

Vanegas, et al. v. DHL Express (USA), Inc., No. 20STCV16014
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All current and former California non-exempt employees of Defendant DHL Express (USA), Inc. (“Defendant”) who worked at any time from April 24, 2016 through the January 30, 2023 and who have not otherwise released the applicable claims (“Break Class Members”).

All current and former California exempt and non-exempt employees of Defendant who worked at any time from April 24, 2016 through the January 30, 2023 (“Sick Pay Class Members”).

All current and former California non-exempt employees of Defendant who worked at any time from July 7, 2019 through January 30, 2023 (“PAGA Members”).

On January 30, 2023, the Court in this case granted preliminary approval of this class action Settlement and ordered the litigants to notify all Class Members of the Settlement. **You have received this notice because Defendant’s records indicate that you are a Class Member, and therefore entitled to a payment from the Settlement. All checks will be negotiable for 180 days, after which funds represented by uncashed checks will be tendered to the Controller of the State of California.**

If you are a Break Class Member or Sick Pay Class Member, unless you choose to opt out of the Settlement by following the procedures described below, you will be deemed a Participating Class Member and, if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement fund. If you are a PAGA Member, you will participate in the Net PAGA Payment portion of the Settlement (defined below) regardless of whether you opt out of the Settlement. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at 2:00 p.m. on July 6, 2023 in Department 14 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, California 90012.

Please note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through LA Court Connect (www.lacourt.org/lacc/).

If you move from your residence, you must send the Settlement Administrator your new address; otherwise, you may never receive your Settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiffs Rudi Vanegas and Jesus Orozco (“Plaintiffs”), on behalf of themselves and other current and former non-exempt employees, allege that Defendant violated California state labor laws as a result of its alleged failure to, among other things: (1) provide, or authorize and permit, meal periods; (2) provide, or authorize and permit, rest breaks; (3) furnish accurate wage statements; and (4) pay wages timely during employment. Plaintiffs further allege, on behalf of themselves and other current and former exempt and non-exempt employees, that Defendant failed to properly report or pay accrued sick time.

Counsel for Plaintiffs, and the attorneys appointed by the Court to represent the Class, Shakouri Law Firm (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify Settlement. Based on the foregoing, Class Counsel believe the proposed Settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendant has denied, and continues to deny the factual and legal allegations in the case and believes that it has valid defenses to Plaintiffs’ claims. By agreeing to settle, Defendant is not admitting liability on any of the allegations or claims in the case or that the case can or should proceed as a class or representative action. Defendant has agreed to settle the case as part of a compromise with Plaintiffs.

Questions? Contact the Settlement Administrator toll free at 1-(800) 523-5773

Summary of the Proposed Settlement Terms

Plaintiffs and Defendant have agreed to settle the underlying Class and PAGA claims in exchange for a Class Settlement Amount of \$2,000,000 (“Gross Settlement Amount”). This amount is inclusive of: (1) individual settlement payments to all Participating Class and PAGA Members; (2) a Class Representative Enhancement Payment of \$10,000 each to Rudi Vanegas and Jesus Orozco for their services on behalf of the Class, and for a release of all claims arising out of their employment with Defendant; (3) \$666,600 in attorneys’ fees and up to \$20,000 in litigation costs and expenses; (4) a \$50,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA Payment”), inclusive of a \$37,500 payment to the California Labor and Workforce Development Agency (“LWDA Payment”), and a \$12,500 payment (“Net PAGA Payment”) to all PAGA Members; and (5) reasonable Settlement Administrator’s fees and expenses of up to \$30,000. After deducting the above payments from the Gross Settlement Amount, the remaining amount will be allocated to Class Members who do not opt out of the Settlement Class (“Net Settlement Amount”). 90% of the Net Settlement Amount will be paid to the Break Class and the remaining 10% of the Net Settlement Amount will be paid to the Sick Pay Class. Additionally, all PAGA Members will receive a proportional share of the \$12,500 Net PAGA Payment, regardless of whether they opt out of the Settlement.

Payments from Net Settlement Amount. The individual Settlement Share payment to a Participating Class Member will be calculated based on Workweeks worked by each Participating Class Member during the time period of April 24, 2016 through the date of Preliminary Approval.

Break Class. Individual Settlement Shares for the Break Class Members for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the Break Class Member by all Eligible Workweeks attributed to members of the Break Class, multiplied by the Net Settlement Amount allocated to the Break Class. Otherwise stated, the formula for a Class Member is: (individual’s Eligible Break Class Workweeks ÷ total Settlement Break Class Eligible Workweeks) × Break Class Net Settlement Amount. The Individual Settlement Payment will be reduced by any required deductions for each Break Class Member as specifically set forth herein, including employee-side tax withholdings or deductions, but excluding any employer-side taxes which Defendant shall pay separately. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Break Class Member’s share of the Break Class Net Settlement Amount according to the number of Workweeks worked, so that the amount actually distributed to the Break Class equals 100% of the Break Class Net Settlement Amount.

According to Defendant’s records, you worked during the Break Class Period in a non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Break Class Net Settlement Amount is approximately \$ ____.

Sick Pay Class. Individual Settlement Shares for the Sick Pay Class Members for the time period April 24, 2016 through the date of Preliminary Approval will be calculated by dividing the number of Eligible Workweeks attributed to the Sick Pay Class Member by all Eligible Workweeks attributed to members of the Sick Pay Settlement Class, multiplied by the Net Settlement Amount allocated to the Sick Pay Class. Otherwise stated, the formula for a Sick Pay Class Member is: (individual’s Eligible Sick Pay Class Workweeks ÷ total Settlement Sick Pay Class Eligible Workweeks) × Sick Pay Class Net Settlement Amount. The Individual Settlement Payment will be reduced by any required deductions for each Sick Pay Class Members as specifically set forth herein, including employee-side tax withholdings or deductions, but excluding any employer-side taxes which Defendant shall pay separately. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Sick Pay Class Member’s share of the Sick Pay Class Net Settlement Amount according to the number of Workweeks worked, so that the amount actually distributed to the Sick Pay Settlement Class equals 100% of the Sick Pay Class Net Settlement Amount.

According to Defendant’s records, you worked during the Sick Pay Class Period in an exempt or non-exempt position for a total of ____ Workweeks. Accordingly, your estimated payment from the Sick Pay Class Net Settlement Amount is approximately \$ ____.

PAGA Fund. The individual Settlement Share payment to a PAGA Member from the Net PAGA Payment will be calculated based on Workweeks worked by each PAGA Member during the time period of July 7, 2019 through the date of Preliminary Approval. Individual Settlement Shares for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the PAGA Member by all Eligible Workweeks attributed to PAGA Members, multiplied by Net PAGA Payment. Otherwise stated, the formula for a PAGA Member is: (individual's Eligible Workweeks ÷ total PAGA Eligible Workweeks) × Net PAGA Payment. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the Net PAGA Payment even if he or she submits a valid Request for Exclusion.

According to Defendant's records, you worked during the PAGA Period in a non-exempt position for a total of _____ Workweeks. Accordingly, your estimated payment from the Net PAGA Payment is approximately \$_____.

If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before April 10, 2023, and must be sent to:

Settlement Administrator

Vanegas, et al. v. DHL Express (USA), Inc.
c/o Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863
Telephone: (800) 523-5773
Facsimile: (949) 209-2503

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to Participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the Settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this Settlement, each individual Break Class Settlement Share Payment will be allocated as one-third to wages, one-third to interest, and one-third to penalties. Each individual Sick Pay Settlement Share Payment will be allocated as 50% wages and 50% penalties. Each individual Net PAGA Payment will be allocated as 100% penalties.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the Settlement, then no further action is required on your part. You will automatically receive your Settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the Settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released claims as follows:

Class Claims. By operation of the entry of the Final Approval Order and Judgment, and upon funding of the entire Gross Settlement Amount by Defendant, and except as to rights this Agreement creates, Plaintiffs and each Participating Class Member shall release Defendant and its predecessors, successors, subsidiaries, parent companies, other corporate affiliates, and assigns, and each and all of their current or former subsidiaries, parents, affiliates, predecessors, insurers, agents, servants, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, registered representatives, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents, employees, and fiduciaries, and any other persons acting by, through, under or in concert with any of them ("Releasees"), from all claims that occurred during the Class Period that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint, including without limitation claims for: (1) failure to provide, or authorize and permit, meal periods (Cal. Lab. Code §§ 226.7, 512); (2) failure to provide, or authorize and permit, rest breaks (Cal. Lab. Code § 226.7); (3) failure to furnish accurate wage statements (Cal. Lab. Code §§ 226, 226.3); (4) failure to pay wages timely during employment (Cal. Lab. Code §§ 204, 210); (5) unfair business

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practices (Cal. Bus. & Prof. Code §§ 17200, et seq.; and (6) failure to properly calculate, report, provide, or pay, paid sick leave (Cal. Lab. Code §§ 246, 248.5); claims under California law for any alleged failure to provide, or authorize and permit, meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, auto-deduction of meal periods, failure to properly calculate or to pay meal or rest break premiums, failure to timely pay wages and final wages, failure to furnish accurate wage statements, record-keeping violations, failure to properly calculate, report, provide, or pay, paid sick leave, including claims derivative and/or related to these claims, and liquidated damages; and claims under any and all applicable statutes, including without limitation any applicable provision of the California Labor Code, California Business & Professions Code §§ 17200 et seq., and any applicable provision of the California Industrial Welfare Commission Wage Orders based on the claims that were alleged, or reasonably could have been alleged during the Class Period, based on the facts stated in the Operative Complaint (“Released Class Claims”).

This release shall become effective on the date when Defendant funds the entire Gross Settlement Amount and the employer payroll taxes owed on the Wage Portion of the Individual Settlement Shares.

PAGA Claims. By operation of the entry of the Final Approval Order and Judgment, and upon funding of the entire Gross Settlement Amount by Defendant, and except as to rights this Agreement creates, Plaintiffs and each PAGA Member shall also release all Releasees from all Released PAGA Claims, irrespective of whether they opt out of the Settlement, and will be bound by this PAGA Release. The Released PAGA Claims are defined as the claims alleged by Plaintiffs for alleged violations of the California Labor Code and IWC Wage Order provisions that occurred during the PAGA Period and are based on the facts stated in the Operative Complaint, the PAGA Notices submitted by either Plaintiff to the Labor and Workforce Development Agency (“Released PAGA Claims”). This release shall become effective on the date when Defendant funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Settlement Shares.

The releases shall extend through the date of preliminary approval.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the Settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the Settlement, and desire to be excluded from the Settlement. The written Request for Exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

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c/o Phoenix Settlement Administrators
P.O. Box 7208
Orange, CA 92863

The Request for Exclusion must be postmarked not later than April 24, 2023. If you submit a Request for Exclusion which is not postmarked by April 24, 2023, your Request for Exclusion will be rejected, and you will be included in the Settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Amount.
- Not release the Released Class Claims.
- You will, however, release claims for PAGA civil penalties predicated on the Released Claims, and will receive a payment from the PAGA Fund.

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Option 3 – Object to the Settlement

If you decide to object to the Settlement, you may submit a written objection stating why you object to the Settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Your written objection must provide: (1) the name and case number of this case (or reasonable portion thereof), (2) your full name, last four digits of your social security number, and current address, (3) the specific reason(s) for the objection, and (4) all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider. The written objection must be mailed to the Settlement Administrator at P.O. Box 7208, Orange, CA 92863.

All written objections must be received by the Settlement Administrator by not later than April 24, 2023. By submitting an objection, you are not excluding yourself from the Settlement. To exclude yourself from the Settlement, you must follow the directions described above. Please note that you cannot both object to the Settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for July 6, 2023 at 2:00 p.m. in the Superior Court of the State of California, for the County of Los Angeles and discuss your objection with the Court and the Parties at your own expense regardless of whether you have submitted a written objection. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will remain bound by this Settlement, release your class and PAGA claims described above, and you will receive your individual Settlement Share, if the Settlement is approved by the Court.

Final Approval of the Settlement

You are not required to attend the Final Approval Hearing, although any Class Member is welcome to attend the Final Approval Hearing to listen to the proceedings or to object to the Settlement. You may remotely appear at the Final Approval Hearing by using the Court Connect procedure at <https://www.lacourt.org/lacc/>. You may also attend the Final Approval Hearing in person, but under the Los Angeles County Superior Court’s June 28, 2021 General Order, you must adhere to the following rules when accessing the courthouse:

- All persons, regardless of vaccination status, must wear a face mask over both the nose and mouth while in public areas of the courthouse, including courtrooms. Children under the age of two (2) are exempt from the Order. Court employees must wear face masks that meet the Cal/OSHA requirements.
- Individuals with a physical or mental health impairment or disability who seek an exemption from the face mask requirement must contact the ADA liaison at the courthouse prior to their appearance to request a reasonable accommodation pursuant the Americans with Disabilities Act or Rule 1.100 of the California Rules of Court. A list of ADA liaisons is available at www.lacourt.org/ada/adahome.aspx.
- Individuals who decline or refuse to wear a face mask without a court order exempting them from the mask requirement will be denied entry to the courthouse and/or courtroom.
- Individuals who remove their face masks after entering the courthouse or courtroom will be reminded to wear them. If they refuse, they may be denied services, may have their legal matters rescheduled, and/or will be asked to leave the courthouse or courtroom immediately. Persons who refuse to leave voluntarily will be escorted out of the courthouse and/or courtroom by Los Angeles County Sheriff’s Department personnel.
- While snack bars and cafeterias will reopen, over the next few weeks, eating or drinking is prohibited in courthouse hallways.

Moreover, under the Los Angeles Superior Court’s July 30, 2021 News Release, “anyone experiencing symptoms, who has been exposed to COVID-19, or tested positive for SARS-CoV-2, should not enter any courthouses. If you have tested positive or are experiencing symptoms, promptly call the courtroom and other parties to continue the hearing or trial.”

Due to the evolving nature of the pandemic, you should check for the latest updates on accessing the courthouse by viewing the Court’s website at <https://www.lacourt.org/newsmedia/notices/newsrelease>

Questions? Contact the Settlement Administrator toll free at 1-(800) 523-5773

Additional Information

This Class Notice summarizes the Settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment or other Settlement documents by going to the Settlement Administrator's website at <https://www.phoenixclassaction.com/vanegas-v-dhl-express/> or by contacting the Settlement Administrator or Class Counsel, whose contact information are listed below. You may also get more details by examining the Court's file using the court's website at <http://www.lacourt.org/> and entering the Case No. 20STCV16014 in the website's case access page, or by going to the Clerk's Office located at 312 N. Spring Street, Los Angeles, California 90012 during regular business hours. You may also direct inquiries to the Settlement Administrator or Class Counsel:

Ashkan Shakouri

Shakouri Law firm

1160 Wilshire Blvd., Fifth Floor,

Los Angeles, California, 90025

Phone: (310) 575-1827

Settlement Administrator

Vanegas, et al. v. DHL Express (USA), Inc.

c/o Phoenix Settlement Administrators

P.O. Box 7208

Orange, CA 92863

Telephone: (800) 523-5773

Facsimile: (949) 209-2503

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.

Important

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. If the Settlement Share check of a Participating Class Member remains uncashed by the expiration of the 180 day period, the uncashed funds shall be distributed to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code section 1500, *et seq.* for the benefit of those Participating Class Members who did not cash their Settlement Share checks until such time that they claim their property and who will remain bound by the Settlement.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.