

NOTICE OF PROPOSED SETTLEMENT AND RIGHT TO OPT-OUT

Thomas Aragon v. Clear Water Products LLC, et al., No. 15-CV-02821-PAB-STV (D. Colo.)

A FEDERAL COURT AUTHORIZED THIS NOTICE. THIS IS NOT A SOLICITATION FROM A LAWYER.

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TO: «FirstName» «LastName»

- **PLEASE READ THIS NOTICE CAREFULLY. IT TELLS YOU ABOUT THE SETTLEMENT OF A CLASS ACTION LAWSUIT THAT INCLUDES YOU.**
- **YOU ARE ELIGIBLE TO RECEIVE A PAYMENT FROM THE SETTLEMENT OF THIS LAWSUIT.**
- **IF YOU WISH TO OBJECT TO OR EXCLUDE YOURSELF FROM THE SETTLEMENT, YOU MUST FOLLOW THE DIRECTIONS IN THIS NOTICE.**
- **IF YOU RECEIVED THIS NOTICE ON BEHALF OF A CLASS MEMBER WHO IS DECEASED, YOU SHOULD PROVIDE THE NOTICE TO THE AUTHORIZED LEGAL REPRESENTATIVE OF THAT CLASS MEMBER.**

A proposed settlement has been reached between the parties in this class action pending in the United States District Court for the District of Colorado brought on behalf of all individuals who worked for Mills Solid Control Consulting, LLC or Aqua Clear Solutions LLC as solids control technicians and were paid a day rate at any time from December 28, 2013 to March 5, 2018 (the "Settlement Class"). The federal court has preliminarily approved the settlement.

You are receiving this Notice because you are a member of the Settlement Class. This Notice informs you of how you can object to the settlement or exclude yourself from the settlement. If the settlement is finally approved by the Court, you will receive a settlement payment and will be bound by the settlement unless you exclude yourself from the settlement by following the instructions in this Notice.

If the Court finally approves the settlement and you do not exclude yourself from the settlement, you will receive a gross, pre-tax payment of approximately $\$[MERGED_EstSettAmnt_CALC]$.

The Court will decide whether to finally approve the settlement during a hearing ("the Fairness Hearing") to be conducted at the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589 at a date and time set by the Court.

What Is The Class Action About?

This action involves a class of approximately 90 current and former solids control technicians who were paid a day rate, worked more than 40 hours in a week, and did not receive overtime compensation. The action seeks unpaid overtime payments on behalf of these individuals. Defendants Clear Water Products LLC, Mills Solid Control Consulting, LLC, Aqua Clear Solutions LLC, and their owners and managers deny any wrongdoing or liability. The settlement is an effort by both sides to avoid costly litigation. The Court has not decided who is right.

What Are My Rights?

You have the following choices:

DO NOTHING AND STAY IN THE SETTLEMENT CLASS	By doing nothing, you will remain in the Settlement Class and you will receive a settlement payment. You will be legally bound by all orders and judgments entered by the Court, and will not be able to sue, or continue to sue, Defendants in any lawsuit relating to the alleged misclassification of Colorado solids control technicians as overtime-exempt during the time period covered by the settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS Postmark Deadline: June 4, 2018	You may exclude yourself from of the Settlement Class. If you exclude yourself, you will receive no benefits or payment, you will not give up any legal claims you may have against Defendants, and you will not be bound by any orders or judgments of the Court. To exclude yourself from the settlement, you must send a letter stating that you want to exclude yourself from the Settlement Class. This letter must include your name, address, telephone number, and the last four digits of your social security number. The letter must be mailed to the following address: Aragon v. Clear Water Products LLC, et al., c/o Simpluris Inc., P.O. Box 26170, Costa Mesa, CA 92799. To be valid, the letter must be postmarked by June 4, 2018.
OBJECT TO THE SETTLEMENT Postmark Deadline: June 4, 2018	You may object to the settlement. If you object and the Court finally approves the settlement, you will remain in the Settlement Class, receive a settlement payment, be legally bound by all orders and judgments entered by the Court, and will not be able to sue, or continue to sue, Defendants in any lawsuit relating to the alleged misclassification of Colorado solids control technicians as overtime-exempt during the time period covered by the settlement. To object to the settlement, you must send a letter describing the reasons for your objection. This letter must include your name, address, telephone number, and the last four digits of your social security number. The letter must be mailed to the following address: Aragon v. Clear Water Products LLC, et al., c/o Simpluris Inc., P.O. Box 26170, Costa Mesa, CA 92799. To be valid, the letter must be postmarked by June 4, 2018. Finally, if you object to the settlement, you are entitled to appear at that Fairness Hearing and will be provided with an opportunity to further explain the basis for your objection to the Court.

Do I Have A Lawyer In The Lawsuit?

The Court has appointed the following attorney (“Class Counsel”) to represent you and other members of the Settlement Class:

Brian D. Gonzales, Esq.
The Law Offices of Brian D. Gonzales, PLLC
242 Linden St.
Fort Collins, CO 80524
Phone: (970) 214-0562
Email: bgonzales@coloradowagelaw.com

You will **not** be required to pay the above attorney from your settlement payment. This attorney, who has been working on this lawsuit for almost one and a half years, will submit a motion requesting that the Court award him \$116,666 (which equals one-third of the Gross Settlement Amount of \$350,000) for his accumulated attorney’s fees and out-of-pocket expenses.

If you want your own lawyer, you may hire one at your own expense. If you do so, your lawyer must file an appearance in the action.

What Will I Receive From The Settlement?

The Gross Settlement Amount is \$350,000. This is the maximum amount that Defendants are obligated to pay under the settlement. This amount consists of (i) up to \$116,666 for attorney's fees and litigation costs, (ii) up to \$17,000 for the named plaintiff and four original opt-in plaintiffs, and (iii) \$215,334 to compensate Settlement Class members who do not exclude themselves from the settlement. This \$215,334 amount includes all payroll taxes and withholdings, including Defendants' share of such taxes and withholdings.

Your individual payment amount is based on the total number of workweeks you worked as a solids control technician at a day rate (you may have been converted to hourly pay prior to the end of your employment and workweeks during which you were paid hourly are not included in the settlement) during the time period between December 28, 2013 and March 5, 2018. Such weeks are referred to as Qualifying Work Weeks, and your individual Qualifying Work Weeks total [MERGED_WW]. Your individual payment amount will be calculated as follows: \$215,334 / total number Qualifying Work Weeks for the Settlement Class * your number of Qualifying Work Weeks.

What Do I Give Up As A Result Of The Settlement?

In consideration for your eligibility to receive your settlement payment, you will be releasing Clear Water Products LLC, Mills Solid Control Consulting, LLC, Aqua Clear Solutions LLC, and their owners, managers, affiliates, and subsidiaries from any liability for claims under the Colorado Minimum Wage Order, the Fair Labor Standards Act and any other federal or state wage and hour-related claims relating to the alleged misclassification of Colorado solids control technicians as overtime-exempt from December 28, 2013 to March 5, 2018.

When Will The Court Decide Whether To Give Final Approval To The Settlement?

The Court will hold the Fairness Hearing at the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589 at a date and time set by the Court. At this time, the Court will review the papers submitted by the parties and any objectors, and hear any properly noticed witnesses. The Court will decide either at or after the fairness hearing whether to grant final approval of the settlement, and will issue a written order of its decision.

May I Attend The Fairness Hearing?

Yes, any Settlement Class member may attend the hearing, but you do not need to do so in order to receive your individual payment amount. If you object to the settlement, you may submit your objections, as detailed above, along with any supporting documents, and declare your intent to appear at the fairness hearing, either personally or through an attorney.

What Happens If The Court Does Not Give Final Approval?

If the Court denies the parties' request for final approval of the Settlement Agreement, no payments will be made under the settlement and this action will revert to its status immediately prior to the execution of the Settlement Agreement.

If The Settlement Is Approved, When Will I Receive My Settlement Check?

If the Court grants final approval, the Settlement Agreement will become effective after expiration of the time for all appeals of the Court's final approval order or, if an appeal is filed, a final determination that the settlement should be approved. If you are eligible for an individual settlement amount, it will be distributed to you within 30 days after the settlement becomes effective.

How Will My Settlement Amount Be Distributed To Me?

If you are eligible for a settlement payment, the settlement administrator will send you one check. 50 percent of your settlement amount will be allocated to back pay and this portion will be subject to withholding of federal, state, and local income and payroll taxes, as well as any other required withholdings such as garnishments. You will receive an IRS Form W-2 for this payment from the settlement fund. The remaining 50 percent of your settlement amount will be for non-wages (penalties/interest) and will not be subject to any payroll or income tax withholding unless you are subject to backup withholding or other required withholdings. Only 50 percent of your settlement monies received as a result of this settlement will be taxed as wages. Taxes will not be withheld by Defendants from the remaining portion. You will receive an IRS Form 1099 for this second amount. The employer's share of taxes will also be paid from the Gross Settlement Amount.

Who Is Responsible For Paying The Taxes On My Settlement Amount?

You are solely responsible for paying taxes based on your receipt of a settlement payment. Neither your attorneys nor Defendants' attorneys can provide any advice about such tax payments. You should consult your tax advisor if you have questions about the tax consequences of your individual settlement payments.

How Can I Get a Copy of the Settlement Agreement and the Court's Preliminary Approval Order?

This Notice is a summary of your legal rights. These documents and all other pleadings and records in this lawsuit may be examined at any time during regular business hours in the Clerk's Office of the Alfred A. Arraj United States Courthouse, 901 19th Street, Denver, Colorado 80294-3589.

What If I Have Questions About This Notice Or My Individual Settlement Amount?

The settlement is being administered by Simpluris Inc. If you have questions concerning the settlement, you may call the Administrator at: (888) 369-3780.

In addition, you should not hesitate to call the attorney serving as Class Counsel if you wish to discuss the settlement. This attorney's phone number is listed at page 2 above.

You should not contact the Court if you have questions about the settlement or this Notice.