

Superior Court of California, County of County of San Bernardino

Fabricio Lopez Rivera v. Villagrana Logistics, Inc. et al., Case No. CIVDS2022538

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 don't act.

NOTICE OF SETTLEMENT OF CLASS AND REPRESENTATIVE ACTION

To: All non-exempt employees of Villagrana Logistics, Inc. ("Villagrana") in the state of California at any time from June 10, 2018, through July 26, 2023 (the "Class" or "Class Members"); and

All non-exempt employees of Villagrana in the state of California at any time from October 9, 2019, through July 26, 2023 (the "PAGA Members").

A putative class action and representative action under the California Private Attorneys General Act of 2004 ("PAGA"), which was brought on behalf of the Class and PAGA Members and against Villagrana and Amazon Logistics, Inc. ("Amazon"), has been settled for \$427,759.80. As explained in this Notice, if the Court approves this class and PAGA Settlement then you may receive payments under this Settlement. You are receiving this Notice because based on Villagrana's records, you are a Class Member and/or a PAGA Member.

If you are a Class Member and/or a PAGA Member, you are eligible for payment from the Settlement described in this Notice without the need to return a claim form.

PLEASE READ THIS NOTICE CAREFULLY.

Table with 2 columns: Option (DO NOTHING, EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT, OBJECT) and Description of the option and its consequences.

- YOUR RIGHTS AND OPTIONS – AND THE DEADLINES TO EXERCISE THEM – ARE EXPLAINED IN THIS NOTICE.
DEFENDANTS SUPPORT THE SETTLEMENT AND WILL NOT RETALIATE IN ANY MANNER AGAINST ANY CLASS MEMBER WHO REMAINS IN THE CLASS AND RECEIVES A SETTLEMENT PAYMENT.

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**BASIC INFORMATION**

**1. Why was this notice issued**

A Court authorized this notice because you have a right to know about a proposed Settlement of a class and representative PAGA action lawsuit, and about all of your options, before the Court decides whether to approve it. This notice explains the lawsuit, the Settlement, your legal rights, the payments that are available, who is eligible to receive them, and how to get them.

The Court in charge of the case is the Superior Court of the State of California, County of San Bernardino, and the case is known as *Fabricio Lopez Rivera v. Villagrana Logistics, Inc. et al.*, San Bernardino Superior Court Case No. CIVDS2022538 (the "Action").

**2. What are the lawsuit about?**

Plaintiff initiated this action by filing a putative class action complaint on October 13, 2020, in San Bernardino Superior Court, against Villagrana and Amazon. In the operative Fourth Amended Complaint, Plaintiff alleges causes of action under the California Labor Code for unpaid wages, unpaid overtime, meal and rest period violations, unpaid meal and rest break premiums, wage statement penalties, waiting time penalties and unreimbursed necessary business expenses, and for unfair competition under the California Business & Professions Code section 17200, based on the same alleged violations. Plaintiff also seeks civil penalties under PAGA for the same alleged Labor Code violations.

Defendants deny all of the claims in the Action. Amazon specifically denies that it was a joint employer or employer of any Villagrana employees. However, Defendants have agreed to settle the Action to avoid continued litigation. The Settlement is not an admission of any wrongdoing by Defendants or an indication that any law was violated.

**3. What is a class action?**

In a class action lawsuit, one or more people called Class Representatives (in this case, Fabricio Lopez Rivera) sue on behalf of others who may have similar claims, who are called a class or class members.

**4. Why is there a Settlement?**

The Court did not decide in favor of Plaintiff, nor did the Court decide in favor of Defendants. Instead, both sides agreed to a no-fault settlement of the Action (“Settlement”). That way, they avoid the cost of further litigation including a trial, and the Class and PAGA Members affected will get compensation from the Settlement.

**5. Who are the Parties in the Action?**

Plaintiff Fabricio Lopez Rivera was a delivery driver for Villagrana. The Defendants are Villagrana and Amazon.

**6. Who are the Attorneys representing the Plaintiff and the Class?**

The Court has appointed Class Counsel to represent the Settlement Class and the PAGA Members in connection with this Settlement, Kane Moon, Allen Feghali and Edwin Kamarzarian of Moon & Yang, APC, 1055 W. Seventh St., Suite 1880, Los Angeles, California 90017, (213) 232-3128.

You also have the right to hire an attorney (at your own cost) to represent you, or to enter an appearance and represent yourself.

**THE TERMS OF THE SETTLEMENT****7. What is the Settlement Amount?**

The proposed Settlement provides for a maximum payment of \$427,759.80 to fully and finally resolve all claims in the Action (referred to as the “Gross Settlement Amount”). Class Counsel will apply to the Court for attorneys’ fees of up to \$141,253.27 (33% of the Gross Settlement Amount); litigation costs estimated not to exceed \$18,000.00; a “Class Representative Enhancement Payment” of up to \$7,500 for Plaintiff for his work and effort in prosecuting this case, risks taken for the payment of costs in the event of loss, and a general release of all claims; settlement administration expenses to Phoenix Settlement Administrators, estimated not to exceed \$20,000.00; and a “PAGA Payment” to the California Labor Workforce and Development Agency (“LWDA”) and PAGA Members in settlement of claims for penalties under PAGA. The exact amount of the attorneys’ fees, litigation costs, PAGA Payment, Class Representative Enhancement Payment, and settlement administration expenses will be determined by the Court at the Final Approval hearing if the Settlement is approved.

Following the Court-approved deductions, the remaining portion of the Settlement, the Net Settlement Amount (“NSA”), is estimated to be \$201,006.53. The NSA will be apportioned and paid out entirely, *automatically*, to all “Participating Class Members,” who are the Class Members who do not ask to be excluded from the class action settlement, as “Individual Settlement Payments.”

No portion of the Gross Settlement Amount will revert to Defendants under any circumstances.

**8. How will the Individual Settlement Payments be calculated and how much will my award be?**

Participating Class Members will receive a pro-rata share of the NSA based on the number of weeks they worked for Villagrana during the time period of June 10, 2018, to July 26, 2023 (the “Class Settlement Period”).

Here’s how it works – the NSA will be entirely distributed to the Participating Class Members. The NSA allocated to each individual Participating Class Member will be based on the individual’s total number of weeks worked during the Class Settlement Period, in relation to the total number of weeks worked by all Participating Class Members. Weeks will be calculated according to Villagrana’s records.

Based on Villagrana’s records, you worked <<Total Weeks>> work weeks during the Class Settlement Period and your estimated Individual Settlement Payment is \$<<Est Set Amt>>, before applicable tax withholdings, although the actual amount that is paid may be lower or higher than the amount estimated. If you wish to dispute your number of workweeks during the Class Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Villagrana for a different number of weeks during the Class Settlement Period.

Individual Settlement Payments shall be subject to applicable withholding taxes on that portion of the payment allocated to wages. Individual Settlement Payments will be allocated 33% to wages for which an IRS W-2 form will be issued, and 67% to penalties and interest for which an IRS 1099 form will be issued as required. You will be responsible for the tax consequences of your Individual Settlement Payments, for filing your own returns and reporting all income received to state and federal taxing authorities, and for payment of any other applicable taxes due. You should consult with a tax advisor concerning the tax consequences of the Individual Settlement Payment you could receive under the Settlement.

## 9. How will the PAGA Payment be distributed?

The Parties will seek approval from the Court to designate \$40,000.00 of the Gross Settlement Amount as penalties recoverable under PAGA. 75% of this amount, or \$30,000.00, will be paid to the LWDA, as required by law. The remaining 25% of this amount, or \$10,000.00, will be distributed to the PAGA Members as “Individual PAGA Payments.” The Individual PAGA Payments and are paid in addition to any Individual Settlement Payments (the Individual Settlement Payment and the Individual PAGA Payments are the “Settlement Payment”). 100% of the PAGA Payment will be treated as penalties and interest. You should consult with a tax advisor concerning the tax consequences of the Individual PAGA Payment you could receive under the Settlement.

Not all Class Members are PAGA Members entitled to an Individual PAGA Payment. You are only a PAGA Member if you worked for Villagrana during the period October 9, 2019, through July 26, 2023 (the “PAGA Settlement Period”). The Individual PAGA Payments will be calculated on a pro-rata basis based on the number of pay periods that you worked during the PAGA Settlement Period. Based on Villagrana’s records, your total pay periods during the PAGA Settlement Period is <<PAGA Pay Periods>>. Based on that, your anticipated approximate Individual PAGA Payment is \$<<PAGA Payment>>. If you wish to dispute your number of pay periods during the PAGA Settlement Period, you must notify the Settlement Administrator in writing, no later than forty-five (45) days after the mailing of this Notice. Please provide any proof you may have that you were employed by Villagrana for a different number of pay periods during the PAGA Settlement Period.

### HOW TO GET PAYMENT

## 10. How can I get my settlement payment?

If the Settlement is approved, you do not need to do anything to receive an Individual Settlement Payment or Individual PAGA Payment. If the Court approves the Settlement at a final approval hearing, your settlement payment will be mailed to the address on file with the Settlement Administrator. **It is your responsibility to keep the Settlement Administrator informed of any change in your address, as your settlement payment will be mailed to the last known address it has on file for you** if the Court approves the settlement.

## 11. When can I expect to receive my settlement payment?

If the Court approves the Settlement, and there are no pending objections, your share of the Settlement will be paid approximately 90 days after the Court grants final approval of the Settlement. ***Your share of the Settlement will be mailed to the address on file for you.*** Again, if this address is not correct, or if you move after you receive this Notice, you should notify the Settlement Administrator by mail or by calling the Settlement Administrator at (800) 523-5773

## 12. What am I giving up to get an Individual Settlement Payment?

**Participating Class Members will be giving up or “releasing” the claims described below:**

**Release of Class Claims:** After the Court grants final approval of the Settlement, each Participating Settlement Class Member will be bound by the approval and judgment and thereby releases Defendants and any of their former, present and/or future, direct and/or indirect, parents, companies, subsidiaries, affiliates, divisions, officers, directors, managers, owners, members, heirs, employees, partners, shareholders, attorneys, agents, fiduciaries, insurers, investors, predecessors, successors, assigns, executors, administrators, beneficiaries, legal representatives, or trustees (“Released Parties”) from any and all claims and/or causes of action under any state, local or federal law or administrative order that were or could have been pled based on the allegations of the original and amended Complaints in the Action and the Plaintiff’s PAGA Notice Letter to the LWDA, including but not limited to, any claim for: (1) unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for all hours worked at correct rates, including overtime or double time at the correct regular rates; (2) meal period violations, including claims for late, short, interrupted and/or missed meal periods and/or the failure to pay premium wages, including premiums at the correct regular rates, and the alleged failure to properly record meal breaks; (3) rest break violations, including claims for late, short, interrupted, missed, on premises, or otherwise improperly controlled or constrained rest breaks and/or the failure to pay premium wages, including premiums at the correct regular rates; (4) improper or inaccurate itemized wage statements, including any alleged violations of Labor Code sections 226(a)(1)-(9); (5) untimely payment of final wages under Labor Code sections 201-203; (6) failure to maintain and produce required records in violation of Labor Code section 226, 1174, 1174.5, and the applicable IWC Wage Order; (7) unreimbursed business expenses; (8) untimely wage payments to current employees under Section 204; (9) Unlawful and Deceptive Business Practices in Violation of Business & Professions Code §§ 17200, *et seq.* based on any of the facts and violations alleged in the Action or the PAGA Notice Letter; and (10) any claims for statutory of civil penalties, liquidated damages, punitive damages, interest, attorneys’ fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the same facts alleged in the Action or the PAGA Notice Letter. The period of the Released Class Claims will be the Class Settlement Period.

## 13. What am I giving up to get an Individual PAGA Payment?

**PAGA Members and the State of California will be giving up or “releasing” claims for civil penalties under PAGA:**

**Release of PAGA Claims:** After the Court grants final approval of the Settlement, then Plaintiff, as a representative of the State of California and on behalf of the LWDA and the PAGA Members, will fully and finally release the Released Parties all claims and causes

of action for PAGA penalties against the Released Parties that were alleged or that could have been alleged based on the facts asserted in the Action as well as in any and all of the PAGA Notice Letters for violations of Labor Code sections 201, 202, 203, 210, 226, 226.3, 226.7, 510, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2802, 2698, and 2699 et seq., and sections of the applicable wage order, including sections 3, 4, 11, and 12, as well as any and all claims for attorneys' fees, litigation costs, and interest allocated to those claims. The Released PAGA Claims include (1) claims for unpaid wages, including claims for minimum, overtime, and double-time wages, the alleged failure to pay for all time worked, the alleged failure to pay for all hours worked at correct rates, including overtime or double time at the correct regular rates; (2) claims for meal period violations, including claims for late, short, interrupted and/or missed meal periods and/or the failure to pay premium wages, including premiums at the correct regular rates, and the alleged failure to properly record meal breaks; (3) claims for rest break violations, including claims for late, short, interrupted, missed, on premises, or otherwise improperly controlled or constrained rest breaks and/or the failure to pay premium wages, including premiums at the correct regular rates; (4) claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code sections 226(a)(1)-(9); (5) claims for untimely payment of final wages under Labor Code sections 201-203; (6) claims regarding the alleged failure to maintain and produce required records in violation of Labor Code section 226, 1174, 1174.5, and the applicable IWC Wage Order; (7) claims for unreimbursed business expenses; (8) claims for untimely wage payments to current employees under Section 204; and (9) any other claims and penalties under the wage and hour laws alleged in the Action and in any and all of the PAGA Notice Letter. The period of the Released PAGA Claims will be the PAGA Settlement Period.

### EXCLUDING YOURSELF FROM THE CLASS SETTLEMENT

#### 14. **Can I exclude myself from the class settlement?**

If you wish to pursue your own separate lawsuit or arbitration against Defendants for the claims asserted in the Action, or if you otherwise wish not to participate in the class settlement for whatever reason, you could exclude yourself from the class settlement (that is, "opt out" of the Settlement). However, you cannot opt out of the PAGA portion of the Settlement. To opt out and exclude yourself from the Class and this Settlement so that you do not become a Participating Class Member, you must provide a signed and dated letter to the Administrator requesting to be excluded from the Class. The letter should state in substance:

"I have read and understand the Notice of Settlement of Class and Representative Action and I wish to exclude myself from the Settlement described in the Notice."

Your letter requesting to exclude yourself must include the case name, *Rivera v. Villagrana Logistics, Inc. et al.*, Case No. CIVDS2022538, your full name, current address and telephone number. It must be addressed to the Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, postmarked on or before October 30, 2023. Requests for exclusion postmarked after this date may be disregarded.

#### 15. **If I don't exclude myself from the class settlement, can I sue Defendants for the same thing later?**

No. Unless you exclude yourself from the class settlement, you give up any right to sue Defendants for the claims that this Settlement resolves. ***If you have a separate arbitration or lawsuit already against any of the Defendants, you should speak to your lawyer in that case immediately.*** You may need to exclude yourself from this Class and this case by the above deadline in order to continue your separate arbitration or lawsuit.

#### 16. **If I exclude myself from the class settlement, can I get money from this settlement?**

If you request to be excluded from the Settlement, you will not receive an Individual Settlement Payment. You also will not be able to object to the Settlement as explained below. The Individual Settlement Payment you would have been entitled to receive will be redistributed to the Participating Class Members. However, if you are a PAGA Member, you will receive an Individual PAGA Payment regardless of whether you exclude yourself from the class settlement.

No portion of the Gross Settlement Amount will go back to Defendants as a result of any person requesting to be excluded from the Settlement.

### OBJECTING TO THE SETTLEMENT

#### 17. **How do I tell the Court that I don't like the Settlement?**

If you don't think the Settlement is fair, and you don't request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don't agree with the Settlement or some part of it before the Court decides whether to grant final approval of the Settlement.

To object in writing, you must submit a timely written objection to the Administrator. Your objection must state that you object to the proposed Settlement of this case entitled *Rivera v. Villagrana Logistics, Inc. et al.*, Case No. CIVDS2022538. Be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail your written objection to the Administrator at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, postmarked on or before October 30, 2023. Requests for exclusion postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact attorneys for Plaintiff and the Class (see Paragraph 6) or the Settlement Administrator. Please **DO NOT** contact attorneys for Defendants or any of the Defendants' managers and supervisors, or owners.

### THE COURT'S FINAL FAIRNESS HEARING

#### 18. **When and where will the Court decide whether to approve the settlement?**

The Court will hold a Final Approval hearing in Department S26 of the Superior Court of California, County of San Bernardino located at the Civil Division, 247 West Third Street, San Bernardino, CA 92415-0210 on December 11, 2023, at 9:00 a.m. At this hearing the Court will determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court will also be asked to approve Class Counsel's request for attorneys' fees and litigation costs, the Class Representative Enhancement Award, and the Settlement Administrator's fees and expenses. The Court may reschedule the Final Approval hearing without further notice to Class Members. However, any Class Member who has submitted an objection and indicated an intention to speak at the Final Approval Hearing will be notified by Class Counsel of any rescheduling of the date and time of the Final Fairness hearing.

#### 19. **Do I have to come to the hearing?**

No. Class Counsel will answer any questions the Judge may have. But you are welcome to come at your own expense to support or object to the settlement. If you send an objection, you don't have to come to Court to object but you can if you wish to. As long as you mailed your written objection on time, the Court will consider it. You may also hire and if required pay your own lawyer to attend if you so desire.

#### 20. **May I speak at the hearing?**

You may appear at the Final Approval Hearing and ask the Court for permission to speak, however, to be sure that any objection will be considered by the Court, you should submit a timely written objection, or a notice of intent to appear at the hearing. To do so, please timely submit the objection or notice of intent to appear to the Settlement Administrator listed in section 15 no later than October 30, 2023. Any notice of intent to appear should include a description of any arguments you intend to make.

### GETTING MORE INFORMATION

#### 21. **Who may I contact if I have questions about the settlement?**

This Notice is only a summary of the Action and proposed Settlement. For more information, you may personally inspect the files and the Settlement Agreement at the Superior Court of California, County of San Bernardino located at the Civil Division, 247 West Third Street, San Bernardino, CA 92415-0210, during regular Court hours. You may also contact Class Counsel if you need more information or have questions. You may also contact the Settlement Administrator by calling toll free (800) 523-5773 or you can write to Settlement Administrator, at Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, or at <https://www.phoenixclassaction.com/villagrana-logistics/>.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS OR ANY OF THEIR MANAGERS, SUPERVISORS, OWNERS OR ATTORNEYS FOR INFORMATION.**

### ADDITIONAL IMPORTANT INFORMATION

- A. **It is your responsibility to ensure that the Settlement Administrator** has your current mailing address and telephone number on file, as this will be the address to which your settlement payment will be sent if the Settlement is approved.
- B. **Settlement payment checks should be cashed promptly upon receipt.** Proceeds of checks which remain uncashed after 180 days from the date of issuance will be forwarded to the State of California Unclaimed Property Fund in the name of each Settlement Class Member and/or PAGA Member who did not cash his or her Settlement Payment check. If your settlement payment check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.