

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

Erin Herring v. Certis U.S.A. L.L.C., et al, Kern County Superior Court,

Case No. BCV-22-102755

***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 Certis U.S.A., LLC ("Defendant") for alleged wage and hour violations. The Action was filed by Defendant's employee, Erin Herring ("Plaintiff"), and alleges (1) failure to pay minimum wage for all hours worked; (2) failure to pay proper overtime wages; (3) failure to provide compliant rest periods and pay missed rest break premiums; (4) failure to provide compliant meal periods and pay missed meal period premiums; (5) failure to pay timely wages during employment; (6) failure to pay all wages due and owing at separation; (7) failure to reimburse business expenses; (8) failure to provide complete and accurate wage statements; and (9) deceptive, fraudulent, or otherwise unlawful business practices based on the foregoing in violation of California's Unfair Competition Law for a class of all individuals who are or were employed by Defendant as non-exempt employees in California during the Class Period ("Class Members"). The Class Period is defined as the period from December 15, 2020, through March 7, 2024 (the "Class Period"). Further, the Action seeks civil penalties under the California Private Attorney General Act ("PAGA") on behalf of all individuals who are or were employed by Defendant as non-exempt employees in California during the PAGA Period. The "PAGA Period" is defined for these purposes to mean the period from October 18, 2021, through March 7, 2024.

The proposed Settlement has two main parts: (1) a class settlement releasing the Released Class Claims on behalf of the Participating Class Members during the Class Period and requiring Defendant to fund Individual Class Payments (the "Class Settlement"), and (2) a PAGA settlement releasing the Released PAGA Claims on behalf of the Aggrieved Employees during the PAGA Period requiring Defendant to fund Individual PAGA Payments and pay penalties to the California Labor and Workforce Development Agency ("LWDA") (the "PAGA Settlement").

Based on Defendant's records, and the Parties' current assumptions, **your Individual Class Payment is estimated to be <<MERGED_ClassAward>> (less withholding) and your Individual PAGA Payment is estimated to be <<MERGED_PAGAAward>>** The actual amount you may receive likely will be different and will depend on a number of factors.

The above estimates are based on Defendant's records showing that **you worked <<MERGED_ClassWW>> workweeks during the Class Period**. Further, **Defendant's record show that you worked <<MERGED_PAGAPP>> pay periods during the PAGA Period**. If you believe that you worked more workweeks during either period, 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").

If you worked are Class Member, you have two basic options under the Settlement:

- (1) **Do Nothing.** If you do nothing, you will be automatically included as a Participating Class Member in the Settlement and will receive an Individual Settlement Payment. As a Participating Class Member, though, you will give up your right to assert the Released Class Claims against the Released Parties.
- (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class Settlement (opt-out) and Released Class Claims by submitting a 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. Requesting exclusion from the Class Settlement applies solely to the Class Members' entitlement to the class action portion of the Settlement and not their entitlement to the PAGA Payment. If you request exclusion from the Class Settlement you will still be entitled to your share, if any, of the PAGA Penalties.

Defendant will not retaliate against you for any actions you take with respect to the proposed Settlement.

1. WHAT IS THE ACTION ABOUT?

Plaintiff is an employee of Defendant. The Action alleges Defendant violated California labor laws by (1) failing to pay minimum wages; (2) failing to pay overtime wages; (3) failing to provide required rest periods; (4) failing to provide required meal periods; (5) failing to indemnify employees for necessary expenditures incurred in discharge of duties; (6) failing to furnish accurate itemized wage statements; (7) failing to pay timely and all wages due to discharged and quitting employees; (8) failing to pay timely and all wages to employees during employment; (9) for unfair and unlawful business practices; and (10) failing to maintain reasonable temperatures. 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.*). Plaintiff is represented by attorneys in the Action: Melmed Law Group, PC.

Defendant strongly denies violating any laws or failing to pay any wages and contend it complied with all applicable laws. Defendant is represented by Jackson Lewis, PC.

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

So far, the Court has made no determination whether Defendant or Plaintiff is correct on the merits.

In the meantime, Plaintiff and Defendant hired an experienced, neutral mediator and participated in an all-day mediation that involved the extensive informal exchange of information including Defendant's written wage and hour policies and a sampling of Class Member time and pay records in an effort to resolve the Action by negotiating an end to 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 Defendant 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, Defendant 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) Defendant 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. 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. Defendant Will Pay No Less Than \$210,000.00 as the Gross Settlement Amount (Gross Settlement). Defendant has agreed to deposit the Gross Settlement into an account controlled by a third party settlement administrator named ILYM Group, Inc. ("The Administrator"). 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. Assuming the Court grants Final Approval, Defendant will fund the Gross Settlement not more than 21 days after the Effective Date.
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 Amount, the amounts of which will be decided by the Court at the Final Approval Hearing:
 - A. Up to \$70,000.00 or one-third (1/3) of the Gross Settlement Amount to Class Counsel for attorneys' fees and up to \$25,000.00 for their litigation expenses. To date, Class Counsel has worked and incurred expenses on the Action without payment.
 - B. Up to \$7,500.00 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 other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.
 - C. Up to \$15,000.00 to the Administrator for services administering the Settlement.
 - D. Up to \$25,000.00 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.
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 Defendant are asking the Court to approve an allocation of twenty-five-percent (25%) of each Individual Class Payment to taxable wages ("Wage Portion") and seventy-five-percent (75%) to non-wage penalties and interest ("Non-Wage Portion"). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendant 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 Defendant 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 May 27, 2024, 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 May 27, 2024, Response Deadline. The Request for Exclusion should be a 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 preserve their rights to personally pursue wage and hour claims against Defendant but will not receive an Individual Class Payment.

You cannot opt-out of the PAGA portion of the Settlement. Class Members who are also Aggrieved Employees who exclude themselves from the Class Settlement (Non-Participating Class Members) remain eligible for Individual PAGA Payments and will release their Released PAGA Claims.

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. Plaintiff and Defendant have agreed that, in either case, the Settlement will be void: Defendant will not pay any money and Class Members will not release any claims against Defendant.
8. Administrator. The Court has appointed ILYM Group as 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. If the Court approves the Settlement, the Court will enter judgment and the Settlement will bind all Participating Class Members. After the Judgment is final and Defendant has fully funded the Gross Settlement and separately paid all employer payroll taxes, the Participating Class Members will then be barred from bringing any "Released Claims" against the "Released Parties" as those terms are defined below.
10. After the Judgment is final and Defendant 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 Released Class Claims. 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 any other lawsuit against Defendant together with their present and former parents, subsidiaries, affiliated and related entities, present and former owners, boards, officers, directors, trustees, shareholders, members, partners, managing employees, agents, insurers, attorneys, representatives, heirs, executors, administrators, successors, and assigns who may be held liable for any of the Released Class Claims and the Released PAGA Claims ("Released Parties") 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 "Released Class Claims" are defined as:

those claims alleged in the operative Complaint under state, federal (including related allegations under the Federal Labor Standards Act) or local law, whether statutory, common law or administrative law, arising out of or related to allegations set forth in the operative Complaint or PAGA Notice to the LWDA, including but not limited to: claims for minimum wage violations; failure to pay overtime wages; unreimbursed expenses; rest period violations; meal period violations; failure to timely pay wages; itemized wage statement violations; waiting time penalties; failure to maintain reasonable temperatures; claims for violation of Sections 11 and 12 of IWC Wage Order No. 1; unfair competition based on the foregoing; and claims for PAGA penalties pursuant to the California Private Attorneys General Act based on the foregoing Labor Code violations; including, but not limited to, California Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 1194, 1194.2, 1197, 2802, 8 CAL. C. REGS. § 11130, sections 11 and 12 of IWC Wage Order No. 1, and Labor Code §§ 2698-2699.5; liquidated damages, penalties; interest; fees; costs; and all other claims and allegations made or which could have been made in the Action from December 15, 2020 through the date of preliminary approval of the Settlement.

"Released Parties" means:

Defendant Certis U.S.A., LLC and any past, present or future parent, subsidiary, affiliate, predecessor or successor, and all agents, managing employees, owners, shareholders, insurers, reinsurers, assigns, officers, directors and attorneys thereof, who may be held liable for any of the Released Class Claims and Released PAGA Claims.

11. **Aggrieved Employees' PAGA Release.** After the Court's judgment is final, and Defendant has paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting the Released PAGA Claims against the Released Parties, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who opt-out of the Class Settlement, will release the Released PAGA Claims against the Released Parties.

Released PAGA Claims is defined as:

all claims, rights, demands, liabilities and causes of action arising from PAGA (Labor Code §§ 2689, *et seq.*) that were asserted or that could have reasonably been asserted based on the facts and claims alleged in the Operative Complaint in the Action, and any amendments thereto and Plaintiff's PAGA Notice, and any amendments thereto, arising during the PAGA Period.

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 \$25,000.00 by the total number of PAGA Pay Periods worked by all Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked by each individual Aggrieved Employee.
3. **Workweek/Pay Period Challenges.** The number of Workweeks you worked during the Class Period and the number of PAGA Pay Periods you worked during the PAGA Period, as recorded in Defendant's records, are stated in the first page of this Notice. You have until May 27, 2024, 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 Defendant's calculation of Workweeks and/or Pay Periods based on Defendant'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 Defense Counsel. The Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

5. HOW WILL I GET PAID?

The Administrator will send, by U.S. mail, a single check to every Participating Class Member (i.e., every Class Member who does not opt-out) and every Aggrieved Employee. The single check will combine the Individual Class Payment and the Individual PAGA Payment for those eligible for both payments.

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 "*Herring v. Certis U.S.A., LLC*" 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 May 27, 2024, 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 Defendant are asking the Court to approve. At least 16 court days before the 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 ILYM Group, Inc. – <https://ilymgroup.com/CertisUSALLC> or the Superior Court's website (<https://www.kern.courts.ca.gov/>).

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. **The deadline for sending written objections to the Administrator is May 27, 2024.** 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 "*Herring v. Certis U.S.A., LLC*" and include your name, current address, telephone number, and approximate dates of employment for Defendant 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 June 11, 2024 at 8:30 a.m. [in Department T2 of the Kern County Superior Court, located at 1215 Truxtun Avenue, Bakersfield, California 93301. At the Final Approval Hearing, the judge will decide whether to grant Final Approval of the Settlement and how much of the Gross Settlement Amount 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 virtually via the Court's Civil Court Zoom Link. Check the Court's website for the most current information.

It's possible the Court will reschedule the Final Approval Hearing. You should check the Kern County Superior Court's website 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 Defendant and Plaintiff have promised to do under the proposed Settlement. If you have any questions about the settlement, you may contact the Settlement Administrator at: (888) 250-6810 or by e-mail at claims@ilymgroup.com. You may also contact Class Counsel at the addresses or phone numbers listed below. You can also telephone or send an email to Class Counsel or the Administrator using the contact information listed below, or consult the Kern County Superior Court website. You can also make an appointment to personally review court documents at the Civil Records Unit of the Kern County Superior Court at the address listed above.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

You Don't Have to Do Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment. In exchange, you will give up your right to assert the Released Class Claims against the Released Parties.
You Can Opt-out of the Class Settlement but not the PAGA Settlement The Opt-out Deadline is May 27, 2024	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 you will not receive an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice. You cannot opt-out of the PAGA Settlement. If you request exclusion from the Class Settlement you will still be entitled to your share, if any, of the PAGA Penalties.
Participating Class Members Can Object to the Class Settlement Written Objections Must be Submitted by May 27, 2024	All Participating Class Members can object to any aspect of the proposed Settlement. Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing.

You Can Participate in the June 11, 2024, Final Approval Hearing	The Court’s Final Approval Hearing is scheduled to take place on June 11, 2024. 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.
You Can Challenge the Calculation of Your Workweeks/Pay Periods Written Challenges Must be Submitted by May 27, 2024	The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many workweeks you worked at least one day during the Class Period. The number workweeks you worked during the Class Period and pay periods you worked during the PAGA Period, according to Defendant’s records, is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by May 27, 2024. See Section 4 of this Notice.

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

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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’s website (https://www.sco.ca.gov/upd_msg.html) 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.