

THIS IS AN IMPORTANT COURT APPROVED NOTICE. READ CAREFULLY.

Araceli Casillas v. The Produce Exchange, Inc.
San Diego County Superior Court
Case No. 37-2019-00050077-CU-OE-CTL

If you worked for The Produce Exchange, Inc. as an exempt employee in California at any time from September 20, 2015, through July 31, 2022, a settlement of a class action lawsuit may affect your rights.

This is a court-authorized notice. It is not a solicitation from a lawyer.

- A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Araceli Casillas v. The Produce Exchange, Inc.*, Case No. 37-2019-00050077-CU-OE-CTL (San Diego County Superior Court) (the “Lawsuit”). The purpose of this Notice of Class Action Settlement (“Notice”) is to briefly describe the Lawsuit, and to inform you of your rights and options in connection with the Lawsuit and the proposed settlement.
- The Court has preliminarily approved a class action settlement with Defendant The Produce Exchange, Inc. (“The Produce Exchange”), which will affect all exempt employees who worked for The Produce Exchange as an exempt employees in California at any time between September 20, 2015 through July 31, 2022, excluding employees who worked in the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse Manager positions (the “Class”).
- If the Court grants final approval of the Settlement, there may be money available to you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
<u>PARTICIPATE IN THE SETTLEMENT – NO ACTION REQUIRED</u>	Stay in this Lawsuit. Receive a payment. Cannot pursue your own lawsuit. By doing nothing, you become part of the Class and will collect a settlement award as detailed below. But you will not be able to bring your own lawsuit against The Produce Exchange for wage and hour violations that relate to the claims brought in this Lawsuit.
OBJECT TO THE SETTLEMENT	Stay in this Lawsuit. Receive a payment. Object. Cannot pursue your own lawsuit. To object to the Settlement, you must write to the Settlement Administrator about why you do not like the settlement. You will remain a member of the Class, and if the Court approves the Settlement, you will be bound by the terms of the settlement in the same way as Class Members who do not object.
• ASK TO BE EXCLUDED	Get out of this Lawsuit. Receive a smaller or no payment from it. Keep your right to pursue your own lawsuit for damages. If you ask to be excluded from the Settlement, you keep your right to sue The Produce Exchange separately about the legal claims in this Lawsuit, except as to the claim under the California Private Attorneys General Act (“PAGA”). If you choose this option, you must exclude yourself, in writing, from the Settlement. As a result, you may receive no payment at all. At most, you will receive a very small payment for resolution of the PAGA claim if you a member of the PAGA Group, which is a subset of the Class.

- **Regardless of the option you choose, you will not be retaliated against for exercising your rights.** To object to the Settlement or to ask to be excluded, you must act before January 16, 2023.
- **Any questions?** Read on or contact the Settlement Administrator listed below at (800) 523-5773.

BASIC INFORMATION

1. Why did I get this notice?

The Produce Exchange’s records show that you worked for The Produce Exchange in California as an exempt employee at some point between September 20, 2015, through July 31, 2022.

The Court has determined only that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the final hearing. You have legal rights and options that you may exercise as part of this settlement.

2. What is this lawsuit about?

In this Lawsuit, Plaintiff Araceli Casillas (“Plaintiff”) claims that The Produce Exchange: (1) failed to pay overtime wages, (2) failed to provide meal periods, (3) failed to permit rest periods, (4) failed to provide accurate itemized wage statements, (5) failed to pay wages due upon separation of employment, and Plaintiff argued that these claimed violations were unfair and unlawful business practices under California’s Unfair Competition Laws, and that they entitled Plaintiff to recover civil penalties to be split 75% to the State of California and 25% to certain employees pursuant to PAGA. Plaintiff also claimed entitlement to restitution, interest, attorneys’ fees, and costs. You can read Plaintiff’s allegations as stated in the complaint, which is available at www.phoenixclassaction.com/the-produce-exchange/.

Throughout the litigation, The Produce Exchange has denied—and continues to deny—the factual and legal allegations in the case. The Produce Exchange does not believe that it violated any law or regulation relating to how it paid employees, when it paid employees, how much it paid employees, or how wage statements displayed information. The Produce Exchange denies any wrongdoing and asserts that its conduct at all times complied with the law. The Produce Exchange further denies that it owes the monies claimed in the Lawsuit. However, The Produce Exchange has voluntarily agreed to the terms of a negotiated settlement in order to avoid the burden and expense of continued litigation.

3. What is a class action and who is involved?

In a class action lawsuit such as this, a person called the “Class Representative” sues on behalf of other people who may have similar claims. The people together are a “Class” or “Class Members.” The person who is the Class Representative is also called the plaintiff. The companies sued are called the defendant. In class action litigation, one Court resolves the issues for everyone in the Class in one lawsuit, except for those people who choose to exclude themselves from the Class.

This class action also includes a “Private Attorney General” (PAGA) claim where the Plaintiff is attempting to recover penalties for the State of California. In a PAGA action, the State receives 75% of the civil penalties, while employees receive 25%. This settlement will resolve all claims by the State for civil penalties arising from claims made by Plaintiff in the Lawsuit during the period of September 20, 2018, through July 31, 2022, and exempt employees covered by the Lawsuit will be barred from bringing another lawsuit on behalf of the State for such penalties.

4. Why is this Lawsuit a class action?

For settlement purposes only, Plaintiff and The Produce Exchange agreed that this case can proceed as a class action and to ask the Court to approve the settlement for the Class. The Court has not ruled on the merits of the case, and the decision to certify Class for settlement purposes should not be viewed as a prediction or agreement that Plaintiff or the Class would ultimately prevail on the merits of the action.

5. What are the terms of the proposed Settlement?

Subject to final Court approval, the major terms of the Settlement are as follows:

1. The Produce Exchange has agreed to pay \$320,000.00 to settle the claims made in this lawsuit. This amount is also known as the “Gross Settlement Amount.”
2. Plaintiff has agreed to release all of her claims, including her claims alleged in this lawsuit, against The Produce Exchange.
3. **Class Settlement Payments:** Plaintiff seeks the following deductions from the Gross Settlement Amount:
 - a. Up to thirty-five percent of the Gross Settlement Amount (currently equal to \$112,000.00) for Class Counsel’s attorneys’ fees.
 - b. Up to \$15,000.00 for reimbursement of Class Counsel’s litigation costs.
 - c. An incentive award of up to \$15,000.00 to Plaintiff for filing the Lawsuit, performing work in connection with the Lawsuit, and undertaking the risks of filing the Lawsuit.
 - d. Up to \$6,500.00 to cover the costs of the Settlement Administrator.
 - e. Payment of \$20,000.00 to the California Labor and Workforce Development Agency and PAGA Group Members for release of PAGA claims.

If the Court approves the requested deductions, there will be approximately \$151,500 remaining, before deducting for taxes, to be distributed. These remaining funds will be referred to as the “Net Settlement Amount.” Any amounts not requested or awarded by the Court will be included in the Net Settlement Amount. The Net Settlement Amount will be distributed to Class Members who do not request exclusion (the “Settlement Class Members”) on a pro rata basis according to the number of weeks they worked during the Class Period, and whether they signed individual settlements.

PAGA Settlement Payments. A portion of the Gross Settlement Amount in the amount of \$5,000 will be set aside for Class Members who worked for The Produce Exchange in California at some point between September 20, 2018, through July 31, 2022 (“PAGA Group”). If you are a member of the PAGA Group, you will receive a pro rata share of the PAGA Group Payment, regardless of whether you opt-out of the settlement. You will not be able to pursue any claim on behalf of the State for such penalties.

Settlement Payments Generally. Settlement Payment checks returned as undeliverable and unclaimed and uncashed 180 days after issuance and delivered checks remaining uncashed for more than 180 days after issuance will be void and a stop payment will be placed on the uncashed check. The funds from any voided checks will be paid to State of California’s State Controller Unclaimed Property Fund with an identification of the amount of unclaimed funds attributable to each Participating Class Member.

Your estimated settlement payment is listed in Section 8 of this Notice. Applicable taxes will be withheld from your payment.

WHO IS IN THE CLASS?

6. Am I part of this Class?

The “Class” includes: All exempt employees who worked for The Produce Exchange in California at any time between September 20, 2015, through July 31, 2022, excluding employees who worked in the Executive, Director Jr., General Manager, IT Director, Operations Manager, and Warehouse Manager positions (the “Class Period”).

7. I’m still not sure if I am included.

If you still are not sure whether you are included in the Class, you can get free help by contacting Phoenix Class Action Settlement Administrators, the “Settlement Administrator,” at the designated phone number for this matter at (800) 523-5773 or by calling or writing the lawyers representing the Class in this case (“Class Counsel”), at the phone number or address listed in Section 19.

8. What is my approximate Individual Settlement Payment?

According to payroll records maintained by The Produce Exchange, the total number of weeks you worked in California for The Produce Exchange as an exempt employee during the Class Period is _____.

Based on information provided above and anticipated court-approved deductions, your share of the settlement is estimated to be \$ _____, less applicable taxes and withholdings.

You do not need to do anything further to receive your Individual Settlement Payment, other than to ensure that the Settlement Administrator has an accurate mailing address for you. It is important that you contact and inform the Settlement Administrator listed in Section 16, below, of any changes to your mailing address for timely payment.

Disputing Your Payment Amount

If you believe your total weeks worked during the Class Period shown above are not correct, you may send a letter to the Settlement Administrator indicating what you believe is correct by no later than January 16, 2023. You should also send any documents or other information that supports your belief. The Settlement Administrator will attempt to resolve any dispute based on The Produce Exchange’s records and any information you provide. Any disputes not resolved by the Settlement Administrator will be resolved by the Court.

9. What rights am I releasing if I participate in the Settlement?

If the Court grants final approval of the Settlement and you do not opt out of the Settlement, you will be deemed to have released The Produce Exchange and Released Parties from all claims, rights, demands, damages, liabilities and causes of action, whether known or unknown, contingent or vested, state or federal, in law or in equity, arising from, or reasonably related to, the same or similar set of operative facts and/or allegations as those set forth in Named Plaintiff’s Complaint and First Amended Complaint arising at any time during the Class Period, along with related claims and all associated penalties from September 20, 2015 to July 31, 2022 (“Released Claims”). All Settlement Class Members shall be bound by the Settlement Class Released Claims, unless they formally opt out.

Additionally, if you worked during the period of September 20, 2018 through July 31, 2022, you are a PAGA Group Member and you will also release the right to bring a claim for civil penalties on behalf of the State (and other employees) based on the same facts or theories as the Settlement Class Released Claims, which arose during the PAGA Period, even if you have formally opted-out of being a Settlement Class Member.

10. How do I object to the Settlement?

If you are a Class Member and would like to object to the Settlement, you must not submit a request for exclusion (*i.e.*, must not opt out). In order to object, you may mail a written objection to the Settlement Administrator at the address in Section 16 below. To be valid, your objection must: (1) state your full name and the last four digits of your Social Security Number; (2) state the grounds for the objection; (3) be signed by you; and (4) indicate whether you intend to appear at the Final Approval Hearing. You can also hire an attorney at your own expense to represent you in your objection. Your written objection to the Settlement Administrator must be postmarked on or before January 16, 2023. You may appear in person at the Final Fairness and Approval Hearing to present any oral objections even if you do not submit a timely written objection.

11. Why would I ask to be excluded?

You have the right to exclude yourself from the Class (and the class settlement). If you exclude yourself from the Class—sometimes called "opting-out" of the Class – you won't get any money or benefits from the class settlement. However, you may then be able to sue or continue to sue The Produce Exchange for your own claims if permitted by law. If you exclude yourself, you will not be legally bound by the Court's ruling in this Lawsuit, except for the release by PAGA Group Members, as explained above. Whether or not you submit a Request for Exclusion, you will still receive a small PAGA Group Payment if you are determined to be a part of the PAGA Group.

12. How do I ask to be excluded from the Class?

If you are a Class Member and would like to exclude yourself from the Class ("opt-out"), you, or your authorized representative, need to submit a written statement requesting exclusion from the Class to the Settlement Administrator at the address in Section 16 below. The statement must be signed and dated by you or your authorized representative and must be postmarked on or before January 16, 2023. To be valid, your request for exclusion must: (1) state your full name, address, and telephone number and the last four digits of your Social Security Number; (2) contain a clear statement that you are requesting to opt out of, or be excluded from, the Settlement in the *Casillas v. The Produce Exchange, Inc.* action; and (3) be signed by you.

Any Class Member who requests to be excluded from the Class will not be entitled to any recovery under the Settlement, except for potential entitlement to a portion of the PAGA Group Payment, and will not be bound by the Settlement, except for the portion of the Settlement that releases PAGA claims, or have any right to object, appeal, or comment on the Settlement. Class Members who fail to submit a valid and timely request for exclusion will be bound by all terms of the Settlement and any ruling from the Court to give final approval of the Settlement. But Class Members cannot opt out of releasing PAGA claims, as those claims belong to the State of California and Plaintiff has agreed to release those claims by acting as a proxy for the State.

THE LAWYERS REPRESENTING YOU

13. Who are the attorneys representing the Parties?

Lawyers for the Class

Kashif Haque (khaque@aegislawfirm.com)
Samuel A. Wong (swong@aegislawfirm.com)
Jessica L. Campbell (jcampbell@aegislawfirm.com)
Joseph M. Szilagyi (jszilagyi@aegislawfirm.com)
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Irvine, CA 92618
Tel: 949-379-6250

The Produce Exchange's Lawyers

Jon Yonemitsu
Noah Woods
LITTLER MENDELSON, P.C.
501 W. Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 232-0441
Facsimile: (619) 232-4302

The Court has preliminarily decided that Aegis Law Firm, PC is qualified to represent you and all Class Members. The law firm's attorneys are experienced in handling similar cases against other employers. More information about this law firm, their practice, and their lawyers' experience is available at www.aegislawfirm.com.

14. How will the lawyers be paid?

As part of the Settlement with The Produce Exchange, Class Counsel has requested thirty-five percent of the Gross Settlement Amount (currently equal to \$112,000.00) in attorneys' fees, plus costs not to exceed \$15,000, to be paid from the Gross Settlement Amount to compensate Class Counsel for their work on this matter. You will not have to pay Class Counsel's fees and costs from your Individual Settlement Payment.

15. How will Plaintiff be paid?

As part of the Settlement with The Produce Exchange, Class Counsel has requested an enhancement payment of up to \$15,000.00 to be paid to Plaintiff for her efforts in this matter while serving as Class Representative and taking on the burden and risks of litigation.

THE SETTLEMENT, APPROVAL, AND PAYMENT PROCESS

16. Who is handling the Settlement Administration process?

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

17. When is the Final Fairness and Approval Hearing and do I have to attend?

The Final Fairness and Approval Hearing has been set for January 20, 2023, at 9:00 a.m. in Department C-73 of the San Diego County Superior Court for the State of California, located at the Hall of Justice at 330 W. Broadway, San Diego, CA 92101. You do not need to attend the hearing to be a part of the Settlement. However, if you wish to object to the Settlement, you may appear at the hearing. Please note that the hearing may be continued without further notice to the Class. Make sure you check the Court's website before attempting to come to Court in person. You may be required to appear only by phone or video, depending on the current safety requirements due to the pandemic.

18. When will I get money after the hearing?

The Court will hold a hearing on January 20, 2023, to decide whether to approve the settlement. If the Court approves the settlement, then there may be appeals if anyone objects. It is always uncertain when these objections and appeals can be resolved, and resolving them can take time. If the Court approves the settlement and if you do not opt out, your individual payment set forth in Section 8 above is expected to be distributed after The Produce Exchange makes payment to the Settlement Administrator. If there are no objections or appeals, The Produce Exchange will transfer the settlement funds and the Administrator will then distribute the funds. If there are objections or appeals, the payment can be delayed by at least 60 days, or even over a year. To check on the progress of the settlement, contact the Settlement Administrator or Class Counsel at the phone number or address listed in Section 19.

GETTING MORE INFORMATION

19. Are more details available?

For more information, the pleadings and other records in this litigation may be examined at any time during regular business hours at the records department office for the Superior Court of the State of California for San Diego, located at the Hall of Justice at 330 W. Broadway, San Diego, CA 9210. You can also view the schedule of events and register of actions for the Lawsuit at the court's website and : <https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>.

Any questions regarding this Class Notice or the Lawsuit may be directed to the Claims Administrator at the below address and telephone number. Alternatively, you may contact your own attorney, at your own expense, to advise you, or you may contact the Lawyers for the Class at the address, telephone number or email address set forth above. If your address changes, or is different from the address on the envelope enclosing this Notice, please promptly notify the Settlement Administrator.

Settlement Administrator:

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

PLEASE DO NOT CALL OR WRITE TO THE COURT, OR TO ANY OF DEFENDANT'S MANAGERS, SUPERVISORS, OR DEFENDANT'S ATTORNEYS WITH QUESTIONS. ABOUT THIS NOTICE