

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND DATE
FOR FINAL APPROVAL HEARING**

Guevara v. J&K Culver, LLC, et al.
(County of Los Angeles, California Superior Court Case No. 19STCV39951)

**As a current or former non-exempt, hourly-paid California employee of Potato Corner,
you are entitled to receive money from a class action settlement.**

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because the records of J&K Culver, LLC, Potato Corner LA Group, LLC, Guy Koren, and Amir Jacoby (“collectively, “Defendants”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons who currently work or formerly worked for Potato Corner on behalf of Defendants as non-exempt, hourly-paid employees in the State of California at any time from November 6, 2015, through August 31, 2021 (“Class Period”).

- The settlement is to resolve a class action lawsuit, *Guevara v. J&K Culver, LLC, et al.*, pending in the Superior Court of California for the County of Los Angeles, Case Number: 19STCV39951 (the “Lawsuit”), which alleges that Defendants: (1) failed to pay Class Members for overtime and minimum wages; (2) failed to provide compliant meal periods or compensation in lieu thereof; (3) failed to provide rest periods or compensation in lieu thereof; (4) failed to pay all wages due upon termination or resignation from employment; (5) failed to issue compliant and accurate wage statements; (6) failed to reimburse employees for business expenses; (7) failed to permit inspection or copying of wage statements; (8) failed to permit inspection and/or copying of personnel records; and (9) engaged in unfair competition. Based on these and other alleged Labor Code violations, Plaintiff also seeks penalties under the California Labor Code Private Attorney Generals Act (“PAGA”).
- On September 13, 2022, the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendants vigorously deny the claims in the Lawsuit and contends that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked from November 6, 2018 through August 31, 2021, (“PAGA Period”) as a non-exempt, hourly-paid employee of Potato Corner on behalf of Defendants, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims, defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement.

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

OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, Phoenix Settlement Administrators, about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for January 18, 2023, at 9:00 a.m. in Department 6 of the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 even if you did not submit a written objection.
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The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 9:00 a.m. on January 18, 2023, in the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 6. You are not required to attend the Hearing, but you are welcome to do so at your own expense.

Why Am I Receiving This Notice?

Defendants’ records show that you currently work, or previously worked, for Potato Corner on behalf of Defendants as a non-exempt, hourly-paid employee in the State of California at some point during the Class Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

What Is This Case About?

Karina Guevara was a non-exempt, hourly-paid employee of Defendants. She is the “Plaintiff” in this case and is suing on behalf of herself and Class Members for Defendants’ alleged failure to pay overtime and minimum wages, failure to provide meal periods or compensation in lieu thereof, failure to provide rest periods or compensation in lieu thereof, failure to pay all wages due upon termination or resignation from employment, failure to issue compliant and accurate wage statements, failure to reimburse employees for business expenses, failure to permit inspection or copying of wage statements, failure to permit inspection and/or copying of personnel records, and unfair competition.

Based on these and other alleged Labor Code violations, Plaintiff also seeks to recover penalties under the California Labor Code Private Attorney Generals Act.

Defendants deny all of the allegations made by Plaintiff and deny that they violated any law. The Court has made no ruling on the merits of Plaintiff’s claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Summary of the Settlement Terms

Plaintiff and Defendants have agreed to settle this case on behalf of themselves and Class Members and Aggrieved Employees for the Gross Settlement Amount, which unless escalated pursuant to the Settlement Agreement, amounts to \$350,000.00. The Gross Settlement includes: (1) Administration Costs up to \$11,000.00; (2) a service payment of up to \$7,500.00 to Plaintiff Karina Guevara for her time and effort in pursuing this case and in exchange for a broader release of claims against Defendants; (3) up to 35% of the Gross Settlement Amount in attorneys’ fees which, unless escalated pursuant to the Settlement Agreement, shall amount to \$122,500.00; (4) up to \$25,000.00 in litigation costs to Class Counsel, according to proof; and (5) payment allocated to PAGA penalties in the amount of \$10,000.00, of which 75% (or \$7,500.00) will be paid to the California Labor and Workforce Development Agency (“LWDA”) and 25% (\$2,500.00) will be distributed to Aggrieved Employees. After deducting these sums, a total of approximately not less than \$174,000.00 will be available for distribution to Class Members (“Net Settlement Amount”).

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The Settlement is based on Defendants' representation that there are no more than 20,000 Workweeks worked during the Class Period by Class Members. Workweeks were calculated based on the number of payroll periods Class Members worked during the Class Period times two. In the event the number of Workweeks worked by Class Members during the Class Period increases by more than 5%, or 1,000 Workweeks, then the Gross Settlement Amount shall be increased proportionally by the percent of Workweeks in excess of 21,000 Workweeks (20,000 Workweeks + 1,000 Workweeks) multiplied by the Workweek Value. The Workweek Value shall be calculated by dividing the originally agreed-upon Gross Settlement Amount (\$350,000.00) by 20,000, which amounts to a Workweek Value of \$17.50. For example, should there be 22,000 Workweeks in the Class Period, then the Gross Settlement Amount shall be increased by \$17,500.00 ((22,000 Workweeks – 21,000 Workweeks) x \$17.50).

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of Workweeks worked by Class Members in non-exempt, hourly-paid positions for Potato Corner on behalf of Defendants in California during the Class Period ("Eligible Workweeks"). Specifically, Class Members' payments will be calculated by dividing the number of Eligible Workweeks attributed to the Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (Individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) x Net Settlement Amount. In addition, Class Members who worked during the PAGA Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$2,500.00 allocated as PAGA penalties, whether or not they opt out, based on the number of Workweeks worked by each Aggrieved Employee during the PAGA Period.

Defendants' records indicate that you worked [Eligible Workweeks] as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Workweeks] during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than December 12, 2022. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. 25% of each Settlement Payment to Class Members who do not opt out will be allocated as wages and reported on an IRS Form W-2, and 75% will be allocated as penalties and interest reported on IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive a your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Claims he or she may have or had upon final approval of this Settlement and payment by Defendants to the Settlement Administrator.

"Released Claims" refers to all claims, rights, causes of action and damages against the Released Parties asserted in the Operative Complaint filed in the Action, or which could have been alleged or asserted against the Released Parties based on the factual allegations in the Operative Complaint under any federal, state, local or common law, as follows: For the duration of the Class Period, the release includes, for Participating Class Members, including Plaintiff: (a) all claims for failure to pay overtime wages; (b) all claims for failure to pay minimum wages; (c) all claims for failure to provide compliant meal periods or premium compensation in lieu thereof; (d) all claims for failure to provide compliant

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rest periods or premium compensation in lieu thereof; (e) all claims for the failure to timely pay wages upon termination or resignation; (f) all claims for failure to provide accurate wage statements; (g) all claims for failure to reimburse employees for business expenses; (h) all claims for failure to permit inspection or copying of employees' wage statements; (i) all claims for failure to permit inspection and/or copying of employees' personnel records; and (j) all claims asserted through California Business & Professions Code section 17200, et seq. arising out of the Labor Code violations and applicable Wage Orders referenced in the Operative Complaint (the "Class Released Claims"). The Class Released Claims shall also include the release of all related claims for civil penalties, statutory penalties, liquidated damages, attorneys' fees, costs, expenses, interest and any other losses or damages that could have been asserted based on the claims alleged in the Operative Complaint. The Parties additionally agree that the scope of the release under this Agreement shall include the release of claims under the federal Fair Labor Standards Act ("FLSA") pursuant to *Rangel v. Check Cashers*, 899 F.3d 1106 (9th Cir. 2018). (the "Class Released Claims").

Aggrieved Employees, including Plaintiff, (and, to the fullest extent permitted by law, the State of California), the release includes for the duration of the PAGA Period, all claims asserted in the PAGA Notice, Amended PAGA Notice, and alleged in the Operative Complaint against the Released Parties, or which could have been alleged or asserted against the Released Parties based on the factual allegations in the PAGA Notice, Amended PAGA Notice, and the Operative Complaint, for PAGA civil penalties pursuant to Labor Code sections, 226.3, 558, 1174.5, 1197.1, and 2699, et seq., in connection with alleged violations of Labor Code sections 96, 98.6, 200, 201, 202, 203, 204, 226, 226.7, 227.3, 232, 232.5, 246, et seq., 432, 510, 512, 558.1, 1102.5, 1174, 1194, 1194.2, 1197, 1197.5, 1198.5, 2802, and 2810.5 (the "PAGA Released Claims" and collectively with Class Released Claims, the "Released Claims").

"Released Parties" refers to Defendants and each of their past, present, and future respective parents, subsidiaries, dba's, affiliates, related entities, including but not limited to J&K Oakridge, LLC, J&K Ontario, LLC, J&K Valley Fair, LLC, J&K Lakewood, LLC, NKM Capital Group, LLC and J&K Americana, LLC, insurers and reinsurers, and company-sponsored employee benefit plans of any nature, and each of their successors, assigns and predecessors in interest, including all of their respective owners, officers, directors, shareholders, members, partners, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, attorneys, administrators, fiduciaries, trustees, and agents.

Option 2 – Opt Out of the Settlement

If you do not wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must expressly and clearly indicate that you do not want to participate in the Settlement, and you desire to be excluded from the Settlement. The written request for exclusion must include your name, Social Security Number, and the following statement or something to its effect: "Please exclude me from the Settlement Class in the *Guevara v. J&K Culver, LLC, et al.* matter." Sign, date, and mail your written request for exclusion by U.S. First-Class Mail to the address below.

Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863

Your written request for exclusion must be mailed to the Administrator not later than December 12, 2022.

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

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

Option 3 – File an Objection to the Settlement

If you wish to object to the Settlement, you may file an objection in writing stating why you object to the Settlement. Your written objection must provide your name, address, the last four digits of your Social Security Number, and a statement of the reason(s) why you believe that the Court should not approve the Settlement. Your written objection must be mailed the Administrator no later than December 12, 2022. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Final Approval Hearing

You may, if you wish, also appear at the Final Approval Hearing set for January 18, 2023, at 9:00 a.m. in the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, in Department 6, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at (800) 523-5773 or Class Counsel, whose information appears below:

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Jeffrey D. Klein (SBN 297296)

jeff@tomorrowlaw.com

Diego Aviles (SBN 315533)

diego@tomorrowlaw.com

8484 Wilshire Boulevard, Suite 500

Beverly Hills, California 90211

Tel: (310) 438-5555; Fax: (310) 300-1705

You may also visit the Settlement Administrator's website at www.phoenixclassaction.com/guevara-v-jk-culver/ to gain access to key documents in this case, including the Settlement Agreement, the Class Notice, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Spring Street Courthouse of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://www.lacourt.org/casesummary/ui/>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANTS, OR DEFENDANTS' ATTORNEYS WITH INQUIRIES.**