

NOTICE OF CLASS ACTION AND PRIVATE ATTORNEY GENERAL ACT (“PAGA”) SETTLEMENT

**CALIFORNIA SUPERIOR COURT
CONTRA COSTA COUNTY**

Case No. MSC20-01257

Marco DiMercurio, et al.

Plaintiffs,

v.

Martinez Refining Company LLC, et al.

Defendants.

**READ THIS NOTICE CAREFULLY
REGARDING YOUR ENTITLEMENT TO
COMPENSATION FROM THIS SETTLEMENT
AND RELATED LEGAL RIGHTS**

ATTN: «EmployeeName»

TO: ALL OPERATORS WORKING AT MARTINEZ REFINING CO.’S REFINERY IN MARTINEZ, CALIFORNIA, WHO DURING THEIR PAST AND CURRENT EMPLOYMENT WITH DEFENDANT WERE SCHEDULED FOR STANDBY AT ANY TIME FROM FEBRUARY 1, 2020 THROUGH AUGUST 31, 2022 (“CLASS” or “CLASS MEMBERS”).

This Notice is regarding a proposed settlement (“Settlement”) of *DiMercurio v. Martinez Refining Company LLC*, Contra Costa Superior Court Case No. MSC20-01257, a class action lawsuit (“Lawsuit”), and has been authorized by the Superior Court of California for the County of Contra Costa (“the Court”). This is not a solicitation from a lawyer.

A proposed Settlement has been reached in the Lawsuit, brought by one current and one former Operator employed at Martinez Refining Company LLC’s refinery in Martinez, California (“Plaintiffs” or “Class Representatives”). The Settlement has been granted preliminary approval by the Court. A final settlement hearing will be held on January 18, 2024, at 9:00 a.m. in Department 12, located at 725 Court Street, Martinez, CA, 94553 (“Final Approval Hearing”).

The purpose of this Notice is to: (1) describe the Lawsuit, (2) inform you of the terms of the Settlement and an estimate of how much you will receive, and (3) inform you of your rights and options in connection with the Settlement.

You are estimated to receive payment from this Settlement of «estAmount».

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING	If you do nothing in response to this notice, you will remain in the Class, receive a settlement payment and release all claims covered by this Settlement.
CHALLENGE YOUR PAYMENT (BY JANUARY 6, 2024)	If you believe the information in Section 5, below, is incorrect and wish to dispute it, you must submit your challenge and describe the information you disagree with. Your dispute must be submitted by January 6, 2024. Class Counsel and Defense Counsel will make a final and binding determination regarding any disputes. You will receive a settlement payment and release all claims covered by this Settlement after the dispute is resolved.
EXCLUDE YOURSELF OR “OPT OUT” (BY JANUARY 6, 2024)	If you “opt out” of the Settlement, you will not receive any payment from the Net Settlement Amount. In addition, the release of claims in the Settlement Agreement will not apply to you. You must notify the Settlement Administrator of your intent to opt out by January 6, 2024.

OBJECT (BY JANUARY 6, 2024)	You may write an objection to the Court stating why you do not like the Settlement. You may also write an objection to the fees and costs requested by Class Counsel. You may also appear in Court or use an attorney to appear for you and explain why you do not like the Settlement or the request for fees and costs. If you object, this does not mean you opt out of the class (in fact, if you opt out of the class, you will not be permitted to object to the settlement terms). You must submit your objection to the Court by January 6, 2024.
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1. WHAT IS THIS LAWSUIT ABOUT?

The Lawsuit claims, generally, that Defendant Martinez Refining Company LLC (hereafter “Martinez Refining”) violated provisions of the California Labor Code and Wage Order by: (1) failing to pay reporting time pay when operators were scheduled for “Standby Shifts”; (2) willfully failing to pay required reporting time pay upon termination; and (3) failing to provide accurate itemized wage statements. The Lawsuit also claims these violations amounted to unfair business practices under the California Business and Professions Code, and make Martinez Refining liable for civil penalties under the Private Attorneys General Act (PAGA). Martinez Refining disputes the claims and denies allegations that they violated California law. The Parties are confident each side has strong legal and factual positions to support their claims and defenses, but both sides recognize the risks and expenses associated with continued litigation.

The parties in the case have agreed to settle the Lawsuit and have entered into a written settlement (the “Settlement Agreement”), which the Court has preliminarily approved.

This Settlement is the result of good faith, arm’s length negotiations between the Class Representatives and Martinez Refining, through their respective attorneys. Both sides agree that in light of the risks and expenses associated with continued litigation, the Settlement is fair and appropriate under the circumstances, and in the best interests of the Class Members.

The Court has not yet ruled on the merits of the Class Representatives’ claims or Defendants’ defenses. The Settlement is a compromise and is not an admission of liability on the part of Defendants.

2. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action lawsuit, one or more people, called “Class Representatives,” sue on behalf of themselves and others who have similar claims. All these people together are a “Class” or “Class Members.” One court resolves the issues for everyone in the Class—except for those people who choose to exclude themselves through a process called “opting out.” If the Court approves the settlement, people who remain in the Class may not file their own lawsuit on the issues that were resolved in the class action.

The Court has certified the class action for settlement purposes only, and, therefore you are receiving this notice as a member of the Settlement Class; should the Court not grant the Settlement final approval, the parties will litigate, and the Court will have to determine whether the case can proceed to trial as a class action. For purposes of the settlement, the Court has approved Plaintiffs Marco DiMercurio and John Langlitz to serve as the Class Representatives and has also approved the law firms of Weinberg Roger & Rosenfeld and Leonard Carder to serve as “Class Counsel.”

3. WHO IS IN THE CLASS?

The Settlement Class is defined as: All Operators working at Defendant Martinez Refining’s refinery in Martinez, California (“Refinery”), who during their past and current employment with Defendant were scheduled for standby at any time from February 1, 2020, through August 31, 2022 (the “Class Period”).

4. WHAT DOES THE SETTLEMENT PROVIDE?

Defendant Martinez Refining has agreed to create a settlement fund of \$1,224,210 to settle this case (the “Gross Settlement Amount”). The Gross Settlement Amount will be divided among all Settlement Class Members, after deducting all sums approved by the Court for Plaintiffs’ lawyers’ fees (up to \$408,070) and expenses (\$18,000), payments to the Plaintiffs for

their service to the Class (up to \$15,000 total), payment to the State of California required by the Private Attorneys General Act (\$18,750) and payments to the Settlement Administrator (up to \$11,500) to finalize the settlement.

5. HOW MUCH CAN I GET FROM THE SETTLEMENT?

The Net Settlement Fund will be distributed to Settlement Class Members who do not exclude themselves from the Class. After deducting the amounts described above (Section 4), each Class Member who does not opt out shall receive a proportionate share of the settlement, calculated based on the number of weeks that individual was employed (and not out on a leave of absence) as an Operator with Martinez Refining during the Class Period.

Martinez Refining’s records show that you were employed «Workweeks» weeks as an Operator during the Class Period. Based on this information your estimated settlement share is currently «estAmount» (“Settlement Payment”). This amount is subject to change, either more or less, depending on rulings to be made by the Court at the Final Approval Hearing or subsequent written order.

If you dispute the number of weeks used to calculate your award, you may contact the Settlement Administrator, as discussed in Section 6(ii) below.

Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member. None of the Parties or Parties’ attorneys make any representations concerning the tax consequences of the Settlement or your participation in it. Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Members are solely responsible for determining the tax consequences of payments made pursuant to the Settlement and for paying taxes, if any, which are determined to be owed by each of them on such payments (including penalties and interest related thereto) by any taxing authority, whether state, local, or federal.

6. WHAT ARE MY OPTIONS?

You have the following options with respect to the settlement:

(i) Stay in the Settlement Class

If you stay in the Class and the Court grants final approval of the Settlement, you will receive your Settlement Payment. In exchange, you give up the right to sue Defendant for the claims resolved through this settlement.

To ensure you receive your Settlement Payment, all you need to do is keep the Settlement Administrator informed of your current mailing address. Once the Court grants final approval of the Settlement, the Settlement Administrator will mail your check to the address on file for you.

(ii) Dispute the Information Used to Calculate Your Settlement Payment

The amount of your estimated settlement payment is based on the number of weeks you were employed as an Operator between February 1, 2020 through August 31, 2022, according to Martinez Refining’s records. If you do not believe that the number of weeks is correct, you may dispute those numbers. Any such dispute must be mailed to the Settlement Administrator and **post-marked on or before January 6, 2024** at the following address:

DiMercurio, et al. v. Martinez Refining Company, LLC
c/o CPT Group, Inc.
50 Corporate Park,
Irvine, CA 92606

Disputes must state what you believe to be the correct values for these items and must be accompanied by any documentation you have to support your dispute. In addition, your dispute must include the case name and number (*DiMercurio, et al., v. Martinez Refining Co. LLC, Case No. MSC20-01257*), your first and last name, signature, address, phone number, and last

four digits of social security number for verification purposes. Sending a dispute will not risk your right to a settlement payment.

Settlement Class Counsel and Defense Counsel will make a final and binding determination regarding any disputes. The Settlement Administrator will inform you of the final determination. If the Settlement receives the Court's final approval, your Settlement Payment check will be sent to you at the address on this Notice.

(iii) Opting Out of Class and Settlement Agreement

You can elect to not be part of the Settlement Class and not be bound by this Settlement Agreement, provided that you mail a signed written request to be excluded to the Settlement Administrator so that it is received no later than **January 6, 2024**.

If you wish to opt out of the Settlement, you must set forth the following in writing: (a) the case name and number, *DiMercurio, et al., v. Martinez Refining Co. LLC, Case No. MSC20-01257*; (b) your full name, address, and telephone number; (c) the term "Request for Exclusion" or "Opt-Out" at or near the top of the document; and (d) a statement that you want to opt-out and understand s/he will not receive any benefit under the Settlement.

You must personally sign the opt-out request. You may not opt out by having a request to opt-out submitted by an actual or purported agent or attorney acting on your behalf. If you do not submit a request to opt out that is substantially in compliance with this section within the deadline set by the Court, you shall be deemed to participate in the Settlement, be bound by all releases provided in this Settlement Agreement, and you shall be issued your Settlement Payment.

If you timely submit an executed Opt Out Request and the Settlement receives the Court's final approval, you will have no further role in the Class, and for all purposes, you will be regarded as if you never were either a party to the Lawsuit or a Class Member, and thus you will not be entitled to any benefit as a result of the Settlement and will not be entitled to or permitted to assert an objection to the Settlement or to Settlement Class Counsels' request for fees and costs.

(iv) Object to the Settlement and Settlement Class Counsels' Request for Fees and Costs

You can ask the Court to deny approval of the Settlement and/or deny Class Counsel's request for attorneys' fees and costs by filing an objection. You can't ask the Court to order a different settlement or pay you a larger settlement payment; the Court can only approve or reject the Settlement described in this notice. If the Court denies the Settlement, no settlement payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object. As for Class Counsels' request for attorneys' fees and costs, you can ask the Court to not award the fees and costs sought by Class Counsel or to award fees and costs in lesser amounts than sought by Class Counsel. **You cannot object to the Settlement or Class Counsels' request for attorneys' fees and costs if you request exclusion from the Settlement Class (i.e., if you opt-out),** as provided above.

You may object to the Settlement and/or to Class Counsels' request for fees and costs before final approval of the settlement by the Court. In order to object to the Settlement or any portion of it or to the request for fees and costs, all written objections and supporting papers must:

- (a) Clearly identify the case name and number (*DiMercurio, et al., v. Martinez Refining Co. LLC, Case No. MSC20-01257*);
- (b) Be submitted to the Court either by mailing them to the Superior Court of California for the County of Contra Costa, Department 12, 725 Court Street, Martinez, CA, 94553, or by filing them in person at the Superior Court of California for the County of Contra Costa; and
- (c) Be filed or postmarked on or before **January 6, 2024**.

Your objection must include: 1) your first and last name, address, phone number, and last four digits of social security number for verification purposes; 2) signed by you or your attorney; and 3) a statement of reasons why you believe Court should not approve the Settlement and/or Settlement Class Counsels' request for fees and costs.

While the Court may permit objections to be filed up until the date of the Final Approval Hearing, you will only be assured that your objection will be considered if you file the objection with the Court by the **January 6, 2024** deadline.

Any Class Member who does not object to the Settlement in the manner described above shall be deemed to have waived any objections and shall be foreclosed from objecting to the fairness or adequacy of the Settlement, the payment of attorneys' fees and costs, the Service Awards to the Class Representatives, the claims process, and any and all other aspects of the Settlement. Even if you file an objection, you will be bound by the terms of the Settlement, including applicable releases as set forth above, unless the Court does not finally approve the Settlement.

7. WHAT IS THE DIFFERENCE BETWEEN OBJECTING AND OPTING OUT OF THE SETTLEMENT?

If you object, you are telling the Court that you disagree with something in the Settlement and you are asking the Court to reject the Settlement. You may also object to Settlement Class Counsels' request for fees and costs. You still stay in the Class. If you object, but the Court still approves the Settlement and/or the request for fees and costs, you will be bound by the Settlement you will receive your Settlement Payment.

If you request to opt out/be excluded from the Class, you are telling the Court that you do not want to be part of the Class. You will not receive any payment and will not be bound by any of the terms of the Settlement. You would then have no basis to object, because the Settlement would no longer affect you.

8. WHAT AM I GIVING UP BY GETTING A SETTLEMENT PAYMENT?

Accepting a Settlement Payment means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by the Settlement. It also means that all of the Court's orders concerning the Settlement will apply to you and legally bind you.

9. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE SETTLEMENT?

The Court has preliminarily approved the Settlement and will hold a hearing, called a "Final Approval Hearing," to decide whether to give final approval to the settlement. The Final Approval Hearing will be held on **January 18, 2024, at 9:00 a.m.** in Department 12 of the California Superior Court, Contra Costa County, located at 725 Court Street, Martinez, CA, 94553. At the hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court will listen to Class Members who have asked to speak at the hearing. The Court will also consider how much money to award Class Counsel and the amount of the enhancement payments to the named Plaintiffs/Class Representatives. After the Final Approval hearing, the Court will decide whether to approve the Settlement and will rule on Class Counsel's Motion for Attorneys' Fees and/or Expenses, the class representative service award for the named Plaintiffs/Class Representatives, and the Settlement Administrator's expenses.

In light of the continuing COVID-19 public health emergency, the Final Approval hearing may be conducted either by teleconference or videoconference. The Court will provide information on how the hearing will be conducted prior to the date of the hearing. The date of the hearing may change without further notice. You should consult www.cptgroupcaseinfo.com/martinezrefiningcompanysettlement or contact Settlement Class Counsel at least three (3) days prior to the hearing for additional information regarding the Final Approval Hearing.

10. DO I HAVE TO COME TO THE HEARING?

No. Settlement Class Counsel will answer any questions the Court may have. However, you have the right to attend the Final Approval Hearing and be represented by your own lawyer at your own expense. If you file an objection, you don't need to come to the Final Approval Hearing to talk about it. As long as your objection was filed on time the Court will consider it.

11. DO I HAVE A LAWYER IN THIS CASE?

You do not need to hire your own lawyer. The Court has decided that the interests of the Class, including you, are represented by:

WEINBERG ROGER & ROSENFELD

Kristina L. Hillman, Jannah V. Manansala, Roberta D. Perkins, Caitlin Gray, Alexander Nazarov, Maximillian D. Casillas
1375 55th Street
Emeryville, CA 94608
Tel: (510) 337-1001

LEONARD CARDER LLP

Aaron Kaufmann, David Pogrel and Amanda Eaton
1999 Harrison Street, Suite 2700
Oakland, CA 94612
Telephone: (510) 272-0169

These lawyers will be paid from the settlement amount, so you will not be charged personally for their fees and costs on this case and in negotiating this settlement. The lawyers are requesting one-third (1/3) of the Settlement Amount as their fees (\$408,070) and up to \$18,000 for reimbursement of the expenses they paid to bring the Lawsuit.

Class Counsel's application for an award of attorney's fees and costs will be filed with the court by December 22, 2023 and may be viewed online at www.cptgroupcaseinfo.com/martinezrefiningcompanysettlement or in the court file at the California Superior Court, Contra Costa County, located at 725 Court Street, Martinez, CA, 94553. You have a right to express your opinion about this request and the final decision on payment to the lawyers will be made by the Court. If you want to be represented by your own lawyer, you may hire one at your own expense.

12. HOW DO I GET MORE INFORMATION?

This notice summarizes the proposed Settlement. For the precise terms and conditions of the Settlement, please see the Settlement Agreement available at www.cptgroupcaseinfo.com/martinezrefiningcompanysettlement. At that same webpage, you will also be able to access Class Counsels' application for attorneys' fees and expense reimbursement. You may also contact Class Counsel listed under Question 11 above; access the Court docket in this case, for a fee, through the Contra Costa County Superior Court's website; or visit the office of the Clerk of the Court for the California Superior Court, Contra Costa County, located at 725 Court Street, Martinez, CA, 94553.

13. WHAT HAPPENS IF MY ADDRESS HAS CHANGED OR CHANGES?

Your payment will be sent to the address on this Notice. Therefore, if your address changes or is different from the one this Notice was sent to, you must correct it by notifying the Settlement Administrator in writing, by First-Class U.S. Mail.

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS