

SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN DIEGO
NOTICE OF CLASS AND PAGA ACTION SETTLEMENT AND RELEASE

To: All current and former non-exempt employees of Defendant Genentech, Inc. (“Defendant”) in the State of California who earned overtime wages or sick pay or meal- or rest-period premiums and nondiscretionary remuneration, including without limitation, bonuses, incentives, and shift differentials, in the same pay period, at any time from September 2, 2016, through August 5, 2022, (“Class Members”).

All current and former non-exempt employees of Defendant in the State of California who earned overtime wages or sick pay or meal- or rest-period premiums and nondiscretionary remuneration, including without limitation, bonuses, incentives, and shift differentials, in the same pay period, at any time from July 27, 2019, through August 5, 2022, (“PAGA Members”).

You are not being sued. However, your legal rights are affected whether you act or not. Please read this notice carefully.

On September 28, 2022, the Honorable Katherine A. Bacal of the San Diego County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement. You do not need to do anything to receive a payment from this settlement.**

If the Court grants final approval of the settlement, you will be deemed a Class Member and will automatically be mailed a check for your share of the settlement fund. If you do not want to participate in the settlement, you can choose to exclude yourself by following the instructions listed below on page 4. The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 1:30 a.m. on January 27, 2023, in Department 69 of the San Diego County Superior Court, located at the Hall of Justice at 330 W Broadway, San Diego, CA 92101.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
INCLUDE THE FOLLOWING:	
OPTION #1: DO NOTHING	You need not take any action if you wish to receive your settlement payment. If the settlement is approved by the Court and you do nothing, you will automatically be mailed a check for your share of the Settlement at the address on file with the Settlement Administrator. In exchange for the settlement check, you will release or give up any rights to sue Defendant for the same legal claims that are part of this lawsuit (see page 3 for an explanation of the claims you are giving up).
OPTION #2: EXCLUDE YOURSELF	If you ask to be excluded from the class action settlement, you will not receive a share of the Settlement. However, regardless of whether you exclude yourself from the Settlement, you will still be bound by the release of the Released PAGA Claims under the Settlement. This is the only option that allows you to keep any rights to sue Defendant for the same legal claims that are part of this lawsuit. You cannot ask to be excluded and still get a settlement payment.
OPTION #3: OBJECT TO THE SETTLEMENT	If you do not agree with the Settlement, you may object to this Settlement according to the instructions described below on page 4. The Court may or may not agree with your objection. Objecting to the Settlement will not exclude you from receiving a portion of the Settlement. You cannot object if you exclude yourself from the Settlement.

Summary of the Litigation

Plaintiff Jaime Moen (“Plaintiff”), on his behalf and of other current and former non-exempt employees, alleges that Defendant violated California state labor laws as a result of its alleged failure to account for all necessary forms of nondiscretionary remuneration when calculating the regular rate of pay for purposes of overtime wages, sick pay, meal-period premiums, and rest-period premiums, resulting in an alleged failure to: (1) pay all overtime wages earned; (2) pay

Questions? Contact the Settlement Administrator toll free at 1-(800) 523-5773

all sick-pay wages owed to terminated employees; (3) pay all rest-period premium penalties owed; (4) pay all meal-period premium penalties owed; (5) provide accurate wage statements; and (6) comply with unfair competition law. Based on these allegations and claims, Plaintiff seeks to recover damages, statutory penalties, civil penalties, attorneys' fees and costs on behalf of himself and other employees affected by these violations. Defendant denies these allegations.

The parties have reached an agreement to resolve the claims in the lawsuit. The Court has preliminarily approved Plaintiff to represent the settlement class. However, the Court has not made any findings with respect to the merits of Plaintiff's claims in this lawsuit.

Defendant has denied, and continues to deny, the factual and legal allegations in the case and believes that it has valid defenses to Plaintiff's claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a compromise with Plaintiff.

Summary of the Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying claims in this lawsuit in exchange for a Gross Settlement Amount of \$4,000,000. This amount is inclusive of: (1) individual settlement payments to all Settlement Class Members; (2) an Enhancement Award of \$20,000 to Plaintiff for prosecuting this lawsuit on behalf of the class, and for a release of all claims arising out of his employment with Defendant; (3) up to \$1,333,333.33 in attorneys' fees and up to \$20,000.00 in litigation costs and expenses; (4) a \$200,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$150,000 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA, and a \$50,000 payment (the "PAGA Settlement Amount") to PAGA Members; and (5) Settlement Administrator's fees and expenses of \$32,000.00 in connection with administering this settlement. After deducting the above payments, a total of approximately \$2,444,666.67 will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Amount"). Additionally, all PAGA Members will receive a proportional share of the \$50,000 PAGA Settlement Amount, regardless of whether they opt out of the Settlement Class.

Payments from Net Settlement Amount. Each Class Member who does not exclude himself or herself from the settlement will be entitled to receive a share of the Net Settlement Amount.

To calculate each Class Member's individual settlement share from the Net Settlement Amount ("Individual Class Settlement Payment"), the Settlement Administrator will calculate the total aggregate number of Eligible Class Pay Periods¹ from September 2, 2016, through August 5, 2022, ("Class Period") and each Class Member's total number of Eligible Class Pay Periods during the Class Period. The Net Settlement Amount will then be divided by the aggregate total number of Eligible Class Pay Periods, resulting in the "Class Pay Period Value." Each Class Member's share of the Net Settlement Amount will be calculated by multiplying each individual Class Member's total number of Eligible Class Pay Periods by the Class Pay Period Value.

The Individual Class Settlement Payment will be reduced by any required deductions for each Class Member as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, or if there are any successful Pay Period Disputes, the Settlement Administrator shall proportionately increase or decrease each Settlement Class Member's share of the Net Settlement Amount according to the number of Eligible Class Pay Periods, so that the amount distributed to the Settlement Class Members equals 100% of the Net Settlement Amount.

According to Defendant's records, you have a total of _____ Eligible Class Pay Periods during the Class Period. Accordingly, your estimated payment from the Net Settlement Amount is approximately \$_____.

If you believe the information regarding Eligible Class Pay Periods provided above is incorrect, please contact the Settlement Administrator and follow the instructions on page 3.

Payments from PAGA Settlement Amount. Each PAGA Member will receive a proportional share of the \$50,000 PAGA Settlement Amount, regardless of whether they opt out of the Settlement Class.

To calculate each PAGA Member's proportional share, the Settlement Administrator will calculate the total aggregate number of Eligible PAGA Pay Periods² from July 27, 2019, through August 5, 2022, ("PAGA Period") and the each PAGA Member's total number of Eligible PAGA Pay Periods during the PAGA Period. The PAGA Settlement Amount (\$50,000) will then be divided by the aggregate total number of Eligible PAGA Pay Periods, resulting in the "PAGA Pay Period

¹ An "Eligible Class Pay Period" is a pay period during the Class Period when a Class Member earned overtime wages, or sick pay, or meal- or rest-period premiums, and non-discretionary remuneration in the same pay period.

² An "Eligible PAGA Pay Period" is a pay period during the PAGA Period when an Aggrieved Employee earned overtime wages, or sick pay, or meal- or rest-period premiums, and non-discretionary remuneration in the same pay period.

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Value.” Each PAGA Member’s share of the PAGA Settlement Amount will be calculated by multiplying each individual Participating PAGA Member’s total number of Eligible PAGA Pay Periods by the “PAGA Pay Period Value.”

A Request for Exclusion to be excluded from the class settlement does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, et seq. and the PAGA Member will still receive their portion of the PAGA Settlement Amount even if he or she submits a valid Request for Exclusion and is excluded from the class settlement.

If there are any successful Pay Period Disputes, the Settlement Administrator shall proportionately increase or decrease each Aggrieved Employee’s share of the PAGA Settlement Amount according to the number of Eligible PAGA Pay Periods, so that the amount distributed to the Aggrieved Employees equals 100% of the PAGA Settlement Amount.

According to Defendant’s records, you have a total of _____ Eligible PAGA Pay Periods during the PAGA Period. Accordingly, your estimated payment from the PAGA Settlement Amount is approximately \$_____.

If you believe the information regarding Eligible PAGA Pay Periods provided above is incorrect, please contact the Settlement Administrator and follow the instructions on page 2.

Your Estimated Payment:

Based on the above, your estimated payment from the Settlement is approximately \$_____.

If you believe the information regarding Eligible Class Pay Periods or Eligible PAGA Pay Periods provided above is incorrect, please contact the Settlement Administrator to submit a “Pay Period Dispute” and dispute the information. To submit a valid Pay Period Dispute, you must write to the Settlement Administrator and provide: (1) your full name, address, and telephone number; (2) the number of Eligible Class Pay Periods or Eligible PAGA Pay Periods you believe to be correct; and (3) any evidence you have supporting your belief as to the correct pay period count. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR) to the extent you have any. All disputes must be signed and postmarked or faxed on or before November 25, 2022, and must be sent to:

**Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Facsimile: (949) 209-2503**

If you dispute the information stated above, Defendant’s records will control unless you are able to provide documentation that establishes otherwise. The Settlement Administrator will decide the dispute, subject to any final resolution by the Court, if the Court decides to rule on it. To the extent the Court decides not to rule on the dispute, then the Settlement Administrator’s determination as to your Eligible Class Pay Periods or Eligible PAGA Pay Periods will be final and binding.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to Settlement Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Settlement Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

For purposes of this settlement, 20% of Individual Class Settlement Payments will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued. For purposes of this settlement, 100% of Individual PAGA Settlement Payments shall be allocated as non-wage penalties for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Do Nothing and Participate in the Settlement to Automatically Receive a Payment from the Settlement

If want to participate in the Settlement, then no further action is required on your part. You will automatically receive your Settlement Check from the Settlement Administrator if and when the settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a Settlement Check for your share of the Settlement Amount. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Any and all claims, demands, rights, liabilities, penalties, fees, and causes of action that were or could have been asserted based on the facts alleged in the Action (whether in tort, contract, statute, or otherwise) during the Class Period, including, but not limited to, for alleged violation of Labor Code §§ 201–204, 226, 226.7, 246, 510, 558, or 1194, or any claims based on the following allegations: failure to properly calculate the regular rate of pay for purposes of overtime, sick pay, and meal- or rest-period premiums; failure to provide accurate and/or compliant wage statements; failure to pay timely wages during employment or upon separation; or violation of Cal.

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Bus. & Prof. Code § 17200 *et seq.* by engaging in the foregoing conduct. Settlement Class Members' Released Class Claims include all claims for unpaid wages, overtime wages, statutory penalties, civil penalties, damages of any kind, interest, attorneys' fees, costs, injunctive relief, restitution, and any other equitable relief under California or federal statute, ordinance, regulation, common law, or other source of law, including but not limited to the California Labor Code, California Business & Professions Code, California Civil Code, California Industrial Welfare Commission Wage Orders, and the Fair Labor Standards Act.

Released PAGA Claims: All claims, demands, rights, liability, penalties, fees, and causes of action under PAGA during the PAGA Period, Labor Code §§ 201–204, 226, 226.7, 246, 510, 558, or 1194 or that could have been alleged in the operative complaint based on the facts, policies, practices, occurrences, or acts alleged in the operative complaint or letters to the LWDA, or that are based on any alleged failure to properly calculate the regular rate of pay for purposes of overtime, sick pay, and meal or rest period premiums; failure to provide accurate and/or compliant wage statements; failure to pay timely wages during employment or upon separation.

Option 2 – Request Exclusion From the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have decided not to participate in the settlement, and desire to be excluded from the settlement. To be valid, the written Request for Exclusion must include (1) your name, address, and telephone number, (2) state that you do not wish to be included in the settlement, (3) be signed by you. The request for exclusion must be mailed by First Class U.S. Mail or equivalent, or faxed, to the address or facsimile below.

**Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Facsimile: (949) 209-2503**

The Request for Exclusion must be postmarked or faxed not later than November 25, 2022. If you submit a Request for Exclusion which is not postmarked or faxed by November 25, 2022, your Request for Exclusion will be rejected, and you will be included in the Settlement Class.

If you choose **Option 2** and you submit a valid Request for Exclusion pursuant to the instructions above, you will no longer be a Class Member, and you will:

- Not receive a payment from the Net Settlement Amount.
- Not release the Released Class Claims.
- However, you will still release the Released PAGA Claims and will receive payment from the PAGA Settlement Amount if you deemed to be a PAGA Member.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement. If you wish to submit a written objection, you must provide: (1) this case's name and case number – *Jaime Moen v. Genentech, Inc.*, Case No. 37-2021-00008619-CU-OE-CTL; (2) your full name, address, and telephone number; (3) a written statement of all grounds for your objection; (4) copies of any papers, briefs, or other documents upon which the objection is based, if any; (5) a statement whether you intend to appear at the Final Approval hearing; and (6) your signature. The objection must be mailed or faxed to the administrator at:

**Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Facsimile: (949) 209-2503**

All written objections must be received by the administrator not later than November 25, 2022. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims (in addition to the Released PAGA Claims). Please note that if you submit a written objection under Option 3, you may be subject to be called for a deposition.

Questions? Contact the Settlement Administrator toll free at 1-(800) 523-5773

Details About the Final Approval Hearing

The Court will conduct a final fairness hearing about the proposed terms of the settlement (the “Final Approval Hearing”) on January 27, 2023, at 1:30 p.m. in Department 69 of the San Diego County Superior Court located at 330 W Broadway, San Diego, CA 92101. The Court will then determine: (i) whether the lawsuit should finally be certified as a class action for settlement purposes; (ii) whether the settlement should be given the Court’s final approval as fair, reasonable, adequate and in the best interests of the Settlement Class Members; (iii) whether the Settlement Class Members should be bound by the terms of the settlement; (iv) the amount of the attorneys’ fees and costs to be awarded to Plaintiff’s attorneys; (v) the amount that should be awarded to Plaintiff as a service payment for prosecuting this lawsuit on behalf of other employees; and (vi) the amount that should be approved for settlement administration costs.

You have a right to attend this hearing, but you are not required to do so. You may also retain an attorney to represent you, at your own expense, or to enter an appearance and represent yourself at the hearing. The Final Approval hearing may be continued to another date without further notice. Any changes to the hearing date and time will be available on the Court’s website at <https://roa.sdcourt.ca.gov/roa/> and can be found by searching by this case’s case number: 37-2021-00008619-CU-OE-CTL.

Additional Information

This Notice of Class and PAGA Action Settlement is only a summary of the case and the settlement. For the complete terms and conditions of the Settlement, you are referred to view the detailed Joint Stipulation of Class and PAGA Action Settlement and Release (the “Settlement Agreement”), which is on file with the Clerk of the Court. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined (a) online on the Superior Court of California, County of San Diego’s Electronic Filing and Service Website at <https://roa.sdcourt.ca.gov/roa/>, or (b) in person at Superior Court of California, County of San Diego, Hall of Justice at 330 W Broadway, San Diego, CA 92101, between the hours of 7:30 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays and closures.

All other inquiries by Class Members regarding this Class Notice and/or the settlement can be directed to the Settlement Administrator at www.phoenixclassaction.com/genentech-inc/. Inquiries regarding the litigation can be made by contacting Settlement Class Counsel. Contact information for Settlement Class Counsel, as well as Defendant’s attorneys, are as follows:

<u>Settlement Class Counsel</u> Larry W. Lee Mai Tulyathan Diversity Law Group, P.C. 515 S. Figueroa St., Suite 1250 Los Angeles, CA 90071 Phone: 213-488-65555	<u>Counsel for Defendant Genentech, Inc.</u> Julie A. Totten Orrick, Herrington & Sutcliffe LLP 400 Capitol Mall, Suite 3000 Sacramento, CA 95814 Phone: 916-447-9200
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE, WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-(800) 523-5773