

**SUPERIOR COURT OF CALIFORNIA**

**COUNTY OF SAN DIEGO**

**CENTRAL DIVISION**

VANESSA BULCAO, an individual, on behalf of herself, the proposed class(es), all others similarly situated, and on behalf of the general public,

Plaintiff,

v.

TAYLOR MADE GOLF COMPANY, INC. (d/b/a TaylorMade-adidas Golf Company), a Delaware corporation; and DOES 1 through 10, inclusive,

Defendants.

CASE NO. 37-2015-00028124-CU-OE-CTL

CLASS ACTION

**NOTICE OF PENDENCY AND SETTLEMENT OF CLASS ACTION; SETTLEMENT HEARING; AND EXCLUSION AND OBJECTION PROCEDURES**

**[IMAGED FILE]**

Complaint Filed: August 19, 2015

Honorable Timothy B. Taylor  
Dept: C-72

**YOU MAY GET MONEY FROM A CLASS ACTION SETTLEMENT AS EXPLAINED BELOW.**

**If you were employed by Taylor Made Golf Company, Inc. ("TMaG") in California at any time from August 11, 2011 through December 16, 2016 as a non-exempt employee, you should read this Notice carefully because it will affect your rights.**

*The San Diego County California Superior Court authorized this Notice. This is not a lawsuit against you, and you are not being sued. This is not a solicitation from a lawyer.*

- To qualify as a Participating Class Member and receive a share of the Settlement described in this Notice, you must complete and mail the enclosed Claim Form by **February 27, 2017**. If you submit a claim for your share of the settlement proceeds, your direct supervisor will not be informed that you did so. TMaG has also promised that it will not take any adverse or retaliatory action against anyone for submitting a claim.
- Your legal rights are affected by how you act in response to this Notice. Please read this Notice carefully.

**BASIC INFORMATION**

1. What is this Class Action about?

The Class Action was filed by Vanessa Bulcao ("Class Representative") on behalf of herself and on behalf of all current and former hourly employees in California employed by TMaG at any time from August 11, 2011 through December 16, 2016 (defined as "Class Members"). The lawsuit alleges that that TMaG denied its California non-exempt (i.e., hourly) employees uninterrupted, duty free, legally compliant, and timely meal periods and rest breaks; failed to pay "premium pay" for non-compliant meal periods and rest breaks; failed to issue final paychecks immediately upon involuntary termination of employment; failed to issue final paychecks within 72 hours of voluntary termination of employment; presented employees with general releases before payment of all wages due; and failed to provide compliant wage statements or paystubs. The Class Action seeks wages, premium pay, penalties, interest, attorneys' fees, and other damages on behalf of the Class Members.

TMaG contends the Class Members were provided meal periods and/or rest breaks as required by California law, that Class Members were paid in full on a timely basis, and that class members were provided with compliant paystubs. The Parties have conducted significant investigation of the facts and law during the prosecution of this Class Action. Such investigations have included, among other things, the exchange of information and documents, meetings and conferences between representatives of the Parties, propounding and responding to written discovery, taking and defending oral depositions, interviewing putative class members and potential witnesses, obtaining informal responses to mediation information/document requests, reviewing and analyzing thousands of pages of documents and data, and participating in an all-day mediation on October 3, 2016 with the Honorable Steven Denton (Ret.). Lawyers for both parties have also investigated the applicable law as applied to the facts discovered during the Class Action. Due to the uncertainty, risk, and expense attendant to continuing the Class Action, and the difficulties, expense and delays inherent in such litigation, Class Representative and TMaG agreed to enter into a settlement of this case ("Settlement").

## 2. Why did I receive this Notice?

You received this Notice because TMaG's records show that you have been employed by TMaG as a non-exempt (i.e., hourly) employee in the State of California at some point between August 11, 2011 through December 16, 2016.

All Class Members are receiving a Notice. All Class Members who do not timely request to be excluded from the Settlement as set forth below will be "Settlement Class Members." All Settlement Class Members who submit a valid and timely Claim Form will become "Participating Class Members."

This Notice explains that the Court has granted preliminary approval of a proposed Settlement of a class action lawsuit that may affect you. You have legal rights and options that you may exercise before the Court decides whether to grant final approval of the proposed Settlement.

## 3. What is a class action, who is involved, and how does it work?

In a class action, one or more people, in this case Vanessa Bulcao (the "Class Representative"), file a lawsuit on behalf of people who they believe have similar claims. These people together are called "Class Members". The company they sued (in this case TMaG) is called the Defendant.

In this case, the Class Representative and the Defendant have decided to settle the case. However, their proposed Settlement must be approved by the Court. This happens in two stages. First, if the Court is satisfied that the proposed Settlement appears fair, adequate and reasonable, it grants preliminary approval and orders that a Notice like this be sent to the Class Members. Class Members can then request exclusion or object to the proposed Settlement. If you have not requested exclusion, Class Members may also submit a claim. Once Class Members have had an opportunity to make this decision, the Court reviews this information -- and submissions by all interested persons -- and decides whether to grant final approval of the Settlement. If the Court grants final approval, the Class Members who filed proper and timely Claim Forms and did not ask to be excluded will become Settlement Class Members and will be paid out of the Settlement monies in exchange for a release of additional claims.

The Honorable Timothy B. Taylor of the Superior Court of California, County of San Diego (the "Court"), is overseeing this class action. You can see more information about Judge Taylor and the Superior Court of San Diego at the Court's website at: <http://www.sdcourt.ca.gov>.

## 4. Why is this a class action?

The Class Representative filed this case on behalf of herself and on behalf of all other Class Members. The Court then made a preliminary determination that the proposed Settlement appears fair, adequate, and reasonable. In making this determination, the Court looked at factors like the amount of money that TMaG may have had to pay if the Class Representative were to win the Class Action, and the likelihood that either party would win the Class Action. The Court also considered the costs that both Class Representative and TMaG would have to pay in attorneys' fees and other expenses if they did not settle the case, and the amount of time and resources each would expend if the case were to proceed through trial and appeal. The Court also considered that the Settlement was reached after serious, arms-length negotiations.

## 5. Is there any money available now?

No money or benefits are available right now because the Court has not yet decided whether to give final approval to the Settlement. If the Court gives final approval to the Settlement, and you have properly filled out your Claim Form and mailed it in on time, then you will be sent your portion of the Settlement once the Court's order becomes final.

6. Do I have a lawyer in this case?

The Court approved designation of Ross H. Hyslop, Esq., Pestotnik LLP, 501 W. Broadway, Suite 1025, San Diego, CA 92101 as Class Counsel to represent you and all Settlement Class Members. Pestotnik LLP is the legal counsel representing the Class (“Class Counsel”). You do not need to hire your own lawyer because Pestotnik LLP is working on your behalf. But, if you want to hire your own lawyer, you may do so at your own expense.

**THE SETTLEMENT BENEFITS—WHAT YOU RECEIVE**

7. What does the Settlement provide?

The proposed Settlement requires TMaG to pay a Settlement amount not to exceed Eight Hundred Seventy-Five Thousand Dollars (\$875,000.00). This is called the “Common Fund.” The amount of the Common Fund includes all alleged penalties and unpaid wages, Incentive Award for the Class Representative, attorneys’ fees and costs for the Class Counsel, and Claims Administration costs. Settlement proceeds will be paid to Class Members who properly file Claim Forms in the manner described in Paragraph 10 below. The Settlement will provide no less than Five Hundred Seventy-Seven Thousand Five Hundred Dollars (\$577,500) to pay claims to those who qualify to receive payment.

Class Counsel have litigated this case since August 2015, and have devoted substantial time, effort and expense to prosecuting the case. According to California law, the Court may award attorneys’ fees to counsel for the Class as well as reimbursement for costs they have expended in their work. Class Counsel plans to request that the Court authorize payment to them of attorneys’ fees in an amount not to exceed Two Hundred Sixty-Two Thousand Five Hundred Dollars (\$262,500.00), which, if approved, will come from the Common Fund amount. Class Counsel will also ask the Court to award costs and other expenses incurred by them in prosecuting the case, which are not expected to exceed \$15,000.00.

The Class Representative will ask the Court to approve a monetary payment as compensation for the work she has done in bringing and prosecuting the case on behalf of the Class, in an amount not to exceed Five Thousand Dollars (\$5,000) (“Incentive Award”). If approved by the Court, the payment will be made from the Common Fund amount and will be in addition to any other amounts paid to the Class Representative under the terms of the Settlement.

Finally, Class Representative will ask the Court to approve a payment of Ten Thousand Dollars (\$10,000) to the claims administrator who is handling the processing of this Notice and the accompanying Claim Form.

8. What can I get from the Settlement?

Your share of the Settlement will depend on: a) how many weeks you worked for TMaG as a non-exempt/hourly employee in California from August 11, 2011 through December 16, 2016; b) whether you have already signed a severance agreement, separation agreement, or release agreement with TMaG; c) the job you hold or held at TMaG; d) the amounts of the attorneys’ fees and costs, claims administration expenses, and Incentive Award approved by the Court; and e) how many Class Members participate in the Settlement. Settlement monies allocated to attorneys’ fees and costs, claims administration expenses, and Incentive Award that are not awarded by the court, as well as Settlement monies that would have been allocated to Class Members who do not make claims under the Settlement, will be redistributed to those Class Members who do make claims. At this time it is therefore not possible to precisely determine how much money you will receive if you submit a timely and valid Claim Form.

9. If the Settlement is approved, when will I receive my share of the Payout Fund?

The Court has scheduled a Final Approval Hearing on **March 24, 2017**, at **1:30 p.m.** at the Superior Court for the State of California for the County of San Diego, Dept. C-72, 330 West Broadway, San Diego, California 92101, at which time the Court will determine: (1) whether the proposed settlement should be approved as fair, reasonable and adequate to Settlement Class Members; and (2) whether the application for the Class Representative’s Incentive Award, attorneys’ fees and costs, and claims administration expenses should be approved. If the Court approves the settlement, an Order Granting Final Approval will be entered. It is neither required nor necessary that you attend the Final Approval Hearing.

Once the order granting final approval is signed by the Court, and if there is no appeal of the Court’s order, then checks will be mailed out to the Participating Class Members within approximately 10 days, or on **April 7, 2017**. If an appeal is filed, then distributions will be delayed until after final resolution of any appeals. Please be patient.

**OPTIONS UNDER THE SETTLEMENT**

<b>Summary of Your Legal Rights and Options in this Settlement</b>	
<b>SUBMIT A CLAIM FORM</b>	<p>Submit a Claim Form by <b>February 27, 2017</b>. Release certain claims under state law.</p> <p>If you submit a timely and valid Claim Form (enclosed), you will be entitled to participate in the settlement. If you are still employed by TMaG, your direct supervisors will not be informed that you submitted a claim. TMaG has also promised that it will not take any adverse or retaliatory action against anyone for submitting a claim.</p>
<b>EXCLUDE YOURSELF</b>	<p>Submit an Exclusion request by <b>February 27, 2017</b>, receive no money and retain your rights.</p> <p>If you submit a timely and valid Exclusion request then you will receive no payment and you will retain your right to pursue claims against TMaG in a separate action/proceeding.</p>
<b>OBJECT</b>	<p>Submit a written objection to the Court by <b>February 27, 2017</b>.</p> <p>If you disagree with the proposed settlement, you may submit an objection. If the Court agrees with your objection, the parties can choose whether to withdraw the settlement or change its terms. If the Court rejects your objection, you will be entitled to participate in the settlement <u>only</u> if you have also submitted a timely and valid Claim Form. You will release certain claims under state law, and will also release certain claims under federal law if you submitted a Claim Form.</p>
<b>GO TO A HEARING</b>	<p>Ask to speak in Court about the fairness of the Settlement.</p>
<b>DO NOTHING</b>	<p>Receive no payment. Release certain claims under state.</p>

## HOW YOU RECEIVE A PAYMENT—SUBMITTING A CLAIM FORM

### 10. How can I receive my portion of the Settlement?

To qualify for a payment from the Settlement, you must complete the Claim Form enclosed with this Notice, sign it under penalty of perjury, and return it to Phoenix Settlement Administrators, ("Claims Administrator"), located at P.O. Box 7208, Orange, California, 92863, Telephone (800) 784-2174, via first class U.S. mail or equivalent, postage paid, postmarked no later than **February 27, 2017**. If you do not send it in on time, then your claim will be denied.

If this Notice was sent to you at your current address, you do not need to do anything further to receive any further notices concerning this case. If this Notice was forwarded by the postal service, or if it was otherwise sent to you at an address that is not current, or if you have changed your address, then you should immediately send a letter to the Claims Administrator stating your name and past and current addresses.

The Claims Administrator's address is:

**TMaG, Inc. Claims Administration  
c/o Phoenix Settlement Administrators  
P.O. Box 7208  
Orange, California, 92863  
Telephone (800) 784-2174**

If you lose, misplace or need another Claim Form, you should contact the Claims Administrator immediately for a replacement. If there is any dispute regarding whether a Claim Form was timely mailed, the Claims Administrator will make a decision, which will be final and not subject to any appeal. You should make and keep a copy of your fully completed Claim Form and the original record showing proof of timely mailing.

### 11. What am I giving up to get a payment or stay in the class?

Unless you exclude yourself, you will remain part of the class for state law claims, and that means you cannot sue, continue to sue, or be part of any other lawsuits against TMaG about the state law issues in this case, and you will be bound by any orders entered by the Court about state law claims. Specifically, you will not be allowed to sue TMaG for:

all claims, demands, rights, liabilities, and causes of action of every nature and description whatsoever that arose from August 11, 2011 through December 16, 2016, whether in tort, contract, or for violation of any state constitution, statute, rule or regulation, including state wage and hour laws, whether for economic damages, non-economic damages, restitution, penalties or liquidated damages, arising out of, relating to, or in connection with:

- (1) any and all facts, transactions, events, policies, occurrences, acts, disclosures, statements, omissions or failures to act, which are or could be the basis of claims: (a) that TMaG failed to provide Plaintiffs with meal periods and/or rest breaks, or failed to compensate Plaintiffs for all hours worked in connection with meal periods and/or rest breaks, in accordance with California law, including any claims for waiting time penalties, premium pay, or inaccurate wage statements based on the factual allegations contained in the Class Action; (b) that TMaG failed to compensate plaintiffs for all hours worked, including any claims for waiting time penalties, or inaccurate wage statements based on the factual allegations contained in the Class Action; (c) that TMaG failed to compensate plaintiffs for all wages due upon termination in

a timely fashion; (d) that TMaG failed to provide the paystubs required by California law; (e) that TMaG required employees to sign releases before paying wages or premium pay allegedly due on termination of employment; (f) that TMaG failed to comply with any California state wage and hour laws, based on the factual allegations contained in the Class Action; (g) that TMaG failed to keep any and all records required by California law based on the factual allegations contained in the Class Action; (h) that TMaG failed to comply with Labor Code Sections 201-203, 206, 206.5, 226, 226.7, 510, 512, California Business & Professions Code Section 17200, and/or Wage Order 1-2001 based on the factual allegations contained in the Class Action; (i) any claims under California Labor Code Section 2699, the "Private Attorney Generals Act" based on the factual allegations contained in the Class Action; or (j) that TMaG owes wages, premium pay, penalties, interest, attorneys' fees or other damages of any kind based on a failure to comply with these state wage and hour laws and record keeping laws based on the factual allegations contained in the Class Action, at any times on or before the last day of the Class Period (whether based on California state wage and hour law, contract, or otherwise); and/or

(2) the causes of action asserted in the Class Action, including any and all claims for alleged failure to provide meal periods and/or rest breaks, or alleged failure to pay all wages and/or premium pay on termination of employment, or alleged failure to provide accurate wage statements, or for waiting time penalties or for premium pay, or for allegedly requiring employees to sign releases before paying wages and/or premium pay due on termination of employment and, as related to the foregoing, for alleged unlawful, unfair and/or fraudulent business practices under California Business and Professions Code § 17200, et seq.; and/or

(3) any other claims based on any factual allegations pled in this Class Action.

### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you want to keep the right to sue or continue to sue on your own about legal issues alleged in this case under state law, and/or you do not want a payment from this Settlement, then you must take certain steps. This is called excluding yourself — or is sometimes referred to as “opting out” of the Settlement Class.

#### **12. How do I request to be excluded from the Settlement?**

To exclude yourself from the Settlement, or “opt out,” you must submit a written statement requesting exclusion from the Class postmarked on or before **February 27, 2017**. Your written request for exclusion must contain your name, address, telephone number and the last four digits of your social security number, as well as the location and years of your employment with TMaG. You must return your request to Phoenix Settlement Administrators, P.O. Box 7208, Orange, California, 92863, Telephone (800) 784-2174, postmarked no later than **February 27, 2017**.

#### **13. If I do not exclude myself, can I sue TMaG for the same thing later?**

No. If you do not submit a valid and/or timely request for exclusion postmarked by **February 27, 2017**, you will be bound by all terms of the Settlement regarding state law, and any Final Judgment entered in the Class Action, if the Settlement is approved by the Superior Court. If you have a pending lawsuit, speak to your lawyer in that case immediately.

14. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, do not send in a Claim Form to ask to be included in the Settlement. The request for exclusion will override the Claim Form and you will not receive payment under the Settlement.

### OBJECTING TO THE SETTLEMENT

15. Why would I object?

If you think that the proposed Settlement is unfair, inadequate or unreasonable, you can object to the proposed Settlement and you can also submit a Claim Form. If you object and do not also timely submit a valid Claim Form, and if the Court approves the proposed Settlement, then you will not receive a share of the Settlement money, and you will be bound by the terms of the first Release set forth in Paragraph 11.

16. How do I object?

If you want to object to the Settlement; any part of the Settlement; the amount of attorneys' fees, costs and expenses claimed by Class Counsel; or the Incentive Award for the Class Representative, you should send the Court a notice of intention to appear, along with any papers for the Court to consider, and mail or personally deliver copies of those papers to the attorneys listed below postmarked no later than **February 27, 2017**.

All written objections should be filed with the Superior Court at: The Superior Court for the State of California for the County of San Diego, Dept. C-72, 330 West Broadway, San Diego, CA 92101.

Copies of all documents filed with the Superior Court must be sent to the following:

(1) Ross H. Hyslop, Esq., Pestotnik LLP, 501 W. Broadway, Suite 1025, San Diego, CA 92101; and (2) William V. Whelan, Esq. Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Suite 1200, San Diego, CA 92101.

You or your attorney may also appear at the Final Approval Hearing, currently set for **March 24, 2017**, at **1:30 p.m.** at the address listed above for the Superior Court, to present any arguments concerning the fairness, reasonableness and adequacy of the Settlement, or concerning the Class Representative's applications for the Incentive Award; the award of attorneys' fees and costs; or the amount awarded for Claims Administration expenses.

If you intend to object to the Settlement, but wish to receive your share of the Settlement, you must also timely file your Claim Form as stated above. If the court approves the Settlement despite any objections, and you do not have a timely Claim Form on file, you will not receive any settlement proceeds.

17. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.



18. What happens if I do nothing at all?

By doing nothing, you will lose any right you have to receive money under the Settlement. You will also lose your right to object. In addition, you will be deemed to have waived any right you might have had to sue TMaG as part of any lawsuit about the California state law claims that are the subject of this lawsuit. You will also be legally bound by all of the Orders the Court and judgments the Court makes in this class action with regard to state law claims.

**THE COURT'S FAIRNESS HEARING**

The Court will hold a hearing in front of the Honorable Timothy B. Taylor on **March 24, 2017**, at **1:30 p.m.** at the Superior Court for the State of California for the County of San Diego, Dept. C-72, 330 West Broadway, San Diego, CA 92101, to determine whether the proposed Settlement of the Action is fair, adequate, reasonable and should be approved by the Court and whether a judgment should be entered on the terms specified in the Settlement Agreement. At the Hearing, Class Counsel will speak on your behalf and answer any questions Judge Taylor might have.

19. May I attend the hearing and speak?

Anyone may attend this hearing. If you are a Class Member and wish to speak, however, it is preferred that you file and serve an objection as described above.

**GETTING MORE INFORMATION**

20. Are there more details about the Settlement?

This Notice summarizes the proposed Settlement. For a more detailed statement of the matters involved in the Action and the proposed Settlement, you may refer to the pleadings, the Stipulation and Settlement Agreement of Class Action Claims, and other papers filed in the Action, which may be inspected at the Office of the Clerk of the Court, during regular business hours of each Court day. The Court's address is: The Superior Court for the State of California for the County of San Diego, 330 West Broadway, San Diego, CA 92101.

You may also obtain more information about this case on-line, by visiting [www.TMaGSettlement.com](http://www.TMaGSettlement.com), where you will find (as soon as they are available/filed) a complete copy of the Stipulation and Settlement Agreement of Class Action Claims, the Class Notice, a blank Claim Form, Plaintiff's Motion for Preliminary Approval, the Preliminary Approval Order, Plaintiff's Motion for Final Approval, Plaintiff's Motion for An Award of Attorneys' Fees and Costs, and the Final Approval Order/Final Judgment.

21. How do I get more information?

All questions regarding this Notice and/or the Settlement should be directed to your Class Counsel at Ross H. Hyslop, Esq., Pestotnik LLP, 501 W. Broadway, Suite 1025, San Diego, CA 92101, Telephone: (619) 237-3000, E-mail: [hyslop@pestotnik.com](mailto:hyslop@pestotnik.com).

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, TMAg, OR TMAg'S ATTORNEYS WITH INQUIRIES.**

Dated: January 13, 2016

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BY ORDER OF THE COURT  
HON. TIMOTHY B. TAYLOR  
SUPERIOR COURT OF CALIFORNIA