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Attorneys for Plaintiff Victor Mendoza

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE

GABRIEL TARIN, individually, and on
behalf of other members of the general
public similarly situated; VICTOR
MENDOZA, individually, and on behalf of
other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

HD SUPPLY, INC., a Delaware corporation;
HD SUPPLY MANAGEMENT, INC., a
Florida corporation; HD SUPPLY
MANAGEMENT, LLC, a Florida
corporation, and DOES 3 through 100,
inclusive,

Defendants.

Case No.: 21STCV42524

Honorable Elihu M. Berle
Department SSC-6

CLASS ACTION

**FURTHER SUPPLEMENTAL
DECLARATION OF SELENA
MATAVOSIAN IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION AND PAGA SETTLEMENT**

[Revised Proposed] Order filed concurrently
herewith]

Date: October 16, 2024
Time: 11:00 a.m.
Department: SSC-6

Complaint Filed: November 18, 2021
FAC Filed: May 25, 2023
Doe Amendment Filed: October 5, 2023
Trial Date: None Set

FURTHER SUPPLEMENTAL DECLARATION OF SELENA MATAVOSIAN

I, Selena Matavosian, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am a member of Lawyers *for* Justice, PC, attorneys of record for Plaintiff Victor Mendoza (“Plaintiff”) in the above-captioned action. The facts set forth in this declaration are within my personal knowledge or based on information and belief, and if called as a witness, I could and would competently testify thereto.

2. On July 24, 2024, Plaintiff filed his Motion for Preliminary Approval of Class Action and PAGA Settlement (“Motion for Preliminary Approval”) and supporting documents seeking preliminary approval of the Stipulation of Class Action and PAGA Settlement (“Settlement,” “Agreement,” or “Settlement Agreement”) entered into by Plaintiff and Defendants HD Supply, Inc., HD Supply Management, Inc., and HD Supply Management, LLC (collectively, “Defendants”) (collectively with Plaintiff, the “Parties”).

3. On August 13, 2024, a hearing was held on Plaintiff’s Motion for Preliminary Approval (“August 13, 2024 Hearing”). During the August 13, 2024 Hearing, the Court requested that Plaintiff file supplemental papers in support of Plaintiff’s Motion for Preliminary Approval, providing additional information regarding an exposure analysis and an amendment to clarify the escalator clause in the settlement agreement. The Court continued the hearing on Plaintiff’s Motion for Preliminary Approval to October 16, 2024 at 11:00 a.m. in Department SSC-6 of the above-captioned Court and set a deadline of August 27, 2024 for the filing of the supplemental papers, and also continued non-party and proposed intervenor Rigoberto Rojas’ Motion to Intervene to October 16, 2024 at 11:00 a.m. in Department SSC-6 of the above captioned Court.

4. On August 27, 2024, Plaintiff filed the Supplemental Declaration of Selena Matavosian in Support of Plaintiff’s Motion for Preliminary Approval of Class Action and PAGA Settlement, thereby providing additional information regarding the value of the claim(s) as requested at the August 13, 2024 Hearing.

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5. Based on the Court's request that the Parties clarify the escalator clause and in order to adopt additional minor amendments to make language more consistent throughout the terms of the Settlement Agreement and proposed Notice of Class Action Settlement ("Class Notice"), the Parties have met and conferred and negotiated the Amendment No. 1 to Stipulation of Class Action and PAGA Settlement ("Amendment No. 1" or "Amendment No. 1 to the Settlement Agreement"), a true and correct copy of which is attached hereto as "**EXHIBIT 1.**" A redline version of the Amendment No. 1 to the Settlement Agreement showing how the terms of the Settlement Agreement have been revised is attached hereto as "**EXHIBIT 2.**" The Parties have also prepared, and now present for the Court's consideration and approval, a revised Class Notice. The revised Class Notice is attached as "**Exhibit A**" to the Amendment No. 1 to the Settlement Agreement and as "**EXHIBIT 1**" to the [Revised Proposed] Order Granting Preliminary Approval of Class Action and PAGA Settlement, submitted concurrently herewith. A redline version of the Class Notice showing how it has been revised is attached hereto as "**EXHIBIT 3.**"

6. Based on the Court's feedback at the August 13, 2024 Hearing, the Parties amended the escalator clause in ¶ 50 of the Settlement Agreement to further clarify it. (Amendment No. 1, ¶ D.)

7. The Parties have also made revisions to the Class Notice to provide additional pertinent definitions necessary for Class Members to fully understand the Class Notice, provide additional information regarding the history of the lawsuit, reference the Amendment No. 1 to the Settlement Agreement, further clarify the amounts allocated under the Settlement Agreement, inform Class Members of the timing of funding of the Total Settlement Amount, provide additional information regarding accessing documents pertaining to the Settlement, and incorporate additional minor changes to clarify language contained within the Class Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 1st day of October 2024, at Glendale, California.



Selena Matavosian

EXHIBIT 1

Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
Selena Matavosian (SBN 348044)
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Attorneys for Plaintiff Victor Mendoza

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

GABRIEL TARIN, individually, and on
behalf of other members of the general
public similarly situated; VICTOR
MENDOZA, individually, and on behalf of
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HD SUPPLY MANAGEMENT, INC., a
Florida corporation; HD SUPPLY
MANAGEMENT, LLC, a Florida
corporation, and DOES 3 through 100,
inclusive,

Defendants.

Case No.: 21STCV42524

Honorable Elihu M. Berle
Department SSC-6

CLASS ACTION

**AMENDMENT NO. 1 TO STIPULATION
OF CLASS ACTION AND PAGA
SETTLEMENT**

Complaint Filed:	November 18, 2021
FAC Filed:	May 25, 2023
Doe Amendment Filed:	October 5, 2023
Trial Date:	None Set

Plaintiff Victor Mendoza (“Plaintiff”) and Defendants HD Supply, Inc., HD Supply Management, Inc., and HD Supply Management, LLC (collectively, “Defendants”) (collectively with Plaintiff, the “Parties”), pursuant to Paragraph 55 of the Stipulation of Class Action and PAGA Settlement entered into on or around July 24, 2024 (“Original Agreement”), hereby agree to amend the terms of the Original Agreement, as stated herein. Other than as expressly set forth herein, the terms and conditions of the Original Agreement shall remain in full force and effect.

A. Paragraph 18.dd. of the Original Agreement is hereby amended as follows:

“Pay Periods” means the number of pay periods each Aggrieved Employee was employed by Defendants in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period, which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period, dividing the result by seven (7) to determine the number of weeks and then dividing the result by two (2) to determine the number of pay periods and rounding up to the nearest whole number. Pay Periods shall not include any pay periods of individuals who were employed by Defendants and included in the *Lozano* Aggrieved Employee Group.

B. Paragraph 18.ii. of the Original Agreement is hereby amended as follows:

“Released Parties” means Defendants, and all of their present and former agents, officers, executive-level employees, directors, owners, subsidiaries, affiliates, parent companies, attorneys, insurers, successors, and assigns.

C. Paragraph 18.pp. of the Original Agreement is hereby amended as follows:

“Workweeks” means the number of weeks each Class Member was employed by Defendants in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period, which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period, dividing the result by seven (7) and rounding

up to the nearest whole number. Workweeks shall not include any weeks of individuals who were employed by Defendants and were a participating class member included in the *Lozano* Class.

D. Paragraph 50 of the Original Agreement is hereby amended as follows:

Escalator Clause. Defendants represent that there were 177,271 Workweeks during the period from November 18, 2017 to June 29, 2023. Further, Defendants represent that there were 89,610 Pay Periods during the period from October 10, 2021 to June 29, 2023. Should the Workweeks credited to Class Members during the period from November 18, 2017 to November 30, 2023 increase beyond seven and a half percent (7.5%) (i.e., more than 13,295 Workweeks) , Defendants shall have the option to: (a) keep the end date for the Class Period and the PAGA Period as November 30, 2023 and increase the Total Settlement Amount on a proportional basis by the same number of percentage points above seven and a half percent (7.5%) (e.g., if the number of Workweeks actually exceeds 177,271 by 8.5% to 192,339 Workweeks, the Total Settlement Amount will increase by 1%), or (b) modify the end date of the Class Period and the PAGA Period to a date earlier than November 30, 2023 and on which date the Workweeks are equal to or less than 190,566 Workweeks, in which case the Total Settlement Amount will not increase. Should the Pay Periods credited to Aggrieved Employees during the period from October 10, 2021 to November 30, 2023 increase beyond seven and a half percent (7.5%) (i.e., more than 6,721 Pay Periods), Defendants shall have the option to: (a) keep the end date for the PAGA Period as November 30, 2023 and increase the PAGA Penalty Amount (with a commensurate increase of the Total Settlement Amount because the PAGA Penalty Amount is a part of the Total Settlement Amount) on a proportional basis by the same number of percentage points above seven and a half percent (7.5%) (e.g., if the number of Pay Periods actually exceeds 89,610 by 8.5% to 97,227 Pay Periods, the PAGA Penalty Amount will be increased by 1% (and the Total Settlement Amount will

1 increase by that same amount because the PAGA Penalty Amount is a part of the
2 Total Settlement Amount), or (b) modify the end date of the PAGA Period to a date
3 earlier than November 30, 2023 and on which date the Pay Periods are equal to or
4 less than 96,331 Pay Periods, in which case the PAGA Penalty Amount and Total
5 Settlement will not increase.

6 **E. Exhibit C.** Exhibit C to the Original Agreement, which consisted of the Notice of
7 Class Action Settlement (“Class Notice”), is hereby replaced with the revised Class Notice attached
8 hereto as “**Exhibit A.**”

9 **IT IS SO AGREED ON BEHALF OF PLAINTIFF AND APPROVED AS TO FORM**
10 **BY THE UNDERSIGNED COUNSEL OF RECORD:**

11 Dated: September 30, 2024

LAWYERS for JUSTICE, PC

12
13 By: 

14 Joanna Ghosh
15 Selena Matavosian
16 *Attorneys for Plaintiff*

17 **IT IS SO AGREED ON BEHALF OF DEFENDANTS AND APPROVED AS TO**
18 **FORM BY THE UNDERSIGNED COUNSEL OF RECORD:**

19 Dated: September 30, 2024

FISHER & PHILLIPS LLP

20 By: /s/ Landon Schwob

21 Todd Scherwin
22 Anet Drapalski
23 Landon Schwob
24 *Attorneys for Defendants*

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

Gabriel Tarin, et al. v. HD Supply, Inc., et al.
Superior Court of California for the County of Los Angeles
Case No. 21STCV42524

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Class Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the class settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the class settlement, object to the class settlement, and/or dispute the number of Workweeks and/or Pay Periods (if applicable) that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Victor Mendoza ("Plaintiff") and Defendants HD Supply, Inc., HD Supply Management, Inc., and HD Supply Management, LLC (collectively, "Defendants") (Plaintiff and Defendants are collectively referred to as the "Parties") in the case entitled *Gabriel Tarin, et al v. HD Supply, Inc., et al.*, Superior Court of California for the County of Los Angeles, Case No. 21STCV42524 ("Action"). The settlement may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [date of Final Approval hearing] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Aggrieved Employees" means all current and former hourly-paid or non-exempt employees of Defendants in California employed as Delivery Drivers (non-CDL) or Warehouse Associates during the PAGA Period, who were not included in the *Lozano* Aggrieved Employee Group.

"Class" means all current and former hourly-paid or non-exempt employees of Defendants in California employed as Delivery Drivers (non-CDL) or Warehouse Associates during the Class Period, who were not included in the *Lozano* Class.

"Class Member" means an individual member of the Class.

"Class Period" means the time period from November 18, 2017 to November 30, 2023.

"Class Settlement" means the settlement and release of the Released Class Claims.

"PAGA Period" means the period from October 10, 2021 to November 30, 2023.

"PAGA Settlement" means the settlement and release of the Released PAGA Claims.

"Lozano Action" means *Daniel G. Lozano v. The Home Depot USA, Inc.*, Superior Court of California for the County of Los Angeles, Case No. 22STCV18980.

"Lozano Aggrieved Employee Group" means all current and former non-exempt Supply Chain Drivers (specifically, job codes: IBAIND, IBBUDR, IBCDDR, IBLGHD, IBNCDD, IBWDVR, IBWHDC, IBWHDL, HDRVHP) employed by Home Depot U.S.A., Inc. or HD Supply, Inc. in California during the period April 7, 2019 to August 15, 2022 (or if any such person is incompetent, deceased, or unavailable due to military service, the person's legal representative or successor in interest evidenced by reasonable verification) covered by the Amended Joint Stipulation of Class Action Settlement and Release of Claims executed on or about March 17, 2023 in the *Lozano* Action.

"Lozano Class" means all current and former non-exempt Supply Chain Drivers (specifically, job codes: IBAIND, IBBUDR,

IBCDDR, IBLGHD, IBNCDR, IBWDVR, IBWHDC, IBWHDL, HDRVHP) employed by Home Depot U.S.A., Inc. or HD Supply, Inc. in CA during the Class Period (or if any such person is incompetent, deceased, or unavailable due to military service, the person's legal representative or successor in interest evidenced by reasonable verification) covered by the Amended Joint Stipulation of Class Action Settlement and Release of Claims executed on or about March 17, 2023 in the *Lozano* Action.

II. BACKGROUND OF THE LAWSUIT

On November 18, 2021, former plaintiff Gabriel Tarin commenced a putative class action lawsuit by filing the Class Action Complaint for Damages against Defendant HD Supply, Inc. in the Los Angeles County Superior Court, Case No. 21STCV42524 ("Action").

On June 20, 2022, former plaintiff Gabriel Tarin filed an Amendment to Complaint, thereby adding HD Supply Management, Inc. as an additional defendant.

On October 10, 2022, Plaintiff provided written notice to the California Labor & Workforce Development Agency ("LWDA") and Defendants of his intent to assert claims under the California Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004) ("PAGA") and the basis for those claims ("Original PAGA Notice"). On July 17, 2024, Plaintiff sent an additional letter to the LWDA and Defendants, clarifying that HD Supply Management, LLC is the successor entity of HD Supply Management, Inc. and that HD Supply Management, Inc. employed Plaintiff up until on or about December 31, 2021, at which point HD Supply Management, LLC became Plaintiff's employer, and thus HD Supply Management, Inc. and HD Supply Management, LLC are included among Defendants against whom civil penalties are being pursued and sought by way of the Action; and also clarifying that Plaintiff contends that HD Supply, Inc. operated in concert with and was a joint employer with HD Supply Management, Inc. and its successor entity HD Supply Management, LLC ("Additional PAGA Notice")(collectively the Original PAGA Notice and Additional PAGA Notice are referred to as "PAGA Notices").

On May 25, 2023, former plaintiff Gabriel Tarin and Plaintiff filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* ("First Amended Complaint" or "Operative Complaint"), thereby adding Victor Mendoza as an additional plaintiff and adding a claim for civil penalties pursuant to PAGA, on behalf of the State of California in connection with Plaintiff Victor Mendoza and aggrieved employees.

On October 5, 2023, former plaintiff Gabriel Tarin and Plaintiff filed an Amendment to Complaint, thereby adding HD Supply Management, LLC as an additional defendant.

Plaintiff alleges that Defendants violated the California Labor Code by failing to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, and reimburse business expenses, and thereby engaged in unfair business practices and conduct in violation of California Business & Professions Code section 17200, *et seq.* and engaged in conduct that gives rise to civil penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendants deny all of the allegations in the Action or that they violated any law.

The Parties participated in a full-day mediation session with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Stipulation of Class Action and PAGA Settlement and Amendment No. 1 to Stipulation of Class Action and PAGA Settlement (together, "Settlement," "Agreement," or "Settlement Agreement").

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Phoenix Settlement Administrators as the administrator of the Settlement ("Settlement Administrator"), Plaintiff

Victor Mendoza as the representative of the Class (“Class Representative”), and the following Plaintiff’s attorneys as counsel for the Class (“Class Counsel”):

Arby Aiwazian
Joanna Ghosh
Selena Matavosian
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020
Fax: (818) 265-1021

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Section III below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object to or seek exclusion from the PAGA Settlement; all Aggrieved Employees will be bound by the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by the Defendants that the claims in the Action have merit or that the Defendants have any liability to Plaintiff, Class Members, the State of California, and/or Aggrieved Employees. Plaintiff and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members, Aggrieved Employees, and the State of California. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total settlement amount is Two Million Nine Hundred Fifty Thousand Dollars and Zero Cents (\$2,950,000.00) (the “Total Settlement Amount”). The portion of the Total Settlement Amount that is available for payment to Settlement Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Total Settlement Amount less the following payments which are subject to approval by the Court: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in an amount not to exceed thirty-five percent (35%) of the Total Settlement Amount (i.e., \$1,032,500.00 if the Total Settlement Amount remains \$2,950,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Twenty Thousand Dollars (\$20,000.00) to Class Counsel; (2) Enhancement Award in an amount not to exceed Seven Thousand Dollars and Zero Cents (\$7,000.00) to Plaintiff for his services in the Action; (3) PAGA Penalty Amount in the amount of Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00), consisting of payment to the California Labor and Workforce Development Agency (“LWDA”) in the amount of Three Hundred Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$337,500.00) for its 75% portion of the PAGA Penalty Amount (“LWDA Payment”) and payment of One Hundred Twelve Thousand Five Hundred Dollars and Zero Cents (\$112,500.00) constituting 25% of the PAGA Penalty Amount that is to be paid to the Aggrieved Employees on a *pro rata* basis based on Pay Periods during the PAGA Period (i.e., Individual PAGA Payment(s)); and (4) Settlement Administration Costs in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share(s)”) based on the number of weeks each Class Member was employed by Defendants in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period (“Workweeks”), which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period, divided by seven (7) and rounding up to the nearest whole number.

The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Members”) will be issued payment of their final Individual Settlement Share.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the 25% portion of the PAGA Penalty Amount (i.e., \$112,500.00) payable to Aggrieved Employees (“Individual PAGA Payment(s)”) based on the number of pay periods each Aggrieved Employee was employed by Defendants in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period (“Pay Periods”), which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period, divided by seven (7) to determine the number of weeks and then divided by two (2) to determine the number of pay periods and rounding up to the nearest whole number.

The Settlement Administrator has divided 25% of the PAGA Penalty Amount by the Pay Periods of all Aggrieved Employees during the PAGA Period to yield the “PAGA Workweek Value,” and multiplied each Aggrieved Employee’s individual Pay Periods during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment (which is listed in Section III.C below). Aggrieved Employees shall receive an Individual PAGA Payment and shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages which will be reported on an IRS Form W2 and eighty percent (80%) penalties and interest which will be reported on an IRS Form 1099 (if required). Each Individual Settlement Share will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment(s)”). Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, for which the Settlement Administrator will not deduct taxes or undertake withholdings, and which will be reported on an IRS Form 1099-MISC, if necessary.

If the Court grants final approval of the Settlement, within fifteen (15) calendar days after the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the Settlement. Within thirty (30) calendar days of receipt of the Settlement Administrator’s accounting, Defendant will fund the Settlement by making a one-time deposit of the Total Settlement Amount, plus an amount sufficient for the employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares.

Individual Settlement Payments will be mailed to Settlement Class Members and and/or Individual PAGA Payments will be mailed to Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and Pay Periods Based on Defendants’ Records

According to Defendants’ records, you have been credited with [REDACTED] Workweeks during the Class Period, i.e., from November 18, 2017 to November 30, 2023.

According to Defendants’ records, you have been credited with [REDACTED] Pay Periods during the PAGA Period, i.e., from October 10, 2021 to November 30, 2023.

If you wish to dispute the Workweeks and/or Pay Periods credited to you, you may submit your dispute by way of written letter that is sent to the Settlement Administrator. Such disputes must: (a) contain the case name and number of the Action; (b) be signed by the Class Member and/or Aggrieved Employee, (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class Member and/or Aggrieved Employee, (d) clearly state that the Class Member and/or Aggrieved Employee disputes the number of Workweeks and/or Pay Periods credited to him or her and what he or she contends is the correct number that should be credited to him or her, (e) include information

and/or attach documentation demonstrating that the number of Workweeks and/or Pay Periods that he or she contends should be credited to him or her are correct, and (f) be returned by mail to the Settlement Administrator at the specified address listed below (Section IV.B), postmarked on or before **[Response Deadline]**.

C. Your Estimated Individual Settlement Share and/or Individual PAGA Payment

As explained above, your estimated Individual Settlement Share is based on the number of Workweeks credited to you during the Class Period and your estimated Individual PAGA Payment is based on the number of Pay Periods credited to you during the PAGA Period.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for employee's share of taxes and withholding with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment reflected in this Notice is only an estimate. Your actual Individual Settlement Payment and/or Individual PAGA Payment may be higher or lower.

D. Release of Claims

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff and all Class Members who do not submit a timely and valid Request for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff, the State of California, and all Aggrieved Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

"Released Class Claims" means any and all claims under state, federal, or local law alleged in the Operative Complaint or that reasonably could have been alleged based on the factual allegations contained in the Operative Complaint, arising during the Class Period, including but not limited to claims for failure to pay overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 7-2001, and 9-2001, and unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the aforementioned.

"Released PAGA Claims" means any and all claims for civil penalties under the Private Attorneys General Act (California Labor Code § 2698, *et seq.*), arising out of the facts alleged in the Operative Complaint and PAGA Notices, or reasonably could have been alleged based on the factual allegations contained in the Operative Complaint and PAGA Notices, arising during the PAGA Period, for failure to pay overtime wages, failure to provide compliant meal period and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 7-2001, and 9-2001.

"Released Parties" means Defendants, and all of their present and former agents, officers, executive-level employees, directors, owners, subsidiaries, affiliates, parent companies, attorneys, insurers, successors, and assigns.

E. Attorneys' Fees and Costs to Class Counsel

Class Counsel will seek attorneys' fees in an amount of up to thirty-five percent (35%) of the Total Settlement Amount (i.e.,

an amount of up to \$1,032,500.00 if the Total Settlement Amount remains \$2,950,000.00) and reimbursement of litigation costs and expenses not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. All Attorneys’ Fees and Costs awarded by the Court will be paid from the Total Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, State of California with respect to Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

F. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Seven Thousand Dollars and Zero Cents (\$7,000.00) (“Enhancement Award”), in recognition of his services in connection with the Action. The Enhancement Award will be paid from the Total Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment (if applicable) that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members and Aggrieved Employees of the Settlement, processing Requests for Exclusion, Notices of Objection, and disputes regarding Workweeks and Pay Periods, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Total Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Class Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and the contemplated judgment to be entered by the Court based thereon if the Court grants final approval of the Settlement, and you will release the Released Parties of the Released Class Claims described in Section III.D above.

If you are an Aggrieved Employee, you will automatically be bound to the PAGA Settlement and issued your Individual PAGA Payment.

As a Class Member or Aggrieved Employee, you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

If you do not wish to participate in the Class Settlement, you must seek exclusion from the Class Settlement by submitting a written letter (“Request for Exclusion”) to the Settlement Administrator.

A Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; (d) clearly state that the Class Member does not wish to be included in the Class Settlement; and (e) be mailed to the Settlement Administrator postmarked no later than **[Response Deadline]**, at the following mailing address:

**[Settlement Administrator]
[Mailing Address]**

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Request for Exclusion will not be entitled to receive an Individual Settlement Payment from the Class Settlement, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object

to, appeal, or comment on the Class Settlement. Any Class Members who do not submit a valid and timely Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of Released Class Claims described in Section III.D above, as well as the contemplated judgment to be entered by the Court (as it pertains to the PAGA Settlement), if the Court grants final approval of the Settlement. However, consistent with applicable law, Aggrieved Employees may not exclude themselves from the PAGA Settlement and will be bound by all terms of the PAGA Settlement, including those pertaining to the release of Released PAGA Claims described in Section III.D above, and any judgment that may be entered by the Court (as it pertains to the PAGA Settlement) if it grants final approval of the Settlement.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement as long as you have not submitted a Request for Exclusion, by submitting a written objection (“Notice of Objection”) to the Settlement Administrator or presenting your objection at the Final Approval Hearing.

The Notice of Objection must: (a) be signed by the Class Member; (b) contain the case name and number of the Action; (c) contain the Class Member’s full name, telephone number, mailing address, and the last four digits of their Social Security number; (d) clearly state the factual and legal basis for objecting to the Class Settlement; (e) indicate whether the Class Member is represented by counsel and identify said counsel; (f) indicate whether the Class Member intends to appear at the Final Approval Hearing and seeks to be heard at the Final Approval Hearing; and (g) be mailed to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked on or before **[Response Deadline]**.

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 6 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, on **[date and time of Final Approval hearing]**, to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys’ Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members and Aggrieved Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the Action for a fee by visiting the civil clerk’s office, during business hours (you must make an appointment prior to visiting the civil clerk’s office), located at the Stanley Mosk Courthouse, 111 North Hill Street, California, 90012. Certain information and imaged documents about the Action will be made available by the Court and may be viewed online by visiting the following website and entering the case number of the Action (21STCV42524): <https://www.lacourt.org/casesummary/ui>

Please note, access to Court facilities may be restricted or limited, and there may be limitations on personal appearances and remote appearances. You can find the most current information regarding access to Court facilities and in-person and remote appearances on the Court’s website at: <https://www.lacourt.org/>

You can find information regarding appearing remotely through LA CourtConnect online at: <http://www.lacourt.org/lacceligibility/ui/civil.aspx?casetype=ci>

Please note that there may be deadlines to reserve a remote appearance and reservation fees or charges may apply.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE

FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.

EXHIBIT 2

Arby Aiwarzian (SBN 269827)
Joanna Ghosh (SBN 272479)
Selena Matavosian (SBN 348044)
LAWYERS for JUSTICE, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Tel: (818) 265-1020 / Fax: (818) 265-1021

Attorneys for Plaintiff Victor Mendoza

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

GABRIEL TARIN, individually, and on
behalf of other members of the general
public similarly situated; VICTOR
MENDOZA, individually, and on behalf of
other members of the general public
similarly situated and on behalf of other
aggrieved employees pursuant to the
California Private Attorneys General Act;

Plaintiff,

vs.

HD SUPPLY, INC., a Delaware corporation;
HD SUPPLY MANAGEMENT, INC., a
Florida corporation; HD SUPPLY
MANAGEMENT, LLC, a Florida
corporation, and DOES 3 through 100,
inclusive,

Defendants.

Case No.: 21STCV42524

Honorable Elihu M. Berle
Department SSC-6

CLASS ACTION

**AMENDMENT NO. 1 TO STIPULATION
OF CLASS ACTION AND PAGA
SETTLEMENT**

Complaint Filed:	November 18, 2021
FAC Filed:	May 25, 2023
Doe Amendment Filed:	October 5, 2023
Trial Date:	None Set

1 Plaintiff Victor Mendoza (“Plaintiff”) and Defendants HD Supply, Inc., HD Supply
2 Management, Inc., and HD Supply Management, LLC (collectively, “Defendants”) (collectively
3 with Plaintiff, the “Parties”), pursuant to Paragraph 55 of the Stipulation of Class Action and PAGA
4 Settlement entered into on or around July 24, 2024 (“Original Agreement”), hereby agree to amend
5 the terms of the Original Agreement, as stated herein. Other than as expressly set forth herein, the
6 terms and conditions of the Original Agreement shall remain in full force and effect.

7 **A. Paragraph 18.dd. of the Original Agreement is hereby amended as follows:**

8 “Pay Periods” means the number of pay periods each Aggrieved Employee
9 was employed by Defendants in California as Delivery Drivers (non-CDL) and/or
10 Warehouse Associates during the PAGA Period, which will be calculated by the
11 Settlement Administrator by determining the number of days between the start
12 and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse
13 Associates during the PAGA Period, dividing the result by seven (7) to determine
14 the number of weeks and then dividing the result by two (2) to determine the
15 number of pay periods and rounding up to the nearest whole number. Pay Periods
16 shall not include any pay periods of individuals who were employed by
17 Defendants and included in the *Lozano* Aggrieved Employee Group.

18 **B. Paragraph 18.ii. of the Original Agreement is hereby amended as follows:**

19 “Released Parties” means Defendants, and all of ~~its~~their present and
20 former agents, officers, executive-level employees, directors, owners,
21 subsidiaries, affiliates, parent companies, attorneys, insurers, successors, and
22 assigns.

23 **C. Paragraph 18.pp. of the Original Agreement is hereby amended as follows:**

24 “Workweeks” means the number of weeks each Class Member was
25 employed by Defendants ~~as an hourly paid or non-exempt employee~~ in California
26 as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class
27 Period, which will be calculated by the Settlement Administrator by determining
28 the number of days between the start and end dates of employment as Delivery

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Drivers (non-CDL) and/or Warehouse Associates during the Class Period,
dividing the result by seven (7) and rounding up to the nearest whole number~~based~~
~~on information provided by Defendants by way of the Class List.~~ Workweeks
shall not include any ~~Workweeks-weeks~~ of individuals who were employed by
Defendants and were a participating class member included in the *Lozano*
~~Action~~Class.

D. Paragraph 50 of the Original Agreement is hereby amended as follows:

Escalator Clause. Defendants represent that there were 177,271
Workweeks during the period from November 18, 2017 to June 29, 2023. Further,
Defendants represent that there were 89,610 Pay Periods during the period from
October 10, 2021 to June 29, 2023. Should the ~~qualifying~~ Workweeks ~~increase~~
~~beyond seven and a half percent (7.5%) worked by the credited to~~ Class Members
during the period from November 18, 2017 to ~~Preliminary Approval~~November 30,
2023 increase beyond seven and a half percent (7.5%) (i.e., more than 13,295
Workweeks) ~~and/or the Pay Periods increase beyond seven and a half percent~~
~~(7.5%) worked by the Aggrieved Employees during the period from October 10,~~
~~2021 to Preliminary Approval (i.e., more than 6,721 Pay Periods),~~ Defendants shall
have the option to: (a) keep the end date for the Class Period and the PAGA Period
as November 30, 2023 and increase the Total Settlement Amount on a proportional
basis by the same number of percentage points above seven and a half percent
(7.5%) (e.g., if the number of Workweeks ~~for the time period of November 18,~~
~~2017 to Preliminary Approval~~ actually exceeds 177,271 by 8.5% to 192,339
Workweeks, ~~and/or the number of Pay Periods for the time period of October 10,~~
~~2021 to Preliminary Approval actually exceeds 89,610 by 8.5% to 97,227 Pay~~
~~Periods,~~ the Total Settlement Amount will increase by 1%), or (b) modify the end
date of the Class Period and the/or PAGA Period to a date earlier than November
30, 2023 and on a which date ~~in which~~ the Workweeks ~~and/or Pay Periods~~ are equal
to or less than 190,566 Workweeks ~~or 96,330 Pay Periods, in which case the Total~~

Settlement Amount will not increase. Should the Pay Periods credited to Aggrieved Employees during the period from October 10, 2021 to November 30, 2023 increase beyond seven and a half percent (7.5%) (i.e., more than 6,721 Pay Periods), Defendants shall have the option to: (a) keep the end date for the PAGA Period as November 30, 2023 and increase the PAGA Penalty Amount (with a commensurate increase of the Total Settlement Amount because the PAGA Penalty Amount is a part of the Total Settlement Amount) on a proportional basis by the same number of percentage points above seven and a half percent (7.5%) (e.g., if the number of Pay Periods actually exceeds 89,610 by 8.5% to 97,227 Pay Periods, the PAGA Penalty Amount will be increased by 1% (and the Total Settlement Amount will increase by that same amount because the PAGA Penalty Amount is a part of the Total Settlement Amount), or (b) modify the end date of the PAGA Period to a date earlier than November 30, 2023 and on which date the Pay Periods are equal to or less than 96,331 Pay Periods, in which case the PAGA Penalty Amount and Total Settlement will not increase.

E. Exhibit C. Exhibit C to the Original Agreement, which consisted of the Notice of Class Action Settlement (“Class Notice”), is hereby replaced with the revised Class Notice attached hereto as “**Exhibit A.**”

IT IS SO AGREED ON BEHALF OF PLAINTIFF AND APPROVED AS TO FORM BY THE UNDERSIGNED COUNSEL OF RECORD:

Dated: _____, 2024

LAWYERS for JUSTICE, PC

By: _____

Joanna Ghosh
Selena Matavosian
Attorneys for Plaintiff

IT IS SO AGREED ON BEHALF OF DEFENDANTS AND APPROVED AS TO FORM BY THE UNDERSIGNED COUNSEL OF RECORD:

Dated: _____, 2024

FISHER & PHILLIPS LLP

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By: _____
Todd Scherwin
Anet Drapalski
Landon Schwob
Attorneys for Defendants

EXHIBIT 3

NOTICE OF CLASS ACTION SETTLEMENT

Gabriel Tarin, et al. v. HD Supply, Inc., et al.
Superior Court of California for the County of Los Angeles
Case No. 21STCV42524

PLEASE READ THIS NOTICE CAREFULLY.

You have received this Class Notice because Defendants' records indicate that you may be eligible to take part in the class action settlement reached in the above-referenced case.

You do not need to take any action to receive a settlement payment and, unless you request to be excluded from the class settlement, your legal rights may be affected.

This Class Notice is designed to advise you of your rights and options with respect to the settlement, and how you can request to be excluded from the class settlement, object to the class settlement, and/or dispute the number of Workweeks and/or Pay Periods (if applicable) that you are credited with, if you so choose.

YOU ARE NOTIFIED THAT: A class and representative action settlement has been reached between Plaintiff Victor Mendoza ("Plaintiff") and Defendants HD Supply, Inc., HD Supply Management, Inc., and HD Supply Management, LLC (collectively, "Defendants") (Plaintiff and Defendants are collectively referred to as the "Parties") in the case entitled *Gabriel Tarin, et al v. HD Supply, Inc., et al.*, Superior Court of California for the County of Los Angeles, Case No. 21STCV42524 ("Action"). The settlement may affect your legal rights. On [date of Preliminary Approval], the Court granted preliminary approval of the settlement and scheduled a hearing on [date of Final Approval hearing] ("Final Approval Hearing") to determine whether or not the Court should grant final approval of the settlement.

I. IMPORTANT DEFINITIONS

"Aggrieved Employees" means all current and former hourly-paid or non-exempt employees of Defendants in California employed as Delivery Drivers (non-CDL) or Warehouse Associates during the PAGA Period, who were not included in the *Lozano* Aggrieved Employee Group.

"Class" means all current and former hourly-paid or non-exempt employees of Defendants in California employed as Delivery Drivers (non-CDL) or Warehouse Associates during the Class Period, who were not included in the *Lozano* Class.

"Class Member" means an individual member of the Class.

"Class Period" means the time period from November 18, 2017 to November 30, 2023.

"Class Settlement" means the settlement and release of the Released Class Claims.

"PAGA Period" means the period from October 10, 2021 to November 30, 2023.

"PAGA Settlement" means the settlement and release of the Released PAGA Claims.

"Lozano Action" means Daniel G. Lozano v. The Home Depot USA, Inc., Superior Court of California for the County of Los Angeles, Case No. 22STCV18980.

"Lozano Aggrieved Employee Group" means all current and former non-exempt Supply Chain Drivers (specifically, job codes: IBAIND, IBBUDR, IBCDDR, IBLGHD, IBNCDR, IBWDVR, IBWHDC, IBWHDL, HDRVHP) employed by Home Depot U.S.A., Inc. or HD Supply, Inc. in California during the period April 7, 2019 to August 15, 2022 (or if any such person is incompetent, deceased, or unavailable due to military service, the person's legal representative or successor in interest evidenced by reasonable verification) covered by the Amended Joint Stipulation of Class Action Settlement and Release of Claims executed on or about March 17, 2023 in the Lozano Action.

"Lozano Class" means all current and former non-exempt Supply Chain Drivers (specifically, job codes: IBAIND, IBBUDR, IBCDDR, IBLGHD, IBNCDR, IBWDVR, IBWHDC, IBWHDL, HDRVHP) employed by Home Depot U.S.A., Inc. or HD Supply, Inc. in CA during the Class

Period (or if any such person is incompetent, deceased, or unavailable due to military service, the person's legal representative or successor in interest evidenced by reasonable verification) covered by the Amended Joint Stipulation of Class Action Settlement and Release of Claims executed on or about March 17, 2023 in the *Lozano Action*.

II. BACKGROUND OF THE LAWSUIT

On November 18, 2021, former plaintiff Gabriel Tarin commenced a putative class action lawsuit by filing the Class Action Complaint for Damages against Defendant HD Supply, Inc. in the Los Angeles County Superior Court, Case No. 21STCV42524 ("Action").

On June 20, 2022, former plaintiff Gabriel Tarin filed an Amendment to Complaint, thereby adding HD Supply Management, Inc. as an additional defendant.

On October 10, 2022, Plaintiff provided written notice ~~by certified mail ("LWDA Notice")~~ to the California Labor & Workforce Development Agency ("LWDA") and Defendants of his intent to assert claims under the California Labor Code § 2698, *et seq.* (California Labor Code Private Attorneys General Act of 2004) ("PAGA") and ~~on the basis for those claims, the basis for those claims ("Original PAGA Notice").~~ On July 17, 2024, Plaintiff sent an additional letter to the LWDA and Defendants,

clarifying that HD Supply Management, LLC is the successor entity of HD Supply Management, Inc. and that HD Supply Management, Inc. employed Plaintiff up until on or about December 31, 2021, at which point HD Supply Management, LLC became Plaintiff's employer, and thus HD Supply Management, Inc. and HD Supply Management, LLC are included among Defendants against whom civil penalties are being pursued and sought by way of the Action; and also clarifying that Plaintiff contends that HD Supply, Inc. operated in concert with and was a joint employer with HD Supply Management, Inc. and its successor entity HD Supply Management, LLC ("Additional PAGA Notice")(collectively the Original PAGA Notice and Additional PAGA Notice are referred to as "PAGA Notices").

On May 25, 2023, former plaintiff Gabriel Tarin and Plaintiff filed a First Amended Class Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California Labor Code § 2698, *Et Seq.* ("First Amended Complaint" or "Operative Complaint"), thereby adding Victor Mendoza as an additional plaintiff and adding a claim for civil penalties pursuant to PAGA, on behalf of the State of California in connection with Plaintiff Victor Mendoza and aggrieved employees.

On October 5, 2023, former plaintiff Gabriel Tarin and Plaintiff filed an Amendment to Complaint, thereby adding HD Supply Management, LLC as an additional defendant.

Plaintiff alleges that Defendants violated the California Labor Code by failing to properly pay minimum and overtime wages, provide compliant meal and rest breaks and associated premiums, timely pay wages during employment and upon termination of employment and associated waiting-time penalties, provide accurate wage statements, keep requisite payroll records, and reimburse business expenses, and thereby engaged in unfair business practices and conduct ~~that~~ in violation of California Business & Professions Code section 17200, *et seq.* and engaged in conduct that gives rise to civil penalties under PAGA. Plaintiff seeks, among other things, recovery of unpaid wages and meal and rest period premiums, unreimbursed business expenses, restitution, penalties, interest, and attorneys' fees and costs.

Defendants deny all of the allegations in the Action or that ~~it~~they violated any law.

The Parties participated in a full-day mediation session with a respected class action mediator, and as a result, the Parties reached a settlement. The Parties have since entered into the Stipulation of Class Action and PAGA Settlement (~~"and Amendment No. 1 to Stipulation of Class Action and PAGA Settlement (together,~~ "Settlement," "Agreement," or "Settlement Agreement").

On [date of Preliminary Approval], the Court entered an order preliminarily approving the Settlement. The Court has appointed Phoenix Settlement Administrators as the administrator of the Settlement ("Settlement Administrator"), Plaintiff Victor Mendoza as the representative of the Class ("Class Representative"), and the following Plaintiff's attorneys as counsel

for the Class (“Class Counsel”):

Arby Aiwarzian
Joanna Ghosh
Selena Matavosian
Lawyers for Justice, PC
410 West Arden Avenue, Suite 203
Glendale, California 91203
Telephone: (818) 265-1020
Fax: (818) 265-1021

If you are a Class Member, you do not need to take any action to receive an Individual Settlement Payment, but you have the opportunity to request exclusion from the Class Settlement (in which case you will not receive an Individual Settlement Payment), object to the Class Settlement, and/or dispute the Workweeks credited to you, if you so choose, as explained more fully in Section III below. If you are an Aggrieved Employee, you do not need to take any action to receive an Individual PAGA Payment; you will not have the opportunity to object to or seek exclusion from the PAGA Settlement; all Aggrieved Employees will be bound by the PAGA Settlement if the Court grants final approval of the Settlement.

The Settlement represents a compromise and settlement of highly disputed claims. Nothing in the Settlement is intended or will be construed as an admission by the Defendants that the claims in the Action ~~hashave~~ merit or that the Defendants have any liability to Plaintiff, Class Members, the State of California, and/or Aggrieved Employees. Plaintiff and Defendants, and their respective counsel, have concluded and agree that, in light of the risks and uncertainties to each side of continued litigation, the Settlement is fair, reasonable, and adequate, and is in the best interests of Class Members, Aggrieved Employees, and the State of California. The Court has made no ruling on the merits of the claims asserted in the Action and has determined only that certification of the Class for settlement purposes is appropriate under California law.

III. SUMMARY OF THE PROPOSED SETTLEMENT

A. Settlement Formula

The total settlement amount is Two Million Nine Hundred Fifty Thousand Dollars and Zero Cents (\$2,950,000.00) (the “Total Settlement Amount”). The portion of the Total Settlement Amount that is available for payment to Settlement Class Members is referred to as the “Net Settlement Amount.” The Net Settlement Amount will be the Total Settlement Amount less the following payments which are subject to approval by the Court: (1) Attorneys’ Fees and Costs, consisting of attorneys’ fees in an amount not to exceed thirty-five percent (35%) of the Total Settlement Amount (i.e., \$1,032,500.00 if the Total Settlement Amount remains \$2,950,000.00) and reimbursement of litigation costs and expenses in an amount not to exceed Twenty Thousand Dollars (\$20,000.00) to Class Counsel; (2) Enhancement Award in an amount not to exceed Seven Thousand Dollars and Zero Cents (\$7,000.00) to Plaintiff for his services in the Action; (3) PAGA Penalty Amount in the amount of Four Hundred Fifty Thousand Dollars and Zero Cents (\$450,000.00), consisting of payment to the California Labor and Workforce Development Agency (“LWDA”) in the amount of Three Hundred Thirty-Seven Thousand Five Hundred Dollars and Zero Cents (\$337,500.00) for its 75% portion of the PAGA Penalty Amount (“LWDA Payment”) and the remaining 25%, or \$112,500.00, will be payable payment of One Hundred Twelve Thousand Five Hundred Dollars and Zero Cents (\$112,500.00) constituting 25% of the PAGA Penalty Amount that is to be paid to the Aggrieved Employees on a *pro rata* basis based on Pay Periods during the PAGA Period (i.e., Individual PAGA Payment); ~~(s);~~ and (4) Settlement Administration Costs in an amount not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) to the Settlement Administrator.

Class Members are eligible to receive payment under the Class Settlement of their *pro rata* share of the Net Settlement Amount (“Individual Settlement Share”) ~~(s)~~ based on the number of weeks each Class Member was employed by Defendants ~~as an hourly paid or non-exempt employee~~ in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period (“Workweeks”), which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the Class Period, divided by seven (7) and rounding up to the nearest whole number.

The Settlement Administrator has divided the Net Settlement Amount by the Workweeks of all Class Members to yield the “Estimated Workweek Value,” and multiplied each Class Member’s individual Workweeks by the Estimated Workweek Value to yield his or her estimated Individual Settlement Share that he or she may be eligible to receive under the Class Settlement (which is listed in Section III.C below). Class Members who do not submit a timely and valid Request for Exclusion from the Class Settlement (“Settlement Class Members”) will be issued payment of their final Individual Settlement Share.

Aggrieved Employees are eligible to receive payment under the PAGA Settlement of their *pro rata* share of the 25% portion of the PAGA Penalty Amount ~~attributed (i.e., \$112,500.00) payable to Aggrieved Employees, i.e., \$112,500.00,~~ (“Individual PAGA Payment”~~(s)~~) based on the number of pay periods each Aggrieved Employee was employed by Defendants in California as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period, (“Pay Periods”), which will be calculated by the Settlement Administrator by determining the number of days between the start and end dates of employment as Delivery Drivers (non-CDL) and/or Warehouse Associates during the PAGA Period, divided by seven (7) to determine the number of weeks and then divided by two (2) to determine the number of pay periods and rounding up to the nearest whole number.

The Settlement Administrator has divided 25% of the PAGA Penalty Amount by the Pay Periods of all Aggrieved Employees during the PAGA Period to yield the “PAGA Workweek Value,” and multiplied each Aggrieved Employee’s individual Pay Periods during the PAGA Period by the PAGA Workweek Value to yield his or her Individual PAGA Payment (which is listed in Section III.C below). Aggrieved Employees shall receive an Individual PAGA Payment and shall be bound to the PAGA Settlement irrespective of whether they exercise their option to opt out of the Class Settlement.

Each Individual Settlement Share will be allocated as twenty percent (20%) wages which will be reported on an IRS Form W2 and eighty percent (80%) penalties and interest which will be reported on an IRS Form 1099 (if required). Each Individual Settlement Share will be subject to reduction for the employee’s share of taxes and withholdings with respect to the wages portion of the Individual Settlement Shares, resulting in a net payment to the Settlement Class Member (“Individual Settlement Payment”~~(s)~~). ~~Any payment for an(s)~~. Each Individual PAGA Payment will be allocated as one hundred percent (100%) penalties, for which the Settlement Administrator will not ~~be subject to deduct~~ taxes or undertake withholdings, and which will be reported on an IRS Form 1099-MISC, if necessary.

If the Court grants final approval of the Settlement, within fifteen (15) calendar days after the Effective Date, the Settlement Administrator will provide the Parties with an accounting of the amounts to be paid by Defendants pursuant to the terms of the Settlement. Within thirty (30) calendar days of receipt of the Settlement Administrator’s accounting, Defendant will fund the Settlement by making a one-time deposit of the Total Settlement Amount, plus an amount sufficient for the employer’s share of taxes and contributions in connection with the wages portion of Individual Settlement Shares.

~~The timing of the distribution of payments will depend on the date of Final Approval of the Settlement and the date on which Defendants fund the installments.~~

Individual Settlement Payments will be mailed to Settlement Class Members and and/or Individual PAGA Payments will be mailed to ~~Settlement Class Members and~~ Aggrieved Employees at the address that is on file with the Settlement Administrator. **If the address to which this Notice was mailed is not correct, or if you move after you receive this Notice, you must provide your correct mailing address to the Settlement Administrator as soon as possible to ensure you receive any payment that you may be entitled to under the Settlement.**

B. Your Workweeks and Pay Periods Based on Defendants’ Records

According to Defendants’ records, you have been credited with [REDACTED] Workweeks during the Class Period, i.e., from November 18, 2017 to November 30, 2023.

According to Defendants’ records, you have been credited with [REDACTED] Pay Periods during the PAGA Period, i.e., from October 10, 2021 to November 30, 2023.

If you wish to dispute the Workweeks and/or Pay Periods credited to you, you may submit your dispute by way of written letter that is sent to the Settlement Administrator. The dispute Such disputes must: (a) contain the case name and number of

the Action; (b) be signed by the Class Member and/or Aggrieved Employee, (c) ~~contains~~contain the full name, address, telephone number, and the last four digits of the Social Security Number of the disputing Class ~~member~~Member and/or Aggrieved Employee, (d) clearly ~~states~~state that the Class Member and/or Aggrieved Employee disputes the number of Workweeks and/or Pay Periods credited to him or her and what he or she contends is the correct number that should be credited to him or her, (e) ~~includes~~include information and/or ~~attaches~~attach documentation demonstrating that the number of Workweeks and/or Pay Periods that he or she contends should be credited to him or her are correct, and (f) ~~is~~be returned by mail to the Settlement Administrator at the specified address listed below (Section IV.B), postmarked on or before **[Response Deadline]**.

C. Your Estimated Individual Settlement Share and/or Individual PAGA Payment

As explained above, your estimated Individual Settlement Share is based on the number of Workweeks credited to you during the Class Period and your estimated Individual PAGA Payment is based on the number of Pay Periods credited to you during the PAGA Period.

Under the terms of the Settlement, your Individual Settlement Share is estimated to be \$ [REDACTED]. The Individual Settlement Share is subject to reduction for employee's share of taxes and withholding with respect to the wages portion of the Individual Settlement Share and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

Your Individual PAGA Payment is estimated to be \$ [REDACTED] and will only be distributed if the Court approves the Settlement and after the Settlement goes into effect.

The settlement approval process may take multiple months. Your Individual Settlement Share and/or Individual PAGA Payment reflected in this Notice is only an estimate. Your actual Individual Settlement Payment and/or Individual PAGA Payment may be higher or lower.

D. Release of Claims

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff and all Class Members who do not submit a timely and valid Request for Exclusion (i.e., Settlement Class Members) will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released Class Claims.

Upon the Effective Date and full funding of the Total Settlement Amount, Plaintiff, the State of California, and all Aggrieved Employees will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all Released PAGA Claims.

"Released Class Claims" means any and all claims under state, federal, or local law alleged in the Operative Complaint or that reasonably could have been alleged based on the factual allegations contained in the Operative Complaint, arising during the Class Period, including but not limited to claims for failure to pay overtime wages, failure to provide compliant meal periods and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 7-2001, and 9-2001, and unfair business practices in violation of California Business & Professions Code § 17200 *et seq.* based on the aforementioned.

"Released PAGA Claims" means any and all claims for civil penalties under the Private Attorneys General Act (California Labor Code § 2698, *et seq.*), arising out of the facts alleged in the Operative Complaint and PAGA Notices, or reasonably could have been alleged based on the factual allegations contained in the Operative Complaint and PAGA Notices, arising during the PAGA Period, for failure to pay overtime wages, failure to provide compliant meal period and associated premiums, failure to provide compliant rest periods and associated premiums, failure to pay minimum wages, failure to timely pay wages upon termination, failure to timely pay wages during employment, failure to provide compliant wage statements, failure to keep requisite payroll records, and failure to reimburse necessary business expenses, in violation of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802 and Industrial Welfare Commission Wage Orders Nos. 4-2001, 7-2001, and 9-2001.

“Released Parties” means Defendants, and all of ~~its~~their present and former agents, officers, executive-level employees, directors, owners, subsidiaries, affiliates, parent companies, attorneys, insurers, successors, and assigns.

E. Attorneys’ Fees and Costs to Class Counsel

Class Counsel will seek attorneys’ fees in an amount of up to thirty-five percent (35%) of the Total Settlement Amount (i.e., an amount of up to \$1,032,500.00 if the Total Settlement Amount remains \$2,950,000.00) and reimbursement of litigation costs and expenses not to exceed Twenty Thousand Dollars and Zero Cents (\$20,000.00) (collectively, “Attorneys’ Fees and Costs”), subject to approval by the Court. All Attorneys’ Fees and Costs awarded by the Court will be paid from the Total Settlement Amount. Class Counsel has been prosecuting the Action on behalf of Plaintiff, Class Members, ~~and~~State of California with respect to Aggrieved Employees on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

F. Enhancement Award to Plaintiff

Plaintiff will seek the amount of Seven Thousand Dollars and Zero Cents (\$7,000.00) (“Enhancement Award”), in recognition of his services in connection with the Action. The Enhancement Award will be paid from the Total Settlement Amount, subject to approval by the Court, and if awarded, will be paid to Plaintiff in addition to his Individual Settlement Payment and Individual PAGA Payment (if applicable) that he is entitled to under the Settlement.

G. Settlement Administration Costs to Settlement Administrator

Payment to the Settlement Administrator is estimated not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00) (“Settlement Administration Costs”) for the costs of the notice and settlement administration process, including and not limited to, the expense of notifying the Class Members and Aggrieved Employees of the Settlement, processing Requests for Exclusion, Notices of Objection, and disputes regarding Workweeks and Pay Periods, calculating Individual Settlement Shares, Individual Settlement Payments, and Individual PAGA Payments, and distributing payments and tax forms under the Settlement, and shall be paid from the Total Settlement Amount, subject to approval by the Court.

IV. WHAT ARE YOUR RIGHTS AND OPTIONS AS A CLASS MEMBER?

A. Participate in the Class Settlement

If you want to participate in the Class Settlement and receive money from the Class Settlement, you do not have to do anything. You will automatically be included in the Settlement and issued your Individual Settlement Payment unless you decide to exclude yourself from the Class Settlement.

Unless you elect to exclude yourself from the Class Settlement, you will be bound by the terms of the Class Settlement and the contemplated judgment to be entered by the Court based thereon if the Court grants final approval of the Settlement, and you will release the Released Parties of the Released Class Claims described in Section III.D above.

If you are an Aggrieved Employee, you will automatically be bound to the PAGA Settlement and issued your Individual PAGA Payment.

As a Class Member or Aggrieved Employee, you will not be separately responsible for the payment of attorney’s fees or litigation costs and expenses, unless you retain your own counsel, in which event you will be responsible for your own attorney’s fees and expenses.

B. Request Exclusion from the Class Settlement

If you do not wish to participate in the Class Settlement, you must seek exclusion from the Class Settlement by submitting a written letter (“Request for Exclusion”) to the Settlement Administrator.

A Request for Exclusion must: (a) contain the case name and number of the Action; (b) be signed by the Class Member; (c) contain the full name, address, telephone number, and the last four digits of the Social Security Number of the Class Member requesting exclusion; ~~and~~ (d) clearly state that the Class Member does not wish to be included in the Class Settlement. ~~The Request for Exclusion must; and (e) be mailed to the Settlement Administrator at the specified address listed in Section IV.B above;~~ postmarked no later than **[Response Deadline]**, at the following mailing address:

[Settlement Administrator]
[Mailing Address]

If the Court grants final approval of the Settlement, any Class Member who submits a valid and timely Request for Exclusion will not be entitled to receive an Individual Settlement Payment from the Class Settlement, will not be bound by the Class Settlement (and the release of Released Class Claims described in Section III.D above), and will not have any right to object to, appeal, or comment on the Class Settlement. Any Class Members who do not submit a valid and timely Request for Exclusion will be deemed Settlement Class Members and will be bound by all terms of the Class Settlement, including those pertaining to the release of Released Class Claims described in Section III.D above, as well as the contemplated judgment to be entered by the Court (as it pertains to the PAGA Settlement), if the Court grants final approval of the Settlement. However, consistent with applicable law, Aggrieved Employees may not exclude themselves from the PAGA Settlement and will be bound by all terms of the PAGA Settlement, including those pertaining to the release Released PAGA Claims described in Section III.D above, and any judgment that may be entered by the Court (as it pertains to the PAGA Settlement) if it grants final approval of the Settlement.

C. Object to the Class Settlement

You can object to the terms of the Class Settlement as long as you have not submitted a Request for Exclusion, by submitting a written objection (“Notice of Objection”) to the Settlement Administrator or presenting your objection at the Final Approval Hearing.

The Notice of Objection must: (a) be signed by the Class Member; (b) contain the case name and number of the Action; (c) contain the Class Member’s full name, telephone number, mailing address, and the last four digits of their Social Security number; (d) clearly state the factual and legal basis for objecting to the Class Settlement; (e) indicate whether the Class Member is represented by counsel and identify said counsel; ~~and~~ (f) indicate whether the Class Member intends to appear at the Final Approval Hearing and seeks to be heard at the Final Approval Hearing. ~~The Notice of Objection must; and (g) be~~ mailed to the Settlement Administrator at the specified address listed in Section IV.B above, postmarked on or before [Response Deadline].

V. FINAL APPROVAL HEARING

The Court will hold a Final Approval Hearing in Department 6 of the Los Angeles County Superior Court, located at 312 North Spring Street, Los Angeles, California 90012, on [date and time of Final Approval hearing], to determine whether the Settlement should be finally approved as fair, reasonable, and adequate. The Court also will be asked to approve and award Attorneys’ Fees and Costs to Class Counsel, Enhancement Award to Plaintiff, and Settlement Administration Costs to the Settlement Administrator.

The hearing may be continued without further notice to Class Members and Aggrieved Employees. It is not necessary for you to appear at the Final Approval Hearing, although you may appear remotely if you wish to.

VI. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the Settlement. For the precise terms and conditions of the Settlement Agreement, you should review the detailed Settlement Agreement and other papers which are on file with the Court.

You may view the Settlement Agreement and other court records in the ~~Actions~~ Action for a fee by visiting the civil clerk’s office, ~~office~~ during business hours (you must make an appointment prior to visiting the civil clerk’s office), located at the Stanley Mosk Courthouse, 111 North Hill Street, California, 90012, ~~or by online by visiting the following website:~~ <https://www.lacourt.org/casesummary/ui->. ~~Certain information and imaged documents about the Action will be made available by the Court and may be viewed online by visiting the following website and entering the case number of the Action (21STCV42524):~~ <https://www.lacourt.org/casesummary/ui>

Please note, ~~due~~ access to ~~COVID-19, Court facilities may be restricted or limited, and there are~~ may be limitations on personal appearances and ~~telephonic~~ remote appearances ~~are an option.~~ You can find the most current information regarding access to Court facilities and in-person and remote appearances on the Court’s ~~most current COVID-19 guidelines online~~ website at: <https://www.lacourt.org/> ~~<https://www.lacourt.org/>~~

You can find information regarding appearing remotely through LA CourtConnect online at:

<http://www.lacourt.org/lacceligibility/ui/civil.aspx?casetype=ci>.

<http://www.lacourt.org/lacceligibility/ui/civil.aspx?casetype=ci>

Please note that there may be deadlines to reserve a remote appearance and reservation fees or charges may apply.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT.

IF YOU HAVE ANY QUESTIONS, YOU MAY CALL THE SETTLEMENT ADMINISTRATOR AT THE FOLLOWING TOLL-FREE NUMBER: [INSERT], OR YOU MAY ALSO CONTACT CLASS COUNSEL.