

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
Escobedo v. Ameripec, Inc.

Case No. 30-2020-01170846-CU-OE-CXC

NOTICE OF PROPOSED CLASS ACTION AND PAGA SETTLEMENT

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you, and you are not being sued.*

However, your legal rights are affected by whether you act or don't act.

TO: All persons employed as a non-exempt employee (whether hired directly or through a staffing agency or labor contractor) of Ameripec, Inc. for any portion of time between August 31, 2016, to May 29, 2019 (“Class Members”).

The Superior Court of California, County of Orange has granted preliminary approval of a proposed settlement (“Settlement”) of the above-captioned action (the “Action”). Because your rights may be affected by this Settlement, it is important that you read this Notice of Class Action and PAGA Settlement (“Notice”) carefully. The purpose of this Notice is to provide a brief description of the claims alleged in the Action, the key terms of the Settlement, and your rights and options with respect to the Settlement.

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

1. Why Have I Received This Notice?

A proposed settlement has been reached in a lawsuit that may affect your rights.

This lawsuit is against Ameripec, Inc. This notice calls Ameripec, Inc. the “Defendant.” Adrian Escobedo (“Plaintiff”) is a Class Member who used to work for Defendant. Plaintiff filed this lawsuit.

You are receiving this notice because Defendant’s records indicate that you worked for Defendant as a non-exempt employee in California for some time between August 31, 2016, and May 29, 2019 (“Class Period”). This means you are a potential Class Member, and you have a right to know about the proposed Settlement.

In addition, you are also a PAGA Member if you are currently or were formerly employed as a non-exempt employee (whether hired directly or through a staffing agency or labor contractor) of Defendant who worked for Defendant within California at any time during the period from August 31, 2019, to March 1, 2022 (“PAGA Period”).

This notice explains the lawsuit, the proposed Settlement, your legal rights, what payments may be available, and how to get them.

2. What Is This Case About?

On November 18, 2020, Todd Martin initiated this case by filing a representative PAGA action. Plaintiff filed a First Amended Complaint on behalf of himself and other Class Members on April 14, 2022, at substituted Plaintiff for Todd Martin as the plaintiff and class representative. Plaintiff’s First Amended Complaint alleged that Defendant violated California law by:

- (1) Failing to pay minimum wage;
- (2) Failing to pay overtime wages;

- (3) Failing to provide legally required meal periods;
- (4) Failing to provide legally required rest periods;
- (5) Failing to timely pay wages during employment;
- (6) Failing to timely pay wages upon separation of employment;
- (7) Failing to provide accurate wage statements;
- (8) Failing to reimburse necessary business-related expenses; and
- (9) Enforcement of Labor Code § 2698 *et seq.* (“PAGA”)

Plaintiff sought unpaid wages, interest, and statutory and civil penalties, as well as attorneys’ fees and costs. Defendant denies each and every one of Plaintiff’s allegations and believes that it has treated, and continues to treat, Class Members in accordance with applicable laws at all times. The Court has not made any decision on whether the claims in this lawsuit have merit.

3. What Is a Class Action?

A class action lawsuit is a legal proceeding where one or more persons sue not just for themselves, but for other people who have similar claims (forming a “class” or group of people).

4. Background of Settlement

The claims in this case are contested. Defendant denies that it committed any wrongdoing. Plaintiff’s lawyers have received sufficient information from Defendant and reached a settlement with Defendant after extensive arm’s-length negotiations. Plaintiff and his lawyers believe the settlement is in the best interests of the Class Members considering the uncertain outcome, and the risks, costs and time involved in further litigation, trial, and possible appeals.

5. What Are the Terms of the Proposed Settlement?

Defendant has agreed to pay a total of \$472,500.00 (the “Gross Settlement Amount”) to settle this case. This money will be divided among all Class Members and PAGA Members. It will also be used to pay for Plaintiff’s lawyers’ fees and costs of litigation, a payment to the State of California Labor Workforce Development Agency for its share of penalties under the Private Attorneys’ General Act, payments to the Plaintiff for his service to the Class, and payments to the Settlement Administrator for calculating and distributing payments.

6. How Much Will My Settlement Payment Be?

If you are a Class Member, your share of the Gross Settlement Amount will be determined by comparing the number of weeks you worked as an hourly-paid, non-exempt employee of Defendant to the total number of weeks worked by all members of the Class. If you are also a PAGA Member, your settlement of the PAGA portion of the Gross Settlement Amount will be determined by comparing the number of pay periods you worked as an hourly-paid, non-exempt employee of Defendant to the total number of pay periods worked by all PAGA Members. Specifically, the settlement provides for a PAGA Payment of \$25,000, seventy-five percent (75%) of which (\$18,750) will be paid to the California Labor and Workforce Development Agency (“LWDA”) and twenty-five percent (25%) of which (\$6,250) shall be distributed among the PAGA Members.

More detail on the formula for determining each Class Member or PAGA Member’s share has been provided to the Court and can be obtained from Class Counsel.

Based on Defendant’s records, you worked <<Workweeks>> workweeks during the Class Period and <<PayPeriods>> pay periods during the PAGA Period.

Based on this data, your *estimated* Individual Settlement Share as Class Member is <<SettAmt>> and *estimated* Individual PAGA Payment as a PAGA Member is <<PAGAAmt>> This is just an estimate. Your final share will be determined by the Settlement Administrator.

Twenty percent (20%) of your Individual Settlement Share as a Class Member will be treated as unpaid wages. The wages portion of your Individual Settlement Share as a Class Member will be subject to all tax withholdings customarily made from an employee's wages and all other authorized and required withholdings and will be reported on an IRS Form W-2. Eighty percent (80%) of your Individual Settlement Share will be treated as penalties and interest. The penalties and interest portion of your Individual Settlement Share will be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages and will be paid pursuant to an IRS Form 1099.

One hundred percent (100%) of your payment as a PAGA Member will be considered penalties, and you will be issued an IRS Form 1099 if your payment exceeds \$600.00. You are responsible for paying any federal, state, or local taxes owed because of this payment.

7. When Will I Receive My Payment and What Do I Have To Do?

Class Members who do not opt out, and all PAGA Members, will receive payments within 60 days after final court approval of the settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the settlement. You must cash your check within 180 days of when the check is issued. The check will be void after 180 days, and the settlement provides that money will be redistributed.

8. What if I Dispute the Information on My Workweeks?

If you believe the information shown above regarding your workweeks is incorrect, you may challenge it with any documents or other supporting evidence sent to the Settlement Administrator. Any challenge must be postmarked by no later than December 12, 2022.

The Settlement Administrator will presume that Defendant's records are correct but may change your calculations after considering your evidence. The Settlement Administrator will evaluate the evidence submitted by the Class Member and make a recommendation to the Parties as to which figures should be applied. If the Parties disagree with the Settlement Administrator's recommendation, the dispute will be presented to the Court for determination. The Court will make the final decision on disputes.

9. What Are My Legal Rights and Options Under the Settlement?

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| Do Nothing | If you do nothing, you will receive a payment for your individual settlement share under the settlement if the Court finally approves the settlement. You will release all claims covered by the settlement. You do not have to do anything to receive a payment. |
| Exclude Yourself or "Opt Out" | If you "opt out," you will NOT receive any money and you will not release your claims against Defendant. To request to be excluded from the settlement, you <u>must</u> mail a written, signed request to be excluded from the settlement to the Settlement Administrator, at the address below, on or before December 12, 2022. Any request for exclusion not postmarked on or before December 12, 2022, will be void unless the Court agrees to review the late exclusion. If you submit both a written request for exclusion and written objection to the Settlement Administrator prior to December 12, 2022, the Settlement Administrator will first contact you to determine if you intended to submit only the written request for exclusion or the written objection. If the Settlement Administrator is unable to contact you within ten (10) calendar days of receiving both the written request for exclusion and written objection or you fail to respond to the Settlement Administrator within ten (10) calendar days of being contacted, then only the written request for exclusion will be deemed valid. Your written objection will be invalid, and you will no longer be considered a member of the Class, will not receive your Individual Settlement Share, and will not be bound by the Released Claims. |

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| Object to the Settlement | If you don't think the Settlement is fair, you can object to the Settlement and tell the Court that you don't agree with the Settlement or some part of it. The Court will consider your views. To object, you must send a letter, which you sign, saying that you object to the settlement in <i>Escobedo v. Ameripec, Inc.</i> (Case No. 30-2020-01170846-CU-OE-CXC). Be sure to include the case names and case numbers (as shown in the preceding sentence), your name, the last four digits of your Social Security Number and/or your Defendant employee ID number, your address, the specific reasons you object to the terms of the Settlement, and your signature. Mail the objection to the address listed below postmarked on or before December 12, 2022. Even if you do not submit a written objection to the Settlement Administrator, you can still object to the Settlement by simply appearing at the Final Approval Hearing. |
| For PAGA Members, or those Class Members who also Receive a PAGA Settlement | You do not have the right to request exclusion from, or opt out of, the PAGA portion of the proposed Settlement. If the Court grants final approval of the Settlement, the Settlement Administrator will mail you your Individual PAGA Payment check, and you will give up the right to sue the Released Parties, including Defendant, for the PAGA Released Claims as defined below. PAGA Members who opt out of the class portion of the proposed Settlement will still be mailed their individual PAGA Payment checks and will give up the right to sue the Released Parties for the PAGA Released Claims. |

10. What if I have questions?

If you have questions, please contact the lawyers for the Class Members or the Settlement Administrator. The Plaintiff's and Class Members' lawyers are:

JUSTICE LAW CORPORATION

Douglas Han
Shunt Tatavos-Gharajeh
Jason Rothman
751 N. Fair Oaks Avenue, Suite 101
Pasadena, California 91103
Telephone: (818) 230-7502
Facsimile: (818) 230-7259

DO NOT CONTACT THE COURT OR THE ATTORNEYS FOR DEFENDANT FOR INFORMATION REGARDING THE SETTLEMENT OR THE CLAIM PROCESS.

11. Who Is the Settlement Administrator?

The Settlement Administrator, CPT Group, Inc., is a company hired by the Plaintiff and Defendant to administer the settlement. The Settlement Administrator's contact information is:

Escobedo v. Ameripec, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, California 92606

The Settlement Administrator's duties include processing challenges, objections, and exclusions, making payments to the Class Members, and getting answers to any questions you may have. The costs of administering the settlement, via a "not to exceed" quote are approximately \$9,500.00. This amount will be deducted from the Gross Settlement Amount for the Settlement Administrator's rendered services.

12. How Will the Lawyers and the Representatives for the Class Be Paid?

The lawyers for Plaintiff will request Court approval for payment of attorneys' fees of up to 35% (\$165,375.00) of the total Gross Settlement Amount, plus reimbursement of actual litigation costs up to \$20,000.00, to be proven at the time of the final approval hearing. The Court decides whether or not to award attorneys' fees or costs. The attorneys' fees are for legal services provided, and to be provided, to Plaintiff and the Class.

The lawyers for Plaintiff will also ask the Court to approve a Class Representative Enhancement Payment of \$7,500.00 to Plaintiff for his time and willingness to accept the risks of bringing this case. This award would be in addition to the amount Plaintiff is owed under the settlement as a Class Member and/or PAGA Member.

13. Notice of Hearing on Final Approval and Objections to Class Action Settlement.

A Final Fairness Hearing will be held before the Honorable Peter Wilson on January 19, 2023, at 2:00 p.m. in Department CX-102 of the Orange County Superior Court, Civil Complex Center, located at 751 W. Santa Ana Blvd., Santa Ana, CA 92701 to determine whether the proposed settlement is fair, reasonable, and adequate. The hearing may be continued without further notice.

You do not need to appear at this hearing unless you wish to object to the settlement. If you have sent a written objection, you may appear at the hearing if you choose to do so.

14. What Is Being Released as Part of the Settlement?

If the Court approves the proposed Settlement, the Class Members who have not opted out will fully release Defendant from liability for all claims, debts, liabilities, demands, actions, or causes of action under state, federal or local law, whether statutory, common law or administrative, pleaded in the First Amended Complaint in the Action or arising out of or reasonably related to the factual allegations in the First Amended Complaint, including, but not limited to, claims for failure to pay earned wages, failure to pay minimum wage, failure to pay overtime compensation, failure to provide meal breaks, failure to provide rest breaks, failure to pay meal period premium wages, failure to pay rest period premium wages, failure to provide accurate wage statements, failure to timely pay final wages during employment and at separation, failure to maintain accurate payroll records, failure to reimburse business-related expenses, unfair competition or business practices, any and all claims under PAGA, and any all claims for associated penalties, whether civil or statutory in nature, interest, attorneys' fees and costs, or any other associated damages, and all other alleged violations of the California Labor Code and Business and Professions Code section 17200, et seq., and all other claims and allegations alleged in or which could have been alleged in the Action based on the facts and allegations pled in the First Amended Complaint. Without limiting the foregoing, the Released Claims include those arising under California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 et seq., 2699 et seq., and/or those arising under Industrial Welfare Commission Wage Orders, PAGA, California Code of Regulations, title 8, Section 11050; the California Civil Code Sections 3287, 3289, and 3294; and California Code of Civil Procedure section 1021.5. The Released Claims excludes the release of claims not permitted by law ("Released Claims"). The time frame of the Released Claims shall be the time period from August 31, 2016, to May 29, 2019.

Class Members who do not opt out will be bound by the Released Claims against Defendant and each and all of its past, present, and future parent companies, subsidiaries, affiliates, and their respective shareholders, members, owners, partners, representatives, fiduciaries, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys, trustees, equity sponsors, joint employers, alter-egos, joint venturers, auditors, consultants, and any past, present, or future officers, directors, and employees), and each and all of them, and each and all of their predecessors, successors, heirs, and assigns, and any individual or entity which could be jointly liable with Defendant, or any of them ("Released Parties").

In addition, if the Court approves the proposed Settlement, PAGA Members will fully release Defendant from liability for any and all causes of action for civil penalties pursuant to the Private Attorneys General Act of 2004 (Labor Code section 2698, et seq.) that were alleged or which could have been alleged in the Action based on the facts and allegations pleaded in the First Amended Complaint in the Action and/or the LWDA notice letter, including all claims for civil penalties based upon or arising out of Defendant's alleged failure to pay earned wages, failure to pay minimum wage, failure to pay overtime compensation, failure to provide meal breaks, failure to provide rest breaks, failure to pay meal period premium wages,

failure to pay rest period premium wages, failure to provide accurate wage statements, failure to timely pay final wages during employment and at separation, failure to maintain accurate payroll records, failure to reimburse business-related expenses, and claims for civil penalties arising under or based upon alleged violations of California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226, 226.3, 226.7, 510, 512, 558, 1174, 1194, 1197, 1197.1, 1198, 2800, 2802, 2698 et seq., 2699 et seq., and/or those arising under applicable Industrial Welfare Commission Wage Orders (“PAGA Released Claims”). The time frame of the PAGA Released Claims shall be the time period from August 31, 2019, to March 1, 2022. PAGA Members will be bound by the PAGA Released Claims against the Released Parties regardless of whether they opt out. Moreover, PAGA Members who do not opt out will be bound by the Released Claims against the Released Parties.

15. Can I Be Retaliated Against for Participating in the Settlement?

The law prohibits Defendant from retaliating against employees for exercising their rights under the law. Therefore, Defendant cannot and will not fire you, demote you, harass you, classify you as ineligible for rehire, or retaliate against you in any other way because you choose to participate, or not participate, in the settlement, in whole or in part.

16. Getting More Information about the Settlement

This Notice contains a summary of the basic terms of the settlement. For the precise terms, you may review the Settlement Agreement at www.cptgroupcaseinfo.com/ameripecsettlement. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined online on the Orange County Superior Court’s Case Portal at <https://courtdindex.occourts.org/>, using Case No. 30-2020-01170846-CU-OE-CXC. You may also contact the Settlement Administrator by phone at 1-888-895-0884 and Class Counsel at the numbers listed above.

IMPORTANT:

- 1. If you move or change your address, send the Settlement Administrator your new address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your Settlement Payment.**
- 2. It is strongly recommended that you keep a copy of any challenge, request for exclusion and/or objection that you submit, and proof of timely mailing, until after the Final Approval hearing.**