

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

*Guzman v. Freshco Painters, Inc. et al.*  
(County of Los Angeles, California Superior Court Case No. 20STCV04683)

**As a current or former non-exempt, hourly-paid California employee of Freshco Painters, Inc. 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 Freshco Painters, Inc. (“Defendant”) show you are a “Class Member,” and therefore entitled to a payment from this class action Settlement. Class Members are all persons currently or formerly employed by Freshco Painters, Inc. as non-exempt, hourly-paid employees in the State of California any time from February 5, 2017, through November 30, 2021 (“Class Period”).

- The settlement resolves a class-action lawsuit, *Guzman v. Freshco Painters, Inc. et al.* (the “Lawsuit”), which alleges that Defendant: (1) failed to pay Class Members for all hours worked, (2) failed to provide Class Members legally-compliant meal and rest breaks under California law, (3) failed to provide accurate itemized wage statements; (4) failed to pay all wages owed upon separation from employment; (5) failed to reimburse work expenses; and (6) 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 December 15, 2022, the Los Angeles 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. Defendant vigorously denies 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 February 3, 2020, through and including November 30, 2021 (“PAGA Period”) as a non-exempt, hourly-paid employee of Defendant, as well, then you will be deemed an “Aggrieved Employee” and you will still receive your share of the proceeds available from the PAGA Settlement (your “Individual PAGA Payment”) regardless of whether you opt out of the class settlement.
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. Regardless of whether you submit a written objection, you or your attorney may also address the Court during the Final Approval Hearing scheduled for May 17, 2023, at 10:00 a.m. in Department 7 of the Spring Street Courthouse of Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 in Department 7.

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

The Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 10:00 a.m. on May 17, 2023, in the Spring Street Courthouse of Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 in Department 7. You are not required to attend the Hearing, but you are welcome to do so.

### **Why Am I Receiving This Notice?**

Defendant's records show that you currently work, or previously worked, for Defendant as a non-exempt, hourly-paid employee in the State of California any time 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?**

Angel Martinez Guzman was a non-exempt employee of Defendant in California. He is the "Plaintiff" in this case and is suing on behalf of himself and Class Members for Defendant's alleged failure to pay all wages due for all hours worked, failing to provide them with legally-compliant rest and meal breaks, failing to provide accurate itemized wage statements, failing to pay all wages owed upon separation from employment, failing to indemnify work-related expenses, and engaging in 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.

Defendant denies all of the allegations made by Plaintiff and denies that it 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 the Settlement at the Final Approval Hearing.

### **Summary of the Settlement Terms**

Plaintiff and Defendant have agreed to settle this case on behalf of themselves and the Class Members for the Gross Settlement Amount of \$175,000, with \$75,000 being paid by April 15, 2022, and the balance being paid in sixteen (16) equal monthly installments each month after through August 15, 2023. The Gross Settlement includes: (1) Administration Costs up to \$5,000; (2) a service payment of up to \$7,500 for the Plaintiff for his time and effort in pursuing this case and in exchange for a broader release of claims against Defendant; (3) up to 35% in attorneys' fees which, unless escalated pursuant to the Settlement Agreement, shall amount to \$61,250.00; up to \$20,000 in litigation costs to Class Counsel; and (4) payment allocated to PAGA penalties in the amount of \$10,000, of which 75% (or \$7,500) will be paid to the California Labor and Workforce Development Agency and 25% (\$2,500) to Aggrieved Employees. After deducting these sums, unless the Gross Settlement Amount is escalated pursuant to this Agreement, a total of approximately not less than \$93,750 will be available for distribution to Class Members ("Net Settlement Amount"), and \$2,500 will be available for distribution to Aggrieved Employees.

### **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 verified actual weeks worked by Class Members for Defendant 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 will receive a *pro rata* share of the \$2,500 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.

Defendant's records indicate that you worked [Eligible Workweeks] as a non-exempt 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 March 6, 2023. Please include any documentation you have that you contend supports your dispute.

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

If you do not opt out of the Settlement, you will receive an Individual Settlement Payment. Individual Settlement Payment checks shall remain valid and negotiable for one hundred and eighty (180) calendar days after the date of their issuance. Thereafter, checks for such payments shall be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those Class Members and Aggrieved Employees who did not timely cash their Settlement checks.

**You should inform the Settlement Administrator if you have change in address by mailing, calling, faxing, or e-mailing the Settlement Administrator at the contact information listed further below.**

### **Tax Reporting**

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. 20% 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 80% 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 against the Released Parties asserted in the Complaint filed in the Action, or any and all claims that may be asserted against the Released Parties based on the factual allegations in the Complaint filed on February 5, 2021, as follows: For the duration of the Class Period, the release includes: (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 and rest periods and associated premium pay; (d) all claims for the failure to timely pay wages upon termination or resignation; (f) all claims for non-compliant wage statements; (g) all claims for failure to reimburse costs as required under Labor Code § 2802; and (h) all claims asserted through California Business & Professions Code § 17200 *et seq.* arising out of the Labor Code violations referenced in the Complaint (the “Class Released Claims”). For Aggrieved Employees, the release includes, for the duration of the PAGA Period, all claims released during the Class Period, as well as all asserted PAGA claims for penalties arising out of Labor Code Sections 210, 226.3, 558, 1197.1 and 2699 based on the factual allegations and Labor Code sections alleged to have been violated in the PAGA Notice filed on February 3, 2021, which include, without limitation, alleged violations of Labor Code sections 204, 246, 432, 1174, 1198.5, and 2810.5 (the “PAGA Released Claims”).

“Released Parties” shall mean Defendant and each of its past, present, and future respective subsidiaries, dba’s, affiliates, parents, insurers and reinsurers, and company-sponsored employee benefit plans of any nature and their successors and predecessors in interest, including all of their officers, directors, shareholders, 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 a statement indicating that you wish to be excluded from Settlement Class in the *Guzman v. Freshco Painters, Inc., et al.* matter. Sign, date, and mail, fax, or e-mail your written request for exclusion by U.S. First-Class Mail to the address below.

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

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

The proposed settlement includes the settlement of claims for civil penalties under PAGA. 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.

**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 full name, your address, a statement of the reasons why you believe that the Court should not approve the Settlement. Your written objection must be mailed, faxed, or e-mailed to the Administrator no later than March 6, 2023. Please note that you cannot both object to the Settlement and exclude yourself. 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 May 17, 2023 at 10:00 a.m. in the Spring Street Courthouse of Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012 in Department 7 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.

You may also appear at the Final Approval Hearing electronically via audio or video by making a reservation through the Court's LA Court Connect website at: <https://my.lacourt.org/laccwelcome>.

**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 visit <https://www.phoenixclassaction.com/guzman-v-freshco-painters/>, call the Settlement Administrator at (800) 523-5773 or Class Counsel:

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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 Los Angeles Superior Court, located at 312 North Spring Street, Los Angeles, CA 90012, during regular business hours of each court day.

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,  
DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.**

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