

NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL

(Oscar Arana v. Case Industries, Inc.)

Read it carefully!

It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.

You may be eligible to receive money from an employee filed class action lawsuit (“Action”) against Case Industries, Inc. (“Case Industries”) for alleged wage and hour violations. The Action was filed by former Case Industries employee Oscar Arana (“Plaintiff”) and seeks payment in connection with claims of (1) unpaid wages, including minimum and overtime wages, (2) failure to provide legally compliant meal periods or compensation in lieu thereof, (3) failure to provide legally compliant rest periods or compensation in lieu thereof, (4) statutory penalties for failure to maintain accurate payroll records and provide accurate itemized wage statements, (5) failure to pay all wages due at separation of employment, (6) unreimbursed business expenditures, and (7) civil penalties under the California Private Attorneys General Act (“PAGA”). As discussed more fully below, Case Industries denies Plaintiff’s allegations and the court has not held that any of his claims have merit. The Parties have decided to resolve these claims before trial given the time, expense, and risk on both sides attendant to further litigation. The lawsuit alleges one class of employees for which it seeks recovery:

Class Member or Settlement Class: Any and all persons who have been employed by Case Industries, Inc. as non-exempt employees in California at any time from January 13, 2018 to December 30, 2022.

The proposed Settlement consists of a Class Settlement requiring Case Industries to fund Individual Class Payments and pay civil penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Case Industries’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$ _____ (less withholding)**. The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Case Industries’ records showing that **you worked _____ workweeks** during the Class Period. If you believe that you worked more workweeks during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires Case Industries to make payments under the Settlement and requires Class Members to give up their rights to assert certain claims against Case Industries.

If you worked for Case Industries during the Class Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA penalty claims against Case Industries.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against Case Industries. You cannot opt-out of the PAGA portion of the proposed Settlement.

Case Industries will not retaliate against you for any actions you take with respect to the proposed Settlement.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

<p>You Don't Have to Do Anything to Participate in the Settlement</p>	<p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment (if any). In exchange, you will give up your right to assert the wage claims against Case Industries that are covered by this Settlement (Released Claims).</p>
<p>You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is May 22, 2023</p>	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. Case Industries must pay Individual PAGA Payments to all Eligible Aggrieved Employees and the Eligible Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p>
<p>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by May 22, 2023</p>	<p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>
<p>You Can Participate in the July 18, 2023 Final Approval Hearing</p>	<p>The Court's Final Approval Hearing is scheduled to take place on July 18, 2023. You don't have to attend, but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p>You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by May 22, 2023</p>	<p>The amount of your Individual Class Payment (if any) depends on how many workweeks you worked at least one day during the Class Period. The number of Class Period Workweeks you worked according to Case Industries' records is stated on the first page of this Notice. If you disagree with this number, you must challenge it by May 22, 2023. See Section 4 of this Notice.</p>

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former Case Industries employee. The Action accuses Case Industries of violating California labor laws by failing to pay wages for time worked, overtime wages, minimum wages, wages due upon termination and reimbursable expenses and failing to provide accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action:

Kevin Mahoney, Katherine J. Odenbreit, and Laura Theriault of Mahoney Law Group, APC ("Class Counsel.")

Case Industries strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?

So far, the Court has made no determination whether Case Industries or Plaintiff is correct on the merits. In the meantime, Plaintiff and Case Industries hired an experienced, neutral mediator, Mark LeHocky, Esq., in an effort to resolve the Action by negotiating an end to the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and Case Industries have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, Case Industries does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) Case Industries has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. Case Industries will pay \$162,500.00 as the Class Settlement Amount. Case Industries has agreed to deposit the Class Settlement Amount into an account controlled by the Administrator of the Settlement. The Administrator will use the Class Settlement Amount to pay the Individual Class Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, Case Industries will fund the Class Settlement Amount not more than thirty (30) calendar days after the Judgment entered by the Court becomes final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Class Settlement Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$54,166.67 (33.33% of the Class Settlement Amount) to Class Counsel for attorneys' fees and up to \$9,000.00 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
 - B. Up to \$2,500.00 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment.
 - C. Up to \$4,750.00 to the Administrator for services administering the Settlement.
 - D. Up to \$2,500.00 for PAGA Penalties, allocated 75% to the LWDA Payment and 25% to the Aggrieved Employees based on their pay periods worked.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Participating Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Class Settlement Amount (the "Net Settlement Amount") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and Case Industries are asking the Court to approve an allocation of 25% of each Individual Class Payment to taxable wages ("Wage Portion") and 75% to non-wages ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Case Industries will separately pay employer payroll taxes it owes on the Wage Portion. The Administrator will report the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and Case Industries have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

- Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be irrevocably lost to you because they will be paid to a non-profit organization or foundation ("Cy Pres").
5. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than May 22, 2023, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the May 22, 2023 Response Deadline. The Request for Exclusion should be a letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, last four digits of their social security number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against Case Industries.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against Case Industries based on the PAGA Period facts alleged in the Action.

6. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline to enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff and Case Industries have agreed that, in either case, the Settlement will be void: Case Industries will not pay any money and Class Members will not release any claims against Case Industries.

7. Administrator. The Court has appointed a neutral company, Phoenix Class Action Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
8. Participating Class Members’ Release. After the Judgment is final and Case Industries has fully funded the Class Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Case Industries or related entities for wages based on the Class Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

Each Participating Class Member, together and individually, on their behalf and on behalf of their respective heirs, executors, estate and benefit plan administrators, and attorneys, shall fully and forever release and discharge Released Parties from all claims based on the allegations of Case Industries’ conduct in paragraphs 17 through 37 of the First Amended Complaint in the Action (First Amended Complaint filed January 18, 2022), and all claims for: (1) failure to pay wages for all hours worked, including minimum and overtime wages; (2) failure provide legally compliant meal periods or compensation in lieu thereof; (3) failure to provide legally complaint rest periods or compensation in lieu thereof; (4) failure to keep accurate payroll records and provide accurate itemized wage statements; (5) failure to pay wages due during or at separation of employment; (6) failure to indemnify business expenses; (6) claims asserted through California Business & Professions Code sec. 17200 et. seq. based on the claims described in (1) through (5) above in this paragraph; (7) claims for statutory penalties based on the claims described in (1) through (6) above in this paragraph; (8) interest based on the claims described in (1) through (7) above in this paragraph; and (9) attorneys’ fees and costs based on the claims described in (1) through (8) above in this paragraph. The claims released are limited to those that arose during the Class Period which is from January 13, 2018 through December 30, 2022.

9. Eligible Aggrieved Employees’ PAGA Release. After the Court’s judgment is final, and Case Industries has paid the Class Settlement Amount (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Case Industries, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Case Industries or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Eligible Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

Each Eligible Aggrieved Employee, together and individually, on their behalf and on behalf of their respective heirs, executors, administrators, estate and benefit plan administrators, and attorneys, shall fully and forever release and discharge all the Released Parties from all claims for civil penalties under PAGA (the Labor Code Private Attorney General Act, California Labor Code §§ 2698, et. seq.) based on the allegations of Case Industries’ conduct in paragraphs 17 through 37 of the First Amended Complaint in the Action (filed on January 18, 2022) or based on the claims that were specified in the letter Plaintiff sent to the LWDA on or about November 10, 2021, and all claims for civil penalties under PAGA for (1) failure to pay wages for all hours worked; (2) failure to provide legally complaint meal and rest periods or compensation in lieu thereof; (3) failure to keep accurate payroll records and provide accurate itemized wage statements; (4) failure to pay wages due during or at separation of employment; and (5) failure to indemnify business expenses. The release of the PAGA Claims is effective, regardless of whether the Eligible Aggrieved Employee submits a timely and valid request to exclude him or herself from this Settlement. The claims released are limited to those that arose during the PAGA Period which is November 14, 2020 to December 30, 2022.

4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?

1. Individual Settlement Payments. The Administrator will calculate Individual Settlement Payments by (a) calculating the total number of Workweeks worked by each Class Member during the Class Period, and (b) based on those calculations the Settlement Administrator will calculate and determine each Class Member’s estimated “Individual Settlement Payment” using the following formula: the Net Settlement Amount will be divided by the aggregate total number of Workweeks, resulting in the Workweek Value.” Each Class Member’s “Individual Settlement Payment” will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value.
2. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period, as recorded in Case Industries’ records, are stated in the first page of this Notice. You have until May 22, 2023 to challenge the number of Workweeks credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email, or fax. Section 9 of this Notice has the Administrator’s contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept Case Industries' calculation of Workweeks and/or Pay Periods based on Case Industries' records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and Case Industries' Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out).
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Eligible Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.

6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, last four digits of your social security number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Arana v. Case Industries, Inc.*, Case No. 22CV005351, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by May 22, 2023, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and Case Industries are asking the Court to approve. At least 16 days before the July 18, 2023 Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is May 22, 2023.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action *Arana v. Case Industries, Inc.*, Case No. 22CV005351 and include your name, current address, telephone number, and approximate dates of employment for Case Industries and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on July 18, 2023 at 3:00 p.m. in Department 23 of the Rene C. Davidson Courthouse, County of Alameda, located at 1225 Fallon St., Oakland, CA 94612. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Class Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) personally or remotely.

It's possible the Court will reschedule the Final Approval Hearing. You should check with the Administrator beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

9. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Case Industries and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to contact Class Counsel or the Administrator by telephone email.

The pleadings and other records in this litigation may be examined online on the Alameda County Superior Court's website, known as "eCourt Public Portal," at <https://eportal.alameda.courts.ca.gov>.

After arriving at the website, click the "Search" tab at the top of the page, then select the Document Downloads link, enter the case number and click "Submit." Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

To view the Register of Actions, go to the "Search" tab at the top of the page, then select the "Search by Case Number" enter the case number, select "Search" and click the link to the case name. You will be able to see the Register of Actions and more.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

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Settlement Administrator:

Phoenix Class Action Administration
<https://www.phoenixclassaction.com/arana-v-case-industries/>
P.O. Box 7208
Orange, CA 92863
(800) 523-5773
(949) 209-2503

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check.

11. WHAT IF I CHANGE MY ADDRESS?

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.