

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

ANGEL MEDINA, as an individual and on behalf of
all others similarly situated.

Plaintiff,

vs.

NATIONAL PAVING COMPANY, INC., a California
corporation; and Does 1 through 100, inclusive

Defendants.

Case No. CIVSB2108801

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

To: All current and former non-exempt, hourly employees of Defendant National Paving Company, Inc. (“Defendant” or “National Paving”) who worked in California at any time between March 19, 2017 and December 8, 2022. 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**

Why should you read this notice?

The Court has granted preliminary approval of a proposed class action settlement (the “Settlement”) in *Angel Medina, as an individual and on behalf of all others similarly situated v. National Paving Company, Inc., a California corporation; and DOES 1 through 100, inclusive*, Case No. CIVSB2108801 (the “Lawsuit”). 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. National Paving’s records show that you were employed at National Paving as an hourly, non-exempt employee in California between March 19, 2017 and December 8, 2022 (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 Lawsuit, 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.

What is this case about?

Plaintiff Angel Medina (“Plaintiff”) brought this Lawsuit against National Paving, seeking to assert claims on behalf of a class of current and former non-exempt, hourly employees who worked for National Paving in California at any time between March 19, 2017 and December 8, 2022. 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 Lawsuit alleges that National Paving failed to pay Settlement Class Members all minimum and overtime wages, failed to provide to Settlement Class Members all required meal and rest periods, failed to reimburse necessary business expenses, failed to provide Settlement Class Members with itemized wage statements in compliance with California law, and failed to pay all wages due upon termination. As a result of the foregoing alleged violations, Plaintiff also alleges that National Paving engaged in unfair business practices and is liable for civil penalties under the Labor Code Private Attorney General Act.

National Paving denies that it has done anything wrong. National Paving further 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 National Paving, 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, National Paving has concluded that it is in its best interests and the interests of Settlement Class Members to settle the Lawsuit on the terms summarized in this Notice. After National Paving provided relevant information to Class Counsel, 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 National Paving, 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 National Paving, your decision about whether to participate in the Settlement will not affect your employment. California law and National Paving’s policies strictly prohibit unlawful retaliation. National Paving 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>LIDMAN LAW, APC Scott M. Lidman slidman@lidmanlaw.com Elizabeth Nguyen enguyen@lidmanlaw.com Milan Moore mmoore@lidmanlaw.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 322-4772 Fax: (424) 322-4775 www.lidmanlaw.com</p> <p>HAINES LAW GROUP, APC Paul K. Haines phaines@haineslawgroup.com 2155 Campus Drive, Suite 150 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 www.haineslawgroup.com</p>	<p>Attorneys for National Paving company, Inc.</p> <p>KAUFMAN DOLOWICH & VOLUCK LLP Brian D. Peters bpeters@kdvlaw.com 21515 Hawthorne Blvd., Suite 450 Torrance, California 90503 Tel: (310) 540-2000 Fax: (310) 540-6609 www.kdvlaw.com</p>
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What are the terms of the Settlement?

On December 8, 2022, the Court preliminarily certified a class, for settlement purposes only, of all current and former non-exempt, hourly employees who worked for National Paving in California at any time between March 19, 2017 and December 8, 2022. 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 National Paving as described below.

National Paving has agreed to pay \$150,000 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, which includes payments to Settlement Class Members, attorneys’ fees and expenses, payment of PAGA civil penalties, settlement administration costs, and the Class Representative’s Service Award. National Paving’s share of payroll taxes associated with any wage payments to Settlement Class Members shall be paid by National Paving separately from, and in addition to, the Gross Settlement Amount.

The following deductions from the Gross 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 \$5,950.00 from the Gross Settlement Amount to pay the Settlement administration costs.

Attorneys’ Fees and Expenses. Class Counsel have been prosecuting the Lawsuit 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 Gross 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 Gross Settlement Amount, which is currently estimated to be \$50,000.00 as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit through Settlement finalization. Class Counsel also will ask for reimbursement in an amount not to exceed \$18,000.00 for verified costs Class Counsel incurred in connection with the Lawsuit.

Service Award to Class Representative. Class Counsel will ask the Court to award the Class Representative a service award in the amount not to exceed \$5,000.00, to compensate him for his service and extra work provided on behalf of the Settlement Class Members.

PAGA Civil Penalties. Class Counsel will ask the Court to approve a payment in the total amount of \$10,000.00 as and for alleged civil penalties, payable pursuant to the California Labor Code Private Attorney General Act (“PAGA”). Per Labor Code § 2699(i), seventy-five percent (75%) of such penalties, or Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) will be payable to the Labor & Workforce Development Agency (“LWDA”), and the remaining twenty-five percent (25%), or Two Thousand Five

Hundred Dollars and Zero Cents (\$2,500.00), will be payable to certain Settlement Class members as the “PAGA Amount,” as described below.

Calculation of Individual Settlement Class Members’ Settlement Award. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount (“NSA”), which will be distributed to all Settlement Class Members who do not submit a valid and timely Request for Exclusion (described below). The NSA is currently estimated to be approximately \$63,550.00, to be shared among an estimated two hundred thirty-one (231) Settlement Class Members. The NSA will be divided as follows:

- i. The Net Settlement Amount, not including the PAGA Amount payable to Settlement Class Members as described above, shall be allocated to Settlement Class Members who worked during the Class Period, as follows: each participating Settlement Class Member shall receive a proportionate settlement share based upon the number of workweeks worked during the Class Period, the numerator of which is the Settlement Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total workweeks worked by all Settlement Class Members who worked during the Class Period.
- ii. In addition, Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) of the Gross Settlement Amount has been designated as the “PAGA Amount”. All Aggrieved Employees shall receive a portion of the PAGA Amount. “Aggrieved Employees” include all current and former non-exempt, hourly, employees of Defendant who worked in California (including those who submit a Request for Exclusion) at any time between March 19, 2017 and December 8, 2022 (“PAGA Period”). An Aggrieved Employee shall receive a portion of the PAGA Amount proportionate to the number of Workweeks that he or she worked during the PAGA Period, and which will be calculated by multiplying the PAGA Amount by a fraction, the numerator of which is the PAGA Employee’s number of Workweeks worked during the PAGA Period, and the denominator of which is the total number of Workweeks worked by all PAGA Employees during the PAGA Period.

Payments to Settlement Class Members. If the Court grants final approval of the Settlement, Individual Settlement Awards will be mailed to all Settlement Class Members who did not submit a valid and timely Request for Exclusion.

If you are an Aggrieved Employee and submit a Request for Exclusion, you will still receive a proportionate share of the PAGA Amount regardless of whether you exclude yourself from the Settlement.

Each member of the Settlement Class who receives a Settlement Award must cash the check within 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 transferred to the California Secretary of State- Unclaimed Property Fund under the unclaimed property laws in the name of the Settlement Class Member.

Payment Plan by National Paving of Gross Settlement Amount. The Gross Settlement Amount shall be deposited by National Paving with the Settlement Administrator in an account set up by it, based on the following schedule: i) National Paving shall deposit the first payment amount of \$37,500.00 within 10 calendar days of the date the Court enters Judgment/Final Approval Order followed by three more payments of \$37,500 each starting six months after Final Approval Order/Judgment is entered and every six months thereafter until the Gross Settlement Amount is fully funded. Based on this payment plan, the Gross Settlement Amount is expected to be paid in full by approximately October, 2024.

The “Effective Date” is defined as the latter of: (a) the Court’s final approval of the settlement if no objections by or on behalf of Class Members have been filed; (b) the time for appeal has expired if an objection has been filed and no appeal has been filed or withdrawn; or (c) the final resolution of any appeal that has been filed.

Within ten (10) calendar days following National Paving’s deposit of the last and final installment payment of the Gross Settlement Amount, the Settlement Administrator will calculate Individual Settlement Award amounts and provide the same to the Parties’ counsel for review and approval. Within seven (7) calendar days of approval by the Parties’ counsel, the Settlement Administrator will prepare and mail Individual Settlement Awards, less applicable taxes and withholdings, to participating Settlement Class Members. As this time, the Individual Settlement Awards are expected to be mailed in October, 2024.

Allocation and Taxes. For tax purposes, each Individual Settlement Award shall be allocated as follows: twenty percent (20%) as wages and reported via an IRS Form W-2; and eighty percent (80%) as penalties and interest reported on an IRS Form 1099. The Settlement Administrator will be responsible for issuing IRS Forms W-2 and IRS Forms 1099 to participating Settlement Class Members. The Individual Settlement Award for an Aggrieved Employee who submits a Request for Exclusion shall be allocated as 100% penalties and reported on an IRS Form 1099. Settlement Class Members are responsible for the proper income tax treatment of the Individual Settlement Awards. The Settlement Administrator, National Paving 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 fully and forever completely release and discharge National Paving, and all of its past and present officers, directors, shareholders, managers, employees, agents, principals, heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors in interest, subsidiaries, affiliates, parents and attorneys (collectively the “Released Parties”),

from all claims, demands, rights, liabilities and causes of action that were pled or could have been pled based on the factual allegations in any of the Complaints in the Action that arose during the Class Period with respect to the following claims: a) failure to pay all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to reimburse necessary business expenses; (f) failure to issue accurate, itemized wage statements; (g) failure to pay all wages upon termination; (h) all claims for unfair business practices under Business and Professions Code section 17200, et seq that could have been premised on the facts, claims, causes of action or legal theories described above; and (i) violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 218.6, 226 et seq., 226.3, 226.7, 510, 512, 516, 558, 1118.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802 and 2698, et seq., and the Industrial Welfare Commission Wage Orders, including, but not limited to, IWC Wage Order No. 16 and claims under Code of Civil Procedure section 1021.5, Civil Code sections 3287 and 3289 that could have been sought based on the causes of action or legal theories described above (collectively, the “Released Claims”).

The time period of the Released Claims shall be the same time as the Class Period.

PAGA Release by Aggrieved Employees. If the Court approves the Settlement, all Aggrieved Employees (including those who submit a Request for Exclusion) will release and discharge the Released Parties from all claims, demands, rights, liabilities and causes of action under California Labor Code Private Attorneys General Act of 2004 as asserted in the operative complaint that arose during the PAGA Period premised on the facts, claims, causes of action or legal theories described above. The release period for the PAGA claim shall be the same as the PAGA Period. All Aggrieved Employees, regardless of whether they have opted out of the Class Settlement as described above, and the State of California shall be bound by the PAGA Release and fully release and discharge Defendant and all Released Parties from all released PAGA claims upon the final approval of the settlement of PAGA Claims in this Action. The Parties agree there is no statutory right for any Aggrieved Employee to object, opt out or otherwise exclude himself or herself from the Settlement. Unless otherwise provided by law, the Parties further agree there is no right or opportunity for any Aggrieved Employee to appeal the approval of the PAGA settlement by the Court, the Settlement shall not be subject to collateral attack by any Aggrieved Employee, and such prohibited collateral attack shall include, but not be limited to, claims that the Aggrieved Employee failed, for any reason, to timely receive his or her individual Settlement Payment (collectively, “PAGA Released Claim”). The time period for the release of the PAGA Released Claim shall be the same time period as the PAGA Period.

The Releases shall be effective on the date that National Paving fully funds the Gross Settlement Amount and employer’s share of taxes.

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 proportionate number of workweeks you worked during the Class Period (as explained above), and as stated in the accompanying Notice of 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 Individual Settlement Award. Your award is based on the proportionate number of workweeks you worked during the Class Period. The information contained in National Paving’s records regarding all of these factors, along with your estimated Settlement Award, is listed on the accompanying Notice of Individual Settlement Award. If you disagree with the information in your Notice of Individual Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Individual Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than March 13, 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 from the Class Action Settlement” letter or card postmarked no later than March 13, 2023, with your name, address, telephone number, last four digits of your social security number, and your signature. The Request for Exclusion should state words to the effect of:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE MEDINA V. NATIONAL PAVING LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE CLASS ACTION SETTLEMENT OF THIS LAWSUIT.”

Send the Request for Exclusion directly to the Settlement Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863. Any person who files a timely Request for Exclusion from the Settlement shall, upon receipt by the Settlement Administrator, no longer be a Settlement Class Member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. **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.

If you were employed by National Paving at any time since March 19, 2020, you will still receive a portion of the PAGA Amount if you submit a Request for Exclusion.

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 may 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 for your objection, and any legal or factual or evidence you may have in support of your objection. Written objections must be postmarked on or before March 13, 2023.

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for April 17, 2023, at 1:30 p.m. in Department S17 of the San Bernardino County Superior Court, located at 247 West Third Street, San Bernardino, California 92415. You have the right to appear either remotely, 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 March 13, 2023. All objections or other correspondence must state the name and number of the case (*Angel Medina v. National Paving, Inc.*, San Bernardino County Superior Court Case No. CIVSB2108801).

Any Settlement Class Member who elects to appear personally at the Court for any reason related to this Lawsuit must comply with the Court's social distancing and mandatory face covering requirements, as well and other orders related to COVID-19. All such rules and orders can be located at the Court's website: <https://www.sb-court.org/general-information/information-regarding-court-reopening-plans>

For more information about how to appear at the Final Approval Hearing remotely, please visit the Court's website at: <https://www.sb-court.org/general-information/remote-access> .

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.

What is the next step?

The Court will hold a Final Approval Hearing on the adequacy, reasonableness, and fairness of the Settlement on April 17, 2023, at 1:30 p.m. in Department S17 of the San Bernardino County Superior Court, located at 247 West 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 Settlement Class Members. **You are not required to attend the Final Approval Hearing, although any Settlement Class Member is welcome to attend the hearing.**

The Court's final judgment will be posted on the Settlement Administrator's website <https://www.phoenixclassaction.com/medina-v-national-paving-company/>.

How can I get additional information?

This Notice is only a summary of the Lawsuit 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 West Third Street, San Bernardino, California 92415. Due to COVID-19, please visit the Court's website at <https://www.sb-court.org/general-information/information-regarding-court-reopening-plans> for information on accessing the Court and modified service hours due to COVID. You may also contact Class Counsel using the contact information listed above for more information.

Information about the Settlement will be posted on the Settlement Administrator's website <https://www.phoenixclassaction.com/medina-v-national-paving-company/>

PLEASE DO NOT CALL OR WRITE THE COURT, NATIONAL PAVING 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 March 13, 2023. These deadlines will be strictly enforced.

BY ORDER OF THE COURT ENTERED ON DECEMBER 8, 2022