

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA

ANTELMA CHAVEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

LINCARE INC., a Delaware corporation; and
DOES 1 through 100,

Defendants.

Case No. 56-2019-00536955-CU-OE-VTA

**NOTICE OF CLASS ACTION
SETTLEMENT**

To: All non-exempt, hourly workers who were employed by Lincare Inc. (“Lincare”) in California at any time from December 5, 2015 through and including August 11, 2022 (the “Class Period”).

PLEASE READ THIS NOTICE CAREFULLY

**THIS NOTICE IS BEING PROVIDED TO YOU IN ENGLISH AND SPANISH
YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR NOT**

You may be entitled to money from this Settlement. Lincare’s records show that you were employed by Lincare as a non-exempt employee in California between December 5, 2015 and August 11, 2022. 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. Notice of the final judgment will be posted online at <https://www.phoenixclassaction.com/antelma-chavez-v-lincare/>

What is this case about?

Plaintiffs Antelma Chavez and Bernal Mazariegos (“Plaintiffs”) brought this lawsuit against Lincare, asserting claims on behalf of all Participating Class Members. Plaintiffs are known as the “Class Representatives,” and their attorneys, who also represent the interests of all Participating Class Members, are known as “Class Counsel.”

In the Lawsuit, Plaintiffs alleged that Lincare: (1) failed to pay all minimum wages; (2) failed to pay all overtime wages; (3) failed to provide all meal periods; (4) failed to authorize and permit all rest periods; (5) failed to maintain accurate records and issue accurate, itemized wage statements; (6) failed to pay all final wages at termination; (7) engaged in unfair business practices; and (8) is liable for civil penalties under the Private Attorneys General Act (Labor Code section 2698) (“PAGA”).

Lincare denies that it has done anything wrong. Lincare denies that it owes Participating 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 Lincare, which expressly denies all liability.

The Court has not ruled on the merits of Plaintiffs’ claims. However, to avoid additional expense, inconvenience, and interference with business operations, the parties concluded that it is in Lincare’s best interests and the interests of Participating Class Members to settle the Lawsuit on the terms summarized in this Notice. After Lincare provided relevant information to Class Counsel, the Settlement was reached after mediation and negotiations between the parties.

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

If you are still employed by Lincare, your decision about whether to participate in the Settlement will not affect your employment. California law and Lincare’s policies strictly prohibit unlawful retaliation. Lincare will not take any adverse employment action against or otherwise target, retaliate, or discriminate against any Participating Class Member because of his or her decision to either participate or not participate in the Settlement.

Who are the Attorneys?

Attorneys for Plaintiffs / Participating Class Members: HAINES LAW GROUP, APC Paul K. Haines (SBN 248226) phaines@haineslawgroup.com Sean M. Blakely (SBN 264384) sblakely@haineslawgroup.com Alexandra R. McIntosh (SBN 320904) amcintosh@haineslawgroup.com 2155 Campus Drive, Suite 180 El Segundo, California 90245 Tel: (424) 292-2350 Fax: (424) 292-2355 haineslawgroup.com	Attorneys for Lincare: FORD & HARRISON LLP David L. Cheng (SBN 240926) dcheng@fordharrison.com Jennifer S. McGeorge (SBN 221679) jmcgeorge@fordharrison.com 350 South Grand Avenue, Suite 2300 Los Angeles, CA 90071 Tel: (213) 237-2400 Fax: (213) 237-2401
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What are the terms of the Settlement?

On February 17, 2023, the Court preliminarily certified a class – for settlement purposes only – of all current and former non-exempt employees of Lincare in California who worked at any time during the Class Period. The class excludes any employee who previously brought a lawsuit against Lincare and which subsequently resulted in settlement. Participating Class Members who do not submit a valid and timely Request For Exclusion from the Settlement pursuant to the procedures set forth in this Notice will be bound by the Settlement and will release their claims against Lincare, as described below in the “Release” section.

Lincare agreed to pay \$1,600,000.00 (the “Gross Settlement Amount”) to fully resolve all claims in the Lawsuit, including payments to Participating Class Members, attorneys’ fees and expenses, settlement administration costs, payment to the California Labor and Workforce Development Agency (“LWDA”) for its share of PAGA civil penalties, and the Class Representative Enhancement Awards. Lincare will fund the Gross Settlement Amount no later than 60 days after the final approval of the settlement (assuming no objections or appeals).

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 who will perform other duties relating to the Settlement. The Court has approved setting aside up to \$12,500.00 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 Participating 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. Participating 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 Fund (which is currently estimated to be \$533,333.33) 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 of up to \$115,000.00 for verified costs which were incurred by Class Counsel in connection with the Lawsuit.

Class Representative Enhancement Awards. Class Counsel will ask the Court to award \$15,000.00 to each of the named Plaintiffs as a Class Representative Enhancement Award. This is meant to compensate Plaintiffs for their service and extra work provided on behalf of the Participating Class Members.

PAGA Payment to the State of California. The parties have agreed to allocate \$50,000.00 of the Gross Settlement Amount as PAGA civil penalties. Per Labor Code section 2699(i), 75% of such penalties (\$37,500.00) will be payable to the LWDA for its share of PAGA penalties, and the remaining 25% (\$12,500.00) will be payable to the individuals with PAGA standing (“Aggrieved Employees”) as part of the Net Settlement Amount.

Calculation of Participating Class Members’ Individual Settlement Payment. After deducting the Court-approved amounts above, the balance of the Gross Settlement Amount will form the Net Settlement Amount, which will be distributed to all Participating Class Members who do not submit a valid and timely Request for Exclusion (described below). The Net Settlement Amount will be divided as follows:

- (i) PAGA Amount: The \$12,500.00 payable to Aggrieved Employees as PAGA civil penalties will be designated as the “Aggrieved Employee PAGA Allocation.” Each employee who was employed by Lincare in California any time between December 5, 2018 and August 11, 2022 (“Aggrieved Employee Period”), will receive a portion of the

Aggrieved Employee PAGA Allocation proportionate to the number of workweeks that he or she worked during the aforementioned time period.

- (ii) Wage Statement Amount: Fifteen percent (15%) of the Net Settlement Amount will be designated as the “Wage Statement Amount.” Each employee who was employed by Lincare in California any time between December 5, 2018 and August 11, 2022, will receive a portion of the Wage Statement Amount proportionate to the number of workweeks that he or she worked during the aforementioned time period.
- (iii) Waiting Time Amount: Fifteen percent (15%) of the Net Settlement Amount will be designated as the “Waiting Time Amount.” The Waiting Time Amount will be distributed in equal shares to each Participating Class Member who separated their employment with Lincare on or after December 5, 2016.
- (iv) The remainder of the Net Settlement Amount will be distributed to each Participating Class Member based on their proportionate number of workweeks worked during the Class Period, by multiplying the remaining Net Settlement Amount by a fraction, the numerator of which is the Participating Class Member’s total workweeks worked during the Class Period, and the denominator of which is the total number of workweeks worked by all Participating Class Members during the Class Period.

Individual Settlement Payments to Participating Class Members. If the Court grants final approval of the Settlement, Individual Settlement Payments will be mailed to Participating Class Members who did not submit a valid and timely Request for Exclusion. Each Participating Class Member who receives an Individual Settlement Payment must cash that check within 180 days from the date the Settlement Administrator mails it. Any funds payable to Participating Class Members whose checks are not cashed within 180 days after mailing will be distributed to the California State Controller in the name of the Settlement Class member to whom the check was issued.

Allocation and Taxes. Each Individual Settlement Payment will be allocated as 90% penalties and interest and 10% wages. The Settlement Administrator will be responsible for issuing to Participating Class Members an IRS Form 1099 (for amounts paid as penalties and interest) and IRS Form W2 (for amounts paid as wages). Amounts paid to PAGA Members for their share of civil penalties under PAGA will be allocated as 100% penalties. The Settlement Administrator will issue PAGA Members an IRS Form 1099 for these payments. The Settlement Administrator will be responsible for calculating and withholding all employee-share employment taxes and other legally required withholdings from each Individual Settlement Payment.

Release. If the Court approves the Settlement, each Participating Class Member who has not submitted a timely and valid Request for Exclusion will fully release and discharge Lincare, and all of its affiliated entities, related entities, owners, officers, directors, members, parents, subsidiaries, affiliates, employees, agents, successors and assigns (collectively the “Released Parties”), from all claims in the Actions, as well as any and all claims that were asserted or could have been asserted based on the facts pled in the Actions (including those alleged in Plaintiffs’ Letters to the California Labor & Workforce Development Agency, the allegations of which are expressly incorporated herein including any and all claims arising from the facts alleged in the Action(s), including all wage and hour claims for unpaid wages including minimum wages and overtime, failure to pay wages during employment and upon separation of employment, meal and rest break violations, wage statement violations, failure to reimburse all necessary business expenses, and recovery of restitution, disgorgement, injunctive relief, declaratory relief, conversion, unjust enrichment, civil and statutory penalties, interest, liquidated damages, and claims under California Labor Code sections 201-203, 204, 210, 212-213, 218.6, 223, 226, 226.3, 226.7, 510, 512, 516, 558, 558.1, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 2698-2699.5, 2802, 2804, applicable Industrial Welfare Commission Wage Orders, claims under California Business & Professions Code sections 17200-17208, Civil Code §§3287 and 3289, Code of Civil Procedure §1021.5, and recovery of attorney’s fees and costs under any applicable statute (“Class Released Claims”). This release will apply to claims arising during the Class Period and become effective upon the date that Lincare deposits the entire Gross Settlement Amount with the Settlement Administrator.

Conditions of Settlement. The Settlement becomes effective on the latest of the following dates: (i) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters final approval; (ii) if an objection is filed, sixty-five (65) days after the date upon which the Court grants final approval of the settlement if no appeal is initiated; or (iii) if a timely appeal is initiated, the Effective Date shall be the date of final resolution of that appeal (including any requests for rehearing and/or petitions for *certiorari*), resulting in final judicial approval of the Settlement (the “Effective Date”).

How can I claim money from the Settlement?

Do Nothing. If you do nothing, you will be entitled to your Individual Settlement Payment, which has been calculated for you based on the formula set forth above, 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 Settlement Award. Your award is based on the proportionate number of workweeks that you worked during the Class Period and Aggrieved Employee Period as well as whether you are entitled to a share of the Wage Statement and/or Waiting Time Amount. The information contained in Lincare’s records regarding this information, along with

your estimated Individual Settlement Payment, is listed on the accompanying Notice of Settlement Award. If you disagree with the information in your Notice of Settlement Award, you may submit a dispute, along with any supporting documentation, in accordance with the procedures stated in the Notice of Settlement Award. Any disputes, along with supporting documentation, must be postmarked no later than May 15, 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 Participating Class Members. Should a consensus not be reached, any outstanding disputes will be submitted to the Court for a final determination.

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 timely Request for Exclusion. Any Settlement Class member who wishes to opt out of the Settlement must complete and mail a Request for Exclusion (defined below) to the Settlement Administrator by May 15, 2023. The Request for Exclusion shall state that Settlement Class members who wish to exclude themselves from the Settlement must prepare and submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address, telephone number and the last four digits of the Social Security number of the Settlement Class member; (2) contain a statement that the Settlement Class member wishes to be excluded from the Settlement; (3) be signed by the Settlement Class member; and (4) be postmarked by May 15, 2023 and mailed to the Settlement Administrator at the P.O. Box 7208, Orange, CA 92863. If the Request for Exclusion does not contain the information listed in (1)-(3), it will not be deemed valid for exclusion from the Settlement, except a Request for Exclusion not containing a Settlement Class member's telephone number and/or last four digits of the Social Security number will be deemed valid. The date of the postmark on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Any Settlement Class member who requests to be excluded from the Settlement Class will not be entitled to any recovery under this Settlement Agreement (except for any amount due to him or her from the PAGA Amount, if applicable).

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 should include (1) your full name; (2) your dates of employment; (3) the last four (4) digits of your Security number and/or Employee ID number; (4) the basis for your objection; and (5) whether you intend to appear at the Final Approval Hearing. All objections or other correspondence must state the name and number of the case, which is *Antelma Chavez v. Lincare, et al.*, Ventura County Superior Court, Case No. 56-2019-00536955-CU-OE-VTA. Objections in writing must be signed and postmarked on or before May 15, 2023.

You may also appear at the Final Approval Hearing scheduled for July 25, 2023 at 8:20 a.m. in Department 41 of the Ventura County Superior Court located at 800 South Victoria Avenue, Ventura, California 93009. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing if you wish to appear in person. You have the right to appear either in person or through your own attorney at this hearing, whether or not you submit a written objection. 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 Participating 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 July 25, 2023 at 8:20 a.m., in Department 41 of the Ventura County Superior Court located at 800 South Victoria Avenue, Ventura, California 93009. The location, date, and time of the Final Approval Hearing may be moved without further notice to you. You may contact Class Counsel using the contact information provided above to confirm the address and time of the hearing. The Court also will be asked to rule on Class Counsel's request for attorneys' fees and reimbursement of documented costs and expenses, the Enhancement Award to the Class Representatives, the Settlement Administrator's costs, and the amount related to the PAGA civil penalties. **You are not required to attend the Final Approval Hearing.**

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 Clerk's Office at the Ventura County Courthouse, located at Ventura County Superior Court, 800 South Victoria Avenue, Ventura, California 93009, during regular business hours. You may also contact Class Counsel using the contact information listed above for more information.

PLEASE DO NOT CALL OR WRITE THE COURT, LINCARE, 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 **May 15, 2023**.