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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JAN 04 2024

BY 
LILIANA MARISCAL, DEPUTY

Attorneys for Plaintiff Angelica Aguilar

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

ANGELICA AGUILAR, individually, and on
behalf of other members of the general public
similarly situated,

Plaintiff,

vs.

DISTRIBUTION ALTERNATIVES, INC., a
Minnesota corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. CIVSB2206760

Assigned to the Hon. Joseph T. Ortiz

**[PROPOSED] ORDER AND JUDGMENT
GRANTING MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND MOTION FOR
ATTORNEYS' FEES, COSTS AND
EXPENSES, AND A CLASS
REPRESENTATIVE SERVICE AWARD**

Date: January 4, 2024
Time: 1:30 p.m.
Place: Department S17

Complaint Filed: March 29, 2022
Trial Date: None Set

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ORDER AND JUDGMENT

This matter came before the Court for a hearing on the Motion for Final Approval of the Class Action Settlement and Motion for Attorneys' Fees, Costs and Expenses, and a Class Representative Service Award (collectively, the "Motions"). Due and adequate notice having been given to Class Members as required by the Court's Preliminary Approval Order, and the Court having reviewed the Motions, and determining that the settlement is fair, adequate and reasonable, and otherwise being fully informed and **GOOD CAUSE** appearing therefore, it is hereby **ORDERED AS FOLLOWS**:

1. For the reasons set forth in the Preliminary Approval Order, which are adopted and incorporated herein by reference, this Court finds that the requirements of California Code of Civil Procedure section 382 and rule 3.769 of the California Rules of Court have been satisfied.

2. This Order hereby adopts and incorporates by reference the terms and conditions of the Stipulation Regarding Class Action and PAGA Settlement and Release ("Settlement Agreement" or "Settlement"), together with the definitions and terms used and contained therein.

3. The Court finds that it has jurisdiction over the subject matter of the action and over all parties to the action, including all members of the Settlement Class.

4. The Class Notice fully and accurately informed Class Members of all material elements of the proposed settlement and of their opportunity to opt out or object; was the best notice practicable under the circumstances; was valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the State of California and due process. The Class Notice fairly and adequately described the settlement and provided Class Members with adequate instructions and a variety of means to obtain additional information.

5. Class Members were given a full opportunity to participate in the Final Approval hearing, and all Class Members and other persons wishing to be heard have been heard. Accordingly, the Court determines that all Class Members who did not timely and properly opt out of the settlement are bound by this Order.

6. The Court has considered all relevant factors for determining the fairness of the settlement and has concluded that all such factors weigh in favor of granting final approval. In particular, the Court finds that the settlement was reached following meaningful discovery and investigation

1 conducted by Plaintiff's Counsel; that the settlement is the result of serious, informed, adversarial, and
2 arm's-length negotiations between the Parties; and that the terms of the settlement are in all respects fair,
3 adequate, and reasonable.

4 7. In so finding, the Court has considered all evidence presented, including evidence
5 regarding the strength of Plaintiff's case; the risk, expense, and complexity of the claims presented; the
6 likely duration of further litigation; the amount offered in settlement; the extent of investigation and
7 discovery completed; and the experience and views of counsel. The Parties have provided the Court with
8 sufficient information about the nature and magnitude of the claims being settled, as well as the
9 impediments to recovery, to make an independent assessment of the reasonableness of the terms to
10 which the Parties have agreed.

11 8. Accordingly, the Court hereby approves the settlement as set forth in the Settlement
12 Agreement and expressly finds that the settlement is, in all respects, fair, reasonable, adequate, and in the
13 best interests of the entire Settlement Class and hereby directs implementation of all remaining terms,
14 conditions, and provisions of the Settlement Agreement. The Court also finds that settlement now will
15 avoid additional and potentially substantial litigation costs, as well as delay and risks if the Parties were
16 to continue to litigate the case. Additionally, after considering the monetary recovery provided by the
17 settlement in light of the challenges posed by continued litigation, the Court concludes that the settlement
18 provides Class Members with fair and adequate relief.

19 9. The Settlement Agreement is not an admission by Defendant or by any other Released
20 Party, nor is this Order a finding of the validity of any allegations or of any wrongdoing by Defendant or
21 any other Released Party. Neither this Order, the Settlement Agreement, nor any document referred to
22 herein, nor any action taken to carry out the Settlement Agreement, may be construed as, or may be used
23 as, an admission of any fault, damage, wrongdoing, omission, concession, waiver of defenses, or liability
24 whatsoever by or against Defendant or any of the other Released Parties.

25 10. Because there were no Class Members who opted out of the Settlement Class, final
26 approval shall be with respect to: All hourly, non-exempt employees who are currently or have been
27 directly employed by Defendant in the State of California at any time during the period from March 29,
28 2018 through September 7, 2023 ("Participating Class Members").

1 11. Plaintiff Angelica Aguilar is an adequate and suitable representative and is hereby
2 appointed the Class Representative for the Settlement Class. The Court finds that Plaintiff's investment
3 and commitment to the litigation and its outcome ensured adequate and zealous advocacy for the
4 Settlement Class, and that her interests are aligned with those of the Settlement Class.

5 12. The Court hereby awards Plaintiff a Class Representative Enhancement Payment of
6 \$10,000 for her service on behalf of the Settlement Class, and for agreeing to a general release of all
7 claims arising out of her employment with Defendant.

8 13. The Court finds that the attorneys at Capstone Law APC have the requisite
9 qualifications, experience, and skill to protect and advance the interests of the Settlement Class. The
10 Court therefore finds that counsel satisfy the professional and ethical obligations attendant to the position
11 of Class Counsel, and hereby appoints Capstone Law APC as counsel for the Settlement Class.

12 14. The settlement of civil penalties under PAGA in the amount of \$20,000 is hereby
13 approved. Seventy-Five Percent (75%), or \$15,000, shall be paid to the California Labor and Workforce
14 Development Agency. The remaining Twenty-Five Percent (25%), or \$5,000, will be paid to PAGA
15 Members.

16 15. The Court hereby awards \$233,333 in attorneys' fees and \$13,941.57 in costs and
17 expenses to Capstone Law APC. The Court finds that the requested award of attorneys' fees is
18 reasonable for a contingency fee in a class action such as this; i.e., one-third of the common fund created
19 by the settlement. Counsel have also established the reasonableness of the requested award of attorneys'
20 fees via their lodestar crosscheck, and the Court finds that the rates, hours billed, and risk multiplier are
21 fair and reasonable.

22 16. The Court approves settlement administration costs and expenses in the amount of
23 \$8,500 to CPT Group, Inc.

24 17. All Class Members were given a full and fair opportunity to participate in the Approval
25 Hearing, and all members of the Settlement Class wishing to be heard have been heard. Members of the
26 Settlement Class also have had a full and fair opportunity to exclude themselves from the proposed
27 settlement and the class. Accordingly, the terms of the Settlement Agreement and of the Court's Order
28 and Judgment shall be forever binding on all Participating Class Members. These Participating Class

Members have released and forever discharged the Released Parties for any and all Class Released Claims during the Class Period:

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.

18. Additionally, all PAGA Members and the LWDA have released and forever discharged the Released Parties for any and all PAGA Released Claims during the PAGA Period:

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.

19. Judgment in this matter is entered in accordance with the above findings. Without affecting the finality of the Judgment, the Court shall retain exclusive and continuing jurisdiction over the above-captioned action and the parties, including all Participating Settlement Members and PAGA Members, for purposes of enforcing the terms of the Judgment entered herein. For purposes of enforcing the Settlement, the Court shall retain jurisdiction over the Parties, Class Members, and PAGA Members under California Civil Procedure Code section 664.6.

20. Plaintiff shall file a declaration from the Settlement Administrator regarding the completion of settlement administration activities no later than November 1, 2024, as well as an amended judgment regarding the distribution to the Justice Gap Fund. The Court sets a Final Accounting Hearing for ~~November 28, 2024 at 1:30 p.m.~~ December 11, 2024 8:30 AM.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Dated: Jan. 4, 2024


Hon. Joseph T. Ortiz
San Bernardino County Superior Court Judge

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