

NOTICE OF CLASS ACTION SETTLEMENT
Angela Ohler et al. v. Cluckin, Inc. (dba Dave’s Hot Chicken) et al.
 Superior Court of the State of California for the County of San Diego
 Case No. 37-2021-00053292-CU-OE-CTL

This notice is to the following individuals in connection with a pending class action settlement:

All individuals currently or formerly employed by Cluckin, Inc., Cluckin 1 LP, Cluckin 2 LP, and Cluckin 3 LP (dba Dave’s Hot Chicken) in California as hourly, non-exempt employees during the Class Period of December 21, 2017 through August 11, 2023.

Read this notice carefully. Your legal rights could be affected whether you act or not.

The Superior Court of the State of California for the County of San Diego (the “Court”) has preliminarily approved this class and representative action lawsuit filed by Angela Ohler (“Class Representative”) against Cluckin, Inc., Cluckin, 1 LP, Cluckin, 2 LP, and Cluckin, 3 LP (“Defendants”) for alleged wage and hour violations (the “Lawsuit”).

The Lawsuit is based on various allegations, including but not limited to Class Representative’s claims against Defendants for: (1) failure to provide meal periods or premium pay in lieu thereof, (2) failure to provide rest periods or premium pay in lieu thereof, (3) failure to provide complete and accurate itemized wage statements, (4) failure to pay wages when due or at the end of employment, (5) civil penalties under the Private Attorneys General Act (“PAGA”), and (6) unfair business practices. Defendants deny all claims and maintains it has fully complied with the law.

Defendants’ records reflect you worked <<WorkWeeks>> workweeks during the Class Period of December 21, 2017, through August 11, 2023. Based on this information, your Individual Class Payment is estimated to be \$<<estAmount>> (less any applicable state and federal withholdings). The actual amount you may receive will likely be different and will depend on multiple factors, such as how many other individuals decide to opt out.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	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 Class Payment if the Court grants final approval of the settlement. In such case, you will be bound by the release provisions in the settlement.
OPT OUT	You may opt out of the Settlement by submitting a Request for Exclusion form. If you opt out, you may not object to the Settlement, you will not receive an Individual Class Payment, and you shall not be bound by the release provisions in the settlement.
OBJECT	You may object to the Settlement by submitting a written objection. If the Court grants final approval of the settlement despite your objection, you will remain eligible to automatically receive an Individual Class Payment if the Court grants final approval of the settlement. In such case, you will be bound by the release provisions in the settlement.
CHALLENGE THE CALCULATION OF YOUR WORKWEEKS	The amount of your Individual Class Payment depends on how many workweeks you worked at least one day during the Class Period. The number Class Period Workweeks you worked according to Cluckin, Inc’s records is stated on the first page of this Notice. If you disagree with this number, you must challenge it.

The Court’s final approval hearing is scheduled to take place on December 1, 2023 at 1:30 p.m. in Dept. 69 of the San Diego Superior Court, located at 330 W Broadway, San Diego, CA 92101. You do not have to attend but you do have the right to appear. ***For more information, please carefully read this notice.***

1. WHAT IS THE ACTION ABOUT?

The Class Representative is former employee of Defendants. The Class Representative alleged Defendants violated California labor and employment laws as follows: (1) failure to provide meal periods or premium pay in lieu thereof, (2) failure to provide rest periods or premium pay in lieu thereof, (3) failure to provide complete and accurate itemized wage statements, (4) failure to pay wages when due or at the end of employment, (5) civil penalties under the Private Attorneys General Act (“PAGA”), and (6) unfair business practices. Plaintiff is represented by Ferraro Vega Employment Lawyers (“Class Counsel.”)

Defendants strongly deny violating any laws or failing to pay any wages and contend they complied with all applicable laws.

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

So far, the Court has made no determination whether Defendants or Plaintiff is correct on the merits. In the meantime, Plaintiff and Defendants hired an experienced, neutral mediator in an effort to resolve the Action by negotiating an to end 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 Defendants 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, Defendants do 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) Defendants have 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 PROPOSED SETTLEMENT TERMS?

At the Final Approval Hearing, the Class Representative, through Class Counsel, will ask the Court to approve a Gross Settlement Amount of \$405,000 and authorize the following deductions: Class Representative Service Payment (\$10,000), Class Counsel Attorneys’ Fees in the amount of 33.33% of the Gross Settlement (\$134,986.50), Class Counsel Litigation Costs (not to exceed \$30,000), the LWDA’s 75% portion of the PAGA Payment (\$15,000), and the Administration Expenses to be paid to the third-party settlement administrator (not to exceed \$11,000).

After making the above deductions in amounts approved by the Court, the Administrator will calculate and distribute making Individual Class Payments to Participating Class Members based on their Class Period Workweeks. 33.33% of each Individual Class Payment shall constitute taxable wages (“Wage Portion”) and 67% shall constitute interest and penalties (“Non-Wage Portion.”). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms.

Defendants 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 Defendants 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.

You will be treated as a Participating Class Member, participating fully in the settlement, unless you submit a signed Request for Exclusion by the October 26, 2023 “Response Deadline”.

After the Judgment is final and Defendants have fully funded the 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, as follows:

All Participating Class Members release Released Parties from any and all claims, damages, and penalties alleged in the Operative Complaint, all claims that reasonably could have been alleged based on the factual allegations contained in the Operative Complaint and arising out of the facts in the Operative Complaint during the Class Period, including, without limitation, claims for: (1) failure to provide meal periods or premium pay in lieu thereof, (2) failure to provide rest periods or premium pay in lieu thereof, (3) failure to provide complete and accurate itemized wage statements, (4) failure to pay wages when due or at the end of employment, (5) civil penalties under the Private Attorneys General Act (“PAGA”), and (6) unfair business practices. Participating Class Members **do not** release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts outside of the Operative Complaint or outside the Class Period.

4. HOW IS MY INDIVIDUAL CLASS SETTLEMENT CALCULATED?

The number of Class Workweeks you worked during the class period are stated on the first page of this notice. The Administrator will calculate Individual Class Payments by (1) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and then (2) multiplying the result by the number of Workweeks worked by each respective Participating Class Member. In other words, you will receive a proportional recovery based on your length of employment in relation to other Class Members.

5. HOW CAN I CORRECT THE NUMBER OF WORKWEEKS?

You have until the Response Deadline to correct or challenge the number of Workweeks. You can submit your challenge by signing and sending a letter to the Administrator via mail or email to the Administrator at the following address:

Ohler v Cluckin, Inc.
c/o CPT Group
50 Corporate Park
Irvine, CA 92606
Toll Free Number: 1-888-510-2119
Fax: 949-419-3446
Email: CluckinIncSettlement@cptgroup.com
Website: <https://www.cptgroupcaseinfo.com/cluckininc>

The Administrator will accept Defendants’ calculation of Workweeks 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.

6. HOW WILL I GET PAID?

The Administrator will send, by U.S. mail, a single check to every Participating Class Member following the Effective Date of this Settlement. Your check will be sent to the same address as this notice. If you change your address, notify the Administrator as soon as possible.

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

Complete the attached Request for Exclusion form and mail or email it to the Administrator before the Response Deadline.

8. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement by submitting a written objection to the Administrator before the Response Deadline. To object, please provide a written statement to the Administrator advising what you object to, why you object, and any facts that support your objection. Please sign the objection and identify the Action and include your name, current address, telephone number, and your approximate dates of employment.

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.

9. CAN I ATTEND THE FINAL APPROVAL HEARING?

You may, but are not required to, attend the Final Approval Hearing on December 1, 2023 at 1:30 p.m. in Dept. 69 of the San Diego County Superior Court, located at 330 W Broadway, San Diego, CA 92101. At the hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to the LWDA, Class Counsel, the Class Representative(s), and the Administrator. The Court will invite comment from objectors, Class Counsel, and Defense Counsel before making a decision.

It is possible the Court will reschedule the Final Approval Hearing. Please review the Court's online docket or contact the Administrator or Class Counsel to verify the date and time of the Final Approval Hearing if you believe it may have been continued or otherwise changed.

10. HOW CAN I GET MORE INFORMATION?

The Agreement sets forth everything Defendants 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 go to the Court's website, access the Register of Actions, and search for the case using the case number at the top of this notice. You can also telephone or send an email to Class Counsel at the address below:

Class Counsel

Nicholas J. Ferraro (State Bar No. 306528)

Lauren N. Vega (State Bar No. 306525)

Ferraro Vega Employment Lawyers, Inc.

3160 Camino del Rio South, Suite 308

San Diego, California 92108

Telephone: (619) 693-7727

classactions@ferrarovega.com

ferrarovega.com

11. WHAT IF I LOSE MY SETTLEMENT CHECK OR FAIL TO CASH IT?

If you lose or misplace your settlement check, the Administrator will replace it if you request a replacement before the void date on the face of the original check. If your check is already void or you have otherwise failed to cash it, it will be provided to the State of California's Unclaimed Property Division in your name. For more information, please review how to process a claim for your funds with the State of California, https://www.sco.ca.gov/upd_form_claim.html.