

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

ERIC HERNANDEZ, individually, and on
behalf of all other similarly situated current
and former employees of Defendants,

Plaintiff,

vs.

CASTLE & COOKE AVIATION SERVICES,
INC.; and DOES 1 through 10, inclusive,

Defendants.

CASE NO.: 21STCV12614

[Assigned for all purposes to the Hon. William
F. Highberger, Dept. 10]

**NOTICE OF CLASS, COLLECTIVE,
AND REPRESENTATIVE ACTION
SETTLEMENT**

TO: All individuals who were non-exempt employees of CASTLE & COOKE AVIATION SERVICES, INC.,
in California, at any time from April 1, 2017, to July 13, 2022.

Please read this notice carefully. This notice permits you to file a notice of objection on or before December 10, 2022, if you wish to object to the proposed settlement, or to submit a request for exclusion on or before December 10, 2022, if you wish to be excluded from the proposed settlement. YOU ARE NOT BEING SUED.

Pursuant to the order of the Los Angeles County Superior Court, entered September 21, 2022, YOU ARE HEREBY NOTIFIED AS FOLLOWS: A settlement has been reached between the parties in the lawsuit identified above, pending in the Los Angeles County Superior Court, on behalf of the Settlement Class, which has been provisionally certified for purposes of this settlement. The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable, and that any final determination of those issues will be made at the final hearing.

The Settlement Agreement may be found attached as Exhibit 1 to the Declaration of Farzad Rastegar in Support of the Motion for Preliminary Approval of Joint Stipulation and Settlement of Class, Collective, and Representative Action, that was filed on September 21, 2022. Both the Settlement Agreement and the Class Action Complaint that was filed on April 1, 2021, may be found on the Court's website at:

<https://www.lacourt.org/documentimages/civilimages/publicmain.aspx>

The Los Angeles Superior Court is located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012.

You have received this notice because records indicate you qualify as a member of the Settlement Class. This notice is to advise you of how you can (1) participate in the settlement, (2) object to the settlement, and/or (3) exclude yourself from the settlement.

The Settlement has two main parts: (1) a Class Settlement requiring Castle & Cooke Aviation Services, Inc. to fund Individual Class Payments to Class Members, and (2) a PAGA Settlement requiring the Company to fund Individual PAGA Payments to Aggrieved Employees and pay penalties to the California Labor and Workforce Development Agency ("LWDA").

BACKGROUND OF THE CASE

On April 1, 2021, Plaintiff Eric Hernandez filed a Class Action Complaint in the Superior Court of the State of California, for the County of Los Angeles, Case No. 21STCV12614, in which he alleged the following claims: 1) Failure to provide meal periods; 2) Failure to provide rest breaks; 3) Failure to pay minimum and straight time wages; 4) Failure to pay overtime compensation; 5) Failure to reimburse all necessary business expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties; 6) Failure to timely pay wages due upon termination of employment; 7) Failure to provide accurate statements and maintain required records; 8) Unfair Business Practices [Cal. Bus. & Prof. Code §§ 17200, et seq.]; and 9) Representative Action for Civil Penalties pursuant to the Private Attorneys General Act.

Castle & Cooke Aviation Services, Inc. denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. The Company contends that its conduct is and has been lawful at all relevant times and that Plaintiff's claims do not have merit. The Company does not admit, concede, or imply that it has done anything wrong or legally actionable by settling this lawsuit.

The Parties have entered into a Settlement Agreement which has been granted preliminary approval by the Court. This Settlement is a compromise reached after good faith, arm's length negotiations between the Parties, through their attorneys during mediation. The Agreement provisionally certifies the Settlement Class for purposes of this settlement.

II. SUMMARY OF THE PROPOSED SETTLEMENT

Plaintiff Eric Hernandez and Class Counsel support this Settlement. Among the reasons given for support are the risk that class certification could be denied, the inherent risk of a trial on the merits, and the delays associated with litigation.

The Settlement provides for the following:

A. Class Settlement Amount: Castle & Cooke Aviation Services, Inc. will pay \$275,000.00 to settle the Action. The \$275,000.00 Class Settlement Amount shall consist of the following elements: (a) Class Counsel's Attorneys' Fees; (b) Class Counsel's Litigation Expenses; (c) Class Representative Incentive Awards; (d) Settlement Administration Expenses; (e) all employee-side applicable payroll taxes, and (f) the Net Settlement Amount which will be distributed to Participating Class Members and PAGA Members. Each of these components is described below.

B. Class Counsel's Attorneys' Fees: Class Counsel anticipates requesting an attorney fee award equal to 33 1/3% of the Gross Settlement Fund (\$91,666.66), subject to court approval.

C. Class Counsel's Litigation Expenses: Class Counsel anticipates requesting an award of no more than \$13,500.00, subject to court approval, as reimbursement for litigation costs.

D. Class Representative Incentive Award: Eric Hernandez anticipates requesting an award of no more than \$7,500.00, subject to court approval, for his role as Class Representative.

E. Payroll Taxes: The employees' portion of payroll taxes shall be paid from the Class Settlement Amount. Defendant shall pay its share of the employer's taxes, in addition to the Class Settlement Amount.

F. Settlement Administration Expenses: The Parties have selected, and the court has approved, Phoenix Class Action Administrators to administer the settlement. Upon final approval, Class Counsel will request that the court approve a payment to Phoenix Class Action Administrators to cover its fees and costs associated with giving notice to the Class, disbursing the Net Settlement Amount, and other activities required to administer the Settlement. The Parties estimate that the payment to Phoenix Class Action Administration will be approximately \$10,000.00.

G. Private Attorneys General Act (PAGA) Allocation: The parties have designated \$20,000.00 of the Class Settlement Amount as representing the recovery of civil penalties pursuant to the Labor Code Private Attorneys General Act of 2004. Of this amount, 75% (\$15,000.00) will be paid to the California Labor and Workforce Development Agency (LWDA), and the remaining 25% (\$5000.00) shall become part of the Net Settlement Amount available for distribution to the PAGA Members as set forth in the Settlement Agreement.

H. Class Defined: "Class Members" means all non-exempt employees employed by Castle & Cooke Aviation Services, Inc. in California at any time between April 1, 2017, through July 13, 2022.

I. The Net Settlement Amount will be paid to Settlement Class Members (Class Members who do not timely opt-out of the Settlement) calculated by a pro rata formula, based on the number of compensable weeks worked by Settlement Class Members during the Class Period. The Individual Settlement Payments to the Settlement Class shall be calculated based upon the proportional number of weeks each class member was employed by Defendant in a non-exempt position in California during the Settlement Period compared to the total number of weeks all Settlement Class Members were employed by Defendant in non-exempt positions in California during the Settlement Period. The total number of Weeks at Issue for all Settlement Class Members will be added together, and the Net Settlement Amount shall be divided by that total to reach a per week dollar figure. The resulting per week dollar figure will then be multiplied by each Settlement Class Member's Weeks at Issue to determine his or her Individual Settlement Payment.

J. The Individual Settlement Payment will be reduced by any required deductions for each Participating Class Members, including employee-side tax withholdings or deductions. Class Members, except those who request to be excluded from the Settlement, will be paid their portion of the Settlement, which will be considered 20% wages, 40% interest, and the remaining 40% penalties. The Settlement Administrator will issue each Participating Class Member a Form W-2 and a Form 1099 for all amounts paid under this Settlement, making all deductions and withholdings required under law.

III. WHAT ARE YOUR RIGHTS AS A CLASS MEMBER?

Your interests as a Settlement Class Member are represented by Hernandez and Class Counsel. Unless you exclude yourself from the Settlement Class, you are a part of the Settlement Class, you will be bound by the terms of the Settlement Agreement and any final judgment that may be entered by the court, and you will be deemed to have released certain claims against Castle & Cooke Aviation Services, Inc., and the Released Parties, as described below. As a member of the Settlement Class, you will not be responsible for the payment of attorneys' fees or reimbursement of litigation expenses unless you retain your own counsel, in which event you will be responsible for your own attorney's fees and costs.

A. PARTICIPATING IN THE SETTLEMENT

If you qualify for inclusion in the Settlement Class and you wish to participate in the Settlement, you are not required to take any action. If the court grants final approval to the settlement and you qualify as a Settlement Class Member, you will receive a Settlement Payment based on the calculations described above. You will also be bound by the terms of the Settlement and will release Castle & Cooke Aviation Services, Inc., and all of the Released Parties, as described below, from any and all claims which have been or could have been asserted based on the facts alleged in the lawsuit.

B. OBJECTING TO THE SETTLEMENT

If you do not agree with the terms of the Settlement, you can object to the settlement. The objection shall state the case name and number, *i.e.*, *Hernandez v. Castle & Cooke Aviation Services, Inc.*, Case No. 21STCV12614, pending in the Superior Court of the State of California for the County of Los Angeles. To object to the Settlement Agreement, you must postmark a valid Notice of Objection to the Settlement Administrator before the Response Deadline. The Notice of Objection must be signed by you and contain: (a) Your full name, signature, address, and telephone number, and the last four digits of their social security number or employee ID number; (b) a written statement of all grounds for the objection accompanied by legal support, if any, for such objection; and (c) copies of any papers, briefs, or other documents upon which the objection is based. The postmark date will be deemed the exclusive means for determining that the Notice of Objection is timely.

Class Members regardless of whether or not they submit a written objection to the Settlement Administrator will have the right to appear at the Final Approval Hearing in order to have their objections heard by the Court. Class Counsel will not represent any Class Members with respect to any such objections to this Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the settlement.

To object, you must fully complete and submit a written objection to the Settlement Administrator by December 10, 2022, at the following address: Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863.

C. EXCLUDING YOURSELF FROM THE SETTLEMENT

If you qualify for inclusion in the Class, but you do not wish to participate in the Settlement, you may exclude yourself by fully completing and returning a written Request for Exclusion to the Settlement Administrator by the Response Deadline. If you wish to be excluded from the Settlement Agreement, you must sign and postmark a written Request for Exclusion to the Claims Administrator within the Response Deadline. The Request for Exclusion must contain (a) the Class Member's name, address, telephone number, and the last four digits of the Class Member's Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: "I wish to exclude myself from the class settlement reached in the matter of *Hernandez v. Castle & Cooke Aviation Services, Inc.* I understand that by excluding myself, I will not receive money from the settlement of my individual claims." The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted. All Requests for Exclusion will be submitted to the Settlement Administrator.

If you submit a timely and valid Request for Exclusion from the Settlement Class, you will not be entitled to any monetary recovery under the Settlement and you will not be bound by the terms of the Settlement as it relates to the Released Claims. If you submit a timely and valid Request for Exclusion, you will not have any right to object, appeal, or comment on the Settlement. **If you exclude yourself from the Settlement, you will NOT receive any money from the Settlement in regard to the class action.** If you do not timely seek exclusion, you will be bound by the terms of this Settlement Agreement.

Your Request for Exclusion Form must be signed by you personally, **must be postmarked on or before December 10, 2022, and must be mailed to the Administrator at:**

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773
Facsimile: (949) 209-2503
Email: notice@phoenixclassaction.com

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Castle & Cooke Aviation Services, Inc. based on the PAGA Period facts alleged in the Action.

IV. ESTIMATED SETTLEMENT PAYMENT BASED ON WEEKS WORKED

Based on Castle & Cooke Aviation Service, Inc.'s records and the Parties' current assumptions, your Individual Class Payment is estimated to be \$ __ (less state and federal withholdings and other authorized deductions, if applicable), and your Individual PAGA Payment is estimated to be \$ __. The actual amount you receive will likely be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to the Company's records you are not eligible for an Individual PAGA Payment under the Settlement because you did not work during the PAGA Period.)

The above estimates are based on Castle & Cooke Aviation Service, Inc.'s records showing that you worked __ Pay Periods during the Class Period and you worked __ Pay Periods during the PAGA Period. **If you do not dispute the weeks worked listed on this form, you do not need to do anything. You will receive a check by U.S. Mail.**

If you do not agree with the number of weeks worked, you may dispute the number above by providing information and documentation to the Settlement Administrator. Your Weeks Worked are presumed to be correct unless you submit **documentation**, such as paystubs, for example, that proves otherwise. The Settlement Administrator will evaluate the evidence submitted by you and will make the final decision as to the compensable workweeks that should be applied and/or the individual settlement payment to which you may be entitled. Such a determination will be final and binding with no opportunity for further appeal.

If you dispute your Weeks Worked, you must fully complete and submit a written objection to the Settlement Administrator by December 10, 2022, at the following address: Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863.

If you agree with your Weeks Worked and your address information stated on this form is correct, you need do nothing. You will receive a check in the mail.

V. EFFECT OF THE SETTLEMENT

A. Participating Class Members' Release

Upon the court's final approval of the Settlement and entry of final judgment, each Class Member shall fully and finally release Castle & Cooke Aviation Services, Inc., and the other Released Parties of the Released Claims for the Class Period. The Participating Class Members will be bound by the following release:

Any and all claims of any nature or description arising from the facts and claims asserted in the Operative Complaint and/or that could have been asserted based on the facts alleged in the Operative Complaint against Defendant, including without limitation, statutory, constitutional, contractual or common law claims for wages, damages, unpaid costs, penalties, liquidated damages, interest, attorneys' fees, litigation costs, restitution, or equitable relief based on the following categories: (a) any and all claims involving any alleged failure to pay the minimum wages required by state or federal law; (b) any and all claims arising under state or federal law involving any alleged failure to pay for all hours worked, including but not limited to any claim for minimum, straight time, overtime, or double time wages; (c) any and all claims arising under state or federal law involving any alleged failure to pay straight time, overtime or double time wages, including but not limited to any claim involving "off the clock" work, and any claim involving Defendant's workday or workweek, and any claim involving failure to include compensation of any kind in the "regular rate" of pay; (d) any and all claims arising under state or federal law involving any alleged failure to properly provide meal periods and/or authorize and permit rest periods, to pay premiums for missed, late, short or interrupted meal and/or rest periods, or to pay such premiums at the regular rate

of compensation required by Labor Code § 226.7; (e) any and all claims involving any alleged failure to keep accurate records or to issue proper wage statements; (f) any and all claims involving any alleged failure to timely pay wages, including but not limited to any claim that Defendant violated Labor Code §§ 201 or 202, and any claim for waiting time penalties under Labor Code § 203; (g) any and all claims involving any alleged failure to reimburse for necessary business expenses under Labor Code §§ 2800 or 2802; (h) any and all claims for unfair business practices in violation of Business and Professions Code sections 17200, et seq.; and (i) any and all penalties pursuant to the Private Attorneys General Act (“PAGA”) of 2004 (collectively, the “Released Claims”). The Released Claims include all such claims arising under the California Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6, 221, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 510, 511, 512, 516, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.2, 1198, 1199, 1770 et seq., 2800, 2802, 2810.5, and 2698 et seq.); the Wage Orders of the California Industrial Welfare Commission; California Business and Professions Code section 17200 et seq.; the California Civil Code, to include but not be limited to claims under §§ 3336; the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 et seq.; and federal common law.

The “Released Parties” include Castle & Cooke Aviation Services, Inc. as named by Plaintiff in the Operative Complaint, as amended, and its past, present and/or future, direct and/or indirect, parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with Defendant or any of its parents), divisions, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, affiliates, alter-egos, any entity with potential joint liability, employee benefit plans and fiduciaries thereof, and all of their respective employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service providers, and assigns.

B. Payment to Settlement Class Members

The distribution of the Settlement Fund will take place approximately 30 days after the effective date of the Settlement, which is after final court approval has been given and the time has run for any appeal to be filed. In the event that an objection is timely made, and an appeal based upon the objection is timely filed, distribution of the Settlement fund will take place approximately 30 days following dismissal of the appeal or the affirming of the judgment on appeal. Participating Class Members will have 180 calendar days after mailing by the Settlement Administrator to cash their settlement checks.

V. FINAL SETTLEMENT APPROVAL HEARING

The court will hold a hearing in Department 10 of the Los Angeles County Superior Court, Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012, on January 5, 2023, at 11:00 a.m., to determine whether the settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for Class Counsel's Attorneys' Fees, Class Counsel's Litigation Expenses, the Settlement Administrator's fees, and the Class Representative Incentive Award to be paid to the Class Representative. Class Counsel's application for attorneys' fees and reimbursement of expenses will be on file with the Court no later than 16 court days before this hearing and will be available for review after that date.

If the hearing is continued, you will not be provided notice of the new hearing date and time. It is not necessary for you to appear at this hearing. However, you are permitted to appear if you have timely submitted an objection.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement.

Should you desire additional information, you may contact the Settlement Administrator and/or the attorney of record as follows:

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773
Facsimile: (949) 209-2503
Email: notice@phoenixclassaction.com
Web site: www.phoenixclassaction.com/hernandez-v-castle-cooke-aviation

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DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

BY ORDER OF THE SUPERIOR COURT