

IMPORTANT LEGAL NOTICE OF CLASS ACTION SETTLEMENT

Romero, et al. v. Lisa Giannini, et al.
Amador County Superior Court
Case No. 18-CV-10852

YOU MAY BE A CLASS MEMBER AND ENTITLED TO A PAYMENT

If you were an employee at Giannini's Italian Dinners and/or 88 Giant Hamburgers To Go at any time during the period from October 30, 2014 through December 31, 2019 ("Class Member")

PLEASE READ THIS NOTICE CAREFULLY TO UNDERSTAND YOUR RIGHTS

The Superior Court of Amador County authorized this Notice. This is not a lawsuit against you, and you are not being sued. This is not a solicitation from a lawyer.

The parties in this case have reached a Settlement in the class action lawsuit *Romero, et al. v. Lisa Giannini, et al.* ("Class Action"), which is pending in the Superior Court of the State of California, County of Amador (the "Court"). The Court has granted preliminary approval of the Settlement and ordered this Notice to be sent to you. You may be entitled to money under the Settlement and, unless you "opt out" of the Settlement, your legal rights will be affected. The purpose of this Notice is to (1) describe the Class Action, (2) inform you of the terms of the Settlement, and (3) inform you of your rights and options in connection with the Settlement.

SUMMARY OF YOUR OPTIONS

MAKE A CLAIM FOR COMPENSATION. If you wish to receive compensation under this Settlement, you must fill out and return the attached Claim Form by no later than May 4, 2020.

DO NOTHING. If you do nothing you will not be eligible to receive any compensation from the Settlement and will waive your right to bring similar claims against Giannini's Italian Dinners and/or 88 Giant Hamburgers To Go in the future.

EXCLUDE YOURSELF from the Settlement. To exclude yourself from the Settlement you should follow the procedures described in section 16 below. If you do this, you will be reserving the right to pursue your own individual claim and will not receive a share of the Settlement Fund. If you elect to exclude yourself from the Settlement, you cannot object to the Settlement.

OBJECT TO THE SETTLEMENT. To object to the Settlement you should follow the procedures described in section 18 below. If you object, you will still be eligible to participate in the Settlement and receive a share of the Settlement Fund, even if the Settlement is approved. If you elect to object to the Settlement, you cannot exclude yourself from the Settlement.

UPDATE YOUR ADDRESS. If you elect to either participate or object to the Settlement, you must submit an updated address to the Settlement Administrator if you move or plan to move. If you do not update your address you may not receive a settlement check, but you will still be bound by the Settlement.

www.cptgroup.com/GianniniSettlement & Toll-Free Number: 1-888-927-0227

Final Approval Hearing Date: July 13, 2020 at 8:30 a.m.

DISPUTE YOUR COMPENSABLE PERIODS. If you wish to participate in the Settlement but dispute the number of Compensable Pay Periods you are being credited with, you may follow the dispute procedure outlined in section 3 below.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit was filed by Jimi Romero and Eddie Romero (“Plaintiffs”), on behalf of themselves and other workers employed by Lisa Giannini d.b.a. Giannini’s Italian Dinners and 88 Giant Hamburgers To Go (Giannini’s) (“Defendants”) at any time from October 30, 2014 to December 31, 2019 (“Class Period”). The Class Action alleges that Defendants failed to compensate their non-exempt food service workers for all hours worked, denied them legally compliant meal periods and paid rest breaks, did not provide accurate wage statements, and did not timely pay all wages due at termination. The lawsuit seeks wages, penalties, interest, attorneys’ fees, and other damages on behalf of the defined class. Defendants deny that they have violated the law in any way. They contend that Class Members were compensated for all hours worked and were provided meal periods and paid rest breaks as required by California law. The Court has not yet ruled on the merits of this case.

2. What is this class action settlement and how does it work?

In a class action, one or more individuals files a lawsuit on behalf of themselves and other people they believe have similar claims (called “Class Members”). The entities they sue (in this case Lisa Giannini d.b.a. Giannini’s Italian Dinners and 88 Giant Hamburgers To Go) are called the Defendants. Although the Plaintiffs and the Defendants strongly believe in their claims and defenses, they have agreed to settle the case to avoid the time, expense and risks involved in continued litigation. The Settlement creates a Settlement Fund of \$225,000, which will be fully distributed to Class Members after payment of legal fees and expenses, settlement administration fees, a payment to the California Labor and Workforce Development Agency (“LWDA”), an enhancement award to the Plaintiffs and payment of employer-side payroll taxes and contributions.

To become effective, the Settlement must be approved by the Court, whose job it is to determine whether the Settlement is fair, reasonable and adequate. The Court has already granted preliminary approval in this case, and now Class Members have an opportunity to respond to the Settlement if they wish. Class Members may choose to do nothing, object to one or more terms of the Settlement, or request to be excluded from the Settlement. They may also correct information concerning their Compensable Pay Periods (see section 3 below) and/or their address. The Court will then hold a hearing to decide whether to give final approval to the Settlement. If the Court grants final approval, the hearing of which will be on July 13, 2020 at 8:30 a.m., then all Class Members who did not ask to be excluded will remain Class Members, will receive a portion of the settlement funds, and will be deemed to have released claims against Defendants as described in section 13 below.

3. How much money would I receive under the Settlement?

According to Defendants’ employment records, you are a Class Member, meaning that you were employed at Giannini’s at some time during the Class Period. To calculate your share of the Net Settlement Fund, your Compensable Pay Periods will be divided by the total number of Compensable Pay Periods for all Settlement Class Members. This will result in the percentage amount of the Net Settlement Fund you are entitled to.

Defendants’ records indicate the number of Compensable Pay Periods credited to you are as follows:

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- **«PayPeriods»** Compensable Pay Periods at Giannini’s during the Class Period. Compensable Pay Periods are those work weeks for which a Class Member received wages during the Class Period.

This method of calculation entitles you to a payment of approximately **«EstAmount»**, or **«AllocationPercentage»%** of the Net Settlement Fund as detailed in Section 4 below.

If you wish to challenge the above information about the number of Compensable Pay Periods you worked during the Class Period, you may do so by timely submitting a letter to the Settlement Administrator, describing why the number of pay periods is wrong and including any supporting evidence you have (such as paystubs). The Class Counsel or the Settlement Administrator will review your challenge and make the final decision. Your letter must be postmarked no later than May 4, 2020 to: Romero, et al. v. Lisa Giannini, et al., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606. You will receive a written response if your dispute is rejected. You will have an additional 15 calendar days from the original deadline to object or opt out of this settlement.

If you wish to exclude yourself or object to the settlement after challenging the above information, you must still do so with a postmarked exclusion or objection form no later than May 4, 2020.

THE DETAILS OF THE SETTLEMENT

4. The Settlement Fund

Defendants will create a Settlement Fund in the total amount of \$225,000.00 (the “Gross Settlement Fund”) to fully resolve the claims in the Class Action. Those Class Members who submit a valid Claim Form by the due date (“Settlement Class Member”) will be paid that portion of the Gross Settlement Fund that remains after payment of Class Counsel’s attorneys’ fees and litigation expenses, all Settlement Administration expenses, payments to the LWDA, the separate settlement to Plaintiff Jimi Romero, the employer’s share of payroll taxes on the wage portion of the Settlement, and an enhancement award to the Class Representatives. The portion of the fund remaining after these payments is called the Net Settlement Fund, which will be fully distributed to Settlement Class Members as detailed in section 5 below. All of these payments are subject to the final approval of the Court.

5. Settlement Class Member Individual Settlement Amounts

The Net Settlement Fund will be allocated proportionally among Settlement Class Members based on their Compensable Pay Periods (as defined in section 3 above). Individual Settlement Amounts will be determined by dividing the number of Compensable Pay Periods credited to each Settlement Class Member by the total number of Compensable Pay Periods credited to all Settlement Class Members, and then applying the resulting percentage to the Net Settlement Fund. Section 3 above gives you more specifics on what your approximate Individual Settlement Amount may be.

6. Settlement Administration Costs

Subject to Court’s approval, all costs of administering the Settlement (“Settlement Administration Costs”) will be paid from the Gross Settlement Fund. These costs are estimated at \$4,500.00 and include expenses for notifying Class Members of the Settlement, processing claims, and opt-outs submitted by Class Members, resolving disputes, and calculating and distributing settlement amounts.

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7. Attorneys' Fees and Expenses

Subject to Court's approval, reasonable attorneys' fees of up to thirty-five percent (35%) of the Gross Settlement Amount (not to exceed \$78,750.00), will be paid from the Gross Settlement Fund in an amount approved by the Court, as reasonable compensation for the work Class Counsel has performed and will continue to perform in the Class Action through settlement finalization. Expenses incurred by Class Counsel in connection with the Class Action will also be reimbursed from the Gross Settlement Fund, which shall be no more than \$10,000. Expenses incurred by Plaintiffs are separate from the Settlement Administration Costs referenced above.

8. Enhancement Award to Class Representatives

Subject to Court approval, Plaintiffs Jimi Romero and Eddie Romero as Class Representatives will receive an enhancement award from the Gross Settlement Fund not to exceed \$5,000 for Ms. Romero and \$2,500 for Mr. Romero, to compensate them for services on behalf of the Class in initiating and pursuing the action. This payment is in addition to any Individual Settlement Payment the Class Representatives are otherwise entitled to receive as a Settlement Class Member.

9. Payment to the LWDA

Subject to Court's approval, \$4,000 is allocated to resolve the PAGA civil penalty claims under Labor Code § 2698 *et seq.* Seventy-five percent (75%) of this amount (\$3,000) will be paid to the LWDA from the Gross Settlement Fund, and 25% of this amount (\$1,000) will be retained in the Net Settlement Fund for distribution to Settlement Class Members.

10. Uncollected Funds

According to the Settlement, Settlement Class Members have 180 days to cash their checks from the date of issuance. Any remaining funds from uncashed checks will be distributed to Legal Aid at Work, 180 Montgomery Street, Suite 600, San Francisco, CA 94104.

11. Employer Payroll Taxes and Contributions

The amount necessary to pay the employer's share of taxes (e.g., FICA, Medicare, FUTA, and SUTA, as well as any federal and state unemployment tax due) on the wage portion of the Individual Settlement Amounts (see section 12 below) shall not be paid from the Gross Settlement Fund.

12. Tax Treatment of Individual Settlement Amounts

Individual Settlement Amounts shall be allocated as follows: 15% wages, 45% statutory penalties; and 40% interest. The portion of each Individual Settlement Amount representing wages will be subject to legally required employee wage withholdings (such as personal income tax), and this portion will be reported on an IRS Form W-2. The portions of each Individual Settlement Amount constituting interest and penalties will not be subject to withholdings and will be reported on a Form 1099 provided to each Settlement Class Member who receives a portion of the Settlement Fund. Class Members will be solely responsible for any personal income taxes on the amounts reported on a Form 1099 and should consult with their tax advisors about the tax consequences of payments they receive.

13. Class Member Release of Claims

Upon Court approval of the Settlement, Settlement Class Members who do not timely exclude themselves will have released the Defendants and other Releasees from all known and unknown claims that were asserted in the Class Action and all claims that could have been asserted based on the factual or legal allegations of the First Amended Complaint, to the extent such claims arose during the Class Period defined above.

HOW YOU RECEIVE A PAYMENT

14. How can I receive my portion of the Settlement?

In order to receive your portion of the Settlement, you must complete and return the attached Claim Form. If this Notice was sent to you at your current address, you do not need to do anything further to receive any further notices concerning this case. If this Notice was forwarded by the U.S. Postal Service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, you should immediately send a letter to the Settlement Administrator stating your name, and past and current addresses. You must inform the Settlement Administrator in this manner by May 4, 2020. The Settlement Administrator's address and telephone number are:

Romero, et al. v. Lisa Giannini, et al.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Telephone Number: 1-888-927-0227

15. If I remain in the class, what am I giving up?

If you do not exclude yourself, you will be giving up your right to bring your own lawsuit about the wage and hour claims in this case and other Released Claims (as defined in section 13 above).

EXCLUDING YOURSELF FROM THE SETTLEMENT

16. How do I request to be excluded from the Settlement?

If you want to keep the right to independently pursue your own claims, then you must request to be excluded from the Settlement, sometimes referred to as "opting out" of the Class. If you opt out, you will not receive any money from the Settlement, and you will not be bound by its terms. To opt out, you must sign the Request for Exclusion form attached at the end of this notice and it should be postmarked no later than May 4, 2020 to the Settlement Administrator: **Romero, et al. v. Lisa Giannini, et al., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606**. Requests that are postmarked after May 4, 2020 will be rejected, as will unsigned requests that are not timely corrected.

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

If you do not submit a valid and timely Request for Exclusion by May 4, 2020, you will be bound by all terms of the Settlement and any Final Judgment entered in the Class Action and will be deemed to have released the Defendants and all other Releasees from the claims describe in section 13 above. If you have a pending lawsuit against any Releasee, speak to your lawyer in that case immediately. Furthermore, if you have claims unrelated to this lawsuit, you may still sue Defendants, however speak to your lawyer immediately.

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Final Approval Hearing Date: July 13, 2020 at 8:30 a.m.

OBJECTING TO THE SETTLEMENT

18. How do I object if I do not like the Settlement?

If you think the Settlement is unfair, inadequate or unreasonable, or have other reasons why you do not think the Court should approve it, you may object to the Settlement. To object you must submit your objection in a writing to the Settlement Administrator, postmarked no later than May 4, 2020 and stating why you object to the Settlement. You may use the included objection form. Alternatively, you can draft your own objections. For your objection to be considered, an objection must contain the following:

- a. A reference at the top the case name, *Romero, et al. v. Lisa Giannini., et al., Amador County Superior Court, Case No. 18-CV-10852*
- b. Your full name
- c. The basis for your objection
- d. The dates of your employment at Giannini's Italian Dinners and/or 88 Giant Hamburgers To Go
- e. Your signature.
- f. Mail your objection to: Romero, et al. v. Lisa Giannini, et al., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606

You may also retain an attorney to represent you at the hearing at your own expense. If you wish to appear at the hearing, you must indicate this in your written objection and unless you do this you will not be able to appear.

Late objections postmarked after May 4, 2020 will not be considered.

If the Court agrees with your objection, the Parties will decide whether to withdraw the Settlement or change its terms. If the Court rejects your objection, you are still entitled to participate in the Settlement.

19. Can I object to the Settlement and request to be excluded from the Settlement?

By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the Settlement, you must follow the directions described in section 16 above. Please note that you cannot both object to the settlement and exclude yourself. ***You must choose one option only. If you do both, your request for exclusion will be considered invalid, but your objection will be considered.***

20. What happens if I do nothing at all?

By doing nothing, you lose the right to a share in the Settlement Fund, you lose your right to object and your right to pursue any of the Released Claims against any of the Releasees because you will be legally bound by all orders and the judgment of the Court in this Class Action.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing on July 13, 2020, at 8:30 a.m. in the Superior Court of the State of California for the County of Amador, Department 3, 500 Argonaut Lane, Jackson, CA, to determine whether the proposed Settlement is fair, adequate, reasonable and should be finally approved by the Court, with judgment entered accordingly. Judgement will be entered accordingly *only if* the Court approves the Settlement at the final fairness hearing.

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21. May I attend the hearing and speak?

Anyone may attend this hearing. If you are a Class Member and have submitted an objection by May 4, 2020, you may speak

GETTING MORE INFORMATION

This Notice summarizes the proposed Settlement. For a more detailed statement of the matters involved in the lawsuit and the proposed Settlement, you may refer to the pleadings, the Settlement, and other papers filed in the Action, which may be inspected by visiting the Settlement Administrator’s website for this case, www.cptgroup.com/GianniniSettlement, or by accessing the Court’s docket online for free by entering the following URL into your browser: amadorcourt.org.

If you have any questions about this Notice or the Settlement, you may contact:

The Settlement Administrator: Romero, et al. v. Lisa Giannini, et al.,
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Telephone Number: 1-888-927-0227

and/or

<p><u>Plaintiffs’ Class Counsel:</u> Scott Edward Cole, Esq. SCOTT COLE & ASSOCIATES, APC 555 12th Street, Suite 1725 Oakland, California 9460 (510) 891-9800 www.scalaw.com</p>	<p><u>Counsel for Defendants:</u> Randy Thomas, Esq. LAW OFFICE OF RANDY THOMAS 18826 N. Lower Sacramento Rd., Ste. G Woodbridge, CA 95258 (209) 369-9255 www.randythomaslaw.com</p>
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PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS, OR DEFENDANTS’ ATTORNEYS WITH INQUIRIES.

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