

*This notice is being sent pursuant to court order. This is not a solicitation from a lawyer.*

## NOTICE OF CLASS ACTION SETTLEMENT

*Tara Joy v. Control Air Enterprises LLC et al.,*

Superior Court of the State of California for the County of Orange Case No. 30-2020-01155488-CU-OE-CXC

**If you (i) ended employment with Control Air Conditioning Corporation on May 31, 2019 in California, or (ii) were a non-union employee of Control Air Enterprises LLC in California and issued a wage statement between May 29, 2019, through August 9, 2020, you could receive a payment from a class action settlement.**

**Read this notice carefully, as your legal rights could be affected whether you act or not.**

The Superior Court of the State of California for the County of Orange (the “Court”) has preliminarily approved a class action settlement that could affect your rights. The proposed settlement resolves a class and representative action lawsuit filed by Plaintiff, Tara Joy, against Defendants Control Air Enterprises LLC and Control Air Conditioning Corporation, and designated Orange County Superior Court Case No. 20-CIV-03660 (the “Action”).

- The Action pursues class action claims as well as representative action claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”). On behalf of a “Wage Statement Class,” the Action alleges Defendants failed to provide lawful wage statements that showed the name and address of the legal entity that was the employer. On behalf of a “Vacation Class,” the Action alleges Defendants failed to timely pay all wages, including accrued vacation, upon the end of employment with Control Air Conditioning Corporation on or about May 31, 2019.
- Defendants deny Plaintiff’s allegations and maintain they have fully complied with the law and have entered into the settlement solely for purposes of resolving this dispute. By agreeing to a settlement, Defendants in no way admit any violation of law or any liability whatsoever to Plaintiff or others and expressly denies all such liability. Both Plaintiff and Defendants have agreed to a settlement in light of all known facts and circumstances—including the uncertainty associated with litigation.
- If the proposed settlement is granted final approval by the Court, it would provide cash payments to Settlement Class Members. Payments to the Wage Statement Class will be allocated based on the number of workweeks each Settlement Class Member worked from May 29, 2019, through August 9, 2020. Payments to the Vacation Class will be allocated in equal amounts to Vacation Class Settlement Class Members.
- Based on Defendants’ records, [you were a Vacation Class Member and] [you worked XXX workweeks relevant to the Wage Statement Class], and an *estimate* of the amount that could be allocated to you is \$XXX. Whether you receive a payment depends on whether the Court grants final approval, and the actual amount you would be allocated depends on the terms the Court finally approves.

### YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

<b>DO NOTHING</b>	You do not have to do anything in response to this notice. If you do nothing, you will remain eligible to automatically receive an Individual Settlement Payment if the Court grants final approval of the settlement and will be bound by the release provisions of the settlement.
<b>OPT OUT</b>	You may opt out of the class action settlement by submitting a Request for Exclusion. If you opt out, you may not object to the settlement, will not be eligible to receive an Individual Settlement Payment, and will not be bound by the release provisions of the settlement. You will still receive any PAGA penalties allocated to you.
<b>OBJECT</b>	You may object to the class action settlement by submitting a written objection or appearing at the approval hearing. If the Court grants final approval despite your objection, you will remain eligible to automatically receive an Individual Settlement Payment if the Court grants final approval of the settlement and will be bound by the release provisions of the settlement.

**THE COURT DOES NOT EXPRESS ANY OPINION AS TO THE MERITS OF THE CLAIMS.**

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*Questions? Please contact the Settlement Administrator at (800) 523-5773.*

<https://www.phoenixclassaction.com/joy-v-control-air-enterprises/>

## 1. Why Did I Receive This Notice?

You are receiving this Notice of Class Action Settlement (the “Notice”) because Defendants’ records show that you are a “Class Member” or “Aggrieved Employee” because you (i) ended employment with Control Air Conditioning Corporation on May 31, 2019 in California, or (ii) were a non-union employee of Control Air Enterprises LLC in California and issued a wage statement between May 29, 2019, through August 9, 2020. As a Class Member, you may be entitled to share in the funds to be made available for the class action settlement. As an Aggrieved Employee, you may be entitled to share in the funds to be made available for the PAGA settlement.

Because the settlement preliminarily approved by the Court would affect Class Members’ legal rights, the Court ordered that this Notice be sent to you. This Notice provides a brief description of the Action, informs you of the settlement terms preliminarily approved by the Court, and advises you of your legal rights with respect to the settlement. If finally approved by the Court, the settlement will fully resolve the Action and your legal rights may be affected by the settlement.

The Court has preliminarily approved Larry W. Lee and Simon L. Yang of Diversity Law Group, P.C., Roger R. Carter of The Carter Law Firm, and Marc H. Phelps of The Phelps Law Group as Class Counsel. Based on their investigation and evaluation, they are of the opinion that the terms of settlement are fair, reasonable, adequate, and in the best interests of Class Members. The terms of the settlement are set forth in detail in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement”). You may obtain a copy of the Agreement from the Phoenix Settlement Administrators, a neutral third-party appointed by the Court to administer the settlement (the “Administrator”).

## 2. What Is the Action About?

On August 17, 2020, Plaintiff, on behalf of herself and all others similarly situated, and as a proxy for the State of California, filed a complaint in the Superior Court of the State of California for the County of Orange. On February 23, 2022, Plaintiff filed a first amended complaint. The operative complaint alleges violations of Labor Code sections 201-203, 226(a), and 227.3 for failure to provide lawful wage statements and failure to timely pay all wages, including accrued vacation, upon the end of employment.

Defendants deny and continue to deny (i) all of the allegations made by Plaintiff, (ii) that it violated any applicable laws, or (iii) that it is liable or owes damages, penalties, or other compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Action. Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever, Defendants have agreed to settle the Action, to avoid the burden, expense, and uncertainty of continuing the Action.

## 3. What Are the Payments Under the Settlement?

Defendants agree to pay a Gross Settlement Amount of \$750,000. If there are more than 180 Vacation Class Members, 50% of the Gross Settlement Amount shall be proportionally increased. If more than 14,326 wage statements issued to the Wage Statement Class between May 29, 2019 through August 9, 2020, 50% of the Gross Settlement Amount shall be proportionally increased.

The Gross Settlement Amount is inclusive of any Administration Expenses, Class Counsel Fees and Costs, Class Representative Enhancement, and LWDA Payment awarded by the Court. The Court may approve payment of (i) Administration Expenses to the Administrator for administering the settlement (e.g., printing, distributing, or tracking Notices, processing any required tax payments, distributing payments, etc.); (ii) Class Counsel Fees and Costs to Class Counsel for litigation and resolution of the Action; (iii) a Class Representative Enhancement to Plaintiff both for her efforts in prosecuting the Action for Class Members and in consideration of Plaintiff’s additional general release of claims inapplicable to Settlement Class Members; and (iv) an LWDA Payment to the Labor Workforce Development Agency (“LWDA”) for its share of PAGA penalties set by the Labor Code. Class Members will be entitled to equal shares of PAGA penalties distributable to aggrieved employees.

The remainder, or the Net Settlement Amount, will be allocated entirely to Individual Settlement Payments.

**Individual Settlement Payments:** 50% of the Net Settlement Amount shall be allocated to the Wage Statement Class, and 50% of the Net Settlement Amount shall be allocated to the Vacation Class. Individual Settlement Payments shall be distributed to Settlement Class Members, without the need to submit a claim form.

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Payments to the Wage Statement Class will be allocated based on the number of workweeks each Settlement Class Member worked from May 29, 2019, through August 9, 2020. Payments to the Vacation Class will be allocated in equal amounts to Vacation Class Settlement Class Members. In addition, PAGA penalties distributable to Class Members shall be allocated to Class Members in equal amounts.

10% of payments to the Vacation Class shall be classified as wages and reported on an IRS Form W-2. All other settlement payments shall be classified as interest and non-wage statutory damages. By participating in the settlement, each Class Member shall agree to be solely and legally responsible for paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify and hold harmless the Parties from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

All uncashed or undeliverable settlement checks will expire 180 days after the postmarked date of their initial mailing. After 180 days, the Administrator will send the amounts represented by the uncashed or undeliverable checks to the California State Controller Unclaimed Property, with the identity of the Class Member to whom the funds belong, to be held for the Class Member per California Unclaimed Property Law.

**Class Counsel Fees and Costs:** You do not need to individually pay any portion of Class Counsel's attorneys' fees and costs. Any payments for those attorneys' fees and costs will be determined by the Court. Class Counsel intends to request that the Court approve Class Counsel Fees and Costs in the amount of (a) 33⅓% of the Gross Settlement Amount (or \$250,000) and (b) litigation costs.

**Class Representative Enhancement:** Any Class Representative Enhancement is to be determined by the Court and would be supplemental to Plaintiff's Individual Settlement Payment. Class Counsel intends to request that the Court approve a Class Representative Enhancement of \$10,000 for Plaintiff's efforts in prosecuting the Action for Class Members and in consideration of Plaintiff's additional general release of claims inapplicable to Settlement Class Members.

**Administration Expenses:** Class Counsel intends to request that the Court approve Administration Expenses of up to \$9,500, payable to the Administrator for administering the settlement, including, but not limited to, printing, distributing, or tracking Notices, providing any required tax forms, processing any required tax payments, or reporting, and calculating and distributing Individual Settlement Payments.

**All Payments Subject to Court Approval:** Any payments will be made if and only if the Court concludes the settlement is reasonable, fair, and adequate for the Class. The Court may adjust the amounts of certain payments.

#### **4. What Do I Release Under the Settlement?**

If the Court grants final approval of the settlement and concludes it is reasonable, fair, and adequate for Class Members, Settlement Class Members would release Defendants and all of its current and former owners, officers, directors, managers, members, employees, agents, representatives, subsidiaries, parents, affiliates, predecessors, successors, joint venturers, co-owners, co-employers, joint employers, payroll providers, attorneys, insurers, and reinsurers ("Released Parties") as follows: The Wage Statement Class shall release claims for violations of Labor Code section 226 for the period of May 29, 2019 through August 9, 2020. The Vacation Class shall release claims for violations of California Labor Code sections 201-203 and 227.3, as well as derivative violations of Business & Professions Code section 17200 predicated on the change in employer name.

Upon approval, all Class Members shall release claims for PAGA penalties based on the above violations of Labor Code section 201-203, 226, 226.3, and 227.3.

#### **5. How Do I Object to the Class Action Settlement?**

If you want to participate in the class action settlement, you do not have to do anything and do not have to appear at the final approval hearing before the Court. You will receive your Individual Settlement Payment automatically if the Court grants final approval of the settlement.

However, if you want to object to the class action settlement, you may appear at the final approval hearing to object to the settlement. Alternatively, you must take the steps below:

- (1) You must mail a written statement to the Administrator listed below.

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- (2) The written statement must include: your name, address, last four digits of your Social Security number, and the basis for your objection.
- (3) If you object, you may but are not required to appear at the final approval hearing either in person or through counsel, paid for at your own expense.
- (4) The written statement must be postmarked by July 3, 2023.

If you object, you will remain bound by the class action settlement if finally approved. If you do not want to be bound by the class action settlement if finally approved, you must opt out of the class action settlement.

**6. How Do I Opt Out of the Class Action Settlement?**

If you do not want to participate in the class action settlement, you may opt out of the class action settlement. If you opt out of the class action settlement, you may not object to the class action settlement, shall not receive any Individual Class Payments, and shall not be bound by the class action release provisions of the settlement.

In order to opt out, you MUST express your desire to be excluded from the class action settlement by mailing to the Administrator a “Request for Exclusion,” which must state “Request for Exclusion,” include your name, current address, current telephone number, last four digits of your social security number, and clearly state that you do not wish to be included in the settlement. Any such Request for Exclusion must be postmarked by July 3, 2023.

Any Request for Exclusion that does not include all required information or that is not submitted on a timely basis will be deemed null, void, and ineffective. A Request for Exclusion shall be deemed to be submitted as of the postmarked date. If you submit both a Request for Exclusion and an objection, your Request for Exclusion will be valid and be deemed to invalidate the objection.

**7. Where Can I Get Additional Information?**

This notice summarizes the Action, settlement, and related matters. For more information, you may contact the Administrator at (800) 523-5773, or Class Counsel:

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**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THE SETTLEMENT**