

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Jorge Avalos v. Unvarnished, Inc, et al., Case No. 20STCV16951
Superior Court of California for the County of Los Angeles

A court authorized this notice. This is not a solicitation from a lawyer.

ATTENTION: ALL CURRENT OR FORMER HOURLY OR NON-EXEMPT EMPLOYEES OF UNVARNISHED, INC. OR 600 SPRING, LLC IN CALIFORNIA, AND ALL CURRENT AND FORMER HOURLY-PAID OR NON-EXEMPT EMPLOYEES WHO WERE ASSIGNED TO PERFORM WORK AT UNVARNISHED, INC. OR 600 SPRING, LLC'S LOCATIONS IN CALIFORNIA DURING THE PERIOD FROM APRIL 30, 2016 UP TO AND INCLUDING MAY 31, 2022, YOU ARE SUBJECT TO A CLASS ACTION SETTLEMENT AND MAY RECEIVE PAYMENT UNDER THE SETTLEMENT.

YOUR ESTIMATED PAYMENT(S) AND HOW THEY WERE CALCULATED CAN BE FOUND IN SECTION 4 OF THIS NOTICE.

PLEASE READ THIS NOTICE CAREFULLY. IT EXPLAINS YOUR RIGHTS AND OPTIONS, AND STRICT DEADLINES FOR EXERCISING THEM.

- A proposed class action and representative settlement (“Settlement”) has been reached between Plaintiff Jorge Avalos (“Plaintiff”), on behalf of himself and the below-defined Class and PAGA Members, and Defendants Unvarnished, Inc., 600 Spring, LLC and, Scott Gillen (“Defendants”).
- The Settlement resolves the class and representative lawsuit entitled *Jorge Avalos v. Unvarnished, Inc, et al., Case No. 20STCV16951*, pending in the Superior Court of California for the County of Los Angeles (the “Lawsuit”). In the Lawsuit, Plaintiff alleges Defendants misclassified employees as independent contractors, did not provide compliant meal and/or rest breaks and associated premiums, did not pay all minimum and overtime wages, did not timely pay wages during employment and upon termination, did not provide compliant wage statements, did not keep requisite payroll records, and thereby violated the California Labor Code, the California Business & Professions Code §§ 17200, *et seq.* (“UCL”), the Industrial Welfare Commission Wage Orders (“IWC Wage Orders”) and the Private Attorneys General Act, California Labor Code §§ 2698, *et seq.* (“PAGA”).
- The Settlement covers two groups:
 - (1) all current and former hourly or non-exempt employees of Defendants in California at any time during the period April 30, 2016 through May 31, 2022, and
 - (2) all individuals who were misclassified as independent contractors by Defendants and performed worked for Defendants in California at any time during the period April 30, 2016 through May 31, 2022.

The above group covered by the Settlement are collectively defined as the “Class,” and individuals in the group are defined as “Class Members.” Because Defendants’ records show that you qualify as a Class Member, you may receive money from the Settlement if the Court grants final approval of the Settlement. In addition, any individual in the group who performed work for Defendants in California at any time during the period March 13, 2019 through May 31, 2022 is a PAGA Member (defined in Section 1) and may be eligible for an additional money from the Settlement.

- Notwithstanding the terms of this Settlement, Defendant denies any wrongdoing and entered into the Settlement as a compromise to resolve this dispute.

Questions? Call: (800) 523-5773

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OVERVIEW OF YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT

DO NOTHING	If you do nothing and the Court grants final approval of the Settlement, you will be deemed a “Settlement Class Member” and be bound by the terms of the Settlement and judgment entered based thereon and the release of Released Claims described below in Section 6. You will be mailed a Class Settlement Payment check and, if eligible, a PAGA Penalties Payment check, at the last address that the Settlement Administrator has on file for you.
ASK TO BE EXCLUDED FROM CLASS SETTLEMENT	If you do not wish to participate in the Settlement, you must send a letter requesting exclusion (“Request for Exclusion”) to the Settlement Administrator. You will keep the right to sue Defendants on your own about the Released Class Claims resolved by this Settlement. Your Request for Exclusion must be postmarked or fax-stamped no later than July 17, 2023 . However, <u>you cannot request to be excluded from the portion of the Settlement related to the Released PAGA Claims</u> . In other words, if you request exclusion from the Settlement you will not receive a Class Settlement Payment, but if eligible, you will still be bound by the Released PAGA Claims and receive a PAGA Penalties Payment. See Sections 11 and 12 for more information.
OBJECT	If you wish to object to the Settlement, you must send an objection letter (“Notice of Objection”) to the Settlement Administrator that is postmarked or fax-stamped no later than July 17, 2023 . See Section 17 for more information.

- **These rights and options, and how to exercise them, are explained in more detail in this Notice.**
- **The Court handling this case still has to decide whether to grant final approval of the Settlement. Class Settlement Payments and PAGA Penalties Payments will only be issued if the Court grants final approval of the Settlement.**
- **Additional information regarding the Settlement is available through the Settlement Administrator or Class Counsel, whose contact information is provided in this notice.**

BASIC INFORMATION

1. Why did I get this notice?

For purposes of this Settlement, “Class Members” or “Class” means all current and former hourly or non-exempt employees of Defendants and individuals misclassified as independent contractors by Defendants and performed work for Defendants in California at any time during the period April 30, 2016 through May 31, 2022 (the “Class Period”). Also, “PAGA Members” means all current and former hourly or non-exempt employees of Defendants who performed work for Defendant in California at any time during the period March 13, 2019, through May 31, 2022 (the “PAGA Period”).

Defendants’ records show that you are a member of the Class defined above.

2. What is the Action about?

Plaintiff is a former hourly and/or non-exempt employee of Defendant. On April 30, 2020, Plaintiff Jorge Avalos commenced the Lawsuit by filing the Class Action Complaint for Damages.

Plaintiff alleges that Defendants violated the California Labor Code, the UCL, PAGA and the IWC Wage Orders. Plaintiff alleges that he and the Class Members are entitled to unpaid wages, meal and rest period premiums, unpaid reimbursements, interest, statutory and civil penalties, attorneys’ fees, and costs.

Defendants deny engaging in any wrongful conduct as alleged in the Lawsuit and continue to deny the claims and charges of wrongdoing and liability.

Both Plaintiff and Defendants believe that the Settlement is fair, adequate, and reasonable, and that it is in the best interest of the Class Members and PAGA Members.

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3. Why is this lawsuit a class and representative action?

In a class action, one or more people called the “Plaintiff” sues on behalf of people who may have similar alleged claims, called the “class” or “class members.” The Court has made no determination that the case should be certified as a “class action,” except for purposes of this Settlement. Similarly, in a representative PAGA action, the “Plaintiff” sues on behalf of the State of California to recover PAGA civil penalties for alleged California Labor Code violations experienced by other “aggrieved” employees. On April 17, 2023 the Honorable Maren Nelson issued an order certifying the Class for purposes of settlement only.

THE SETTLEMENT BENEFITS—WHAT YOU GET

4. What does the settlement provide?

The parties reached a Settlement in which Defendant’s total maximum payment amount will not exceed \$200,000.00 (“Maximum Settlement Amount”) plus the employer’s share of payroll taxes which will be paid by Defendant separately and in addition to the Maximum Settlement Amount.

The “Net Settlement Amount” is the portion of the Maximum Settlement Amount eligible for distribution to Settlement Class Members minus the payments listed below, which are subject to approval by the Court:

- Class Counsel Award: an amount not to exceed \$66,667.00 (One-third of the Maximum Settlement Amount) to Class Counsel for attorney’s fees. Class Counsel has not been paid to date.
- Class Counsel Costs: an amount not to exceed \$17,000.00 to Class Counsel for reimbursement of actual litigation costs and expenses. Class Counsel will not receive any fees or costs other than those provided by the Settlement and approved by the Court.
- Enhancement Award: an amount not to exceed \$10,000.00 to Plaintiff as payment for his service in pursuing the Lawsuit as the Class Representative.
- PAGA Payment: an amount of \$10,000.00 allocated towards penalties under PAGA and the release of Released PAGA Claims of which 75% (i.e., \$7,500.00) will be paid to the State of California Labor and Workforce Development Agency (“LWDA”) and the remaining 25% (i.e., \$2,500.00) will be paid to PAGA Members.
- Settlement Administration Costs: an amount not to exceed \$5,000.00 to the Settlement Administrator, Phoenix Class Action Administration Services, for the costs of administering the Settlement.

You may be eligible to receive two payments under the Settlement, as follows: (i) all Class Members who do not opt-out of the Settlement (*i.e.*, Settlement Class Members) will receive a Class Settlement Payment; and (ii) all PAGA Members will receive a PAGA Penalties Payment. The Class Settlement Payment and PAGA Penalties Payment will be calculated, as follows:

Class Settlement Payments

Your estimated gross Class Settlement Payment is \$[EST. EMPLOYEE PAYMENT] and you have been allocated [TOTAL WEEKS] Compensable Weeks (comprising of 6,608.40 Defendants’ Employees’ Weeks).

The Net Settlement Amount will be distributed to Settlement Class Members, according to the following formula:

- Total Workweeks = (1 x all Unvarnished, Inc. Employee Classified as “Independent Contractor” Weeks) + (0.7 x all other Unvarnished, Inc. Non-Exempt Employee Weeks)
- Workweek Value = Net Settlement Amount ÷ Total Workweeks
- Individual Class Settlement Payment = [(1 x individual Unvarnished Inc. Individuals Classified as “Independent Contractor” Employee Weeks) + (0.7 x Non-Exempt Employees of Unvarnished, Inc. Employee Weeks)] x Workweek Value

“Defendant’s Employees Weeks” means all weeks in which a Class Member worked for Defendants as Defendants’ direct employee in California during the Class Period.

For tax purposes, Class Settlement Payments will be allocated as follows: 33.33% wages (to be reported on an IRS Form

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W-2) and 66.67% interest/penalties/non-wage damages (to be reported on an IRS Form 1099). Settlement Class Members will be issued their Class Settlement Payments after reduction of required employee-side taxes and withholdings with respect to the wages portion of the Class Settlement Payments. Defendant will pay employer-side taxes with respect to the wages portion of the Class Settlement Payments separately and in addition to the Maximum Settlement Amount.

PAGA Penalties Payments

Your estimated PAGA Penalties Payment is \$[PAGA AMOUNT] and you have been allocated [PAGA PAY PERIODS] Compensable Pay Periods.

The PAGA Payment of \$10,000.00 will be distributed as follows: 75% (i.e., \$7,500.00) to the State of California and the LWDA pursuant to California Labor Code section 2698, *et seq.* and the remaining 25% (i.e., \$2,500.00), the “PAGA Settlement Amount”) will be distributed to PAGA Members according to the following formula:

- Individual PAGA Member’s PAGA Penalties Payment = individual Class Member’s Compensable Pay Periods x Pay Period Value
- Pay Period Value = PAGA Settlement Amount ÷ total Compensable Pay Periods

“Compensable Pay Periods” means all pay periods in which a PAGA Member performed worked for Defendants in California during the PAGA Period as an hourly or non-exempt employee of Defendants.

For tax purposes, PAGA Penalties Payments will be entirely allocated as penalties (to be reported on an IRS Form 1099).

The Parties are not providing tax or legal advice or making representations regarding tax obligations or consequences, if any, related to any settlement amounts paid to Class and PAGA Members. Each Class and PAGA Member will assume any tax obligations or consequences that may arise from any amount paid to him or her under the Settlement and should consult with a tax expert if he or she has questions.

5. What am I giving up in exchange for the settlement benefits?

As of the date on which Defendants funds the Settlement, Plaintiff and each Class Member who does not submit a timely and valid Request for Exclusion (i.e., Settlement Class Members) shall release the Released Parties from the Released Class Claims.

All PAGA Members (including those who opt out of the Settlement) release the Released Parties from the Released PAGA Claims.

“Released Parties” means Defendants (i.e., Unvarnished, Inc., 600 Spring, LLC, and Scott Gillen) and all of Unvarnished, Inc and 600 Spring, LLC’s’s current and former parents, subsidiaries, predecessors and successors, and affiliated entities, and each of their respective owners, officers, directors, employees, partners, shareholders, and agents, and any other successors, assigns, or legal representatives.

“Released Class Claims” means any and all California state and federal law wage-and-hour claims, rights, demands, liabilities, and/or causes of action of every nature and description, arising from or related to any and all claims during the Class Period that were asserted or could have been asserted based on the facts alleged in the Complaint, including, without limitation, statutory, constitutional, contractual, and/or common law claims for wages, reimbursements, damages, unpaid costs, penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation costs, restitution, or equitable relief.

1.1 “Released PAGA Claims” means any and all individual and representative claims during the PAGA Period under California Labor Code section 2698, *et seq.* that were or could have been asserted based on the facts alleged in the LWDA Letters and the Complaint, including any and all claims for civil penalties based on alleged violations of California Labor Code sections 201, 202, 203, 204, 510, 558, 226, 226.7, 226.3, 226.8, 510, 512, 1174, 1198.5, 2750.3, any applicable IWC Wage Order, and any resulting claim for attorneys’ fees and costs under PAGA.

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HOW TO GET A SETTLEMENT PAYMENT

6. How do I receive my Class Settlement Payment and PAGA Penalties Payment?

If the Court grants final approval of the Settlement, thereafter, you will automatically be issued your (i) Class Settlement Share as described in Section 4, if you do not opt out of the Settlement, and (ii) PAGA Penalties Payment (if eligible). You will be mailed your Class Settlement Share and PAGA Penalties Payment by check at the last address that Defendants have on file for you (unless you timely provide an updated address to the Settlement Administrator). If your address changes after you receive this notice, you can contact the Settlement Administrator at (800) 523-5773 and provide your updated address.

7. When will I get my payment(s)?

Payments will be distributed only after the Court grants final approval and the Settlement is effective pursuant to the terms of the Settlement Agreement and the Court's orders. The timing of distribution of payments will depend on the date of entry of an order by the Court granting final approval of the Settlement and entry of judgment based thereon. For more information about the estimated timing of payments, you can check with the Settlement Administrator.

Payments will remain valid for one hundred eighty (180) calendar days after the date it is mailed to you, thereafter it will be voided. The funds associated with such voided checks will be transmitted to the Unclaimed Property Fund maintained by the State Controller's Office in the names of the Settlement Class Members whose checks are voided.

8. How do I dispute the Compensable Weeks and/or Compensable Pay Periods?

If you disagree with the Compensable Weeks and/or Compensable Pay Periods that are credited to you based on Defendants' records, which are stated in Section 4 of this Notice, and you wish to dispute this information, you must do so by submitting a written letter to the Settlement Administrator ("Dispute"). A complete and timely Dispute must: (1) contain the name, address, telephone number, last four digits of the Social Security number, and signature of the Class Member; (2) contain the case name and number of the Lawsuit (in this Lawsuit: *Jorge Avalos v. Unvarnished, Inc, et al., Case No. 20STCV16951*); (3) clearly state that the Class and/or PAGA Member seeks to dispute his or her Compensable Weeks and/or Compensable Pay Periods; (4) include documentation and/or an explanation to show contrary Compensable Weeks and/or Compensable Pay Periods; and (5) be postmarked or fax-stamped by July 17, 2023 and returned to the Settlement Administrator at the following address or fax telephone number:

Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

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EXCLUDING YOURSELF FROM THE SETTLEMENT

9. How do I ask the Court to exclude me from the settlement of the Released Class Claims?

If you do not wish to participate in the release of the class action portion of the Settlement and release of Released Class Claims, you can request exclusion from the Settlement (i.e., Opt Out) by submitting a written request for exclusion ("Request for Exclusion"). A complete and timely Request for Exclusion must: (1) contain the name, address, telephone number, last four digits of the Social Security number, and signature of the Class Member; (2) contain the case name and number of the Lawsuit (in this Lawsuit: *Jorge Avalos v. Unvarnished, Inc, et al., Case No. 20STCV16951*); (3) clearly indicate that the Class Member seeks to exclude him or herself from the Settlement; and (4) be postmarked or fax-stamped on or before July 17, 2023 and returned to the Settlement Administrator at the specified address or fax telephone number that is listed above in Section 8.

Class Members who fail to submit a valid and timely Request for Exclusion on or before the above-specified deadline shall be bound by all terms of the Settlement and any judgment entered in the Action if the Settlement is approved by the Court. Class Members who submit a Request for Exclusion will still be subject to the release of the Released PAGA Claims and, if eligible, will receive a PAGA Penalties Payment.

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10. If I exclude myself, can I get anything from the settlement?

If you exclude yourself from the Settlement you will not receive a Class Settlement Payment and you will not release the Released Class Claims. But, even if you exclude yourself from the Settlement, you may still receive a PAGA Penalties Payment (see Section 4 for eligibility) and you will release the Released PAGA Claims.

11. If I don't exclude myself, can I sue later?

No. If you do not exclude yourself, you give up the right to sue Defendants and the Released Parties for the Released Class Claims and the Released PAGA Claims described above. You must exclude yourself from the Settlement to start or continue your own lawsuit to pursue any of the Released Class Claims and the Released PAGA Claims.

OBJECTING TO THE SETTLEMENT

12. How do I object to the Settlement?

Any Settlement Class Member may object to the Settlement by submitting a written objection ("Notice of Objection") to the Settlement Administrator. A complete and timely Notice of Objection must: (1) contain the name, address, telephone number, last four digits of the Social Security number, and signature of the Class Member; (2) contain the case name and number of the Lawsuit (in this Lawsuit: *Jorge Avalos v. Unvarnished, Inc., et al., Case No. 20STCV16951*); (3) clearly state that the Class Member seeks to object to the Settlement; (4) state the legal and factual basis for the objection; (5) state whether the Settlement Class Member intends to appear at the Final Approval Hearing; and (6) be postmarked or fax-stamped on or before July 17, 2023 and returned to the Settlement Administrator at the specified address or tax telephone number that is listed above in Section 8.

If a Settlement Class Member wishes to appear at the Final Approval Hearing and orally present his or his objection to the Court, they may do so even if they have not submitted a Notice of Objection. Settlement Class Members who submit a Notice of Objection will still be subject to the release of Released Class Claims and Released PAGA Claims and will receive monetary compensation from the Settlement. Class Members who submit Requests for Exclusion may not object to the Settlement.

13. What's the difference between objecting and asking to be excluded?

Objecting is telling the Court you do not like something about the Settlement. Excluding yourself is telling the Court that you do not want to be part of the Settlement.

14. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You are not required to attend this hearing. The Final Approval Hearing will be held on August 22, 2023 at 9:00 a.m. in Department 17 at the Superior Court of California for the County of Los Angeles, located at **312 North Spring Street, Los Angeles, California 90012**. The Final Approval Hearing may be moved to a different date and/or time without additional notice. For more information and/or updates regarding the date and/or time of the Final Approval Hearing visit <http://www.lacourt.org/online/civil> and search for case number 20STCV16951.

At the Final Approval Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. If the Court approves the settlement and enters judgment, notice of final judgment will be posted on the Settlement Administrator's website: www.atticusadmin.com.

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15. Do I have to come to the Final Approval Hearing?

No. Class Counsel will answer any questions the judge may have. But you are welcome to come. If you submit a Notice of Objection in conformity with the requirements set forth herein, you do not have to come to the Final Approval Hearing to talk about it, and the Court will consider your objection. **The Court will hear from any Class Member who attends the Final Approval Hearing and asks to speak. Thus, regardless of whether you have submitted a Notice of Objection, you may attend the Final Approval Hearing and request to be heard.** You may also pay another lawyer to attend on your behalf, but it is not required and you will be independently responsible for the costs of your attorney and any costs associated therewith. If you wish to appear at the Final Approval Hearing, you may do so remotely by making a reservation using the LA Court Connect system. Instructions can be found here: www.lacourt.org/lacc/.

If you choose to attend the hearing (or otherwise come to the Court to review files), you must comply with the Court's social distancing procedures. Specifically, all persons are required to wear face coverings over their mouth and nose and must maintain at least six feet of distance from all other persons while in the courthouse. For more information regarding the Court's social distancing procedures visit www.LACourt.org.

IF YOU DO NOTHING

16. What happens if I do nothing at all?

If you do nothing, you will automatically receive a Class Settlement Payment from this Settlement and if eligible, a PAGA Penalties Payment as described above and you will be bound by the Settlement (including and not limited to the release of Released Class Claims against Released Parties and Released PAGA Claims) and the judgment entered based thereon.

THE LAWYERS REPRESENTING YOU

17. Do I have a lawyer in this case?

The Court has appointed the following lawyers, who represent Plaintiff, to serve as counsel for the Class ("Class Counsel"):

LAW OFFICES OF BUCHSBAUM & HAAG, LLP
BRENT S. BUCHSBAUM, ESQ.
brent@buchsbaumhaag.com
LAUREL N. HAAG, ESQ.
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100 Oceangate, Suite 1200
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Fax: 562-489-9240

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GETTING MORE INFORMATION

18. How do I get more information?

This notice summarizes the Settlement. More details are in the Stipulation of Class Action and PAGA Settlement and Release (“Settlement” or “Settlement Agreement”). You may contact Class Counsel or the Settlement Administrator for more information. The Settlement Administrator may be contacted at the previously-mentioned mailing address and fax telephone number, as well as at the following toll-free telephone number: (800) 523-5773. You may also view the Settlement Agreement and documents filed in the actions by visiting the Office of the Clerk of the Los Angeles Superior Court at the Stanley Mosk Courthouse located at 111 North Hill Street, Los Angeles, California 90012 (“Office of the Clerk”). In light of COVID-19, you must call the Office of the Clerk at (213) 830-0800, between 8:30 a.m. and 4:30 p.m. Monday through Friday, to make a reservation to view the records.

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR THE JUDGE WITH QUESTIONS ABOUT THE SETTLEMENT.

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