

NOTICE OF PENDENCY OF CLASS ACTION AND PROPOSED SETTLEMENT
Maria Chavarin De Gamez v. California Fruit Basket, Inc., et al.
Fresno Superior Court
Case No.: 20CECG02531

To: All individuals who worked for Defendant California Fruit Basket, Inc. and/or Defendant Melkonian Enterprises, Inc. (collectively “Defendants”) in California as non-exempt employees from August 28, 2016 through June 16, 2021 (“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 *Maria Chavarin De Gamez v. California Fruit Basket, Inc., et al.*, Fresno County Superior Court, Case No. 20CECG02531 (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. California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc.’s (collectively, “Defendants”) records show that you were employed by California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. as a non-exempt employee in California between August 28, 2016 and June 16, 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 to the terms of the Settlement and any final judgment.

What is this Lawsuit about?

Plaintiff Maria Chavarin De Gamez (“Plaintiff”) brought this Lawsuit against Defendants seeking to assert claims on behalf of a class of all current and former non-exempt employees who worked for California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. in California from August 28, 2016 through June 16, 2021. Plaintiff is known as the “Class Representative,” and her attorneys, who also represent the interests of all 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 timely pay all wages due or final wages due upon separation of employment; and (v) engaged in unlawful business practices as a result of the above-mentioned alleged violations. The Lawsuit further alleges that Defendants are also liable for civil penalties under the California Labor Code Private Attorneys General Act (“PAGA”).

Defendants deny that they have done anything wrong. Defendants also deny that they owe Class Members any wages, restitution, statutory or civil penalties, damages, or any other remedies. 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 the merits of the claims alleged in the Lawsuit. 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 Class Member because of his or her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiff/Settlement Class:	Attorneys for Defendants:
STANSBURY BROWN LAW Daniel J. Brown dbrown@stansburybrownlaw.com 2610 ½ Abbot Kinney Blvd. Venice, California 90291 Tel: (323) 204-3124 www.stansburybrownlaw.com	LEWIS BRISBOIS BISGAARD & SMITH LLP Katherine C. Den Bleyker, Esq. katherine.denbleyker@lewisbrisbois.com 633 W. 5 th St., Suite 4000 Los Angeles, CA 90071 Tel: (213) 250-1800 www.lewisbrisbois.com

What are the terms of the Settlement?

Defendants have agreed to pay \$420,000.00 (the “Maximum Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Class Members, Class Counsel’s attorneys’ fees and expenses, Settlement administration costs, and the Class Representative’s Incentive 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 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. 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 \$140,000.00, 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 of up to \$20,000.00 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 \$6,250.00 from the Maximum Settlement Amount to pay the settlement administration costs.

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

Payment to State of California. The Parties have agreed to allocate \$5,000.00 towards the Settlement of the PAGA claims in the Lawsuit. \$3,750.00 will be paid to the State of California Labor and Workforce Development Agency (“LWDA”), representing its 75% share of the PAGA civil penalties. The remaining \$1,250.00 will be allocated to Class Members as part of the Net Settlement Fund described below.

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 \$245,140.00, and will be divided as follows:

- (i) 20% 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 California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. ended at any time between August 28, 2017 and June 16, 2021 (“Waiting Time Period”).
- (ii) 15% of the Net Settlement Fund shall be designated as the “Wage Statement Amount” and will be allocated to Settlement Class Members based on the proportionate number of pay periods that they each worked between August 28, 2019 and June 16, 2021 (“Wage Statement Period”).
- (iii) \$1,250.00 of the Maximum Settlement Amount has been designated as the “PAGA Amount.” Each Class Member who was employed by California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. at any time from August 28, 2019 to June 16, 2021 shall receive a portion of the PAGA Amount based on the number of proportionate pay periods that he or she worked during the time period of August 28, 2019 to June 16, 2021 (“PAGA Period”). Class Members shall not have the right to opt out of the PAGA portion of the settlement, and will receive their portion of the PAGA Amount regardless of their decision to opt out of the class settlement.
- (iv) The remainder of the Net Settlement Fund will be distributed to each Settlement Class Member 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 based on Defendants’ records) that he or she worked during the Class Period (August 28, 2016 to June 16, 2021).

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. The Maximum Settlement Amount will be paid by Defendants within thirty (30) calendar days of the Final Approval. February 9, 2023

Allocation and Taxes. For tax purposes, each Individual Settlement Award shall be treated as follows: 20% as “wages” subject to normal payroll withholdings, for which an IRS Form W-2 will be issued; and 80% as penalties and interest with no withholdings, for which an IRS Form 1099 will be issued. For Class Members who opt out of the class portion of the settlement and receive only their portion of the PAGA Amount, 100% of the PAGA Amount shall be treated as penalties with no withholdings, 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, the Settlement Class, and each Settlement Class Member will fully release and discharge Defendants California Fruit Basket, Inc. and Melkonian Enterprises, Inc., their past and present owners, officers, directors, shareholders, members, partners, managers, employees, parent companies, subsidiaries, predecessors, successors, assigns, joint venturers, insurers, and legal representatives (collectively, the “Released Parties”) for any and all causes of action, claims, rights, damages, penalties, liabilities, expenses, and losses alleged in any of the pleadings or LWDA Notice(s) in the Lawsuit, or that could have been alleged based on any matter or fact set forth or referred to in any of the pleadings or LWDA Notice(s) in the Lawsuit, including: (a) minimum wage violations; (b) failure to pay all overtime wages; (c) meal period violations; (d) rest period violations; (e) wage statement violations; (f) waiting time penalties; (g) all claims arising out of unfair or unlawful business practices under California Business & Professions Code sections 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 Lawsuit; and (h) all claims for civil penalties under the PAGA, that could have been premised on the claims that were pled or could have been pled based on the factual allegations in the Lawsuit (collectively, the “Released Claims”). For members of the Settlement Class who do not validly opt out, the release period shall run from August 28, 2016 through June 16, 2021 (“Class Period”).

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 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 workweeks in which you worked at least one day based on Defendants’ records (“Eligible Workweek”) during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you separated from your employment with California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. during the Waiting Time Period, 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 Individual Settlement Award is based on the proportionate number of Eligible Workweeks you worked during the Class Period, the proportionate number of pay periods you worked during the Wage Statement Period, the proportionate number of pay periods you worked during the PAGA Period, and whether you have separated from your employment with California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. during the Waiting Time Period. The information contained in Defendants’ 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 December 12, 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’ records:

- (a) you worked for California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. in California from _____ to _____;
- (b) you worked ____ Eligible Workweeks between August 28, 2016 and June 16, 2021, for California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc.;
- (c) you worked ____ pay periods between August 28, 2019 and June 16, 2021, for California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc.; and
- (d) your employment with California Fruit Basket, Inc. and/or Melkonian Enterprises, Inc. <<DID/DID NOT>> end between August 28, 2017 and June 16, 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 Class Portion of the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself from the class portion of the settlement by completing the Request for Exclusion Form included with this Notice, and sending it to the Settlement Administrator postmarked no later than December 12, 2022, with your name, address, telephone 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. However, the person may not opt out of the PAGA portion of the settlement and release as described above. Class Members will receive their portion of the PAGA Amount regardless of their decision to opt out of the class 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 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 December 12, 2022

You may also object by appearing at the Final Approval Hearing scheduled for February 9, 2023 at 3:30 p.m. in Department 503 of the Fresno County Superior Court, located at 1330 O Street, Fresno, California 93721. 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 *Maria Chavarin De Gamez v. California Fruit Basket, Inc., et al.*, Fresno County Superior Court, Case No. 20CECG02531.

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 February 9, 2023 at 3:30 p.m., in Department 503 of the Fresno County Superior Court, located at 1330 O Street, Fresno, California 93721. 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 Class Representative Incentive Payment to Plaintiff. **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 Fresno County Superior Court, located at 1330 O Street, Fresno, California 93721, during regular court hours. You may also view the case file online at <https://publicportal.fresno.courts.ca.gov> selecting "Smart Search," and entering the case number information. This case is assigned to Department 503 of the Fresno County Superior Court, located at 1330 O Street, Fresno, California 93721. The Settlement Agreement is attached as Exhibit A to the Declaration of Daniel J. Brown in Support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, filed on October 6, 2022. You may also contact the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773 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 **December 12, 2022**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON OCTOBER 6, 2022