

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF KERN

BERNARDO SANTOS,

Plaintiff,

vs.

TORRES FARM LABOR CONTRACTOR, INC., a
California corporation; and Does 1 through 100,

Defendants.

Case No. BCV-19-102470

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED SETTLEMENT**

To: All current and former non-exempt, hourly, employees of Defendant Torres Farm Labor Contractor, Inc. who worked at Grimmway Enterprises, Inc. and related entities' facilities (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) in California at any time between August 29, 2015 and May 1, 2021. 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 entitled *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, Kern County Superior Court Case No. *BCV-19-102470* (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. Defendant's records show that you were employed by Defendant as an hourly, non-exempt employee in California between from August 29, 2015 through May 1, 2021 (the "Class Period"). 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 finally approves the Settlement, you will be bound by the terms of the Settlement and any final judgment.

What is this case about?

Plaintiff Bernardo Santos ("Plaintiff") brought this Lawsuit against Defendant, seeking to assert claims on behalf of a class of current and former hourly, non-exempt employees who worked for Defendant, in California at any time on or after August 29, 2015. Plaintiff Bernardo Santos 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 Defendant failed to pay all minimum and overtime wages owed, failed to provide to Settlement Class Members all required meal and rest periods, and failed to provide Settlement Class Members with itemized wage statements in compliance with California law. The Lawsuit also alleges that Defendant failed to timely pay all wages owed to Settlement Class Members upon their separation of employment from Defendant. As a result of the foregoing alleged violations, Plaintiff also alleges that Defendant engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorney General Act.

Defendant denies that it has done anything wrong. Defendant further denies that it owes Settlement Class Members any wages, restitution, penalties, or other damages. No Court has made any determination as to the factual allegations in the Lawsuit. Rather, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Defendant, and it expressly denies all liability.

The Court has not ruled that Defendant violated any laws or whether Plaintiff or any other person is entitled to damages or other relief. However, to avoid additional expense, inconvenience, and interference with their business operations, Defendant has concluded that it is in its best interest and the interests of Settlement Class Members to settle the Lawsuit on the terms summarized in this Notice. After Defendant provided relevant information to Class Counsel, the Settlement was reached after mediation and arm's-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 Defendant, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

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

Who are the Attorneys?

<p>Attorneys for the Plaintiff / Settlement Class Members:</p> <p>LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com Romina Tamiry rtamiry@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com</p> <p>HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com</p>	<p>Attorneys for Defendant Torres Farm Labor Contractor, Inc.</p> <p>LEBEAU THELEN LLP Thomas P. Feher tfeher@lebeauthelen.com 5001 E. Commercenter Dr. 300 Bakersfield, CA 93309 Tel: (661) 325-8962</p>
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What are the terms of the Settlement?

On August 13, 2021, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Defendant at any time in California from August 29, 2015 through May 1, 2021. Settlement Class Members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Defendant as described below.

Defendant has agreed to pay \$1,350,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class Members, attorneys’ fees and expenses, payment to the Labor Workforce Development Agency (“LWDA”), settlement administration costs, and the Class Representative’s Service Award. Defendant’s share of payroll taxes associated with any wage payments to Settlement Class Members shall be paid by Defendant separately from, and in addition to, the Gross Settlement Amount.

The following deductions from the Gross 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 will perform many other duties relating to the Settlement. The Court has approved setting an amount not to exceed \$35,500.00 from the Gross 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 Gross 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 Gross Settlement Amount, which is estimated to be \$450,000.00, 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 in an amount not to exceed \$25,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount not to exceed \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class Members.

LWDA Payment. Class Counsel will ask the Court to approve a payment in the total amount of \$40,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Thirty Thousand Dollars and Zero Cents (\$30,000.00) will be payable to the LWDA, and the remaining twenty-five percent (25%), or Ten Thousand Dollars and Zero Cents (\$10,000.00), will be payable to certain Settlement Class Members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below). The NSA is estimated at approximately \$<< >>, to be shared among an up to << __ >> estimated Settlement Class Members.

The Net Settlement Fund shall be allocated to Settlement Class Members who worked during the Class Period, as follows: each participating Settlement Class Member shall receive a proportionate settlement share based upon the number of workweeks worked during the Class Period, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.

In addition, Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement Amount has been designated as the “PAGA Amount” as described above. All PAGA Employees shall receive a portion of the PAGA. “PAGA Employees” include all current and former non-exempt, hourly, employees of Defendant who worked in California (including those who submit a Request for Exclusion) at any time between from August 29, 2018 and May 1, 2021 (“PAGA Period”). A PAGA Employee shall receive a portion of the PAGA Amount proportionate to the number of Workweeks that he or she worked during the period the PAGA Period and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of Workweeks worked during the PAGA Period, and the denominator of which is the total number of Workweeks worked by all PAGA Employees during the PAGA Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Settlement Awards will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion.

If you submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you are a PAGA Employee.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 120 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class Members who checks were not cashed within 120 days after mailing will be submitted to designated the non-profit organization approved by the Court.

Payment by Defendant of Gross Settlement Amount. The Gross Settlement Amount shall be paid by Defendant with the Settlement Administrator in two equal payments. The first payment in the amount of \$675,000 is due within 30 days of the Effective Date. The second payment in the amount of \$675,000 is due within 120 days of the Effective Date.

“Effective Date” for performance and payment by Defendant shall be no sooner than the date when all of the following events have occurred: (a) the Settlement Agreement and related documents are approved and executed by all Parties and by Class Counsel and Defense Counsel; (b) the Court has given preliminary approval to the Settlement; (c) notice has been given to the Settlement Class Members providing them with an opportunity to Opt-Out of the Class Settlement; (d) the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment certifying the Class and approving this Stipulation; (e) notice of final judgment has been given to the Settlement Class Members pursuant to California Rules of Court, rule 3.771(b); and (f) the later of the following events: (1) the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; (2) or the dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right to pursue further remedies or relief; or (3) any appeal, writ, or the issuance of such other final appellate order upholding the Court’s final order with no right to pursue further remedies or relief or (4) July 30, 2021. In the event there is a timely filed motion to set aside judgment or to intervene, the expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class Settlement will be based on the later of the court’s ruling or order on any such motion or entry of final order and judgment certifying the Class and approving this Stipulation but in no event will any payment be required sooner than July 30, 2021.

Within ten (10) business days following Defendant’s deposit of the full amount of the Gross Settlement Amount with the Settlement Administrator, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties’ counsel for review and approval. Within seven (7) business days of approval by the Parties’ counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class Members.

If the Court grants final approval of the Settlement, the Settlement Awards are expected to be mailed in March 2022.

Allocation and Taxes. For tax purposes, each Settlement Award shall be allocated as follows: eighty percent (80%) as penalties and interest; and twenty percent (20%) as wages. The Settlement Administrator will be responsible for issuing to participating Settlement Class Members IRS Forms W-2 for amounts deemed “wages” and IRS Forms 1099 for the amounts allocated as penalties and interest. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, Defendant and its 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, the Settlement Class, and each Settlement Class Member who has not submitted a timely and valid Request for Exclusion, will release Defendant Torres Farm Labor Contractor, Inc. and all the entities for whom Torres Farm Labor Contractor, Inc. provided labor (“Released Affiliates”) in the Class Period (including, but not limited to, Grimmway Enterprises, Inc. aka Grimmway Farms and Cal-Organic Farms) and all of Defendant’s and Released Affiliates present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be liable for any of the Released Claims as defined below (hereinafter “Released Parties”) will release the Released Parties from those claims alleged in the operative Complaint or that could have been raised in the complaint (“Complaint”) based on the factual allegations therein, that arose during the Class Period, including, but not limited to, all claims under state, federal or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint or any PAGA Notice to the Labor and Workforce Development Agency (LWDA) related to this matter, including but not limited to: claims for minimum wage violations; failure to pay overtime wages; failure to pay wages timely; penalties; rest period violations; meal period violations; failure to keep proper records; itemized wage statement violations; waiting time penalties; unfair competition; declaratory relief; (claims under Labor Code sections 201, 202, 203, 204, 210, 226, 226.2, 226.3, 226.7, 510, 512, 1102.5, sections 11 and 12 of the applicable IWC Wage Order(s) and the California Business and Professions Code § 17200 *et seq.* based on the foregoing Labor Code violations); and claims for civil penalties pursuant to the California Private Attorneys General Act; including, but not limited to, injunctive relief; liquidated damages, penalties of any nature; interest; fees; costs; and all other claims and allegations made or which could have been made in the Action and/or in the form of a PAGA claim from August 29, 2015 through the date of preliminary approval of the Settlement (collectively, “Released Claims”).

The time period of the Released Claims shall be the same time as the Class Period.

PAGA Release and PAGA Employees. If the Court approves the Settlement, all PAGA Employees will release the Released Parties, from all claims, demands, rights, liabilities and causes of action under the California Labor Code Private Attorneys General Act of 2004 based on (as alleged in the letter to the LWDA dated March 9, 2021) the (a) failure to pay all overtime wages owed; (b) failure to pay minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to issue accurate, itemized wage statements; and (f) failure to pay all wages due upon separation of employment (collectively, “PAGA Released Claim”).

The time period of the PAGA Released Claim is August 29, 2018 through May 1, 2021 (“PAGA Period”).

The Parties acknowledge that under the release, the right of the LWDA to investigate the PAGA Released claim is not released, but the PAGA Released Claim does include any claims for penalties by a PAGA Employee as a result of any such LWDA investigation, and PAGA Employees are barred from their right to act as a private attorney general as to the PAGA Released Claims.

You cannot submit a Request for Exclusion from the PAGA Release.

The releases are null and void if Defendant fails to fully fund the Gross Settlement Amount.

Conditions of Settlement. The Settlement is conditioned upon the Court entering an order at or following the Final Approval Hearing finally approving the Settlement as fair, reasonable, adequate and in the best interests of the Settlement Class, 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 share of the Settlement based on the proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of Individual Settlement Award. 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 Award. Your award is based on the proportionate number of workweeks you worked during the Class Period, whether you have worked during the PAGA Period, and whether your employment was separated during the Class Period. The information contained in Defendant’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Individual Settlement Award. If you disagree with the information in your Notice of Individual Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than December 6, 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. The Settlement Administrator’s decision regarding any dispute will be final.

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 from the Class Action Settlement” letter or card postmarked no later than December 6, 2021, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE SANTOS V. TORRES FARM LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION 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. Any person who files 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.

If you submit a Request for Exclusion, you will only be excluded from the Released Claims. You cannot submit a Request for Exclusion from the PAGA Release. You will receive a proportionate share of the PAGA Payment regardless of whether you exclude yourself from the Settlement if you were employed between August 29, 2018 and May 1, 2021.

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 name, address, as well as contact information for any attorney representing you regarding your objection, 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.

If you also wish to appear at the Final Approval Hearing scheduled for January 14, 2022 at 8:30 a.m. in Department 10 of the Kern County Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301, either remotely, in person or through an attorney, you must also file a notice of intention to appear with the Court and serve counsel for all parties on or before December 6, 2021. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before December 6, 2021. All objections or other correspondence must state the name and number of the case, which is *Bernardo Santos v. Torres Farm Labor Contractor, Inc.*, Kern County Superior Court Case No. BCV-19-102470.

Any Class Member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court's social distancing and mandatory face covering requirements, as well as other orders related to COVID-19. All such rules and orders can be located at the Court's website kern.courts.ca.gov.

For more information on how to appear remotely, please visit the Court's website at

https://www.kern.courts.ca.gov/online_services/remote_court_hearings.

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 January 14, 2022 at 8:30 a.m., in Department 10 of the Kern County Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses and the Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to Settlement Class Members. **You are not required to attend the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing.**

Any changes to date, time, or location of the Final Approval Hearing will be posted on the Settlement Administrator's website (<http://www.phoenixclassaction.com/>).

Notice of the Court's final judgment will be posted on the Settlement Administrator's website (<http://www.phoenixclassaction.com/>).

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 by requesting judicial records online at

https://www.kern.courts.ca.gov/online_services/judicial_records_requests/disclaimer or at the Office of the Clerk of the Kern County Superior Court, located at 1415 Truxtun Avenue, Bakersfield, California 93301, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, DEFENDANT OR ITS 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 **December 6, 2021**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON AUGUST 13, 2021.