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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

GERARDO ORTEGA and MICHAEL
D. PATTON, individually and on behalf
of themselves, all other others similarly
situated, and the general public

Plaintiffs,

v.

J.B. HUNT TRANSPORT, INC., an
Arkansas Corporation, and DOES 1-
100, inclusive,

Defendant.

CASE NO. 2:07-cv-08336-RGK

**CLASS ACTION SETTLEMENT AND
RELEASE**

CLASS ACTION SETTLEMENT AND RELEASE

This Class Action Settlement and Release (“Settlement Agreement”) is made by and between Gerardo Ortega and Michael D. Patton (“Plaintiffs”), on behalf of themselves, their agents, representatives, assigns, heirs, executors, beneficiaries, trustees and the Participating Settlement Class Members; and Defendant J.B. Hunt Transport, Inc. (“Defendant” or “J.B. Hunt”), on behalf of itself, its parent(s), subsidiaries, agents, affiliates, directors, officers, employees, and attorneys. Plaintiffs, Defendant and the Participating Settlement Class Members are referred to herein as the “Parties.”

1 This Settlement Agreement is intended to fully, finally, and forever
2 compromise, release, resolve, discharge, and settle the Released Claims subject to the
3 terms and conditions set forth in this Settlement Agreement. Upon Final Approval of
4 this Settlement Agreement by the Court, Plaintiffs will take all necessary steps to
5 dismiss the Action in its entirety with prejudice.

6 I. THE INSTANT ACTION

7 Section 1.1 Background and Procedural History

8 Plaintiffs Gerardo Ortega, Michael D. Patton, and Alfredo Salvatierra
9 commenced the Action by filing a complaint against Defendant J.B. Hunt in *Gerardo*
10 *Ortega, Alfredo Salvatierra, and Michael D. Patton v. J.B. Hunt Transport, Inc.*, Case
11 No. BC 380997, Los Angeles County Superior Court, on November 19, 2007, which
12 J.B Hunt removed under the Class Actions Fairness Act to the Central District of
13 California on December 27, 2007. C.D. Cal. Case No. CV-07-08336, Dkt. 1.

14 Plaintiffs subsequently amended their complaint to remove Mr. Salvatierra as a
15 named plaintiff (“First Amended Complaint”) on November 17, 2008. Plaintiffs
16 further amended their First Amended Complaint on October 1, 2018 (“Second
17 Amended Complaint”).

18 Plaintiffs allege the following claims: (1) violations of Labor Code sections
19 226.7 and 512, and section 11 of the Industrial Welfare Commission (IWC) Wage
20 Orders (failure to provide a meal period); (2) violations of Labor Code sections 226.7
21 and 512, and section 12 of the IWC Wage Orders (failure to provide a rest period); (3)
22 violations of Labor Code section 226 (failure to provide accurate wage statements); (4)
23 violations of Labor Code section 1194 (failure to pay California minimum wage); (5)
24 violations of Labor Code sections 221 to 223 (failure to pay wages at the agreed rate);
25 (6) violations of Labor Code section 203 (failure to pay wages due upon termination of
26 employment); (7) violations of the Business and Professions Code, section 17200 et
27 seq.; and (8) violations of the Labor Code Private Attorneys General Act of 2004
28 (“PAGA”), California Labor Code section 2698 et seq.

1 Plaintiffs moved for class certification of the claims asserted in the First
2 Amended Complaint on March 16, 2009. On May 18, 2009, the district court granted
3 Plaintiffs' motion for class certification and certified a class consisting of "all of
4 Defendant's California-based, local and regional intermodal and local and regional
5 [Dedicated Contract Services] DCS drivers who worked for Defendant in the four
6 years prior to the filing of the original complaint in this action and/or through to the
7 time of trial in this case." (Dkt. 64.) At the same time it certified the class, the district
8 court stayed the Action pending the decision in *Brinker Restaurant Corp. v. Superior*
9 *Court*, 53 Cal. 4th 1004 (2012), which related to California's meal break laws. (Dkt.
10 64.) Three years later, *Brinker* was decided and the stay lifted, at which point J.B.
11 Hunt moved to decertify the class. The district court denied J.B. Hunt's motion to
12 decertify on December 18, 2012. (Dkt. 87.)

13 On October 2, 2013, the district court granted J.B. Hunt's motion for judgment
14 on the pleadings to dismiss Plaintiffs' meal and rest break claims from the Action.
15 (Dkt. 124.) Subsequently, on June 4, 2014, the district court granted J.B. Hunt's
16 motion for summary judgment and dismissed all remaining claims. (Dkt. 168.)
17 Plaintiffs appealed the district court's orders to the Ninth Circuit, which ultimately
18 vacated the district court's orders and remanded the Action to the district court. While
19 the appeal was pending in the Ninth Circuit, the Action was stayed in the district court.
20 J.B. Hunt filed a petition for a *writ of certiorari* with the United States Supreme Court
21 on February 5, 2018, which was denied on June 4, 2018.

22 On April 30, 2018, notice of the district court's May 18, 2009 order granting
23 certification was disseminated to the putative class members.

24 On June 11, 2018, Plaintiffs filed a renewed motion for partial summary
25 judgment, which the district court granted in part and denied in part on July 23, 2018
26 (Dkt. 270.) J.B. Hunt filed a motion for partial summary judgment and a motion for
27 decertification on July 2, 2018. The district court granted in part and denied in part
28 J.B. Hunt's motion for partial summary judgment on August 8, 2018. (Dkt. 280.) In

1 addition, on August 8, 2018, the district court granted J.B. Hunt's motion for
2 decertification. (Dkt. 280.)

3 **Section 1.2 Parties' Statements and Recognition of the Benefits of the**
4 **Settlement**

5 Class Counsel has conducted an extensive investigation into the facts of the
6 Action and Plaintiffs' and Settlement Class Members' claims, including through
7 formal discovery, informal disclosures between the Parties, and other investigations
8 undertaken by counsel for Plaintiffs. Furthermore, the Parties engaged in extensive
9 negotiations and exchange of information and mediation sessions with mediator Mark
10 Rudy, Esq., on two separate occasions.

11 As a result, Class Counsel have concluded that this Settlement Agreement is
12 fair, reasonable, and adequate and is in the best interest of the Settlement Class in light
13 of all known facts and circumstances, including the likely damages, risk of significant
14 delay, and trial and appellate risks.

15 J.B. Hunt denies each and all of the claims in the Action and that the Action can
16 or should proceed on a classwide or representative basis. Nevertheless, J.B. Hunt has
17 concluded that further litigation of the Action would be protracted and expensive. J.B.
18 Hunt, therefore, has determined that it is desirable and beneficial that the Action be
19 settled in a manner and upon the terms and conditions set forth in this Settlement
20 Agreement. Neither this Settlement Agreement, nor any action taken to carry out this
21 Settlement Agreement is, may be construed as, or may be used as, an admission,
22 concession, or indication by or against J.B. Hunt of any fault, wrongdoing or liability
23 whatsoever, or that class or representative treatment of the Settlement Class Members'
24 putative claims is appropriate.

25 **II. TERMS OF THE SETTLEMENT AGREEMENT**

26 **Section 2.1 Definitions**

27 As used in this Settlement Agreement, the following terms have the meanings
28 specified below:

1 2.1.1 “Administrative Costs” means the costs of providing Notice of
2 Settlement, various efforts to locate class members, administering payment of claims
3 on behalf of the Participating Settlement Class Members, and administering payments
4 to Plaintiffs and Class Counsel by the Claims Administrator.

5 2.1.2 “Attorneys’ Fees and Costs” refers to the fees and costs amount to be
6 paid to Class Counsel under Section 2.5.2 of this Settlement Agreement.

7 2.1.3 “Claims Administrator” means CPT Group, Inc., which is the entity
8 that has been selected to provide Notice of Settlement to the Settlement Class and to
9 perform other related functions to administer the Settlement contemplated by this
10 Settlement Agreement as described herein.

11 2.1.4 “Class Counsel” means the following attorneys representing Plaintiffs
12 in the Action:

13 (a) Marlin & Saltzman LLP (Stanley D. Saltzman and Adam M.
14 Tamburelli), 29800 Agoura Road Suite 210, Agoura Hills, California 91301;

15 (b) The Cullen Law Firm, APC (Paul T. Cullen and Barbara Duvan-
16 Clarke), 19360 Rinaldi Street #647, Porter Ranch, California 91326; and

17 2.1.5 “Class Period” means the period from November 19, 2003 to December
18 8, 2018.

19 2.1.6 “Court” means the United States District Court for the Central District
20 of California, and any Court-appointed referee or agent of the Court or other judicial
21 entity with jurisdiction over this matter.

22 2.1.7 “Defendant” and/or “J.B. Hunt” means J.B. Hunt Transport, Inc.

23 2.1.8 “Effective Date” means seven days after all of the following conditions
24 have been satisfied:

25 (a) Execution of this Settlement Agreement and General Releases by
26 Plaintiffs in accordance with Section 2.5.3(d) and Section 2.7.2, and execution of this
27 Settlement Agreement by Plaintiffs, J.B. Hunt, counsel for Plaintiffs and the
28 Settlement Class, and counsel for J.B. Hunt;

1 (b) Expiration of the Notice Period (deadline to opt-out) as defined
2 in the Notice;

3 (c) Entry of an Order of Final Approval by the Court approving this
4 Settlement Agreement and entering final disposition with respect to the Action; and

5 (d) The later of the following events has occurred: the period for
6 filing any appeal, writ or other appellate proceeding challenging the Order of Final
7 Approval has elapsed without any appeal, writ or other appellate proceeding having
8 been filed; or any appeal, writ or other appellate proceeding challenging the Order of
9 Final Approval has been dismissed finally and conclusively and there is no possibility
10 of further appellate review or relief; or any appeal, writ or other appellate proceeding
11 challenging the Order of Final Approval has resulted in affirmance of the Order of
12 Final Approval and there is no possibility of further appellate review or relief.

13 2.1.9 “Employee Payroll Taxes” means the employee portion of all
14 applicable tax withholdings including, but not limited to, FICA, FUTA, and other
15 employment related taxes and withholding of federal, state, and local income taxes.

16 2.1.10 “Final Approval Hearing” means the hearing to be conducted by the
17 Court, or any other court taking jurisdiction of this matter, to determine whether to
18 finally approve the Settlement.

19 2.1.11 “General Release” means a release of all claims against J.B. Hunt and
20 the Released Parties, in the form attached hereto as **Exhibit A**, which shall be executed
21 by the Plaintiffs within seven days after Final Approval.

22 2.1.12 “Action” means *Gerardo Ortega and Michael D. Patton v. J.B. Hunt*
23 *Transport, Inc.*, Case No. 2:07-CV-08336-RGK, pending in the United States District
24 Court for the Central District of California.

25 2.1.13 “Motion for Preliminary Approval” refers to the motion for preliminary
26 approval of this Settlement and its supporting papers.

27 2.1.14 “Net Settlement Fund” or “Net Settlement Amount” shall be the
28 Settlement Amount less the PAGA Payment to the California Labor & Workforce

1 Development Agency (“LWDA”), all Administrative Costs, and the Attorneys’ Fees
2 and Costs and Service Awards as approved by the Court. The Net Settlement Amount
3 shall be available for Settlement Payments to the Participating Settlement Class
4 Members.

5 2.1.15 “Notice of Settlement” refers to the official notice of settlement of class
6 action, materially in the form attached hereto as **Exhibit B**.

7 2.1.16 “Notice Period” refers to the time period of thirty days from the first
8 mailing date postmarked on the first Notice of Settlement mailed by the Claims
9 Administrator.

10 2.1.17 “Opt-Out Date” refers to the expiration of the Notice Period, by which
11 time Settlement Class Members who are permitted to opt out of this Settlement must
12 have timely and properly opted-out of the Settlement Class as described herein if they
13 wish to not be part of the Settlement.

14 2.1.18 “Order Granting Preliminary Approval” refers to the Court order or
15 statement of decision granting preliminary approval to this Settlement Agreement.

16 2.1.19 “Order of Final Approval” and “Final Approval” means an order that
17 finally and unconditionally grants final approval of this Settlement Agreement, and
18 authorizes payments to the Claims Administrator, Participating Settlement Class
19 Members, Plaintiffs, and Class Counsel as provided in this Settlement Agreement.

20 2.1.20 “PAGA Payment” means the funds allocated for the settlement and full
21 release of any and all claims for civil penalties that could have been made in this
22 Action by the Settlement Class Members under PAGA.

23 2.1.21 “PAGA Payment to the LWDA” means the funds allocated to the
24 PAGA Payment which shall be paid to the LWDA.

25 2.1.22 “Participating Settlement Class Members” means Plaintiffs and all
26 Settlement Class Members who do not submit a timely and valid request for exclusion
27 pursuant to Section 2.8 of this Settlement Agreement.

28

1 2.1.23 “Plaintiffs’ means Plaintiff Gerardo Ortega and Plaintiff Michael D.
2 Patton.

3 2.1.24 “Released Claims” means the claims released pursuant to Section 2.7.1
4 of this Settlement Agreement.

5 2.1.25 “Released Parties” means J.B Hunt, including all of J.B. Hunt’s past
6 and present successors, subsidiaries, parents, holding companies, sister and affiliated
7 companies, divisions and other related entities, as well as the successors, predecessors,
8 shareholders, subsidiaries, investors, parent, sister and affiliated companies, officers,
9 directors, partners, assigns, agents, employees, principals, heirs, administrators,
10 attorneys, vendors, accountants, auditors, consultants, fiduciaries, insurers, reinsurers,
11 employee benefit plans, and representatives of each of them, both individually and in
12 their official capacities, past or present, as well as all persons acting by, through, under
13 or in concert with any of these persons or entities.

14 2.1.26 “Service Award” means a Court-approved sum to be paid to the
15 Plaintiffs in accordance with Section 2.5.3.

16 2.1.27 “Settlement Class” means the Settlement Class, as described in Section
17 2.3.

18 2.1.28 “Settlement Class Members” means the persons in the Settlement
19 Class.

20 2.1.29 “Settlement Fund” or “Settlement Amount” refers to \$15,000,000.00,
21 which is the total and maximum amount J.B. Hunt will be required to pay under this
22 Settlement. The PAGA Payment to the LWDA and all Administrative Costs,
23 Attorneys’ Fees and Costs, and Employee Payroll Taxes will be paid from the
24 Settlement Fund. The Settlement Fund will be distributed in accordance with Section
25 2.5. The employer’s portion of the applicable payroll taxes will be paid by J.B. Hunt
26 separate and apart from the Settlement Amount.

1 2.1.30 “Settlement Payments” means the amounts to be paid to individual
2 Participating Settlement Class Members pursuant to the terms and conditions of this
3 Settlement Agreement.

4 **Section 2.2 Settlement of the Action**

5 2.2.1 It is agreed by and among Plaintiffs, the Participating Settlement Class
6 Members, and J.B. Hunt that any and all claims, damages, remedies sought or causes
7 of action arising out of or related to the Released Claims specified in Section 2.7.1
8 during the Class Period shall be settled and compromised as between the Plaintiffs, the
9 Participating Settlement Class Members, and J.B. Hunt, subject to the terms and
10 conditions set forth in this Settlement Agreement and the approval of the Court,
11 including through any Court-appointed referee or agent of the Court or other judicial
12 entity with jurisdiction over this matter.

13 2.2.2 The occurrence of the Effective Date is a prerequisite to any
14 distributions from the Settlement Fund, other than distributions to the Claims
15 Administrator to pay for Administrative Costs.

16 **Section 2.3 Conditional Certification of the Settlement Class for Settlement**
17 **Purposes Only**

18 2.3.1 Solely for settlement purposes, Plaintiffs agree to seek, and J.B. Hunt
19 consents to, certification by the Court of the Settlement Class as a Rule 23 settlement
20 class.

21 2.3.2 The Settlement Class includes all California-based, local and regional
22 intermodal and local and regional Dedicated Contract Services drivers employed by
23 J.B. Hunt at any time between November 19, 2003 and December 8, 2018.

24 2.3.3 The conditional certification of the Settlement Class by the Court shall
25 be binding only with respect to the settlement of this Action. In the event that this
26 Settlement Agreement is cancelled pursuant to its terms, the certification of the
27 Settlement Class shall be vacated, the Action shall proceed as though the Settlement
28

1 Class had never been certified, and this Settlement Agreement shall be of no force or
2 effect.

3 2.3.4 The Parties agree that, for any claim that is not alleged in the Second
4 Amended Complaint, the statute of limitations has and will continue to run on those
5 claims and no such claims will relate back to the filing of any of the pleadings in this
6 Action.

7 **Section 2.4 Cancellation of Settlement Agreement**

8 2.4.1 In the event that the Effective Date does not occur, then this Settlement
9 Agreement shall be deemed cancelled, null and void, and shall be of no force or effect
10 whatsoever, and shall not be referred to or utilized for any purpose whatsoever, but
11 J.B. Hunt agrees it will pay any outstanding Administrative Costs owed to the Claims
12 Administrator.

13 2.4.2 In the event that either (1) five percent or more of the Settlement Class
14 Members submit timely and valid requests to opt out; or (2) the total work weeks
15 associated with Settlement Class Members who submit timely and valid requests to opt
16 out equal or exceed five percent of total work weeks across the Class Period, then J.B.
17 Hunt may elect, by providing written notice to Plaintiffs within seven days after the
18 Claims Administrator notifies the Parties in writing which Settlement Class Members
19 have filed timely and valid requests to opt out, to deem this Settlement Agreement
20 cancelled, null and void, and of no force or effect whatsoever. If J.B. Hunt makes such
21 an election, then this Settlement Agreement shall not be referred to or utilized for any
22 purpose whatsoever, but J.B. Hunt agrees that it will pay any outstanding
23 Administrative Costs owed to the Claims Administrator.

24 2.4.3 This Settlement Agreement may not be revoked, cancelled, terminated,
25 or voided except as set forth in Section 2.4.1 and Section 2.4.2.

26 **Section 2.5 Settlement Fund Distribution**

27 2.5.1 Settlement Fund. In consideration for settlement of the Action, J.B.
28 Hunt agrees to pay by the Effective Date the sum of fifteen million dollars

1 (\$15,000,000.00) (“Settlement Fund” or “Settlement Amount”) for the PAGA
2 Payment, Administrative Costs, Service Awards, Settlement Payments, Attorneys’
3 Fees and Costs, and Employee Payroll Taxes, as set forth in Section 2.1.29, above.
4 The Settlement Fund is to be allocated to the Claims Administrator, Class Counsel, the
5 LWDA, Plaintiffs, and Participating Settlement Class Members, as described herein.
6 The Settlement Fund is the total and maximum amount J.B. Hunt is required to pay for
7 any and all purposes under this Settlement Agreement, and in connection with the
8 termination of the Action, other than any required payments under the law for the
9 employer’s portion of applicable payroll taxes.

10 2.5.2 Attorneys’ Fees and Costs.

11 (a) Class Counsel may request a reasonable award of attorneys’ fees
12 and costs from the Court, which will compensate Class Counsel for fees and costs
13 incurred for work already performed in the Action, and the work remaining to be
14 performed in documenting the Settlement, securing Court approval of the Settlement,
15 administering the Settlement, obtaining dismissal of the Action with prejudice, and
16 defending against any appeals, as well as all associated expenses. The amount
17 awarded to Class Counsel shall be left to the discretion of the Court. J.B. Hunt will not
18 object to a reasonable request for attorneys’ fees not to exceed a total of one-third (1/3)
19 of the Settlement Fund, plus costs as approved by the Court in an amount not to exceed
20 \$500,000.00.

21 (b) Class Counsel, Plaintiffs, and any of the Participating Settlement
22 Class Members, will not seek any payment of attorneys’ fees and costs that are in
23 addition to the foregoing or that exceed the Settlement Fund. The Parties agree that
24 Class Counsel shall be solely responsible for the division and distribution of any and
25 all Court-approved Attorneys’ Fees and Costs awarded in the Action to Class Counsel,
26 and that Class Counsel agree to release J.B. Hunt and the Released Parties from any
27 responsibility for or liability arising out of or related to the division and distribution of
28 any Court-approved Attorneys’ Fees and Costs to Class Counsel.

1 (c) The Parties agree that, aside from the Court-approved Attorneys'
2 Fees and Costs awarded in the Action, each of the Parties, including all Participating
3 Settlement Class Members, shall bear their own fees and costs, including, but not
4 limited to, those related to the investigation, filing, prosecution, or settlement of the
5 Action; the negotiation, execution, or implementation of this Settlement Agreement;
6 and/or the process of obtaining, administering, or challenging Final Approval.

7 (d) In the event that the Court denies, modifies, or reduces Class
8 Counsel's request for Attorneys' Fees and Costs, then Plaintiffs, Class Counsel, and
9 the Participating Settlement Class Members may not seek to modify, revoke, cancel,
10 terminate, or void this Settlement Agreement and will not seek, request, or demand an
11 increase in the Settlement Amount.

12 (e) If Class Counsel appeal the Court's ruling on their request for
13 Attorneys' Fees and Costs, any ruling of any appellate court in such an appeal
14 (regardless of its substance) shall not constitute a material alteration of this Settlement
15 Agreement, and shall not give Plaintiffs, Class Counsel, and the Participating
16 Settlement Class Members the right to modify, revoke, cancel, terminate, or void this
17 Settlement Agreement.

18 (f) If an appeal is filed by the Plaintiffs and/or Class Counsel
19 relating to any reduction by the Court of the Attorneys' Fees and/or Costs sought at
20 Final Approval, the Parties shall carry out the terms of this Agreement as finally
21 approved by the Court, except that the Claims Administrator shall withhold an amount
22 equal to the amount of the aforementioned reduction of Attorneys' Fees and/or Costs,
23 plus an additional amount from the Attorneys' Fees and Costs, which shall be
24 calculated and handled as follows:

- 25 i. The Claims Administrator shall provide a written estimate of the total
26 costs which would be incurred as a result of a supplemental distribution
27 to Participating Settlement Class Members, in the event that following
28 the appeal some amount of money still remains to be distributed to the

1 Participating Settlement Class Members;

- 2 ii. From the Attorneys' Fees and Costs, the Claims Administrator shall
3 withhold a sum equal to 120% of the above referenced estimated costs
4 of a possible supplemental distribution;
- 5 iii. If a supplemental distribution is required following a final appellate
6 ruling relating to the Attorneys' Fees and Costs, the funds withheld
7 from Class Counsel's previously approved fee award, as estimated
8 above, shall be used to pay for all costs of the supplemental
9 distribution charged by the Claims Administrator. Any costs charged
10 by the Claims Administrator in excess of the funds withheld from
11 Class Counsel's previously approved fee award shall be paid by Class
12 Counsel, and no amount shall be owed by J.B. Hunt.

13 (g) All claims for attorneys' fees or costs or expenses that Class
14 Counsel, Plaintiffs, and the Participating Settlement Class Members may possess
15 against J.B. Hunt have been compromised and resolved in this Settlement Agreement
16 and shall not be affected by any appeal that Class Counsel may file.

17 2.5.3 Plaintiffs' Service Awards.

18 (a) In addition to the amounts determined to be due to the Plaintiffs
19 as Participating Settlement Class Members under this Settlement Agreement, Class
20 Counsel and Plaintiffs may apply to the Court for Service Awards for Plaintiffs, in the
21 total amount of no more than \$15,000.00. Any such motion shall be filed concurrently
22 with Class Counsel's application for Attorneys' Fees and Costs. Any Service Award
23 approved by the Court in conjunction with the Settlement shall be paid from the
24 Settlement Fund and shall reduce the amount of the Net Settlement Fund payable to
25 the Participating Settlement Class Members. J.B. Hunt will not oppose a reasonable
26 request for a Service Award.

27 (b) The Service Award shall be distributed by the Claims
28 Administrator in accordance with Section 2.6 of this Settlement Agreement and shall

1 be reported by the Claims Administrator to state and federal taxing authorities as non-
2 wage income on IRS Form 1099. Plaintiffs will be solely responsible for correctly
3 characterizing their Service Awards for tax purposes and are solely responsible for
4 paying any taxes owing on the Service Awards. Plaintiffs agree to assume
5 responsibility of remitting to the Internal Revenue Service and any other relevant
6 taxing authority the amounts which may be required by law, if any, to be withheld by
7 the Claims Administrator from their Service Awards. In addition, Plaintiffs shall hold
8 J.B. Hunt harmless and indemnify and defend J.B. Hunt and the Released Parties for
9 all taxes, interest, penalties, and costs incurred by J.B. Hunt or the Released Parties by
10 any reason of any claims relating to their non-withholding of taxes from their Service
11 Awards.

12 (c) In the event that the Court denies, modifies, or reduces any
13 request for a Service Award, Plaintiffs, Class Counsel, and the Participating Settlement
14 Class Members may not seek to modify, revoke, cancel, terminate, or void this
15 Settlement Agreement and will not seek, request, or demand an increase in the
16 Settlement Amount.

17 (d) If Plaintiffs appeal the Court's ruling on their request for Service
18 Awards, any ruling of any appellate court in such an appeal (regardless of its
19 substance) shall not constitute a material alteration of this Settlement Agreement, and
20 shall not give Plaintiffs, Class Counsel, and the Participating Settlement Class
21 Members the right to modify, revoke, cancel, terminate, or void this Settlement
22 Agreement.

23 (e) Plaintiffs shall receive payment of the Service Awards and any
24 other payments under this Settlement Agreement only after executing and delivering to
25 J.B. Hunt this Settlement Agreement and a separate General Release of all known and
26 unknown claims against J.B. Hunt and the Released Parties. As consideration for the
27 Service Awards under this Section, and subject to the Court approving this Settlement
28 Agreement, Plaintiffs will execute a General Release as to any and all claims they may

1 have against J.B. Hunt and the Released Parties, whether the claim is known or
2 unknown, in the form attached hereto as **Exhibit A** and limit communications pursuant
3 to Section 2.14. Plaintiffs will not re-apply for employment or accept employment
4 with J.B. Hunt or any parent, subsidiary, or affiliated entity of J.B. Hunt. In the event
5 that Plaintiffs are subsequently re-employed or accept employment with J.B. Hunt or
6 any parent, subsidiary, or affiliated entity of J.B. Hunt, then J.B. Hunt and the Released
7 Parties reserve the right to terminate that Plaintiff immediately pursuant to this
8 Settlement Agreement, and Plaintiffs release J.B. Hunt and the Released Parties from,
9 and irrevocably waive, any claims stemming from any such termination for any reason.

10 2.5.4 PAGA Payment. Five Hundred Thousand dollars (\$500,000.00) of the
11 Settlement Fund shall be allocated for the settlement and full release of any and all
12 claims for civil penalties that could have been made in this Action by the Settlement
13 Class Members under PAGA, Cal. Labor Code § 2698, et seq. Pursuant to California
14 Labor Code § 2699(i), 75% of the PAGA Payment (\$375,000.00) shall be paid to the
15 LWDA, and 25% of the PAGA Payment (\$125,000.00) shall be distributed to
16 Participating Settlement Class Members as part of the Net Settlement Amount as set
17 forth in Section 2.5.6 below. Pursuant to California Labor Code § 2699(1)(2),
18 settlement of a PAGA action must be approved by the Court and copy of the proposed
19 settlement will be provided to the LWDA at the same time that it is submitted to the
20 Court.

21 2.5.5 Claims Administration Expenses. The Claims Administrator shall be
22 paid for the costs of administration of the Settlement. These costs include without
23 limitation the mailing of notice, establishing a toll-free number, tracking requests for
24 exclusion, and disbursement of the Settlement Fund. No fewer than ten court days
25 prior to the Final Approval Hearing, the Claims Administrator shall provide the Court
26 and all counsel for the Parties with a statement detailing the Administrative Costs. The
27 Parties agree to cooperate in the settlement administration process and to make all
28

1 efforts to control and minimize the costs and expenses incurred in the administration of
2 this Settlement.

3 2.5.6 Distributions to Participating Settlement Class Members.

4 (a) The Claims Administrator will determine the amount payable to
5 Participating Settlement Class Members by the method set forth below.

6 (b) “Work Week Settlement Amount” is the amount calculated by
7 taking the Settlement Amount less Administrative Costs, the PAGA Payment to the
8 LWDA, Attorneys’ Fees and Costs, and any Service Award, as approved by the Court,
9 and dividing the resulting amount by the total number of work weeks available during
10 the Class Period.

11 (c) “Participating Settlement Class Member Work Weeks” means
12 the number of weeks in which a person who is one of the Participating Settlement
13 Class Members was employed by J.B. Hunt from November 19, 2003 through
14 December 8, 2018, as determined based on J.B. Hunt’s records.

15 (d) Challenges to Calculations: A Settlement Class Member may
16 dispute the amount of his or her settlement payment, and the number of workweeks
17 used to calculate the settlement payment, by timely sending a written notice to the
18 Claims Administrator informing the Claims Administrator of the nature of the dispute
19 and providing any records or documentation supporting the Settlement Class
20 Member’s position. To be considered timely, any dispute regarding the settlement
21 payment or the underlying data used to calculate the settlement payment must be
22 submitted by the Settlement Class Member within thirty (30) days of the first mailing
23 of the Notice of Class Action Settlement. In response to any timely dispute, Defendant
24 will first verify the information contained in the Settlement Class Member’s personnel
25 file and Defendant’s payroll records. Unless the Settlement Class Member can
26 establish a different period of employment based on documentary evidence, the total
27 number of workweeks established by Defendant’s records will control. Class Counsel
28 and Defendant’s Counsel will then make a good faith effort to resolve the dispute

1 informally. If counsel for the parties cannot agree, the dispute shall be resolved by the
2 Claims Administrator, who shall examine the records provided by the Defendant and
3 the Settlement Class Member, and shall be the final arbiter of disputes relating to a
4 Settlement Class Member's workweeks. The Claims Administrator's determination
5 regarding any such dispute shall be final.

6 (e) The "Gross Individual Settlement Payment" for each person who
7 is one of the Participating Settlement Class Members is the amount calculated by
8 multiplying the Work Week Settlement Amount by the Participating Settlement Class
9 Member Work Weeks for that person.

10 (f) The "Net Individual Settlement Payment" for each person who is
11 one of the Participating Settlement Class Members is the amount calculated by taking
12 the Gross Individual Settlement Payment and subtracting all Employee Payroll Taxes
13 and any other withholdings required by law for that person. The Net Individual
14 Settlement Payment is the amount that will be paid from the Settlement Fund to each
15 Participating Settlement Class Members by the Claims Administrator. J.B. Hunt
16 remains obligated to separately pay the employer's portion of all applicable payroll
17 taxes as required by law.

18 (g) The Claims Administrator will calculate the Gross Individual
19 Settlement Payment and Net Individual Settlement Payment for all Participating
20 Settlement Class Members within thirty days of the close of the Notice Period. The
21 Claims Administrator will provide a copy of its calculations, without any personal
22 identifying data, for the Parties to review. The Parties may dispute the calculations
23 only with respect to mathematical errors or an incorrect application of the above
24 method of allocation. Such a dispute must be raised in writing within seven days after
25 the Claims Administrator provides the calculations for review.

26 2.5.7 Allocation and Taxability of Settlement Distributions.

27 (a) For tax purposes, 40% of each Gross Individual Settlement
28 Payment will be treated by the Parties as wages reported on IRS Form W-2, and the

1 Claims Administrator shall pay over all such withheld funds to the appropriate state
2 and federal taxing authorities. The Claims Administrator shall withhold the applicable
3 Employee Payroll Taxes from each Gross Individual Settlement Payment. The
4 remaining 60% of the Gross Individual Settlement Payment will be treated by the
5 Parties as payment for non-wage claims and interest, not subject to payroll
6 withholdings, and shall be reported on an IRS Form 1099. Neither the terms of this
7 Settlement Agreement nor any Settlement Payments paid to Participating Settlement
8 Class Members shall have any effect on the eligibility or calculation of employee
9 benefits nor will it entitle any Participating Settlement Class Members to any increased
10 retirement or 401k plan benefits of any kind. Neither this Settlement Agreement, nor
11 any of its attachments, should be interpreted to contain or constitute representations or
12 advice regarding any U.S. federal or state tax issue. Participating Settlement Class
13 Members will be specifically informed that neither J.B. Hunt nor Class Counsel make
14 any representations regarding the tax implications of any amounts paid under this
15 Settlement Agreement and that if Participating Settlement Class Members have any
16 questions regarding those implications, they can and should consult a tax expert.

17 (b) The Claims Administrator shall provide all Participating
18 Settlement Class Members who are entitled to a Net Individual Settlement Payment
19 with a IRS Form W-2 reflecting the wages and the taxes withheld from those wages
20 and with a IRS Form 1099 reflecting payment for non-wage claims and interest. The
21 Claims Administrator shall provide all Participating Settlement Class Members who
22 are entitled to a Net Individual Settlement Payment with appropriate documentation
23 setting forth the amount of any tax or other payment withheld and employer
24 contribution made, in accordance with state and federal tax requirements. Participating
25 Settlement Class Members shall be solely and exclusively responsible for remitting to
26 state and/or federal taxing authorities any applicable other taxes due and shall hold J.B.
27 Hunt and the Released Parties harmless for any taxes, penalties, interest, liabilities,
28 costs, attorneys' fees, and expenses caused by any such taxing authority relating in any

1 way to the Participating Settlement Class Members' tax treatment of payments made to
2 them pursuant to this Settlement Agreement or failure to timely or properly pay any
3 taxes owed by the Settlement Class Members on their respective Settlement Payments.

4 (c) Any checks issued to Participating Settlement Class Members
5 shall remain valid and negotiable for one hundred and twenty days from the date of
6 their mailing. If any Participating Settlement Class Members do not cash the
7 settlement check within one hundred and twenty days after issuance, then at that time
8 the Claims Administrator shall take reasonable additional steps to locate such persons
9 for a period of up to forty-five (45) days, after which the Claims Administrator shall
10 void any such uncashed checks and shall distribute all amounts from such uncashed
11 checks to a non-interested non-profit organization to be designated by the Parties prior
12 to the Final Approval Hearing and subject to the Court's approval.

13 **Section 2.6 Appointment and Duties of Claims Administrator**

14 2.6.1 Subject to the approval of the Court, the Parties have agreed to the
15 appointment of a professional class action claims administration firm, CPT Group,
16 Inc., as the Claims Administrator for the purpose of administering the settlement
17 process, including preparing and mailing the Notice of Settlement to the Settlement
18 Class Members, providing live call agents during business hours, distributing
19 Settlement Funds, and responding to inquiries from Settlement Class Members.

20 2.6.2 The duties of the Claims Administrator shall include without
21 limitation:

- 22 (a) handling all mailings to the Settlement Class Members;
23 (b) tracing undeliverable mailings;
24 (c) recording and tracking responses to the mailing to the Settlement
25 Class Members (including recording the identity of any Settlement Class Members
26 who request exclusion);
27 (d) responding to inquiries made by the Settlement Class Members;
28 (e) calculating the Settlement Payments;

1 (f) mailing Settlement Payments;

2 (g) issuing copies of IRS Form 1099 and IRS Form W-2 (where
3 applicable) for the Plaintiffs and for all Participating Settlement Class Members who
4 receive a payment of any kind from the Settlement Fund;

5 (h) reporting payment of Settlement Payments to all required taxing
6 and other authorities, taking appropriate withholding from the Settlement Payments
7 and remitting all Employee Payroll Taxes and other required payments to the proper
8 authorities;

9 (i) mailing the PAGA Payment to the LWDA; and

10 (j) other related tasks as mutually agreed to by the Parties.

11 2.6.3 The Claims Administrator shall keep J.B. Hunt's counsel and Class
12 Counsel timely apprised of the performance of all Claims Administrator
13 responsibilities through weekly email reports.

14 2.6.4 All disputes relating to the Claims Administrator's performance of its
15 duties will be referred to the Court, if necessary, which will have continuing
16 jurisdiction over this Settlement until all payments and obligations contemplated by
17 this Settlement Agreement have been fully carried out. Neither the Parties nor their
18 counsel shall have any responsibility or liability for the acts or omissions of the Claims
19 Administrator.

20 2.6.5 At least twenty-one days before the Final Approval Hearing, the Claims
21 Administrator shall prepare a declaration of due diligence and proof of mailing with
22 regard to the mailing of the Notice of Settlement, and any attempts by the Claims
23 Administrator to locate Settlement Class Members, its receipt of valid requests for
24 exclusion, and its inability to deliver the Notice of Settlement to the Settlement Class
25 Members due to invalid addresses ("Due Diligence Declaration"), to Class Counsel
26 and J.B. Hunt's counsel for presentation to the Court. Class Counsel shall be
27 responsible for filing the Due Diligence Declaration with the Court.
28

1 **Section 2.7 Release of Claims by the Participating Settlement Class Members**

2 2.7.1 Upon the Effective Date, the Participating Settlement Class Members,
3 including their heirs, assigns, and estates, shall be deemed to fully forever, irrevocably
4 and unconditionally release, and discharge J.B. Hunt and the Released Parties or any of
5 them, for the period November 19, 2003 through December 8, 2018, from any and all
6 claims, debts, liabilities, demands, obligations, guarantees, penalties, costs, expenses,
7 attorneys' fees, damages, liquidated damages, action or causes of action whatever kind
8 or nature, whether known or unknown, existing or potential, recognized now or
9 hereafter, expected or unexpected, contingent or accrued, as long as they arise out of
10 the causes of action alleged in the Action, as well as any claim that arises out of the
11 factual allegations alleged in the Action against J.B. Hunt or the Released Parties or
12 any of them, under any state, municipal or federal statute, ordinance, regulation, order,
13 common law or equity, including and not limited to J.B. Hunt's provision of meal or
14 rest breaks or alleged failure to provide meal or rest breaks, J.B. Hunt's alleged failure
15 to pay all wages, and J.B. Hunt's provision of wage statements, including but not
16 limited to claims under California Labor Code sections 201, 203, 210, 218.5, 218.6,
17 221, 222, 223, 226, 226.2, 226.7, 512, 558, 1194, 1197, 1182, California Code of Civil
18 Procedure sections 1021.5, 3287(b), and 3289, California Business & Professions
19 Code section 17200 et. seq., California's Labor Code Private Attorneys General Act of
20 2004, California Labor Code section 2698 et seq. (including, but not limited to, section
21 2699), IWC Wage Order 9-2001 (including, but not limited to, sections 4, 7, 11, 12),
22 and any related claims for compensatory, consequential, punitive or exemplary
23 damages, statutory damages, declaratory relief, injunctive relief, penalties, interest
24 (whether pre- or post-judgment), disbursements, and/or attorneys' fees and costs.

25 2.7.2 Plaintiffs' Release. Within seven days of the Final Approval, Plaintiffs
26 will execute a General Release of all claims against J.B. Hunt and the Released Parties,
27 in the form attached hereto as **Exhibit A**.

1 (a) Plaintiffs expressly acknowledge that they are familiar with
2 principles of law such as California Civil Code section 1542, which provides:

3 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH**
4 **THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS**
5 **OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,**
6 **WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY**
7 **AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

8 (b) With respect to the Plaintiffs' General Release, Plaintiffs shall be
9 deemed to have expressly, knowingly, and voluntarily waived and relinquished, to the
10 fullest extent permitted by law, the provisions, rights, and benefits they may otherwise
11 have had pursuant to California Civil Code section 1542 and all similar federal or state
12 laws, rights, rules, or legal principles of any other jurisdiction that may be applicable
13 herein. In connection with the release, Plaintiffs acknowledge that they are aware that
14 they may hereafter discover claims presently unknown and unsuspected or facts in
15 addition to or different from those which they now know or believe to be true with
16 respect to matters released herein. Nevertheless, Plaintiffs acknowledge that a portion
17 of the Service Award consideration received herein is for a release with respect to
18 unknown damages and complaints, whether resulting from known injuries and
19 consequences or from unknown injuries or unknown consequences of known or
20 unknown injuries, and state that it is the intention of the Plaintiffs in agreeing to this
21 release fully, finally, and forever to settle and release all matters and all claims that
22 exist, hereafter may exist, or might have existed (whether or not previously or
23 currently asserted in any action).

24 (c) The Plaintiffs further acknowledge, agree, and understand that:
25 (i) they have read and understand the terms of the General Release; (ii) they have been
26 advised in writing to consult with an attorney before executing the General Release;
27 and (iii) they have obtained and considered such legal counsel as they deem necessary.

28 2.7.3 This Settlement Agreement shall be binding on all Participating
Settlement Class Members, whether or not they actually receive a payment pursuant to

1 this Settlement Agreement. This Settlement Agreement shall constitute, and may be
2 pleaded as, a complete and total defense to any Released Claims raised in the future.

3 2.7.4 Plaintiffs and Participating Settlement Class Members promise not to
4 file or continue any lawsuit in any court alleging any Released Claims, or participate as
5 a party or a class member in any administrative or other legal proceedings, in any
6 forum, against J.B. Hunt or the Released Parties, for any claims released under this
7 Settlement Agreement. In consideration for the promises made by J.B. Hunt in this
8 Settlement Agreement, Plaintiffs and Participating Settlement Class Members agree
9 never to institute any suit, complaint, proceeding, grievance, or action of any kind at
10 law, in equity, or otherwise in any court of the United States, state, or municipality, or
11 administrative agency, or any arbitration or other legal forum, against J.B. Hunt or the
12 Released Parties for any claim included in the Released Claims. Plaintiffs and
13 Participating Settlement Class Members also agree that they will not join, participate
14 in, or consent to opt in to any actions alleging that he or she is similarly situated to any
15 other employee with respect to any such Released Claims, and that each will elect to
16 opt out of any such actions against J.B. Hunt or the Released Parties of which he or she
17 is involuntarily made a member or party. If any of the Participating Settlement Class
18 Members or the Plaintiffs are joined in any class or collective lawsuits for any
19 Released Claims, he or she will receive no further compensation of any kind for such
20 Released Claims. Plaintiffs also agree to not institute or join any suit, complaint,
21 proceeding, grievance, or action of any kind at law, in equity, or otherwise in any court
22 of the United States, state, or municipality, or administrative agency, or any arbitration
23 or other legal forum, against J.B. Hunt or the Released Parties for any claims contained
24 in the General Release.

25 2.7.5 Participating Settlement Class Members and Class Counsel shall, and
26 hereby do, fully and finally release and forever discharge J.B. Hunt and the Released
27 Parties of and from any and all claims, demands, damages, actions and/or causes of
28 action whatever kind or nature, including claims for attorneys' fees or costs, whether

1 known or unknown, existing or claimed to exist, in any way set forth in or arising out
2 of any: (i) dispute or claim between or among any Participating Settlement Class
3 Members, and/or Class Counsel, including over any claim to any monetary part of the
4 Settlement and/or to Class Counsel's fees, costs or expenses; and/or (ii) any dispute
5 between the Participating Settlement Class Members, Class Counsel and/or any
6 governmental authority with respect to this Settlement Agreement. This Settlement
7 Agreement shall constitute, and may be pleaded by J.B. Hunt and the Released Parties
8 as, a complete and total defense to any such dispute or claim.

9 **Section 2.8 Opt-Out/Request for Exclusion Procedure**

10 2.8.1 Settlement Class Members, except Plaintiffs who shall not be permitted
11 to opt-out of this Settlement Agreement, shall be entitled to "opt out" of this
12 Settlement Agreement. The Notice of Settlement shall provide instructions to
13 Settlement Class Members who wish to "opt out." To be valid, the request for
14 exclusion must (1) include the following language or substantially similar language: "I
15 elect to opt out of the *Ortega v. J.B. Hunt Transport, Inc.* class action settlement. I
16 understand that by doing so, I will not be able to participate in the settlement, and will
17 not receive a share of the settlement proceeds."; (2) include the full name, address,
18 telephone number, and last four digits of the Social Security number of the person
19 requesting exclusion; (3) be signed by the person requesting exclusion; (4) be returned
20 by U.S. Mail to the Claims Administrator at the specified address; and (5) must be
21 postmarked no later than the last day of the Notice Period. The Claims Administrator
22 will notify any person from whom it receives a request for exclusion that is not timely
23 and/or valid. Any disputes regarding the timeliness, validity or effectiveness of a
24 request for exclusion shall be decided by the Claims Administrator consistent with the
25 terms of this Settlement Agreement, and with the Parties' input, if appropriate. The
26 date of the postmark on the mailing envelope for any request for exclusion shall be the
27 exclusive means used to determine whether the request for exclusion has been timely
28 submitted.

1 2.8.2 All Settlement Class Members who do not properly and timely submit
2 a request for exclusion in the manner and by the deadline specified above in Section
3 2.8.1 will be Participating Settlement Class Members who are bound by all terms and
4 conditions of this Settlement Agreement, including the releases of claims pursuant to
5 Section 2.7.1 of this Settlement Agreement, regardless of whether they have objected
6 to the Settlement.

7 2.8.3 All Settlement Class Members who properly and timely submit a
8 request for exclusion in the manner and by the deadline specified above in Section
9 2.8.1 will not be bound this Settlement Agreement, and will remain free to contest any
10 claims that would have been barred by this Settlement Agreement, and nothing in this
11 Settlement or Settlement Agreement will constitute or be construed as a waiver of any
12 defenses J.B. Hunt or the Released Parties have or could assert against any such
13 claims.

14 **Section 2.9 Procedures for Objecting to the Settlement**

15 2.9.1 The Notice of Settlement shall provide that Participating Settlement
16 Class Members and persons purporting to act on behalf of Participating Settlement
17 Class Members who wish to object to this Settlement Agreement must file with the
18 Court and serve on counsel for the Parties a written statement objecting to this
19 Settlement Agreement. Such objection and any supporting briefs or other materials
20 must be filed with the Court and mailed, via First Class U.S. Mail, to counsel for the
21 Parties and postmarked no later than the last day of the Notice Period. Settlement
22 Class Members who opt-out may not file and serve an objection or otherwise object to
23 this Settlement Agreement. The postmark date of the filing and service of an objection
24 shall be deemed the exclusive means for determining that the objection is timely. An
25 objection must be signed and state the objector's name, current address and telephone
26 number, and the basis for the objection. The notice of objection must be signed by the
27 objector.

28

1 2.9.2 No Participating Settlement Class Members or any person purporting to
2 act on behalf of any Participating Settlement Class Members shall be entitled to be
3 heard at the Final Approval Hearing (whether individually or through counsel) or to
4 object to the Settlement, and no written objections or briefs submitted by any such
5 individuals or persons purporting to act on behalf of them shall be received or
6 considered by the Court at the Final Approval Hearing, unless the individual's
7 objection and supporting materials have been timely filed and served as set forth above
8 in Section 2.9.1 within the Notice Period. Participating Settlement Class Members
9 who fail to file and serve a timely and complete objection in the manner specified
10 above in Section 2.9.1 shall be deemed to have waived any objections and shall be
11 foreclosed from making any objection (whether by appeal or otherwise) to the
12 Settlement.

13 2.9.3 If a person timely submits both an objection and a request for
14 exclusion ("opt out" under Section 2.8), the request for exclusion shall supersede the
15 objection, and the objection shall therefore be waived.

16 2.9.4 Counsel for the Parties shall file any responses to any objections at
17 least seven days before the Final Approval Hearing.

18 2.9.5 J.B. Hunt shall not be responsible for the fees, costs, or expenses
19 incurred by Plaintiffs, Class Counsel, or the Participating Settlement Class Members
20 arising from or related to Participating Settlement Class Members who submit
21 objections or otherwise purport to object to this Settlement Agreement or related to any
22 appeals thereof.

23 **Section 2.10 Preparation and Mailing of Notice to the Class**

24 2.10.1 Twelve days prior to the Court-ordered deadline to mail the Notice of
25 Preliminary Approval of Settlement, but subject to the Claims Administrator providing
26 adequate and contractual assurances with respect to confidentiality and data security,
27 J.B. Hunt shall provide the Claims Administrator with the following information for
28 the Settlement Class Members in the form of an Excel spreadsheet or similar sortable

1 electronic format: (a) names; (b) last-known mailing addresses from J.B. Hunt's
2 records; (c) Social Security numbers; (d) hire dates of record from J.B. Hunt's records
3 and termination dates if applicable; and (e) Participating Settlement Class Member
4 Work Weeks. J.B. Hunt shall provide any updated information regarding the
5 Settlement Class Members to the Claims Administrator as soon as practicable prior to
6 the deadline to mail the Notice of Preliminary Approval of Settlement. Class Counsel
7 and Plaintiffs will not be provided the Social Security numbers for any Settlement
8 Class Members in connection with this Settlement or Settlement Agreement. The data
9 provided to the Claims Administrator will remain confidential and will not be
10 disclosed to any outside party, except as required to applicable tax authorities, or with
11 the express written consent of J.B. Hunt, or by order of the Court. The data provided
12 under this Section 2.10.1 shall be used only for the purpose of administering this
13 Settlement.

14 2.10.2 The Notice of Settlement, in materially the form attached hereto as
15 **Exhibit B** and as approved by the Court, shall be sent by the Claims Administrator to
16 the Settlement Class Members, by First Class Mail (in English and Spanish) to those
17 addresses provided, thirty days after entry of the Order Granting Preliminary Approval.
18 The Notice of Settlement shall set forth a brief description of the Action, provide the
19 definition of the Settlement Class, inform the Settlement Class Members of the nature
20 and scope of the settlement of claims, set forth the requested Attorneys' Fees and
21 Costs, disclose the Service Awards that will be requested by Plaintiffs, set forth the
22 estimated amount of relief the Settlement Class will receive, inform the Settlement
23 Class Members of their opportunity to be heard at the Final Approval Hearing, and
24 inform the Settlement Class Members of their right to submit an objection to any term
25 of the Settlement, and/or to opt-out of the Settlement and the procedures for doing so,
26 and explain the res judicata effects of not opting out. The Notice of Settlement will set
27 forth contact numbers for Class Counsel, counsel for J.B. Hunt, and direct class
28

1 members to call the toll free number established by the Claims Administrator to
2 answer any questions that the Settlement Class Members may have.

3 2.10.3 The Claims Administrator will attempt to locate any Settlement Class
4 Members whose Notice of Settlement is returned by the Post Office by performing a
5 National Change of Address search on the entire list of Settlement Class Members and
6 if needed, conducting one skip trace search regarding any returned Notice of
7 Settlement, utilizing all available contact information provided by J.B. Hunt.

8 2.10.4 If an envelope has not been returned within twenty-one days of the
9 mailing, it shall be conclusively presumed that the person to whom the envelope was
10 addressed received the Notice of Settlement.

11 **Section 2.11 Final Approval Hearing**

12 2.11.1 The Parties will request the Court to conduct a Final Approval Hearing
13 on or about the date set forth in the Order Granting Preliminary Approval and to
14 determine if the Settlement is fair, reasonable, and adequate, and if so, enter a final
15 order and judgment granting Final Approval of Settlement, which will (a) approve the
16 Settlement, adjudging the terms thereof to be fair, reasonable and adequate, and
17 directing consummation of its terms and provisions; (b) approve in whole or in part
18 Class Counsel's application for an award of Attorneys' Fees and Costs; and, (c)
19 approve in whole or in part the Plaintiffs' Service Awards.

20 **Section 2.12 Distribution of Payments**

21 2.12.1 Within twenty one days after the Effective Date, all Court-approved
22 payments will be made by the Claims Administrator to the Participating Settlement
23 Class Members, Plaintiffs, and Class Counsel (provided that Class Counsel has
24 provided a completed W-9 to the Claims Administrator). The approval or denial of a
25 Settlement Payment to any Participating Settlement Class Members under the terms of
26 this Settlement Agreement will be conclusive and binding, subject to the dispute
27 resolution provisions of this Settlement Agreement as set forth in Section 2.16. All
28

1 payments called for under this Section 2.12 shall be made solely from the Settlement
2 Fund.

3 **Section 2.13 Obligations of the Parties Prior to Court Approval**

4 2.13.1 Once finalized, the Parties shall promptly submit this Settlement
5 Agreement to the Court for an Order of Preliminary Approval and determination by the
6 Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of
7 this Settlement Agreement, Plaintiffs will file a Motion for Preliminary Approval
8 seeking the following:

9 (a) Approval of the proposed Settlement as fair, reasonable, and
10 adequate as to the Settlement Class Members;

11 (b) Approval as to form and content of the proposed Notice of
12 Settlement;

13 (c) Approval of the plan of allocation of the Settlement Fund;

14 (d) Conditionally certifying the Settlement Class for settlement
15 purposes only;

16 (e) Appointing CPT Group, Inc. as Claims Administrator;

17 (f) Directing the mailing of the Notice of Settlement by First Class
18 Mail to the Settlement Class Members by the Claims Administrator;

19 (g) Preliminarily approving this Settlement Agreement; and

20 (h) Scheduling a Final Approval Hearing on the question of whether
21 the proposed Settlement should be finally approved, and whether the requests for
22 Attorneys' Fees and Costs and the Service Awards should be approved.

23 2.13.2 Prior to the Final Approval Hearing, Plaintiffs will submit a proposed
24 Order of Final Approval that (a) approves the Settlement, adjudging the terms thereof
25 to be fair, reasonable and adequate; (b) directs consummation of the Settlement
26 Agreement's terms and provisions; (c) approves Class Counsel's application for an
27 award of Attorneys' Fees and Costs in whole or in part (these amounts shall be paid
28 from the Settlement Fund); (d) approves Class Counsel's application for an award of

1 Administrative Costs in whole or in part (these amounts shall be paid from the
2 Settlement Fund); (e) approves the request for the Service Awards to Plaintiffs; and (f)
3 dismisses the Action in its entirety with prejudice, including dismissal with prejudice
4 of any claims of the Participating Settlement Class Members arising out of or related to
5 the Released Claims specified in Section 2.7.1 during the Class Period.

6 **Section 2.14 Communications**

7 2.14.1 Following the Order Granting Preliminary Approval, the Parties, Class
8 Counsel and Defendant's counsel will make no efforts to solicit or encourage opt outs
9 or objections to this Settlement.

10 2.14.2 Plaintiffs and Class Counsel agree not to disparage or comment
11 negatively about J.B. Hunt, its officers, management, and/or current or former
12 employees and J.B. Hunt's pay plans at issue in the Action. Defendant and
13 Defendant's counsel agree not to disparage or comment negatively about Plaintiffs,
14 Class Counsel and the Action in general.

15 2.14.3 Except as set forth in Sections 2.14.1 2.14.2 and 2.14.4, nothing in this
16 Settlement Agreement shall limit J.B. Hunt from communicating with its counsel
17 regarding this Settlement Agreement, or Plaintiffs or Settlement Class Members from
18 communicating with Class Counsel regarding this Settlement Agreement.

19 2.14.4 Except as otherwise agreed in writing between the Parties, both before
20 and following the execution of this Settlement Agreement by the Parties and their
21 counsel, there will be no direct or indirect comment or publication by Plaintiffs and
22 their counsel of the settlement, such as media statements/comments, press releases or
23 conferences, website postings or content, social media postings or content, other
24 Internet postings or content, subscribed email messages, newsletters, disseminated
25 updates, mass mailings, or any other comment or publication to the press, media or
26 public at large. However, Class Counsel shall be allowed to post a neutral description
27 of the Action and the settlement on their websites, in language similar to that normally
28 posted to their websites, and subject to approval by the Defendant, which shall not be

1 unreasonably withheld. These limitations shall not apply to or limit the public filing of
2 motions or other case materials in the Action related to seeking and obtaining Court
3 approval of the proposed settlement and the related awards of Attorneys' Fees and
4 Costs, Service Awards and the other relief set forth in this Settlement Agreement, or to
5 communications between Class Counsel and Plaintiffs or Settlement Class Members,
6 except that prior to the filing of the motion for preliminary approval, Plaintiffs'
7 counsel shall not discuss the settlement with Settlement Class Members other than the
8 Plaintiffs. The Parties understand and agree that there may be media coverage of the
9 Settlement not initiated by Plaintiffs or Class Counsel, directly or indirectly. It is also
10 agreed and understood that the Parties and each and every Settlement Class Member
11 may disclose the settlement to their families, plus their legal, tax, or accounting
12 advisors, insurance companies, or as required by law, regulatory rules or regulatory
13 requirements.

14 2.14.5 The Parties agree that the Claims Administrator may use U.S. Mail and
15 an information-only website to provide notice and information about the settlement to
16 Settlement Class Members. The domain name used for the Claims Administrator's
17 website for the settlement will be subject to J.B. Hunt's reasonable approval. The
18 Parties further agree that Marlin & Saltzman LLP may maintain on its website the text
19 that was posted as of October 1, 2018 at the URL
20 /https://www.marlinsaltzman.com/active-cases/jb-hunt-tracking-class-action/, through
21 and including the date the Court grants preliminary approval of the Settlement. Upon
22 the entry of an Order of Preliminary Approval by the Court approving this Settlement
23 Agreement, such posting may be supplemented with the following additional language:
24 "On <DATE>, the court granted preliminary approval of a proposed class action
25 settlement of the action. Information about the preliminarily-approved settlement,
26 including its proposed amount, can be found on the Claims Administrator's website at
27 <URL> and in the copy of the Settlement Agreement available at this link." Upon the
28 entry of an Order of Final Approval by the Court approving this Settlement

1 Agreement, the foregoing supplemental language may be changed to the following:
2 “On <DATE>, the court granted final approval of a class action settlement of the
3 action. Information about the approved settlement, including its amount, can be found
4 on the Claims Administrator’s website at <URL> and in the copy of the Settlement
5 Agreement available at this link [OPTIONAL: and the order granting final approval
6 available at this link].” Not later than the date that the Claims Administrator must
7 remit any unclaimed funds to the non-interested non-profit organization pursuant to the
8 terms of the Court-approved settlement, the Claims Administrator’s website for the
9 settlement will be taken down. Class Counsel may otherwise state only that the Action
10 has been settled on terms mutually agreeable to the parties. No other language or
11 information may be posted on any of Class Counsel’s websites except as expressly set
12 forth herein or in the final Settlement Agreement without J.B. Hunt’s prior written
13 consent.

14 **Section 2.15 Continuing Jurisdiction of the Court**

15 2.15.1 The Parties agree that the Court shall retain jurisdiction over the
16 Parties, and over this Settlement Agreement, in order to: (i) monitor and enforce
17 compliance with this Settlement Agreement, Final Approval and/or any related order
18 of this Court; and/or (ii) resolve any disputes over this Settlement Agreement or the
19 administration of the benefits of this Settlement Agreement, including, disputes over
20 entitlement to payments sought by Class Counsel.

21 **Section 2.16 Dispute Resolution**

22 2.16.1 Except as authorized herein, all disputes concerning the interpretation,
23 implementation, calculation, or payment of the Settlement Amount or other disputes
24 regarding compliance with this Settlement Agreement will be resolved by the Court.

25 **Section 2.17 Parties’ Authority**

26 2.17.1 The signatories hereto hereby represent that they are fully authorized to
27 enter into this Settlement Agreement and bind the Parties hereto to the terms and
28 conditions hereof.

1 **Section 2.18 Mutual Full Cooperation**

2 2.18.1 The Parties agree to fully cooperate with each other to accomplish the
3 terms of this Settlement Agreement as expeditiously as possible, including but not
4 limited to, execution of such documents and to take such other action as may
5 reasonably be necessary to implement the terms of this Settlement Agreement and
6 obtain Final Approval. The Parties to this Settlement Agreement shall use their best
7 efforts, including all efforts contemplated by this Settlement Agreement and any other
8 efforts that may become necessary by order of the Court, or otherwise, to effectuate
9 this Settlement Agreement and the terms set forth herein. As soon as practicable after
10 execution of this Settlement Agreement, Class Counsel shall, with the assistance and
11 cooperation of J.B. Hunt and its counsel, take all necessary steps to secure the Court's
12 Final Approval of this Settlement Agreement. Class Counsel will also notify counsel
13 for J.B. Hunt if they are subpoenaed or receive any other request for documents or
14 information regarding any other action filed or potential action against J.B. Hunt or the
15 Released Parties that covers or includes any Settlement Class Members.

16 **Section 2.19 No Prior Assignments**

17 2.19.1 The Parties hereto represent, covenant, and warrant that they have not
18 directly or indirectly, assigned, transferred, encumbered, or purported to assign,
19 transfer, or encumber to any person or entity any portion of any liability, claim,
20 demand, action, cause of action or rights herein released and discharged except as set
21 forth herein.

22 **Section 2.20 No Admission**

23 2.20.1 Nothing contained herein, nor the consummation of this Settlement
24 Agreement, is to be construed or deemed an admission of liability, culpability,
25 negligence, or wrongdoing on the part of J.B. Hunt or any of the Released Parties, and
26 they expressly deny liability or wrongdoing. J.B. Hunt further denies, for any purpose
27 other than settling this lawsuit, that this lawsuit is appropriate for class or
28 representative treatment. This Settlement Agreement is not, shall not be deemed to be,

1 and may not be used as, an admission or evidence of the appropriateness of this or
2 similar claims for class action certification or administration other than for the
3 purposes of administering this Settlement Agreement. Each of the parties hereto has
4 entered into this Settlement Agreement with the sole purpose and intention to avoid
5 further disputes and litigation with the attendant inconvenience and expenses. In the
6 event this Settlement Agreement is not approved by the Court or otherwise does not
7 become final, J.B. Hunt does not waive any defenses or rights. This Settlement
8 Agreement is a settlement document and shall, pursuant to Federal Rule of Evidence
9 408, California Evidence Code section 1152, and any and all analogous state laws, be
10 inadmissible in evidence in any proceeding, except an action or proceeding to approve,
11 interpret, or enforce this Settlement Agreement.

12 2.20.2 Whether or not the Settlement is finally approved, neither the
13 Settlement, nor any of its terms, nor any document, statement, proceeding or conduct
14 related to this Settlement Agreement including without limitation any motions for
15 preliminary and final approval of the Settlement and any documents submitted in
16 support of such motions, nor any reports or accounts thereof, shall in any event be
17 disclosed, referred to or offered or received in evidence against any of the Parties, in
18 any further proceeding in the Action, or any other civil, criminal or administrative
19 action or proceeding except for purposes of settling the Action or enforcing the
20 Released Claims contained herein pursuant to the terms of this Settlement Agreement.

21 **Section 2.21 Enforcement Actions**

22 2.21.1 In the event that one or more of the Parties to this Settlement
23 Agreement institutes any legal action, arbitration, or other proceeding against any other
24 party to enforce the provisions of this Settlement Agreement or to declare rights and/or
25 obligations under this Settlement Agreement, the successful party shall be entitled to
26 recover from the unsuccessful party reasonable attorneys' fees and costs, including
27 expert witness fees incurred in connection with any enforcement actions, provided the
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1 successful party demonstrates the unsuccessful party had actual notice of this
2 Settlement Agreement.

3 **Section 2.22 Notices**

4 Unless otherwise specifically provided herein, all notices, demands, or other
5 communications given hereunder shall be in writing and shall be deemed to have been
6 duly given as of the third business day after mailing by United States registered or
7 certified mail, return receipt requested, addressed as follows:

8 To Plaintiffs and the Settlement Class:

9 Stanley D. Saltzman
10 MARLIN & SALTZMAN LLP
29800 Agoura Road Suite 210
11 Agoura Hills, California 91301

12 To J.B. Hunt:

13 Scott A. Edelman
GIBSON, DUNN & CRUTCHER LLP
14 2029 Century Park East, 40th Floor
Los Angeles, California 90067

15 **Section 2.23 Construction**

16 2.23.1 The Parties hereto agree that the terms and conditions of this Settlement
17 Agreement are the result of lengthy, intensive arms-length negotiations between the
18 Parties and that this Settlement Agreement shall not be construed in favor of or against
19 any party by reason of the extent to which any party or his, her or its counsel
20 participated in the drafting of this Settlement Agreement.

21 **Section 2.24 Captions and Interpretations**

22 2.24.1 Paragraph titles or captions contained herein are inserted as a matter of
23 convenience and for reference, and in no way define, limit, extend, or describe the
24 scope of this Settlement Agreement or any provision hereof. Each term of this
25 Settlement Agreement is contractual and not merely a recital.

26 **Section 2.25 Modification**

27 2.25.1 This Settlement Agreement may not be changed, altered, or modified,
28 except in writing and signed by J.B. Hunt and the Plaintiffs hereto. This Settlement

1 Agreement may not be discharged except by performance in accordance with its terms
2 or by a writing signed by the Parties hereto.

3 **Section 2.26 Integration Clause**

4 2.26.1 This Settlement Agreement contains the entire agreement between the
5 Parties relating to the Settlement and transaction contemplated hereby, and all prior or
6 contemporaneous agreements, understandings, representations, and statements relating
7 to this Settlement and the transaction contemplated hereby, whether oral or written and
8 whether by a party or such party's legal counsel, are merged herein. No rights
9 hereunder may be waived except in writing.

10 **Section 2.27 Binding on Assigns**

11 2.27.1 The provisions of this Settlement Agreement shall run in perpetuity.
12 This Settlement Agreement shall be binding upon the Parties hereto and their spouses,
13 heirs, administrators, representatives, executors, successors and assigns, and shall inure
14 to the benefit of J.B. Hunt and the Released Parties, and their predecessors, successors,
15 affiliates, subsidiaries, parent companies, partners, current and past employees,
16 insurers, agents, legal representatives, each of which is entitled to enforce this
17 Settlement Agreement.

18 **Section 2.28 Signatories**

19 2.28.1 It is agreed that because the members of the Settlement Class are so
20 numerous, it is impossible or impractical to have each member of the Settlement Class
21 execute this Settlement Agreement. It is agreed that this Settlement Agreement may
22 be executed on behalf of the Settlement Class by Class Counsel and Plaintiffs; and
23 shall have the same force and effect as if executed by each member of the Settlement
24 Class.

25 **Section 2.29 Incorporation of Exhibits**

26 2.29.1 All exhibits attached hereto are incorporated by reference and are a
27 material part of this Settlement Agreement. Any notice, order, judgment, or other
28 exhibit that requires approval of the Court must be approved without material

1 alteration from its current form in order for this Settlement Agreement to become
2 effective.

3 **Section 2.30 Reasonableness of Settlement Agreement**

4 2.30.1 The Parties jointly warrant that this is a fair, reasonable, and adequate
5 settlement and have arrived at this Settlement through arms-length negotiations, taking
6 into account all relevant factors, present and potential.

7 **Section 2.31 California Law and Interpretation**

8 2.31.1 All terms of this Settlement Agreement and its exhibits will be
9 governed and interpreted by and according to the laws of the State of California,
10 without giving effect to any conflict of law principles or choice of principles. If the
11 Court determines that the release of claims in Section 2.7.1 above is unenforceable, for
12 whatever reason, this entire Settlement Agreement will become null and void *ab initio*.

13 **Section 2.32 Counterparts**

14 2.32.1 This Settlement Agreement may be executed in counterparts and/or by
15 facsimile signature (“counterpart”), and when each party has signed and delivered at
16 least one such counterpart, each counterpart shall be deemed an original, and, when
17 taken together with other signed counterparts, shall constitute one Settlement
18 Agreement, which shall be binding upon and effective as to all Parties.

19 **Section 2.33 Entire Agreement**

20 2.33.1 After this Settlement Agreement is fully executed by the Parties, it will
21 constitute the entire agreement of the Parties. No oral representations, warranties,
22 inducements, or writings have been made by any Party concerning this Settlement
23 Agreement, other than those expressly stated herein.

24 IN WITNESS WHEREOF, Plaintiffs and J.B. Hunt and their respective counsel
25 have executed this Settlement Agreement as of the date(s) indicated on the lines below.
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Dated: _____, 2018

PLAINTIFF GERARDO ORTEGA

By: _____
Gerardo Ortega


Dated: _____, 2018

PLAINTIFF MICHAEL D. PATTON

By: _____
Michael D. Patton

Dated: October 1, 2018

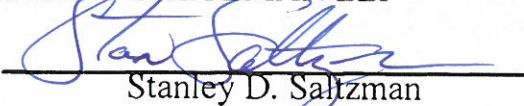
DEFENDANT J.B. HUNT
TRANSPORT, INC.

By: 
Jennifer Boattini
Senior Vice President & General Counsel

APPROVED AS TO FORM AND CONTENT

Dated: 10-1-, 2018


MARLIN & SALTZMAN LLP

By: 
Stanley D. Saltzman

Attorneys for Plaintiffs and the Settlement
Class

Dated: October 1, 2018

GIBSON, DUNN & CRUTCHER LLP


By: 
Scott A. Edelman

Attorneys for Defendant J.B. Hunt
Transport, Inc.

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Dated: October 1, 2018

PLAINTIFF GERARDO ORTEGA

By: 
Gerardo Ortega


Dated: October 1, 2018

PLAINTIFF MICHAEL D. PATTON

By:  10/1/18
Michael D. Patton

Dated: October 1, 2018

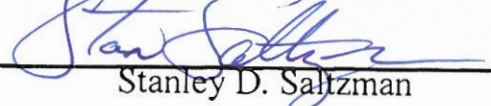
DEFENDANT J.B. HUNT
TRANSPORT, INC.

By: 
Jennifer Boattini
Senior Vice President & General Counsel

APPROVED AS TO FORM AND CONTENT

Dated: 10-1, 2018

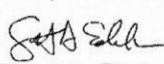
MARLIN & SALTZMAN LLP

By: 
Stanley D. Saltzman

Attorneys for Plaintiffs and the Settlement
Class

Dated: October 1, 2018

GIBSON, DUNN & CRUTCHER LLP

By: 
Scott A. Edelman

Attorneys for Defendant J.B. Hunt
Transport, Inc.