

NOTICE OF CLASS ACTION SETTLEMENT

Herrera v. Pomona Quality Foam, LLC, et al.

ATTN: <<FullName>>

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Notice because Defendant’s records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced matter.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the settlement, your legal rights may be affected.

This Notice is designed to advise you of your rights and options with respect to the settlement.

By order of the Superior Court of California for the County of Los Angeles (the “Court” or “Los Angeles County Superior Court”), you are notified that: preliminary approval of a class action settlement reached between Gabriella Herrera (“Plaintiff”) and Defendant Pomona Quality Foam, LLC (“Defendant”), was granted on May 3, 2021, in the case entitled *Herrera v. Pomona Quality Foam, LLC, et al.*, Los Angeles County Superior Court Case No. 19STCV38235, which may affect your legal rights.

If you are a Class Member (or member of the Class), you need not take any action to receive a settlement payment, but you have the opportunity to request exclusion from the settlement (in which case you will not receive payment under the settlement), object to the settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Section III below.

I. IMPORTANT DEFINITIONS

“Class Member” means all current and former non-exempt employees of Defendant who worked in California at any time from October 25, 2015 to December 3, 2020.

“Class Period” means the time period from October 25, 2015 to December 3, 2020.

II. BACKGROUND OF THE ACTION

On October 25, 2019, Plaintiff Gabriella Herrera filed a complaint in the Superior Court of California, County of Los Angeles, entitled *Herrera v. Pomona Quality Foam, LLC, et al.*, Case No. 19STCV38235 (“Action” or “Litigation”). Plaintiff alleged on behalf of herself and the Class claims for (1) Failure to Pay Minimum Wages, (2) Failure to Pay Wages and Overtime under Labor Code § 510, (3) Rest Period Liability under Labor Code § 226.7; (4) Violation of Labor Code § 226(a), (5) Violation of Labor Code § 203, (6) Reimbursement of Necessary Expenditures under Labor Code § 2802, and (7) Violation of Business & Professions Code § 17200, *et seq.*

On February 13, 2020, Plaintiff filed her First Amended Complaint which added an additional cause of action for penalties pursuant to Labor Code § 2699, *et seq.* On November 5, 2020, Plaintiff filed her Second Amended Complaint which added an additional cause of action for meal break violations under Labor Code § 226.7.

Plaintiff alleged that Defendant violated the California Labor Code and California Business and Professions

Code with respect to herself and the Class Members by, *inter alia*, failing to properly pay for all hours worked, failing to provide timely meal and rest breaks or one hour of premium pay in lieu thereof, for failing to reimburse all necessary business expenditures, failing to provide accurate wage statements, and associated waiting time penalties thereby engaging in unfair business practices and owing penalties under the Private Attorneys General Act, California Labor Code section 2698, *et seq.* (“PAGA”).

Defendant denies all of the allegations in the Action or that it violated any law. Defendant contends that at all times it has fully complied with all applicable federal, state, and local laws. Defendant further contends that it paid employees for all time worked, accurately recorded all hours worked, enforced California compliant meal and rest periods or provided one hour of premium pay in lieu thereof, and reimbursed any employees for any business expenses which they paid or incurred. It is Defendant’s position that, if litigation continued, class certification would be denied on all claims and/or the claims would be subject to motions for summary adjudication and/or summary judgment. Defendant contends that the theories put forth by the Plaintiff in the Action are contrary to the facts and that the PAGA claim lacks merit. Defendant further contends that the Plaintiff is not an adequate class representative, her claims are not typical of the Class Members; and individual issues predominate over common ones.

On September 3, 2020, the Parties participated in one full-day mediation session with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Joint Stipulation of Class Action Settlement (“Settlement” or “Settlement Agreement”).

On May 3, 2021, the Court entered an order preliminarily approving the Settlement. The Court has appointed CPT Group, Inc. as the administrator of the settlement (“Settlement Administrator”), Plaintiff as representative of the Class (“Class Representative”), and the following law firms as counsel for the Class (“Class Counsel”):

David Yeremian
Jason Rothman
David Yeremian & Associates Inc.
535 North Brand Blvd, Suite 705
Glendale, California 91203

The settlement represents a compromise and settlement of highly disputed claims. Nothing in the settlement is intended or will be construed as an admission by Defendant that the claims in the Action have merit or that Defendant has any liability to Plaintiff or to Class Members. Plaintiff and Defendant, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the settlement is fair, reasonable and adequate, and that the settlement is in the best interests of the Class Members.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total Maximum Settlement Amount is One Hundred and Seventy-Five Thousand Dollars and Zero Cents (\$175,000.00) (the “Maximum Settlement Amount”). The portion of the Maximum Settlement Amount that is available for payment to Class Members who do not timely and validly request exclusion from the settlement (“Participating Class Members”) is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Maximum Settlement Amount less the following payments which are subject to approval by the Court: (1) attorneys’ fees in the amount of up to \$58,333.33 and reimbursement of litigation costs and expenses in the amount of up to \$15,000.00 to Class Counsel (“Attorneys’ Fees and Costs”); (2) service award to Plaintiff Gabriella Herrera in the amount of up to \$7,500.00 (“Service

Payment”); (3) fees and expenses of administration of the Settlement to the Settlement Administrator is expected not to exceed \$9,500.00 (“Settlement Administration Costs”); and (4) the seventy-five percent (75%) share of PAGA Penalties (“LWDA Payment”) in the amount of \$5,000.00 to the California Labor and Workforce Development Agency (“LWDA”).

Participating Class Members will be entitled to receive payment under the settlement of their share of the Net Settlement Amount (“Individual Settlement Amount”) based on the numbers of workweeks worked by Class Members as a non-exempt hourly employee for Defendant from October 25, 2015 through December 3, 2020 (“Workweeks”). Workweeks were calculated based on the start and end dates of each Class Member’s employment during the Class Period.

Individual Settlement Amounts will be calculated using the following formula: each Participating Class Member’s individual Workweeks will be divided by the total aggregate Workweeks of all Participating Class Members to derive his or her Payment Ratio Fraction. Each Participating Class Member’s Payment Ratio Fraction will be multiplied by the Net Settlement Amount to determine the Individual Settlement Amount.

Each Individual Settlement Amount will be allocated as twenty percent (20%) wages (which will be reported on an IRS Form W2), and eighty percent (80%) penalties and interest (which will be reported on an IRS Form 1099, if applicable). Each Individual Settlement Amount will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Amount, resulting in a net payment to the Settlement Class Member referred to as the “Individual Settlement Payment.”

If the Court grants final approval of the settlement, Individual Settlement Payments will be mailed to Participating Class Members at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure your receipt of payment that you may be entitled to.**

B. Your Workweeks Based on Defendant’s Records

According to Defendant’s payroll records:

From October 25, 2015 to December 3, 2020, you worked <<TotalWorkweeks>> Workweeks for Pomona Quality Foam, LLC.

A description of how Workweeks were calculated and credited to Class Members is described above in Section III.A. If you wish to dispute the Workweeks credited to you, you may submit such dispute (a “Workweeks Dispute”) in writing to the Settlement Administrator. The written dispute must: (a) contain your full name, address, telephone number, the last four digits of your Social Security Number, and signature; (b) contain the case name and number of the action (*Herrera v. Pomona Quality Foam, LLC, et al.*, Los Angeles County Superior Court Case No. 19STCV38235); (c) contain a clear statement indicating that you dispute the number of Workweeks credited to you; (d) documentation that supports your belief that you should be credited with a different number of Workweeks; and (e) be mailed to the Settlement Administrator at the address listed in Section IV.B below, postmarked **no later than July 12, 2021**.

C. Your Estimated Individual Settlement Amount

As explained above, your estimated Individual Settlement Payment is based on the number of Workweeks credited to you.

Your Individual Settlement Amount is estimated to be <<estAmount>>.

The Individual Settlement Amount is subject to reduction for employee's share of taxes and withholdings with respect to the wages portion of the Individual Settlement Amount and will only be distributed if the Court approves the settlement and after the settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Amount reflected in this Notice is only an estimate. Your actual Individual Settlement Payment may be higher or lower.

D. Released Claims

Upon the Effective Date, each of the Participating Class Members (including the Class Representative) will be deemed to have, and by operation of the Judgment will have fully, finally, and forever released, relinquished and discharged Defendant and the Released Parties from any and all Released Claims.

“Released Claims” means all causes of action and factual or legal theories that were alleged in the operative complaints or that could have been alleged against Defendant based on the facts contained in the operative complaints, including all of the following claims for relief: (a) failure to pay all regular wages, minimum wages and overtime wages due; (b) failure to provide proper meal and rest periods, and to properly provide premium pay in lieu thereof; (c) failure to provide complete, accurate or properly formatted wage statements; (d) waiting time penalties; (e) failure to reimburse business expenditures, (f) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (g) all claims under the California Labor Code Private Attorneys General Act of 2004 that could have been premised on the claims, causes of action or legal theories described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (h) any other claims or penalties under the California Labor Code or other wage and hour laws pleaded in the Action; and (i) all damages, penalties, interest and other amounts recoverable under said claims, causes of action or legal theories of relief. The period of the Release shall extend to the limits of the Class Period. The *res judicata* effect of the Judgment will be the same as that of the Release. Defendant shall be entitled to a release of Released Claims which occurred during the Class Period only during such time that the Settlement Class Member was classified as non-exempt, and expressly excluding all other claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, claims while classified as exempt, and claims outside of the Class Period.

“Released Parties” means Defendant Pomona Quality Foam, LLC, and their past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers, if any.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to one-third (1/3) of the Maximum Settlement Amount (i.e., an amount of up to \$58,333.33) and reimbursement of litigation costs and expenses in an amount of up to Fifteen Thousand Dollars (\$15,000.00), to be paid from the Maximum Settlement Amount, subject to approval by the Court. Class Counsel has been prosecuting the Action on behalf of Plaintiff and

Class Members on a contingency fee basis (that is, without being paid any money to date) and has been paying all litigation costs and expenses.

F. Service Payment to Plaintiff

Plaintiff will seek the amount of Seven Thousand and Five Hundred Dollars (\$7,500.00) as a Service Payment in recognition of her services in connection with the Action. The Service Payment will be paid from the Maximum Settlement Amount subject to approval by the Court, and if awarded, it will be paid to Plaintiff in addition to her Individual Settlement Payment that he is entitled to under the settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator CPT Group, Inc. is estimated not to exceed Nine Thousand Five Hundred Dollars (\$9,500.00) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members of the settlement, processing Requests for Exclusion, Workweeks Disputes, and objections, calculating Individual Settlement Payments, and distributing payments and tax forms under the settlement, and shall be paid from the Maximum Settlement Amount subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Settlement

If you want to receive your Individual Settlement Payment from the settlement, you do not have to do anything. You will automatically be issued your Individual Settlement Payment in the form of a check unless you decide to exclude yourself from the settlement. Unless you elect to exclude yourself from the Settlement, you will be bound by the terms of the settlement and any judgment that may be entered by the Court based thereon, and you will be deemed to have released the Released Claims against the Released Parties as described in Section III.D above. You will have 120 days to cash the check. If you do not cash the check, the money will revert to the state, but you will still be deemed to have released your claims. As a Class Member, you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Settlement

If you do not wish to participate in the settlement, you may seek exclusion from the settlement by submitting a written request to be excluded from the settlement (“Request for Exclusion”) to the Settlement Administrator at the following address:

*Herrera v. Pomona Quality Foam, LLC, et al. Settlement
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606*

A request for exclusion must: (a) contain your full name, address, the last 4 digits of Social Security Number, and signature; (b) contain the case name and number of the Action (*Herrera v. Pomona Quality Foam, LLC, et al.*, Los Angeles County Superior Court Case No. 19STCV38235); (c) contain a statement indicating that you intend to be excluded from the settlement; and (4) be mailed to the Settlement Administrator at the address listed above, postmarked **no later than July 12, 2021**.

If the Court grants final approval of the Settlement, any Class Member who submits a timely and valid Request for Exclusion will not be entitled to receive any payment from the settlement, will not be bound by the settlement (and the release of Released Claims stated in Section III.D above), and will not have any right to object to, appeal, or comment on the settlement. Any Class Members who do not submit a timely and valid Request for Exclusion will be deemed Participating Class Members and will be bound by all terms of the settlement, including those pertaining to the release of Released Claims stated in Section III.D above, as well as any judgment that may be entered by the Court based thereon.

C. Objecting to the Settlement

You can object to the terms of the settlement as long as you have not submitted a Request for Exclusion.

To object, you must do so by way of a written objection that: (a) contains your full name, dates of employment as a non-exempt or hourly-paid employee of Defendant in California, the last 4 digits of your Social Security Number, and signature; (b) contains the case name and number of the Action (*Herrera v. Pomona Quality Foam, LLC, et al.*, Los Angeles County Superior Court Case No. 19STCV38235); (c) all legal and factual bases for the objection to the Settlement; (d) whether you intend to appear at the Final Approval Hearing; (e) whether you are represented by legal counsel, and if so, identify the legal counsel and their address; and (f) is mailed to the Settlement Administrator and postmarked **no later than July 12, 2021**.

Due to the Los Angeles Superior Court's COVID-19 protocol, you may or may not be able to appear at the Final Approval Hearing in Department 11 of Los Angeles County Superior Court at 312 N. Spring Street., Los Angeles, CA 90012, on August 17, 2021, at 10:00 a.m. and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing. All objections submitted in regards to this lawsuit will be provided to the judge at the time of the final approval hearing. If you wish to appear to the Final Approval hearing then you must review the below COVID-19 guidelines under Section "VI" and also review and adhere to the Los Angeles Superior Court's Website "HERE FOR YOU | SAFE FOR YOU" guidelines for updated information related to COVID-19:

<http://www.lacourt.org/newsmedia/ui/HfySfy.aspx>

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 11 of the Los Angeles County Superior Court located at 312 N. Spring Street., Los Angeles, CA 90012, on August 17, 2021, at 10:00 a.m. This hearing will determine whether the Settlement should be finally approved as fair, reasonable, and adequate and whether the attorneys' fees, costs to Class Counsel, the Service Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator should be awarded.

The hearing may be continued without further notice to the Class Members. It is not necessary for you to appear at the Final Approval Hearing. If you wish to appear to the Final Approval hearing then you must review the below COVID-19 guidelines and also review and adhere to the Los Angeles Superior Court's Website "HERE FOR YOU | SAFE FOR YOU" guidelines for updated information related to COVID-19:

<http://www.lacourt.org/newsmedia/ui/HfySfy.aspx>.

A. Notice of Final Judgment

Notice of final judgment, once granted by the court, will be posted on the claim administrator's website at the following website address: www.cptgroupcaseinfo.com/pomonaquality.

VI. LOS ANGELES SUPERIOR COURT SOCIAL DISTANCING GUIDELINES DUE TO COVID-19

According to presiding Judge Kevin C. Brazile, the number of people allowed into the Los Angeles County Courthouses are being limited. Public access to courthouses is restricted to authorized persons only and measures to enforce social distancing in courthouse hallways and courtrooms will be strictly enforced as coronavirus cases and hospitalizations surge in Los Angeles County. This means that Under General Order (2020-GEN-25 -00), public access to courthouses is limited at all times to judicial officers, court employees, co-lessees, Judicial Council staff, vendors, jurors, mediators, authorized persons (including news media representatives and news reporters), attorneys, litigants and witnesses with matters on calendar, and individuals with confirmed appointments.

In the interest of enforcing social distancing and to reduce the number of people in courthouses, effective Monday, November 30, members of the public, not otherwise referenced above, who wish to attend a court proceeding may do so upon advance request and at the discretion of the judicial officer presiding over the matter.

Therefore, if you want to appear in person you must first contact and obtain the permission of the courtroom clerk for Dept. 11 of the Spring Street Courthouse: (213) 310-7011. Before contacting the courtroom clerk of Department 11 you must first review the Los Angeles Superior Court's Website "HERE FOR YOU | SAFE FOR YOU" guidelines for updated information related to COVID-19:

<http://www.lacourt.org/newsmedia/ui/HfySfy.aspx>

VII. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action at the Los Angeles Superior Court, located at 111 N. Hill Street, Los Angeles, CA 90012, during business hours Or by visiting the court website at <http://www.lacourt.org/casesummary/ui/index.aspx?casetype=civil> and typing in the case number.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR CPT GROUP AT THE FOLLOWING TOLL-FREE NUMBER: 1-888-617-0146 OR YOU MAY ALSO CONTACT CLASS COUNSEL.