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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

RAUL NUNEZ, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

TK SERVICES, INC., a California corporation;
and DOES 1 through 100,

Defendants.

Case No. BC682512

*[Assigned for All Purposes to Hon. Kenneth R.
Freeman, SSC-14]*

**PLAINTIFF'S SUPPLEMENTAL BRIEF IN
SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS ACTION
SETTLEMENT**

Date: June 15, 2021
Time: 11:00 a.m.
Dept.: SSC-14

Action Filed: November 6, 2017
Trial Date: None Set

1 **TO THE COURT, ALL PARTIES, AND THEIR ATTORNEYS OF RECORD:**

2 Plaintiff Raul Nunez (“Plaintiff”), individually and on behalf of a class of similarly situated
3 individuals, hereby submits this Supplemental Brief in Support of Plaintiff’s Motion for Preliminary
4 Approval of Class Action Settlement.

5 **I. PROCEDURAL HISTORY**

6 Plaintiff filed his Motion for Preliminary Approval of Class Action Settlement on March 10,
7 2021, setting it for hearing on June 15, 2021.

8 After the filing of his Motion for Preliminary Approval, Plaintiff and Defendant TK Services,
9 Inc. (“TK Services” or Defendant”) (Plaintiff and Defendant collectively referred herein as the
10 “Parties”), through their respective counsel of record revised the settlement agreement in accordance
11 with the Los Angeles Superior Court’s Checklist for Preliminary Approval of Class Action Settlements.
12 It is the Parties’ intention that the revised Settlement Agreement replaces the Settlement Agreement
13 previously filed with the Court on March 10, 2021.

14 Therefore, Plaintiff submits the instant supplemental brief to address the changes made in the
15 modified Settlement Agreement and Notice of Pendency of Class Action and Proposed Settlement. The
16 following documents are being submitted concurrently herewith as Exhibits to the Second Supplemental
17 Declaration of Scott M. Lidman (“Second Supp. Lidman Decl.”), as follows:

18 Attached as **Exhibit A** to the Second Supp. Lidman Decl. is the redlined version of the modified
19 Stipulation of Settlement (without exhibits).

20 Attached as **Exhibit B** to the Second Supp. Lidman Decl. is the final version of the modified
21 Stipulation of Settlement with the changes accepted and all exhibits, and signed by all Parties.

22 Attached as **Exhibit C** to the Second Supp. Lidman Decl. is the redlined version of the modified
23 Notice of Pendency of Class Action and Proposed Settlement (“Class Notice”).

24 Attached as **Exhibit D** to the Second Supp. Lidman Decl. is the final version of the modified
25 Notice of Pendency of Class Action and Proposed Settlement with the changes accepted.

26 Attached as **Exhibit E** to the Second Supp. Lidman Decl is the LWDA Letter submitted to the
27 LWDA and TK Services on October 28, 2020.

II. CHANGES MADE TO THE SETTLEMENT AGREEMENT AND CLASS NOTICE

A. CLASS DEFINITION AND RELEASE PERIOD

In the modified Settlement Agreement, the Parties have now separately defined both the Settlement Class and the PAGA Employees. The PAGA Period is also now separately defined.

1. Class Definition

The proposed Settlement Class is defined as “all current and former non-exempt, hourly employees of Defendant TK Services, Inc. who worked for Defendant in California at any time from November 6, 2013 through date of preliminary approval.” Settlement, ¶ 1.

The proposed PAGA Employees is defined as “all current and former non-exempt, hourly employees of Defendant TK Services, Inc. who worked for Defendant in California at any time from November 6, 2016 through date of preliminary approval.” Settlement, ¶ 2.

2. Class and Release Period

For purposes of this Settlement Agreement, the “Class Period” shall mean the time period of November 6, 2013 through the date of preliminary approval of this Settlement Agreement. Settlement, ¶ 1.

Additionally, for purposes of this Settlement Agreement, the “PAGA Period” and release under the PAGA shall mean the time period between November 6, 2016 through the date of preliminary approval. Settlement, ¶ 2.

The Class Notice has also been modified to reflect these changes.

B. RELEASE OF CLAIMS

The modified Settlement Agreement also narrows the release of claims to the those in the operative complaint. Moreover, the agreement now makes clear the PAGA release is limited to: (1) penalties; and (2) claims which were alleged in both Plaintiff’s Letter to the LWDA and the operative complaint, as follows:

Settlement Class members and Plaintiff will release all claims, demands, rights, liabilities and causes of action that were pled in the operative Complaint in the Action (which is the proposed First Amended Complaint attached hereto as Exhibit A), or which could have been pled in the operative Complaint in the Action (which is the proposed First Amended Complaint attached hereto as Exhibit A) based on the factual allegations therein, that arose during the Class Period including but not limited

1 to the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay all minimum
2 wages owed; (c) failure to pay all wages at the agreed-upon rate; (c) failure to provide meal periods, or
3 premium pay for non-compliant meal periods; (d) failure to authorize and permit rest periods, or
4 premium pay for non-complaint rest periods; (e) failure to provide accurate, itemized wage statements;
5 (f) failure to timely pay wages upon separation of employment; and (g) all claims for unfair business
6 practices that could have been premised on the facts, claims, causes of action or legal theories described
7 above. Settlement, ¶ 4.A.

8 Further, PAGA Employees, including Plaintiff, will release and forever discharge all claims,
9 demands, rights, liabilities and causes of action for penalties under California Labor Code Private
10 Attorneys General Act of 2004 against the Released Parties based on (as alleged in the letter to the
11 Labor & Workforce Development Agency (“LWDA”) October 28, 2020 and the operative Complaint
12 (which is the proposed First Amended Complaint attached hereto as Exhibit A) for: (a) failure to pay
13 all overtime wages owed; (b) failure to pay all minimum wages owed; (c) failure to pay all wages at the
14 agreed-upon rate; (c) failure to provide meal periods, or premium pay for non-compliant meal periods;
15 (d) failure to authorize and permit rest periods, or premium pay for non-complaint rest periods; (e)
16 failure to provide accurate, itemized wage statements; and (f) failure to timely pay wages upon
separation of employment. Settlement, ¶ 4.C.

17 The Class Notice has also been modified to reflect these changes.

18 **C. UNDELIVERABLE NOTICE PACKETS**

19 The modified Settlement Agreement now includes that if a Settlement Class member’s Notice
20 Packet is returned to the Settlement Administrator more than once before the Response Deadline, the
21 Settlement Administrator shall continue to make reasonable efforts to obtain an updated mailing
22 address. Settlement, ¶ 10.F.

23 **D. NOTICE OF ANY CHANGE OF LOCATION OR DATE OF HEARING AND 24 FINAL JUDGMENT**

25 Any changes to date, time, or location of the Final Approval Hearing will be posted on the
26 Settlement Administrator’s website. Notice of the Court’s final judgment will also be posted on the
Settlement Administrator’s website. *See* Class Notice.

27 **III. CONCLUSION**

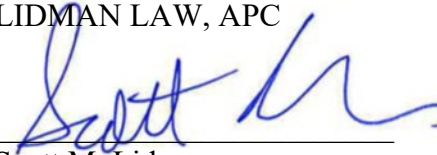
28 Therefore, for the foregoing reasons, and for the reasons set forth in Plaintiff’s Motion for

1 Preliminary Approval, Plaintiff respectfully requests that the Court preliminarily approve the proposed
2 Settlement, provisionally certify the Settlement Class, and enter the Proposed Order Granting
3 Preliminary Approval of Class Action Settlement submitted concurrently herewith.

4
5 Dated: April 12, 2021

Respectfully submitted,
LIDMAN LAW, APC

6
7 By:


8 Scott M. Lidman
9 Attorney for Plaintiff
RAUL NUNEZ