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PROPOSED ORDER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

CESAR CABUYALES, AND ON
BEHALF OF ALL UNNAMED
PLAINTIFFS SIMILARLY SITUATED,

Plaintiffs,

v.

TRANSPORT EXPRESS INC. doing
business as Port Logistics Group; and
DOES 1 through 50, inclusive,

Defendants.

Case No. BC665998
Related Case No. BC702520

CLASS ACTION

**[PROPOSED] ORDER GRANTING
CONDITIONAL CERTIFICATION
OF SETTLEMENT AND
PRELIMINARY APPROVAL OF
SETTLEMENT; APPROVING
CLASS NOTICE AND RELATED
MATERIALS; APPOINTING
CLASS COUNSEL; APPOINTING
SETTLEMENT
ADMINISTRATOR; AND
SCHEDULING FINAL
APPROVAL HEARING**

Hearing Date: May 17, 2021
Time: 9:30 a.m.
Hon. Kenneth R. Freeman
Dept. 14
Action Filed: June 22, 2017
Trial date: Not Set

1 **TO EACH PARTY AND THE COUNSEL OF RECORD FOR EACH PARTY:**

2 The Second Amended Motion for Preliminary Approval of Class Action
3 Settlement came before this Court, Honorable Kenneth R. Freeman, presiding, on May
4 17, 2021. The Court, having considered the papers submitted in support of the motion
5 including, but not limited to, the revised Stipulation of Settlement and Release (the
6 “Settlement”) (attached as Exhibit 1 to the Declaration of Alvin M. Gomez in support of
7 the Second Amended Motion for Preliminary Approval of Class Action Settlement and
8 the modified version attached as Exhibit 1 to the Supplemental Declaration of Alvin M.
9 Gomez in support of the Second Amended Motion for Preliminary Approval of Class
10 Action Settlement), HEREBY FINDS, CONCLUDES, and ORDERS as follows:

11 1. For settlement purposes, the Parties have proposed conditional
12 certification of the following settlement class (“the Class”): all persons who: (1)
13 performed services as a truck driver for PLG in California at any time between June 22,
14 2013 and the date the Court granted preliminary approval (hereafter, the “Class
15 Period”); (2) actually drove for PLG in California without hiring anyone else to perform
16 the work for PLG; and (3) were classified by PLG as an independent contractor instead
17 of an employee. (Excluded from the Class are those individuals who would otherwise be
18 a Class Member under the above definition but has: (i) entered into a separate
19 settlement or release with PLG of his or her claims arising from the performance of
20 services as a driver for PLG during the Class Period; or (ii) timely and properly excluded
21 himself or herself from the Class by submitting a valid and timely request for exclusion.)
22 Pursuant to section 382 of the California Code of Civil Procedure and Rule 3.769 of the
23 California Rules of Court, the Court hereby certifies the Class.

24 2. The Court finds and concludes that Plaintiff CESAR CABUYALES has
25 claims typical of Class members and is an adequate representative of them. The Court
26 hereby appoints Plaintiff to serve as Class Representative for the Class.

1 3. The Court finds and concludes that Gomez Law Group have significant
2 experience and expertise in prosecuting wage-and-hour class actions. The Court
3 appoints this firm as Class Counsel for the Class.

4 4. The Court has reviewed the terms of the Settlement Agreement, including
5 the plan of allocation and the release of claims. The Court has read and considered the
6 Declaration of Alvin Gomez in support of the Second Amended Motion for Preliminary
7 Approval. Based on review of those papers, and the Court's familiarity with this case, the
8 Court finds and concludes that the Settlement is the result of arms-length negotiations
9 between the parties conducted after Class Counsel had adequately investigated
10 Plaintiff's claims and become familiar with their strengths and weaknesses. The
11 assistance of an experienced mediator in the settlement process confirms that the
12 Settlement is non-collusive. Based on all of these factors, the Court concludes that the
13 Settlement meets the criteria for preliminary settlement approval. The Settlement has
14 no obvious defects and falls within the range of possible approval as fair, adequate, and
15 reasonable, such that notice to the Class is appropriate.

16 5. The Court hereby approves, as to form and content, the proposed Class
17 Notice, attached as Exhibit A to the Settlement, and directs that the Class Notice shall be
18 issued in substantially the same form as Exhibit A. The Court hereby also approves, as to
19 form and content, the proposed Notice of Individual Settlement, attached as Exhibit B
20 to the Settlement, and directs that the Notice of Individual Settlement shall be issued in
21 substantially the same form as Exhibit B.

22 6. The Court finds that the proposed Class Notice and notice plan constitute
23 the best notice practicable under the circumstances and shall constitute due and
24 sufficient notice to all persons entitled thereto in full compliance with applicable law.
25 The Court further finds that distribution of the Class Notice in the manner set forth in
26 the Settlement meets the requirements of the California Rules of Court, including Rule
27 3.769(f), and the requirements of due process under California and federal law. The
28 Court further finds that the proposed Class Notice fully and accurately informs the Class

1 of all material elements of the Settlement, of their right to be excluded from the
2 Settlement Class, their right and opportunity to object to the Settlement, their right and
3 opportunity to receive a settlement award, and their right to dispute Defendant's
4 records regarding the number of Days Worked during the relevant time period for the
5 purpose of calculating their settlement award.

6 7. The Court appoints Phoenix Settlement Administrators as the Settlement
7 Administrator and preliminarily approves costs of administration to be paid from the
8 gross settlement fund, currently estimated to be less than \$8,500.00.

9 8. The Court orders that the Notice be delivered via first-class regular U.S.
10 Mail to the Class according to procedures specified in the Settlement Agreement. The
11 Court further Orders that the notice, objection, opt-out, and dispute process be carried
12 out according to provisions of the Settlement.

13 9. Defendant must provide a Class List to the Claims Administrator and Class
14 Counsel within ten (10) days after entry and service of an Order Granting Preliminary
15 Approval regarding this Settlement, which will identify each Class Member, his or her
16 social security number and last known home address and telephone number and all
17 other information required by the Settlement.

18 10. Within ten (10) days after the Claims Administrator receives the Class List
19 from Defendant, the Claims Administrator will first update all addresses using the
20 National Change of Address System (NCOA) and then mail to all Class Members, via
21 first-class United States Mail, the following documents: (a) Notice of Class Action,
22 Exhibit "A" to the Settlement; and (b) Notice of Estimated Individual Settlement
23 Payment, Exhibit "B" to the Settlement (collectively, the "Notice Packet"). The envelope
24 in which the Notice Packet (consisting of Exhibits A and B) is mailed will clearly state
25 that it concerns a class action and the recipient could be entitled to a cash payment. The
26 Notice Packet shall be sent in both English and Spanish language.

27 11. Class Members will have forty-five (45) days after the date when the
28 Notice Packet was deposited by the Claims Administrator in the United States Mail to

1 postmark or deliver to the Claims Administrator a dispute concerning the Days worked
2 during the Class Period and/or PAGA Class Period with satisfactory evidence to support
3 his or her dispute.

4 12. Class Members will have forty-five (45) days after the date when the
5 Notice Packet was deposited by the Claims Administrator in the United States Mail to
6 postmark or deliver to the Claims Administrator a Request for Exclusion. To be timely,
7 the Request for Exclusion must: (a) be mailed to the Claims Administrator; and (b)
8 postmarked no later than the Objection/Exclusion Deadline. The date of the postmark
9 on the return mailing envelope shall be the exclusive means used to determine whether
10 a Request for Exclusion has been timely submitted. The Objection/Exclusion Deadline
11 Date shall be forty-five (45) days after the date the Notice Packet is first mailed (or 60
12 days if re-mailed) by the Claims Administrator to the Class Member.

13 13. In order to object to the Settlement, a Class Member must not have
14 excluded himself or herself from the Settlement and must mail his or her objection to
15 the Claims Administrator no later than forty-five (45) calendar days after the date of the
16 mailing of the Notice Packet or must appear at the final fairness hearing.

17 14. All other procedures, such as extensions of time for re-mailed Notice
18 Packets, will be conducted in accordance with the Settlement.

19 15. The Court sets a final fairness hearing for September 23, 2021, at 11:00
20 a.m. in Department 14 of the Los Angeles County Superior Court. At the final fairness
21 hearing, the Court will determine whether the proposed settlement of the litigation on
22 the terms and conditions provided for in the Settlement are fair, reasonable, and
23 adequate and should be approved by the Court; whether judgment should be entered
24 pursuant to California Rule of Court 3.769(h); the amount of attorneys' fees and costs
25 that should be awarded to Class Counsel; and the amount of the Incentive Payment that
26 should be awarded to the Named Plaintiff.

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16. All papers in support of Plaintiff's requests for attorneys' fees and costs and the amount of the Incentive Payment to the Named Plaintiff shall be filed and served no later than August 23, 2021.

17. All papers in support of final approval of the Settlement shall be filed and served no later than August 23, 2021.

18. The Court reserves the right to adjourn the date of the final approval hearing without further notice to Class Members, and retains jurisdiction to consider all further applications arising out of or connected with the Settlement.

IT IS SO ORDERED.

Dated: _____

Honorable Kenneth R. Freeman
JUDGE OF THE SUPERIOR COURT