

Aguilar v. Distribution Alternatives, Inc., No. CIVSB2206760
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF SAN BERNARDINO
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully

To: All hourly, non-exempt employees who are currently or have been directly employed by Defendant Distribution Alternatives, Inc. (“Defendant”) in the State of California at any time during the period from March 29, 2018 through September 7, 2023 (“Class Members”).

All hourly, non-exempt employees who are currently or have been directly employed by Defendant in the State of California at any time during the period from April 6, 2020 through September 7, 2023 (“PAGA Members”).

On September 7, 2023, the Honorable Joseph T. Ortiz of the San Bernardino County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 1:30 p.m. on January 4, 2024 in Department S17 of the San Bernardino County Superior Court located at 247 West Third Street, San Bernardino, California 92415.

Please also note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit www.cptgroupcaseinfo.com/DistributionAguilarSettlement for any scheduling changes.

If you move, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

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 deemed a “Participating Class Member,” and will be eligible for a payment from the Net Settlement Fund and, if you are also a PAGA Member, the PAGA Fund. In exchange, you will be bound by the terms of the proposed Settlement and give up your right to assert wage and hour claims against Defendant based on the facts alleged in the Action during the Class Period.
You Can Opt-out of the Class Settlement but not the PAGA Settlement	If you don’t want to fully participate in the proposed Settlement, you can opt-out of the class settlement by sending the Settlement Administrator a written Request for Exclusion. Once excluded, you will no longer be eligible for a payment from the Net Settlement Fund and will not be bound by the terms of the proposed class settlement.
The Opt-out Deadline is November 20, 2023.	You cannot opt-out of the PAGA portion of the proposed Settlement. PAGA Members remain eligible to receive a payment from the PAGA Fund and must give up their rights to pursue PAGA penalty claims against Defendant based on the facts alleged in the Action during the PAGA Period.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement Written Objections Must be Submitted by November 20, 2023.	All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed class settlement, but not the PAGA settlement.

You Can Participate in the January 4, 2024, Final Approval Hearing	<p>The Court’s Final Approval Hearing is scheduled to take place on January 4, 2024, in Department S17 of the San Bernardino County Superior Court located at 247 West Third Street, San Bernardino, California 92415. 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.</p> <p>If the Court grants final approval of the Settlement despite your objection, you will receive a payment from the Net Settlement Fund and you will be bound by the terms of the Settlement.</p>
---	--

Summary of the Litigation

Plaintiff Angelica Aguilar, on her behalf and on behalf of other current and former non-exempt employees, filed a putative wage-and-hour class and representative action alleging causes of action against Defendant for (1) unpaid overtime; (2) unpaid minimum wages; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) non-compliant wage statements and failure to maintain payroll records; (6) wages not timely paid upon termination; (7) failure to timely pay wages during employment; (8) unreimbursed business expenses; (9) civil penalties for violations of California Labor Code, pursuant to PAGA; (10) unlawful business practices; and (11) unfair business practices.

After the exchange of relevant information and evidence, the parties agreed to enter into settlement negotiations in an attempt to informally resolve the claims in the case. On April 17, 2023, the parties participated in a mediation with Michael Young, Esq., an experienced and well-respected class action mediator. With Mr. Young’s guidance, the parties were able to negotiate a complete settlement of Plaintiff’s claims.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny any liability whatsoever, denies the factual and legal allegations in the case, and contends that it has valid defenses to Plaintiff’s claims. By agreeing to settle, Defendant is not admitting liability on any of the factual allegations or claims in the case or that the case can or should proceed as a class action. Defendant has agreed to settle the case as part of a negotiated compromise with Plaintiff of highly contested factual and legal issues.

Summary of The Proposed Settlement Terms

Plaintiff and Defendant have agreed to settle the underlying class claims in exchange for a Gross Settlement Amount of \$700,000. This amount is inclusive of: (1) individual settlement payments to all Class Members who do not opt out (“Participating Class Members”); (2) a Class Representative Enhancement Payment of \$10,000 to Angelica Aguilar for her services on behalf of the class, and for a release of all claims arising out of her employment with Defendant; (3) \$233,333 in attorneys’ fees and up to \$15,000 in litigation costs and expenses; (4) a \$20,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), inclusive of a \$15,000 payment to the California Labor and Workforce Development Agency (“LWDA”) in connection with the PAGA, and a \$5,000 payment (“PAGA Fund”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses currently estimated at \$10,000. After deducting the above payments, a total of approximately \$411,667 will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Fund”). Additionally, all PAGA Members will receive a proportional share of the \$5,000 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. Defendant will calculate the total number of Workweeks worked by each Class Member from March 29, 2018 through September 7, 2023 (“Class Period”) and the aggregate total number of Workweeks worked by all Class Members during the Class Period. To determine each Class Member’s estimated share of the Net Settlement Fund, the Settlement Administrator will use the following formula: The Net Settlement Fund will be divided by the aggregate total number of Workweeks, resulting in the “Workweek Value.” Each Class Member’s share of the Net Settlement Fund will be calculated by multiplying each individual Class Member’s total number of Workweeks by the Workweek Value. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member’s share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendant’s records, you worked during the Class Period in a non-exempt position for a total of «WorkWeeks» Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately «SettAmt».

Questions? Contact the Settlement Administrator toll free at 1-(888) 910-3419

Payments from PAGA Fund. Defendant will calculate the total number of Workweeks worked by each PAGA Member from April 6, 2020 through September 7, 2023 (“PAGA Period”) and the aggregate total number of Workweeks worked by all PAGA Members during the PAGA Period. To determine each PAGA Member’s estimated share of the PAGA Fund, the Settlement Administrator will use the following formula: The PAGA Fund will be divided by the aggregate total number of Workweeks, resulting in the “PAGA Workweek Value.” Each PAGA Member’s share of the PAGA Fund will be calculated by multiplying each individual PAGA Member’s total number of Workweeks by the PAGA Workweek Value. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendant’s records, you worked during the PAGA Period in a non-exempt position for a total of «PAGAWeeks» Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately «PAGAAmt».

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately «estAmount» If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before November 20, 2023, and must be sent to:

Aguilar v. Distribution Alternatives, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax No. (949) 419-3446

If you dispute the information stated above, Defendant’s records will control unless you are able to provide documentation that establishes otherwise.

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 20% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 80% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released or waived the Released Class Claims and Released PAGA Claims:

Released Class Claims: Any and all claims alleged or that reasonably could have been alleged in Plaintiff’s Operative Complaint based on the facts alleged, which arose during the Class Period, including but not limited to (1) all claims for failure to pay overtime wages; (2) all claims for failure to pay minimum wages; (3) all claims for failure to provide meal periods or compensation in lieu thereof; (4) all claims for failure to provide rest periods or compensation in lieu thereof; (5) all claims for failure to pay all wages due upon separation from employment; (6) all claims for failure to issue accurate and compliant wage statements; (7) all claims for failure to indemnify necessary expenditures or losses; and (8) all claims asserted through California Business & Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the Operative Complaint (the “Class Released Claims”).

Released PAGA Claims: All claims exhausted in Plaintiff’s notice(s) sent to the LWDA and alleged in the Operative Complaint and/or based on the Class Released Claims, which arose during the PAGA Period, regardless of whether PAGA Members opt out of the Class Settlement, including claims for PAGA penalties pursuant to Labor Code sections 210, 226.3, 256, 558, 1174.5, 1197.1, and 2699 in connection with alleged violations of Labor Code sections 201, 202, 203, 204, 222.5, 226, 226.3, 226.7, 256, 510, 512, 516, 558, 1174, 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 2699, and 2802 (“PAGA Released Claims”).

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address,

Questions? Contact the Settlement Administrator toll free at 1-(888) 910-3419

«EmployeeName»

CPT ID: «ID»

telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Aguilar v. Distribution Alternatives, Inc.
c/o CPT Group, Inc.
50 Corporate Park
Irvine, CA 92606
Fax No. (949) 419-3446

The Request for Exclusion must be postmarked or faxed not later than November 20, 2023. If you submit a Request for Exclusion which is not postmarked or faxed by November 20, 2023, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.
- Not release the Released Class Claims.
- If you are a PAGA Member, you will still be bound by the release of the Released PAGA Claims and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement because you find it unfair or unreasonable, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Written objections must provide: (1) your full name, signature, address, and telephone number, (2) a written statement of all grounds for the objection accompanied by any legal support for such objection; (3) copies of any papers, briefs, or other documents upon which the objection is based; and (4) a statement about whether you intend to appear at the Fairness Hearing. The objection must be mailed to the administrator at *Aguilar v. Distribution Alternatives, Inc., c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606*. PAGA Members shall have no right to object to the PAGA Released Claims or any portion of the Settlement pertaining to the PAGA Released Claims.

All written objections must be received by the administrator by not later than November 20, 2023. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for January 4, 2024, at 1:30 p.m. in the Superior Court of the State of California, for the County of San Bernardino and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will still be entitled to the money from the settlement. If the Court overrules your objection, you will be deemed to have released the Released Class Claims and Released PAGA Claims.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
1875 Century Park E., Suite 1000
Los Angeles, CA 90067
Phone: 1 (888) 317-0419

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANT’S ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-(888) 910-3419