

CLASS ACTION/COLLECTIVE ACTION SETTLEMENT NOTICE

Jane Roe v. Jose Torres L.D. Latin Club Bar, Inc. et al.
 United States District Court for the Northern District of California
 Case No. 3:19-cv-06088-LB

YOU MAY BE ENTITLED TO RECEIVE MONEY UNDER A PROPOSED SETTLEMENT**THIS NOTICE MAY AFFECT YOUR RIGHTS****PLEASE READ THE ENTIRE NOTICE CAREFULLY**

*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 whether you act or not.*

«EmployeeName»
 «Address1» «Address2»
 «City», «State» «Zip»

You are receiving this Notice because you are entitled to participate in a class action/collective action Settlement. The purpose of this Notice is to provide a brief description of the claims alleged in the case, inform you about the proposed Settlement, and advise you of your rights and options with respect to the Settlement.

If you take no action and the Court approves the Settlement, you will automatically be mailed a settlement check for your share of the Settlement. You will be bound by the settlement unless you take action to exclude yourself in the manner described in this Notice.

WHY IT IS IMPORTANT TO READ THIS NOTICE:

The United States District Court for the Northern District of California has approved the sending of this Notice regarding the proposed settlement of the class action/collective action known as *Jane Roe v. Jose Torres L.D. Latin Club Bar, Inc. et al.*, United States District Court for the Northern District of California, Case No. 3:19-cv-06088-LB (the “Action”).

Because your rights may be affected by this Settlement, it is extremely important that you read this Class Action/Collective Action Settlement Notice (the “Notice”) carefully.

You are a “Class Member” in this Action.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT (SEE PAGE 5 FOR MORE DETAILS)	
DO NOTHING	If you do nothing, you will automatically be mailed a check for your share of the settlement funds, and will release claims under California state law. If and when you sign, deposit, and/or cash your check, you will also release claims under the Fair Labor Standards Act (“FLSA”).
EXCLUDE YOURSELF (“OPT OUT”)	You may exclude yourself from the Settlement by submitting a letter as described below. If you request to be excluded, you will not be releasing any claims, except that claims for certain penalties authorized under the California Private Attorney’s General Act (“PAGA”) will be released regardless of whether you exclude yourself or not. If you exclude yourself, you may not object to the Settlement.
OBJECT	You can object to the Settlement as described below, and ask the Court to deny the Settlement. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you submit an objection, you do not need to come to Court to discuss it. So long as it is a timely and valid objection, the Court will consider it. You cannot object to the Settlement if you have excluded yourself from the Settlement.

WHAT THE CASE IS ABOUT:

The Plaintiff in the Action is an individual who has performed as an exotic dancer at the Defendant's Nightclub during the time period from December 4, 2013, through May 14, 2020 pursuant to a written "independent contractor" agreement. The Defendant is Jose Torres L.D. Latin Club Bar, Inc. d/b/a Hanky Panky Club ("Defendant").

Through the Action, Plaintiff has alleged claims against Defendant for: (1) failure to pay minimum wages and overtime wages in violation of federal law; (2) failure to pay straight time for hours worked in violation of the California law; (3) failure to pay overtime as required by California state law; (4) failure to provide itemized wage statements in violation of California law; (5) waiting time penalties under California law; (6) failure to pay all wages owed every pay period under California law; (7) common law conversion; (8) failure to reimburse for expenses in violation of California law; (9) violation of California's Unfair Competition Law; (10) violation of the Redwood City Minimum Wage Ordinance; and (11) violation of several provisions of the California Labor Code for which Plaintiff is seeking recovery of civil penalties under the Private Attorneys General Act of 2004, California Labor Code § 2698 *et seq.* ("PAGA"). Plaintiff has sought various forms of relief, including but not limited to: wages, overtime pay, minimum wage, premium pay, penalties, interest, liquidated damages, attorneys' fees and costs, and equitable relief. Plaintiff has claimed that the alleged violations of law occurred between December 4, 2013 and May 14, 2020 (a period of time referred to as the "Class Period").

Defendant has denied these claims and responded that all of the dancers worked under an independent contractor agreement as independent contractors, who received tips and dance fees from customers, and were not employees.

If you wish to learn more details regarding the claims at stake in the Action, please review the Second Amended Complaint, which is available at www.cptgroup.com/LatinClubSettlement.

Plaintiff has contended that this Action is suitable for class treatment. Defendant has vigorously denied that it violated any laws, asserted that the class members were independent contractors rather than employees and has denied that it engaged in any wrongdoing. Defendant contends that it has complied with all applicable laws at all times and also dispute Plaintiff's ability to maintain the case as a class action, arguing that, among other things, each of Plaintiff's claims arise from very individualized and unique circumstances which would require numerous individualized inquiries.

In an effort to resolve their contested dispute, the parties mediated this case with the assistance of an impartial mediator, Robert T. Fries. The mediation resulted in this Settlement. The Court has not ruled on the merits of Plaintiff's claims or Defendant's defenses. Although Defendant denies all of the Plaintiff's allegations, denies that it violated the law, and denies that the Action should be maintained as a class action, it has chosen to resolve this matter based upon the terms and conditions set forth in the Settlement Agreement now before the Court for approval in order to avoid further expenditures of time and money litigating this matter. By entering into this Settlement, Defendant does not admit any liability or wrongdoing of any kind.

THE PARTIES AND THE ATTORNEYS IN THIS CASE:

The Class is comprised of approximately ninety (90) people who, during the time period from December 4, 2013, through May 14, 2020 have performed as exotic dancers at Defendant's Nightclub pursuant to an "independent contractor" agreement. If you are part of the Class, you are a Class Member.

If the Settlement is approved, all Class Members who do not timely and properly exclude themselves from, or opt-out of, the Settlement will be part of the Settlement Class and will be Settlement Class Members, and will automatically be mailed settlement checks.

The attorneys who represent the Class (also known as "Class Counsel") are:

The Tidrick Law Firm LLP

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Class Action/Collective Action Settlement Notice

Steven G. Tidrick, Esq.
 Joel B. Young, Esq.
 1300 Clay Street, Suite 600, Oakland, CA 94612
 Telephone: (510) 788-5100

If you do not request exclusion (as explained later in this Notice), the lawyers above will represent you automatically. The Court has decided that the lawyers listed above are qualified to represent you and all Class Members. However, nothing prohibits you from consulting with or retaining your own attorney at your own personal expense.

THE SETTLEMENT:

The following is a summary of monetary terms of the proposed Settlement:

1. Gross Amount of the Settlement

Without admitting liability, and in full and final settlement of the Action, Defendant has agreed to pay One Hundred Thirty-Five Thousand Dollars (\$135,000.00) (the “Gross Settlement Value”). That is the amount of the Cash Pool (\$135,000.00).

2. Distribution of the Settlement Funds

The following is a summary of how settlement funds will be distributed, if approved by the Court:

Cash Pool & Payments

- a. **Cash Pool**: The sum of \$135,000 to be paid by Defendant will provide cash compensation to Settlement Class Members who do not exclude themselves from the settlement, and to pay the Attorneys’ Fees and Expenses, the Service Award, the PAGA Payment, and the Administrative Costs. The Cash Pool (\$135,000) minus amounts paid to the LWDA (\$1,500), minus any service award paid to the Class Representative (up to a maximum of \$10,000), minus Administrative Costs (estimated at no more than \$10,000), minus any payment of Class Counsel’s attorneys’ fees and costs (up to a maximum of \$38,750), is the “Net Settlement Amount.” The Net Settlement Amount is estimated to be \$74,750.
- b. **Cash Payments**: Cash Payments shall be calculated in accordance with the following Plan of Allocation. The Net Settlement Amount shall be distributed to Settlement Class members *pro-rata* based on the number of “Performance Months” (defined as any calendar month during the Class Period in which a Class Member had at least one date of performance—*i.e.*, a connected block of time that the Class Member was at the Nightclub to perform, regardless of the fact that the date extended over more than one calendar day) worked during the Class Period (which is, as noted, is the time period from December 4, 2013 through the date of the Court’s order granting preliminary approval of the Parties’ settlement). Within fourteen (14) days after entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the number of Performance Months accrued by each Settlement Class Member during the Class Period. Settlement checks will be mailed. Settlement checks shall expire 120 days from the date of issuance by the Settlement Administrator. The value of any expired checks shall be paid to the *cy pres* recipient(s).
- c. **Service Award**: Class Counsel will ask the court to award the class representative a service award of up to \$10,000 for her service and assistance to the Class.
- d. **The PAGA Payment**: Plaintiff’s PAGA Claims include an allegation that Defendant violated California Labor Code § 558, which Named Plaintiff contended entitled her to recover, as a penalty under PAGA, unpaid wages on behalf of Class Members. Defendant’s payment of funds to the Cash Pool resolves the PAGA Claims premised on California Labor Code § 558. In addition, the sum of \$2,000.00 will be paid out of the Cash Pool to resolve all PAGA Claims premised on other alleged Labor Code violations. From the PAGA Payment, seventy-five percent (75%), or \$1,500.00, shall be paid to the LWDA as civil

penalties pursuant to PAGA and twenty-five percent (25%), or \$500.00, shall be distributed to Settlement Class members in equal amounts.

- e. Administrative Costs: Cash Pool funds estimated at no more than \$10,000.00 shall be paid to the Settlement Administrator for the administrative costs of settlement, including but not limited to the preparation and copying of Class Notice, mailing of the Class Notice, and other administrative tasks. If these Administrative Costs exceed \$10,000.00, any additional monies for Administrative Costs shall be paid solely from the Cash Pool. If Administrative Costs do not reach \$10,000.00, the remaining amount shall revert to the Cash Pool.
- f. Attorneys' Fees and Expenses: Class Counsel will ask the Court to award Attorneys' Fees and Expenses to compensate Class Counsel for its fees, costs, and expenses incurred in connection with the Action, which shall not be more than \$33,750 in fees (*i.e.*, 25% of the Cash Pool) and \$5,000 in costs and expenses.
- g. All payments set forth herein, except for the payment to the LWDA in satisfaction of Plaintiff's PAGA claim, are payments for which the Settlement Administrator shall issue form 1099-MISC statements to Plaintiff, Settlement Class members, and Class Counsel. Nothing in the settlement or this Notice shall be construed as Class Counsel, Defense Counsel, Defendant, or the Released Parties providing any advice regarding the payment of taxes for the tax consequences of participation in any portion of the settlement. Nothing in this Notice or the Settlement is intended to be tax advice. You should consult your tax advisor for any tax issues pertaining to this Settlement.

The description above is a summary. If you wish to review the details, please review the Settlement Agreement, which is available at: www.cptgroup.com/LatinClubSettlement.

RELEASES OF CLAIMS:

Because this Action is a class action under Rule 23 of the Federal Rule of Civil Procedure and a collective action under the FLSA, there are two sets of releases, which are summarized below.

- (1) If you do not sign, deposit, and/or cash your settlement check, you will still be a part of the Settlement Class. You will be bound by the Settlement as summarized below in the section entitled "Settlement Class Members' Released Claims," unless you have timely excluded yourself in the manner described in this Notice.
- (2) If you sign, deposit, and/or cash your settlement check, you are or will become a party plaintiff pursuant to Section 216(b) of the FLSA, and will be subject to the release summarized below in the section entitled "Cash Pool Claimants' Released Claims."

1. Settlement Class Members' Released Claims

If you do not sign, deposit, and/or cash your settlement check and if you do not exclude yourself in the manner described below, you will release the following claims: Any and all Claims that are based on or reasonably related to the Claims asserted in the Action, including as is set forth in the Amended Complaint, which is available at www.cptgroup.com/LatinClubSettlement, **with the exception of claims under the FLSA**. As detailed in the Settlement Agreement, this release includes claims based on or reasonably related to the claims asserted in the litigation, including without limitation claims under the FLSA and state law for unpaid minimum wage, unpaid overtime, unpaid final wages, unpaid meal and rest period premium pay, reimbursement of expenses, to recover unpaid tips, as well as all claims for interest, penalties, liquidated damages, or attorneys' fees and costs.

2. Cash Pool Claimants' Released Claims

If you sign, deposit, and/or cash your settlement check, you will release all of the claims described in the above section entitled “Settlement Class Members’ Released Claims,” and all claims that have been or could have been brought in this Action under the FLSA.

This is a summary of the releases. If you wish to review the releases in detail, please review the Settlement Agreement, which is available at: www.cptgroup.com/LatinClubSettlement.

WHAT TO DO IN RESPONSE TO THIS NOTICE:

You have the options described below. Each option has its own consequences, which you should understand before making your decision. Your rights regarding each option, and the procedure you must follow to select each option, follow.

1. **Do Nothing.** If you do nothing and the Court approves the settlement, you will automatically be mailed a settlement check. You will remain a part of the case and you will release claims under the FLSA and California law that were or could have been brought in the Action, as set forth more fully in the section of this notice entitled “Settlement Class Members’ Released Claims.”
2. **Exclude Yourself.** You may exclude yourself from the Settlement by submitting a letter in accordance with the directions in this paragraph. This is the only option that could allow you to bring your own lawsuit or claim under California state law, or to be a part of another lawsuit against Defendant making such claims; however, even if you exclude yourself, you and all other Class Members will still be bound by a release of claims under the California Labor Code Private Attorneys General Act of 2004 codified at Labor Code § 2699 *et seq.* (“PAGA”). To exclude yourself from the Settlement, you must send a letter by mail that includes the words: “I request to be excluded from the Jose Torres Settlement.” You must sign the letter and include your full name, address, and telephone number. Your letter must be **postmarked no later than August 3, 2020** and mailed to the Settlement Administrator at the address listed at the end of this Notice. If you request to be excluded in accordance with the directions in this paragraph, you will not be releasing any claims under California state law, except for PAGA claims. ***If you exclude yourself, you may not object.*** Excluding yourself is telling the Court that you don’t want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.
3. **Object.** You can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a larger settlement; the Court can only approve or deny the settlement. If the Court denies approval, no settlement payments will be sent out, no settlement benefits will be provided by Defendant, and the lawsuit will continue. If that is what you want to happen, you must object. You may object to the proposed settlement in writing. You may also appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney. All written objections and supporting papers must contain at least the following: (i) your full name, or, if you wish to preserve your right to privacy, the name under which you performed at the Nightclub, (ii) you or your legally authorized representative’s signature, (iii) the address and telephone number at which your or your legally authorized representative can be contacted; (iv) a clear reference to the Action; (v) the nature of the objection; and (vi) a statement whether you intend to appear at the hearing on Plaintiff’s motion for final approval, either in person or through counsel and, if through counsel, a statement identifying that counsel by name, bar number, address, and telephone number. Objections must be mailed to the Settlement Administrator postmarked on or before **August 3, 2020**. If you submit an objection, you don’t have to come to Court to talk about it. As long as you submit a timely, valid written objection, the Court will consider it. If you exclude yourself from the Settlement, you may not object.

FINAL APPROVAL HEARING ON PROPOSED SETTLEMENT

The Final Approval Hearing on the fairness and adequacy of the proposed Settlement, the plan of distribution, Settlement Class Counsel’s request for attorneys’ fees and costs, and the request for Service Award will be held on August 27, 2020, at 9:30 a.m., at Courtroom B of the Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco on the 15th Floor. The Final Approval Hearing may be

rescheduled to a different date, time, or location without further notice. You may, but are not required to attend the Final Approval Hearing. No Class Member will be prohibited from speaking at the Final Approval Hearing.

CLASS COUNSEL RECOMMEND THE SETTLEMENT:

The settlement was reached with the assistance of an impartial mediator, Robert T. Fries. Class Counsel (the attorneys who were appointed by the Court to represent the Settlement Class) strongly recommend that you accept the Settlement. Defendant disputes all of the claims and have raised numerous defenses. In light of the substantial risk that you might receive less, or nothing at all, if the case proceeds to trial, Class Counsel believe that the Settlement is in your best interests, and is a reasonable compromise of disputed claims.

HOW TO OBTAIN ADDITIONAL INFORMATION:

This Notice only summarizes the class action lawsuit, the Settlement, and related matters. For the precise terms and conditions of the settlement, please see the settlement agreement available at www.cptgroup.com/LatinClubSettlement, by contacting class counsel at 510-788-5100, by accessing the Court docket in this case through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, 450 Golden Gate Avenue, 16th Floor, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays. The motion for attorneys' fees, costs, and service award will also be available on the websites specified above.

IF YOU HAVE QUESTIONS ABOUT THIS NOTICE, PLEASE CALL THE SETTLEMENT ADMINISTRATOR:

Roe v. Jose Torres L.D. Latin Club Bar, Inc.
c/o CPT Group, Inc.
50 Corporate Park, Irvine, CA 92606
Telephone: 888-416-1704

You may also call Class Counsel:

The Tidrick Law Firm LLP
Steven G. Tidrick, Esq.
Joel B. Young, Esq.
1300 Clay Street, Suite 600, Oakland, CA 94612
Telephone: (510) 788-5100

DATED: June 4, 2020