

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

DAVIS ALLEN, individually and on behalf
of all others similarly situated,

Plaintiff,

vs.

CREATIVE STONE MFG. INC., dba
CORONADO STONE PRODUCTS, INC., a
California Corporation; and DOES 1-10,
inclusive,

Defendants.

Case No. CIVSB2201498

**NOTICE OF PENDENCY OF CLASS
ACTION AND PROPOSED
SETTLEMENT**

To: All current and former non-exempt employees of Defendant Creative Stone Mfg., Inc. employed in the State of California between April 6, 2016, through June 22, 2021. Collectively, these employees will be referred to as “Settlement Class members.”

**PLEASE READ THIS NOTICE CAREFULLY
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT
THIS NOTICE IS BEING SENT IN ENGLISH AND SPANISH**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Davis Allen v. Creative Stone Mfg., Inc.*, San Bernardino Superior Court Case No. CIVSB2201498 (the “Action”). 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. Creative Stone Mfg., Inc.’s (“Creative Stone”) records show that you were employed at Creative Stone as a non-exempt employee in the State of California between April 6, 2016, and June 22, 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 Action, 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 by the terms of the Settlement and any final judgment. If final judgment is entered in this case, it will be posted to the Settlement Administrator’s website, <https://www.phoenixclassaction.com/allen-v-creative-stone-mfg/>

What is this case about?

Plaintiff Davis Allen (“Plaintiff”) brought this Action against Creative Stone, seeking to assert claims on behalf of a class of current and former non-exempt employees who worked for Creative Stone in the State of California at any time between April 6, 2016 and June 22, 2021. Plaintiff is known as the “Class Representative,” and his attorneys, who also represent the interests of all Settlement Class members, are known as “Class Counsel.”

The Action alleges that Creative Stone failed to pay Settlement Class members for all earned minimum and overtime wages, and failed to provide all required meal and rest periods to Settlement Class members. The Action also alleges that Creative Stone failed to provide Settlement Class members with accurate and complete wage statements, failed to timely pay all final wages at the time of separation of employment, unlawfully deducted earned wages from Settlement Class members, and as a result of the foregoing alleged violations, engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorneys General Act (“PAGA”).

Creative Stone denies that it has done anything wrong and believes it properly complied with all applicable wage and hour laws. Creative Stone denies that it owes Settlement Class members any wages, restitution, penalties, or other damages. Accordingly, the Settlement constitutes a compromise of disputed claims and should not be construed as an admission of liability on the part of Creative Stone, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiff's claims. However, to avoid additional expense, inconvenience, and interference with its business operations, Creative Stone has concluded that it is in its best interests and the interests of Settlement Class members to settle the Action on the terms summarized in this Notice. Creative Stone provided relevant information to Class Counsel and the Settlement was reached after mediation and arm's-length negotiations between the parties.

The Class Representative and Class Counsel support the Settlement. Among the reasons for support are the defenses to liability potentially available to Creative Stone, the risk of denial of class certification, the inherent risks of trial on the merits, and the delays and uncertainties associated with litigation.

If you are still employed by Creative Stone, your decision about whether to participate in the Settlement will not affect your employment. California law and Creative Stone's policy strictly prohibit unlawful retaliation. Creative Stone will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Settlement Class member because of the Settlement Class member's decision to either participate or not participate in the Settlement.

Who are the Attorneys?

<p>Attorneys for the Plaintiff/Settlement Class members:</p> <p>JAMES HAWKINS APLC James R. Hawkins James@jameshawkinsapl.com Christina M. Lucio Christina@jameshawkinsapl.com 9880 Research Drive, Suite 200 Irvine, California 92618 Telephone: (949) 387-7200 Facsimile: (949) 387-6676</p> <p>HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com Sean M. Blakely sblakely@haineslawgroup.com Alexandra R. McIntosh amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com</p>	<p>Attorneys for Defendant Creative Stone:</p> <p>LAW OFFICES OF MARY E. LYNCH Mary E. Lynch mary@marylynchlaw.com 2875 Michelle Dr., Suite 200 Irvine, California 92606 Tel: (949) 229-5529 marylynchlaw.com</p>
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What are the terms of the Settlement?

On December 13, 2022, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt employees who worked for Creative Stone in the State of California between April 6, 2016, and June 22, 2021. Settlement Class members who do not opt out of the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Creative Stone as described below.

Creative Stone has agreed to pay \$2,850,000 (the “Maximum Settlement Amount”) to fully resolve all claims in the Action, including payments to Settlement Class members, attorneys’ fees and expenses, Settlement Administration costs, PAGA civil penalties, and the Class Representative’s Service Award.

The following deductions from the Maximum Settlement Amount will be requested by the parties:

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 \$40,000 from the Maximum Settlement Amount to pay the Settlement Administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Action on behalf of the Settlement 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. Settlement Class members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will ask for fees of up to one-third of the Maximum Settlement Amount, which is currently estimated to be \$950,000, as reasonable compensation for the work Class Counsel performed and will continue to perform in this Action through Settlement finalization. Class Counsel also will ask for reimbursement of up to \$30,000 for verified costs Class Counsel incurred in connection with the Action.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount of \$7,500 to compensate him for his service and extra work provided on behalf of the Settlement Class members.

PAGA Civil Penalties. The parties have agreed to allocate \$100,000 of the Maximum Settlement Amount as alleged civil penalties for the settlement of Plaintiff’s PAGA claim. Pursuant to the requirements of the PAGA, 75% of that amount, or \$75,000, will be paid to the California Labor & Workforce Development Agency (“LWDA”). The remaining \$25,000 has been designated as the “PAGA Amount” and will be paid to certain Settlement Class members as described below.

Calculation of Settlement Class Members’ Individual Settlement Payments. After deducting the Court-approved amounts above, the balance of the Maximum Settlement Amount will form the Net Settlement Fund (“NSF”), which will be distributed to all Settlement Class members who do not submit a valid and timely Request for Exclusion (described below). The NSF is estimated at approximately \$1,722,500 and will be divided as follows:

- (i) Payments to all participating Settlement Class members: Seventy-five percent (75%) of the NSF will be allocated to each participating Settlement Class member in proportion to the number of workweeks worked by him or her between April 6, 2016, and June 22, 2021.
- (ii) Wage Statement Amount: Ten percent (10%) of the NSF has been designated as the “Wage Statement Amount” and will be allocated to all participating Settlement Class members who were employed by Creative Stone at any time between April 6, 2019, and June 22, 2021, in proportion to the number of workweeks that he or she worked between April 6, 2019, and June 22, 2021.
- (iii) Waiting Time Amount: Fifteen percent (15%) of the NSF shall be designated as the “Waiting Time Amount,” and shall be distributed equally to each participating Settlement Class member who separated their employment with Creative Stone between April 6, 2017, through June 22, 2021.
- (iv) PAGA Amount: \$25,000 has been designated as the “PAGA Amount” and will be allocated to Settlement Class members who were employed by Creative Stone at any time from August 20, 2019, to June 22, 2021 (including those who submit a valid and timely Request for Exclusion from the class action settlement), in proportion to the number of workweeks that he or she worked between August 20, 2019, and June 22, 2021.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to all Settlement Class members who did not submit a valid and timely Request for Exclusion. Settlement checks will be valid for 180 days from the date the Settlement Administrator mails it. Any funds payable to Settlement Class members whose checks were not cashed within 180 days after mailing will be distributed to the Legal Aid Society of San Bernardino.

Allocation and Taxes. For tax purposes, each Individual Settlement Payment will be treated as follows: fifteen percent (15%) as “wages,” for which an IRS form W-2 will be issued, and Eighty-Five percent (85%) as penalties and interest, for which an IRS form 1099 will be issued. Any payment made from the PAGA Amount shall be treated 100% penalties. The wages allocation will be minus legally mandated payroll withholdings. Settlement Class members are responsible for the proper income tax treatment of the Individual Settlement Payments. The Settlement Administrator, Creative Stone and its counsel, and Class Counsel cannot provide tax advice. Accordingly, Settlement Class members should consult with their tax advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

Release. If the Court approves the Settlement, the Settlement Class, and each Settlement Class member who has not submitted a timely and valid Request for Exclusion, will release Creative Stone, and its past and present parent companies, affiliates, controlling persons, subsidiaries, directors, officers, shareholders and investors, agents, attorneys, employees, and benefit plans sponsored by any such entities (collectively the “Released Parties”) from all claims and causes of action, alleged or which could have reasonably been alleged based on the allegations in the Second Amended Class and Representative Action Complaint (“SAC”) during the Class Period, including claims for: (a) failure to pay overtime wages; (b) failure to pay minimum wages; (c) failure to provide all meal periods, or premium pay in lieu thereof; (d) failure to authorize and permit all rest periods, or premium pay in lieu thereof; (e) unlawful deductions from earned wages; (f) failure to provide complete and accurate wage statements; (g) all claims for waiting time penalties; (h) all claims for unfair business practices that could have been premised on the claims, causes of action or legal theories pled in the operative SAC; (i) all claims under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”) that could have been premised on the claims, causes of action, or legal theories pled in the SAC; and (j) all damages, penalties, interest, costs (including attorneys’ fees) and other amounts recoverable under said claims or causes of action as to the facts and/or legal theories alleged in the SAC (collectively, “Class Member Released Claims”). In addition, all Settlement Class members (regardless whether they opt out) who worked for Creative Stone at any time from August 20, 2019 through the end of the Class Period (the “PAGA Period”) shall release Creative Stone from all claims for civil penalties under PAGA based on the above-mentioned violations, arising from their employment with Creative Stone during the PAGA Period (the “PAGA Released Claims”). The released claims include all claims for legal or equitable relief, compensatory and statutory damages, all penalties, including statutory and civil penalties, restitution, injunctive relief, pre and post-judgment interest, attorneys' fees, and costs of the lawsuit based on the claims and causes of action alleged or which could have reasonably been alleged based on the allegations in the SAC during the Class Period. The Parties, including Plaintiff and the Settlement Class members, acknowledge that the wages Defendant is paying as part of this settlement are genuinely disputed. The Parties, including Plaintiff and the Settlement Class members, further acknowledge that as a result of this bona fide dispute, Labor Code, §206.5(a) is not applicable to the settlement set forth in this Settlement Agreement.

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 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 number of workweeks you worked between April 6, 2016, and June 22, 2021, the proportionate number of workweeks you worked between April 6, 2019, through June 22, 2021, the proportionate number of workweeks you worked between August 20, 2019, through June 22, 2021, and whether you ended your employment from April 6, 2017, through June 22, 2021, as stated in the accompanying Notice of Estimated Settlement Award. 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 award is based on the number of workweeks you worked between April 6, 2016, and June 22, 2021, the proportionate number of workweeks you worked between April 6, 2019, through June 22, 2021, the proportionate number of workweeks you worked between August 20, 2019, through June 22, 2021, and whether you ended your employment from April 6, 2017, through June 22, 2021. The information contained in Creative Stone's records regarding each of these factors, along with your estimated Individual Settlement Payment, is listed on the accompanying Notice of Estimated Settlement Award. If you disagree with the information in your Notice of Estimated Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Estimated Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than February 24, 2023. **DO NOT SEND ORIGINALS; DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED.**

The Parties and the Settlement Administrator will evaluate the evidence submitted and discuss in good faith how to resolve any disputes submitted by Settlement Class members. The Settlement Administrator's decision regarding any dispute will be final.

Exclude Yourself from the Settlement. If you **do not** wish to take part in the Settlement, you may exclude yourself by sending to the Settlement Administrator a written "Request for Exclusion" letter or card postmarked no later than February 24, 2023, with your name, address, telephone number, the last four digits of your social security number, and your signature.

Send the Request for Exclusion directly to the Settlement Administrator at P.O. Box 7208, Orange, CA 92863. Any person who submits a timely Request for Exclusion Form shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class member and shall be barred from participating in the class action settlement. However, Settlement Class members who were employed by Creative Stone at any time from August 20, 2019 through June 22, 2021 shall still be entitled to their portion of the PAGA Amount described above. **Do not submit both a Dispute and a Request for Exclusion.** If you do, the Request for Exclusion will be invalid, you will be included in the Settlement Class, and you will be bound by the terms of the 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 should mail a written objection to the Settlement Administrator. Your written objection must include your name, address, as well as contact information for any attorney representing you regarding your objection, 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. Objections should be in writing and must be postmarked on or before February 24, 2023.

You may also appear at the Final Approval Hearing scheduled for April 27, 2023 at 10:00 a.m. in Department S-26 of the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, CA. 92415. You have the right to appear either in person or through your own attorney at this hearing. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before February 24, 2023. All objections or other correspondence must state the name and number of the case, which is *Davis Allen v. Creative Stone Mfg., Inc.*, San Bernardino Superior Court Case No. CIVSB2201498.

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. In other words, by submitting an Objection, you are not excluding yourself from the Settlement.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on April 27, 2023 at 10:00 a.m., in Department S-26 of the San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, California 92415. 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 Service Award to the Class Representative. The Final Approval Hearing may be postponed without further notice to the Settlement Class. **You are not required to attend the Final Approval Hearing, although any Settlement Class member is welcome to attend the hearing.**

If you plan on attending the hearing or otherwise visiting the Court, please consult the Court's website, www.sb-court.org, for information regarding court operations during COVID-19 as well as face covering and social distancing requirements.

How can I get additional information?

This Notice is only a summary of the Action 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 San Bernardino County Superior Court, located at 247 W. Third Street, San Bernardino, CA. 92415, during regular court hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, CREATIVE STONE, OR ITS ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT OR THE SETTLEMENT PROCESS

REMINDER AS TO TIME LIMITS

The deadline for submitting any Disputes, Requests for Exclusion, or Objections is **February 24, 2023**. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON DECEMBER 13, 2022.