

BROCK & GONZALES, LLP

6701 CENTER DRIVE WEST, STE. 610

LOS ANGELES, CA 90045

Tel: (310) 294-9595

Fax: (310) 961-3673

D. AARON BROCK, STATE BAR NO. 241919

DANIELLE L. GRUPPCHANG, STATE BAR NO. 313881

Attorneys for Plaintiffs

Tina Lundin and Derek Brumbaugh

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

Tina Lundin, individually, and on behalf of other members of the general public similarly situated; Derek Brumbaugh, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act

Plaintiffs,

v.

Anaheim Transportation Network DBA Anaheim Resort Transportation, a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 30-2021-01204870-CU-OE-CXC

Honorable Randall J. Sherman
Department CX-105

CLASS ACTION

SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT

[Supplemental Declaration of Danielle L. GruppChang; Declaration of Monica Joyce Pascua; and [Revised Proposed] Order filed concurrently herewith]

Date: October 11, 2024
Time: 10:00 am
Department: CX-105

Complaint Filed: June 4, 2021
FAC Filed: March 28, 2024
Trial Date: None Set

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

Plaintiffs Tina Lundin and Derek Brumbaugh (collectively referred to as "Plaintiffs" or "Class Representatives") hereby submit the following Supplemental Brief in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Joint Supplemental Brief"), in order to address the Court's points of inquiry raised in its tentative ruling issued on August 1, 2024 and adopted on August 2, 2024 thereafter.

I. INTRODUCTION

Based on the Court's guidance, the Plaintiffs and Defendant Anaheim Transportation Network DBA Anaheim Resort Transportation ("Defendant," together with Plaintiffs referred to as "Parties") have met and conferred, negotiated and executed Amendment No. 1 to the Class Action and PAGA Settlement Agreement and Class Notice ("Amendment No. 1") together with the Class Action and PAGA Settlement Agreement (referred to as "Settlement" or "Amended Settlement Agreement"). Amendment No. 1 is attached as "Exhibit 1" to the Supplemental Declaration of Danielle GruppChang in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement ("Supplemental Declaration of Danielle GruppChang" or "Supp. GruppChang Decl.")

The Parties have also prepared a [Revised Proposed] Order Granting Preliminary Approval of Class Action Settlement ("Revised Proposed Preliminary Approval Order") which is submitted to the Court concurrently herewith.

Additionally, the Parties have prepared a revised Court Approved Notice of Class Action and PAGA Settlement and Hearing Date for Final Court Approval ("Revised Class Notice") and a Request for Exclusion from Class Action Settlement Form ("Exclusion Form"). The Revised Class Notice is attached to Amendment No. 1 as "Exhibit 1" and to the Revised Proposed Order as "Exhibit 1." The Exclusion Form is attached to Amendment No. 1 as "Exhibit 2" and to the Revised Proposed Order as "Exhibit 2."

The Court is respectfully requested to grant preliminary approval of the Settlement.

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II. ESTIMATED INDIVIDUAL PAYMENTS TO PUTATIVE CLASS MEMEBERS AND AGGREIVED EMPLOYEES

The Court has inquired as to the average estimated payment to putative class members and the aggrieved employees.

The Net Settlement Amount is estimated to be \$125,124.67 and the current number of putative class members is estimated to be 168. Based thereon, the average Individual Class Payment is estimated to be \$744.79.

The amount of \$25,000 was allocated towards PAGA Penalties with \$18,750 (i.e., 75%) going to the LWDA per statute (the “LWDA PAGA Payment”) and the remaining \$6,250 (i.e., 25%) will be distributed to Aggrieved Employees (the “Individual PAGA Payments”). The numbed of estimated Aggrieved Employees is 96, based thereon, the average Individual PAGA Payment is \$65.10.

The highest and lowest Individual Class Payment and Individual PAGA Payment will be provided prior to the Final Approval Hearing in Plaintiffs’ anticipated motion for final approval.

III. AMENDMENT NO. 1 TO THE CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

Based on the Court’s guidance, the Parties have prepared and executed Amendment No. 1. (See Supp. GruppChang Decl., Exhibit 1). A redlined version of Amendment No. 1 showing how the terms of the original settlement agreement changed is attached to the Supplemental Declaration of Danielle GruppChang as “Exhibit 2.” The Parties have also prepared the Revised Class Notice. (See Amendment No. 1, Exhibit 1.) A redlined version of the Revised Class Notice showing how the original Class Notice changed is attached to the Supplemental Declaration of Danielle GruppChang as “Exhibit 3.”

A. Allocation of Individual Settlement Payments.

The Parties have amended the Settlement Agreement so that the Individual Class Payments are allocated as 33 1/3% wages and 66 2/3% as interest and penalties. (Amendment No. 1, § C.)

1 **B. Workweek Dispute Procedure.**

2 The Parties have amended the Settlement Agreement so that it is clear that while the
3 Administrator and the Parties will first attempt to resolve any Challenges to Workweeks, the
4 Court will ultimately decide any Challenges to Workweeks that are not otherwise resolved by
5 the Administrator or the Parties. (Amendment No. 1, §§ E & F.)

6 **C. Opt Out Form.**

7 The Parties have amended the Settlement Agreement so that Requests for Exclusion can
8 be made by submitting a written letter or by returning the Exclusion Form which will be
9 enclosed with the Revised Class Notice and sent to all putative class members. (Amendment
10 No. 1, §§ A, D, & H.)

11 **IV. PAGA NOTICE AND SERVICE OF DOCUMENTS ONTO THE LWDA**

12 On October 28, 2021, a PAGA Notice was submitted to the LWDA and mailed to
13 Defendant on behalf of Plaintiff Lundin. A true and correct copy of the October 28, 2021 PAGA
14 Notice is attached to the Supplemental Declaration of Danielle GruppChang as “Exhibit 4.”

15 On January 6, 2023, an Amended PAGA Notice was submitted to the LWDA and
16 mailed to Defendant on behalf of Plaintiffs Lundin and Brumbaugh. A true and correct copy of
17 the January 6, 2023 PAGA Notice is attached to the Supplemental Declaration of Danielle
18 GruppChang as “Exhibit 5.”

19 Plaintiffs’ Motion for Preliminary Approval of Class Action Settlement and related
20 documents (“Motion for Preliminary Approval”) as well as the Court’s August 2, 2024 Minute
21 Order were submitted to the LWDA via its online submission portal. (See Amended Proof of
22 Service Re: MPA filed concurrently herewith.) The present Supplemental Joint Briefing and
23 related documents were also submitted to the LWDA. (See Proof of Service filed concurrently
24 herewith.)

25 **V. ENGLISH PROFICIENCY OF THE PUTATIVE CLASS**

26 The Court has inquired regarding the English proficiency of the putative class. Out of
27 the 168 putative class members, ten speak Spanish as a primary language. (Declaration of
28 Monica Joyce Pascua in Connect with Plaintiffs’ Motion for Preliminary Approval of Class

1 Action and PAGA Settlement filed concurrently herewith, referred to herein as “Declaration of
2 Monica Joyce Pascua” or “Pascua Decl.”, ¶ 3.) Out of an abundance of caution, the Parties have
3 asked that the Notice Packet be mailed in both English and Spanish to the putative class
4 members. This resulted in a small increase in the settlement administration costs, therefore the
5 Parties agreed to increase the Administration Expenses Payment from \$7,000 to \$9,000.
6 (Amendment No. 1, § B.)

7 **VI. ENHANCEMENT PAYMENT TO PLAINTIFF BRUMBAUGH**

8 Plaintiffs will be ready to provide additional information regarding Plaintiff Brumbaugh
9 and why the Enhancement Payment allocated to him is fair, reasonable, and should be approved.
10 Plaintiff Brumbaugh has been in contact with our firm and aiding in the litigation of the present
11 matter since October 2022. (Supp. GruppChang Decl., ¶ 9.). Plaintiff Brumbaugh first executed
12 his retainer with Class Counsel on October 26, 2022. (*Ibid.*) In addition, as noted above, an
13 Amended PAGA Notice was submitted on his behalf on January 6, 2023. (*Ibid.*). Therefore,
14 although the operative complaint was not amended to name Plaintiff Brumbaugh as a named
15 plaintiff until March 28, 2024, Plaintiff Brumbaugh has been involved in the litigation of this
16 matter for approximately 18 months before being named in the operative complaint. Additional
17 information regarding Plaintiff Brumbaugh will be provided at final approval.

18 **VII. MOTION FOR FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

19 In Plaintiffs’ anticipated motion for final approval, Plaintiffs will provide all of the
20 information specifically requested by the Court. Given the dates and deadlines set forth in the
21 Amended Settlement Agreement, assuming the Court enters the [Revised Proposed] Order
22 Granting Preliminary Approval of Class Action Settlement on or around October 11, 2024, the
23 Parties proposed mid-February 2025 at a time and date convenient for the Court as the final
24 approval hearing date.

25 **VIII. CONCLUSION**

26 For the foregoing reasons, Plaintiffs respectfully request that the Court grant preliminary
27 approval of the Settlement; conditionally certify the Class for settlement purposes; preliminarily
28 appoint and designate Brock & Gonzales, LLP as Class Counsel; preliminarily appoint and

designate Plaintiffs Tina Lundin and Derek Brumbaugh as Class Representatives; appoint Phoenix Class Action Administrators as Settlement Administrator; preliminarily approve the allocations for Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payments, PAGA Penalties, and Administration Expenses Payment; approve the proposed Class Notice; direct the Settlement Administrator to undertake the notice and settlement administration process in conformity with the deadlines and procedures provided by the Amended Settlement Agreement; and schedule a Final Approval Hearing to take place in approximately three and one half months after the Preliminary Approval Order is entered.

Dated: September 18, 2024

BROCK & GONZALES, LLP

By: _____
Danielle L. GruppChang
Attorneys for Plaintiffs