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16 and as representative for the State of California on behalf of all other aggrieved employees

17 **SUPERIOR COURT OF CALIFORNIA**

18 **FOR THE COUNTY OF SAN BERNARDINO**

19 FRANCISCO SCHILLER, on behalf of himself
20 and as representative for the State of California
21 on behalf of all other aggrieved employees,

22 Plaintiff,

23 v.

24 ASHLEY DISTRIBUTION SERVICES, LTD.,
25 a Wisconsin Limited Company; and DOES 1
26 through 10, Inclusive,

27 Defendants.

28 LEAD CASE NO. CIVDS2013264

Consolidated with Case No. CIVDS2014776

ASSIGNED FOR ALL PURPOSES TO:

The Honorable Jessica Morgan

Department S26

CONSOLIDATED ACTION

**[PROPOSED] ORDER GRANTING FINAL
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Date: May 23, 2024

Time: 8:30 a.m.

Dept: 26

Judge: Hon. Jessica Morgan

Complaint filed: June 16, 2020

Trial Date: Not set

1 This matter came on for hearing on May 23, 2024 in Department S-26 of the above-captioned
2 Court on Plaintiff's Motion for Order Granting Final Approval of Class Action and PAGA Settlement
3 ("Motion") pursuant to California Rule of Court 3.769, the Class and Private Attorneys General Act
4 ("PAGA") Settlement Agreement filed September 13, 2023 ("Agreement"), and the Order Granting
5 Preliminary Approval of Class Action and PAGA Settlement issued November 28, 2023 ("Preliminary
6 Approval Order").

7 Having received and considered the Agreement, the supporting papers, evidence and argument
8 received by the Court with the Motion for Preliminary Approval of Class Action Settlement, and
9 evidence and argument received by the Court with the Motion for Order Granting Final Approval of
10 Class Action and PAGA Settlement, the Court grants final approval of the Settlement and ORDERS
11 AND MAKES THE FOLLOWING DETERMINATIONS:

12 1. Pursuant to the Court's Preliminary Approval Order, Notice of Class Action Settlement,
13 ("Class Notice"), was sent to each Class Member by first-class United States mail, informing the Class
14 of the Settlement terms, right to receive a Settlement Payment without taking any action, comment on
15 or object to the Settlement, and appear in person or by counsel and be heard at the final approval
16 hearing. Adequate periods of time were provided for each of these procedures.

17 2. No Class member filed a written objection to the proposed Settlement or stated an
18 intention to appear at the final approval hearing.

19 3. No Class member requested exclusion from the Settlement or submitted a written dispute
20 to the Settlement.

21 4. The Court finds and determines this notice procedure afforded adequate protections to the
22 Class and provides the basis for the Court to make an informed decision regarding Settlement approval
23 based on the responses of the Class. The Court finds and determines the Class Notice provided in this
24 case was the best notice practicable, which satisfies the requirements of law and due process.

25 5. For purposes of Settlement approval only, the Court finds: (a) the proposed Class is
26 ascertainable and so numerous joinder of all Class members is impracticable; (b) there are questions of
27 law or fact common to the proposed Class, and a well-defined community of interest among members
28 of the proposed Class with respect to the subject matter of the class action; (c) the claims of the Class

1 Representative are typical of the claims of the members of the proposed Class; (d) the Class
2 Representative has and will fairly and adequately protect the interests of the Members of the Class; (e)
3 a class action is superior to other available methods for efficient adjudication of this controversy for
4 settlement; and (f) counsel of record for the Class Representative are qualified to serve as counsel for
5 her in their representative capacity and for the Class.

6 6. Class Members are defined for Settlement purposes as: All individuals who are or
7 previously were employed by Defendant in the State of California who were classified as hourly, non-
8 exempt employees at any time from August 23, 2018 to September 13, 2022.

9 7. For purposes of this Settlement, Aggrieved Employees are defined as: All individuals who
10 are or were previously employed by Defendant in the State of California who were classified as hourly,
11 non-exempt employees at any time from April 12, 2019 to September 13, 2022.

12 8. The Court finds and determines the terms of the Agreement are fair, reasonable, and
13 adequate and, having found the Settlement was reached as a result of informed and non-collusive arms'-
14 length negotiations facilitated by a neutral, experienced mediator, directs the Parties to effectuate the
15 Settlement terms as set forth in the Agreement. The Court finds the Parties conducted extensive
16 investigation, research, and informal discovery, and their attorneys were able to reasonably evaluate
17 their respective positions. The Court also finds Settlement will enable the Parties to avoid additional
18 and potentially substantial litigation costs, as well as delay and risks if the Parties were to continue to
19 litigate the case. The Court has reviewed the monetary recovery and recognizes the significant value
20 provided to the Class.

21 9. The Court finds and determines the terms of the Settlement are fair, reasonable and
22 adequate to the Class and each Class Member, the Settlement is ordered finally approved, and all terms
23 of the Agreement should be and are ordered to be consummated.

24 10. The Court finds and determines Settlement Payments to be paid to Participating Class
25 Members and Aggrieved Employees under the Settlement are fair and reasonable. The Court grants
26 final approval to and orders payment of those amounts to Participating Class Members and Aggrieved
27 Employees in accordance with the Agreement.

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1 11. The Court finds and determines fees and expenses to administer the Settlement incurred
2 by CPT Group, Inc. of \$10,000.00 are fair and reasonable. The Court grants final approval to and orders
3 payment of that amount in accordance with the Agreement.

4 12. The Court finds and determines the Class Representative Service Award of \$10,000.00 to
5 Plaintiff Francisco Schiller is fair and reasonable, and orders the Administrator to make this payment
6 in accordance with the terms of the Agreement.

7 13. The Court finds and determines payment to the California Labor and Workforce
8 Development Agency of \$13,125.00 as its share of the Settlement of civil penalties under the Private
9 Attorneys General Act is fair, reasonable, and appropriate. The Court grants final approval to and orders
10 that amount be paid in accordance with the Agreement.

11 14. The Court awards Class Counsel attorneys' fees of \$116,666.67 [50% to Cohelan Khoury
12 & Singer, and 50% to Law Offices of Sahag Majarian II] and litigation costs of \$20,000.00. The Court
13 finds such amounts to be fair and reasonable. The Court orders the Administrator to make these
14 payments in accordance with the Agreement.

15 15. Without affecting the finality of this Order or the entry of judgment in any way, the Court
16 retains jurisdiction of all matters relating to the interpretation, administration, implementation,
17 effectuation, and enforcement of this Order and the Agreement.

18 16. The Settlement is not an admission of liability by Ashley Distribution Services, Ltd.,
19 ("Defendant"), or any of Defendant's its parents, subsidiaries, officers, shareholders, members,
20 directors, agents, attorneys, employees, and insurers, ("Released Parties"), nor is this Order or entry of
21 judgment a finding any claim in the Actions against Defendant is valid. This Order, entry of judgment,
22 or Settlement, may not be construed as, or used as an admission of, any fault, wrongdoing or liability
23 by Defendant or any Released Party. Negotiating, entering or carrying out the Settlement, shall not be
24 offered in evidence against any Released Party in any action or proceeding in any court, administrative
25 agency or tribunal for any purpose except to enforce this Order or Judgment. However, any Released
26 Party may file in any proceeding, this Order or Judgment, or any papers filed in the Action, to support
27 defenses of res judicata, collateral estoppel, release, claim or issue preclusion or any similar defense.

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1 17. Plaintiff and Participating Class Members will forever completely release and discharge,
2 to the fullest extent permitted by law, Defendant and the Released Parties from all class claims pled or
3 which could have been pled based on the factual allegations contained in the Operative Class Complaint
4 which occurred during the Class Period including, but not limited to claims under California Labor
5 Code sections 201, 202, 203, 204, 210, 218.6, 226, 226(a), 226.3, 226.7, 256, 510, 512, 515, 558(a),
6 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2800, 2802, 2804, and 2810.5, and
7 expressly excluding all other claims, including claims for vested benefits, wrongful termination,
8 unemployment insurance, disability, social security, workers' compensation, and class claims outside
9 of the Class Period, August 23, 2018 to September 13, 2022. The time period of this release is the Class
10 Period, August 23, 2018 to September 13, 2022.

11 18. Plaintiff and Aggrieved Employees will forever completely release and discharge, to the
12 fullest extent permitted by law, Defendant and the Released Parties from all PAGA claims pled or
13 which could have been pled based on the factual allegations contained in the Operative PAGA
14 Complaint and PAGA letter sent by Plaintiff that occurred during the PAGA Period that stated
15 violations of California Labor Code §§ 201, 202, 203, 204, 210, 218, 226, 226(a), 226.3, 226.7, 256,
16 510, 512, 558(a), 558.1, 1174, 1174.5, 1175, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2804,
17 2810.5, and 2698, et seq, as to the Aggrieved Employees and expressly excluding all other claims,
18 including claims for vested benefits, wrongful termination, unemployment insurance, disability, social
19 security, workers' compensation, and PAGA claims outside of the PAGA Period, April 12, 2019 to
20 September 13, 2022. The time period for this release is the PAGA Period, April 12, 2019 to September
21 13, 2022.

22 19. Nothing in this Order shall preclude any action to enforce the Agreement or this Order,
23 including the requirement Defendant make payments to Participating Class Members and Aggrieved
24 Employees in accordance with the Settlement.

25 20. The Judgment, once entered, shall constitute a judgment for purposes of California Rules
26 of Court, Rule 3.769(h). In accordance with, and for the reasons stated in, this Order, judgment shall
27 be entered within the meaning and for purposes of Code of Civil Procedure sections 577 and 904.1(a),
28 and the Plaintiff/Class Representative, Participating Class Members and Aggrieved Employees shall

1 take nothing from Released Parties except as expressly set forth in the Agreement.

2 21. The Parties will comply with California Rules of Court Rule 3.771(b), by giving notice to
3 Class Members by posting the Final Approval Order and Judgment on the Settlement Administrator's
4 website.

5 22. Pursuant to Labor Code section 2699(1)(3), Plaintiff shall submit a copy of this Order and
6 Judgment to the California Labor and Workforce Development Agency within 10 days after entry of
7 this Order and Judgment.

8 23. The Parties will bear their own costs and attorneys' fees except as otherwise provided by
9 this Court's Order awarding Class Counsels' attorneys' fees and litigation costs.

10 IT IS SO ORDERED.

11
12 Date: _____

Honorable Jessica Morgan
Judge of the Superior Court