

# **Notice of PAGA Settlement and Release of Claims**

TO: All persons employed by Vanderlande Industries Inc. (“Vanderlande” or “Defendant”) in the State of California in non-exempt positions from September 27, 2018 to November 4, 2021 (the “PAGA Claim Employees”).

## **I. Why Are You Receiving This Notice**

You are receiving this Notice because the Superior Court for the State of California, County of Los Angeles, has approved a settlement of a claim under the California Labor Code Private Attorneys General Act (“PAGA”). The PAGA claim seeks civil penalties on behalf of the State of California and for which the State of California receives 75% of any civil penalties collected (with PAGA Claim Employees receiving the remaining 25%).

You are receiving this notice because you may be a PAGA Claim Employee. Defendant’s records indicate that you were employed by Defendant in the State of California in a non-exempt position at some time between September 27, 2018 to November 4, 2021 (the “Settlement Period”). The Court approved a Settlement Agreement and Release (“Settlement”) of the lawsuit Tia Bundley vs. Vanderlande Industries Inc. and ordered that a portion of the Settlement proceeds allocated to civil penalties under PAGA be distributed to PAGA Claim Employees, including you, after certain portions of the penalties are paid to the State of California according to California law.

The enclosed check represents your “PAGA Claim Employee Settlement Award,” which is your share of the Settlement funds that were allocated to settle claims for civil penalties pursuant to PAGA. Your PAGA Claim Employee Settlement Award is based on the number of Qualifying Wage Statements you received during the Settlement Period, as set forth in the Settlement. You may deposit or cash the check without any further obligation on your part and there is no need for you to contact the settlement administrator, the parties, or the Court. The Court-approved Settlement releases claims for civil penalties under PAGA as described in more detail in the section under the heading “Release of Claims” below.

## **II. Calculation of PAGA Claim Employee Settlement Award**

You received Qualifying Wage Statements during the Settlement Period. The total number of Qualifying Wage Statements received by all of the PAGA Claim Employees is.

Your PAGA Claim Employee Settlement Award is estimated to be.

Each individual PAGA Claim Employee Settlement Award was calculated on a pro rata basis (i.e., proportional) based on the number of Qualifying Wage Statements in the Settlement Period divided by the total number of Qualifying Wage Statements received by all PAGA Claim Employees during the Settlement Period.

## **III. Summary of Case**

On or about September 27, 2019, Plaintiff Tia Bundley (“Plaintiff” or “Bundley”) transmitted a letter to the California Labor and Workforce Development Agency asserting that Defendant failed to comply with various provisions of the California Labor Code (the “PAGA Notice”). The PAGA Notice seeks penalties pursuant to the PAGA as set forth in California Labor Code § 2698 et. seq., on behalf of all non-exempt employees in California of Vanderlande (“PAGA Claim Employees”) for asserted violations of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1194, 1197, and 1198 and Industrial Welfare Commission Order 9-2001 (the “Representative PAGA Claims”). These claims are based on Defendant’s alleged failures to, among other things, provide Plaintiff and the PAGA Claim Employees with duty-free meal and rest periods, to pay them for all time worked, to timely pay them earned wages, and to provide them with accurate written wage statements.

After exchanging informal discovery, Plaintiff and Defendant participated in a mediation on September 1, 2020 with Kelly Knight of Judicate West. Through arm’s length negotiations, they agreed to the core terms of the Settlement. After agreeing to the core terms of the Settlement, Plaintiff filed a lawsuit in the Superior Court for the State of California, County of Los Angeles, on October 1, 2020. The Court approved the Settlement on November 4, 2021.

Defendant denies all claims and allegations in the Lawsuit and asserts that no penalties are due to Plaintiff, the State of California, or any PAGA Claim Employees. The Court has made no determination on the merits of the Representative PAGA Claims, but the parties have decided to resolve the action through the Settlement, which the Court has approved.

#### **IV. Release of Claims**

Plaintiff, individually and as the representative acting as a proxy or agent of the LWDA, a State of California Executive Branch Agency, in this Action, agrees to release Defendant, its affiliates, subsidiaries, owners, members, partners, officers, directors, predecessors, successors, assigns, agents, shareholders, investors, insurers and legal representatives (“Released Parties”) for penalties under the California Private Attorneys’ General Act predicated on the violation of Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 510, 512, 1194, 1197, and 1198 and Industrial Welfare Commission Order 9-2001 based on the facts as alleged in the Complaint that accrued at any time during the Settlement Period (“Released Claims”). The express purpose of the Settlement and the Judgment entered by the Court is to forever bar Plaintiff, the LWDA, and any other individual or entity acting on behalf of or purporting to act on behalf of the LWDA (including all PAGA Claim Employees) from asserting any of the Released Claims in any future litigation. It is the intent of the Parties that, to the greatest extent provided by law, including under the holding of *Arias v. Superior Court*, 46 Cal. 4th 969, 986 (2009), the ability of Plaintiff, the State of California or any PAGA Claim Employee to bring a PAGA claim on behalf of the LWDA is completely and forever foreclosed. Any Party to the Settlement may use the Settlement to assert that the Settlement and Judgment entered by the Court bar any later-filed action asserting any of the Released Claims against any of the Released Parties at any time during the Settlement Period.

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Under the Settlement, PAGA Claim Employees do not need to do anything in order to receive their PAGA Claim Employee Settlement Award. PAGA Claim Employees have no ability to object or opt out of the Settlement.

#### **V. Tax Information**

For tax purposes, the PAGA Claim Employee Settlement Awards will be allocated 100% to settlement of claims for penalties, which will be paid without withholding any amount and shall be reported on an IRS Form 1099. IRS Forms 1099 (and the equivalent California forms) will be distributed to reflecting the payments they receive under the Settlement. PAGA Claim Employees should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

#### **VI. Privacy**

Because you have a constitutional right of privacy to object to the disclosure of your personal contact information, your personal contact information has not been provided to Plaintiff’s counsel. The Court has authorized a third-party administrator to send you this notice, and they have agreed to keep your contact information confidential. Should you have any questions about this notice, you may contact the attorneys prosecuting this case on behalf of the State of California and the PAGA Employees:

Louis Benowitz  
(Louis@SmithBenowitz.com)  
Benjamin Smith  
(Benjamin@SmithBenowitz.Com)  
SMITH & BENOWITZ  
4515 Van Nuys Boulevard, Suite 302  
Sherman Oaks, CA 91403  
(818) 839-7800

Sunjay Bhatia  
(Sunjay@BhatiaFirm.com)  
Bhatia Law Firm, PC  
3620 Pacific Coast Highway, Suite 200  
Torrance, CA 90505  
(424) 452-6221

#### **VII. Additional Information**

Additionally, you may obtain information by going to the Settlement Administrator’s website, please see <http://www.phoenixclassaction.com/>, or you may contact the Settlement Administrator at the following:

Phoenix Settlement Administrators, P.O. Box 7208, Orange, CA 92863, Telephone: (800) 523-5773

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING. PLEASE DO NOT CONTACT THE COURT REGARDING THIS CASE, THE COURT CLERK’S OFFICE, DEFENDANT OR DEFENDANT’S ATTORNEYS TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.