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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

William Muller, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

Roy Miller Freight Lines, LLC, a Delaware
Company,

Defendant.

**JOINT STIPULATION OF SETTLEMENT
AND RELEASE OF CLASS ACTION**

1 OGLETREE, DEAKINS, NASH, SMOAK &
2 STEWART

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1 This Joint Stipulation of Settlement and Release of Class Action (“Settlement Agreement”) is
2 made and entered into by Plaintiff William Muller (“Plaintiff”), individually and as a representative of
3 the Settlement Class, as defined below, and Roy Miller Freight Lines, LLC (“Defendant”) (Plaintiff and
4 Defendant are collectively referred to herein as “the Parties”). This Settlement Agreement is subject to
5 the approval of the Court, pursuant to California Rules of Court, Rule 3.769(c), (d) and (e), and is made
6 for the sole purpose of attempting to consummate settlement of the Action on a class-wide basis subject
7 to the following terms and conditions. As detailed below, in the event the Court does not enter an order
8 granting final approval of the Class Settlement, as defined below, or the conditions precedent are not
9 met for any reason, this Stipulation is void and of no force or effect whatsoever.

10 **I. DEFINITIONS**

11 As used in this Stipulation, the following terms shall have the meanings specified below. To the
12 extent terms or phrases used in this Stipulation are not specifically defined below, but are defined
13 elsewhere in this Stipulation, they are incorporated by reference into this definition section.

14 **1. Action.** “Action” shall mean the following civil action: *William Muller v. Roy Miller*
15 *Freight Lines, LLC*, Case No. 30-2016-00874087-CU-OE-CXC, filed on September 7, 2016 in the
16 Superior Court of California for the County of Orange.

17 **2. Administrative Expenses.** “Administrative Expenses” shall include all costs and
18 expenses associated with and paid to the third party Settlement Administrator, which are anticipated not
19 to exceed \$12,000.00.

20 **3. Claims.** “Claims” shall mean the claims asserted in the Complaint filed on September
21 7, 2016, which claims for are Defendant’s alleged: (1) failure to pay separately and on an hourly basis
22 for time spent by drivers on rest breaks, pre- and post-trip inspection time, loading/unloading time,
23 cleaning, fueling, and paperwork time (collectively referred to as “Non Driving Tasks”); (2) failure to
24 provide paid rest breaks and pay missed rest break premiums to its current and former truck drivers; (3)
25 failure to provide complete wage statement to its current and former truck drivers assigned to work in
26 California within one year prior to the filing of the Complaint; (4) failure to provide paid meal periods to
27 its current and former truck drivers; (5); waiting time penalties; and (6) unfair business practices based
28 on the foregoing.

1 **4. Class or Settlement Class.** “Class” or “Settlement Class” shall mean “Plaintiff and all
2 current and former truck drivers employed by Roy Miller in California who were paid, in whole or in
3 part on a piece-rate basis, who worked during the Class Period. “Class Period” shall mean the period
4 from September 7, 2012 through January 1, 2016. Defendant has represented that the Settlement Class
5 consists of approximately 43 Class Members.

6 **5. Class Counsel.** “Class Counsel” shall mean Jonathan Melmed of Melmed Law Group
7 P.C. and Craig J. Ackermann of Ackermann & Tilajef, P.C.

8 **6. Class Attorney Fees and Expenses.** “Class Attorney Fees and Expenses” shall mean
9 Class Counsel’s attorney fees and expenses as set forth in Section IV, Paragraph 6.

10 **7. Class Member or Settlement Class Member.** “Class Member” or “Settlement Class
11 Member” shall mean any person who is a member of the Settlement Class, or, if such person is
12 incompetent or deceased, the person's legal guardian, executor, heir or successor-in-interest.

13 **8. Class Notice.** “Class Notice” shall mean the Notice of Proposed Class Action
14 Settlement and Hearing Date for Court Approval, as set forth in the form of **Exhibit 1** attached hereto,
15 or as otherwise approved by the Court, which is to be mailed to Class Members along with the Share
16 Form.

17 **9. Share Form.** “Share Form” shall mean the Share Form, as set forth in the form of
18 **Exhibit 2** attached hereto, or as otherwise approved by the Court, which is to be mailed to Class
19 Members along with the Class Notice.

20 **10. Class Participants.** “Class Participants” shall mean any and all Class Members who do
21 not timely Opt-Out of the Class Settlement.

22 **11. Class Period.** “Class Period” shall mean the period from September 7, 2012 through
23 January 1, 2016.

24 **12. Class Representative.** “Class Representative” shall mean Plaintiff William Muller.

25 **13. Class Settlement.** “Class Settlement” shall mean the settlement embodied in this
26 Stipulation, which is subject to Court approval.

27 **14. Complaint.** “Complaint” shall mean the Complaint filed in Orange County Superior
28 Court on September 7, 2016, Case No. 30-2016-00874087-CU-OE-CXC.

1 **15. Court.** “Court” shall mean the Superior Court of Orange County.

2 **16. Defense Counsel.** “Defense Counsel” shall mean Christian J. Keeney and Alis M.
3 Moon of Ogletree, Deakins, Nash, Smoak & Stewart, 695 Town Center Drive, Suite 1500, Costa Mesa,
4 CA 92626.

5 **17. Effective Date.** “Effective Date” shall be the date when all of the following events have
6 occurred: (a) this Stipulation has been executed by all Parties and by Class Counsel and Defense
7 Counsel; (b) the Court has given preliminary approval to the Settlement; (c) notice has been given to the
8 Settlement Class Members providing them with an opportunity to Opt-Out of the Class Settlement; (d)
9 the Court has held a Final Approval and Fairness Hearing and entered a final order and judgment
10 certifying the Class and approving this Stipulation; and (e) the later of the following events: the
11 expiration of the period for filing any appeal, writ, or other appellate proceeding opposing the Class
12 Settlement has elapsed without any appeal, writ or other appellate proceeding having been filed; or the
13 dismissal of any appeal, writ, or other appellate proceeding opposing the Class Settlement with no right
14 to pursue further remedies or relief; or any appeal, writ, or the issuance of such other final appellate
15 order upholding the Court's final order with no right to pursue further remedies or relief. In this regard, it
16 is the intention of the Parties that the Class Settlement shall not become effective until the Court’s order
17 approving the Class Settlement is completely final and there is no further recourse by an appellant or
18 objector who seeks to contest the Class Settlement. In the event no objections are filed, the Effective
19 Date shall be after steps (a) through (d) are completed.

20 **18. Employee’s Taxes and Required Withholding.** “Employee’s Taxes and Required
21 Withholding” shall mean the employee’s share of any and all applicable federal, state or local payroll
22 taxes, including those collected under authority of the Federal Insurance Contributions Act (“FICA”),
23 FUTA and/or SUTA on the portion of any Class Participant’s Individual Settlement Amount that
24 constitutes wages as set forth in section IV, paragraph 4. The Employee’s Taxes and Requirement
25 Withholdings will be withheld from and paid out of the Net Settlement Amount.

26 **19. Employer’s Taxes.** “Employer’s Taxes” shall mean and refer to Defendant’s share of
27 payroll taxes (e.g. UI, ETT, Social Security and Medicare taxes) that is owed on the portion of any
28 Class Participant’s Individual Settlement Amount that constitutes wages as set forth in section IV,

1 paragraph 4. The Employer’s Taxes shall be separately paid by Defendant and shall not be paid from
2 the Gross Settlement Amount or Net Settlement Amount.

3 **20. Final Approval and Fairness Hearing.** “Final Approval and Fairness Hearing” shall
4 mean the final hearing held to ascertain the fairness, reasonableness, and adequacy of the Class
5 Settlement.

6 **21. Defendant.** “Defendant” shall mean Roy Miller Freight Lines, LLC.

7 **22. Hearing on Preliminary Approval.** “Hearing on Preliminary Approval” shall mean
8 the hearing held on the motion for preliminary approval of the Class Settlement.

9 **23. Individual Settlement Amount.** “Individual Settlement Amount” shall mean the
10 amount which is ultimately distributed to each Class Participant, net of any Employee’s Taxes and
11 Required Withholdings.

12 **24. Plaintiff.** “Plaintiff” shall mean the named Plaintiff William Muller.

13 **25. Net Settlement Amount.** “Net Settlement Amount” shall mean the Gross Settlement
14 Amount minus Administrative Expenses, Class Attorney Fees and Expenses, and Plaintiff’s Incentive
15 Award.

16 **26. Opt-Out(s).** “Opt-Out(s)” shall mean any and all persons who timely and validly
17 request exclusion from the Class Settlement in accordance with the terms of the Class Notice and no
18 later than the Response Deadline.

19 **27. Parties.** “Parties” shall mean Plaintiff and Defendant.

20 **28. Preliminary Approval Date.** “Preliminary Approval Date” shall mean the date upon
21 which the Court enters an order preliminarily approving this Stipulation.

22 **29. Released Claims.** “Released Claims” shall mean all claims, demands, rights liabilities
23 that were pled in any of the complaints in this matter, or which could have been pled in any of the
24 complaints in this matter based on the factual allegations alleged therein and that arose during the Class
25 Period (the Released Claims), namely: (a) failure to pay separately and hourly for nonproductive time or
26 Non-Driving Time (Labor Code §§ 1194, 1194.2, and 226.2); (b) failure to provide paid rest periods and
27 pay missed rest break premiums (Labor Code §§ 226.7, 512, IWC Wage Order No. 9); (c) failure to
28 provide complete and accurate wage statements in violation of Labor Code § 226(a); (d) failure to

1 provide meal periods (Labor Code §§ 226.7, 512); (e) waiting time penalties (Labor Code §§ 201-203);
2 (f) UCL Violations (Business & Professions Code §§ 17200-17204); (g) any other claims or penalties
3 under the wage and hour laws pleaded in the action; and (h) all damages, penalties, interest and other
4 amounts recoverable under said causes of action under California and federal law, to the extent
5 permissible, including but not limited to the California Labor Code, the applicable Wage Orders, and
6 California Unfair Competition Law. The res judicata effect of the Judgment will be the same as that of
7 the Released Claims obtained by this Stipulation.

8 It is understood and agreed that this Stipulation will not release any person, party or entity from
9 claims, if any, by Class Members for workers compensation, unemployment, or disability benefits of
10 any nature, nor does it release any claims, actions, or causes of action which may be possessed by
11 Settlement Class Members under state or federal discrimination statutes, including, without limitation,
12 the Cal. Fair Employment and Housing Act, the Cal. Government Code § 12940, *et seq.*; the Unruh Civil
13 Rights Act, the Cal. Civil Code §51, *et seq.*; the California Constitution; Title VII of the Civil Rights Act
14 of 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101,
15 *et seq.*; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*;
16 and all of their implementing regulations and interpretive guidelines.

17 **30. Released Parties.** “Released Parties” shall mean Roy Miller Freight Lines, LLC, its
18 past, present and/or future officers, directors, shareholders, managers, employees, agents, principals,
19 heirs, representatives, accountants, auditors, consultants, and its respective successors and predecessors
20 in interest, subsidiaries, affiliates, parents and attorneys.

21 **31. Response Deadline.** “Response Deadline” shall mean the date forty-five (45) days
22 following the date on which the Settlement Administrator first mails Class Notice to the Settlement
23 Class Members.

24 **32. Incentive Award.** “Incentive Award” shall mean any additional monetary payment
25 provided to the Class Representative for his efforts and risks on behalf of the Settlement Class in this
26 Action.

27 **33. Settlement.** “Settlement” shall mean the settlement between the Parties, which is
28 memorialized in this Stipulation and subject to approval by the Court.

1 **34. Settlement Administrator.** “Settlement Administrator” shall mean CPT Group, Inc., or
2 a mutually agreeable Claims Administrator, shall act as the Settlement Administrator, subject to Court
3 approval.

4 **35. Gross Settlement Amount.** “Gross Settlement Amount” is the agreed upon non-
5 reversionary settlement amount totaling \$215,000.00 to be paid by Defendants in full settlement of the
6 Released Claims asserted in this case, including the Administrative Expenses, Employee’s Taxes and
7 Required Withholdings, Class Attorney Fees and Expenses, and Incentive Award. Defendant shall
8 separately pay its share of the Employer’s Taxes in addition to the Gross Settlement Amount.

9 **36. Settlement Agreement.** “Settlement Agreement” shall mean this Joint Stipulation of
10 Settlement and Release of Class Action, including any attached exhibits.

11 **II. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

12 **1. Plaintiff’s Claims.** On behalf of the Settlement Class, Plaintiff alleged the following
13 causes of action: (1) failure to pay separately and hourly for time spent by drivers on rest breaks, pre-
14 and post-trip inspections, loading/unloading time, cleaning, fueling, and paperwork time (collectively
15 referred to as “Non-Driving Tasks”) (Cal. Labor Code §§ 1194, 1194.2, 226.2); (2) failure to provide
16 paid rest breaks to its current and former drivers (Cal. Labor Code § 226.7, 512; IWC Wage Order No.
17 9); (3) failure to provide complete wage statements to its current and former truck drivers assigned to
18 work in California (Cal. Labor Code § 226(a)); (4) failure to timely duty-free meal periods to its current
19 and former drivers and pay missed meal period premiums (Cal. Labor Code § 226.7, 512); (5) failure to
20 pay all wages due to former employees based on the foregoing (Cal. Labor Code § 201 – 203); and (6)
21 derivative UCL violations (Cal. Bus. & Prof. Code §§ 17200-17204) based on the foregoing.

22 **2. Discovery, Investigation, Motion Practice and Research.** Class Counsel has
23 conducted significant discovery during the prosecution of the Action. This discovery, investigation, and
24 prosecution has included, among other things, (a) over a dozen telephonic conferences with Plaintiff; (b)
25 inspection and analysis of hundreds of pages of documents and other information produced by Plaintiff
26 and Defendant; (c) analysis of the legal positions taken by Defendant; (d) investigation into the viability
27 of class treatment of the claims asserted in the Action; (e) analysis of potential class-wide damages,
28 including information sufficient to understand Defendant’s potential defenses to Plaintiff’s claims; (f)

1 research of the applicable law with respect to the claims asserted in the Complaint and the potential
2 defenses thereto; and (g) assembling and analyzing of data for calculating damages. In addition, the
3 Parties have determined that the estimated size of the Settlement Class is no more than 43 Class
4 Members.

5 The Class Representative has vigorously prosecuted this case, and Defendant has vigorously
6 contested it. The Parties have engaged in sufficient investigation and discovery to assess the relative
7 merits of the claims of the Class Representative and of Defendant’s defenses to them.

8 **3. Allegations of the Class Representative and Benefits of Class Settlement.** The
9 extensive discovery conducted in this matter, as well as discussions between counsel, have been
10 adequate to give the Class Representative and Class Counsel a sound understanding of the merits of their
11 positions and to evaluate the worth of the claims of the Settlement Class. The discovery conducted in
12 this Action and the information exchanged by the Parties through discovery and settlement discussions
13 are sufficient to reliably assess the merits of the Parties' respective positions and to compromise the
14 issues on a fair and equitable basis.

15 Plaintiff and Class Counsel believe that the claims, causes of action, allegations and contentions
16 asserted in the Action have merit. However, Plaintiff and Class Counsel recognize and acknowledge the
17 expense and delay of continued lengthy proceedings necessary to prosecute the Action against
18 Defendant through trial and through appeals. Class Counsel has taken into account the uncertain
19 outcome of the litigation, the risk of continued litigation in complex actions such as this, as well as the
20 difficulties and delays inherent in such litigation, and the potential difficulty of obtaining certification of
21 the Action as well as trying the claims of the class. Class Counsel is mindful of the potential problems
22 of proof under, and possible defenses to, the claims alleged in the Action.

23 Class Counsel believes that the Settlement set forth in this Stipulation confers substantial
24 benefits upon Plaintiff and the Settlement Class Members and that an independent review of this
25 Stipulation by the Court in the approval process will confirm this conclusion. Based on their own
26 independent investigation and evaluation, Class Counsel has determined that the Settlement set forth in
27 the Stipulation is in the best interests of Plaintiff and the Settlement Class Members.

28 **4. Defendant’s Denials of Wrongdoing and Liability.** Defendant has denied and

1 continues to deny each and all of the allegations, claims, and contentions alleged by Plaintiff in the
 2 Action. Defendant has expressly denied and continues to deny all charges of wrongdoing or liability
 3 against it arising out of any of the conduct, statements, acts or omissions alleged in the Action.
 4 Defendant contends that it complied in good faith with California and federal wage and hour laws and
 5 has dealt legally and fairly with Plaintiff and Settlement Class Members. Defendant further denies that,
 6 for any purpose other than settling this Action, these claims are appropriate for class or representative
 7 treatment. Nonetheless, Defendant has concluded that further proceedings in the Action would be
 8 protracted and expensive and that it is desirable that the Action be fully and finally settled in the manner
 9 and upon the terms and conditions set forth in this Stipulation in order to dispose of burdensome and
 10 protracted litigation, to permit the operation of Defendant’s business without further expensive litigation
 11 and the distraction and diversion of its personnel with respect to matters at issue in the Action.
 12 Defendant has also taken into account the uncertainty and risks inherent in any litigation, especially in
 13 complex cases such as the Action. Defendant has, therefore, determined that it is desirable and
 14 beneficial to it that the Action be settled in the manner and upon the terms and conditions set forth in
 15 this Stipulation. This Stipulation is a compromise of disputed claims. Nothing contained in this
 16 Stipulation and no documents referred to herein and no action taken to carry out this Stipulation may be
 17 construed or used as an admission by or against Defendant as to the merits or lack thereof of the claims
 18 asserted.

19 **5. Intent of the Class Settlement.** The Class Settlement set forth herein intends to
 20 achieve the following: (1) entry of an order approving the Class Settlement; (2) entry of judgment of the
 21 Action; (3) discharge of Released Parties from liability for any and all of the Released Claims; and (4)
 22 discharge of Plaintiff from liability for any and all claims arising out of the Action.

23 **III. CONDITIONAL CLASS CERTIFICATION AND APPOINTMENT OF CLASS**
 24 **COUNSEL**

25 **1. The Settlement Class.** For the purposes of this Stipulation and the Class Settlement of
 26 this Action only, the Parties stipulate to conditional class certification of the Settlement Class.. Should
 27 the Settlement not become final and effective, class certification will immediately be set aside and the
 28 Settlement Class immediately decertified (subject to further proceedings on motion of any party to

1 certify or deny certification thereafter). The Parties' willingness to stipulate to class certification as part
2 of the Settlement will have no bearing on, and will not be admissible in or considered in connection
3 with, the issue of whether a class should be certified in a non-settlement context in this Action or in any
4 contest in any other lawsuit.

5 **2. Appointment of Class Counsel.** For purposes of this Stipulation and subject to the
6 Court's approval, the Parties hereby stipulate to the appointment of Class Counsel as counsel for the
7 Class and the effectuation of the Class Settlement pursuant to this Stipulation.

8 **IV. CLASS SETTLEMENT CONSIDERATION**

9 **1. Settlement Amount.** The Parties agree to settle this Action for the Gross Settlement
10 Amount of \$215,000.00. There shall be no reversion to Defendant. Defendants shall pay the Gross
11 Settlement Amount in full. The Gross Settlement Amount and other actions and forbearances taken by
12 Defendant shall constitute adequate consideration for the Class Settlement and will be made in full and
13 final settlement of: (a) the Released Claims, (b) Class Attorney Fees and Expenses, (c) Administrative
14 Expenses, (d) Incentive Award; and (e) any other obligation of Defendant under this Stipulation (other
15 than the Employer's Taxes on the portion of the Net Settlement Amount allocated to the payment of
16 wages). After the court issues an order preliminarily approving this Class Settlement, the Settlement
17 Administrator will distribute the Class Notice to the Settlement Class Members, which shall describe the
18 terms of the Class Settlement and procedures to opt out, object or participate in the Class Settlement as
19 well as the Share Form, which shall identify the Settlement Class Member, the pay periods worked by
20 each Settlement Class Member, as well as the estimated amount of the Individual Settlement Amount
21 the Settlement Class Member can expect to receive once the Class Settlement becomes Effective.
22 Settlement Class Members shall be given the opportunity to challenge their pay periods worked
23 information.

24 **2. Incentive Award for Plaintiff.** Plaintiff may petition the Court to approve an Incentive
25 Award in an amount up to \$10,000.00 for Plaintiff's efforts on behalf of the Settlement Class in this
26 Action, including assisting in the investigation and consulting with Class Counsel and providing crucial
27 documents to Class Counsel. Defendant shall not oppose any request by Plaintiff for an Incentive
28 Award in such an amount. Any Incentive Award approved by the Court shall be paid to Plaintiff from

1 the Gross Settlement Amount and shall be in addition to any distribution to which he may otherwise be
2 entitled as a Class Participant. The Incentive Award shall not be considered wages, and the Settlement
3 Administrator shall issue Plaintiff an IRS Form 1099 reflecting such payment. Plaintiff shall be
4 responsible for the payment of any and all taxes with respect to his Incentive Award and shall hold
5 Defendant harmless from any and all liability with regard thereto. If the Court reduces or does not
6 approve the requested Incentive Award for Plaintiff, Plaintiff and Class Counsel cannot revoke or
7 renegotiate the Settlement, or file an appeal based thereon, and the Settlement will remain binding.

8 **3. Payment to Class Participants.** Each Class Participant shall be eligible to receive
9 payment of the Individual Settlement Amount, which is a share of the Net Settlement Amount based on
10 the pro rata number of weeks worked by the Settlement Class Members during the Class Period as a
11 proportion of all weeks worked by all Settlement Class Members. The Individual Settlement Amount
12 for each Settlement Class Member shall be calculated in accordance with section VII, paragraph 2. Each
13 Class Participant, including Plaintiff, shall be responsible for the payment of the Employee's Taxes and
14 Required Withholding with respect to his or her Individual Settlement Amount and shall hold Defendant
15 harmless from any and all liability with regard thereto.

16 **4. Tax Treatment and Payment.** For the purpose of calculating Employee's Taxes and
17 Required Withholding for the Individual Settlement Amounts for Class Participants (including any
18 payments to the Class Representative but exclusive of his Incentive Award), the Parties agree that 20%
19 of each Individual Settlement Amount shall constitute wages in the form of back pay (and each Class
20 Participant will be issued an IRS Form W-2 for such payment to him or her), and 80% of each
21 Individual Settlement Amount shall constitute penalties and interest (and each Class Participant will be
22 issued an IRS Form 1099 for such payment to him or her). Prior to final distribution, the Settlement
23 Administrator shall calculate the total Employee's Taxes and Required Withholding due as a result of
24 the wage portion of Class Participants' anticipated Individual Settlement Amounts and such actual
25 amount will be deducted from the Net Settlement Amount. Additionally, prior to the funding of the
26 Gross Settlement Sum and final distribution, the Settlement Administrator shall calculate the total
27 Employer's Taxes due on the wage portion of the Class Participants' Individual Settlement Amounts and
28 issue instructions to Defendant to separately fund these tax obligations/withholdings. The Parties

1 understand that Plaintiff and the Class Participants who receive any payment pursuant to this Stipulation
2 shall be solely responsible for any and all other individual tax obligations associated with this Class
3 Settlement.

4 **5. No Effect on Employee Benefit Plans.** Neither the Class Settlement nor any amounts
5 paid under the Class Settlement will modify any previously credited hours, days, or weeks of service
6 under any employee benefit plan, policy or bonus program sponsored by Defendant. Such amounts will
7 not form the basis for additional contributions to, benefits under, or any other monetary entitlement
8 under Defendant's sponsored benefit plans, policies or bonus programs. The payments made under the
9 terms of this Stipulation shall not be applied retroactively, currently, or on a going forward basis, as
10 salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's
11 benefit plan, policy or bonus program. Defendant retains the right to modify the language of its benefits
12 plans, policies and bonus programs to effect this intent and to make clear that any amounts paid pursuant
13 to this Stipulation are not for "weeks worked," "weeks paid," "weeks of service," or any similar
14 measuring term as defined by applicable plans, policies and bonus programs for purpose of eligibility,
15 vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not
16 required by this Stipulation. Defendant does not consider the Class Settlement payments
17 "compensation" for purposes of determining eligibility for, or benefit accrual within, any benefit plans,
18 policies, or bonus programs, or any other plan sponsored by Defendant.

19 **6. Class Attorney Fees and Expenses.** As part of the motion for final approval of the
20 Class Settlement, Class Counsel may submit an application for an award of Class Attorney Fees and
21 Expenses with the fee portion not to exceed one third of the Gross Settlement Amount (*i.e.*, \$71,595.00)
22 and the award of costs and expenses of up to an additional \$20,000.00. Defendant agrees not to object
23 to any such fee, cost or expense application in those amounts. As a condition of this Class Settlement,
24 Class Counsel has agreed to pursue fees only in the manner reflected by this Section. Any Class
25 Attorney Fees and Expenses awarded by the Court shall be paid from the Gross Settlement Amount in
26 arriving at the Net Settlement Amount and shall not constitute payment to any Settlement Class
27 Members. If Class Counsel voluntarily reduces the request for Class Attorney Fees or Expenses or the
28 Court's award of Class Attorney Fees or Expenses is less than set forth above, the Net Settlement

1 Amount shall be recalculated to reflect the actual Class Attorney Fees and Expenses awarded. Class
2 Counsel will be solely and legally responsible to pay all taxes on the payment made pursuant to this
3 paragraph. In the event that the Court reduces or does not approve the requested Class Attorney Fees or
4 Expenses, Plaintiff and Class Counsel cannot revoke or renegotiate the Settlement, or file an appeal
5 based thereon, and the Settlement will remain binding.

6 The Class Attorney Fees and Expenses approved by the Court shall encompass: (a) all work
7 performed and costs and expenses incurred by, or at the direction of, any attorney purporting to
8 represent the Settlement Class through the date of this Stipulation; (b) all work to be performed and
9 costs to be incurred in connection with approval by the Court of the Class Settlement; (c) all work to be
10 performed and costs and expenses, if any, incurred in connection with administering the Class
11 Settlement through the Effective Date and dismissal of the Action, with prejudice; and (d) may be based
12 on the Catalyst Theory and/or Common Fund Doctrine.

13 **V. CLAIMS ADMINISTRATION COSTS AND EXPENSES**

14 **1. The Settlement Administrator’s Costs and Expenses.** All costs and expenses due to
15 the Settlement Administrator in connection with its administration of the Class Settlement, including,
16 but not limited to, providing the Class Notice, locating Settlement Class Members, processing Opt-Out
17 requests and objections, and calculating, administering and distributing Individual Settlement Amounts
18 to the Class Participants and related tax forms, shall be paid from the Gross Settlement Amount, and
19 shall not exceed \$12,000.00.

20 **2. Payment by Defendant.** The Settlement Administrator will calculate the Employer’s
21 Taxes and inform Defendant of the total amount of such Employer’s Taxes within 30 days of the Court’s
22 granting Preliminary Approval.

23 **VI. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION PROCESS**

24 **1. The Settlement Administrator.** The Settlement Administrator will be responsible for
25 mailing the Class Notice and Share Form (**Exhibits 1 and 2**) to Settlement Class Members, handling
26 inquiries from Settlement Class Members concerning the Class Notice, determination of Individual
27 Settlement Amounts, maintaining the settlement funds in an appropriate interest bearing account,
28 preparing, administrating and distributing Individual Settlement Amounts to Class Participants, issuing a

1 final report and performing such other duties as the Parties may direct.

2 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
3 Defense Counsel summary information updating them as to the number of validated and timely
4 objections and Opt-Out Requests. The Settlement Administrator will serve on Class Counsel and
5 Defense Counsel via e-mail date-stamped copies of the original Opt-Outs and objections no later than
6 seven days after their receipt. The Settlement Administrator will provide Class Counsel with proof of
7 mailing of the Class Notice, without listing individual Class Member names which the Settlement
8 Administrator will file with the Court at the time Class Counsel files its motion in support of the Court's
9 Final Approval and Fairness Hearing. No later than seven days prior to the Final Approval and Fairness
10 Hearing, the Settlement Administrator will compile and deliver to Class Counsel and Defense Counsel a
11 report with summary information regarding (a) the total amount of final Individual Settlement Amounts
12 of each Class Participant (b) the number of Class Participants to receive such payments, and (c) the final
13 number of Opt-Outs and objections.

14 Administrative Expenses are not anticipated to exceed \$12,000.00. Prior to the calculation and
15 distribution of the Individual Settlement Amounts, the Settlement Administrator shall calculate the total
16 Administrative Expenses through the conclusion of their services and such actual amount will be
17 deducted from the Gross Settlement Amount prior to the final calculation of the Individual Settlement
18 Amounts.

19 **2. Notice to Settlement Class Members.** Notice shall be provided to Settlement Class
20 Members in the following manner: Within 30 days after the Preliminary Approval Date, Defendant
21 shall provide the Settlement Administrator with an updated list of Class Members containing names,
22 addresses, email addresses, phone numbers, social security numbers, positions held, and other
23 information necessary to notify each Class Member (the "Database"). The Database shall be marked
24 "Confidential –Settlement Administrator's Eyes Only." Class Counsel shall not receive a copy of this
25 list.

26 Within 45 days following the Preliminary Approval Date, the Settlement Administrator shall
27 determine the number of pay periods for each Settlement Class Member, populate the Settlement Class
28 for each accordingly, and send each Settlement Class Member the Class Notice via first-class, United

1 States mail. The Class Notice shall also contain an easily understood statement alerting the Class
2 Members that, unless they elect to Opt-Out of the Class Settlement, the Settlement Class Member is
3 releasing and waiving all Released Claims against the Released Parties.

4 The Class Notice will inform Settlement Class Members of his/her estimated share of the
5 settlement and the number of pay periods he/she worked during the Class Period. Class Members may
6 dispute their weeks worked if they believe they worked more weeks in the Class Period than
7 Defendant's records show by submitting information to the Settlement Administrator no later than 45
8 days after being mailed the Class Notice and Share Form by the Settlement Administrator, which is the
9 defined Response Deadline. The Settlement Administrator will jointly work with Plaintiff and
10 Defendant to resolve the dispute in good faith. If Plaintiff and Defendant cannot agree over the pay
11 periods to be credited, the Settlement Administrator shall make the final decision based on the
12 information presented by the Settlement Class Member and Defendant.

13 **3. Opt-Out Procedure.** Settlement Class Members who do not timely Opt-Out of the
14 Class Settlement will be deemed to participate in the Class Settlement and shall become a Class
15 Participant without having to submit a claim form or take any other action. In order to Opt-Out of the
16 Class Settlement, the Settlement Class Member must submit a letter or postcard to the Settlement
17 Administrator by the Response Deadline. The Opt-Out request must state the Settlement Class
18 Member's name, address, telephone number, and signature. The Opt-Out request should state to the
19 effect of: "I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE MULLER V.
20 ROY MILLER FREIGHT LINES LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE
21 EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM
22 THE CLASS SETTLEMENT OF THIS LAWSUIT AND WILL NOT BE RELEASING ANY CLAIMS
23 I MIGHT HAVE." Any Opt-Out request that is not postmarked by the Response Deadline will be
24 invalid. In the event that, prior to the Response Deadline, any Class Notice mailed to a Settlement Class
25 Member is returned as having been undelivered by the U.S. Postal Service, the Settlement Administrator
26 shall perform a skip trace search and seek an address correction for such Settlement Class Member(s),
27 and a second Class Notice will be sent to any new or different address obtained. Such Settlement Class
28 Member(s) shall have an additional 14 days in which to Opt-Out.

1 It will be presumed that, if an envelope containing the Class Notice has not been returned within
2 28 days of the mailing, the Settlement Class Member received the Class Notice. At least 30 days prior
3 to the Final Approval and Fairness Hearing, the Settlement Administrator shall provide Class Counsel
4 and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing with regard to the
5 mailing of the Class Notice and its attempts to locate Class Members. The declaration shall specify the
6 number of Settlement Class Members to whom Class Notices were sent and the number of Settlement
7 Class Members to whom Class Notices were not delivered, as well as information relating to the number
8 of Opt-Outs and objectors. Class Counsel shall file this declaration with the Court.

9 If the Settlement Administrator determines that an Opt-Out request returned by a Settlement
10 Class Member before the Response Deadline is deficient, then the Settlement Administrator shall mail a
11 deficiency letter to that Settlement Class Member identifying the problem. If a Settlement Class Member
12 submits both a dispute and an Opt-Out request, the Settlement Administrator shall make reasonable
13 attempts to clarify as if the Opt-Out request were deficient. If the Class Member fails to cure the
14 deficiency, the Opt-Out request shall be disregarded and the claim will be paid, and the Class Member
15 will become bound by the judgment.

16 Those Settlement Class Members who do not timely Opt-Out will be bound by the Release of
17 Released Claims set forth in Section I, Paragraph 29 of this Stipulation.

18 **4. Objections.** The Class Notice shall inform the Settlement Class Members of their right
19 to object to the Class Settlement. Any Settlement Class Member who wishes to object to the Class
20 Settlement must submit a written objection to the Settlement Administrator no later than the Response
21 Deadline. The objection must include the case name and number and must set forth, in clear and concise
22 terms, a statement of the reasons why the objector believes that the Court should find that the proposed
23 Class Settlement is not in the best interest of the Settlement Class and the reasons why the Class
24 Settlement should not be approved, including the legal and factual arguments supporting the objection.
25 If an objector also wishes to appear at the Final Approval and Fairness Hearing, in person or through an
26 attorney, he or she *must also* file a notice of intention to appear at the same time as the objection is filed.
27 The Settlement Administrator will promptly serve copies of any objection or notice of intention to
28 appear on Class Counsel and Defense Counsel. Unless otherwise ordered by the Court, Settlement Class

1 Members shall not be entitled to appear and or object at the Final Approval Hearing unless they have
2 submitted a timely written objection and notice of intention to appear pursuant to this Section.
3 Settlement Class Members who have properly and timely submitted objections may appear at the Final
4 Approval Hearing, either in person or through a lawyer retained at their own expense.

5 **VII. CLASS SETTLEMENT FUNDING AND DISTRIBUTION**

6 **1. Allocation of the Gross Settlement Amount.** The claims of all Settlement Class
7 Members are settled for the Gross Settlement Amount of \$215,000.00, which will be allocated as
8 follows:

- 9 a. The Administrative Expenses, not to exceed \$12,000.00;
- 10 b. The Class Attorney Fees and Expenses not to exceed \$71,666.66 in fees and expenses
11 not to exceed \$20,000.00;
- 12 c. The Incentive Award, not to exceed \$10,000.00

13 For purposes of calculating the estimated Individual Settlement Amounts, the Settlement Administrator
14 shall calculate the estimated Net Settlement Amount based on the estimated values in Section 1(a-c)
15 prior to sending Notice to the Settlement Class Members. Prior to final distribution, the Settlement
16 Administrator shall calculate the final Net Settlement Amount based on the actual values in Section 1 (a-
17 c).

18 **2. Calculation of the Individual Settlement Amounts.** Individual Settlement Amounts to
19 be paid to Class Participants shall be paid from the Net Settlement Amount. The portion of the Net
20 Settlement Amount payable to each Class Participant will be calculated as follows:

21 The Settlement Administrator shall divide the Net Settlement Amount by the total number of
22 workweeks Settlement Class Members were employed during the Class Period, in order to determine the
23 amount each Settlement Class Member is entitled to for each workweek s/he was employed by
24 Defendant (the “Weekly Amount”). The Settlement Administrator will multiply the Weekly Amount by
25 the total number of workweeks that each Settlement Class Member was employed and deduct all
26 Employee’s Taxes and Required Withholding attributable to wages to arrive at the Individual Settlement
27 Amount for that Class Member. Defendant will provide the Settlement Administrator with any
28 information reasonably necessary to perform the calculation of number of pay periods for each

1 Settlement Class Member, and any other reasonably required information the Settlement Administrator
2 requests to perform the calculations required under this Settlement Agreement. Defendant shall have no
3 responsibility for deciding the validity of the Individual Settlement Amounts or any other payments
4 made pursuant to this Stipulation, shall have no involvement in or responsibility for the determination or
5 payment of Employee's Taxes and Required Withholding, and shall have no liability for any errors
6 made with respect to such Employee's Taxes and Required Withholding. Although the Settlement
7 Administrator will calculate and pay the standard Employee's Taxes and Required Withholding on the
8 portion of the Individual Settlement Amounts constituting wages on their behalf, Plaintiff and Class
9 Participants represent and understand that they shall be solely responsible for any and all tax obligation
10 associated with their respective Individual Settlement Amounts and Incentive Awards.

11 **3. Time for Payment of Attorney Fees and Expenses to Class Counsel.** The Settlement
12 Administrator shall distribute to Class Counsel any attorney fees and expenses approved by the Court to
13 Class Counsel within 15 business days of the Effective Date.

14 **4. Time for Payment of Incentive Award to Class Representative.** The Settlement
15 Administrator shall distribute to Plaintiff the Incentive Award approved by the Court within 15 business
16 days of the Effective Date.

17 **5. Time for Payment of Taxes and Required Withholding and Individual Settlement**
18 **Amounts.** The Settlement Administrator shall make every effort to pay the Employee's Taxes and
19 Required Withholding associated with each Class Participant's Individual Settlement Amount and mail
20 the Individual Settlement Amount to each Class Participant, by first-class U.S. mail, to the last-known
21 address within 15 business days of the Court's granting Final Approval. If the Settlement Administrator
22 is not able to do so within the time period set forth above, it shall so inform Class Counsel and Defense
23 Counsel and provide an approximate date by which the Employee's Taxes and Required Withholding
24 shall be paid and the Individual Settlement Amounts will be mailed. Under no circumstances shall the
25 Settlement Administrator distribute checks to Class Participants until all Individual Settlement Amounts
26 have been considered, calculated, and accounted for, and the all of the remaining monetary obligations
27 have been calculated and accounted for. Within 120 days of the Effective Date, the Settlement
28 Administrator shall file with the Court and provide to Class Counsel a declaration of payment. In the

1 event that any Class Participant is deceased, payment shall be made payable to the estate of that
2 Settlement Class Member and delivered to the executor or administrator of that estate, unless the
3 Settlement Administrator has received an affidavit or declaration pursuant to Cal. Probate Code § 13101,
4 in which case payment shall be made to the affiant(s) or declarant(s).

5 **VIII. Non-Cashed Settlement Checks.** Any funds associated with checks that have not been cashed
6 within 180 days, will become void and the Individual Settlement Amount associated with the in-cashed
7 check shall be paid as follows: California’s Secretary of State – Unclaimed Property Fund under
8 unclaimed property laws in the name of the Class Member.

9 **IX. NULLIFICATION OF THIS STIPULATION**

10 **1. Non-Approval of the Stipulation.** If (a) the Court should for any reason fail to approve
11 this Stipulation in the form agreed to by the Parties, or (b) the Court should for any reason fail to enter a
12 judgment with prejudice of the Action, or (c) the approval of the Class Settlement and judgment is
13 reversed, modified or declared or rendered void, then the Class Settlement and conditional class
14 certification shall be considered null and void, and neither the Class Settlement, conditional class
15 certification, nor any of the related negotiations or proceedings, shall be of any force or effect, and all
16 Parties to the Class Settlement shall stand in the same position, without prejudice, as if the Class
17 Settlement had been neither entered into nor filed with the Court. Notwithstanding the foregoing, the
18 Parties may attempt in good faith to cure any perceived defects in the Stipulation to facilitate approval.

19 **2. Escalator Provision.** In the event that the class list contains more than 43 Class
20 Members, then the Gross Settlement Value shall be increased proportionately for each additional Class
21 Member above 43.

22 **3. Invalidation.** Invalidation of any material portion of the Class Settlement shall
23 invalidate the Class Settlement in its entirety, unless the Parties shall subsequently agree in writing that
24 the remaining provisions of the Class Settlement are to remain in full force and effect.

25 **4. Stay Upon Appeal.** In the event of a timely appeal from the approval of the Class
26 Settlement and judgment, the judgment shall be stayed, and Defendant shall not be obligated to fund the
27 Gross Settlement Amount or take any other actions required by this Stipulation until all appeal rights
28 have been exhausted by operation of law.

1 **5. Option to Terminate Settlement.** If, after the Respondent Deadline and before the
2 Final Approval Hearing, the number of Settlement Class Members who submitted timely and valid
3 written requests for exclusion from the Settlement is at least 5% of all Settlement Class Members,
4 Defendant will have, in its sole discretion, the option to terminate this Settlement. If Defendant exercises
5 its option to terminate this Settlement, Defendant will: (a) provide written notice to Class Counsel within
6 seven business days after the Respondent Deadline, and (b) pay all Administrative Expenses incurred up
7 to the date or as a result of the termination; and the Parties will proceed in all respects as if this
8 Stipulation had not been executed.

9 **X. MOTION FOR COURT APPROVAL**

10 **1. Preliminary Approval.** Class Counsel will submit this Stipulation to the Court along
11 with a Motion for Preliminary Approval of the Class Settlement. Each party shall cooperate to present
12 the Class Settlement to the Court for preliminary approval in a timely fashion. The Court's preliminary
13 approval of the Class Settlement shall be embodied in an order substantially in the form attached hereto
14 as **Exhibit 3**.

15 **2. Final Approval.** The Final Approval and Fairness Hearing shall be held before the
16 Court. At the Final Approval and Fairness Hearing, Plaintiff shall move the Court for the entry of the
17 final order certifying the Class for settlement purposes only and approving the Class Settlement as being
18 fair, reasonable and adequate to the Class Participants within the meaning of California Rules of Court,
19 Rule 3.769(c), (d) and (e) and for the entry of a final judgment of the Action consistent with the terms of
20 the Class Settlement and California Rule of Court 3.769(h). Class Counsel and Defense Counsel shall
21 submit to the Court such pleadings and/or evidence as may be required for the Court's determination.

22 **XI. RELEASES AND WAIVERS**

23 **1. Release of Claims by Settlement Class.** Upon the Effective Date, each Settlement
24 Class Member who has not submitted a timely Opt-Out request, and Plaintiff, each releases the
25 Released Parties, and each of them, of and from any and all Released Claims during the Class Period.

26 It is the desire of the Parties and the Settlement Class Members to fully, finally, and forever
27 settle, compromise, and discharge the Released Claims.

28 Each Settlement Class Member, except those who timely Opt-Out, will be bound to the release

1 of Released Claims as a result of the Class Settlement and to the terms of the final judgment and the
2 satisfaction of such judgment.

3 Settlement Class Members who do not opt out will be deemed to have acknowledged and agreed
4 that their claims for wages and/or penalties in the Action are disputed, and that their Individual
5 Settlement Amount constitute payment of all sums allegedly due to them. Class Members will be
6 deemed to have acknowledged and agreed that California Labor Code Section 206.5 is not applicable to
7 the Individual Settlement Amount. That section provides in pertinent part as follows:

8 **“An employer shall not require the execution of a release of a claim or
9 right on account of wages due, or to become due, or made as an
10 advance on wages to be earned, unless payment of those wages has
11 been made.”**

12 **2. Release of Claims by Plaintiff.** Plaintiff, on behalf of himself and his heirs, executors,
13 administrators, and representatives, shall and does hereby forever release, discharge and agree to hold
14 harmless the Released Parties from any and all claims, demands, rights, liabilities that were pled of any
15 of the complaints in this matter, or which could have been pled in any of the complaints in this matter
16 based on the factual allegation alleged therein and that arose during the Class Period. Without limiting
17 the generality of the foregoing, this release shall include, but not be limited to, any and all claims under
18 the (a) Americans With Disabilities Act, as amended; (b) Title VII of the Civil Rights Act of 1964, as
19 amended; (c) the Civil Rights Act of 1991; (d) 42 U.S.C. § 1981, as amended; (e) the Age
20 Discrimination in Employment Act, as amended; (f) the Fair Labor Standards Act, as amended; (g) the
21 Equal Pay Act; (h) the Employee Retirement Income Security Act, as amended; (i) the Consolidated
22 Omnibus Budget Reconciliation Act; (j) the Rehabilitation Act of 1973; (k) the Family and Medical
23 Leave Act; (l) the Civil Rights Act of 1966; (m) the California Fair Employment and Housing Act; (n)
24 the California Constitution; (o) the California Labor Code; (p) the California Government Code; (q) the
25 California Civil Code; and (r) any and all other federal, state and local statutes, ordinances, regulations,
26 rules and other laws, and any and all claims based on constitutional, statutory, common law or
27 regulatory grounds as well as any other claims based on theories of wrongful or constructive discharge,
28 breach of contract or implied contract, fraud, misrepresentation, promissory estoppel or intentional
and/or negligent infliction of emotional distress, or damages under any other federal, state or local

1 statutes, ordinances, regulations, rules or laws. This release is for any and all relief, no matter how
2 denominated, including, but not limited to, back pay, front pay, vacation pay, bonuses, compensatory
3 damages, tortious damages, liquidated damages, punitive damages, damages for pain and suffering, and
4 attorney fees and costs, and Plaintiff hereby forever releases, discharges and agrees to hold harmless
5 Defendant and the Released Parties from any and all claims for attorney fees and costs arising out of the
6 matters released in this Stipulation.

7 Plaintiff specifically acknowledge that he is aware of and familiar with the provisions of Section
8 1542, which provides as follows:

9 **A general release does not extend to claims which the creditor or**
10 **releasing party does not know or suspect to exist in his or her favor at**
11 **the time of executing the release, which if known by him or her must**
12 **have materially affected his or her settlement with the debtor or**
13 **released party.**

14 Plaintiff, being aware of Section 1542, hereby expressly waives and relinquishes all rights and benefits
15 he may have under Section 1542 as well as any other statutes or common law principles of a similar
16 effect. Plaintiff may hereafter discover facts in addition to or different from those which he now knows
17 or believes to be true with respect to the subject matter of all the claims referenced herein, but stipulates
18 and agrees that, upon the Effective Date, Plaintiff shall and hereby does fully, finally and forever settle
19 and release any and all claims against the Released Parties, known or unknown, suspected or
20 unsuspected, contingent or non-contingent, that were asserted or could have been asserted upon any
21 theory of law or equity without regard to the subsequent discovery of existence of such different or
22 additional facts.

23 **XII. DUTIES OF THE PARTIES**

24 **1. Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to
25 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be
26 limited to, execution of such other documents and the taking of such other actions as may reasonably be
27 necessary to fulfill the terms of this Class Settlement. The Parties shall use their best efforts, including
28 all efforts contemplated by this Stipulation and any other efforts that may become necessary by court
order or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable
after execution of this Stipulation, Class Counsel, with the cooperation of Defendant and Defense

1 Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of this
2 Stipulation.

3 **2. Duty to Support and Defend the Class Settlement.** The Parties agree to abide by all
4 of the terms of the Class Settlement in good faith and to support the Class Settlement fully and to use
5 their best efforts to defend this Class Settlement from any legal challenge, whether by appeal or
6 collateral attack.

7 **3. Duties Prior to Court Approval.** Class Counsel shall promptly submit this Stipulation
8 to the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and
9 reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall apply to the Court for
10 the entry of a preliminary order substantially in the form filed concurrently herewith as **Exhibit 3**,
11 scheduling a hearing on the question of whether the proposed Class Settlement should be approved as
12 fair, reasonable, and adequate as to the Settlement Class Members, approving as to form and content the
13 proposed Class Notice and Share Form attached hereto as **Exhibit 1** and **Exhibit 2**, respectively, and
14 directing the mailing of the Class Notice to Settlement Class Members. While Defendant can reserve its
15 right to object to facts or assertions made in the moving papers, Defense Counsel shall file a notice of
16 non-opposition to the granting of the motion for preliminary approval or join in the motion.

17 **XIII. MISCELLANEOUS PROVISIONS**

18 **1. Voiding the Stipulation.** Pending Court approval and other than as provided in Section
19 VIII herein, if any of the conditions set forth in this Stipulation are not met and satisfied, this Stipulation
20 shall, at the option of either Plaintiff or Defendant, be ineffective, void, and of no further force and
21 effect, and shall not be used or be admissible in any subsequent proceeding, either in this Court or in any
22 other court or forum. If either Party decides to void the Settlement, then the Settlement and conditional
23 class certification shall be considered void, and neither the Settlement Agreement, conditional class
24 certification, nor any of the related negotiations or proceedings, shall be of any force or effect, and the
25 Parties shall stand in the same position, without prejudice, as if this Stipulation had been neither entered
26 into nor filed with the Court. Should either Party choose to void the Class Settlement under this
27 paragraph, such Party shall be responsible for all Settlement Administrator fees and costs actually
28 incurred.

1 **2. Different Facts.** The Parties hereto, and each of them, acknowledge that, except for
2 matters expressly represented herein, the facts in relation to the dispute and all claims released by the
3 terms of this Stipulation may turn out to be other than or different from the facts now known by each
4 party and/or its counsel, or believed by such Party or counsel to be true, and each Party therefore
5 expressly assumes the risk of the existence of different or presently unknown facts, and agrees that this
6 Stipulation shall be in all respects effective and binding despite such difference.

7 **3. No Prior Assignments.** The Parties represent, covenant, and warrant that they have not
8 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to
9 any person or entity any portion of any liability, claim, demand, action, cause of action, or right herein
10 released and discharged except as set forth herein.

11 **4. Non-Admission.** Nothing in this Stipulation shall be construed as or deemed to be an
12 admission by any Party of any liability, culpability, negligence, or wrongdoing toward any other Party,
13 or any other person, and the Parties specifically disclaim any liability, culpability, negligence, or
14 wrongdoing toward the each other or any other person. Each of the Parties has entered into this
15 Stipulation with the intention to avoid further disputes and litigation with the attendant inconvenience,
16 expenses, and contingencies. Nothing herein shall constitute any admission by Defendant of
17 wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing herein shall
18 constitute any admission by Defendant regarding the merits of the Claims in this Action, including but
19 not limited to claims for unpaid wages under California and/or federal law. Nothing herein shall
20 constitute an admission by Defendant that the Action was properly brought as a class or representative
21 action other than for settlement purposes. To the contrary, Defendant has denied and continues to deny
22 each and every material factual allegation and all Claims. To this end, the Class Settlement of the
23 Action, the negotiation and execution of this Stipulation, and all acts performed or documents executed
24 pursuant to or in furtherance of this Stipulation or the Class Settlement are not, shall not be deemed to
25 be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of
26 Defendant or of the truth of any of the factual allegations in the Complaint in the Action; and are not,
27 shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omission on
28 the part of Defendant in any civil, criminal or administrative proceeding in any court, administrative

1 agency or other tribunal.

2 **5. No Knowledge of Other claims.** Plaintiff and Class Counsel represent, acknowledge,
3 and warrant that: (1) they are not currently aware of any unalleged claims that could be brought against
4 Defendant or on behalf of Settlement Class Members or Defendant’s employees not covered by the
5 Class Member definition; (2) they do not have any current intention of initiating any litigation or
6 bringing any other claims against Defendant; and (3) other than the Settlement Class Members, they do
7 not currently know of or represent any individuals that have expressed any interest in litigation against
8 Defendant or that Class Counsel believes to have potential claims against Defendant.

9 **6. Media or Press.** Plaintiff and Defendant, and their respective counsel, recognize, and
10 accept that the Parties to this Stipulation desire that the terms of this Stipulation, the fact of the Class
11 Settlement embodied in this Stipulation, the disposition of the Action, the Action, and all matters
12 relating to the litigation of the Action, including discovery proceedings therein, and evidence obtained
13 during the course of the Action, shall not be discussed with or presented to the media or press.

14 **7. Non-Retaliation.** Defendant understands and acknowledge that it has a legal obligation
15 not to retaliate against any Settlement Class Member who elects to participate in the Class Settlement or
16 elects to Opt-Out of the Class Settlement. Defendant will refer any inquiries regarding this Class
17 Settlement to the Settlement Administrator or Class Counsel and will not discourage Settlement Class
18 Members who are employees, directly or indirectly, from making claims, opting out or objecting to the
19 Class Settlement.

20 **8. Construction.** The Parties hereto agree that the terms and conditions of this Stipulation
21 are the result of lengthy, intensive, arms-length non-collusive negotiations between the Parties and that
22 this Stipulation is not to be construed in favor of or against any party by reason of the extent to which
23 any party or its counsel participated in the drafting of this Stipulation. If any of the dates in the
24 Stipulation fall on a weekend, bank or court holiday, the time to act shall be extended to the next
25 business day.

26 **9. Governing Law.** This Stipulation is intended to and shall be governed by the laws of
27 the State of California, without regard to conflict of law principles, in all respects, including execution,
28 interpretation, performance, and enforcement.

1 **10. Notices.** Except for Settlement Class Member notices required to be made by the
2 Settlement Administrator, any and all notices or other communications required or permitted under this
3 Stipulation shall be in writing and shall be sufficiently given if delivered in person to the party or their
4 counsel by U.S. certified mail, postage prepaid, e-mail, facsimile, or overnight delivery addressed to the
5 address of the party appearing in this Stipulation.

6 **11. Captions and Interpretations.** Section titles or captions contained herein are inserted
7 as a matter of convenience and for reference only and in no way define, limit, extend, or describe the
8 scope of this Stipulation or any provision thereof.

9 **12. Modification.** This Stipulation may not be changed, altered, or modified, except in
10 writing signed by the Parties and approved by the Court. This Stipulation may not be discharged except
11 by performance in accordance with its terms or by a writing signed by the Parties.

12 **13. Integration Clause.** This Stipulation contains the entire agreement between the Parties
13 relating to the Class Settlement of the Action and the transactions contemplated thereby, and all prior or
14 contemporaneous agreements, understandings, representations, and statements, whether oral or written,
15 and whether by a party or such party's legal counsel, are hereby superseded. No rights under this
16 Stipulation may be waived except in writing as provided above.

17 **14. Successors and Assigns.** This Stipulation shall be binding upon and inure to the benefit
18 of the Parties and Settlement Class Members (excluding only persons who timely Opt-Out) its past and
19 present officers, directors, shareholders, unitholders, managers, employees, agents, principals, heirs,
20 representatives, accountants, auditors, consultants, and its respective successors and predecessors in
21 interest, subsidiaries, affiliates, parents and attorneys.

22 **15. Corporate Signatories.** Any person executing this Stipulation or any such related
23 document on behalf of a corporate signatory or on behalf of a partnership hereby warrants and promises,
24 for the benefit of all Parties hereto, that such person has been duly authorized by such corporation or
25 partnership to execute this Stipulation or any such related document.

26 **16. Execution in Counterparts.** This Stipulation shall become effective upon its execution
27 by all of the undersigned. The Parties may execute this Stipulation in counterparts, and execution of
28 counterparts shall have the same force and effect as if all Settling Parties had signed the same

1 instrument.

2 **17. Attorney Fees, Costs and Expenses.** Except as otherwise specifically provided for
3 herein, each party shall bear his or its own attorney fees, costs and expenses, taxable or otherwise,
4 incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other
5 party to this Stipulation.

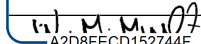
6 **18. Action to Enforce Agreement.** In any suit or court action to enforce the terms of this
7 Agreement, the prevailing party shall be entitled to recover his or its attorney fees and costs.

8 **IN WITNESS WHEREOF,** the Parties and their counsel have executed this Stipulation on the
9 date below their signatures or the signature of their representatives. The date of the Stipulation shall be
10 the date of the latest signature.

11 William Muller

Roy Miller Freight Lines

12 DocuSigned by:

13 
14 Dated: 12/9/2019 | 8:57 AM PST

Printed:

Title:


Dated: _____

17 **APPROVED AS TO FORM AND CONTENT**

18 MELMED LAW GROUP P.C.

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART

20 DocuSigned by:

21 By: 
Jonathan Melmed, Esq.
22 Attorney for Plaintiff William Muller
and the Putative Class

By: _____
Christian J. Keeney, Esq.
Alis M. Moon, Esq.
Attorneys for Defendant

25 ACKERMANN & TILAJEF, P.C.

27 DocuSigned by:

28 By: 
Craig J. Ackermann, Esq.
Attorneys for Plaintiff William Muller and the Putative Class

1 instrument.

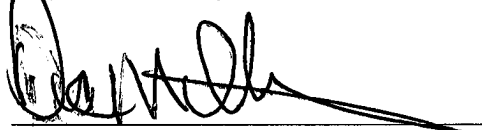
2 17. **Attorney Fees, Costs and Expenses.** Except as otherwise specifically provided for
3 herein, each party shall bear his or its own attorney fees, costs and expenses, taxable or otherwise,
4 incurred by them in or arising out of the Action and shall not seek reimbursement thereof from any other
5 party to this Stipulation.

6 18. **Action to Enforce Agreement.** In any suit or court action to enforce the terms of this
7 Agreement, the prevailing party shall be entitled to recover his or its attorney fees and costs.

8 **IN WITNESS WHEREOF**, the Parties and their counsel have executed this Stipulation on the
9 date below their signatures or the signature of their representatives. The date of the Stipulation shall be
10 the date of the latest signature.

11 William Muller

Roy Miller Freight Lines



12 _____
13
14 Dated: _____

Printed: Danny Miller

Title: M.P.


Dated: 12-16-2019

17 **APPROVED AS TO FORM AND CONTENT**

18 MELMED LAW GROUP P.C.

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART

19
20
21 By: _____
Jonathan Melmed, Esq.
22 *Attorney for Plaintiff William Muller*
23 *and the Putative Class*

20
21 By:  _____
Christian J. Keeney, Esq.
22 Alis M. Moon, Esq.
23 *Attorneys for Defendant*

24
25 ACKERMANN & TILAJEF, P.C.

26
27 By: _____
Craig J. Ackermann, Esq.
28 *Attorneys for Plaintiff William Muller*