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situated

14 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

15 **CENTRAL DISTRICT - SPRING STREET COURTHOUSE**

16 ENRIQUE RUIZ and GEOMARA ESPINOZA,
individually and on behalf of all others similarly
situated,
17

18 Plaintiffs,

19 v.

20 TRANS INTERNATIONAL TRUCKING, INC.,
and DOE 1 through and including 10, inclusive,
21

22 Defendants.

23 MILTON QUINONES, individually, and on behalf
of all others similarly situated,
24

25 Plaintiff,

26 v.

27 TRANS INTERNATIONAL TRUCKING, INC., a
California Corporation and DOES 1 through 50,
inclusive,
28

Defendants.

Case No. 20STCV03790 (Related to *Quinones* on
9/24/20)
*Assigned for all purposes to the Honorable David
S. Cunningham, Dept. SSC-11*

**FIRST AMENDED STIPULATION AND
AGREEMENT OF COMPROMISE AND
SETTLEMENT**

Complaint Filed: January 30, 2020
Trial Date: None Set

Case No. 20STCV20147 (Related to *Ruiz* on
9/24/20)
*Assigned for all purposes to the Honorable David
S. Cunningham, Dept. SSC-11*

Complaint Filed: May 26, 2020
Trial Date: None Set

**FIRST AMENDED STIPULATION AND AGREEMENT OF COMPROMISE AND
SETTLEMENT**

This First Amended Stipulation and Agreement of Compromise and Settlement (“Settlement Agreement”) is made and entered into between the Class Representatives, Enrique Ruiz, Milton Quinones and Geomara Espinoza (collectively “Plaintiffs” or “Class Representatives”), individually and on behalf of the Class (as defined below), by and through their respective counsel of record, Harris & Ruble, and The Kick Law Firm (collectively, “Class Counsel”), on the one hand, and Trans International Trucking, Inc. (“Defendant”), by and through its counsel of record, Greenberg Traurig (“Defense Counsel”), on the other hand, and is subject to the approval of the Court, as provided below. This Settlement Agreement is intended by Plaintiffs and Defendant to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof, as follows:

1. Definitions. As used herein, for the purposes of this Settlement Agreement only, the following terms shall be defined as set forth below:

1.1. “Actions” mean the above-captioned related matters entitled Enrique Ruiz (“Ruiz”), individually and on behalf of all others similarly situated, against Trans International Trucking, Inc., Defendant filed in the Superior Court for the State of California, County of Los Angeles, Case No. 20STCV03790 and Milton Quinones (“Quinones”), individually, and on behalf of all others similarly situated v. Trans International Trucking, Inc., Defendant, filed in the Superior Court of the State of California, County of Los Angeles, Case No. 20STCV20147. (In order to facilitate approval of this settlement, the parties have filed an amended complaint (the “Amended Complaint”) so that the cases were consolidated for settlement purposes only. The Amended Complaint is the operative Complaint for settlement purposes.)

1.2. “Opt Out and Exclusion Deadline” refers to a date that is sixty (60) days after the Notice Date, as such date may be modified by the Court.

1.3. “The Class” refers to all persons or entities that provided transportation services to Defendant in California and were paid as Independent Contractors during the

period May 10, 2019 through preliminary approval. The Class is estimated to consist of approximately 150 members. For purposes of this Agreement only, Defendant stipulates to conditional certification of a Settlement Class for purposes of resolving the claims at issue in the Actions.

1.4. **“Class Counsel”** refers to the attorneys of record for the Class Representatives, *i.e.*, Harris & Ruble and The Kick Law Firm. For purposes of this Agreement only, Defendant stipulates to the appointment of Class **Counsel** as Counsel for the Settlement Class.

1.5. **“Class Member”** refers to any member of the Class, as that term is defined herein.

1.6. **“Class Notice”** refers to the form of direct-mail notice to Class **Members**, substantially in the form attached hereto as “Exhibit A,” as may be modified by the Court.

1.7. **“Class Payment”** shall be defined as the portion of the Net Settlement Amount that will be paid to Class Members who do not opt out in accordance with the procedures set forth herein and as ordered by the Court.

1.8. **“Class Representatives”** refers to Plaintiffs Enrique Ruiz, Geomara Espinoza and Milton Quinones. For purposes of this Agreement only, Defendant stipulates to the appointment of Plaintiffs Enrique Ruiz, Geomara Espinoza and Milton Quinones as the Class Representatives for the Settlement Class.

1.9. **“Court”** refers to Department 11 of the California Superior Court, Los Angeles County, the Honorable David S. Cunningham, Superior Court Judge, presiding (or the presiding Judge at the time of presentation to the Court).

1.10. **“Effective Date”** refers to the date by which the last of the following has occurred: (1) the Settlement Agreement has been executed by all Parties, Class Counsel and Defense Counsel; (2) the Court has given preliminary approval to the Settlement Agreement; (3) the Notice of Class Action Settlement has been given to the putative members of the Settlement Class, providing them with an opportunity to object to the terms of this Settlement Agreement or to opt out of the Settlement Agreement;

(4) the Court has held a formal Final Fairness Hearing and entered a Final Approval Order and Judgment certifying the Settlement Class, and approving the Settlement Agreement; (5) 65 calendar days have passed since the Court has entered a final Order and Judgment certifying the Settlement Class, and approving the Settlement Agreement; and (6) in the event there are written objections filed prior to the Final Fairness Hearing which are not later withdrawn or denied, the later of the following events: five (5) business days after the period for filing any appeal, writ or other appellate proceeding opposing the Court's Final Approval Order and Judgment approving the Settlement Agreement has elapsed without any appeal, writ or other appellate proceeding having been filed; or, if any appeal, writ or other appellate proceeding opposing the Court's Final Approval Order and Judgment approving the Settlement Agreement has been filed, five (5) business days after any appeal, writ or other appellate proceedings opposing the Settlement Agreement has been finally and conclusively dismissed with no right to pursue further remedies or relief. For purposes of determining the Effective Date, the Settling Parties agree that only California Courts have jurisdiction over any such appeals, except for any appellate procedure over which the United States Supreme Court may exercise jurisdiction.

1.11. "Final Fairness Hearing" refers to the hearing at which the Court will make a final determination whether the terms of the Settlement Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for approval, and, if the Settlement is so approved, whether a judgment should be entered thereon, whether the Class Representatives' application for an enhancement should be granted, and whether an application by Class Counsel for an award of reasonable attorneys' fees and reimbursement of Class Counsel's reasonable costs and expenses should be granted.

1.12. "Final Approval Order" refers to the final order by the Court approving the Settlement Agreement following the Final Fairness Hearing.

1.13. "Gross Settlement Amount" refers to the non-reversionary settlement amount

Defendant shall be required to pay, Two Hundred and Ninety-Five Thousand Dollars (\$295,000.00). The Gross Settlement Amount includes all payment of any kind which Defendant shall be obligated to pay.

1.14. **“Judgment”** refers to the final order and judgment by the Court approving the settlement consistent with the California Rules of Court, Rule 3.769(h).

1.15. **“Net Settlement Amount”** shall be defined as the Gross Settlement Amount, less the amounts awarded by the Court for attorneys’ fees, litigation costs, settlement administration expenses, PAGA Payment, and service payments to the Class Representatives as provided for in Paragraphs 3.1 – 3.6. The Net Settlement Amount is the amount that shall be made available to Class Members. The Net Settlement Amount is non-reversionary and shall be distributed in its entirety to the Participating Class Members in the Class.

1.16. **“Notice Date”** refers to the date ordered by the Court for the dissemination of the Notice of Proposed Settlement of Class Action (“Notice” or “Notice Packet”) by direct mail, a date that is expected to be within 45 calendar days after the Preliminary Approval Order Date. The envelope containing the Notice Packet shall have the following language affixed to the outside of the envelope below the Administrator’s address:

“Important Legal Document. You May Receive Money From a Class Action Settlement. A prompt Reply is Required.”

1.17. **“Parties”** refers to Plaintiffs and Defendant.

1.18. **“Preliminary Approval Order”** refers to the order by the Court granting preliminary approval to the Settlement Agreement and directing the parties to disseminate the Notice of Class Action Settlement (“Notice Packet”) to the Class.

1.19. **“Preliminary Approval Order Date”** refers to the date on which the Court enters the Preliminary Approval Order.

1.20. **“Settlement Administrator”** refers to an independent third-party that will be engaged by the Parties and paid out of the Gross Settlement Amount, with the

1 approval of Defendant, to perform the notice, claims administration, distribution
2 and tax-reporting functions further described in this Settlement Agreement.

3 **1.21. “Settlement Agreement”** refers to this Stipulation and Agreement of Compromise
4 and Settlement and exhibits, and any permitted and executed amendments hereto.

5 **1.22. “Settlement Sum”** refers to the amount that shall be payable to each Class Member
6 as determined in accordance with the provisions of Paragraph 2.2.

7 **1.23. “Settling Parties”** refers to Plaintiffs, the Class Members, and Defendant.

8 **1.24. “Work Weeks”** means the total number of weeks during the Class Period, May 10,
9 2019 through preliminary approval, during which Class Members worked
10 performing transportation services and were treated as Independent Contractors by
11 Defendant and shall be calculated on the basis of each five days worked constituting
12 a Work Week. The total number of workdays worked by each Class Member will
13 be divided by 5 and rounded down to the nearest whole number to determine
14 his/her/its total Work Weeks. Only Work Weeks during the period from May 10,
15 2019 through the date of preliminary approval (the “Class Period”) shall be relevant
16 for determining the members of the Class, the period covered by the Release, and
17 the calculation of Settlement Awards.

18 **1.25. “Phoenix”** means Phoenix Settlement Administrators, which the parties propose to
19 be the Settlement Administrator.

20 **1.26. “PAGA Letters”** mean and refer to the letters sent by or on behalf of the
21 Aggrieved Employees to the LWDA regarding the Private Attorney General Act
22 (“PAGA”) allegations in the December 18, 2019, letter from Enrique Ruiz (the
23 “Ruiz Letter”)¹ and the March 3, 2020, letter from Milton Quinones (the
24 “Quinones Letter”) from Settlement Class Counsel submitted to the LWDA
25 regarding the PAGA cases.

26 **1.27. “LWDA”** means and refers to the Labor & Workforce Development Agency.
27

28 ¹ The Ruiz Letter was erroneously dated September 20, 2019, but was submitted on December 18, 2019,
therefore the PAGA period would run from December 18, 2018.

1 **1.28. “Class Release Period”** means and refers to the period between May 10, 2019,
2 through preliminary approval. The **“Class Release Effective Date”** is the date
3 upon which Defendant fully funds the Settlement.

4 **1.29. “PAGA Release Period”** means and refers to the period between May 10, 2019,
5 through preliminary approval. The **“PAGA Release Effective Date”** is the date
6 upon which Defendant fully funds the Settlement.

7 **1.30. “Aggrieved Employees”** means and refers to all persons or entities that provided
8 transportation services to Defendant in California and were paid as Independent
9 Contractors during the “PAGA Release Period”.

10 **1.31. “PAGA Settled Claims”** means and refers to allegations set forth in the PAGA
11 Letters.

12 **2. Payment to Class Members and Aggrieved Employees.**

13 **2.1.** Defendant shall make available to the Settlement Administrator for payment to
14 Class Members who do not timely and validly opt out (“Participating Class
15 Members”), the Net Settlement Amount as defined in Paragraph 1.15. Defendant
16 agrees to pay the Gross Settlement Amount, as may be adjusted by events described
17 in Paragraph 1.14, which includes the sum of the attorneys’ fees awarded under
18 Paragraph 3.1, the litigation expenses awarded under Paragraph 3.2, the PAGA
19 Payment under Paragraph 3.6, and the service payment to the Class
20 Representatives awarded under Paragraph 3.3. Funds associated with Class
21 members who do not submit timely written requests for exclusion from the
22 Settlement shall become part of the Net Settlement Amount available to be
23 distributed to the timely Participating Class Members.

24 **2.2.** The Net Settlement Amount shall be available to pay Class Members who do not
25 timely opt out based on the Class Member’s number of Work Weeks worked during
26 the Class Period. The Participating Class Members’ individual Settlement awards
27 will be determined by first dividing the Net Settlement Amount by the total number
28 of Work Weeks worked by the entire Class during the Class Period, resulting in the

1 Class Work Week Value. The Class Work Week Value will then be multiplied by
2 the number of Work Weeks worked by each Participating Class Member during the
3 Class Period to arrive at their individual Settlement awards. The Notice Packet sent
4 to each Class Member shall be individualized and include information upon which
5 his or her payment is calculated, *i.e.*, the number of Work Weeks worked during
6 the Class Period, and the estimated amount to be paid to that Class Member based
7 on this calculation. The Settlement Administrator shall endeavor to make the
8 payments to the Participating Class Members and Aggrieved Employees within
9 seven (7) days of the Effective Date, provided that the Settlement is funded by
10 Defendant on the Effective Date.

11 **2.3.** Twenty-five percent of the PAGA Payment (the “Aggrieved Employees’ PAGA
12 Share”) shall be allocated to the Aggrieved Employees, based upon the Aggrieved
13 Employee’s number of Work Weeks worked during the PAGA Period. The
14 Aggrieved Employees’ individual awards will be determined by first dividing the
15 PAGA Payment by the total number of Work Weeks worked by the Aggrieved
16 Employees during the PAGA Period, resulting in the PAGA Work Week Value.
17 The Work Week Value will then be multiplied by the number of Work Weeks
18 worked by each Aggrieved Employee during the PAGA Period to arrive at their
19 individual Settlement awards.

20 **3. Additional Benefits to the Class.**

21 **3.1. Attorneys’ Fees.** Attorneys’ fees awarded to Class Counsel will be paid out of the
22 Gross Settlement Amount. Class Counsel shall apply to the Court for approval of
23 an award of attorneys’ fees in an amount that will not exceed one third of the Gross
24 Settlement Amount, (estimated to be \$98,333.00), in accordance with the
25 applicable legal precedents therefore, and conditioned upon the Settlement’s
26 Effective Date. As long as the total amount requested or awarded does not exceed
27 one third of the Gross Settlement Amount, Defendant agrees not to oppose the
28 application for attorneys’ fees and to pay such amounts as requested by Class

Counsel and awarded by the Court, up to one-third of the Gross Settlement Amount. Payment shall be made jointly to Harris & Ruble and The Kick Law Firm, with the amount to be split equally between both firms, within seven (7) days of the Effective Date as defined in Paragraph 1.11. Class Counsel shall not apply to the Court for an award of attorneys' fees that is greater than the amounts set forth in this Settlement Agreement, and, in no event shall Defendant be required to pay Class Counsel more than one third of the Gross Settlement Amount in attorneys' fees. Any reduction by the Court in attorneys' fees awarded to Class Counsel will revert to the Net Settlement Amount and be available to pay Participating Class Members in accordance with Paragraph 2.2. Attorneys' fees were not negotiated until a settlement was reached as to all major issues pertaining to the claims of the Class.

3.2. Litigation Expenses. Litigation expenses awarded to Class Counsel will be paid out of the Gross Settlement Amount so long as those expenses do not exceed \$17,500.00. Class Counsel shall apply to the Court for approval of an award of expenses in an amount not to exceed \$17,500.00 in accordance with the applicable legal precedents therefore, and conditioned upon the Settlement reaching its Effective Date. Should Class Counsel's litigation expenses awarded be less than \$17,500.00, the difference will revert to the Net Settlement Amount and be available to pay Participating Class Members in accordance with Paragraph 2.2. Defendant agrees not to oppose the application for expenses and to pay such amounts as requested by Class Counsel and awarded by the Court, up to \$17,500.0. Payment shall be made jointly to the Harris & Ruble and The Kick Law Firm in the amount of their respective actual costs, within seven (7) days of the Effective Date. Expenses were not negotiated until a settlement was reached as to all major issues pertaining to the claims of the Class.

3.3. Additional Compensation to Class Representatives. Class Counsel will petition the Court for a service payment to the Class Representatives to compensate them

1 for their initiation and prosecution of the above-captioned Actions, work
2 performed, risks undertaken for the payment of attorneys' fees and costs had this
3 matter not resolved favorably, and their time and energy devoted to serving as Class
4 Representatives. Class Counsel's application for service payment to the Class
5 Representatives will not exceed \$15,000.00, i.e. \$5,000.00 each. As long as the total
6 amount requested or awarded does not exceed \$15,000.00 for the Class
7 Representatives to be split equally between the Class Representatives, Defendant
8 agrees not to oppose the application for the service payment and to pay the amount
9 awarded by the Court out of the Gross Settlement Amount. An IRS Form 1099 will
10 be provided for the amount paid as the Class Representatives' service payments.
11 The service payment shall be independent of any other benefits to which the Class
12 Representatives may be entitled as a Class Member pursuant to this Settlement
13 Agreement and plan of allocation. The service payment to the Class
14 Representatives will be paid within seven (7) days after the Effective Date. Any
15 reduction by the Court in the service payment awarded to the Class Representatives
16 will revert to the Net Settlement Amount and be available to pay Participating Class
17 Members in accordance with Paragraph 2.2. The service payments shall be in
18 addition to the Class Representatives' allocated Settlement Sum to be paid to them
19 from the Net Settlement Amount.

20 **3.4. Notice and Administration Costs.** Administration costs will be paid to the
21 Settlement Administrator as ordered by the Court, from the Gross Settlement
22 Amount within seven (7) days of the Effective Date. Class Counsel will apply for
23 payment to the Settlement Administrator for all work performed in administering
24 the Settlement described in this Settlement Agreement, and as customarily
25 performed by Settlement Administrators. The administration costs are estimated to
26 be approximately \$12,000.00. In the event the cost of administration exceeds
27 \$12,000.00, Defendant will not be required to pay more than the Gross Settlement
28 Amount, but the extra administration costs shall come from the Gross Settlement

Amount.

3.5. Limitation on Litigation Costs and Attorneys' Fees. Except as provided in this Settlement Agreement, Defendant shall not be required to pay any other expenses, litigation costs, damages or fees incurred by the Class Representatives, by any Class Member, or by any of their attorneys, experts, advisors, agents or representatives in relation to the Actions. Any award of attorneys' fees, litigation costs and expenses payable hereunder to Class Counsel shall be in complete satisfaction of any and all claims for such attorneys' fees, costs and expenses, under state or federal law, which the Class Representatives, the Class, Class Counsel, or any other attorneys have or may have against Defendant arising out of or in connection with the Actions and its Settlement, including, but not limited to, any claims for attorneys' fees, costs and expenses involved in litigating the Actions and in negotiating and implementing this Settlement Agreement, as well as attorneys' fees, costs and expenses incurred through and after the final disposition and termination of the Actions and including any and all appeals.

3.6. Payment to the California Labor and Workforce Development Agency. The Parties shall apply to the Court for approval of payment under the California Private Attorneys General Act ("PAGA"). The amount of \$10,000.00 (the "PAGA Payment") shall be paid from the Gross Settlement Amount for penalties under PAGA, \$7,500.00 of which will be paid directly to the LWDA, the other \$2,500.00 will be included in the Net Settlement Amount. In the event the LWDA rejects this allocation, the Parties will meet and confer with the Court and the LWDA to reach a penalty allocation acceptable to all parties that does not materially alter the terms of Settlement, nor require Defendant to pay more than the Gross Settlement Amount. The payment of the PAGA amount to the LWDA shall be done within seven (7) days of the Effective Date.

3.7. Persons Objecting to the Settlement. Neither Defendant nor the Class shall be responsible for fees, costs or expenses related to any Class Members who submit

1 objections to the Settlement Agreement or any appeal by an objector arising from
2 the Actions for attorneys' fees, costs, or expenses of any kind. Any Class Member
3 who elects to exclude himself or itself from the Settlement shall not have standing
4 to submit an Objection.

5 **3.8. Uncashed Checks.** Any funds associated with checks that have not been cashed
6 within 180 days, will become void and the individual Settlement Amount
7 associated with that un-cashed check shall be sent to the California State
8 Controller's Office: Unclaimed Property Fund in the name of the Participating
9 Class Member.

10 **4. No Admissions.** The Settling Parties understand and agree that this Settlement Agreement
11 is the result of a good faith compromise settlement of disputed claims, and Defendant is entering into this
12 Settlement Agreement solely to resolve doubtful and disputed matters. No part of this Settlement
13 Agreement or any conduct or written or oral statements made in connection with this Settlement and this
14 Settlement Agreement, whether or not the Settlement is finally approved and/or consummated, may be
15 offered as or construed to be an admission or concession of any kind by Defendant or any of the Releasing
16 or Released Parties or anyone else. In particular, but without limiting the generality of the foregoing,
17 nothing about this Settlement Agreement shall be offered or construed as an admission that Defendant has
18 failed to pay any Class Member in accordance with obligations set forth in the California Labor Code, or
19 of liability in general, or any wrongdoing, impropriety, responsibility, or fault whatsoever on the part of
20 Defendant and/or the Released Parties, as alleged in the operative Complaint in this matter. Similarly,
21 nothing about this Settlement Agreement shall be construed as or deemed to be evidence of, or an
22 admission or concession that the Class Representatives or any Class Member has suffered any damage. In
23 addition, this Settlement Agreement shall not be offered or be admissible in evidence against Defendant
24 or any Released Party, except in any action or proceeding brought by or against the Class Representatives,
25 the Class, Class Members, or Defendant to enforce its terms, or by Defendant in defense of any claims
26 brought by the Class Representatives, the Class, Class Members, or any member of the general public,
27 including any and all individuals who opted out of the Class. The provisions of this Paragraph shall
28 become effective when this Settlement Agreement is signed and shall be binding on the Settling Parties

1 and counsel regardless of whether the Settlement Agreement is preliminarily and/or finally approved or
2 terminated for any reason, or rendered null and void.

3 **5. Final Order, Judgment and Release of Claims.** In exchange for the consideration set
4 forth in this Settlement Agreement, the Class Representatives and the Class Members agree to enter a
5 judgment against Defendant and to release all claims as set forth herein.

6 **5.1. Judgment.** Upon Final Approval of this Settlement Agreement, judgment shall be
7 entered by the Court and the Actions shall be resolved in their entirety.

8 **5.2. Released Claims by Class Members.** Upon the date that Defendant fully funds
9 the Settlement, the claims to be released by the Class Members who do not seek
10 exclusion from this Settlement, pursuant to the procedure set forth in Paragraph 6.8,
11 will include all claims during the Class Period under state, federal or local law
12 arising from their relationships with Defendant characterized by Defendant as
13 Independent Contractor relationships based on the facts alleged in the operative
14 Complaint in the Actions against Defendant, its respective successors, current and
15 former parents, subsidiaries, affiliated corporations and entities, and each of their
16 respective officers, directors, agents, and employees and any other person or entity
17 that could be jointly liable with them for the claims (collectively, the “Released
18 Parties”), including the following:

19 (a) any and all claims for unpaid wages, penalties, reimbursements and/or
20 premiums under Labor Code sections 201-203, 226, 226.2, 226.3, 226.7,
21 226.8, 512, 1194, 1194.2, 1197, 2802, including claims for unpaid
22 minimum wages, and/or rest breaks, inaccurate, incomplete or incorrect
23 pay instruments/stubs and/or wage/earnings statements, unreimbursed
24 business expenses, and unfair competition in the operative Complaints;

25 (b) any and all claims regarding failure to provide meal and rest periods, and
26 failure to pay meal and rest period premiums under Labor Code sections
27 226.7 and 512 and the applicable Wage Order related to the alleged Labor
28 Code violations asserted in the operative Complaint;

- 1 (c) any and all claims regarding waiting time penalties Labor Code sections
2 201, 203 *et seq.* and the applicable Wage Order asserted in the operative
3 Complaint;
- 4 (d) any and all claims for injunctive relief, restitution, fraudulent business
5 practices brought pursuant to the California Business & Professions Code
6 asserted in the operative Complaint; and
- 7 (e) any and all claims or causes of action for penalties, interest and/or attorneys'
8 fees and costs based on the above alleged Labor Code violations asserted in
9 the operative Complaint.

10 **5.3. Released Claims by Aggrieved Employees.** Upon the date that Defendant fully
11 funds the Settlement, the claims for PAGA Penalties to be released by the
12 Aggrieved Employees, based upon the PAGA Letters or the Operative Complaint
13 against the Released Parties include the following:

- 14 (a) PAGA penalties under Labor Code section 2699 based on the alleged Labor
15 Code violations asserted in the PAGA Letters and operative Complaints for
16 unpaid wages, penalties, reimbursements and/or premiums under Labor Code
17 sections 201-203, 226, 226.2, 226.3, 226.7, 226.8, 510, 558, 512, 1174,
18 1174.5, 1194, 1194.2, 1197, 2802, including claims for unpaid minimum
19 wages, and/or rest breaks, inaccurate, incomplete or incorrect pay
20 instruments/stubs and/or wage/earnings statements, unreimbursed business
21 expenses, and unfair competition, and;
- 22 (b) any and all other claims under PAGA arising out of the wage, hour and payroll
23 practices asserted in the PAGA Letters and operative Complaint.
- 24 (c) The Released Claims Aggrieved Employees include all PAGA claims that
25 could have been premised on the facts alleged in the Complaint. Class
26 Members and Aggrieved Employees will release PAGA claims even if Class
27 Members request exclusion from the class.

28 **5.4. Released Claims.** The claims set forth in all of Paragraph 5.2 hereinabove and

subparts thereto shall be referred to as the (“Released Claims”).

5.5. Effective Dates of Release. The Released Claims set forth in Paragraph 5.2 shall cover all claims held by the Releasing Parties from May 10, 2019 through the entry of an order granting preliminary approval. The Release shall not be effective until the Settlement is fully-funded by Defendant.

5.6. No Other Liability. The Settlement Agreement shall be in full settlement, compromise, release and discharge of the Released Claims and each of them, and the Released Claims by the Class Representatives, and the Released Parties shall have no further or other liability or obligation to any Class Member, the Class Representatives or any other Releasing Party with respect to the Released Claims, except as expressly provided herein.

6. Class Notice and Claims Administration.

6.1. Engagement of Settlement Administrator. The Parties have agreed to retain Phoenix as the court-approved class administrator, or “Settlement Administrator,” to perform the notice and other claims administration functions necessary for the parties to fulfill their Settlement obligations, and shall request its appointment as the Settlement Administrator.

6.1.1. The Settlement Administrator shall perform the customary duties of a Settlement Administrator including, but not limited to the following: (a) preparing, printing and disseminating the Class Notice; (b) establishing a toll free number for the receipt of all Class Member communications; (c) promptly furnishing to Class Counsel and Defense Counsel copies of all objections and requests for exclusion received; (d) determining each putative Class Member’s status as a member of the Class and verifying any information submitted by Class Members; (e) distributing a Settlement Sum to each Participating Class Member, and (f) working with the Parties to resolve disputes. Additionally, the Settlement Administrator will handle all tax document preparation and reporting, including state and federal tax

forms if any.

6.1.2. Also, on a weekly basis after the Notice Date, the Settlement Administrator shall provide Defense Counsel and Class Counsel with a summary report, including the total number of Notice Packets that were returned as undeliverable, the total number of Disputes Forms received, and the total number of requests for exclusion and objections received. The Settlement Administrator shall maintain records of its work, which shall be available for inspection upon request by Defendant's counsel or Class Counsel.

6.2. Identification of Class Members and Aggrieved Employees.

6.2.1. Defendant will complete a review of its records to identify the Class Members.

6.2.2. Within thirty (30) calendar days of the entry of the Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the following information:

6.2.2.1. the names, last known addresses, telephone numbers, and social security numbers or taxpayer ID numbers of each Class Member;

6.2.2.2. the total number of Work Weeks worked by each Class Member during the Class Period; and

6.2.2.3. The information described in subparagraphs 6.2.2.1 and 6.2.2.2 shall be collectively referred to as the ("Class Data List").

6.2.3. Upon its receipt of the Class Data List, the Settlement Administrator shall access the National Change of Address ("NCOA") Database, and update the addresses maintained by Defendant before mailing the Notice Packets.

6.2.4. On or before the Notice Date, the Settlement Administrator shall send the Notice of Class Action Settlement ("Notice Packet") by first class mail, forwarding requested, to all members of the Class at the addresses identified through the process described above.

6.2.5. As to any Notice Packets returned by the U.S. Post Office as undeliverable

1 or where the NCOA Database indicates that the last known address of any
2 Class Member is invalid or otherwise undeliverable or not appropriate for
3 receipt of the Notice Packet, the Settlement Administrator shall perform a
4 skip trace procedure. Such skip-trace procedures shall be performed upon
5 receipt of the notice thereof. If this procedure reveals a new address, then
6 the Settlement Administrator shall re-mail the Notice Packet as soon as
7 possible to the new address, and no later than three (3) business days after
8 receipt of the undelivered Notice Packet. Any Settlement Class Member
9 who is re-mailed a Notice shall have an additional ten (10) days past the
10 end the of the notice period to submit a dispute, objection or request for
11 exclusion.

12 **6.2.6.** If Defendant and the Settlement Administrator determine, based upon
13 further review of available data, that a person previously identified as being
14 a Class Member should not be so included or that a person who should have
15 been included as a Class Member was not so included, Defendant and the
16 Settlement Administrator shall promptly delete or add such person as
17 appropriate and notify Class Counsel prior to such deletions or additions
18 (and the reasons therefore), and if added to the Class, to provide the number
19 of Work Weeks worked by that person during the Class Period.

20 **6.2.7.** Other than the obligations set forth in this Settlement Agreement, Defendant
21 shall have no additional obligation to identify or locate any Class Member.

22 **6.3. Opt Out Only.**

23 **6.3.1.** Class Members need not take any action to participate in the Settlement.
24 Any Class Member who does not timely and validly opt out will receive his
25 or her portion of the Settlement. However, even if a Class Member opt out
26 of the Settlement, they will receive their portion of the PAGA Payment and
27 Release their PAGA claims. The Notice shall be individualized and shall
28 include each Class Member's total number of Work Weeks worked during

1 the Class Period according to Defendant's records, and the estimated
2 amount of the Settlement Sum he or she can expect to receive if he or she
3 does not validly opt out, which shall be calculated based on a 100% claim
4 rate of the Net Settlement Amount being distributed to Participating Class
5 Members. The Notice shall also state that the actual amount may vary
6 depending on the number of opt-outs, etc.

7 **6.3.1.1.** The Notice shall state that if the Class Member disagrees with the
8 information set forth thereon regarding the number of Work
9 Weeks worked during the Class Period, the Class Member must
10 submit to the Settlement Administrator the information that
11 he/she/it believes is correct, explain the basis for such belief, and
12 submit written documentation to support his/her/its challenge.
13 Failure to submit written documentation to the Settlement
14 Administrator to support such challenge will result in the
15 Settlement Administrator's reliance upon the data contained in
16 Defendant's records and shall be controlling, without the need for
17 a curative letter from the Settlement Administrator. The deadline
18 for a Class Member to challenge or dispute the number of Work
19 Weeks shall be the same date as the Exclusion Deadline.

20 **6.3.2. Availability of Class Notice.** Individualized Class Notice may be requested
21 by Class Members or individuals who believe they should be a Class
22 Member from the Settlement Administrator. The Settlement Administrator
23 shall send a Notice of Class Action Settlement to such Class Members or
24 individuals upon receipt of such a request following confirmation of
25 his/her/its eligibility to participate, if it is an individual or entity that
26 believes they should be a Class Member.

27 **6.4. Final Fairness Hearing.** The Settling Parties will, at the time of hearing on
28 Preliminary Approval, request a date and time to be set for the Final Fairness

Hearing and will include that Final Fairness Hearing date in the Class Notice, **as** approved by the Court.

6.5. Objections to the Settlement. Any Class Member may object to the proposed Settlement, or any portion thereof, by mailing a written objection, and supporting papers, if any, to the Settlement Administrator (which Settlement Administrator shall forward to Class Counsel and Defense Counsel) at the address established by the Settlement Administrator and set forth in the Class Notice. Written objections should be postmarked no later than sixty (60) days after the Notice Date (“Objection Deadline”). A written objection must contain the objecting Class Member’s full name, current address, and telephone number. The written objection should state all objections, the basis thereof, and the reasons therefore, and include any and all supporting papers (including, without limitation, all briefs, written evidence, and declarations). The Settlement Administrator shall send all objections via email to Defense Counsel and Class Counsel. Regardless of whether a written objection has been filed or not, Class Members shall have the right to present their objections orally at the Final Fairness Hearing. If a Class Member wishes to appear at the Final Fairness Hearing and present their objection to the Court orally the objector need not submit a Notice of Intent to Appear or written objection. Class Members who file an objection remain eligible to receive monetary compensation from the Settlement.

6.6. All Class Members Settling Parties. All Class Members, except those Class Members who have timely submitted proper requests for exclusion pursuant to the procedure set forth in Paragraph 6.8, shall be deemed to be within the Class for all purposes under this Settlement Agreement, and shall be bound by the **terms** and conditions of this Settlement Agreement, including all orders issued pursuant thereto, and shall be deemed to have waived all unstated objections and opposition to the fairness, reasonableness, and adequacy of this Settlement Agreement, and any of its terms.

1 **6.7. Effect of Settlement Agreement.** If the Settlement Agreement is given final
2 approval, then it shall operate as a full, complete, and final release of all the
3 Released Claims of the Class **Representatives**, the Class Members and all
4 Releasing Parties.

5 **6.8. Exclusion.** In order for a Class Member to validly and effectively request exclusion
6 from, and opt out of, this Settlement, the Class **Member** must submit a signed
7 request to be excluded from this Settlement to the Settlement Administrator, in the
8 manner described in the Notice, that is postmarked, physically delivered or faxed
9 to the Settlement Administrator by no later than sixty (60) calendar days after the
10 Notice Date (“Exclusion Deadline”). Any Class Member who requests to be
11 excluded from this Settlement as provided in this paragraph shall not receive any
12 payment pursuant to this Settlement, other than his/her/its share of the PAGA
13 Payment, shall have no right to object to this Settlement, and shall not be bound by
14 any release provided for in this Settlement Agreement or Judgment. No Class
15 Member may exclude themselves from the PAGA portion of the Settlement.
16 Whether or not a Class Members exclude himself from the Class Settlement, they
17 will receive a check for the PAGA portion of the Settlement, and shall release the
18 PAGA claims herein.

19 **7. Notice Process.**

20 **7.1.** Class Members will have sixty (60) calendar days from the date the Notice Packets
21 are mailed by the Settlement Administrator to postmark their requests for exclusion
22 and/or objections. The Settlement Administrator will perform one skip-trace on
23 returned mail upon receiving notice that a Notice Packet was undeliverable and will
24 make best efforts promptly to re-mail a Notice Packet if an updated address is
25 located. It is the intent of the Parties that reasonable means be used to locate Class
26 Members.

27 **7.2.** The Settlement Administrator shall be responsible for calculation of the Settlement
28 Sums, issuance of checks, any required tax reporting and for communicating this

1 information to Defense Counsel. Upon completion of its calculation of payment,
2 the Settlement Administrator shall provide Class Counsel and Defense Counsel
3 with a report listing the amount of all payments to be made to each Class Member
4 in which the names of such Class Members will be coded. Following distribution
5 of the amounts awarded by the Court proof of payment will be filed with the Court
6 and provided to the Parties' counsel.

7 **7.3. Reporting.** The Settlement Administrator shall compile aggregate opt out and
8 dispute statistics on a weekly basis. The Settlement Administrator shall disseminate
9 the reports in a .pdf file or an Excel spreadsheet to Class Counsel and to Defense
10 Counsel on a weekly basis.

11 **7.4.** Defendant's payment, as provided in Paragraph 2.1, shall be transmitted to the
12 Settlement Administrator on or before three (3) business days prior to the disbursal
13 date. Checks shall be mailed to the addresses pre-printed on the Notice Packets
14 submitted to the Settlement Administrator unless the Class Member provides the
15 Settlement Administrator with a different address prior to mailing.

16 **7.5.** If a Settlement Sum check sent to a Class Member is returned with a forwarding
17 address provided by the U.S. Post Office, then it shall be re-mailed to the
18 forwarding address provided. If a Settlement Sum check is returned as
19 undeliverable by the U.S. Post Office or is otherwise designated by the U.S. Post
20 Office as having been sent to an invalid address, and the Class Member did not
21 provide the Settlement Administrator with additional address information after the
22 mailing of said check, then the Settlement Administrator shall call the Class
23 Member at the number provided by Defendant in the Class Data List or as provided
24 by the Class Member on the Notice Packet.

25 **7.6. Discharge of Obligations.** Defendant shall fully discharge its obligations to those
26 Class Members to whom it will pay a Settlement Sum through the mailing of a
27 check as set forth in Paragraphs 7.4 and 7.5, regardless of whether such checks are
28 actually received and/or negotiated by Class Members. Any check that is not

1 negotiated within 180 days of mailing to a Class Member, or that is undeliverable
2 following unsuccessful efforts described in Paragraph 7.5, shall not be re-issued.
3 For purposes of determining whether Defendant has met its financial obligation to
4 pay the Settlement, Defendant will be deemed to have paid for the Released Claims
5 upon the mailing of the check to the Class Member, regardless of whether such
6 Class Member subsequently negotiates the check.

7 **7.7.** Any Class Member who does not timely submit a valid request for exclusion shall
8 be entitled to receive his/her share the proceeds from the Net Settlement Amount,
9 shall be bound by the release provided for herein above, and shall be barred from
10 bringing any action against the Released Parties concerning the Released Claims.

11 **7.8. Dispute Resolution Procedure.** In the event of any disagreement between an
12 actual or potential Class Member and Defendant regarding the right to receive a
13 Settlement Sum or the amount of the Settlement Sum, the following dispute
14 resolution procedure shall be used: The actual or potential Class Member shall
15 provide sufficient documentation such that Defendant and the Settlement
16 Administrator are able to thoroughly investigate the Class Member's eligibility to
17 participate in the Settlement. The Settlement Administrator shall provide these
18 items to Defense Counsel and Class Counsel for review, within three (3) business
19 days of receipt. If the Parties cannot thereafter resolve the disagreement, then the
20 dispute shall be resolved by the Court, based on a review of Defendant's records
21 and the Class Member's or person's records. The Court's decision will be final and
22 non-appealable.

23 **8. Taxes.**

24 **8.1.** For tax purposes only, the Settling Parties agree that 100% of the Settlement
25 payments to Class Members shall be considered payment for settlement of alleged
26 claims for misclassification, penalties, premiums, interest and other non-wage
27 payments, for which the Settlement Administrator will issue an IRS Form 1099 to
28 each Class Member.

1 **8.2.** Class Members shall be responsible for paying all applicable federal, state or local
2 income taxes on the Settlement Sums paid to them under this Settlement
3 Agreement.

4 **8.3.** The Settlement Administrator will be responsible for issuing any required state and
5 federal reporting documents (such as IRS Form 1099s) to Class Members, Class
6 Counsel, and the Class Representatives on behalf of Defendant.

7 **8.4.** Class Members shall be advised to seek independent tax advice regarding the tax
8 consequences of their Settlement Sums.

9 **8.5.** For all purposes, payment shall be deemed compensation to the Class Member,
10 whether a current or former relationship to Defendant exists, in the year the
11 payment is actually made. It is the intent of this Settlement that settlement payments
12 are the sole payments to be made by Defendant to the Class Members, and that
13 Class Members are not entitled to any new or additional compensation or benefits
14 as a result of having received the individual Settlement awards.

15 **8.6.** Defendant makes no representation as to the tax treatment or legal effect of the
16 payment called for hereunder, and the Class Representatives and Class Members
17 are not relying on any statement, representation, or calculation by Defendant or by
18 the Settlement Administrator in this regard. The Class Representatives and Class
19 Members understand and agree that except for Defendant's payment of the
20 employer's portion of any payroll taxes, they will be solely responsible for the
21 payment of any taxes and penalties assessed on the payments described herein.

22 **9. Application for Preliminary Approval Order.** Class Counsel will file a Motion for
23 Preliminary Approval of the proposed Settlement, pursuant to California Rule of Court 3.769, and shall
24 apply for a Preliminary Approval Order that contains the following provisions:

25 **9.1.** preliminarily approving the Settlement Agreement under the legal standards
26 relating to the preliminary approval of class action settlements;

27 **9.2.** approving the form of the Notice and Notice Packet, and finding that the proposed
28 method of disseminating the Notice Packet meets the requirements of California

Rule of Court 3.766 and of due process and is the best notice practicable under the circumstances;

9.3. approving the mutually-approved class administrator as the Settlement Administrator;

9.4. establishing the procedures and the deadline by which Class Members may assert objections to the Settlement;

9.5. setting a date for the Final Fairness Hearing;

9.6. setting a date that is approximately seven (7) days before the date of the Final Fairness Hearing by which the Settling Parties must file responses to timely objections, if any, to the Settlement filed by Class Members; and

9.7. providing that, pending the Court's final determination of whether the proposed Settlement will be approved, and in aid of the Court's jurisdiction and to prevent a multiplicity of lawsuits, the Class Representatives and all members of the Class, and anyone acting on their behalf (including, but not limited to, attorneys, representatives, and agents of any Class Member), who have actual knowledge of this stipulation, and who have not requested to be excluded from the Settlement are barred and enjoined from instituting, commencing, or continuing to prosecute, directly or indirectly, as an individual or collectively, representatively, derivatively, or on behalf of himself or herself, or in any other capacity of any kind whatsoever, any action in this Court, any other state court, or any arbitration or mediation proceeding or any other similar proceeding, against any Released Party that asserts any claims that are Released Claims that would be released and discharged upon final approval of the Settlement, except as the Court may further order upon application of a Class Member and notice to all parties.

10. Final Fairness Hearing. At the Final Fairness Hearing, Plaintiffs and Defendant shall use their best efforts to urge the Court to grant final approval of the Settlement in its entirety (including any modification made thereto with the consent of the Settling Parties as provided herein), and to enter a Final Approval Order and Judgment as set forth in Paragraph 11.

1 **11. Final Approval Order and Judgment.** If the Settlement (including any modifications
2 made thereto with the consent of the Settling Parties as provided herein) is finally approved by the Court
3 following the Final Fairness Hearing, then the Settling Parties hereto shall jointly request that the Court
4 enter a Final Approval Order and Judgment as follows:

5 **11.1.** The Final Approval Order shall include the following provisions:

6 **11.1.1.** finding that the dissemination of the Notice Packet in the form and manner
7 ordered by the Court was accomplished as directed, met the requirements
8 of due process, was the best notice practicable under the circumstances,
9 and constituted due and sufficient notice to all persons entitled thereto;

10 **11.1.2.** finding that the Class Representatives and Class Counsel herein have fairly
11 and adequately represented and protected the interests of the Class at all
12 times in the Actions;

13 **11.1.3.** finally approving the Settlement Agreement and the Settlement as fair,
14 reasonable and adequate and directing consummation of the Settlement in
15 accordance with its terms and provisions;

16 **11.2.** The Judgment shall include the following provisions:

17 **11.2.1.** directing the Settling Parties to implement the terms of the Settlement
18 Agreement, including without limitation the provisions regarding the
19 payment of the Settlement Sum to each Class Member as set forth in this
20 Settlement Agreement;

21 **11.2.2.** defining the Class;

22 **11.2.3.** releasing and discharging the Released Parties from any and all liability
23 with respect to the Released Claims as hereinabove provided;

24 **11.2.4.** permanently barring and enjoining all Class Members who did not timely
25 opt out from prosecuting against any of the Released Parties, any individual,
26 class or collective claims based on any of the Released Claims released
27 herein;

28 **11.2.5.** awarding reasonable attorneys' fees, costs, and expenses to Class Counsel

as provided in Paragraphs 3.1 and 3.2, and subject to the limitations set forth in Paragraph 3.5, or reserving jurisdiction with respect thereto;

11.2.6. awarding service payment to the Class Representatives as provided in Paragraph 3.3, and subject to the limitations set forth therein, or reserving jurisdiction with respect thereto;

11.2.7. reserving continuing and exclusive jurisdiction over all matters related to the administration and consummation of the terms of this Settlement, over the enforcement, construction and interpretation of this Settlement Agreement, over the enforcement, construction, and interpretation of the Judgment, including, but not limited to, the provisions therein enjoining any further litigation of Released Claims, and over Plaintiff and all Class Members (and Plaintiff's attorneys and law firms) in connection therewith; and

11.2.8. ordering the Settlement Administrator to post the Final Order and Judgment on its website for 60 days following the entry of the Court's Order granting final approval of the Settlement.

12. Finality; Effect of the Settlement Not Being Final.

12.1. Finality. The approval of the Settlement shall be considered "Final" on the Effective Date. Except as expressly stated herein, none of the obligations of Defendant pursuant to the Settlement Agreement shall become effective until the Settlement becomes Final, but Defendant may waive this condition in writing.

12.2. In the event that the Settlement as provided for in this Settlement Agreement does not become Final, or does not become effective for any reason other than the failure of any party to perform such party's obligations hereunder (except as to the Settlement not becoming Final because of any appeal, which circumstance can be waived by Defendant), then the Settlement Agreement shall become null and void and of no further force and effect, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all parties

1 hereto and his respective predecessors and successors, and all parties and their
2 respective predecessors and successors shall be deemed to have reverted to his
3 respective positions in the Action as of the date and time immediately prior to the
4 execution of this Settlement Agreement, and except as otherwise expressly
5 provided, the effect shall be the same as if the Settlement Agreement was
6 terminated pursuant to Paragraph 13.

7 **13. Settlement Termination.**

8 **13.1.** In the event that Class Members representing more than an aggregate total of ten
9 (10%) percent of the total Work Weeks worked elect to exclude themselves from
10 this Settlement, Defendant will have the unilateral right to void this Settlement
11 within fourteen (14) calendar days after the Notice Deadline. If Defendant exercises
12 its rights under this Paragraph: (a) this Settlement Agreement and the Settlement
13 (with the exception of Paragraph 4) shall be terminated and become void and of no
14 effect, except for the obligation of Defendant to pay for any and all expenses
15 incurred in connection with the notice and administration of the Settlement on or
16 before the date on which the Settlement is terminated; (b) any actions taken or to
17 be taken in connection with this Settlement Agreement and the Settlement shall
18 become null and void and of no effect; (c) this Settlement Agreement and the
19 Settlement and any hearings or proceedings thereunder shall not be referred to or
20 used as evidence for or against any party or Class Member in this or any other action
21 or proceeding; and (d) all pretrial proceedings, including discovery, shall resume
22 30 days thereafter as if this Settlement had not been submitted for approval of the
23 Court.

24 **13.2.** Moreover, in the event that (a) the Court declines to enter Preliminary Approval of
25 the Settlement Agreement or declines to enter the Final Approval and/or Judgment
26 or any part thereof as provided for herein, or the Settling Parties hereto fail to
27 consent to the entry of alternative forms of Judgment, in lieu thereof, or after such
28 consent the Court declines to enter such alternate form of Judgment; (b) any other

1 conditions to the Settlement are not satisfied; (c) the Court disapproves this
2 Settlement, or any term contained in this Settlement Agreement, including any
3 amendments hereto, and such disapproval becomes final by reason of its affirmance
4 on appeal or lapse of time or otherwise; or (d) the Court approves this Settlement,
5 including any amendments hereto, but any such judgment and approval is finally
6 reversed on appeal, then, in any such event, this Settlement shall be void, and the
7 Preliminary Approval Order and the Final Approval Order and Judgment shall be
8 vacated upon application to the Court. In such event, (a) this Settlement Agreement
9 and the Settlement (with the exception of Paragraph 4) shall be terminated and
10 become void and of no effect, except for the obligation of Defendant to pay for any
11 and all expenses incurred in connection with the Notice and administration of the
12 Settlement on or before the date on which the Settlement is terminated; (b) any
13 actions taken or to be taken in connection with this Settlement Agreement and the
14 Settlement shall become null and void and of no effect; (c) this Settlement
15 Agreement and the Settlement and any hearings or proceedings thereunder shall not
16 be referred to or used as evidence for or against any party or Class Member in this
17 or any other action or proceeding; and (d) all pretrial proceedings, including
18 discovery, shall resume 30 days thereafter as if this Settlement had not been
19 submitted for approval of the Court.

20 **14. Extensions of Time.** Without further order of the Court, the Settling Parties hereto may
21 agree in writing to reasonable extensions of time to carry out any of the provisions of the Settlement.

22 **15. Construction.** This Settlement Agreement was entered into after substantial good faith,
23 arms-length negotiations between the Settling Parties' counsel. This Settlement Agreement is entered into
24 freely and voluntarily only after each party had carefully read and reviewed it with counsel, and it reflects
25 the conclusion of each party that this Settlement Agreement and the Judgment and the releases, waivers,
26 and covenants contemplated hereby are in the best interest of said party. This Settlement Agreement has
27 been entered into without any coercion and under no duress. The Settling Parties acknowledge and agree
28 that all Parties had an equal hand in drafting this Settlement Agreement so that it shall not be deemed to

1 have been prepared or drafted by one party or another. All Parties waive the provisions of California Civil
2 Code Section 1654, which provides, in pertinent part, that “the language of a contract should be interpreted
3 most strongly against the party who causes the uncertainty to exist.” Except as expressly provided herein,
4 this Settlement Agreement is not intended to confer any rights or remedies upon any person other than the
5 Settling Parties.

6 **16. Due Authority of Attorneys.** Each of the attorneys executing this Settlement Agreement,
7 on behalf of one or more parties, hereto warrants and represents that he or she has been duly authorized
8 and empowered to execute this Settlement Agreement on behalf of each such respective party and to bind
9 them to the terms hereof.

10 **17. Entire Agreement.** This Settlement Agreement (including all Exhibits annexed hereto,
11 and as subsequently revised pursuant to the Court’s direction) sets forth the entire agreement of the Settling
12 Parties with respect to its subject matter and supersedes any and all other prior agreements and all
13 negotiations leading up to the execution of this Settlement Agreement, whether oral or written, regarding
14 the subjects covered herein. The Settling Parties acknowledge that no representations, inducements,
15 warranties, promises, or statements relating to the subjects covered herein, oral or otherwise, have been
16 made by any of the Settling Parties or by anyone acting on behalf of the Settling Parties which are not
17 embodied or incorporated by reference herein, and further agree that no other agreement, covenant,
18 representation, inducement, promise or statement relating to the subjects covered herein not set forth in
19 writing in this Settlement Agreement, shall be valid or binding.

20 **18. Modification or Amendment.** This Settlement Agreement may not be modified or
21 amended except in a writing signed by all signatories hereto or their successors in interest.
22 Notwithstanding the foregoing, the Parties hereby authorize their counsel to enter into any modifications
23 of this Agreement that are (a) ordered by the Court and (b) do not materially impact the Gross Settlement
24 Amount, the scope of the Released Claims, or any other material term of the Settlement through an
25 addendum to this Agreement that can be signed by Counsel for all Parties.

26 **19. Deadlines Falling on Weekends or Holidays.** To the extent that any deadline set forth in
27 this Settlement Agreement falls on a Saturday, Sunday, or legal holiday, that deadline shall be continued
28 until the following business day.

1 **20. Successors.** This Settlement Agreement shall be binding upon and inure to the benefit of
2 the Settling Parties hereto (including Class Members) and their respective heirs, executors, administrators,
3 successors and assigns, and upon any corporation, partnership or other entity into or with which any
4 Settling Party hereto may merge, combine or consolidate.

5 **21. Severability.** In the event that any one or more of the provisions contained in this
6 Settlement Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such
7 invalidity, illegality, or unenforceability shall in no way affect any other provision if Defense Counsel and
8 Class Counsel, on behalf of the Settling Parties and the Class, mutually elect in writing to proceed as if
9 such invalid, illegal, or unenforceable provision had never been included in this Settlement Agreement.

10 **22. Counterparts.** This Settlement Agreement may be executed in counterparts, each of which
11 shall be deemed an original, and all of which together shall constitute one and the same instrument.
12 Facsimile transmission of the signatures of the Settling Parties or their representatives shall be binding on
13 the Settling Parties. An electronic signature obtained through Docusign shall be treated by the parties as
14 equivalent to a wet signature or a signature obtained and transmitted by facsimile.

15 **23. Waivers.** The waiver by any party of any breach of this Settlement Agreement shall not be
16 deemed or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of
17 this Settlement Agreement.

18 **24. Inquiries Regarding Class Representatives.** In response to any inquiry from a
19 prospective employer or other business partner of the Class Representatives, Defendant agrees to provide
20 only dates of association with Defendant and indicate that they performed transportation services, and no
21 further information shall be provided.

22 **25. Governing Law.** This Settlement Agreement shall be governed by and construed,
23 enforced, and administered in accordance with the laws of the State of California, without regard for the
24 law of the State regarding conflicts of laws or choice of law. Any orders or judgments entered by the Court
25 in conjunction with the proceedings relating to or arising out of this Settlement Agreement shall be
26 construed and enforced under, and all issues relating to the preclusive effect of such orders or judgments
27 shall be determined by, the laws of the State of California relating to the construction, enforcement, and
28 preclusive effect of orders and judgments entered by state courts.

1 **26. Continuing Jurisdiction.** The Court will have continuing jurisdiction over the Action for
2 the purpose of implementing the Settlement Agreement, the Final Approval of the Settlement, entry of
3 Judgment, and post-judgment issues, until all related matters are fully resolved. Except as provided in
4 Paragraph 7.8, above, any dispute regarding the Settling Parties' obligations pursuant to this Settlement
5 Agreement and/or interpretation of the terms of this Settlement Agreement will be presented by written
6 motion to, and resolved by, the Court. In the event of a breach of any provision of this Agreement, any
7 party may institute an action specifically to enforce any term or terms of this Agreement and/or seek any
8 damages for breach pursuant to Code of Civil Procedure section 664.6. The Los Angeles County Superior
9 Court retains jurisdiction to enforce this Agreement. In the event such enforcement is necessary, the
10 prevailing party shall be entitled to reasonable attorneys' fees.

11 **27. Regulation.** In the event that any provision in this Settlement Agreement shall be affected
12 by any rule, regulation, ordinance, order, directive, or statute by any unit of government whether state,
13 federal, or local, such rule, regulation, ordinance, order, directive, or statute shall supersede and take
14 precedence over any such provision of this Settlement Agreement to the contrary and in no event shall
15 Defendant be in violation of this Settlement Agreement nor shall this Settlement Agreement be in any way
16 affected should Defendant take any action or change any of its business practices to comply with such
17 state, federal, or local rules, regulations, ordinances, or statutes currently in force or enacted in the future.

18 **28. Headings.** The headings contained in this Settlement Agreement are for convenience and
19 reference purposes only, and shall not be given weight in its construction.

20 **29. Notices.** Any notices, requests, demands, or other communications required or permitted
21 to be given pursuant to this Settlement Agreement, other than notice to the Class or Class Members, shall
22 be in writing and, except as provided elsewhere in this Settlement Agreement or in any communication to
23 the Class, shall be delivered personally, via overnight delivery or via postage pre- paid first class mail, as
24 follows: (1) to Plaintiffs, the Class, and Class Counsel to the attention of Alan Harris and David Garrett,
25 at Harris & Ruble, 655 North Central Avenue, 17th Floor, Glendale, California 91203 and Taras Kick and
26 Roy K. Suh at The Kick Law Firm, APC, 815 Moraga Drive, Los Angeles, California 90049; and (2) to
27 Defendant and Defense Counsel to the attention of Mark D. Kemple, Greenberg Traurig, LLP, 1840
28 Century Park East, Suite 1900, Los Angeles, California, 90067. By written notice given in accordance

herewith, each of the Parties may modify or change the addressee and/or address of any person identified above or pursuant hereto as the person or persons to whom all future notices shall be sent.

30. Signatures of the Class Representative and Counsel for the Settling Parties. The Class Representatives and counsel for the Settling Parties indicate by signing below his approval of the form of this Settlement Agreement (and exhibits thereto), and, in the case of counsel for the Class Representatives and the Class, their representation and warranty of authority to bind the Class as certified and the Class described herein (subject to the final approval of the Court) and the acceptance of the provisions regarding attorneys' fees and costs. Electronic signatures shall be deemed as valid as wet signatures.

31. Disputes. All disputes arising out of or related to this Settlement Agreement (except those reserved for the Claims Administrator) shall be resolved by the Court, as set forth in Paragraph 25, above.

SO STIPULATED.

DATED: May __, 2022

Plaintiff ENRIQUE RUIZ

By _____
Enrique Ruiz
Plaintiff, and as Class Representative of the Class

DATED: May __, 2022

Plaintiff MILTON QUINONES

By _____
Milton Quinones
Plaintiff, and as Class Representative of the Class

DATED: May __, 2022

Plaintiff GEOMARA ESPINOZA

By _____
Geomara Espinoza
Plaintiff, and as Class Representative of the Class

DATED: May __, 2022

TRANS INTERNATIONAL TRUCKING, INC.

By _____
Danny Daniel
President

APPROVED AS TO FORM ONLY.

1 DATED: May __, 2022

HARRIS & RUBLE

2
3 By _____

4 Alan Harris
David Garrett

5 Counsel for Plaintiffs Enrique Ruiz and Geomara Espinoza
6 and the Class

7 DATED: May __, 2022

THE KICK LAW FIRM, APC

8
9 By _____

10 Taras Kick
Jeffrey Bills

11 Counsel for Plaintiff Milton Quinones and the Class

12 DATED: May __, 2022

GREENBERG TRAURIG, LLP

13
14 By _____

15 Mark D. Kemple
Michael Wertheim

16 Attorneys for Defendant
17 TRANS INTERNATIONAL TRUCKING, INC.
18
19
20
21
22
23
24
25
26
27
28