



FOR IMMEDIATE RELEASE: September, 2023

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Instacart shoppers should expect lawsuit payments, says San Diego City Attorney Mara W. Elliott

Digital payments start today from \$40 million landmark settlement

Nearly \$40 million will soon begin flowing to more than 125,000 California Instacart workers thanks to a statewide settlement negotiated by City Attorney Mara W. Elliott and her Affirmative Civil Enforcement (ACE) Unit led by Senior Chief Deputy City Attorney Mark Ankcorn. Digital payments are expected to begin today, September 21, 2023.

In 2019, Elliott sued the multi-billion-dollar grocery tech company for failure to pay its workers what they were owed. Instacart agreed last year to pay a total of \$46.5 million in restitution and penalties to settle the lawsuit following a string of successful court rulings in favor of the City Attorney's Office, and the restitution payments to workers are going out this week.

“We fought hard to ensure California’s Instacart workers are paid what they are owed, and we want to ensure they are on the lookout for the payments. They should receive checks as soon as this week,” said Elliott.

Elliott said those who worked as Instacart “shoppers” between Sept. 13, 2015, and Dec. 15, 2020 should expect to receive payments to come from settlement administrator, Simpluris. The size of payments will be based on the number of hours each person worked during the more than 5 years covered by the lawsuit. For the most active workers, individual restitution payments will exceed ten thousand dollars.

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The City Attorney’s case against Instacart was the first in the nation to target the gig-economy’s tendency to treat employees as independent contractors. The City argued Instacart shoppers were actually employees of the company, even though the grocery delivery giant controlled most aspects of their jobs. Instacart workers were not reimbursed for maintaining and fueling their personal delivery vehicles, using their own telephones, or paying for equipment necessary to do their jobs, including personal protective equipment against COVID-19. The arrangement also unfairly deprived some Instacart workers of protections and compensation they would have received as employees, such as overtime pay, worker’s compensation benefits, and breaks. Instacart, whose parent company Maplebear began trading as a public company on Monday, denied all of the allegations from the outset.

“Many vulnerable San Diegans depended on Instacart shoppers and other front-line workers to survive the Covid-19 crisis, and it is gratifying to see these workers finally get the respect and pay they deserve,” said Elliott. “This settlement should serve as a warning to any unscrupulous businesses taking advantage of their workers. The City Attorney’s Office is watching, and we will hold you accountable.”

This case was handled by Deputy City Attorney Kevin B. King, under the supervision of Senior Chief Deputy City Attorney Mark Ankorn of the ACE Unit of the City Attorney’s Office. Elliott credited the team with bringing Instacart to the table for settlement talks after winning a series of legal victories at the start of the trial.

On top of the restitution to workers, Instacart has agreed to pay more than \$6 million in civil penalties, which the City Attorney’s Office says will go into a trust fund intended for use in the enforcement of consumer protection laws.

Instacart is a San Francisco-based online platform offering same-day grocery delivery. Customers use the app to place grocery orders, which are then purchased and delivered by a “shopper” who drives the order directly to their home. The company has a strong presence in the City and County of San Diego, where it launched its service in mid-2016.

Under the terms of the settlement, Instacart admitted no wrongdoing. Equally, workers are not required to release any legal claims to receive restitution and should consult with their own attorney if they have questions about their legal rights.

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