

PAGA SETTLEMENT AGREEMENT AND RELEASE

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Ricardo Trejo ("Plaintiff"), for himself and on behalf of the State of California and all Private Attorneys General Act ("PAGA") Settlement Members, on the one hand, and Defendant Total Distribution Service, Inc. ("Defendant"), on the other (collectively, the "Parties"), subject to the approval of the Court in accordance with California Labor Code section 2699(l)(2), that the Settlement of this Action shall be effectuated upon and subject to the following terms and conditions.

The Parties agree that the Action (as defined in Section I below) shall be, upon approval by the Court, ended, settled, resolved, and concluded without any admission of fault or liability, as set forth in this Agreement and for the consideration set forth herein, including but not limited to a release of claims by Plaintiff and the PAGA Settlement Members as set forth herein.

I. DEFINITIONS

Unless otherwise defined herein, the following terms used in this Agreement shall have the meanings ascribed to them as set forth below:

- (a) "Action" means the civil action, *Ricardo Trejo, an individual, on behalf of himself and all others similarly situated, Plaintiff, v. Total Distribution Service, Inc., a California Corporation, and DOES 1 through 100, Defendants*, pending in the Superior Court of California in and for the County of Ventura, Case No. 56-2021-00553039-CU-OE-VTA.
- (b) "Agreement" means this PAGA Settlement Agreement and Release.
- (c) "Approval Date" means the date the Court grants approval of this Agreement by signing and filing the Final Order.
- (d) "Complaint" means the operative Complaint, which was filed on or about April 9, 2021, for Violation of The California Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*).
- (e) "Court" means the Superior Court for the State of California, County of Ventura.
- (f) "Defendant" means the Defendant in this Action, Total Distribution Service, Inc.
- (g) "Defense Counsel" or "Counsel for Defendant" means:

Usama Kahf
ukahf@fisherphillips.com
FISHER & PHILLIPS LLP
2050 Main Street, Suite 1000
Irvine, California 92614
Telephone: (949) 851-2424
Facsimile: (949) 851-0152

Nathan K. Low
nlow@fisherphillips.com
FISHER & PHILLIPS, LLP
One Embarcadero Center, Suite 2050
San Francisco, California 94111
Telephone: (415) 490-9000
Facsimile: (415) 490-9001

- (h) “PAGA Settlement Members” or “aggrieved employees” means all Defendant’s current and former non-exempt employees in the State of California from February 2, 2020 through March 20, 2022.
- (i) “PAGA Settlement Member Payment” means the portion of the Gross Settlement Amount that shall be paid to each PAGA Settlement Member per the terms and conditions of this Agreement.
- (j) “Effective Date” means the date by which all of the following have occurred:
 - (1) The Court has approved the Agreement;
 - (2) The Court has entered the Final Order;
 - (3) Defendant has transferred the Gross Settlement Amount to the Settlement Administrator; and,
 - (4) The later of either:
 - i. The thirtieth (30th) calendar day after the Final Order has been filed provided no motion to vacate the judgment, appeal, writ or other appellate proceeding having been filed; or
 - ii. The seventh (7th) calendar day after any motion to vacate the judgment, appeal, writ, or other appellate proceeding opposing the Agreement has been finally dismissed with no material change to the terms of this Agreement and there is no right to pursue further remedies or relief. Should any appeal not result in approval of the Parties’ Agreement as described herein, the Agreement shall be void *ab initio* and of no further force or effect, and the Parties shall be returned in all respects to their respective positions as of January 19, 2022.
- (k) “Final Order” means the final Court order entered in this Action in accordance with the terms herein, the Court adopting and approving this Agreement (and the terms of Settlement described herein) under the specific terms requested, and the Court retaining jurisdiction over the enforcement, implementation, construction, administration, and interpretation of the Settlement.
- (l) “Gross Settlement Amount” means the total gross settlement amount of One Hundred Thirty Thousand Dollars and Zero Cents (\$130,000.00) to be paid by Defendant, subject to pro rata increase, as provided by this Agreement to fully and finally settle, resolve and conclude this Action as provided under this Agreement, without any admission of fault or liability.
- (m) “LWDA” means the State of California Labor and Workforce Development Agency.
- (n) “Named Plaintiff” or “Plaintiff” means Ricardo Trejo, individually and in his capacity as a representative of the State of California on behalf of other aggrieved employees.

- (o) “PAGA” means the California Labor Code Private Attorneys General Act of 2004, California Labor Code section 2698 *et seq.*
- (p) “PAGA Claims” means all claims, demands, liabilities, damages, attorney’s fees, costs, and penalties against the Released Parties, that could have been recovered under the PAGA based on the facts asserted in the Action or any other claims under PAGA that could have been asserted in the Action based on the facts alleged, including but not limited to claims under PAGA arising from alleged unpaid wages, minimum wages, regular wages, overtime and double time wages; meal period violations; untimely payment of wages; wage statement violations; separation pay violations; and failure to maintain accurate records during the PAGA Claim Period.
- (q) “PAGA Claim Period” means any time during the period of February 2, 2020 through March 20, 2022.
- (r) “Plaintiff’s Counsel” means:

HAINES LAW GROUP, APC
Paul K. Haines
phaines@haineslawgroup.com
Fletcher W. Schmidt
fschmidt@haineslawgroup.com
Andrew J. Rowbotham
arowbotham@haineslawgroup.com
2155 Campus Drive, Suite 180
El Segundo, California 90245
Telephone: (424) 292-2350
Facsimile: (424) 292-2355
- (s) “Released Parties” means Defendant, its parents, subsidiaries, affiliates, insurers, related entities and divisions, and its and their respective: (i) predecessors, successors, and assigns, and (ii) current and former agents, heirs, executors, administrators, principals, officers, directors, shareholders, employees, founders, members, assigns, insurers, attorneys, and all others claiming through or by any of them
- (t) “Settlement Administrator” means Simpluris.

II. APPROVAL AND IMPLEMENTATION OF SETTLEMENT

A. Cooperation

The Parties will cooperate in seeking approval of the Settlement described in this Agreement. The Parties further agree to fully cooperate in the drafting and/or filing of any further documents or filings reasonably necessary to be prepared or filed, including responding to challenges by any third parties, and shall take all steps that may be requested by the Court relating to the approval and implementation of the Settlement described in this Agreement.

B. Court Approval

Because this Action includes PAGA claims, this Agreement requires review and approval by the Court. See Cal. Lab. Code § 2699(l)(2). This Agreement is expressly contingent upon the Court's approval of this Settlement and the terms and material conditions of this Agreement (including, but not limited to, issuance of the Final Order in a form agreed to by the Parties and entry of the Final Order in accordance therewith). The Court's failure to approve this Settlement shall render the entire Agreement voidable and unenforceable as to the Parties, at the option of either Plaintiff or Defendant. Each party may exercise its option to void this Agreement as provided above by giving notice, in writing, to the other party, and to the Court within fifteen (15) days after the Final Order denying approval of the Settlement has been received by the party seeking to void the Agreement.

Plaintiff will file a Motion for Approval of PAGA Settlement and for an Order approving this Agreement. If the Court does not grant the request for approval and issue the Final Order, under the specific terms requested, the Parties agree to meet and confer to address the Court's concerns and determine whether resolution of the Action can be obtained in a manner consistent with the Court's concerns.

Plaintiff shall submit a copy of the Final Order in this Action and a copy of any other order providing for or denying an award of civil penalties to the LWDA within ten (10) days after entry of the Final Order, in compliance with section 2699(l)(3) of the California Labor Code.

C. Gross Settlement Amount Payment Procedures

(a) Gross Settlement Amount

In exchange for the releases, obligations, and promises set forth in this Agreement (and subject to the terms and conditions contained in this Agreement), Defendant agrees to pay the Gross Settlement Amount of \$130,000.00, which is the total and all-inclusive amount Defendant will be obligated to pay under the Settlement embodied by this Agreement (subject only to a pro-rata increase described in Section II(C)(c) below). The Gross Settlement Amount shall be allocated as follows:

- (1) **Attorneys' Fees and Costs:** Plaintiff's Counsel may apply to the Court for up to one-third of the total Gross Settlement Amount (currently estimated at \$43,333.33) ("Fee Amount") as attorneys' fees and will request up to \$35,000.00 in actual costs ("Actual Costs") pursuant to PAGA, which provides for the recovery of attorneys' fees and costs. Any modification of such application by the Court shall not (i) affect the enforceability of the Agreement, (ii) provide any of the Parties with the right to terminate the Agreement, or (iii) impose any obligation on Defendant to increase the consideration paid in connection with the Settlement. Plaintiff's Counsel's entitlement to fees and costs is a material condition of this Settlement, but the Fee Amount awarded is not.
- (2) **Settlement Administration Fees:** All Settlement Administration expenses shall be paid from the Gross Settlement Amount and shall not exceed Three Thousand

Dollars (\$3,000.00) (“Settlement Administration Fees”). Settlement Administration expenses paid to an outside Settlement Administration service must come out of the Gross Settlement Amount. The Parties agree to retain Simpluris to serve as the Settlement Administrator in this matter. If the Settlement Administration Fees are less than the estimated amount of \$3,000.00, the remainder will be distributed amongst the PAGA Settlement Members pursuant to the allocation formula set forth in Section II(C)(a)(4).

- (3) Plaintiff’s Enhancement Payment: Defendant agrees not to oppose Plaintiff Ricardo Trejo’s request for an enhancement payment of Five Thousand Dollars and Zero Cents (\$5,000.00) in recognition for the work Plaintiff has done on behalf of the State of California and the aggrieved employees. If Plaintiff’s request for an enhancement payment is not approved and/or reduced by the Court, any amount not approved and/or reduced by the Court will be distributed amongst the PAGA Settlement Members pursuant to the allocation formula set forth in Section II(C)(a)(4).
- (4) Payment of PAGA Penalties: The total sum available for payment of PAGA penalties shall be calculated by deducting the Fee Amount, Actual Costs, Settlement Administration Fees, and Plaintiff’s Enhancement Payment from the \$130,000.00 Gross Settlement Amount (this will yield the “Net Settlement Amount”). Thereafter, seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (“LWDA Payment”) and the remaining twenty-five percent (25%) shall be distributed to the PAGA Settlement Members (“PAGA Settlement Member Payment”).
 - i. The “PAGA Settlement Member Payment” for each PAGA Settlement Member shall be determined based on a formula taking into account the number of each PAGA Settlement Member’s “Qualifying Pay Periods.” A “Qualifying Pay Period” shall be defined as any pay period in which a PAGA Settlement Member was employed as non-exempt employee by Defendant between February 2, 2020, and March 20, 2022, as determined by Defendant’s records.
 - ii. The amount paid to each PAGA Settlement Member will be determined as follows: The 25% amount to be distributed to PAGA Settlement Members will be divided by the total number of Qualifying Pay Periods for all PAGA Settlement Members during the relevant time period (February 2, 2020 up through and including March 20, 2022) (“Qualifying Pay Period Amount”). Each PAGA Settlement Member will then be paid an amount equal to the Qualifying Pay Period Amount multiplied by that PAGA Settlement Member’s total number of Qualifying Pay Periods.

(b) Funding and Distribution Process

Within thirty (30) days after the Court enters Final Order, Defendant shall transmit to the Settlement Administrator the Gross Settlement Amount to be held by the Settlement Administrator in a low-risk interest bearing account, until distribution following the Effective Date.

Within ten (10) business days after the Court enters the Final Order, Defendant shall also provide the Settlement Administrator with a PAGA Employees List which shall state each PAGA Settlement Members' (1) full name, (2) last known address, (3) social security number, (4) dates of employment, and (5) the numbers of pay periods he or she worked. This information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of contact information of the PAGA Settlement Members. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement.

Within ten (10) business days of receiving the PAGA Employees List, the Settlement Administrator will disburse PAGA Settlement Member Payments to each PAGA Settlement Member, will disburse the Attorneys Fees to Plaintiff's Counsel, will disburse the Attorneys' Costs to Plaintiff's Counsel, and will send a check to the LWDA for the LWDA Payment, in the amount calculated pursuant to the terms of this Agreement.

Prior to the disbursement to PAGA Settlement Members, the Settlement Administrator shall run a skip trace to obtain updated address information for every PAGA Settlement Member. PAGA Settlement Members who receive their PAGA Settlement Member Payments via U.S. Mail will receive a letter along with their PAGA Settlement Member Payment explaining the reason for the payment, substantially in the form attached hereto as **Exhibit A**, the content of which will be submitted to the Court for approval. Such mailing as described in this paragraph shall be conclusive evidence of payment of the PAGA Settlement Member Payments, and shall satisfy any and all due process requirements. All funds not claimed within 180 days of mailing of payment shall be sent to Court Appointed Special Advocates ("CASA") of Ventura County, a 501(c)(3) nonprofit organization (EIN 45-1649286) providing legal assistance and aid to abused and neglected children.

(c) Pro Rata Increase

Defendant has represented that there are approximately 69 aggrieved employees who worked approximately 5,072 pay periods between February 2, 2020 and January 19, 2022. This estimate serves as the basis for Plaintiff's accepting the Settlement. In the event the actual number of pay periods during this period from (February 2, 2020 through January 19, 2022) exceeds 5,072 by more than 15%, Defendant will increase the Gross Settlement Amount on a proportional basis (i.e., if there was 20% increase in pay periods, Defendant would increase the Settlement Amount by an additional 5%).

(d) No Additional Contribution by Defendant

Defendant's monetary obligation under this Agreement is limited to the Gross Settlement Amount (subject only to a pro-rata increase described in Section II(C)(c) above). Defendant shall not be required to pay more than the Gross Settlement Amount to obtain the relief (including, but not limited to, the Settlement, releases of claims, issuance of the Final Order, dismissal of all claims in the Action with prejudice) provided in this Agreement or to fully and finally settle and resolve the PAGA Claims.

Notwithstanding the above, in the event that this Agreement is voided or nullified, in whole or in part, however that may occur, or the Settlement of the Action is barred by operation of law, or invalidated, or ordered not to be carried out by a Court of competent jurisdiction, Defendant will cease to have any obligation to pay any portion of the Gross Settlement Amount to anyone under the terms of this Agreement.

(e) Tax Indemnity

The PAGA Settlement Member Payments are penalties, shall be reported on an IRS Form 1099 (to the extent required by law), and will not be subject to local, state or federal tax withholdings. Each PAGA Settlement Member will be responsible for paying all applicable state, local and federal income taxes on all amounts received pursuant to this Settlement, and the Released Parties shall not be held liable for any failure to do so.

III. LIMITATIONS ON USE OF THIS SETTLEMENT

A. No Admission

Defendant disputes that Plaintiff or any PAGA Settlement Member are entitled to any additional wages other than those already paid and/or any penalties, dispute the allegations and each and every cause of action in the Action, and dispute that the Action may be maintained on a class or representative basis. This Agreement is entered into solely for the purpose of compromising highly disputed claims. This Agreement and the payment of the Gross Settlement Amount and the other considerations recited herein represent the compromise of disputed claims. Nothing in this Agreement is intended as or may be construed as an admission of liability, unlawful conduct, or wrongdoing by Defendant (and/or any of the Released Parties) in any way, shape or form, and Defendant and the Released Parties deny any such liability or wrongdoing.

B. Non-Evidentiary Use

Except for purposes of effectuating the Settlement pursuant to this Agreement and/or for Defendant (and/or a Released Party) to establish that a PAGA Settlement Member has resolved any of his/her claims released through this Agreement, and regardless of whether the Final Order occurs, neither this Agreement nor any of its terms (including, but not limited to, the payment of the Gross Settlement Amount) nor the Settlement itself will be construed as, offered, or admitted in evidence as, received as, or deemed to be evidence, in any further proceeding in the Action, or any other civil, criminal, and/or administrative action or proceeding, for any purpose adverse to Defendant or any of the Released Parties, including but not limited to, evidence of a presumption, concession, indication, or admission by Defendant or any of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage.

C. Nullification

If (a) the Court should for any reason fail to approve this Settlement consistent with the specific terms agreed to by the Parties and set forth herein, (b) the Court should for any reason fail to enter the Final Order, or (c) the Final Order is reversed, modified, or declared or rendered void, then this Agreement shall be deemed voidable and unenforceable as to Plaintiff and Defendant, at the option of either party. Each party may exercise its option to void this Settlement as provided above by

giving notice, in writing, to the other, and to the Court within fifteen (15) days after the Final Order granting approval of the Settlement or a Final Order denying approval of the Settlement has been received by the party seeking to void the Settlement.

Where either party has exercised its option to void this Settlement, (i) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (ii) all Parties to this Agreement and the pleadings in this Action shall stand in the same position they were the day prior to the January 19, 2022 mediation in this Action, without prejudice to either Party; and (iii) Defendant will not have any obligation to pay any portion of the Gross Settlement Amount to anyone under the terms of this Agreement.

IV. RELEASE AND WAIVER OF CLAIMS

A. Claims Released By Plaintiff, the LWDA, and All PAGA Settlement Members

Upon the Effective Date, Plaintiff, the LWDA, all PAGA Settlement Members, and the State of California shall be deemed to have fully, finally, and forever waived, released, relinquished, and discharged Defendant and each and all of the Released Parties from all claims, demands, liabilities, damages, attorney's fees, costs, and penalties, that could have been recovered under the PAGA based on the facts asserted in the Action or any other claims under PAGA that could have been asserted in the Action based on the facts alleged, including but not limited to claims under PAGA arising from alleged unpaid wages, minimum wages, regular wages, overtime and double time wages; meal period violations; untimely payment of wages; wage statement violations; separation pay violations; and failure to maintain accurate records during the PAGA Claim Period.

B. No Additional Attorneys' Fees or Costs

The Parties agree to bear its/their own attorneys' fees and costs related to this Action except as specifically provided above with respect to the Fee Amount and Enforcement Action.

V. MISCELLANEOUS PROVISIONS

A. LWDA Notice

The LWDA will be given notice of this Settlement pursuant to the 2016 amendments to the PAGA. Cal. Lab. Code § 2699(1)(2). Plaintiff will serve a copy of the Settlement to the LWDA on the same day the Settlement is filed with the Court.

Additionally, a copy of the Court's Final Order will be submitted to the LWDA within ten (10) days after entry of the Final Order, pursuant to California Labor Code § 2699(1)(3).

B. Voluntariness

This Agreement is executed voluntarily and without duress or undue influence on the part of or on behalf of any of the Parties, or of any other person, firm or other entity.

C. Amendments

The terms and provisions of this Agreement may be amended or modified only by an express written agreement that is signed by the Plaintiff and an authorized representative of Defendant.

D. Assignment

None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, PAGA Settlement Member, the State of California, Plaintiff's Counsel, or Defense Counsel without the express written consent of each Party. Plaintiff individually and expressly warrants that he has not transferred to any person or entity, any right or cause of action, or claim released by this Agreement.

E. Governing Law

This Agreement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

F. Entire Agreement

This Agreement contains the entire understanding of the Parties hereto in respect of the subject matter contained herein. There are no restrictions, promises, representations, warranties, covenants, or undertakings governing the subject matter of this Agreement other than those expressly set forth or referred to herein. This Agreement supersedes all prior agreements and understandings among the Parties hereto with respect to the subject matter hereof, including, without limitation, the Memorandum of Understanding executed by the Parties.

G. Waiver of Compliance

A waiver or failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

H. Counterparts

This Agreement, and any amendments hereto, may be executed in any number of counterparts and any Party and/or its/their respective counsel hereto may execute any such counterpart, each of which when executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute but one and the same instrument. A fax or PDF signature on this Agreement shall be as valid as an original signature.

I. Meet and Confer Regarding Dispute(s)

Should any dispute(s) arise among the Parties or their respective counsel regarding the implementation or interpretation of this Agreement, Plaintiff's Counsel and Defense Counsel shall meet and confer in an attempt to resolve such disputes prior to submitting such disputes to the Court.

J. Agreement Binding on Successors

This Agreement shall bind and inure to the benefit of the Parties hereto and to their respective successors, assigns, legatees, heirs, and personal representatives.

K. Cooperation in Drafting

The Parties have cooperated in the negotiation and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Agreement.

L. Fair Settlement

Plaintiff, Defendant, Plaintiff's Counsel, and Defense Counsel believe that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms' length negotiation, taking into account all relevant factors, current and potential, and is consistent with public policy, and fully complies with applicable provisions of law.

M. Headings

The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement and shall not be considered in interpreting this Agreement.

N. Continuing Jurisdiction

The Parties agree that upon the occurrence of the Final Order pursuant to the terms of this Agreement, this Agreement shall be enforceable by the Court pursuant to Code of Civil Procedure section 664.6 and the Court shall retain exclusive and continuing equity jurisdiction of this Action over all Parties and the PAGA Settlement Members to the fullest extent to interpret, enforce and effectuate the terms, conditions, intents and obligations of the Agreement.

O. No Reliance on Representations

The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Agreement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other Parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Agreement, or with respect to any such matters. No representations, warranties, or inducements have been made to any Party concerning this Agreement.

P. Enforcement Action

In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Agreement or to declare rights and/or obligations under this Agreement, the successful Party or Parties will be entitled to recover from

the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: MARCH 25, 2022


Ricardo Trejo (Mar 25, 2022 15:29 PDT)
RICARDO TREJO, Plaintiff and PAGA Representative

Dated: _____, 2022

TOTAL DISTRIBUTION SERVICE, INC.

By _____

PRESIDENT

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: March 29, 2022

HAINES LAW GROUP, APC

By 

FLETCHER W. SCHMIDT
Attorneys for Plaintiff

Dated: _____, 2022

FISHER & PHILLIPS LLP

By _____
USAMA KAHF
NATHAN LOW
Attorneys for Defendant

the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date set forth below.

APPROVED AND ACCEPTED.

Dated: _____, 2022

RICARDO TREJO, Plaintiff and PAGA Representative

Dated: 3/25/2022, 2022

TOTAL DISTRIBUTION SERVICE, INC.

By  _____
PRESIDENT

**APPROVED AS TO FORM AND
ATTORNEY OBLIGATIONS ONLY**

Dated: _____, 2022

HAINES LAW GROUP, APC

By _____
FLETCHER W. SCHMIDT
Attorneys for Plaintiff

Dated: 3/25/2022, 2022

FISHER & PHILLIPS LLP

By  _____
USAMA KAHF
NATHAN LOW
Attorneys for Defendant

NOTICE OF SETTLED REPRESENTATIVE ACTION

Ricardo Trejo v. Total Distribution Services, Inc. (Ventura County Superior Court, Case No. 56-2021-00553039-CU-OE-VTA)

P.O. Box

Telephone:

«Barcode»

«BarcodeString»

SIMID «SIMID»

«FirstName» «LastName»

«Address1» «Address2»

«City» «State» «Zip»

You are receiving this notice and check as a result of a recent lawsuit brought on a representative basis under the Private Attorneys General Act, Labor Code § 2698 *et seq.* (“PAGA”) (“the Action”), *Ricardo Trejo v. Total Distribution Services, Inc.* in Ventura County Superior Court, Case Number 56-2021-00553039-CU-OE-VTA that has been settled. The plaintiff in the lawsuit is Ricardo Trejo (“Plaintiff”) and the defendant is Total Distribution Services, Inc. (“Defendant”).

This notice is not intended to be, and should not be construed as, an expression of any opinion by the Court with respect to the truth of the allegations raised in the Action or the merits of the claims or defenses asserted. The Court has made no determination as to whether the claims alleged by Plaintiff have any merit.

Instead, both parties agreed to resolve the Action with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, the parties avoid the risks and costs associated with trial. Defendant is not admitting to any allegations or wrongdoing in this case, and in fact expressly denies that any of its practices at issue in this lawsuit were or are unlawful.

Plaintiff and the State of California are releasing PAGA Claims against Defendant. The “PAGA Claims” are all claims, demands, liabilities, damages, attorney’s fees, costs, and penalties that could have been recovered under the PAGA based on the facts asserted in the Action or any other claims under PAGA that could have been asserted in the Action based on the facts alleged, including but not limited to claims under PAGA arising from alleged unpaid wages, minimum wages, regular wages, overtime and double time wages; meal period violations; untimely payment of wages; wage statement violations; separation pay violations; and failure to maintain accurate records. This release will only apply to claims under PAGA that arose during the period of February 2, 2020, through March 20, 2022 (the “PAGA Claim Period”).

By Order dated <<APPROVAL DATE>>, the Superior Court approved the Settlement of the PAGA claims. According to Defendant’s records, you are an Aggrieved Employee, meaning that you were employed by Total Distribution Services, Inc. as an hourly, non-exempt employee at any time during the PAGA Claim Period and therefore entitled to a share of the PAGA settlement based upon the Court approved allocation. Enclosed with this Notice is your check for your share, and there is no action required of you in this matter. The settlement check will remain valid for 180 days. Any check not negotiated within 180 days will be distributed to Court Appointed Special Advocates (“CASA”) of Ventura County, a 501(c)(3) nonprofit organization (EIN 45-1649286) providing legal assistance and aid to abused and neglected children. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

Calculation of Individual PAGA Payment: You worked <<THIS EMPLOYEE’S PAY PERIODS>> during the PAGA Claim Period. The total number of pay periods worked by all Aggrieved Employees during the PAGA Claim Period is <<TOTAL PAY PERIODS>>. Your Individual PAGA Payment has been calculated at \$<<AMOUNT PAID TO THIS EMPLOYEE>>. Your payment was calculated by taking the share of the Net Settlement Amount paid to Aggrieved Employees and multiplying it by a fraction with your proportionate share of pay periods worked during the PAGA Claim Period as the numerator and the total number of pay periods worked by all Aggrieved Employees during the PAGA Claim Period as the denominator.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties and will be reported on an IRS Form 1099. You should rely on your own tax advisors as to the tax consequences of your Individual PAGA Payment. Neither Counsel for Plaintiff, Counsel for Defendant, nor the Settlement Administrator may legally provide you with advice regarding the tax implications of the receipt of this settlement payment. Nothing within this notice or any other communication will constitute or be construed or relied upon as tax advice. Enclosed are the appropriate tax forms pertaining to your payment.

Do not call or write the Court or Office of the Clerk to ask questions about the settlement or about the claims process. If you have any questions, you may call or write to <<ADMIN CONTACT INFO>> using the contact information at the top of this correspondence. Alternatively, if you wish to find out more about the settlement, you may refer to the pleadings and other papers filed in the Action, which are available at the Ventura County Superior Court.