclass Members; (4) an additional aggregate total of \$10,000.00 will be allocated to the California Non-Exempt Employee Subclass Members and the California Exempt Employee Subclass Members (together, the “**California Subclasses**”) for their respective shares of the PAGA payment (this amount will not be allocated to any FCRA Subclass Members who are not also members of these two California Subclasses); and (5) each of the foregoing amounts shall be inclusive of and used to pay (and not in addition to) the employer-share of payroll and other taxes on any and all such settlement payments. Certain of the foregoing amounts could increase somewhat depending on whether and to what extent the Court approves Class Counsel’s request for attorneys’ fees and costs and/or the Class Representative’s request for a Class Representative Service Award, but in no event will the total aggregate amount payable pursuant to the Settlement exceed the Total Settlement Amount (\$1,500,000.00).

From the Aggregate Class Payment Amount, an “**Individual Class Settlement Payment**” will be made to each Class Member who does not request to be excluded from the Settlement (“**participating Class Members**”). The Aggregate Class Payment Amount shall be divided among all participating Class Members (as noted, after accounting for the employer-share of payroll and other taxes). The applicable payments to the California Subclasses (including the employee share of the PAGA payment, but not the FCRA settlement payments) will be made on a pro rata basis based upon the total number of workweeks worked by each respective participating California Non-Exempt Employee Subclass Member, and the total number of paystubs for each respective participating California Exempt Employee Subclass Member, in the State of California during the applicable Class Period. Payments to the FCRA Subclass Members will be distributed in equal shares to each FCRA Subclass Member.

Class Members do **not** need to submit an FLSA Opt-In Consent Form and opt into the California FLSA Collective to receive an Individual Class Settlement Payment from the Aggregate Class Payment Amount. (As discussed below, however, California Non-Exempt Employee Subclass Members who wish to receive an additional Individual *FLSA* Settlement Payment will only receive that additional payment if they also opt into the California FLSA Collective.)

B. California FLSA Collective Payment and Individual FLSA Settlement Payments

In addition, an aggregate total of \$50,000.00 (the “**California FLSA Collective Payment**”) will be allocated for payment of “**Individual FLSA Settlement Payments**” to California Non-Exempt Employee Subclass Members who choose to opt into the California FLSA Collective by timely completing and submitting an FLSA Opt-In Consent Form (again, after accounting for the employer-share of payroll and other taxes). The pro-ration factor used to determine a California Non-Exempt Employee Subclass Member’s Individual Class Settlement Payment as described in Subpart A above (*i.e.*, the total number of workweeks worked by such individual in the State of California during the applicable Class Period divided by the total number of workweeks worked by all California Non-Exempt Employee Subclass Members in the State of California during the applicable Class Period) will be used to determine his or her Individual FLSA Settlement Payment if he or she timely opts into the California FLSA Collective.

Again, according to Defendants’ records, you are a member of the California Non-Exempt Employee Subclass. You therefore have the option to opt into the California FLSA Collective and receive an Individual FLSA Settlement Payment, and an FLSA Opt-In Consent Form is enclosed with this Notice.

C. Certain Tax Issues

Please note that all settlement payments (including Individual Class Settlement Payments and, if applicable, Individual FLSA Settlement Payments) are TAXABLE INCOME TO YOU as and to the extent provided by applicable law. For tax reporting purposes, the payments to participating California Non-Exempt Employee Subclass Members will be allocated ten percent as wages and ninety percent as penalties and interest (except as provided below). The Individual FLSA Settlement Payments to California Non-Exempt Employee Subclass Members who opt into the California FLSA Collective will be allocated 50% as wages and 50% as penalties and interest. The wage portion of the foregoing settlement payments shall be subject to the withholding of applicable local, state, and federal taxes, and the Settlement Administrator shall deduct applicable payroll taxes from the wage portion of such Individual Class Settlement Payments and Individual FLSA Settlement Payments. Settlement payments to each California Exempt Employee Subclass Member, FCRA settlement payments to each FCRA Subclass Member, and each California Subclass Member’s share of the PAGA payment shall be allocated 100% as penalties. The portion of the settlement payments allocated to penalties and interest shall be classified as other miscellaneous income

and reported on IRS Form 1099-MISC. **Again, any taxes owed on that other miscellaneous income also will be the responsibility of participating Class Members receiving those payments.**

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Settlement Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the local, state or federal tax consequences of payments to any Class Member.

D. Uncashed or Returned Settlement Checks.

All checks for Individual Class Settlement Payments and, as applicable, Individual FLSA Settlement Payments paid to participating Class Members shall advise that the checks will remain valid and negotiable for ninety (90) days from the date of the checks' issuance. If any given settlement check(s) are returned as undeliverable within sixty (60) days after issuance, the Settlement Administrator will attempt to identify a valid mailing address and, if one is found, will promptly re-issue such check(s) (this will be done a maximum of one time).

If any given settlement check(s) remain uncashed forty-five (45) days after issuance (including after any re-mailing as described above), the Settlement Administrator will promptly send the recipient via regular First-Class U.S. Mail a postcard or similar notice reminding him or her to cash such check(s) by the end of the ninety (90) day period after each applicable check's issuance.

Any settlement check(s) shall thereafter automatically be void if not cashed within ninety (90) days after issuance. Funds represented by any Individual Class Settlement Payment that is not timely cashed by a participating Class Member (including any checks returned as undeliverable for which a valid mailing address was not identified by the Settlement Administrator) shall be transmitted to the California Department of Industrial Relations Unpaid Wage Fund in the name of the employee that did not cash the check. Funds represented by any portion of the \$50,000.00 total California FLSA Collective Payment that remains unclaimed (including without limitation any FLSA Individual Settlement Payment that is not timely cashed, or that is returned as undeliverable for which a valid mailing address was not identified by the Settlement Administrator) will revert to Defendants.

In any such event, the participating Class Member shall nevertheless remain bound by the Settlement and the releases of claims therein (including without limitation, in the case of California FLSA Collective Members, the release of all claims arising under the FLSA).

Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Claims Administration Costs and Payment to the LWDA. Class Counsel will ask the Court to award them attorneys' fees up to \$460,000.00 (approximately thirty-one percent) of the Total Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$15,000.00. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Award payment of up to \$10,000.00 for Plaintiff for his efforts in bringing the case on behalf of the Class. The Settlement Administrator shall be paid for the costs of administration of the Settlement from the Total Settlement Amount, which is currently estimated to equal \$65,000. A payment in the amount of \$30,000.00 will also be made to the LWDA for PAGA penalties, which represents 75% of the \$40,000.00 total set aside for payment under PAGA. As noted, the remaining \$10,000.00 of the PAGA payment will be paid to the California Subclass Members in the aggregate, distributed pro-rata as described above.

What claims are being released by the proposed Settlement?

California Non-Exempt Employee Subclass Members fully and finally release the Released Parties (as defined below) from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising on or before the date of Preliminary Approval of this Settlement, *i.e.*, **April 3, 2020** (the "**Release Period**"), arising out of, based on, or encompassed by: (a) any and all claims for unpaid wages (including claims for regular wages, overtime, final wages, and meal period and rest period premiums), interest, penalties (including waiting time penalties pursuant to Labor Code section 203 and wage statement penalties pursuant to Labor Code section 226), any and all claims pursuant to Labor Code sections 201-204, 226, 226.7, 510, 512, 558, 1194, and the Industrial Welfare Commission Wage Orders; (b) any and all claims under Business and Professions Code section 17200, et seq., based on or reasonably relating to (1) claims or facts asserted or alleged in the Action, or (2) the violation of any statute, regulation, wage order, or decisional construction of a law alleged to have been violated in the Action; (c) any and all claims under PAGA; and (d) claims for attorneys' fees and costs and any other remedies available at law or in equity allegedly owed or available to the California Non-Exempt Employee Subclass arising or reasonably flowing from any complaints (or amended complaints) filed in the Action.

Additionally, California Non-Exempt Employee Subclass Members who timely and properly opt into the California FLSA Collective using an FLSA Opt-In Consent Form, thereby becoming California FLSA Collective Members, fully and finally release the Released Parties from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising at any time during the Release Period, arising out of, based on, or encompassed by: (a) any and all claims under the FLSA that were or could have been alleged in this Action based on the facts alleged in any complaints (or amended complaints) filed in the Action (including claims for regular wages, minimum wages, overtime, interest and penalties including claims for liquidated damages); and (b) claims for attorneys' fees and costs and any other remedies available at law or in equity allegedly owed or available to the California FLSA Collective arising or reasonably flowing from any complaints (or amended complaints) filed in the Action (together, the "**Released FLSA Claims**"). No other Class Members (including any California Non-Exempt Employee Subclass Members who do not timely and properly opt into the California FLSA Collective) shall release or be deemed to have released any Released FLSA Claims.

California Exempt Employee Subclass Members fully and finally release the Released Parties from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising at any time during the Release Period, arising out of, based on, or encompassed by (a) any allegation that Defendants maintained inaccurate wage statements under Labor Code Section 226; (b) any and all claims under PAGA; and (c) claims for attorneys' fees and costs and any other remedies available at law or in equity allegedly owed or available to the California Exempt Employee Subclass arising or reasonably flowing from any complaints (or amended complaints) filed in the Action.

The FCRA Subclass Members fully and finally release the Released Parties from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising at any time during the Release Period, arising out of, based on, or encompassed by: (a) claims under the Fair Credit Reporting Act, and any other statutes relating to background checks, consumer credit reports, or applications for employment; (b) claims under applicable state and local laws relating to background checks, consumer credit reports, or applications for employment; and (c) claims for attorneys' fees and costs and any other remedies available at law or in equity allegedly owed or available to the FCRA Subclass Members arising or reasonably flowing from any complaints (or amended complaints) filed in the Action.

“Released Parties” means Defendant ADM and Defendant SCI, any of their respective subsidiaries, predecessors, successors, affiliates, and otherwise related entities, and any of their respective past, present and/or future, direct and/or indirect, officers, directors, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, divisions, assigns, and joint venturers.

What are my options in this matter?

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Class Settlement Payment; or (B) exclude yourself from the Settlement. If you choose Option (A):

- You may also object to the Settlement, as explained below.
- Additionally, individuals who are California Non-Exempt Employee Subclass Members have the option (but not any obligation) to opt into the California FLSA Collective using an FLSA Opt-In Consent Form, thereby becoming California FLSA Collective Members, giving a release of Released FLSA Claims, and receiving an Individual FLSA Settlement Payment.

As noted, according to Defendants' records, you are a member of the California Non-Exempt Employee Subclass and therefore have the option to opt into the California FLSA Collective. An FLSA Opt-In Consent Form therefore is enclosed with this Notice.

If you remain in the Class, you will be represented at no additional cost to you by Class Counsel (beyond the attorneys' fees and cost awards sought by Class Counsel out of the Total Settlement Amount). Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

OPTION A. Remain in the Class. If you wish to remain in the Class and be eligible to receive an Individual Class Settlement Payment under the Settlement, **you do not need to take any action.** Simply by remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims (other than the FLSA Released Claims) as described above.

Any amount paid to participating Class Members (including without limitation, if applicable, any Individual FLSA Settlement Payment) will not count or be counted for determination of eligibility for, or calculation of, any employee benefits (for example, vacations, holiday pay, retirement plans, non-qualified deferred compensation plans, etc.), or otherwise modify any eligibility criteria under any employee pension benefit plan or employee welfare plan sponsored by any Defendant, unless otherwise required by law.

- **Objecting to the Settlement:** If you believe the proposed Settlement is not fair, reasonable or adequate in any way, you may object to it. To object, you must submit a written objection (“Notice of Objection”) to the Settlement Administrator at **Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Fax Number: (949) 209-2503, Email Address: notice@phoenixclassaction.com.** The Notice of Objection must: (1) state your full name; (2) state the last four digits of your Social Security number; (3) state the grounds for the objection; (4) state whether you will appear at the final approval hearing, whether you will be represented at that hearing by an attorney, and the contact information for any such attorney; (5) be signed by you; and (6) be postmarked on or before **August 20, 2020** and returned to the Settlement Administrator at the address listed above, or be received by the Settlement Administrator on or before **August 20, 2020** by fax or email at the fax number or email address listed above. If you wish, you can (but are not obligated to) also hire an attorney at your own expense to represent you in your objection, including at the final approval hearing. Any Class Member who does not timely object in the manner described above shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement, unless otherwise ordered by the Court. **Even if you submit an objection, you will be bound by the terms of the Settlement, including the release of Released Claims (and, if applicable, the FLSA Released Claims) as set forth above, unless the Settlement is not finally approved by the Court.**
- **Opting Into the California FLSA Collective:** As noted, California Non-Exempt Employee Subclass Members who do not timely request to be excluded from the Settlement also have the option (but no obligation) to opt into the California FLSA Collective by timely completing and submitting an FLSA Opt-In Consent Form. As noted, according to Defendants' records, you are a member of the California Non-Exempt Employee Subclass and therefore have the option to opt into the California FLSA Collective. An FLSA Opt-In Consent Form therefore is enclosed with this Notice. To opt into the California FLSA Collective and become a California FLSA Collective Member: (a) you must complete and submit the enclosed FLSA Opt-In Consent Form (without deleting or modifying any portion thereof) to the Settlement Administrator at **Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Fax Number: (949) 209-2503,** and (b) such signed and completed FLSA Opt-In Consent Form must be postmarked on or before **July 3, 2020** and returned to the Settlement Administrator at the address listed above, or be received by the Settlement Administrator on or before **July 3, 2020** by fax at the fax number listed above. Any California Non-Exempt Employee Subclass Member who does not timely complete and submit an FLSA Opt-In Consent Form in the manner described above shall not opt into the California FLSA Collective, shall not become a California FLSA Collective Member, shall not release any Released FLSA Claims, and shall not receive any Individual FLSA Settlement Payment. Even if you submit an objection, you will be bound by any FLSA Opt-In Consent Form that you submit and the terms of the Settlement relating to California FLSA Collective Members, including the release of FLSA Released Claims as set forth above, unless the Settlement is not finally approved by the Court.

OPTION B. Request to Be Excluded from the Settlement. If you do not want to be part of the Settlement, you must submit a Request to be Excluded from the Settlement to the Settlement Administrator at **Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Fax Number: (949) 209-2503**. In order to be valid, your Request to be Excluded from the Settlement must: (1) state your full name; (2) state the last four digits of your Social Security number; (3) state that you wish to be excluded from the Settlement; (4) be signed by you; and (5) be postmarked on or before **July 3, 2020** and returned to the Settlement Administrator at the address listed above, or be received by the Settlement Administrator on or before **July 3, 2020** by fax at the fax number listed above. If you do not submit a complete and signed Request to be Excluded from the Settlement on time (as evidenced by the postmark or fax receipt by the Settlement Administrator), your Request will be rejected, you will be deemed a participating Class Member, and you will be bound by the release of Released Claims (and, if applicable, Released FLSA Claims) as described above and all other terms of the Settlement. If you submit a valid Request to be Excluded: (a) you will have no further role in the Action, and you will not be entitled to any benefit, including money, as a result of the Action and Settlement and will not be entitled to or permitted to assert an objection to the Settlement or, if applicable, an FLSA Opt-In Consent Form; and (b) you will retain the right to bring your own action against the Defendants at your own personal cost.

What is the next step in the approval of the Settlement?

The Court will hold a Final Settlement Approval Hearing regarding the fairness, reasonableness and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Class Representative Service Award to Plaintiff, the settlement administration costs, and the payment to the LWDA for PAGA penalties on Thursday, September 10, 2020, at 9:00 a.m. in Courtroom 3 of the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113. The Final Settlement Approval Hearing may be continued without further notice to Class Members.

You are not required to attend the Final Settlement Approval Hearing to receive a Settlement Payment.

You are welcome to personally attend the Final Settlement Approval Hearing without a lawyer, at your own expense, if you so choose. You are not required to do so, even if you submit an objection to the Settlement. You also may if you so choose, but are not required to, hire an attorney to appear on your behalf at the Final Settlement Approval Hearing, at your own expense.

How can I get additional information?

This Notice summarizes the Action and the basic terms of the Settlement (as noted, the actual Settlement terms and conditions are controlling). More details are in the Settlement Agreement. The precise terms and conditions of the Settlement can be obtained by contacting Class Counsel (contact information listed above), by visiting Class Counsel's Settlement website for this case at www.phoenixclassaction.com/quiruz-v-specialty-commodities, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 280 South 1st Street, San Jose, CA 95113, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays, subject to Court closures related to public health advisories.

PLEASE DO NOT CALL OR WRITE THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.

FLSA OPT-IN CONSENT FORM

Re: *Andrew Quiruz v. Archer Daniels Midland Company (“ADM”) and Specialty Commodities, Inc. (“SCI”), et al.*, Action Number 5:17-CV-03300-BLF (the “**Action**”), United States District Court for the Northern District of California (Hon. Beth Labson Freeman) (the “**Court**”).

To opt into the California FLSA Collective and become a California FLSA Collective Member in the Action, you must complete and submit this FLSA Opt-In Consent Form (without deleting or modifying any portion thereof) to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Fax Number (949) 209-2503, so that it is postmarked, or received by fax, on or before July 3, 2020. In submitting this FLSA Opt-In Consent Form, you hereby state and agree as follows:

I have carefully read and understand the Notice of Proposed Class Action Settlement (the “**Notice**”) in the above Action, which I received with this FLSA Opt-In Consent Form, and also have had a full and fair opportunity to review the Amended Stipulation of Settlement of Class Action Claims and Release of Claims in the Action dated December 6, 2019 (the “**Settlement Agreement**”) and to consult with Class Counsel (identified in the Notice) or my own attorney (at my own expense) if I so choose. By signing and submitting this FLSA Opt-In Consent Form, I hereby irrevocably agree and consent to opt into the California FLSA Collective in the Action, thereby becoming a California FLSA Collective Member (as described in the Notice). This is my knowing and voluntary decision. I understand and agree that I had no obligation to do so.

I understand and acknowledge that, if the Court gives final approval to the Settlement of the Action (the “**Settlement**”) and it becomes effective, then by timely completing and submitting this FLSA Opt-In Consent Form, I will receive an Individual FLSA Settlement Payment as described in the Notice and the Settlement Agreement (in addition to the separate Individual Class Settlement Payment that I will receive as a Class Member regardless of whether I sign and return this Form).

I also understand and agree that, if the Court gives final approval to the Settlement and it becomes effective, by completing and submitting this FLSA Opt-In Consent Form, and pursuant to the Settlement Agreement, I hereby and thereby fully and finally release the Released Parties (defined below) from any and all claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising on or before the date of Preliminary Approval of the Settlement, *i.e.*, **April 3, 2020**, arising out of, based on, or encompassed by: (a) any and all claims under the federal Fair Labor Standards Act (“**FLSA**”), 29 U.S.C. § 201 et seq., that were or could have been alleged in the Action based on the facts alleged in any complaints (or amended complaints) filed in the Action (including claims for regular wages, minimum wages, overtime, interest and penalties including claims for liquidated damages); and (b) claims for attorneys’ fees and costs and any other remedies available at law or in equity allegedly owed or available to the California FLSA Collective arising or reasonably flowing from any complaints (or amended complaints) filed in the Action (together, the “**Released FLSA Claims**”).

“**Released Parties**” means Defendant ADM and Defendant SCI, any of their respective subsidiaries, predecessors, successors, affiliates, and otherwise related entities, and any of their respective past, present and/or future, direct and/or indirect, officers, directors, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, divisions, assigns, and joint venturers.

I understand and acknowledge that the Released Parties deny all liability and contend that their conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not have merit.

Sign Name: _____ Date: _____

Print Name: _____ Address: _____

Daytime telephone no.: () _____ - _____ Last 4 digits of Social Security Number: _____

Dates of employment with ADM: (month/year) _____ to (month/year) _____