

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WASHINGTON

Valencia v. HomeDeliveryLink, Inc.,

Case No. 4:18-cv-05034-SMJ

If you were a delivery driver and made deliveries for HDL in Washington at any time between March 1, 2015 and October 8, 2020, PLEASE READ THIS NOTICE. You could get a payment from a class action settlement.

A court authorized this notice. This is not a solicitation from a lawyer.

- Three former delivery drivers, Daniel Valencia, Belarmino Hernandez, and Junior Arechiga have brought claims against HomeDeliveryLink, Inc. (HDL) for allegedly misclassifying drivers as independent contractors and violating Washington’s wage laws. HDL denies these allegations. The drivers and HDL have reached a proposed class action settlement.
- The class action settlement will include a total settlement payment by HDL of \$1,450,000.
- To qualify for a share of this payment, you must have worked as a delivery driver and delivered for HDL in Washington between March 1, 2015 and October 8, 2020 and must not exclude yourself from the settlement.
- To receive a payment, **you must submit the claim form and IRS Form W-9** included with this notice or visit the Settlement Website at www.HDLWashingtonClassAction.com and follow the instructions to submit a claim.
- Your legal rights are affected whether you act or do not act. Please read this notice carefully:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	The only way to get a payment.
ASK TO BE EXCLUDED	Get no payment. This is the only option that allows you to be part of any other lawsuit against HDL about the legal claims in this case.
OBJECT	Write to the Court if you do not like the settlement and explain why.
GO TO A HEARING	Ask to speak in Court about the fairness of the settlement.
DO NOTHING	Get no payment. Give up rights relating to the legal claims in this case.

For more information, call 617-994-5800 or visit www.HDLWashingtonClassAction.com. If you change your address or phone number after sending in this form, you must **contact 617-994-5800 to update your information**. *If you do not update your contact information, you may not receive your payment.*

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the settlement. If the Court approves the settlement, payments will be made after any appeals are resolved. Please be patient.

HDL WILL NOT RETALIATE AGAINST YOU FOR SUBMITTING A CLAIM FORM OR PARTICIPATING IN THIS SETTLEMENT. IT IS YOUR LEGAL RIGHT TO PARTICIPATE.

BASIC INFORMATION

1. Why did I get this notice?

HDL's records show that you performed work as a delivery driver for and made deliveries for HDL in Washington between March 1, 2015 and October 8, 2020. The Court has allowed this notice to be sent to you to inform you about a proposed settlement of a class action lawsuit, and about your options, before the Court decides whether to approve the settlement. If the Court approves the settlement, and after any appeals are resolved, payments will be made to eligible Settlement Class Members who have timely submitted a claim form and IRS Form W-9. **Instructions for submitting a claim can be found in Section 7 below and in the enclosed claim form.**

This notice package explains the case, the settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. What is the case about?

The drivers claim that HDL violated Washington State wage and hour laws. More specifically, they claim that HDL misclassified its delivery drivers as independent contractors rather than employees and violated Washington's wage laws by (1) failing to pay overtime compensation for all hours worked over 40 hours per week; (2) failing to ensure drivers received rest and meal breaks as required by Washington law; and (3) making unlawful deductions from drivers' compensation checks. HDL denies the workers' claims.

The Honorable Salvador Mendoza Jr. of the United States District Court for the Eastern District of Washington is overseeing this Class Action. The lawsuit is known as *Valencia v. HomeDeliveryLink, Inc.*, Case No. 4:18-cv-05034-SMJ.

3. Why is there a settlement?

The Court did not decide in favor of the Plaintiffs or HDL. Instead, both sides agreed to a settlement. This allows the parties to avoid the cost of a trial, and the people affected will be

entitled to compensation. The Class Representatives and the attorneys think the settlement is best for everyone in the Settlement Class.

WHO IS IN THE SETTLEMENT

4. How do I know whether I am part of the settlement?

As part of the settlement of the case, the judge has decided that everyone who worked for HDL in Washington as a delivery driver between March 1, 2015 and October 8, 2020 is a Settlement Class Member.

If it is approved, the settlement will cover all Settlement Class members who have not excluded themselves from the case. **To receive any money pursuant to the settlement, Settlement Class Members must submit a valid and timely Claim Form and IRS Form W-9 as described in Section 7 of this notice.** If you have any questions about whether you are a Settlement Class Member, please call Class Counsel at 617-994-5800

THE TERMS OF THE SETTLEMENT

5. What claims are covered by the settlement?

The settlement will resolve all of the claims Settlement Class Members have against HDL based on the following allegations: (a) misclassification of its delivery drivers as independent contractors rather than employees; (b) failure to pay overtime compensation for all hours worked over 40 hours per week; (c) failure to ensure drivers received rest and meal breaks as required by Washington law; and (d) making unlawful deductions from primary drivers' compensation checks.

6. What are the basic terms of the settlement?

Subject to Court approval, the essential terms of the settlement are as follows:

Monetary Relief: HDL will pay a total of **\$1,450,000** for the settlement ("Total Settlement Amount"). Of the Total Settlement Amount, HDL will pay \$900,000 to Settlement Class Members who submit valid and timely claims, and HDL will pay \$550,000 to compensate the law firms of Terrell Marshall Law Group PLLC and Lichten & Liss-Riordan, P.C. for the attorneys' fees and costs they have incurred since this litigation began over two years ago and which they will incur through final judgment in representing the Settlement Class. From the Settlement Class Payment, the Plaintiffs will request Service Awards of up to \$20,000 for Plaintiffs Valencia, Arechiga, and Hernandez to compensate them for their service and assistance in pursuing the lawsuit. If the Court approves the Service Awards, the remaining \$840,000, will be distributed to the Settlement Class Members who submit valid and timely claims.

Distribution of Settlement Fund: The amount going to the Settlement Class is intended to compensate Settlement Class Members for the wages they allegedly lost and damages they are owed as a result of the practices alleged in the case.

Each Settlement Class Member who submits a valid and timely claim form and IRS Form W-9 will be eligible to receive a settlement payment. The estimated amount of your settlement payment, assuming 100% of Settlement Class Members submit valid and timely claim forms and IRS Form W-9s, is pre-printed on your claim form. Your estimated settlement payment was calculated based on a detailed analysis of HDL's settlement statements, driver manifest data maintained by HDL's clients, and driver testimony. **If you have documents showing that you made deliveries in more weeks than stated in this notice or received deductions beyond normal payroll taxes that are not accounted for in your estimated award, please call 617-994-5800 as soon as possible but no later than January 4, 2021. Class Counsel will review your documentation and decide if your estimated amount should be adjusted.** If fewer than 100% of Settlement Class Members submit valid and timely claim forms, your actual settlement payment will likely be higher than the estimated amount. Checks will be mailed to Settlement Class Members who submit timely and valid claims and are eligible to receive a settlement payment.

If any checks have not been cashed within sixty (60) days after distribution and it is reasonably feasible to do so, Class Counsel will redistribute the remaining amount proportionally to all Qualified Class Members who cashed their original checks. The proceeds of any uncashed checks after thirty (30) days following the Second Distribution (or if there is no Second Distribution) will be distributed as *cy pres* to the Legal Foundation of Washington.

Tax Treatment of Settlement Awards: To receive a payment, Settlement Class Members must submit an IRS Form W-9 with their claim form. Settlement Class Members who submit valid and timely claims and W-9 forms will be issued IRS Forms 1099 and will be responsible for all associated taxes. HDL will pay no employment taxes on the amounts distributed to Settlement Class Members.

Release of Claims: Upon final approval by the Court, the Settlement Class and each Settlement Class Member who has not submitted a valid and timely written request to be excluded from the settlement will release HDL, its parents, subsidiaries, and related entities from all claims asserted in the case that arose from March 1, 2015 through October 8, 2020.

HOW YOU CAN GET PAYMENT – SUBMITTING A CLAIM FORM

7. How can I get a payment?

To get a payment, you **must** submit a claim form and IRS Form W-9. There are two ways to submit a claim form and W-9: (1) You can submit a claim form and Form W-9 online at www.HDLWashingtonClassAction.com; or (2) you can complete and sign the claim form

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included with this notice and return it with the Form W-9 to Class Counsel by mail to Lichten & Liss-Riordan, P.C., 729 Boylston St., Suite 2000, Boston, Massachusetts 02116.

A claim form and IRS Form W-9 are attached to this notice. Read the instructions carefully. If you need a new claim form, you may call **617-994-5808** or visit www.HDLWashingtonClassAction.com.

8. When would I get my payment?

The judge will hold a hearing on **February 4, 2021** to decide whether to finally approve the settlement. If the judge approves the settlement, the parties will then have to wait to see whether there is an appeal. This will take at least 30 days and, if there is an appeal, can take more than a year to resolve. In the event of an appeal, information regarding the appeal's progress will be made available at www.HDLWashingtonClassAction.com. If there is no appeal, we expect payments will go out within 60 days of the judge's final approval of the settlement. Please be patient.

THE LAWYERS REPRESENTING YOU

9. Do I have a lawyer in this case?

The Court has decided that lawyers from the law firms of Terrell Marshall Law Group PLLC of Seattle, Washington and Lichten & Liss-Riordan, P.C. of Boston, Massachusetts, are qualified to represent you and all Settlement Class Members. These lawyers are called "Class Counsel." You will not be charged for these lawyers because they will be paid from the settlement funds. If you want to be represented by our own lawyer, you may hire one at your own expense.

10. How will the lawyers be paid?

As indicated above, Class Counsel will seek payment of their attorneys' fees and costs in the amount of \$550,000, which must be approved by the judge as part of the final approval of this settlement. Class Counsel have been working on this case since 2018 and have not received any fees or reimbursements for the costs of the lawsuit.

EXCLUDING YOURSELF FROM THE SETTLEMENT

11. How do I exclude myself from the settlement?

- If you fit the definition of a Settlement Class member and want to exclude yourself from the settlement, you must mail a letter to Class Counsel requesting exclusion from the settlement, **postmarked no later than January 4, 2021**. An exclusion request must: (1) be in writing, (2) state your current address; (3) contain the following statement: "I request that I be excluded from the Settlement Class in the case of *Valencia v. HDL, Inc.*"; (4) be mailed to Class Counsel at **Lichten & Liss-Riordan, P.C., 729 Boylston Street, Suite 2000, Boston, Massachusetts**

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02116; and (5) be postmarked by **January 4, 2021**. If you exclude yourself from the settlement (i.e., opt out), you will not receive any payment from the settlement. You will also not be entitled to object to the settlement. If you exclude yourself, you will not be bound by the terms of the settlement, including the Release described in Section 6, above. This means you will retain the right at your own expense, to pursue any claims you may have against HDL.

OBJECTING TO THE SETTLEMENT

12. If I don't like the settlement, how do I tell the Court?

If you are a Settlement Class Member, have not excluded yourself from the settlement, and do not like the settlement or the fee request, you can object. You must do so in writing and you must state the reasons why you think the Court should not approve the settlement. If you object, be sure to include your name, address, and telephone number, the name of the case (*Valencia v. HomeDeliveryLink, Inc.*, Case No. 4:18-cv-05034-SMJ), the reasons you object to the settlement, and a signature. You must file the objection with the Court, **by no later than January 4, 2021**. To file the objection, follow the instructions on the Court's website.

THE COURT'S FAIRNESS HEARING

13. When and where will the Court decide to approve the settlement?

The Court will hold a Fairness Hearing on **February 4, 2021 at 10:30 A.M.** at the Richland United States Courthouse, 825 Jadwin Avenue, Room 174, Richland, WA 99352. The Fairness Hearing may be held by video conference to protect participants from the COVID-19 virus. Visit the Settlement Website to get updated information about the date, time, and location of the Fairness Hearing. If there are objections, the Court will consider them at the Fairness Hearing. Judge Mendoza will listen to people who have asked to speak at the hearing (see Section 15). After the hearing, the Court will decide whether to finally approve the settlement, including Class Counsel's request for attorneys' fees and costs and service awards for the named Plaintiffs. We do not know how long that decision will take.

14. Do I have to come to the hearing?

No. Class Counsel will answer any questions Judge Mendoza may have. But you are welcome to attend at your own expense. If you file an objection, you do not have to come to Court to talk about it. As long as you file your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but that is not necessary.

15. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying it is your “Notice of Intention to Appear in *Valencia v. HomeDeliveryLink, Inc.*, Case No. 4:18-cv-05034-SMJ.” Be sure to include your name, address, phone number, and your signature. Your Notice of Intention to Appear must be **postmarked no later than January 4, 2021**, and be sent to the Court, Class Counsel, and Defense Counsel at:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Richland United States Courthouse, 825 Jadwin Avenue, Room 174, Richland, WA 99352	Terrell Marshall Law Group PLLC, 936 North 34th Street, Suite 300, Seattle, Washington 98103 Lichten & Liss-Riordan, P.C., 729 Boylston St., Suite 2000, Boston, Massachusetts 02116	SCOPELITIS, GARVIN, LIGHT, HANSON & FEARY, P.C. 3214 W. McGraw Street, Ste. 301F, Seattle, Washington 98199

IF YOU DO NOTHING

16. What happens if I do nothing at all?

If you fail to submit a claim form **postmarked no later than January 4, 2021**, you will **not** receive a share of the settlement. If you do nothing – that is, if you do not mail or deliver a timely claim form or request for exclusion – you will **not** be entitled to a share of the settlement, but you will still be bound by the terms of the settlement, including the Release described in Section 6, above.

GETTING MORE INFORMATION

17. Are there more details about the settlement?

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by writing to Class Counsel, Terrell Marshall Law Group PLLC, 936 North 34th Street, Suite 300, Seattle, Washington 98103 or by visiting the website www.HDLWashingtonClassAction.com, which has a copy of the Settlement Agreement posted. Class Counsel’s motion for attorneys’ fees and costs and service awards for the named Plaintiffs will be available for you to review on at www.HDLWashingtonClassAction.com.

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