

**YOU ARE A MEMBER OF CLASS ACTION SETTLEMENT INVOLVING DON VITO
OZUNA FOOD CORPORATION**

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**Rodrigo Camillo et al vs. Don Vito Ozuna Food Corporation, et al.
United States District Court, Northern District of California
Case No.: 5:18-cv-02842-VKD**

**THIS NOTICE AFFECTS YOUR LEGAL RIGHTS AND YOUR RIGHT TO COLLECT
MONEY**

To understand your rights read this NOTICE carefully

**YOU CANNOT BE PENALIZED FOR PARTICIPATING IN THIS SETTLEMENT
IF YOU DO NOTHING, YOU WILL RECEIVE AN ESTIMATED
<<Class23EstAmount>> -- less required withholdings based on the number of weeks you
worked during the Rule 23 Class Period or <<Rule23Workweeks>> Qualifying
Workweeks**

**IF YOU SUBMIT THE ATTACHED CLAIM FORM BY JANUARY 21, 2020 YOU
WILL RECEIVE AN ADDITIONAL
ESTIMATED <<FLSAEstAmount>> less required withholdings based on the number of
weeks you worked during the FLSA Class Period or <<FLSAWorkweeks>> Qualifying
Workweeks**

**YOUR IDENTIFIED TERM OF EMPLOYMENT IS FROM
<<HDATE>> TO <<TDATE>>**

YOU CAN ALSO EXCLUDE YOURSELF OR OBJECT TO THE SETTLEMENT

IMPORTANT NOTIFICATION TO POTENTIAL CLASS MEMBERS

TO: All individuals who were employed by DON VITO OZUNA FOOD CORPORATION and/or SEVERO OZUNA in California as hourly employees working in the tortilla and/or chip manufacturing process between May 14, 2014 and March 19, 2019.

A federal court authorized this notice. Please read it carefully and in its entirety. It is not a solicitation from a lawyer.

**The settlement covers wage claims under California Law
and wage claims under Federal Law.**

The procedures for you to obtain your portion of the settlement for the wage claims under California law and your portion of the settlement for wage claims under federal law are different. The chart below explains your rights and options.

<p>DO NOTHING AND GET THE CALIFORNIA PAYMENT BUT NOT THE FEDERAL PAYMENT</p>	<p>IF YOU DO NOTHING:</p> <p>(1) you will receive a payment in the amount of <<Class23EstAmount>> for wage claims under California law, and you will be releasing wage claims under California law; and</p> <p>(2) you will not receive an additional payment in the amount of <<FLSAEstAmount>> for wage claims under federal law, and you will not be releasing wage claims under federal law. To obtain the second federal law payment, you must submit a CLAIM FORM, or you will automatically be excluded from receiving this payment and can pursue claims separately against the Defendants under federal law.</p>
<p>EXCLUDE YOURSELF</p>	<p>IF YOU DO NOT WANT TO RECEIVE a settlement payment under California law, you must exclude yourself from the Settlement. If you exclude yourself from the Settlement, you will get no payment. However, you would be free to pursue your claims separately against Don Vito Ozuna Food Corporation and/or Severo C. Ozuna. The steps to exclude yourself are explained below. See SECTION 10 TO EXCLUDE YOURSELF.</p>
<p>SUBMIT AN OBJECTION TO THE COURT</p>	<p>IF YOU DO NOT AGREE WITH THE SETTLEMENT, you may submit an objection letter to the Court, or you may appear in court on March 3, 2020 at 10:00 a.m. in Courtroom 2, 5th Floor at 280 South First Street, San Jose, California, and explain why you do not like the Settlement or use an attorney to appear for you.</p>
<p>SUBMIT A CLAIM FORM AND GET THE FEDERAL PAYMENT</p>	<p>If you wish to receive the additional <<FLSAEstAmount>> and are willing to release wage claims under federal law, you must submit the enclosed CLAIM FORM by January 21, 2020.</p>

**QUESTIONS? CALL THE SETTLEMENT ADMINISTRATOR CPT GROUP AT 1(888)404-0147 OR
E-MAIL DonVitoOzunaFood@cptgroup.com**

DO NOT CONTACT THE COURT DIRECTLY WITH QUESTIONS. If you have questions, please call the Settlement Administrator, CPT Group, at 1(888)404-0147

1. Why did I get this notice package?

Don Vito Ozuna Food Corporation and/or Severo C. Ozuna has identified you as an hourly employee in the tortilla and/or chip manufacturing process between **May 14, 2014 and March 19, 2019.**

You received this notice because you have a right to receive money for unpaid wages, penalties and interest. If the Court approves the Settlement, CPT will make the payments that the Settlement requires.

2. What is this lawsuit about?

The lawsuit claims that Don Vito Ozuna Food Corporation: (1) Failed To Pay All Wages In Violation of The Fair Labor Standards Act; (2) Failed to Properly Pay Wages, Including Overtime Wages, Under California State Law; (3) Failed To Timely Pay All Wages At End Of Employment; (4) Failed to Provide Accurate California Itemized Employee Wage Statements; (5) Failed To Provide Meal Breaks and Rest Breaks Compliant with California State Law; and (6) Violated the California Unfair Competition Law.

3. Why is there a Settlement?

This was a disputed lawsuit. Instead of the risk of going to trial, both sides agreed to a Settlement. That way, they avoid the cost of a trial and the class members will get compensation. The Class Representatives and the attorneys think the Settlement is best for all class members.

4. Am I part of the Settlement?

Everyone who fits the following descriptions is a class member:

- (1) Rule 23 Class Member (for California Claims): All individuals who are employed or have been employed by Defendants as all non-exempt hourly employees involved in the tortilla and chip manufacturing process between May 14, 2014 and March 19, 2019.
- (2) FLSA Class Member (for Federal Claims): All individuals who are employed or have been employed by Defendants as non-exempt hourly employees involved in the tortilla and chip manufacturing process from May 14, 2015 through March 19, 2019.

5. What does the Settlement provide?

Don Vito Ozuna Food Corporation and/or Severo C. Ozuna have agreed to create a total fund of \$375,000.00 for settlement. \$112,500 is for class counsel's attorney fees, \$10,000 is for costs, \$15,000 is for the class administrator and \$20,000 is for the four named Plaintiffs' participation. The net amount of \$217,500.00 is to be **divided among all Class Members based on qualifying workweeks.**

For the claims under California law, class members will receive their allocated portion unless they exclude themselves.

For the federal claims, only those class members who timely submit a CLAIM FORM will receive their additional portions under federal law and become FLSA Opt-In Class members.

The time period for Rule 23 Class Members under California law will be May 14, 2014 to March 19, 2019. The time period for the FLSA Opt-In Class members under federal law will be May 14, 2015 to March 19, 2019.

6. How much will my payment be?

Your minimum anticipated share of the fund, **assuming that you do not otherwise exclude yourself from the lawsuit**, is listed on the first page of this Notice. The amount on the first page is based on the qualifying number of weeks that you worked at Don Vito Ozuna Food Corporation and/or Severo C. Ozuna during the Class Period.

In addition, **if you submit a CLAIM FORM**, you will receive an additional amount of <<FLSAEstAmount>> which will be your FLSA Opt-In portion of the settlement.

However if you received a payment from the United States Department Of Labor for wage violations of the FLSA under federal law for any time period between May 14, 2015 and March 19, 2019, those work weeks will be deducted from the FLSA Opt-In portion of your settlement since you already received a payment for that time period.

The net amount of the \$217,500.00 has been apportioned as follows 33% to the federal wages for the FLSA Opt-In Class, the remaining 67% will be paid to the Rule 23 Class for violations of California Law. The portion paid to the California Rule 23 Class will be further apportioned 20% wages, 40% interest and 40% penalties. This means 20% of the Settlement amount you receive as the Rule 23 Settlement Class Member will be considered wages for tax purposes (the minimum amount is listed on the first page of this Notice) and standard payroll taxes will be withheld for that portion of your settlement. The remainder of your Settlement as the Rule 23 Settlement Class member will be paid to you with an IRS form 1099 and will be considered interest and penalties for tax purposes. You alone are responsible to pay any appropriate taxes on the income paid to you via the IRS form 1099.

If you submit the Claim Form, your settlement as the FLSA Opt-In Class Member will be treated as wages for tax purposes and standard payroll taxes will be withheld.

7. IMPORTANT CLAIM FORM INFORMATION

The **CLAIM FORM** is attached to this Notice. Print your name, sign it, date it, and mail or email it to the Claims Administrator, CPT Group, postmarked no later than January 21, 2020:

Camilo, et al. v. Don Vito Ozuna Food Corp., et al.
 c/o CPT Group, Inc.
 50 Corporate Park
 Irvine, CA 92606
 Phone: 1(888)404-0147
 Fax: 1(949)419-3446
 Email Address: DonVitoOzunaFood@cptgroup.com

8. When would I get my payment?

The Court will hold a hearing on March 3, 2020 at 10:00 a.m. in at the United States District Court for the Northern District of California, at 280 South First Street, San Jose, CA 95113, Courtroom 2, before the Honorable Virginia K. Demarche, to decide whether to finally approve the Settlement. If the Court approves the Settlement, but there are class members who object, there may be appeals. Resolving any appeals can take time,

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 E-MAIL DonVitoOzunaFood@cptgroup.com**

perhaps more than a year. Please be patient. If the Court approves the Settlement at the hearing and there are no appeals, payments will not begin until after 30 days after final approval, if there are no appeals.

Defendants Ozuna Food Corporation shall fund the settlement in two installment payments. The first installment of \$200,000.00 shall be due 30 days after final approval of the settlement, assuming no objection has been made and no appeal has been filed. The second payment of \$175,000.00 shall be due on May 1, 2020. Payments to class members will also be in two installments each due 30 to 45 days following the funding by Defendants, assuming final approval.

9. What am I giving up to get a payment?

Unless you affirmatively exclude yourself from the settlement, you are part of the Rule 23 Settlement Class. That means you cannot sue, continue to sue, or be part of any other lawsuit against Ozuna Food Corporation and/or Severo C. Ozuna concerning the wage and hour claims that are currently part of the lawsuit, or any additional wage and hour claims that are based on the facts alleged in this lawsuit, except for claims under the Federal Labor Standards Act. These claims will be barred from May 14, 2014 to March 19, 2019.

If you submit a Claim Form to receive additional payment under federal law, you will become a member of the FLSA Opt-In Settlement Class, and you also will be barred from bringing, maintaining, or being a part of a federal wage and hour claim under the Federal Labor Standards Act against Ozuna Food Corporation and/or Severo C. Ozuna. These claims will be barred from **May 14, 2015 to March 19, 2019**.

You can review the exact language of the release by reviewing the Settlement Agreement online, at the web address listed in Section 18 below: “Are there more details about the Settlement?”

10. How do I get out of the Settlement?

To entirely exclude yourself from the Settlement, you must send a letter by mail or email stating that you want to be excluded from *Camilo vs. Don Vito Ozuna Food Corporation, et. al* (Case No.18:CV-02842-VKD). Be sure to include your name, address, telephone number, and your signature. You must mail your exclusion request postmarked no later than January 6, 2020 to:

Camilo, et al. v. Don Vito Ozuna Food Corp., et al.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Phone: 1(888)404-0147
Fax: 1(949) 419-3446
Email Address: DonVitoOzunaFood@cptgroup.com

If you ask to be excluded you will not get any Settlement payments of any kind and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit. You will be able to sue or continue to sue Don Vito Ozuna Food Corporation and/or Severo C. Ozuna in the future.

11. What happens if I do nothing?

If you do nothing, you will receive a payment only for your claims based on California law for the Rule 23 Class Members and will release the wage and hour claims that are currently part of the lawsuit, or any additional wage and hour claims that are based on the facts alleged in this lawsuit, except for the claims under the Federal Labor Standards Act.

If you do nothing, you will not receive the additional amount under Federal Law for the FLSA Opt-In Class. To receive this additional amount, you must also timely return the **CLAIM FORM**.

12. What are the differences between the federal and California claims in this lawsuit?

The Fair Labor Standards Act is a federal law governing the payment of overtime for hours worked past 40 in a week. It does not have the same provisions that California law. To receive payment for your federal claims, you must return a CLAIM FORM.

In contrast, California law requires overtime to be paid for hours worked past 8 in a day or 40 hours in a week. It also has provisions for double time, meal and rest breaks, payments upon termination, provision of wage statements, and other provisions not included in the Federal Labor Standards Act.

13. Do I have a lawyer in this case?

James Dal Bon of the Law Offices of James Dal Bon and Victoria Booke of Booke & Ajlouny represent Class Members. Mr. Dal Bon and Ms. Booke have been appointed Class Counsel. They will be paid from the Settlement amount, so you will not be charged personally for their work and costs on this case and in negotiating this Settlement. If you want to be represented by your own lawyer, you may hire one at your own expense.

14. How will the lawyers and named Plaintiffs be paid?

Class Counsel will ask the Court to approve the payment of up to \$112,500.00 for attorneys' fees and up to \$10,000 for costs and expenses associated with investigating the facts, litigating the case, and negotiating the Settlement. A payment not to exceed \$15,000 will also be made for the costs of the Claims Administrator administering the Settlement. A payment of up to \$5,000 will be made to each of the FOUR Class Representatives, Rodrigo Camilo, Alvaro Camilo, Ricardo Sanchez, Jose Manuel Lopez, for their work in bringing this lawsuit. The requested service awards for each of the four named plaintiffs is subject to the Court's approval.

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

The Court will hold a Final Approval Fairness Hearing on March 3, 2020 at 10:00 a.m., at the United States District Court for the Northern District of California, at 280 South First Street, San Jose, CA 95113, Courtroom 2, before the Honorable Virginia K. DeMarchi. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the Settlement.

16. Do I have to go to the hearing?

No. But, you are welcome to come at your own expense. If you send an objection, you do not 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, if you so choose.

17. May I speak at the hearing?

You may speak at the Final Approval Fairness Hearing provided that you give advance notice to the Court. You must send a letter to the Court saying that it is your "Notice of Intention to Appear in *Rodrigo Camilo vs. Don Vito Ozuna et al.* Case No: 18-cv-02842-VKD. You must include your name, address, telephone number,

and your signature. Your Notice of Intention to Appear must be postmarked no later than January 6, 2020 and sent to the Court.

18. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in a Settlement Agreement. You can view a copy of the Settlement Agreement and other key documents in this case at the following web address: www.cptgroup.com/DonVitoOzunaFoodSettlement.

19. How do I get more information?

You can call 1(888)404-0147, or write to *Camilo, et al. v. Don Vito Ozuna Food Corp., et al. c/o CPT Group, Inc.* Claims Administrator, 50 Corporate Park Irvine, CA 92606.

You may also speak to Class Counsel James Dal Bon by calling: (650) 630-2447.

DO NOT CONTACT THE COURT DIRECTLY WITH QUESTIONS