

PLEASE READ THIS NOTICE CAREFULLY. YOU MAY BE ENTITLED TO MONEY FROM A CLASS ACTION SETTLEMENT.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

If you worked in California for Techtronic Industries North America, Inc. or R&B Sales and Marketing, Inc. and held the position title “Single Store Representative” or “Field Sales Representative” (or the similar titles listed below in the definition of Covered Job Position) for any period of time between March 3, 2012 and January 31, 2017, a class action lawsuit may affect your rights.

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

Plaintiff Jordan Willey, a former sales representative, has sued Techtronic Industries North America, Inc. (“TTI”) and R&B Sales and Marketing Inc. (“R&B”) (together, “Defendants” or separately “Defendant”) alleging various violations of the California Labor Code, California Business and Professions Code, and federal Fair Labor Standards Act. The Honorable Winifred Y. Smith, Judge of the Alameda County Superior Court, presides over this case. The lawsuit is known as *Willey v. Techtronic Industries North America, Inc., et al.*, Civil Action No. RG 16806307.

- The purpose of this Notice is to inform you of a proposed settlement (the “Settlement”) of the case. This lawsuit alleges that Defendants violated the Labor Code by failing to provide their California employees holding a Covered Job Position (defined below) with overtime wages, meal periods, expense reimbursements, and accurate wage statements, among other things described below.
- Because the Defendants’ records show that you qualify as a Settlement Class Member, you will receive money from the Settlement if the Court grants final approval of the Settlement, unless you decide to “opt out” of the Settlement.
- Your legal rights are affected whether you act or do not act. Read this notice carefully. If you have questions, you can contact the lawyers for the Plaintiff (listed at the end of this Notice).

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
DO NOTHING	You WILL be mailed a Settlement payment in the approximate amount stated on <u>Attachment A</u> to this Notice, unless the Court decides not to grant “final approval” of the Settlement. By receiving a payment, you will be bound by the terms of the Settlement.
OBJECT	If you want to object to the Settlement for any reason, you must send the Settlement Administrator your objection in writing. Your objection must be post marked by July 3, 2017. If you wish to present your objection at the Final Fairness and Approval Hearing, you must state that you will appear in your written objection. If you submit an objection, you will still be deemed a Settlement Class Member and will receive money from the Settlement.
ASK TO BE EXCLUDED	If you do not wish to participate in the Settlement, you must send a letter requesting exclusion. You will get no payment in the Settlement. You will keep the right to sue the Defendants on your own about the claims resolved by this Settlement.

This Notice explains your rights and options in detail. **To ask to be excluded (opt out) or to object to the settlement, you must follow the steps described in this Notice no later than July 3, 2017.**

YOUR ESTIMATED SETTLEMENT AMOUNT: Enclosed with this Notice is an individualized Statement of Weeks Worked form (“Attachment A”), which will state your estimated settlement amount. The amount is calculated based on the number of weeks you worked in California as a member of the Single Store Representative Group or Multi-Store Representative Group (defined below) during the period from March 3, 2012 to January 31, 2017. If there are errors on the form, you can follow the steps on the form to submit corrections. Any corrections must be submitted no later than June 19, 2017.

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MORE DETAILED INFORMATION

I. WHAT IS THIS CASE ABOUT?

The purpose of this Notice is to inform you that your rights may be affected by the proceedings in a class action lawsuit pending before Judge Winifred Y. Smith of the Superior Court of California for the County of Alameda (the “Court”) entitled *Jordan Willey, individually and on behalf of all those similarly situated v. Techtronic Industries North America, Inc., et al.*, Case No. RG16806307 (“Litigation”). This Notice is given by Order of the Court.

There is a class action lawsuit now pending before the Court. This lawsuit was originally filed on March 3, 2016 and was brought by Jordan Willey (“Class Representative” or “Willey”) on behalf of **all persons who are or were employed (1) in California; (2) by either Defendant; (3) in a Covered Job Position; (4) at any point during the Class Period (“Settlement Class” or “Settlement Class Members”).** For purposes of this definition, “Covered Job Position” means California non-exempt positions with the following titles: Single Store Representative, Field Sales, Field Sales Representative, Field Sales and Marketing Representative, Field Service Representative, and Multi-Store Representative, and “Class Period” means any time between March 3, 2012 and January 31, 2017.

In the Complaint in this lawsuit, Willey alleges that Defendants (1) improperly failed to pay overtime or any other wages due for hours worked under California and federal law; (2) failed to provide legally required meal periods or pay premium pay due for such failure; (3) failed to pay overtime wages due based on the correct regular rate; (4) failed to reimburse for expenses; (5) failed to timely pay wages or pay all wages due upon termination of employment; (6) failed to furnish timely wage statements or failed to maintain adequate payroll records; (7) failed to provide compliant wage statements; (8) violated the unfair competition laws (Business & Professions Code §§17200, et seq.); and (9) violated the California Labor Code Private Attorney's General Act ("PAGA").

II. WHAT ARE THE TERMS OF THE SETTLEMENT?

Defendants do not admit engaging in any unlawful conduct as alleged in this lawsuit and continue to deny the claims and charges of wrongdoing and liability. Defendants deny that they owe money related to any of Plaintiff's allegations listed above. Defendants are settling the matter as a compromise and to avoid incurring unnecessary legal expense defending the matter. Defendants reserve the right to object to any claim if for any reason the Settlement fails. Defendants further deny that there was any joint employer relationship between Defendants.

The Settlement applies to all Settlement Class Members who do not timely submit a correctly completed Opt Out Letter. The determination of how much a Settlement Class Member will receive as part of this Settlement depends on the number of weeks within the Class Period during which a Settlement Class Member held a Covered Job Position and performed work ("Qualifying Work Weeks") and the weighted value of those Qualifying Work Weeks.

The parties reached a Settlement in which Defendants' total maximum liability, inclusive of all payments to Settlement Class Members, the Class Representative's Service Award, Settlement Administration Costs, employer's share of tax liabilities and attorneys' fees and costs, will not exceed \$3,500,000.00 ("Settlement Sum"). All amounts to be paid by Defendants from the Settlement Sum shall be paid to a qualified settlement fund ("Qualified Settlement Fund"), which shall be administered by KCC, the Settlement Administrator.

If eligible, Settlement Class Members may participate in the Settlement. Settlement Class Members will not pay any out-of-pocket costs.

There was a hearing on April 4, 2017 in the Superior Court of California for the County of Alameda. The Court conditionally granted preliminary approval of the class action settlement against Defendants and directed that you receive this Notice.

A. Additional Payments from the Maximum Settlement Amount

The difference between the Settlement Sum and the payments below will be the Class Member Settlement Fund, which is the portion of the Settlement Sum eligible for distribution to Settlement Class Members who do not properly submit and complete an Opt Out Letter. All of the payments below are subject to final approval from the Court.

1. Fee and Cost Award for Class Counsel

Class Counsel filed the Litigation on behalf of Plaintiff and all other similarly situated individuals. Class Counsel conducted informal discovery and negotiated the settlement of this matter. Class Counsel will request attorneys' fees in the amount of up to \$1,166,666.67, which represents 33 1/3% of the Settlement Sum. Class Counsel will also request reimbursement of litigation costs and expenses in the amount of up to \$15,000.00. If approved by the Court, this amount will be paid from the Qualified Settlement Fund. These attorneys' fees and costs shall compensate Class Counsel for the work they have performed and the expenses they have incurred in this Action. Settlement Class Members are not personally responsible for any of Class Counsel's attorneys' fees and costs.

2. Service Award to the Class Representative

Class Counsel will also seek an enhanced recovery of no more than \$10,000.00 ("Service Award") for Jordan Willey for acting as representative plaintiff on behalf of the Settlement Class. This will be in addition to whatever payment he is otherwise entitled to as a Settlement Class Member. If approved by the Court, this amount will be paid from the Qualified Settlement Fund.

3. Settlement Administration Costs

Settlement Administration Costs, which will not exceed \$25,000.00, will be paid to the Settlement Administrator, KCC, for its services, including but not limited to distributing Class Notices to Settlement Class Members, processing Opt Out Letters, calculating Settlement payments, and distributing such Settlement payments to the Settlement Class Members.

4. Employer and Employee Tax Obligations

Once the amount of payment for each Settlement Class Member is determined, the Settlement Administrator will calculate the total amount of the employer withholding taxes and the total amount of employee withholding taxes for the portion of the Settlement payment designated as wages as required by law. This total amount will be deducted from the Qualified Settlement Fund.

5. PAGA Penalties

Defendants shall pay \$20,000.00 for settlement of claims brought under the Private Attorneys' General Act ("PAGA"). The PAGA payment shall be allocated as follows: \$15,000.00 (75%) to the California Labor & Workforce Development Agency ("LWDA"), and \$5,000.00 (25%) to the Settlement Class Members who do not properly submit and complete an Opt Out Letter.

B. Release of Claims

The proposed settlement is intended to settle all claims and causes of action of any nature and description whatsoever, whether known or unknown, that are or which could have been asserted at any time in the Litigation based on the facts alleged in the Litigation.

The Released Claims include, any and all Wage Claims, as defined below in this paragraph, known or unknown, in law or in equity, whether or not concealed or hidden, asserted or which could have been asserted at any time in the Litigation based on the facts alleged in the Litigation by Plaintiff or any Settlement Class Member who does not timely request exclusion and opt out of this Settlement. Wage Claims means any claim, demand, right, liability, and/or cause of action from March 2, 2012 through April 4, 2017 and based on any California or federal law that relate to claims which were asserted or could have been asserted at any time in the Litigation based on the facts alleged in the Litigation by any Settlement Class Member that, Defendants (1) improperly failed to pay overtime or any other wages due for hours worked; (2) failed to provide legally required meal and rest periods or pay premium pay due for such failure; (3) failed to pay overtime wages due based on the correct regular rate; (4) failed to reimburse for expenses; (5) failed to timely pay wages or pay all wages due upon termination of employment; (6) failed to furnish timely wage statements or failed to maintain adequate payroll records; (7) failed to provide compliant wage statements; (8) engaged in conduct subjecting them to statutory or civil penalties under any California statute, ordinance, or otherwise arising from any alleged violation of the California Labor Code, California Wage Orders or any federal or California statute regarding compensation and hours, including without limitation, California Labor Code Section 2698, *et seq.* (“The Private Attorneys General Act of 2004” or “PAGA”) and Labor Code Sections 203 and 226; (9) engaged in any unfair business practices expressly alleged in the Litigation; and (10) violated any California or federal laws, including under the Fair Labor Standards Act (“FLSA”), based on any facts, transactions, events, occurrences, acts, disclosures, statements, omissions, or failures to act which were asserted or could have been asserted at any time in the Litigation based on the facts alleged in the Litigation (“Released Claims”). The effect of the Settlement extends to Defendants and their respective parents, subsidiaries, affiliates, predecessors, successors, directors, officers, employees and others, as more fully described in the Settlement Agreement (“Released Parties”).

III. IF I CHOOSE TO PARTICIPATE, HOW IS MY SHARE OF THE SETTLEMENT CALCULATED?

The Settlement Class Members who do not Opt Out shall receive an amount based on the number of Qualifying Work Weeks and the weighted value of those Qualifying Work Weeks based on whether the Settlement Class Member held a Covered Job Position and was responsible for servicing only one Home Depot store at a given time (“Single Store Representative Group”) or the Settlement Class Member held a Covered Job Position and was responsible for servicing more than one Home Depot store at a given time (“Multi-Store Representative Group”).

To determine the value for Qualifying Work Weeks, the Settlement Administrator will (1) take the total number of Qualifying Work Weeks worked by members of the Single Store Representative Group and multiply that number by the relative weight of 1; (2) the Settlement Administrator will then take the total number of Qualifying Work Weeks worked by members of the Multi Store Representative Group and multiply that number by the relative weight of 3; (3) once the Settlement Administrator has the total number of weighted Qualifying Work Weeks achieved by adding the results of steps (1) and (2), the Settlement Administrator will divide the Class Member Settlement Fund by that number of weighted Qualifying Work Weeks. The dollar amount achieved by step (3) is the weekly recovery value (“Weekly Recovery”) for each Qualifying Work Week.

The Settlement Administrator shall compute the Weekly Recovery for each Settlement Class Member who is a member of the Single Store Representative Group by multiplying the Weekly Recovery by the total Qualifying Work Weeks worked as a member of the Single Store Representative Group. The Settlement Administrator shall compute the Weekly Recovery for each Settlement Class Member who is a member of the Multi-Store Representative Group by multiplying the Weekly Recovery by the total Qualifying Work Weeks worked as a member of the Multi-Store Representative Group and then multiplying that amount by 3. Certain Settlement Class Members will receive Individual Payment Amounts as members of both the Single Store Representative Group and the Multi-Store Representative Group based on the number of Qualifying Work Weeks they worked in each group. The sum of all the Settlement Class Members’ Individual Payment Amounts shall equal the amount of the Class Member Settlement Fund.

Your estimated Individual Settlement Class Member payment is included on Attachment A.

TAXABLE PORTION OF SETTLEMENT PAYMENTS

For purposes of tax payment obligations, 50% of the amounts distributed to each Settlement Class Member shall be treated as wages (subject to all required withholdings) 50% will constitute interest and penalties. An IRS Tax Form W-2 will be issued to each Settlement Class Member with regard to the portion of the Settlement payments attributable to wages and an IRS Tax Form 1099 will be issued to each Settlement Class Member with regard to the remaining portion of the Settlement payments. Settlement Class Members should consult with their tax advisors concerning the tax consequences of the payments that they receive under the Settlement.

EFFECT OF CASHING THE SETTLEMENT CHECK

By cashing the settlement check that will be mailed to you by the Settlement Administrator, you shall be deemed to have opted-in to the Settlement Class for purposes of the Fair Labor Standards Act claims referred to in the Released Claims.

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

You have three options under this Settlement, each of which is discussed below: (A) opt out from the Settlement, (B) object to the Settlement, or (C) do nothing.

A. If You Want To Request Exclusion From of the Settlement

If you do not wish to participate in the Settlement, you must send an Opt Out Letter bearing a postmark no later than July 3, 2017. The Opt Out Letter must be sent to *Willey v. Techtronic Industries North America, Inc., et al.* Settlement Administrator P.O. Box 43434 Providence RI, 02940-3434. The Opt Out Letter must: (1) legibly state your name, (2) state that you do not wish to participate in the Settlement, and (3) that you request exclusion from the Settlement. Opt Out Letters must be made individually and cannot be made on behalf of a group of employees or on behalf of other Settlement Class Members. If you choose to opt out of the Settlement, you will not receive any money from the Settlement. Any such person, at his/her own expense, may pursue any claims he/she may have against

Defendants. However, there are deadlines to pursuing such claims known as statutes of limitation. Please consult an attorney of your choice to ensure you are not forever barred from pursuing any individual claims you might have if you decide to opt out of the Settlement.

The judgment will bind all Settlement Class Members who do not properly submit and complete an Opt Out Letter.

B. If You Want To Object To The Settlement

You may object, personally or through an attorney at your own expense, to the proposed Settlement by submitting in writing your objection to the Settlement Administrator no later than **July 3, 2017**. You may appear, but are not required to appear, at Final Fairness and Approval Hearing where your objection will be heard and considered by the Court. Included in your objection must be a written notice of whether you desire to appear at the Final Fairness and Approval Hearing and briefly indicating the nature of your comments or objection.

If you do not comply with this procedure, you may not be entitled to be heard at the Final Fairness and Approval Hearing or to otherwise contest the approval of the Settlement, or to appeal from any related orders or judgments of the Court. If you submit a valid and timely Opt Out Letter, you cannot object to the Settlement.

Settlement Class Members are hereby notified that even if they object, they will still be deemed as Settlement Class Members and will receive money from the Settlement if approved by the Court. You will be covered by the Settlement unless you opt out.

C. If You Choose To Do Nothing

If you do nothing, and the Court approves the Settlement, you will be bound by the terms of the Settlement and the release and you will receive money under the Settlement in the form of a check mailed by the Settlement Administrator.

D. What if the Statement of Weeks Worked is incorrect?

If the weeks worked information or contact information on the Statement of Weeks Worked Form is incorrect, you should correct this information by completing and signing the enclosed Statement of Weeks Worked Form under penalty of perjury and mail it to the Settlement Administrator no later than **June 19, 2017**. If you lose, misplace, or need another Statement of Weeks Worked Form, you should contact the Settlement Administrator.

V. WHEN AND WHERE IS THE FINAL APPROVAL HEARING?

The Court will conduct a Final Fairness and Approval Hearing on July 28, 2017 at 11:00 a.m. in Department 21 of the Superior Court of California, located at 1221 Oak Street, Oakland, CA 94612. At that hearing, the Court will determine whether the Settlement should be finally approved. The Court also will be asked to approve Class Counsel's request for attorneys' fees and costs, and the Service Award to be paid to the Class Representative, and other payments discussed above. The Final Fairness and Approval Hearing may be continued without further notice to Settlement Class Members.

VI. WHAT IF I NEED MORE INFORMATION?

The foregoing is only a summary of the Litigation and the proposed Settlement and does not purport to be comprehensive. The pleadings and other records in this litigation, including the Settlement Agreement, may be examined online on the Alameda County Superior Court's website, known as "DomainWeb," at <https://publicrecords.alameda.courts.ca.gov/PRS/>. After arriving at the website, click the "Search By Case Number" link, then enter RG16806307 as the case number and click "SEARCH." Images of every document filed in the case may be viewed through the "Register of Actions" at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at each court location that has a facility for civil filings.

In addition, you can find a copy of this Notice of Class Settlement, the Complaint, the Settlement Agreement, the Motion for Preliminary Approval, the Order Granting Preliminary Approval, the Motion for Final Approval, the Motion for Service Awards and Attorneys' Fees and Costs, and, when available, the Order Granting Final Approval at the following website: www.gbdhlegal.com/cases/TTI.

If you have any questions, please call the Settlement Administrator at 1-866-680-6143, toll free. You may also contact Class Counsel to ask about the Class Action Settlement. Class Counsel's contact information is as follows:

Laura L. Ho (SBN 173179)
lho@gbdhlegal.com
William C. Jhaveri-Weeks (SBN 289984)
wjhaveriweeks@gbdhlegal.com
Byron Goldstein (SBN 289306)
brgoldstein@gbdhlegal.com
GOLDSTEIN, BORGEN, DARDARIAN & HO
300 Lakeside Drive, Suite 1000
Oakland, CA 94612
Tel: (510) 763-9800
Fax: (510) 835-1417

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT
OR THE JUDGE WITH INQUIRIES ABOUT THE SETTLEMENT**