

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Claudia Granciano, et al. v. Southwind Foods, LLC, et al.
Superior Court of the State of California, County of Los Angeles
Case No. BC538900

THIS NOTICE MAY AFFECT YOUR LEGAL RIGHTS.
PLEASE READ THIS NOTICE CAREFULLY.

*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 not.*

«Barcode» «BarcodeString»
SIMID «SIMID»
«FirstName» «LastName»
«Address1» «Address2»
«City» «State» «Zip»

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1. Why should you read this Notice?

You received this Notice because your employment records with Southwind Foods, LLC (“Southwind”), Staffpoint, LLC (“Staffpoint”), and/or Alliance Professional Business Solutions, Inc. (“Alliance”) (collectively, “Defendants”) indicate that you are eligible to receive a settlement payment as a “Class Member” under the proposed Settlement in the lawsuit entitled *Granciano, et al. v. Southwind Foods, LLC, et al.*, which is pending before the Superior Court of the State of California, County of Los Angeles, Case No. BC538900 (the “Lawsuit”).

Because your rights may be affected by the proposed Settlement whether you act or not, it is important that you carefully read this Notice.

The Court in this Lawsuit ordered that this Notice be mailed to all Class Members to notify you of the proposed Settlement. This Notice does not express any opinion by the Court regarding the merits of any claims or defenses asserted by any party in the Lawsuit. Instead, this Notice was sent to you to inform you that this Lawsuit is pending and of the terms of the proposed Settlement, so that you may make appropriate decisions. In the event that this Notice conflicts with the Settlement Agreement, the terms of the Settlement Agreement shall govern.

The proposed Settlement will apply to all persons who meet the definition of the following Class:

All current and former non-exempt employees employed by Southwind Foods, LLC, Staffpoint, LLC, and/or Alliance Professional Business Solutions, Inc. who worked in any of Southwind Foods, LLC’s facilities located in California at any time from March 11, 2010 through May 1, 2016 (the “Class Period”).

According to Defendants’ employment records, you are a member of the Class (“Class Member”) because you are or were employed by one or more of the Defendants as a non-exempt employee who worked in one or more of Southwind Foods, LLC’s facilities located in California sometime between March 11, 2010 and May 1, 2016. Again, as a Class Member, you are eligible to receive a settlement payment under the proposed Settlement.

Plaintiffs Claudia Granciano and Ricardo Contreras (“Plaintiffs”) and Defendants, together with Cross-Defendants including Cross-Defendant Ashwin Syal, have presented this Settlement to the Court for its review and approval. On **July 2, 2018**, the Court ordered that this Notice be provided to Class Members.

The Court will decide whether to provide final approval to the Settlement at a hearing currently scheduled for **November 27, 2018 at 10:00 a.m.**, in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman (the “Final Approval Hearing”). The Final Approval Hearing may be continued to another date. If that happens, the Settlement Administrator will post information about the new date and time on the Settlement website at <http://simpluris.com/case-information>. Notice of final approval and judgment will also be posted to the Settlement website at <http://simpluris.com/case-information>.

2. What is the Lawsuit about?

The Lawsuit is a putative class and representative action, meaning a lawsuit where the claims and rights of many people are decided in a single court proceeding. In this case, there are two named plaintiffs, Ms. Claudia Granciano and Mr. Ricardo Contreras (“Plaintiffs”). Plaintiff Granciano, individually and on behalf of all other similarly situated employees, filed a wage and hour class action lawsuit against Southwind Foods, LLC and Staffpoint, LLC, on March 11, 2014 in the Superior Court of California, County of Los Angeles. On May 21, 2015, Plaintiff Granciano filed a First Amended Complaint to add Alliance Professional Business Solutions, Inc. as an additional Defendant. On July 8, 2015, Plaintiff Granciano filed a Second Amended Complaint to add Mr. Contreras as an additional Plaintiff and to seek relief pursuant to the California Private Attorneys General Act of 2004 (“PAGA”) (Cal. Lab. Code §§ 2698, *et seq.*).

The Lawsuit alleges that Defendants (1) failed to pay wages for all hours worked (Cal. Lab. Code § 1194), (2) failed to pay overtime compensation (Cal. Lab. Code § 510), (3) failed to provide meal periods (Cal. Lab. Code §§ 226.7 and 512), (4) failed to furnish complete and accurate wage statements (Cal. Lab. Code § 226), (5) failed to timely pay wages upon termination or resignation (Cal. Lab. Code §§ 201 and 202), (6) violated the PAGA (Cal. Lab. Code §§ 2698, *et seq.*), and (7) violated California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*).

As part of the Preliminary Approval process, Plaintiffs shall amend the operative Complaint to add a cause of action for unpaid wages pursuant to the Fair Labor Standards Act (“FLSA”) and file it with the Court. Defendants will stipulate for leave to file the Third Amended Complaint. In the event that the Settlement does not become final for any reason, then any Order permitting the filing of the Third Amended Complaint shall be treated by the Parties as void *ab initio* and the Second Amended Complaint will become Plaintiffs’ operative Complaint again.

Defendants deny these allegations and contend they complied with the law. Despite the Parties’ respective positions and arguments, the Parties recognize the uncertainty and risks of further litigation of the Lawsuit, which would be protracted and expensive for the Parties. Accordingly, the Parties have agreed to settle the Lawsuit, subject to Court approval, upon the terms set forth in the Amended Stipulation Regarding Class Action Settlement and Release (the “Stipulation” or “Settlement” or “Agreement” or “Settlement Agreement”). The settlement is a compromise. Defendants, by settling the Lawsuit, do not admit, concede or imply any fault, wrongdoing or liability. Defendants will object to any claim if for any reason the Court does not approve the Settlement.

3. The proposed Settlement.

In exchange for the release of claims and cross-claims against Defendants and final judgment in the Lawsuit, Defendants agreed to pay up to Seven Hundred Fifty Thousand Dollars (\$750,000) (“Gross Settlement Fund”), exclusive of Defendants’ employer-side payroll tax obligations that will be paid separately by Southwind Foods, LLC. The contributions shall be made as follows: \$623,500 by Southwind Foods, LLC, \$50,000 by Travelers Casualty and Surety Company of America on behalf of Southwind Foods, LLC, \$50,000 by Alliance Professional Business Solutions, Inc., \$25,000 by Ashwin Syal, and \$1,500 by Staffpoint, LLC.

After payment of Class Representative Service Awards to Plaintiffs, a PAGA payment to the California Labor and Workforce Development Agency (“LWDA”), Settlement Administration Costs, and Class Counsel attorneys’ fees and costs are deducted from the Gross Settlement Fund, remaining funds will be distributed to Class Members who do not submit a valid and timely Request for Exclusion from the Settlement (“Settlement Class Members”), as further explained below:

- A. **Plaintiffs’ Class Representative Service Awards.** Class Counsel will ask the Court to authorize Service Awards of up to Ten Thousand Dollars (\$10,000) each to Plaintiffs for their service as Class Representatives. Plaintiffs will also be entitled to receive Individual Settlement Payments from the Net Settlement Fund as described below.
- B. **PAGA Payment.** Ten Thousand Dollars (\$10,000) will be paid to settle claims alleged under PAGA. Of that amount, Seven Thousand Five Hundred Dollars (\$7,500), will be paid to the LWDA for its 75% share of the PAGA

payment, and Two Thousand Five Hundred Dollars (\$2,500) will be distributed equally to Settlement Class Members, including Plaintiffs.

- C. **Settlement Administration Costs.** The Settlement Administrator, Simpluris, Inc., will be paid for administering the proposed Settlement, which includes such tasks such as mailing and tracking this Notice, establishing and maintaining the Settlement website, calculating Class Member settlement payments, receiving and reviewing Requests for Exclusion and Objections, mailing checks and tax forms, and reporting to the Parties and the Court. Settlement Administration Costs are capped and will not exceed Fourteen Thousand Five Hundred Dollars (\$14,500).
- D. **Class Counsel Attorneys' Fees and Costs.** You do not need to pay any portion of either Plaintiffs' or Defendants' attorneys' fees and costs. Plaintiffs will ask the Court to award 33.33% of the Gross Settlement Fund to Class Counsel for their attorneys' fees for work performed in prosecuting this class and representative action, which is Two Hundred Forty-Nine Thousand Nine Hundred Seventy-Five Dollars (\$249,975), and for a Cost Award for actual expenses and costs incurred by Class Counsel in prosecuting this action not to exceed Twenty-Six Thousand Dollars (\$26,000).
- E. **Net Settlement Fund.** The amounts described in Subparts A – D, above, will be paid from the Gross Settlement Fund, and any requested amounts not approved by the Court will revert to the Net Settlement Fund for distribution to "Settlement Class Members" who do not validly and timely request exclusion from the Settlement. Subject to Court approval, distribution to Settlement Class Members will be as follows:

Individual Settlement Payments to Settlement Class Members. The Settlement Administrator will determine the portion of the Net Settlement Fund and portion of the PAGA payment to be paid to each Settlement Class Member. Individual Settlement Payments will be calculated as follows:

By dividing the number of Compensable Work Weeks for each Class Member during the Class Period by the total number of Compensable Work Weeks for all Class Members during the Class Period ("Payment Ratio"). A work week is defined as a fixed and regularly recurring period seven consecutive 24-hour periods totaling 168 hours. Here, the term "Work Weeks" simply means the number of such work weeks in which you worked for Defendants at facilities in California during the Class Period, according to Defendants' payroll records. Each Settlement Class Member who does not validly and timely submit a Request for Exclusion will receive a Settlement Payment that includes a sum consisting of the Payment Ratio multiplied by the Net Settlement Fund, minus all applicable taxes except employer-side payroll taxes to be paid by Southwind Foods, LLC. If any Class Member validly requests exclusion from the Settlement, the portion of the Net Settlement Fund that would have been paid to the excluded Class Members(s) will be distributed to all Settlement Class Members on an equal, *pro rata* basis as part of their Individual Settlement Payment, after deduction of applicable taxes or other required withholdings.

According to Defendants' payroll records, you worked for one or more of the Defendants as a non-exempt employee at one or more of Southwind Foods, LLC's facilities in California sometime between March 11, 2010 and May 1, 2016. The number of your Work Weeks during the Class Period is «MERGED_WW».

If you dispute the information provided regarding the number of Compensable Work Weeks you worked for Defendants in California during the Class Period, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. The Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement Payments under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment shall be binding upon the Class Member and the Parties.

Your estimated Individual Settlement Payment, if you decide to participate in the Settlement, and do not submit a valid and timely Request for Exclusion, is \$«MERGED_EstSettAmnt_CALC», less all applicable taxes. This estimated amount may increase or decrease depending on the Court's Orders and the number of Class Members who timely submit valid Requests for Exclusion from the Settlement.

Individual Settlement Payments will be allocated as follows: forty percent (40%) as penalties; forty percent (40%) as interest; and twenty percent (20%) as wages. Each Class Member should seek his or her own personal tax advice prior to acting in response to this Notice.

The check for your Individual Settlement Payment will be mailed by U.S. Mail to your last known mailing address within thirty (30) days after the Effective Date of the Settlement and will remain valid and negotiable for 180 days from the date of issuance. After that time, any unclaimed check will be sent to the California Department of Industrial Relations Unclaimed Wages Fund for your benefit.

4. What do I have to do in response to this Notice?

You do not need to submit a claim form or do anything else to participate in this Settlement and receive your share of the Net Settlement Fund. You also have a right to request to be excluded from the Settlement completely, and the right to object to the Settlement. The option you choose affects whether you receive an Individual Settlement Payment and whether you give up certain rights. The option you choose will in no way affect your employment with Defendants.

Your options are listed below:

- A. **Participate in the Settlement.** To participate in this Settlement and receive your Individual Settlement Payment, you do not need to do anything at this time.
- B. **Participate in the Settlement But Dispute Individual Settlement Payment Information.** If you dispute the information provided in Section 3, above, which will be used to calculate your Individual Settlement Payment, then you must notify the Settlement Administrator and specify that you are challenging the number of Compensable Work Weeks and provide supporting documentation and/or an explanation to show contrary employment dates. Please retain proof of mailing, fax or email correspondence with the Settlement Administrator, or call the Settlement Administrator to make sure your dispute was received.
- C. **Exclude yourself from the Settlement.** To exclude yourself from participating in the Settlement, you must sign and return a written Request for Exclusion to the Settlement Administrator either (1) by First Class or certified U.S. Mail postmarked no later than **September 29, 2018**, at the address in section 7 below or (2) by fax to **(714) 824-8591** no later than **September 29, 2018**, or (3) submit a Request for Exclusion by email, **SFSettlement@simpluris.com**, no later than **September 29, 2018**. To be valid, a Request for Exclusion must: (1) contain the complete name, address, telephone number, and last four digits of the Social Security number of the Class Member requesting exclusion; (2) be signed and dated by the Class Member requesting exclusion; (3) state, in substance, the following: "I have read the Class Notice and I wish to opt out of the class action and settlement of the case: *Granciano, et al. v. Southwind Foods, LLC, et al*; and (4) be postmarked, faxed or email stamped by the **September 29, 2018** and returned to the Settlement Administrator at the specified address, fax telephone number or email address.

If you timely and validly request to be excluded from the Settlement, you will not receive an Individual Settlement Payment under the Settlement, you will not be bound by the Settlement, and you will not have any right to object to or appeal the Settlement.

Unless a Class Member timely requests to be excluded from the Settlement, the Class Member will be bound by the judgment upon final approval of the Settlement, including the releases described in this Notice.

- D. **Object to the Settlement.** You can ask the Court to deny final approval of the Settlement by filing an objection. You cannot ask the Court to order a larger Settlement or to change the terms of the Settlement. The Court can only approve or deny the proposed Settlement. If the Court denies final approval of the Settlement, no Individual Settlement Payments will be sent out and the Lawsuit will continue. If that is what you want to happen, you must object.

If you wish to object to the proposed Settlement (or any portion of it), you must mail, fax or email a written statement of objection ("Notice of Objection") to the Settlement Administrator by **September 29, 2018**, at the address in section 7 below.

To be valid, a Notice of Objection must be submitted to the Settlement Administrator on or before **September 29, 2018**, must be signed by the Class Member, and must contain: (1) the full name, address, and telephone number of the Class Member objecting to the Settlement; (2) the dates of employment of the Class Member; (3) the job title(s) and job location(s) of the Class Member; (4) the last four digits of the Class Member's Social Security number; (5) the basis for the objection; and (6) whether the Settlement Class Member intends to appear at the Final Approval Hearing, and provide any legal briefs, papers or memoranda the objecting Class Member proposes to submit to the Court. The date of the postmark on the return envelope, or fax date or email date shall be deemed the exclusive means for determining whether a Notice of Objection was timely submitted. Class Members who

fail to make objections in the manner specified above shall be deemed to have waived any written objections to the Settlement.

You do not need to appear at the Final Approval Hearing in order to have your objection considered. The Final Approval Hearing is currently scheduled for November 27, 2018 at 10:00 a.m., in **Department 14 of the Superior Court of the State of California, County of Los Angeles, Spring Street Courthouse, which is located at 312 North Spring Street, Los Angeles, California 90012**, before the Honorable Kenneth R. Freeman. You may appear at the Final Approval Hearing either in person or through your own attorney. If you appear through your own attorney, you are responsible for paying that attorney.

You may both object to the Settlement and participate in it. Filing an objection will not exclude you from the Settlement. If you wish to be excluded from the Settlement, then you must follow the procedure above in Section C.

5. How will my rights be affected?

If the proposed Settlement is approved by the Court, Plaintiffs and every member of the Class who does not submit a valid and timely Request for Exclusion to the Settlement Administrator under the procedures set forth above will release Defendants¹ from the “Released Claims” as described in the Settlement Agreement, which include any and all claims asserted in the Action against the Released Parties, or that could have been asserted against the Released Parties based upon the facts alleged in the Third Amended Complaint filed with the Court, by Plaintiffs or any Settlement Class Member, under the California Labor Code, California Wage Orders, California Unfair Competition Law, PAGA, and FLSA, from March 11, 2010 through May 1, 2016.

The Released Claims include, but are not limited to, claims for: (1) Failure to Pay Wages for All Hours Worked (Cal. Lab. Code § 1194) due to Defendants’ alleged time-rounding policies resulting in alleged underpayment of wages for regular and/or overtime hours worked by Plaintiff Granciano and Class Members; (2) Failure to Pay Overtime Compensation (Cal. Lab. Code § 510) due to Defendants’ alleged rounding policies applicable to Plaintiff Granciano and Class Members and auto-deductions of 30 minutes of total time worked and alleged attributions of that time to meal periods without pay; (3) Failure to Provide Meal Periods (Cal. Lab. Code §§ 226.7 and 512) for Defendants’ alleged failure to provide timely requisite meal periods of not less than 30 minutes to Plaintiff Granciano and Class Members who worked over five hours per shift and who worked over ten hours per shift, or to pay premium payments in lieu thereof; (4) Failure to Timely Pay Wages Upon Termination or Resignation (Cal. Lab. Code §§ 201 and 202) to Plaintiff Granciano and Class Members; (5) Failure to Furnish Accurate Wage Statements (Cal. Lab. Code § 226(a)) to Plaintiffs and Class Members (from March 11, 2013 through May 1, 2016); (6) Unlawful, Deceptive, and/or Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, *et seq.*) for the alleged violations set forth herein; and (7) PAGA (Cal. Lab. Code §§ 2698, *et seq.*) for the alleged violations set forth herein.

The Released Claims also include all claims for interest and/or penalties of any kind or nature arising out of or relating to the Released Claims and further extends to and includes claims for damages, civil penalties, restitution, injunctive relief, declaratory relief, and any other form of relief or remedy.

The Released Claims also include all claims Plaintiffs and Settlement Class Members may have against the Released Parties relating to (i) the payment and allocation of attorneys’ fees and costs to Class Counsel pursuant to this Agreement, and (ii) the payment of the Class Representative Service Awards pursuant to this Agreement. It is the intent of the Parties that the judgment entered by the Court upon final approval of the Settlement shall have *res judicata* effect and be final and binding upon Plaintiffs and all Settlement Class Members regarding all of the Released Claims.

FLSA Release: Additionally, any Settlement Class Member who timely cashes his or her Individual Settlement Payment check, including either of the Plaintiffs, will thereby be deemed to have opted into the action for purposes of the FLSA claim asserted in the Third Amended Complaint under 29 U.S.C. §§ 201, *et seq.*, and waived and released any claims such Settlement Class Members may have under the FLSA only as related to the Released Claims.

Released Claims and FLSA Release Do Not Include Civil Code Section 1542 General Release for Settlement Class Members: For the sake of clarity, the Parties agree that the Released Claims, including the FLSA Release, consist of only those claims that meet the definition of Released Claims. **In other words, the releases contemplated by Settlement Class**

¹ The term “Defendants” include each and all of the Defendants that are Parties to the Settlement Agreement and their respective past and present parents, subsidiaries, affiliated companies and corporations, and each and all of their respective past and present directors, officers, and owners.

Members are not considered blanket waivers of California Civil Code section 1542 for all claims, potential or actual, known or unknown, for violations of California's Labor Code, Wage Orders or FLSA by current and former employees of Defendants.

As of the Effective Date, the Settlement Class Members, including Plaintiffs, on behalf of themselves and their respective heirs, successors, assigns, and estates, release the Released Parties from the Released Claims during the Class Period. Plaintiffs and Settlement Class Members agree not to sue or otherwise make a claim against any of the Released Parties for the Released Claims.

6. Who are the attorneys representing the Parties?

Attorneys for Plaintiffs and the Class Members:

Raymond P. Boucher, Esq.
Shehnaz M. Bhujwala, Esq.
Neil M. Larsen, Esq.
BOUCHER LLP
21600 Oxnard Street, Suite 600
Woodland Hills, CA 91367
Tel: 818-340-5400; Fax: 818-340-5401

Sahag Majarian II, Esq.
LAW OFFICES OF SAHAG MAJARIAN II
18250 Ventura Boulevard
Tarzana, CA 91356-4229
Tel: 818-609-0807; Fax: 818-609-0892

Class Counsel

Attorneys for Defendant Southwind Foods, LLC:

John L. Barber, Esq.
Alison M. Miceli, Esq.
LEWIS BRISBOIS BISGAARD & SMITH LLP
701 B Street, Suite 1900
San Diego, California 92101

Attorney for Defendant and Cross-Defendant Staffpoint, LLC:

Rob D. Cucher, Esq.
LAW OFFICES OF ROB CUCHER
315 South Beverly Drive, Suite 310
Beverly Hills, California 90212

Attorney for Defendant and Cross-Defendant Alliance Professional Business Solutions, Inc.:

Lawrence Hoodack, Esq.
LAW OFFICES OF LAWRENCE HOODACK
P.O. Box 28514
Anaheim, California 92809

Attorney for Cross-Defendant Ashwin Syal:

Carl John Pentis, Esq.
CARL JOHN PENTIS, ATTORNEY AT LAW
500 N State College Blvd, Suite 1200
Orange, California 92868

7. How do I obtain additional information?

This Notice only summarizes the Lawsuit, the Settlement, and related matters. For more information, you may inspect the relevant Court files on the Settlement website at <http://simpluris.com/case-information>. You may also contact the Settlement Administrator and ask about this Settlement:

Granciano, et al. v. Southwind Foods, LLC, et al.

P.O. Box 26170

Santa Ana, CA 92799

Telephone: (888) 226-9511

Fax: (714) 824-8591

<http://simpluris.com/case-information>

PLEASE DO NOT TELEPHONE THE COURT FOR INFORMATION ABOUT THIS SETTLEMENT. PLEASE DO NOT CONTACT DEFENDANTS' CORPORATE OFFICES, MANAGERS OR ATTORNEYS FOR INFORMATION ABOUT THIS SETTLEMENT.

Dated: July 31, 2018