

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**FOR THE COUNTY OF SAN MATEO**

Jasmine T. Thompson, an individual, on behalf of the  
State of California, as a private attorney general, and on  
behalf of all others similarly situated,

Plaintiff,

vs.

Draeger's Super Markets, a California Company; and  
DOES 1-50, inclusive,

Defendant.

Case No.: 2-CIV-03222

**REVISED NOTICE OF PROPOSED CLASS  
ACTION SETTLEMENT AND HEARING  
DATE FOR COURT APPROVAL**

Complaint Filed: February 4, 2020

**TO:** All other hourly non-exempt employees, excluding non-union workers who were employed by Defendant Draeger's Super Markets from February 18, 2015 through May 31, 2020.

**YOU ARE ELIGIBLE TO RECEIVE A SETTLEMENT PAYMENT. PLEASE READ THIS NOTICE  
CAREFULLY.**

The settlement involves claims against Draeger's Super Markets ("Defendant") alleging: (1) failure to pay overtime compensation; (2) failure to provide suitable seating; (3) failure to provide complete and accurate wage statements; (4) failure to pay all wages due to its former employees upon termination (5) unfair business practices based on the foregoing; and (6) PAGA and other penalties based on the foregoing.

**NO ACTION NEEDS TO BE TAKEN TO RECEIVE MONEY UNDER THE SETTLEMENT:** If you are a Class Member (as defined above) and received this Notice, you are automatically included in the Settlement and do not need to take any further action to receive a payment. If you accept your settlement amount, you will release the claims described in Section V below.

**I. INTRODUCTION**

This "NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING DATE FOR COURT APPROVAL" ("NOTICE") is to inform you that Defendant has agreed to settle a class action lawsuit on behalf of all Class Members which claimed, among other things, that Defendant violated various wage and hour laws by failing to pay its employees failing to pay overtime compensation, failing to provide suitable seating, failing to pay its former employees all wages due at separation from employment, and its failure to issue accurate itemized wage statements, violating California Labor Code provisions forming the basis for a PAGA claim and a class action claim, and violating Section 17200 with respect to its employees at any time during the period from February 18, 2015 through May 31, 2020 (the "Class Period").

The Court has granted preliminary approval of the Settlement and the Court ordered this Notice be sent to you because you may be entitled to money under the Settlement and because the Settlement affects your legal rights.

## II. DESCRIPTION OF THE LAWSUIT

On February 4, 2020, Plaintiff Jasmine T. Thompson filed her Complaint (“Complaint”) against Defendant on behalf of the Class Members, in the matter of *Jasmine T. Thompson v. Draeger’s Super Markets*, Case No. CGC-20-582671 (transferred to San Mateo Superior Court, Case No. 20-CIV-03222), alleging the following Causes of Action: (1) failure to pay overtime compensation; (2) failure to provide suitable seating; (3) failure to provide complete and accurate wage statements; (4) failure to pay all wages due to its former employees upon termination (5) unfair business practices based on the foregoing; and (6) PAGA and other penalties based on the foregoing.

**Defendant has denied liability, has denied the allegations in the Complaint, and has raised various defenses to these claims.** Defendant contends, among other things, that it fully complied with California wage and hour laws, and provided overtime compensation at the proper rate, and provided accurate itemized wage statements. Defendant also contends employees have been dealt with legally and fairly. Defendant wishes to settle this case to avoid costly, disruptive, and time-consuming litigation and does not admit to any wrongdoing or liability.

The Court has not ruled on the merits of Plaintiff’s claims. By approving the Settlement and issuing this Notice, the Court is not suggesting which side would win or lose this case if it went to trial. However, to avoid additional expense, inconvenience, and risks of continued litigation, Defendant and Plaintiff have concluded that it is in their respective best interests and the interests of the Class Members to settle the Action on the terms summarized in this Notice. After Defendant provided extensive discovery and information to counsel for the Class Members, the Settlement was reached after arms-length non-collusive negotiations between the parties, including mediation with one of the most respected mediators in California. In these negotiations, both sides recognized the substantial risk of the Court deciding against them at trial and determined that the Settlement was a fair, reasonable and adequate way to resolve the disputed claims.

The Plaintiff and Class Counsel support this Settlement. Among the reasons for support are the defenses to liability potentially available to Defendant, the risk of denial of class certification, the inherent risk of trial on the merits, and the delays and uncertainties associated with litigation.

Under this settlement, the following settlement class will be certified under California law:

***All other hourly non-exempt employees, excluding non-union workers, who were employed by Defendant Draeger’s Super Markets from February 18, 2015 through May 31, 2020.***

Plaintiff Jasmine T. Thompson and her counsel, Martin Sullivan and Jonathan Melmed, Esq. (“Class Counsel”), believe that the settlement described below is fair, adequate, reasonable and in the best interests of Plaintiff and the Class.

On January 12, 2021, the Court preliminarily approved the settlement and conditionally certified the settlement class. This Notice is being sent to you because Defendant’s records indicate that you were employed by Defendant during the Class Period.

### **IF YOU ARE STILL EMPLOYED BY DEFENDANT, THIS SETTLEMENT WILL NOT AFFECT YOUR EMPLOYMENT.**

**California law strictly prohibits retaliation.** Further, Defendant is prohibited by law from taking any adverse action against or otherwise target, retaliate, or discriminate against any Class Member because of the Class Member’s participation or decision not to participate in this Settlement.

## III. TERMS OF THE SETTLEMENT

Defendant has agreed to pay \$400,000.00 (the “Settlement Amount”) to resolve claims in the operative Complaint (“Complaint”), including claims for overtime compensation, failure to provide suitable seating, wage statement violations,

waiting time penalties, PAGA penalties, and Unfair Competition Law violations, including claims under California Labor Code sections 201-203, 226, 226.3, 510, 1194, 1194.2, 1198, and claims under sections 17200 to 17204 of the California Business and Professions Code based on the foregoing.

The Parties agreed to the following payments from the Settlement Amount:

Settlement Administration Costs. The Court has approved CPT Group, Inc., to act as the “Settlement Administrator,” who is sending this Notice to you and will perform many other duties relating to the Settlement. Under the Settlement, up to \$13,000 will be paid from the Settlement Amount to pay the Settlement Administration Costs.

Attorneys’ Fees and Expenses. Class Counsel – which includes attorneys from Melmed Law Group – who have been prosecuting the Lawsuit on behalf of the Class Members on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses. To date, the parties have aggressively litigated many aspects of the case including settlement efforts and a full day mediation session. The Court will determine the actual amount awarded to Class Counsel as attorneys’ fees, which will be paid from the Settlement Amount. Class Members are not personally responsible for any of Class Counsel’s attorneys’ fees or expenses. Class Counsel will collectively ask for fees of one third (*i.e.*, \$133,333.33) of the Settlement Amount as reasonable compensation for the work Class Counsel performed and will continue to perform in this Lawsuit. Class Counsel also will ask for reimbursement of up to \$14,000.00 for the costs Class Counsel incurred in connection with the Lawsuit.

Service Payment to Named Plaintiff and Class Representative. Class Counsel will ask the Court to award Named Plaintiff and Class Representative Jasmine T. Thompson a service payment in the amount of \$5,000 to compensate her for her service and extra work provided on behalf of the Class Members. The Class Representative also may receive a share of the Settlement as a Class Member.

PAGA Payment. The Parties have agreed on a reasonable sum to be paid in settlement of the PAGA claims included in the Action, which is \$10,000.00. The PAGA Payment is to be approved by the Court pursuant to Labor Code section 2699 and is to be distributed as follows: seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the Class Members. Class Counsel shall give timely notice of the Class Settlement to the LWDA under Labor Code section 2699(1)(2).

Net Settlement Amount. After deducting the amounts above, the balance of the Settlement Amount will form the Net Settlement Amount for distribution to the Class Members.

You can view the Settlement Agreement and other Court documents related to this case by visiting  
[www.cptgroupcaseinfo.com/DraegersSettlement](http://www.cptgroupcaseinfo.com/DraegersSettlement).

#### **IV. YOUR INDIVIDUAL SHARE OF THE SETTLEMENT AMOUNT**

The Individual Settlement Amount for each Class Participant (a Class Member that does not opt-out of the Settlement) will be calculated as follows. Compensable pay workweeks will be all weeks employed by all Class Members during the Class Period. The dollars per compensable workweek will be calculated by dividing the total number of workweeks employed by the Net Settlement Amount to determine a workweek value. The workweek value will be multiplied by the number of workweeks each Class Member was employed during the Class Period to determine the Individual Settlement Amount for each Class Member. If any Class Member opts-out of the Settlement, his/her share will be distributed to Class Participants. Twenty percent (15%) of the Settlement Award distributed to each Claimant will be considered and reported as “wages” (W-2 reporting), (5%) of the Settlement Award will be distributed to each Claimant as “penalties” and (80%) of the Settlement Award will be distributed to each Claimant as “interest” and non-wage damages (Form 1099). Defendant, or its proxies, shall take all usual and customary deductions from the Settlement payments that are distributed as wages, including, but not limited to, state and federal tax withholding, disability premiums, and unemployment insurance premiums. There will be no deduction taken from the interest or penalty distribution; however, it will be reported on IRS Form 1099 as income.

Class Participants are responsible for the proper income tax treatment of the Settlement Awards. The Settlement Administrator, Defendants and their counsel, and Class Counsel cannot provide tax advice. Accordingly, Class Members

should consult with their tax

advisors concerning the tax consequences and treatment of payments they receive under the Settlement.

The workweeks you were employed by the Defendant during the Class Period will be calculated based on Defendant's records. If you feel that you were not credited with the correct number of workweeks employed during the Class Period, you may submit evidence to the Settlement Administrator on or before April 10, 2021 with documentation to establish the number of pay periods you claim to have been employed during the Class Period. **DOCUMENTATION SENT TO THE SETTLEMENT ADMINISTRATOR WILL NOT BE RETURNED OR PRESERVED; DO NOT SEND ORIGINALS.** The Parties and Settlement Administrator will promptly evaluate the evidence submitted and discuss in good faith how many workweeks should be credited. The Settlement Administrator will make the final decision as to how many weeks are credited, and report the outcome to the Class Participant. If you are unsatisfied with the decision, you may submit an Objection, as discussed below.

Settlement checks will be mailed to all Class Members who do not request to be excluded (i.e., opt-out) approximately 25 days after the Court grants final approval of the Settlement and judgment is entered.

You can view the final approval order and final judgment and payment schedule at [www.cptgroupcaseinfo.com/DraegersSettlement](http://www.cptgroupcaseinfo.com/DraegersSettlement).

## **V. THE RELEASE OF CLAIMS**

If the Court approves the Settlement, the Court will enter judgment and the Settlement Agreement will bind all members of the Settlement Class who have not opted out of the Settlement, and will bar all Class Members from bringing certain claims against Defendants as described below.

The settlement includes a release by Class Members (other than those who submitted a timely request to be excluded) of Draeger's Super Markets and all of its subsidiaries, affiliates, shareholders, members, agents, predecessors, successors and assigns (the "Released Parties") from all claims in the operative Complaint ("Complaint"), including claims under Labor Code sections 201-203, 226, 226.3, 510, 1194, 1194.2, 1198, and the California Bus. and Prof. Code based on the foregoing. (the "Released Claims"). The Release Period shall be the Class Period. The Class Representative agrees to a general release of all claims against Defendant during the Class Period, and agrees to waive his rights under Civil Code Section 1542.

The Settlement does not release any person, party or entity from claims, if any, by Class Members for workers compensation, unemployment, or disability benefits of any nature, nor does it release any claims, actions, or causes of action which may be possessed by Settlement Class Members under state or federal discrimination statutes, including, without limitation, the Cal. Fair Employment and Housing Act, the Cal. Government Code § 12940, *et seq.*; the Unruh Civil Rights Act, the Cal. Civil Code §51, *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines.

Class Members who do not opt out will be deemed to have acknowledged and agreed that their claims for wages and/or penalties in the Lawsuit are disputed, and that the Settlement payments constitute payment of all sums allegedly due to them. Class Members will be deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to the Settlement payments. That section provides in pertinent part as follows:

**"An employer shall not require the execution of a release of a claim or right on account of wages due, or to become due, or made as an advance on wages to be earned, unless payment of those wages has been made."**

## **VI. WHAT ARE YOUR OPTIONS?**

### **A. Do Nothing and Receive Your Portion of the Settlement**

You are automatically included as a Class Participant and will receive a settlement payment and do not have to take any further action to receive your settlement payment. It is the responsibility of all Class Members to ensure that the

Settlement Administrator has your current address on file, or you may not receive important information or a settlement payment. The estimated amount of your settlement payment if you do nothing is included on the attached Share Form.

### **B. Opt-Out and Be Excluded from the Class and the Settlement**

If you **do not** wish to take part in the Settlement, you may exclude yourself (i.e., opt-out) by sending to the Settlement Administrator a "Request for Exclusion from the Class Action Settlement" letter/card postmarked no later than April 10, 2021, with your name, address, telephone number, and signature. The Request for Exclusion should state:

"I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE JASMINE T. THOMPSON LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS I MIGHT HAVE."

Send the Request for Exclusion directly to the Settlement Administrator at the following address **by no later than April 10, 2021**:

Thompson v. Draeger's Super Markets  
c/o CPT Group, Inc.  
50 Corporate Park, Irvine, CA 92606

Any person who submits a timely Request for Exclusion from the Class Action Settlement shall, upon receipt, no longer be a Class Member, shall be barred from participating in any portion of the Settlement, and shall receive no benefits from the Settlement. If you want confirmation of receipt of your Opt-Out, please send it by U.S. certified mail, return receipt requested and/or contact the Settlement Administrator.

### **C. Object to the Settlement**

You also have the right to object to the terms of the Settlement. However, if the Court rejects your objection, you will still be bound by the terms of the Settlement. If you wish to object to the proposed Settlement, or any portion of it, you must file with the Settlement Administrator a written objection stating your name, address, telephone number, dates of employment with Defendants, the case name and number, each specific reason in support of your objection, and any legal support for each objection. Objections must be in writing and must be mailed to the Thompson v. Draeger's Super Markets Settlement Administrator c/o CPT Group, Inc. 50 Corporate Park, Irvine, CA 92606, **by no later than April 10, 2021** for your objection to be considered. **OBJECTIONS THAT DO NOT INCLUDE ALL REQUIRED INFORMATION, OR THAT ARE NOT SUBMITTED TIMELY, MAY NOT BE CONSIDERED BY THE COURT.**

If you object to the Settlement, you will remain a member of the Settlement Class, and if the Court approves the Settlement, you will receive payment and be bound by the terms of the Settlement in the same way as Class Members who do not object. Any member of the Settlement Class who does not object in the manner provided above shall have waived any objection to the Settlement, whether by appeal or otherwise.

#### **D. Your Right to Appear at the Final Approval and Fairness Hearing Through an Attorney or In Person**

If you choose to object to the Settlement, you may also appear at the Final Approval Hearing scheduled for April 20, 2021, at 2:00 p.m. in Department 2 of the San Mateo Superior Court, Southern Branch, located at 400 County Center, Redwood City, CA 94063. You have the right to appear either in person or through your own attorney at this hearing. Objections not previously filed in writing in a timely manner as described above will not be considered by the Court. Any attorney who intends to represent an individual objecting to the Settlement must file a notice of appearance with the Court and serve counsel for all parties on or before April 10, 2021. All objections or other correspondence must state the name and number of the case, which is *Jasmine T. Thompson*, Case No. 20-CIV-03222.

#### **VII. UPDATE FOR YOUR CHANGE OF ADDRESS**

If you move after receiving this Notice or if it was misaddressed, please complete the Change of Address portion of the Share Form and mail it to the Settlement Administrator, Thompson v. Draeger's Super Markets c/o CPT Group, Inc. at 50 Corporate Park, Irvine, CA 92606, as soon as possible. **THIS IS IMPORTANT SO THAT FUTURE NOTICES AND/OR THE SETTLEMENT PAYMENT REACH YOU.**

If the Stipulation is not approved by the Court, or if any of its conditions are not satisfied, the conditional settlement will be voided, no money will be paid, and the case will return to litigation. If that happens, there is no assurance: (1) that the Class will be certified; (2) that any decision at trial would be in favor of Class Members; (3) that a trial decision, if any, would be as favorable to the Class Members as this settlement; or (4) that any favorable trial decision would be upheld if an appeal was filed.

#### **VIII. QUESTIONS OR COMMENTS?**

**PLEASE DO NOT CALL OR CONTACT THE COURT.** If you have any questions about the settlement, you may contact the Settlement Administrator at: Thompson v. Draeger's Super Markets c/o CPT Group, Inc., 50 Corporate Park, Irvine, CA 92606 or by e-mail at [ThompsonVDraegers@cptgroup.com](mailto:ThompsonVDraegers@cptgroup.com). You may also contact Class Counsel at the address or phone number listed below.

#### **THE ATTORNEYS REPRESENTING THE CLASS MEMBERS ARE:**

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