

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL**

*Garcia v. Tri-Valley Plastering, Inc.*  
Fresno County Superior Court Case No. 22CECG00591

*The Superior Court for the State of California authorized this Notice. Read it carefully!  
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.*

**You may be eligible to receive money** from an employee class action lawsuit (“Action”) against defendant TRI-VALLEY PLASTERING, INC. (“Defendant” or “TRI-VALLEY PLASTERING”) for alleged wage and hour violations. The Action was filed by former TRI-VALLEY PLASTERING employee plaintiff SERGIO MARTINEZ GARCIA (“Plaintiff”) and seeks payment of unpaid wages and unreimbursed expenses for a class of non-exempt, hourly employees (“Class Members”) who worked for TRI-VALLEY PLASTERING during the Class Period (February 24, 2018 to March 25, 2023) and penalties under the California Private Attorney General Act (“PAGA”) for all hourly employees who worked for TRI-VALLEY PLASTERING during the PAGA Period (February 19, 2021 to April, 17, 2023) (“Aggrieved Employees”).

The proposed Settlement has two main parts: (1) a Class Settlement requiring TRI-VALLEY PLASTERING to fund Individual Class Payments, and (2) a PAGA Settlement requiring TRI-VALLEY PLASTERING to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendant’s records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$##ESA\_Before\_PAGA## (less withholding) and your Individual PAGA Payment is estimated to be \$##PAGA\_Amount##**. The actual amount you may receive likely will be different and will depend on a number of factors. (If no amount is stated for your Individual PAGA Payment, then according to Defendant’s records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period.)

The above estimates are based on Defendant’s records showing that **you worked ##Total\_Weeks## workweeks** during the Class Period and **you worked ##PAGA\_Pay\_Periods## pay periods** during the PAGA Period. If you believe that you worked more workweeks or pay periods during any of the respective periods, you can submit a challenge by the deadline date. See Section 4 of this Notice.

The Court has already preliminarily approved the proposed Settlement and approved this Notice. The Court has not yet decided whether to grant final approval. Your legal rights are affected whether you act or not act. Read this Notice carefully. You will be deemed to have carefully read and understood it. At the Final Approval Hearing, the Court will decide whether to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and Plaintiff’s attorneys (“Class Counsel”). The Court will also decide whether to enter a judgment that requires TRI-VALLEY PLASTERING to make payments under the Settlement and requires Class Members and Aggrieved Employees to give up their rights to assert certain claims against TRI-VALLEY PLASTERING.

If you worked for TRI-VALLEY PLASTERING during the Class Period and/or the PAGA Period, you have two basic options under the Settlement:

- (1) **Do Nothing.** You don’t have to do anything to participate in the proposed Settlement and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a Participating Class Member, though, you will give up your right to assert Class Period wage claims and PAGA Period penalty claims against TRI-VALLEY PLASTERING.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) by submitting the written Request for Exclusion or otherwise notifying the Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual Class Payment. You will, however, preserve your right to personally pursue Class Period wage claims against TRI-VALLEY PLASTERING, and, if you are an Aggrieved Employee, remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the proposed Settlement.

**TRI-VALLEY PLASTERING will not retaliate against you for any actions you take with respect to the proposed Settlement.**

**SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<p><b>You Don't Have to Do Anything to Participate in the Settlement</b></p>	<p>If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the wage claims against TRI-VALLEY PLASTERING that are covered by this Settlement (Released Claims).</p>
<p><b>You Can Opt-out of the Class Settlement but not the PAGA Settlement</b>   <b>The Opt-out Deadline is July 17, 2023</b></p>	<p>If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.</p> <p>You cannot opt-out of the PAGA portion of the proposed Settlement. TRI-VALLEY PLASTERING must pay Individual PAGA Payments to all Aggrieved Employees and the Aggrieved Employees must give up their rights to pursue Released Claims (defined below).</p>
<p><b>Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement</b>   <b>Written Objections Must be Submitted by July 17, 2023</b></p>	<p>All Class Members who do not opt-out ("Participating Class Members") can object to any aspect of the proposed Settlement. The Court's decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiff who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiff, but every dollar paid to Class Counsel and Plaintiff reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiff if you think they are unreasonable. See Section 7 of this Notice.</p>
<p><b>You Can Participate in the September 21, 2023 Final Approval Hearing</b></p>	<p>The Court's Final Approval Hearing is scheduled to take place on September 21, 2023. You don't have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court's virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing. See Section 8 of this Notice.</p>
<p><b>You Can Challenge the Calculation of Your Workweeks/Pay Periods</b>   <b>Written Challenges Must be Submitted by July 17, 2023</b></p>	<p>The amount of your Individual Class Payment and PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period and how many Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Period Workweeks and number of PAGA Period Pay Periods you worked according to TRI-VALLEY PLASTERING'S records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by July 17, 2023. See Section 4 of this Notice.</p>

**1. WHAT IS THE ACTION ABOUT?**

Plaintiff is a former TRI-VALLEY PLASTERING employee. The Action accuses TRI-VALLEY PLASTERING of violating California labor laws by failing to pay overtime wages, minimum and straight time wages, wages due upon termination and reimbursable expenses and failing to provide meal periods, rest breaks and accurate itemized wage statements. Based on the same claims, Plaintiff has also asserted a claim for civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.) ("PAGA"). Plaintiff is represented by attorneys in the Action: Moon & Yang, APC ("Class Counsel").

TRI-VALLEY PLASTERING strongly denies violating any laws or failing to pay any wages and contends it complied with all applicable laws.

**2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

So far, the Court has made no determination whether TRI-VALLEY PLASTERING or Plaintiff is correct on the merits. In the meantime, Plaintiff and TRI-VALLEY PLASTERING hired an experienced, neutral mediator Hon. Carl West (Retired) in an effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather than continuing the expensive and time-consuming process of litigation. The negotiations were successful. By signing a lengthy written settlement agreement ("Agreement") and agreeing to jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement, Plaintiff and TRI-VALLEY PLASTERING have negotiated a proposed Settlement that is subject to the Court's Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims. By agreeing to settle, TRI-VALLEY PLASTERING does not admit any violations or concede the merit of any claims.

Plaintiff and Class Counsel strongly believe the Settlement is a good deal for you because they believe that: (1) TRI-VALLEY PLASTERING has agreed to pay a fair, reasonable and adequate amount considering the strength of the claims and the risks and uncertainties of continued litigation; and (2) Settlement is in the best interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a hearing to determine Final Approval.

### 3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?

1. TRI-VALLEY PLASTERING will pay \$1,250,000.00 as the Gross Settlement Amount (Gross Settlement). TRI-VALLEY PLASTERING has agreed to deposit the Gross Settlement into an account controlled by the Administrator of the Settlement. The Administrator will use the Gross Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class Representative Service Payment, Class Counsel's attorney's fees and expenses, the Administrator's expenses, and penalties to be paid to the California Labor and Workforce Development Agency ("LWDA"). Assuming the Court grants Final Approval, TRI-VALLEY PLASTERING will fund the Gross Settlement not more than sixty (60) days after the Judgment entered by the Court become final. The Judgment will be final on the date the Court enters Judgment, or a later date if Participating Class Members object to the proposed Settlement or the Judgment is appealed.
2. Court Approved Deductions from Gross Settlement. At the Final Approval Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:
  - A. Up to \$416,666.67 (33 and 1/3% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$20,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.
  - B. Up to \$7,500 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive for representing the Class in this Action other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
  - C. \$12,000 to the Administrator for services administering the Settlement.
  - D. Up to \$100,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Period Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Workweeks.
4. Taxes Owed on Payments to Class Members. Plaintiff and TRI-VALLEY PLASTERING are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. TRI-VALLEY PLASTERING will separately pay employer payroll taxes it owes on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

Although Plaintiff and TRI-VALLEY PLASTERING have agreed to these allocations, neither side is giving you any advice on whether your Payments are taxable or how much you might owe in taxes. You are responsible for paying all taxes (including penalties and interest on back taxes) on any Payments received from the proposed Settlement. You should consult a tax advisor if you have any questions about the tax consequences of the proposed Settlement.

5. Need to Promptly Cash Payment Checks. The front of every check issued for Individual Class Payments and Individual PAGA Payments will show the date when the check expires (the void date). If you don't cash it by the void date, your check will be automatically cancelled, and the monies will be deposited with the California Controller's Unclaimed Property Fund in your name. If the monies represented by your check is sent to the Controller's Unclaimed Property, you should consult the rules of the Fund for instructions on how to retrieve your money.
6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated as a Participating Class Member, participating fully in the Class Settlement, unless you notify the Administrator in writing, not later than July 17, 2023, that you wish to opt-out. The easiest way to notify the Administrator is to send a written and signed Request for Exclusion by the July 17, 2023 Response Deadline. The Request for Exclusion should be a signed letter from a Class Member or his/her representative setting forth a Class Member's name, present address, telephone number, and a simple statement electing to be excluded from the Settlement. Excluded Class Members (i.e., Non-Participating Class Members) will not receive Individual Class Payments, but will preserve their rights to personally pursue wage and hour claims against TRI-VALLEY PLASTERING.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and are required to give up their right to assert PAGA claims against TRI-VALLEY PLASTERING based on the PAGA Period facts alleged in the Action.

7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is possible the Court will decline to grant Final Approval of the Settlement or decline enter a Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiffs and TRI-VALLEY PLASTERING have agreed that, in either case, the Settlement will be void: TRI-VALLEY PLASTERING will not pay any money and Class Members will not release any claims against TRI-VALLEY PLASTERING.
8. Administrator. The Court has appointed a neutral company, Phoenix Settlement Administrators (the “Administrator”) to send this Notice, calculate and make payments, and process Class Members’ Requests for Exclusion. The Administrator will also decide Class Member Challenges over Workweeks, mail and re-mail settlement checks and tax forms, and perform other tasks necessary to administer the Settlement. The Administrator’s contact information is contained in Section 9 of this Notice.
9. Participating Class Members’ Release. After the Judgment is final and TRI-VALLEY PLASTERING has fully funded the Gross Settlement and separately paid all employer payroll taxes, Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of another lawsuit against TRI-VALLEY PLASTERING or related entities for wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims, losses, damages, liquidated damages, penalties, interest, liabilities, causes of action, civil complaints, arbitration demands or suits which arise from the facts asserted in the Operative Complaint, including all claims under the California Labor Code as alleged in the Operative Complaint, including violations for meal periods, rest breaks, non-productive time, off the clock work, unpaid overtime and minimum wages, timely payment of wages, wage statements, waiting time penalties, unreimbursed business expenses, penalties under the Private Attorneys General Act sections 2698, et seq., and violations of California Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, et seq.) occurring during the Class Period. Except as set forth in Sections 5.2 and 5.3 of this Agreement, Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers’ compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees’ PAGA Release. After the Court’s judgment is final and TRI-VALLEY PLASTERING has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against TRI-VALLEY PLASTERING, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against TRI-VALLEY PLASTERING or its related entities based on the PAGA Period facts alleged in the Action and resolved by this Settlement.

The Aggrieved Employees’ Releases for Participating and Non-Participating Class Members are as follows:

All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint and the PAGA Notice attached to the Settlement Agreement as Exhibit B.

#### **4.HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

1. Individual Class Payments. The Administrator will calculate Individual Class Payments by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members, and (b) multiplying the result by the number of Workweeks worked by each individual Participating Class Member.
2. Individual PAGA Payments. The Administrator will calculate Individual PAGA Payments by (a) dividing \$25,000 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Period Pay Periods worked by each individual Aggrieved Employee.

3. Workweek/Pay Period Challenges. The number of Class Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in TRI-VALLEY PLASTERING'S records, are stated in the first page of this Notice. You have until July 17, 2023 to challenge the number of Workweeks and/or Pay Periods credited to you. You can submit your challenge by signing and sending a letter to the Administrator via mail, email or fax. Section 9 of this Notice has the Administrator's contact information.

You need to support your challenge by sending copies of pay stubs or other records. The Administrator will accept TRI-VALLEY PLASTERING'S calculation of Workweeks and/or Pay Periods based on TRI-VALLEY PLASTERING'S records as accurate unless you send copies of records containing contrary information. You should send copies rather than originals because the documents will not be returned to you. The Administrator will resolve Workweek and/or Pay Period challenges based on your submission and on input from Class Counsel (who will advocate on behalf of Participating Class Members) and TRI-VALLEY PLASTERING'S Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

## 5. HOW WILL I GET PAID?

1. Participating Class Members. The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who doesn't opt-out) including those who also qualify as Aggrieved Employees. The single check will combine the Individual Class Payment and the Individual PAGA Payment (if any).
2. Non-Participating Class Members. The Administrator will send, by U.S. mail, a single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class Settlement (i.e., every Non-Participating Class Member).

**Your check will be sent to the same address as this Notice. If you change your address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has the Administrator's contact information.**

## 6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?

Submit a written and signed letter with your name, present address, telephone number, and a simple statement that you do not want to participate in the Settlement. The Administrator will exclude you based on any writing communicating your request be excluded. Be sure to personally sign your request, identify the Action as *Garcia v. Tri-Valley Plastering Inc.*, Case N 22CECG00591 pending in Los Angeles Superior Court, and include your identifying information (full name, address, telephone number, approximate dates of employment, and social security number for verification purposes). You must make the request yourself. If someone else makes the request for you, it will not be valid. **The Administrator must be sent your request to be excluded by July 17, 2023, or it will be invalid.** Section 9 of the Notice has the Administrator's contact information.

## 7. HOW DO I OBJECT TO THE SETTLEMENT?

Only Participating Class Members have the right to object to the Settlement. Before deciding whether to object, you may wish to see what Plaintiff and TRI-VALLEY PLASTERING are asking the Court to approve. At least 16 days before the September 21, 2023 Final Approval Hearing, Class Counsel and/or Plaintiff will file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why the proposed Settlement is fair, and (2) a Motion for Fees, Litigation Expenses and Service Award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation expenses; and (ii) the amount Plaintiff is requesting as a Class Representative Service Award. Upon reasonable request, Class Counsel (whose contact information is in Section 9 of this Notice) will send you copies of these documents at no cost to you. You can also view them on the Administrator's Website <https://www.phoenixclassaction.com/tri-valley-plastering/> - or the Court's website - <https://www.fresno.courts.ca.gov/online-services/case-information>.

A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class Counsel or Plaintiff are too high or too low. **The deadline for sending written objections to the Administrator is July 17, 2023.** Be sure to tell the Administrator what you object to, why you object, and any facts that support your objection. Make sure you identify the Action and include your name, current address, telephone number, and approximate dates of employment for TRI-VALLEY PLASTERING and sign the objection. Section 9 of this Notice has the Administrator's contact information.

Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready to tell the Court what you object to, why you object, and any facts that support your objection. See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval Hearing.

## 8. CAN I ATTEND THE FINAL APPROVAL HEARING?

You can, but don't have to, attend the Final Approval Hearing on September 21, 2023 at 3:30p.m. in Department 503 of the Fresno County Superior Court, located at 1130 "O" Street, Fresno, California. At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement will be paid to Class Counsel, Plaintiff, and the Administrator. The Court will invite comment from objectors, Class Counsel and Defense Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally or remotely. Check the Court's website for the remote appearance guidance.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Administrator's website-<https://www.phoenixclassaction.com/tri-valley-plastering/> beforehand or contact Class Counsel to verify the date and time of the Final Approval Hearing.

#### **9. HOW CAN I GET MORE INFORMATION?**

The Agreement sets forth everything TRI-VALLEY PLASTERING and Plaintiff have promised to do under the proposed Settlement. The easiest way to read the Agreement, the Judgment or any other Settlement documents is to go to the Administrator's website at <https://www.phoenixclassaction.com/tri-valley-plastering/>. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below or consult the Superior Court website by going to <https://www.fresno.courts.ca.gov/online-services/case-information> and entering the Case Number for the Action, Case No. 22CECG00591. You can also make an appointment to personally review court documents in the Clerk's Office at 1130 "O" Street, Fresno, California.

#### **DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.**

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##### Settlement Administrator:

Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

Email: [notice@phoenixclassaction.com](mailto:notice@phoenixclassaction.com)

#### **10. WHAT IF I LOSE MY SETTLEMENT CHECK?**

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void you should consult the Unclaimed Property Fund for instructions on how to retrieve the funds.

#### **11. WHAT IF I CHANGE MY ADDRESS?**

To receive your check, you should immediately notify the Administrator if you move or otherwise change your mailing address.