

United States District Court, Eastern District of California

SANTOS SALCIDO and GUADALUPE ALVAREZ, and CHRISTINA BARBOSA,

on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

Cargill Meat Solutions Corp., Cargill Meat Solutions Corp. D/B/A Beef Packers, Inc., and Beef Packers, Inc.,

Defendants.

Case Nos. 1:07-CV-01347-LJO-GSA and 1:08-CV-00605-LJO-GSA

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

**IMPORTANT – Please Read This Notice Carefully. Your Rights May Be Affected.
You May Be Entitled to Money From This Settlement.**

TO: All current and former hourly production and support employees of Cargill’s meat-packing facility in Fresno, California between September 14, 2003 and February 3, 2009 (“Class Members”).

RE: Settlement of Claims for Alleged Wage-Hour Violations, Including Claims for Unpaid Overtime Compensation and All Related Claims for Relief

IF YOU WISH TO PARTICIPATE IN THIS SETTLEMENT, YOU MUST SIGN AND RETURN THE ATTACHED CLAIM AND OPT-IN FORM TO THE SETTLEMENT ADMINISTRATOR BY AUGUST 3, 2009.

INTRODUCTION

The purpose of this Notice is to inform you of a proposed settlement (the “Settlement”) of class action lawsuits entitled *Salcido et al. v. Cargill Meat Solutions Corp. et al.* and *Barbosa et al. v. Cargill Meat Solutions Corp. et al.*, currently pending in the United States District Court, Eastern District of California, Fresno Division (the “Court”), Case Nos. 1:07-CV-01347-LGO-GSA and 1:08-CV-00605-LJO-GSA (the “Lawsuit”). The Lawsuit is against Cargill on behalf of employees and former employees who fit the definition of Class Members set forth above. The Lawsuit was filed by Plaintiffs Santos Salcido, Guadalupe Alvarez and Christina Barbosa, on behalf of themselves and others similarly situated (the “Plaintiffs”) against Cargill claiming that Cargill violated federal and California law by failing to pay hourly production and support workers regular and overtime compensation and failed to allow workers to take mandatory meal and rest periods.

You received this Notice because Cargill’s records indicate that you were employed by Cargill at its meat-packing facility in Fresno, California between September 14, 2003 and February 3, 2009 as an hourly production or support worker. Your rights may be affected by the legal proceedings in this action. If you are a member of the Settlement Class, you must sign and return the attached Claim and Opt-In Form to receive compensation.

THIS NOTICE IS TO INFORM YOU ABOUT:

1. THE STATUS OF THE CLASS ACTION, INCLUDING A STATEMENT OF YOUR RIGHTS WITH RESPECT TO THE PROPOSED SETTLEMENT OF THE CASE;
2. HOW YOU MUST SUBMIT THE ENCLOSED “CLAIM AND OPT-IN FORM” TO RECEIVE A SHARE OF THE SETTLEMENT FUNDS;
3. YOUR OPTION TO CHALLENGE THE RECORD AS TO THE NUMBER OF WEEKS YOU WORKED ON A JOB POSITION THAT IS ENTITLED TO A SETTLEMENT AWARD;
4. YOUR OPTION TO FILE WITH THE COURT ANY OBJECTIONS YOU MAY HAVE TO THE SETTLEMENT;
5. YOUR OPTION TO EXCLUDE YOURSELF FROM THE PROPOSED SETTLEMENT BY “OPTING OUT”; and
6. THE FEES AND COSTS THAT WILL BE REQUESTED BY CLASS COUNSEL.

1. Why Should You Read This Notice?

This Notice tells of your rights to share in the Settlement or your ability to exclude yourself or “opt-out” of the Settlement. There was a hearing on February 3, 2009 in the United States District Court for the Eastern District of California, at which Judge Lawrence J. O’Neill preliminarily approved the Settlement of a class action lawsuit against Defendant Cargill. You have received this Notice because records indicate that you are a member of the Class. The Settlement will resolve the Class Members’ claims for unpaid regular wages, overtime wages, and unpaid meal and rest breaks between September 14, 2003 and February 3, 2009.

The Court will hold a Settlement Fairness Hearing concerning the proposed Settlement on Wednesday, May 27, 2009 at 8:30 a.m., in Courtroom 4 of the United States District Court located at 2500 Tulare Street, Fresno, California 93721.

2. What Is This Case About? Description Of The Lawsuit.

On September 14, 2007, Plaintiffs Santos Salcido and Guadalupe Alvarez filed a complaint in the United States District Court for the Eastern District of California against Cargill; Plaintiff Christina Barbosa filed her class action complaint in the Superior Court of California for the County of Fresno on April 1, 2008. The Lawsuits allege that Class Members were not paid for all of the hours they worked, including overtime, and that they did not receive required meal and rest periods. Plaintiffs sought monetary damages for unpaid regular and overtime wages, meal and rest breaks, and attorneys’ fees and costs of suit on the basis that Cargill did not pay its hourly production and support workers for all time worked. Cargill denies all of the allegations in the Lawsuit and has asserted defenses to the Plaintiffs’ claims. Nothing in this Notice or proposed Settlement shall be construed as an admission, concession, or indication by or against Cargill or anyone else of any fault, wrongdoing or liability whatsoever. The Court has expressed no opinion regarding the merits of Plaintiffs’ claims or Defendant’s liability.

The Court must approve the terms of the Settlement described below as fair and reasonable to the Class. The Settlement will affect all members of the Class. **You may get money from the class action Settlement provided you submit a valid and timely Claim and Opt-In Form as indicated below.**

3. Who Are The Attorneys Representing The Plaintiffs?

Plaintiffs and the Class Members are represented in this Lawsuit by attorneys at the law firms of Schneider Wallace Cottrell Brayton Konecky LLP; Berger & Montague, P.C. and Philip A. Downey (“Class Counsel”) whose contact information appears below.

**SCHNEIDER WALLACE
COTTRELL BRAYTON
KONECKY LLP**
Todd M. Schneider
W.H. “Hank” Willson, IV
180 Montgomery Street, Suite 2000
San Francisco, California 94104
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
TTY: (415) 421-1655
wwillson@schneiderwallace.com
www.schneiderwallace.com

BERGER & MONTAGUE, P.C.
Shanon Carson
Russell Henkin
1622 Locust Street
Philadelphia, Pennsylvania 19103
Telephone: (215) 875-3051
Facsimile: (215) 875-4604
scarson@bm.net
www.bergermontague.com

Philip A. Downey
P.O. Box 736
Unionville, Pennsylvania 19375
Telephone: (610) 324-2848
Facsimile: (610) 347-1073
downeyjustice@gmail.com
www.downeyjustice.com

4. What Are My Rights? How Will My Rights Be Affected?

To receive any money from the Settlement, you **must** complete the attached Claim and Opt-In Form and sign it under penalty of perjury. Class Counsel, appointed and approved by the Court for settlement purposes only, will represent you. You need to complete the Claim and Opt-In Form and promptly mail it to the Settlement Administrator.

Your monetary award from this Settlement will be based on the total number of weeks you worked as an hourly production or support worker for Cargill during the Class Period of September 14, 2003 to February 3, 2009. The Claim and Opt-In Form states the number of weeks you worked during the Class Period, whether or not you were in a position that required you to wear mesh protective clothing as part of your job duties, and an estimate of what your individual Settlement Award will be. If you believe that the information shown in the Claim and Opt-In Form is incorrect, explain your disagreement on the Claim and Opt-In Form, and mail it along with any documentation relating to your disagreement to the Settlement Administrator at the address provided below. For your explanation and documentation to be considered, they must be postmarked by August 3, 2009. In the event of a dispute about the dates you worked, the Settlement Administrator will review Cargill's records and your records and will resolve the dispute.

If you do not wish to be bound by the Settlement, you must submit a written request for exclusion from the Settlement ("opt-out"), postmarked by April 28, 2009. The written request for exclusion from the Settlement must contain the name, address and telephone number of the person requesting exclusion and the years of his or her employment with Cargill. The request for exclusion must be signed by the Class Member who seeks to opt out. No opt-out request may be made on behalf of a group of Class Members. The opt-out request must be sent by mail to the Cargill Wage and Hour Settlement Administrator, c/o Rust Consulting, Inc., P.O. Box 9467, Minneapolis, Minnesota 55440-9467 and must be timely postmarked as set forth above. Any Class Member who requests exclusion from (opts out of) the Settlement will not be entitled to any Settlement Award and will not be bound by the Settlement Agreement or have any right to object, appeal or comment thereon.

If you object to the proposed Settlement Agreement, you must take the following steps (your failure to do so will be deemed a waiver of your objections):

- a. So that it is postmarked by April 28, 2009, you must mail a request by First-Class Mail to the Court at United States District Court for the Eastern District of California, Courtroom No. 4, United States Courthouse, 2500 Tulare Street, Fresno, California, 93721; to Class Counsel, listed above; and to Defense Counsel, Joe Tilson, at Meckler Bulger Tilson Marick & Pearson LLP, 123 North Wacker Drive, Suite 1800, Chicago, Illinois 60606.
- b. The request MUST include: (i) a written statement advising if you plan to address the Court at the hearing; (ii) a written statement of your objections; and (iii) any other papers which you propose to submit to the Court, including any legal briefs or memoranda.

If you have satisfied the requirements set forth above, you have the right to address the Court at the hearing scheduled for Wednesday May 27, 2009 before the Honorable Lawrence J. O'Neill, Judge, United States District Court for the Eastern District of California, Courtroom No. 4, United States Courthouse, 2500 Tulare Street, Fresno, California 93721. You may appear personally at the hearing, or through your own counsel, paid for at your own expense.

IF YOU INTEND TO OBJECT TO THE SETTLEMENT, BUT WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT AMOUNT, YOU **MUST TIMELY** FILE YOUR CLAIM AND OPT-IN FORM AS STATED ABOVE. IF THE COURT APPROVES THE SETTLEMENT AND YOU HAVE NOT RETURNED YOUR CLAIM AND OPT-IN FORM, YOU WILL NOT RECEIVE ANY SETTLEMENT PROCEEDS.

If the proposed Settlement is approved by the Court, a Judgment will be entered by the Court that will dismiss with prejudice the alleged claims of the Settlement Class against Cargill. The Settlement defines the claims that will be released by anyone who submits a Claim and Opt-In Form as follows:

Settled Claims under California Law include any and all claims that were asserted in the Complaint in Santos Salcido and Guadalupe Alvarez, and Christina Barbosa vs. Cargill Meat Solutions Corp., Cargill Meat Solutions Corp. d/b/a Beef Packers, Inc., and Beef Packers, Inc., United States District Court for the Eastern District of California, Case Nos. 1:07-CV-01347-LJO-GSA and 1:08-CV-00605-LJO-GSA ("the Salcido/Barbosa case"), arising under the California Labor Code §§ 201-203, 204, 210, 218 - 218.6, 226, 226.3, 226.7, 510, 512, 1194, 1197, the California Code of Civil Procedure § 1021.5 and the California Business and Professions Code § 17200, *et seq.*, whether known or unknown, that accrued any time prior to February 3, 2009.

Settled Claims under the Fair Labor Standards Act include any and all claims that were asserted in the Complaints arising under the Fair Labor Standards Act, whether known or unknown, accruing any time prior to February 3, 2009.

The Judgment will resolve the claims to the extent provided in the Settlement Agreement and will permanently bar all Class Members who submit Claim and Opt-In Forms from prosecuting any and all such claims against Cargill. **However, if you do not submit a Claim and Opt-In Form but do not submit a written request for exclusion, your claims under the Fair Labor Standards Act are not released. You are only bound by the release of claims arising under the Fair Labor Standards Act if you actually submit a timely and valid Claim and Opt-In Form.**

5. Can Cargill Retaliate Against Me As A Result Of What I Do In Response To This Notice?

No. If you are a current Cargill employee, your decision as to whether or not to submit a Claim and Opt-In Form will in no way affect your employment with Cargill. It is illegal for Cargill to take any adverse employment action against you as a result of your decision whether or not to submit a Claim and Opt-In Form.

6. How Much Can I Expect to Receive?

Cargill has agreed to pay \$7,500,000 to settle the Lawsuit. Deductions from this amount will be made to cover the attorneys' fees and costs of counsel for the Plaintiffs and the Class, settlement administration costs, an enhancement payment of \$30,000 to the three named Plaintiffs (\$10,000 each), and a set-aside for disputed or late claims in the amount of \$100,000. After deductions of these amounts, what remains of the Settlement (the "Net Settlement Amount") will be available to pay all Settlement Awards. The Net Settlement Amount will be divided among the Class Members as follows:

- Class Members will be divided into two categories: workers who were required to wear mesh protective clothing as part of their job duties (Group 1) and workers who were not required to wear mesh protective clothing (Group 2).
- Each Group 1 Class Member's total weeks worked will be multiplied by three (3) to determine the number of Settlement Shares he or she is entitled to receive. Each Group 2 Class Member's total weeks worked will be multiplied by one (1) to determine the number of Settlement Shares he or she is entitled to receive.
- The sum of all the Settlement Shares for Group 1 and Group 2 will constitute the Total Settlement Shares for all Class Members.
- Each Class Member's Settlement Shares will be divided by the Total Settlement Shares. That ratio will then be multiplied by the Net Settlement Amount to determine each Class Member's monetary Settlement Award.

All valid claims submitted to the Settlement Administrator will be paid from the Net Settlement Amount. The Settlement Administrator also will deduct applicable employee payroll taxes and withholdings from the Settlement payments.

The Settlement Administrator has provided your total number of weeks worked, whether you are a member of Group 1 or Group 2, and your estimated Settlement Award in the attached Claim and Opt-In Form. The amount is only an estimate and may vary based on the final calculations made before final approval by the Court. Again, if you dispute the information provided by the Settlement Administrator, you must indicate on the Claim and Opt-In Form the number of weeks you believe you worked, sign and mail it postmarked by August 3, 2009 along with any documentation you have to support the number of weeks you believe you worked.

NOTE: YOU WILL ONLY GET MONEY FROM THE SETTLEMENT IF YOU SUBMIT A VALID CLAIM AND OPT-IN FORM. It is your responsibility to ensure the Settlement Administrator has timely received your Claim and Opt-In Form. You may contact the Settlement Administrator at the toll-free number listed at the bottom of this page to ensure it has been received. It is also your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your Settlement Award. If you fail to keep your address current, you may not receive your Settlement Award.

7. How Will The Attorneys For The Class Be Paid?

As noted above, the attorneys for the Representative Plaintiffs and the Class will be paid from the total Settlement Amount of \$7,500,000. You will not have to pay the attorneys who represented the Class in this Lawsuit separately. The Settlement Agreement provides that Plaintiffs' counsel will receive up to one-third (1/3) of the total value of the Settlement, or \$2,500,000. On or before April 3, 2009 the attorneys will file with the Court a Motion for Attorneys' Fees of up to one-third (1/3) of the total Settlement Amount, and costs of suit. The actual amount awarded will be determined by the Court. The Court will hold a hearing on that Motion on the same day as the Settlement Fairness Hearing, Wednesday, May 27, 2009 at 8:30 a.m. You may request a copy of this Motion from Plaintiffs' counsel or review a copy on file with the Court. You may file with the Court an objection stating why you object to the Motion. Your objection must state your full name, address and telephone number. The objection should be mailed to Cargill Wage and Hour Settlement Administrator, c/o Rust Consulting, Inc., P.O. Box 9467, Minneapolis, Minnesota 55440-9467.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact the Settlement Administrator at the address and telephone number listed below, toll free. Please refer to the Cargill Class Action Settlement.

Cargill Wage and Hour Settlement Administrator
c/o Rust Consulting, Inc.
P.O. Box 9467
Minneapolis, MN 55440-9467
TFN 1-866-458-3207

ADDITIONAL INFORMATION

This Notice only summarizes the Actions, the Settlement and related matters. For more information, you may inspect the Court files at the Office of the Clerk, 2500 Tulare Street, Fresno, California 93721, from 9:00 a.m. to 5:00 p.m., Monday through Friday or on the Court's website at <http://www.caed.uscourts.gov>.

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT OR THE CLAIMS PROCESS.

Dated: February 27, 2009

INDIVIDUAL CLASS MEMBER CLAIM AND OPT-IN FORM

United States District Court, Eastern District of California, *Salcido et al. and Barbosa v. Cargill Meat Solutions Corp. et al.*, Case Nos. 1:07-CV-01347-LGO-GSA and 1:08-CV-00605-LJO-GSA

TO SHARE IN THE MONETARY RECOVERY FOR THE CARGILL CLASS ACTION,
YOU MUST COMPLETE, SIGN AND RETURN THIS CLAIM AND OPT-IN FORM.
THE CLAIM AND OPT-IN FORM MUST BE POSMARKED NO LATER THAN AUGUST 3, 2009.

CLAIMANT INFORMATION:



SAMPLE A SAMPLE
123 ANY AVE
ANYTOWN US 12345-6789

CORRECTIONS OR ADDITIONAL INFORMATION

If different than the preprinted data to the left, please print your correct legal name and current address below **OR** if there is no data to the left, please print your correct legal name and current address here:

You must provide your full and correct Social Security Number or Tax Identification Number here

<<ssn_first6>> **X X X**
First 6 Digits Of Your Social Security Number

MAIL TO:
CARGILL WAGE AND HOUR SETTLEMENT ADMINISTRATOR
c/o Rust Consulting, Inc.
P.O. Box 9467
Minneapolis, MN 55440-9467
TFN 1-866-458-3207
Must be Postmarked No Later Than August 3, 2009

Cargill, Meat Solutions Corp. or Beef Packers Inc. (collectively "Cargill")'s records indicate that you were employed as an hourly production or support worker during the Class Period (September 14, 2003 through February 3, 2009) from:	<<start>> to <<end>>,
	for a total of <<weeks>> weeks.
Cargill's records also indicate that you:	<<were>> <<were not>> required to wear mesh protective clothing for at least part of the time you worked at Cargill, which puts you in Group <<group>> for at least part of your time at Cargill, as described in the Notice.
As a result, your estimated Settlement Award is:	\$<<estimatedaward>> <u>This is only an estimate.</u> The actual amount may vary.

If this number of weeks is incorrect, please enter the number of weeks you believe you were employed as an hourly production or support worker between September 14, 2003 and February 3, 2009. Separate the weeks based on whether you were or were not required to wear mesh as part of your job duties.

Number of weeks required to wear mesh: _____ Number of weeks not required to wear mesh: _____

If you disagree with Cargill's records, you must provide documentation to support your dispute.

If your address changes, send the Settlement Administrator your new address. It is your responsibility to keep your address on file with the Settlement Administrator so that you can be sure to receive your Settlement Award.

By signing, I certify under penalty of perjury that I was employed by Cargill as an hourly production or support worker between September 14, 2003 and February 3, 2009, and that my name, address and Social Security number or Tax Identification Number written above are correct.

I also hereby consent and agree to pursue all claims under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* against Cargill for alleged unpaid wages, overtime, liquidated damages and interest by joining the *Salcido* Lawsuit, and I hereby opt in to become a plaintiff in the *Salcido* Lawsuit and consent to be bound by the collective action settlement of all Settled Claims and I understand that I am releasing those Settled Claims.

Date: _____

Signature: _____



Tribunal de Distrito de Estados Unidos, Distrito Oriental de California

SANTOS SALCIDO y GUADALUPE ALVAREZ, y CHRISTINA BARBOSA,

en su propio nombre y en nombre de todas aquellas personas en situación similar,

Demandantes,

vs.

Cargill Meat Solutions Corp., Cargill Meat Solutions Corp. operando comercialmente como Beef Packers, Inc., y Beef Packers, Inc.,

Demandadas.

Casos No. 1:07-CV-01347-LJO-GSA y 1:08-CV-00605-LJO-GSA

AVISO DE ACUERDO PROPUESTO DE DEMANDA COLECTIVA

**IMPORTANTE – Por Favor Lea Este Aviso Cuidadosamente. Sus Derechos Podrían Verse Afectados.
Usted Podría Tener Derecho a Recibir Dinero de Este Acuerdo.**

A: Todos los empleados actuales y ex empleados de producción y apoyo, pagados por hora, empleados en la planta empacadora de carne de Cargill en Fresno, California entre el 14 de Septiembre de 2003 y el 3 de febrero de 2009 (“Miembros de la Clase”).

REF: Arreglo de Reclamos por Presuntas Violaciones de Salarios y Horarios, Incluyendo Reclamos por Compensación de Horas Extras No Pagadas y Todos los Reclamos Relacionados para Reparación Judicial.

SI USTED DESEA PARTICIPAR EN ESTE ACUERDO, DEBE FIRMAR Y DEVOLVER EL FORMULARIO DE RECLAMO E INCLUSIÓN ADJUNTO AL ADMINISTRADOR DEL ACUERDO A MÁS TARDAR PARA EL 3 DE AGOSTO DE 2009.

INTRODUCCIÓN

El objeto de este Aviso es informarle de un acuerdo propuesto (el “Acuerdo”) de demandas colectivas tituladas *Salcido et al. v. Cargill Meat Solutions Corp. et al.* y *Barbosa et al. v. Cargill Meat Solutions Corp. et al.*, actualmente pendiente ante el Tribunal de Distrito de Estados Unidos, Distrito Oriental de California, División de Fresno (el “Tribunal”), Casos No. 1:07-CV-01347-LGO-GSA y 1:08-CV-00605-LJO-GSA (la “Demanda”). La Demanda es en contra de Cargill a nombre de los empleados actuales y ex empleados que se ajusten a la definición de Miembros de la Clase arriba descrita. La Demanda fue interpuesta por los Demandantes Santos Salcido, Guadalupe Alvarez y Christina Barbosa, en su propio nombre y en nombre de otras personas en situación similar (los “Demandantes”) en contra de Cargill, alegando que Cargill violó la ley federal y la ley de California al no pagarles a los trabajadores de producción y apoyo pagados por hora compensación regular y de horas extras y al no permitir a los trabajadores tomar los períodos obligatorios de comida y de descanso.

Usted recibió este Aviso porque los registros de Cargill indican que usted estuvo empleado por Cargill como trabajador de producción o de apoyo, pagado por hora, en su planta empacadora de carne en Fresno, California, entre el 14 de septiembre de 2003 y el 3 de febrero de 2009. Sus derechos podrían verse afectados por los procedimientos legales en esta demanda. Si usted es un miembro de la Clase del Acuerdo, deberá firmar y devolver el Formulario de Reclamo e Inclusión adjunto para poder recibir compensación.

ESTE AVISO ES PARA INFORMARLE LO SIGUIENTE:

1. EL ESTÁTUS DE LA DEMANDA COLECTIVA, INCLUYENDO UNA DECLARACIÓN DE SUS DERECHOS CON RESPECTO AL ACUERDO PROPUESTO EN EL CASO;
2. CÓMO DEBE PRESENTAR EL “FORMULARIO DE RECLAMO E INCLUSIÓN” ADJUNTO PARA RECIBIR UNA PORCIÓN DE LOS FONDOS DEL ACUERDO;
3. SU OPCIÓN DE DISPUTAR EL REGISTRO EN LO QUE SE REFIERE AL NÚMERO DE SEMANAS QUE TRABAJÓ EN UN CARGO CON DERECHO A RECIBIR UNA ADJUDICACIÓN DEL ACUERDO;
4. SU OPCIÓN DE INTERPONER ANTE EL TRIBUNAL CUALQUIER OBJECCIÓN QUE PUEDA TENER AL ACUERDO;
5. SU OPCIÓN DE EXCLUIRSE DEL ACUERDO PROPUESTO (“OPTING OUT”); Y
6. LOS HONORARIOS Y COSTOS QUE LOS ABOGADOS DE LA CLASE SOLICITARÁN.

