

Superior Court of the State of Washington, Yakima County

IF YOU WERE A PIECE-RATE FARM WORKER FOR CHIAWANA ORCHARDS, LLC (“CHIAWANA ORCHARDS” OR “DEFENDANT”) IN WASHINGTON AT ANY TIME FROM DECEMBER 9, 2016 THROUGH APRIL 2, 2020, YOU ARE ELIGIBLE TO SUBMIT A CLAIM FORM IN ORDER TO RECEIVE YOUR INDIVIDUAL SETTLEMENT PAYMENT IN A CLASS ACTION SETTLEMENT. THIS NOTICE ADVISES YOU OF HOW TO SUBMIT A CLAIM FORM, OR OPT-OUT OF THE LAWSUIT, OR OBJECT TO THE SETTLEMENT, OR CHALLENGE YOUR PIECE RATE EARNINGS DURING THE PERIOD COVERED BY THE CASE, AND THE CLAIMS YOU WILL RELEASE IF YOU DO NOT OPT-OUT.

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

- A former farm worker who was paid on a piece-rate basis sued Chiawana Orchards, LLC (“Chiawana Orchards” or “Defendant”), alleging it did not pay its piece-rate farm workers separately and hourly for their non-productive time, including but not limited to time associated with orientation time, training time, traveling between orchards, fields, or blocks, weather delays, delays related to movement of equipment, as required by law, for the period from December 9, 2016 through the date of preliminary approval of the settlement. Defendant denies any wrongdoing.
- For purposes of settling the case, the court has allowed the lawsuit to be a class action on behalf of all individuals who (1) resided in Washington State and/or worked for Chiawana Orchards (hereinafter included within the term “Chiawana Orchards”), in Washington State, (2) were employed by Chiawana Orchards, Inc., in the position of hand harvester, pruner, picker, thinner, farm worker, or any other similar position, (3) and who were paid on a piece-rate basis, at any time from December 9, 2016 through April 2, 2020.

What This Notice Contains

Basic Information.....	Page 2
1. Why did I get this Notice?	
2. What is this lawsuit about?	
3. Why is this a class action?	
4. Why is there a settlement?	
5. How do I know if I am part of the settlement?	
The Settlement Benefits—What You Get.....	Page 3
6. What does the settlement provide?	
7. How much will my payment be?	
8. What if my address changes?	
What You Need to Do in Order to Get Your Payment.....	Page 4
9. How can I get a payment	
10. When would I get my payment?	
11. What am I giving up to get a payment or stay in the Class?	
12. Can I get a settlement payment if I still work for Chiawana Orchards?	
Excluding Yourself from the Settlement.....	Page 4
13. How do I get out of the settlement?	
14. If I don’t exclude myself, can I sue Chiawana Orchards for the same thing later?	
15. If I exclude myself, can I get money from this settlement?	
The Lawyers Representing You.....	Page 5
16. Do I have a lawyer in the case?	
17. How will the lawyers be paid?	
18. What other expenses will be taken out of the total settlement amount?	
Objecting to The Settlement.....	Page 5
19. How do I tell the Court that I don’t like the settlement?	
20. What’s the difference between objecting and excluding?	
The Court’s Fairness Hearing.....	Page 6
21. When and where will the Court decide whether to approve the settlement?	

Questions? Call 1-888-416-1698 Toll Free, or visit www.cptgroup.com/chiawanasettlement

- 22. Do I have to come to the hearing?
- 23. May I speak at the hearing?

If You Do Nothing..... **Page 7**
24. What happens if I do nothing at all?

Getting More Information..... **Page 7**
25. Are there more details about the settlement?

Basic Information

1. Why did I get this Notice?

Chiawana Orchards’s records show that you worked for Chiawana Orchards at some time from December 9, 2016 through April 2, 2020 and were paid on a piece-rate during this time.

The Court directed that you receive this notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all of your options, before the Court decides whether to approve the settlement. If the Court approves it, and after objections and appeals are resolved, an administrator appointed by the Court will make the payments that the settlement allows. You will be informed of the progress of the settlement.

This package explains the lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the case is the Superior Court for the State of Washington, County of Yakima, and the case is known as “*Adela Martinez, individually and on behalf of all other similarly situated, Plaintiff v. Chiawana Orchards, Inc., a Washington Limited Liability Company, and DOES 1-10, inclusive* (the “Complaint”). The person who sued is called the Plaintiff, and the company he sued, Chiawana Orchards, Inc., is called the Defendant.

2. What is this lawsuit about?

The lawsuit claimed that Chiawana Orchards did not comply with Washington’s wage-and-hour laws that require piece-rate workers to receive separate and hourly pay for the non-productive time associated with orientation time, training time, traveling between orchards, fields, or blocks, weather delays, delays related to movement of equipment, for the period from December 9, 2016 through April 2, 2020. The lawsuit contains a cause of action for failure to pay hourly and separate wages for non-productive time (i.e., orientation time, training time, mandatory meeting time, traveling between fields or orchards, weather delays, delays related to movement of equipment) apart from and in addition to the piece-rate pay, in violation of RCW 49.46 *et seq.*, including 49.46.020 and 49.46.090, plus interest. The lawsuit also requested double damages for willful and intentional withholding of wages pursuant to RCW 49.52.050 and 070.

Chiawana Orchards denies that it did anything wrong.

3. Why is this a class action?

In a class action, one person called a Class Representative (in this case, Adela Martinez), sues on behalf of other people who have similar claims. All these people are a Class of Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class by opting out of the case. A Washington State Court Judge in Yakima County is in charge of this class action.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a settlement. That way, they avoid the cost of a trial, and the people allegedly affected will get compensation. The Class Representative and the attorneys think the settlement is best for the Class Members.

5. How do I know if I am part of the settlement?

The Judge in Yakima County decided that everyone who fits the following description is a Class Member in this case:

- All individuals who (1) resided in Washington State and/or worked for Chiawana Orchards, LLC (hereinafter included within the term “Chiawana Orchards Co.”), in Washington State, (2) were employed by Chiawana Orchards, LLC in the position of hand harvester, pruner, picker, thinner, farm worker, or any other similar position, (3) and who were paid on a piece-rate basis, at any time from December 9, 2016 through The date of preliminary approval of the settlement (“Class Period”).

The Settlement Benefits – What You Get

6. What does the settlement provide?

Chiawana Orchards has agreed to create a \$248,000 fund that, after deductions for attorneys' fees (22% of the settlement amount, i.e., \$54,560), litigation costs of up to \$2,500, settlement administration costs of up to \$25,000, and a \$5,000 service award to the named Plaintiff who brought this case to Court, will be divided among all Class Members who timely and properly submit Claim Forms to the Settlement Administrator for this case, and who do not elect to opt-out of the Settlement per the terms in Question 13 on Pages 4 and 5. Please see the attached Claim Form for further details. Your estimated Individual Settlement Payment, if you submit a timely Claim Form, is set forth on the enclosed Claim Form. Regardless of the amount claimed by the Class Members who submit Claim Forms, at least 75% of the Net Settlement Amount of \$160,940.00, or \$120,705.00 (i.e. 75% of \$160,940.00), which is the amount left over after the deductions above are made, will be paid out to the timely Claimants. So, it is possible that, if you submit a Claim Form, you may receive more than your estimated Individual Settlement Payment amount on your Claim Form.

7. How much will my payment be?

Your share of the fund will depend on the number of Class Members that participate (*i.e.*, the number of Class Members who submit a valid and timely Claim Form and who do not "exclude" themselves), and the amount of Piece Rate Earnings you earned from Chiawana Orchards, during the time period from December 9, 2016 through the date of preliminary approval of the settlement. Here's how it works:

Your "Piece Rate Earnings" means the total amount of wages earned by Class Members during which the Class Members worked for Defendant for piece rate compensation from December 9, 2016 through the date of preliminary approval of the settlement. In order to be part of this case, you have to have worked for Chiawana Orchards, during the referenced time frame. The Settlement Administrator (who was preliminarily approved by the Court as the administrator of this settlement) has gathered from Chiawana Orchards all of the data necessary to calculate the amount of "Piece Rate Earnings" you earned during the Class Period and the total Piece Rate Earnings earned by all Class Members during the Class Period.

After attorneys' fees, litigation costs and administrative costs, and the service award to the named Plaintiff are paid out of the settlement amount (the fees and costs and service award are discussed in Questions 17 and 18, on Page 5), the leftover amount of money that will be distributed to the Class Members who submit Claim Forms is called the Net Settlement Amount. The Settlement Administrator will then divide the Net Settlement Amount by the total amount of Piece Rate Earnings to figure out how much money each Class Member will receive based on the total amount of Piece Rate Earnings of the Class.

Each Class Member who submits a Claim Form will receive an amount of money which is calculated by first dividing that Class Member's Piece Rate Earnings by the sum total of all Class Members' Piece Rate Earnings. The resulting percentage figure will then be used to determine each Class Member's portion of the Net Settlement Amount by multiplying the percentage figure to the Net Settlement Amount.

The amount of Piece Rate Earnings you earned as a piece-rate farm worker for Chiawana Orchards, from December 9, 2016 through April 2, 2020 will be determined based on Chiawana Orchards' records. If you feel that you were not credited with the correct amount of Piece Rate Earnings from December 9, 2016 through the date of preliminary approval of the settlement, you may submit evidence to the Settlement Administrator on or before July 21, 2020 with documentation to establish the amount of Piece Rate Earnings you claim to have actually earned during the Class Period. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Plaintiff and the Defendant and the settlement administrator will promptly evaluate the evidence submitted and discuss in good faith how much Piece Rate Earnings should be credited to you. The settlement administrator will make the final decision as to how much Piece Rate Earnings are credited and report the outcome to the you. If you are unsatisfied with the decision, you may submit an Objection, as discussed on Pages 5 and 6.

8. What if my address changes?

If you move after receiving this notice or if it was misaddressed, please complete the Change of Address portion of the Claim Form (which you should have received in this notice packet) and mail it to the settlement administrator at:

Martinez v. Chiawana Orchards, LLC
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

Questions? Call 1-888-416-1698 Toll Free, or visit www.cptgroup.com/chiawanasettlement

It is important that you send in your Change of Address form so that future notices and/or the settlement payment can reach you.

What You Need to Do in Order to Get Your Payment

9. How can I get a payment?

To qualify for payment, please be sure to *properly and timely* complete and sign the attached Claim Form and send it to the Settlement Administrator. Please also be sure to update the Settlement Administrator if your address or phone number has or will change.

Under the terms of the Settlement, you will only receive your Individual Settlement Payment if you submit a timely and valid Claim Form on or before July 21, 2020.

WASHINGTON LAW PROTECTS CLASS MEMBERS FROM RETALIATION BASED ON THEIR DECISION TO PARTICIPATE IN A CLASS ACTION SETTLEMENT. YOUR DECISION TO PARTICIPATE OR NOT PARTICIPATE IN THIS SETTLEMENT WILL NOT IMPACT YOUR EMPLOYMENT WITH CHIAWANA ORCHARDS, CO., INC.

10. When would I get my payment?

The Court will hold a hearing on October 9, 2020 to decide whether to approve the settlement. If the Judge in Yakima County Superior Court approves the settlement, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. Everyone who is a Class Member and who submits a valid and timely Claim Form and who did not “exclude” themselves will be informed of the progress of the settlement. Please be patient.

11. What am I giving up to get a payment or stay in the Class?

Unless you exclude yourself from the lawsuit, you are staying in the Class, and that means that you can't sue, continue to sue, or be part of any other lawsuit against Chiawana Orchards, LLC for unpaid non-productive time, interest or liquidated damage. It also means that all of the Court's orders will apply to you and legally bind you. If you do not exclude yourself, then you will agree to a “Release of Claims.” The Release of Claims will apply to you whether or not you submit a Claim Form, unless you submit a written request to exclude yourself from the lawsuit. The following claims are exactly the legal claims that you give up if you get the settlement benefit, and they are:

The settlement includes a release by Class Members (other than those who submitted a timely request to be excluded) of Defendant Chiawana Orchards, and its affiliated entities, parents, subsidiaries, owners, officers, shareholders, executives and managers from all claims from any and all claims raised in the complaint from December 9, 2016 through the date of preliminary approval of the settlement, including claims for allegedly unpaid non-productive time (e.g., orientation time, mandatory meeting time, training time, traveling between orchards or fields, weather delays, delayed related to movement of equipment, etc.) under RCW 49.46 *et seq.*, including 49.46.020 and 49.46.090, double damages pursuant to RCW 49.52.050,070, and any and all other wage and hour claims arising from the facts and causes of action alleged in the Complaint.

12. Can I get a settlement payment if I still work for Chiawana Orchards, Inc.?

Yes, if you submit a timely Claim Form. If you are still working for Chiawana Orchards, this settlement will not affect your employment.

Excluding Yourself from the Settlement

13. How do I get out of the settlement?

If you **do not** want to take part in the settlement, you can exclude yourself. To exclude yourself from the settlement, you must send a letter or postcard postmarked no later than July 21, 2020 with your name, Social Security Number, telephone number, and signature. The request for exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE CHIAWANA ORCHARDS, LLC LAWSUIT. I UNDERSTAND THAT BY ASKING TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE.”

Send the Request for Exclusion directly to the Settlement Administrator at the following address:

Martinez v. Chiawana Orchards, LLC
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

by no later than July 21, 2020. Any person who files a timely request to be excluded from the settlement will, upon receipt, no longer be a Class Member, will not receive any money from the Settlement, and cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue (or continue to sue) Chiawana Orchards in the future for the claims that were brought in this lawsuit.

14. If I don't exclude myself, can I sue Chiawana Orchards for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Chiawana Orchards for the claims that this settlement resolves. If you have a pending lawsuit speak to your lawyer in that case immediately. You must exclude yourself from this Class to continue your own lawsuit. Remember, the exclusion deadline is July 21, 2020.

15. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from the settlement. But, you may sue, continue to sue, or be part of a different lawsuit against Chiawana Orchards.

The Lawyers Representing You

16. Do I have a lawyer in this case?

The Court has appointed three law firms, one based in Washington and two based in Los Angeles, CA, to represent you and the other Class Members: Craig Ackermann and Brian Denlinger from Ackermann & Tilajef, P.C., India Lin Bodien, Attorney at Law, and Tatiana Hernandez from the Law Office of Tatiana Hernandez, P.C. These lawyers are called Class Counsel. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class counsel – which consists of attorneys from three separate law firms – have been prosecuting this lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. To date, Class Counsel has litigated many aspects of the case including review of many documents and data about the amount owed for unpaid nonproductive time, telephonic interviews and conferences, settlement efforts, and direct settlement negotiations with opposing counsel. The Court will determine the actual amount awarded to Class Counsel as attorneys' fees, which will be paid from the Settlement Amount. Class Members are not personally responsible for any of Class Counsel's attorneys' fees or expenses. Class Counsel will collectively ask for fees of up to twenty-two percent of the Settlement Amount (\$54,560) as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit. Class Counsel also will ask for reimbursement of up to \$2,500 for the costs Class Counsel incurred in connection with the Lawsuit. The Court may award less than these amounts.

18. What other expenses are taken out of the total settlement amount?

Chiawana Orchards has agreed to pay \$248,000 to resolve the claims that were brought in this lawsuit. In addition to the deductions for attorneys' fees and costs, Class Counsel will also ask the Court to award Class Representative Adela Martinez a service payment in the amount of \$5,000 to compensate him for his service and extra work provided on behalf of the Class Members. The Class Representative may also receive a share of the settlement as a class member.

As noted, under the terms of the Settlement Agreement, an additional amount up to \$25,000 will be deducted from the Settlement Amount and will be paid to the Settlement Administrator, who is sending this notice to you, and will perform all the administrative duties related to this settlement.

Objecting to the Settlement

You can tell the Court that you don't agree with the settlement or some part of it.

19. How do I tell the court that I don't like the settlement?

If you're a Class Member, you can object to the settlement if you don't like any part of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. To object, you must send a letter or

post card to the settlement administrator with your name, telephone number, address and dates of employment with Chiawana Orchards by saying that you object to the Settlement in the case of “*Adela Martinez, individually and on behalf of all other similarly situated, Plaintiff v. Chiawana Orchards, LLC*, a Washington Limited Liability Company, and **DOES 1-10**, inclusive, *Defendant*,” Case No. 19-2-04476-39.

Be sure to include your name, address, telephone number, your signature, and the reasons you object to the settlement. Mail the objection to the settlement administrator by no later than July 21, 2020 at:

Martinez v. Chiawana Orchards, LLC
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606

20. What’s the difference between objecting and excluding?

Objecting is simply telling the Court that you don’t like something about the settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you don’t want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

The Court’s Fairness Hearing

The Court will hold a hearing to decide whether to approve the settlement.

21. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at 1:30 PM on October 9, 2020 at the Superior Court of the State of Washington for the County of Yakima, located at 128 N 2nd St #323, Yakima, WA 98901. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Superior Court Judge in Yakima will listen to any people in the case who appear and who have asked to speak at the hearing. The Court may also decide how much money to pay to Class Counsel and to reimburse them for their costs as well as the service award for the Class Representative. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

22. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. But you are welcome to come at your own expense. If you send an objection, you don’t have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it’s not necessary.

23. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you should file a “Notice of Appearance” with the Court, and send a copy to Class Counsel and to Chiawana Orchards’ lawyers, at the following addresses:

CLASS COUNSEL

Craig J. Ackermann, Esq.
Brian W. Denlinger, Esq.
Ackermann & Tilajef, P.C.
1180 South Beverly Drive, Suite 610
Los Angeles, California 90035
Telephone: (310) 277-0614

India Lin Bodien, Esq.
India Lin Bodien, Attorney at Law
2522 North Proctor Street, #387
Tacoma, Washington 98406
Telephone: (253) 212-7913

Tatiana Hernandez, Esq.
(Fully Bilingual in English and Spanish)
Law Office of Tatiana Hernandez, P.C
1180 South Beverly Drive, Suite 610
Los Angeles, California 90251
Telephone: (213) 909-4248

CHIAWANA ORCHARDS’S COUNSEL

Wally Meyer, Esq.
Columbia Reach
Chiawana Orchards
3107 River Road
Yakima, WA 98902

The “Notice of Appearance” should state the name and number of the case, which is “*Adela Martinez, individually and on behalf of all other similarly situated, Plaintiff v. Chiawana Orchards, LLC*, a Washington Limited Liability Company, and **DOES 1-10**, inclusive, *Defendant*,” Case No. 19-2-04476-39.

Your “Notice of Objection” must be postmarked no later than July 21, 2020.

Whether or not you send in a request to appear, you will be allowed to speak at the hearing if you appear on that date and ask to be heard. However, you cannot speak at the hearing if you excluded yourself from the lawsuit.

If You Do Nothing

24. What happens if I do nothing at all?

If you are a Class Member (as defined on Page 2 in Question #5), and received this notice, and you do not timely submit a Claim Form or Request for Exclusion Form, and if the Settlement receives final approval from the Court, you will receive no money from this settlement, AND any legal claims you may have that are covered by the Settlement will be forever extinguished, and you will forfeit your right to bring or participate in a similar action against Chiawana Orchards for the claims raised in this case

Getting More Information

25. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in a document called the Settlement Agreement. You can get a copy of the Settlement Agreement by calling Class Counsel and requesting a copy or by calling the Settlement Administrator and asking for a copy of the Settlement Agreement. Call 1-888-416-1698 Toll Free for more information.