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**FILED**  
Superior Court of California  
County of Los Angeles

**MAY 26 2021**

Sherri R. Caru, Clerk  
By Alfredo Morales deputy  
ALFREDO MORALES

9 Attorneys for Plaintiffs  
10 MERARDO ATILIO CRUZ, ET AL.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 COUNTY OF LOS ANGELES, CENTRAL SPRING STREET COURTHOUSE

13 MERARDO ATILIO CRUZ, CARLOS DE LA  
14 CRUZ, LUIS ARMANDO ESPANA, MARIO  
15 ELIAS GARCIA, MARIO ELIAS GARCIA,  
16 JR., SANTOS GONZALO ESCOBAR,  
17 FRANCISCO SAUL HERNANDEZ, JEURY  
18 JOSUE MARTINEZ, VICTOR ANTONIO  
19 SANCHEZ, ERICK ADIEL TENAS, AND ON  
20 BEHALF OF ALL UNAMED PLAINTIFFS  
21 SIMILARLY SITUATED,

Case No. BC634606

**AMENDED [PROPOSED] ORDER  
GRANTING PLAINTIFFS' MOTION  
FOR FINAL APPROVAL OF CLASS  
ACTION SETTLEMENT;  
ATTORNEYS' FEES, COSTS, CLASS  
REPRESENTATIVE INCENTIVE  
AWARD; AND JUDGMENT**

22 Plaintiffs,

23 v.

Hearing Date: May 25, 2021  
Time: 1:30 p.m.  
Judge: Hon. Amy D. Hogue  
Dept.: 7

24 TRANS OCEAN CARRIER INC., and DOES  
25 1 through 50, inclusive,

26 Defendant.

27 Complaint Filed: September 20, 2016  
28 Trial Date: None Set

**GOMEZ LAW GROUP**  
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CARLSBAD, CALIFORNIA 92008

**[PROPOSED] ORDER**

1  
2 The parties reached a settlement subject to Court approval as represented in the  
3 Stipulation and Settlement of Class, Collective, and Representative Claims (“Settlement  
4 Agreement”) that was filed previously with the Court. On May 25, 2021, this Court conducted a  
5 Final Settlement Fairness Hearing pursuant to Rule 3.769 of the California Rules of Court and  
6 this Court’s previous Order Granting Plaintiffs’ Motion for Preliminary Approval of Class  
7 Action Settlement (the “Preliminary Approval Order”). Due and adequate notice having been  
8 given to Defendant and the Class, and the Court having considered the Settlement Agreement,  
9 the instant motion, all papers filed and proceedings herein and all oral and written comments  
10 received regarding the proposed settlement, including on behalf of the three (3) class members  
11 who submitted timely exclusion forms, and having reviewed and considered the written and oral  
12 arguments of counsel for the parties, and the entire record in this litigation, and good cause  
13 appearing therefor,

14 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

15 1. For the reasons set forth in the Preliminary Approval Order, which are adopted  
16 and incorporated herein by reference, this Court finds that the applicable requirements of the  
17 California Code of Civil Procedure § 382 and Rule 3.769 of the California Rules of Court have  
18 been satisfied with respect to the Class and the proposed Settlement. The Court hereby makes  
19 final its earlier provisional certification of the Class, as set forth in the Preliminary Approval  
20 Order.

21 2. This Order Granting Final Approval of Class Action Settlement and Judgment  
22 (hereafter, “Final Approval Order and Judgment”) hereby adopts and incorporates by reference  
23 the terms and conditions of the parties’ Stipulation, together with the definitions of terms used  
24 and contained therein, including the Class, which is defined as:

25 All drivers who contracted directly with TRANS OCEAN CARRIER, INC. (“TOC”) as  
26 independent contractors, from September 20, 2012 through February 10, 2021.

27 3. The Court finds that it has jurisdiction over the subject matter of the Class Action  
28 and over all parties to the Class Action, including all members of the Class, except for the three

1 (3) Class Members who timely opted-out.

2 4. The claims administrator is Phoenix Settlement Administrators (“Phoenix” and/or  
3 the “Claims Administrator”), which distributed the Class Notice.

4 5. The Class Notice given to the Class Members fully and accurately informed the  
5 Class Members of all material elements of the proposed Settlement and of their opportunity to  
6 object to or comment thereon; was the best notice practicable under the circumstances; was  
7 valid, due, and sufficient notice to all Class Members; and complied fully with the laws of the  
8 State of California, the United States Constitution, due process, and other applicable law. The  
9 Class notice fairly and adequately described the Settlement; provided Class Members adequate  
10 instructions and a variety of means to obtain additional information; provided Class Members  
11 with a full opportunity and the means to seek exclusion; and described to Class Members the  
12 consequences of remaining in the action as opposed to seeking exclusion. A full opportunity has  
13 been afforded to the Class Members to participate in the Final Approval hearing, and all Class  
14 Members and other persons wishing to be heard have been heard. Accordingly, the Court  
15 determines that all Class Members are bound by this Order and Judgment.

16 6. The Court has considered all relevant factors for determining the fairness of the  
17 settlement, including “the strength of [the] plaintiffs’ case, the risk, expense, complexity and  
18 likely duration of further litigation, the risk of maintaining class action status through trial, the  
19 amount offered in settlement, the extent of discovery completed and the stage of the proceedings,  
20 the experience and views of counsel, the presence of a governmental participant, and the reaction  
21 of the class members to the proposed settlement.” (*Kullar v. Foot Locker Retail, Inc.* (2008) 168  
22 Cal.App.4<sup>th</sup> 116, 128 (“*Kullar*”) [citing *Dunk, supra* at p. 1801].) The Court has concluded that  
23 all such fairness factors weigh in favor of granting final approval. In particular, the Court finds  
24 that the Settlement was reached following meaningful discovery and investigation conducted by  
25 Class Counsel; that the Settlement is the result of serious, informed, adversarial, and arm’s-  
26 length negotiations between the Parties, aided by professional mediators; and that the terms of  
27 the Settlement are in all respects fair, adequate and reasonable. In so finding, the Court has  
28 considered all of the evidence presented, including evidence regarding the strength of the

1 Plaintiffs' case; the risk, expense, and complexity of the claims presented; the likely duration and  
2 risk involved with further litigation and appeal; the amount offered in Settlement; the extent of  
3 investigation and discovery completed; and the experience and views of Class Counsel.  
4 Accordingly, the Court hereby approves the settlement as set forth in the Settlement Agreement  
5 and expressly finds that said settlement is, in all respects fair, reasonable, adequate and in the  
6 best interests of the entire Settlement Class and hereby directs implementation of all remaining  
7 terms, conditions, and provisions of the Settlement Agreement.

8 7. The Settlement Agreement requires Defendant Trans Ocean Carrier, Inc. ("TOC"  
9 or "Defendant") to pay a gross amount of \$1,300,000.00 in three installments of \$425,000.00;  
10 \$450,000.00; and \$425,000.00. TOC shall deposit funds into the Qualified Settlement Fund  
11 pursuant to the schedule set forth in Section 11.

12 8. Phoenix will provide notice of the Final Judgment by posting a copy of the  
13 Judgment at <http://phoenixclassaction.com>.

14 9. Phoenix's agreed-to fee and costs associated with the administration of this matter  
15 are \$6,750.00. This includes all costs incurred to date, as well as estimated costs involved in  
16 completing the settlement disbursement.

17 10. The Court hereby approves the deposit and payment schedule as set forth by the  
18 Parties.

19 11. As such, Defendant shall deposit funds into the Qualified Settlement Fund  
20 pursuant to the following schedule:

Deposit	Date	Amount
First Deposit	Within fifteen (15) days of the Court's Final Judgment.	\$425,000.00
Second Deposit	Thirty (30) days before the Second Installment Payment is to be distributed by the Claims Administrator per the	\$450,000.00

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	Payment Schedule.	
Third Deposit	Thirty (30) days before the Third Installment Payment is to be distributed by the Claims Administrator per the Payment Schedule.	\$425,000.00

(Settlement Agreement § I(DD).)

12. The Gross Settlement shall be distributed to Class Members, Named Plaintiffs as Service Awards, Class Counsel (for fees and costs), the LWDA, and the Claims Administrator according to the following Payment Schedule:

	Date	Settlement Fund to Class Members <sup>1</sup>	Gross to all Named Plaintiffs as Service Awards	Class Counsel <sup>2</sup>	LWDA	Claims Administrator
First Installment Payment <sup>3</sup>	Within 30 days of the Court's Final Judgment	\$191,513.90	\$21,666.66	\$144,444.44 + \$55,000.00	\$5,625.00	\$6,750

<sup>1</sup> This settlement payment is inclusive of any and all wage claims by named Plaintiffs.

<sup>2</sup> Inclusive of Class Counsel's fees and costs.

<sup>3</sup> Until the Third Installment Payment is made and the Qualified Settlement Fund is closed, the Claims Administrator will maintain a balance of \$5,000 in the interest-bearing account.

1	Second	365 Days	\$283,889.56	\$21,666.66	\$144,444.44	\$0	\$0
2	Installment	after the					
3	Payment	First					
4		Installment					
5		Payment <sup>4</sup>					
6	Third	365 Days	\$258,889.21	\$21,666.68	\$144,444.45	\$0	\$0
7	Installment	after the					
8	Payment	Second					
9		Installment					
10		Payment					

(Settlement Agreement § I(AA).)

13. The Court hereby approves attorneys' fees to Class Counsel in the amount of \$433,333.33 and litigation costs of \$55,000.00 as compensation for all attorney time spent on this matter from inception through and including the final Settlement Fairness Hearing and all other work related to this case and all costs, as these requests are fair and reasonable.

14. Costs to the Claims Administrator in the amount of \$6,750 is hereby approved as fair and reasonable. No other costs or fees relief shall be awarded, either against Defendant or any other of the Released Parties, as defined in the Settlement Agreement.

15. The Court hereby approves service awards in the amount of \$5,000.00 (which includes \$1,000.00 for a Civil Code 1542 release of their individual claims) each to Plaintiffs MERARDO ATILIO CRUZ, CARLOS DE LA CRUZ, LUIS ARMANDO ESPANA, MARIO ELIAS GARCIA, MARIO ELIAS GARCIA, JR., SANTOS GONZALO ESCOBAR, FRANCISCO SAUL HERNANDEZ, JOSUE HERNANDEZ, ANGEL MACIAS, JEURY JOSUE MARTINEZ, HARVEY PINEDA, VICTOR ANTONIO SANCHEZ, AND ERICK ADIEL TENAS. Based on their contributions to the class and risks incurred, and conditioned on their execution of the General Release of Known and Unknown Claims, as provided for in the

<sup>4</sup> In the event the 365<sup>th</sup> day falls on a weekend or Holiday, the payments will be distributed by the Claims Administrator on the next business day.

1 Settlement Agreement, and all other factors presented to the Court, the Court finds this request is  
2 fair and reasonable.

3 16. The Court hereby approves a total PAGA penalty of \$7,500.00, with \$5,625.00  
4 payable to the Labor Workforce Development Agency (“LWDA”), as this request is fair and  
5 reasonable.

6 17. Entry of this Final Approval Order and Judgment shall constitute a full and  
7 complete bar against the Settlement Class as to all the claims released by the Settlement  
8 Agreement and shall constitute res judicata and collateral estoppel with respect to any and all  
9 such prior, current, or future released claims. This Final Approval Order and Judgment binds all  
10 members of the Settlement Class, except for the three (3) opt outs. Specifically, upon entry of  
11 this Final Approval Order and Judgment, the Settlement Class will be deemed to have fully and  
12 finally released and discharged Defendant and all of its parents, predecessors, successors,  
13 subsidiaries, affiliates, related companies, brother and/or sister companies, divisions, joint  
14 venturers, assigns, any entities deemed a client employer or labor contractor of Defendant under  
15 Labor Code section 2810.3, service providers, insurers, consultants, subcontractors, any  
16 individual or entity deemed a statutory employer or joint employers (under any legal theory of  
17 joint employment) and all respective agents, employees, officers, directors, stockholders,  
18 shareholders, owners, fiduciaries, insurers, consultants, subcontractors, and attorneys thereof  
19 (“Class Members’ Released Parties”), from any and all Released Claims that accrued from  
20 September 20, 2012 to February 10, 2021. As set forth in the Stipulation and Settlement of Class  
21 Collective, and Representative Claims, the Released Claims include any and all claims  
22 reasonably related to claims in the Action (including but not limited to claims in the First  
23 Amended Complaint), as well as any and all local, state, and/or federal wage and hour claims  
24 (including all claims under the California Labor Code and the Fair Labor Standards Act) for  
25 unpaid wages, unreimbursed business expenses, minimum wage, overtime, off-the-clock work,  
26 meal periods, rest periods, wage statement violations, wage theft, the Wage Orders of the  
27 Industrial Welfare Commission, Hours of Service violations, interest, penalties, and attorneys’  
28 fees, waiting time penalties, withholding from wages and the related provisions of the California

1 Labor Code including but not limited to Labor Code Sections (and all relevant subsections) 201-  
2 204, 210, 216, 218.6, 221, 224, 226, 226.3, 226.7, 510, 512, 516, 558, 621, 1171.5, 1174, 1194,  
3 1198, 2698, 2750.3, 2802, and 3351, derivative claims under California Business & Professions  
4 Code Sections 17200 *et seq.* and all claims under any California Industrial Welfare Commission  
5 Wage Order, the Fair Labor Standards Act 29 U.S.C. § 201 *et seq.*, and the Private Attorneys  
6 General Act of 2004, Labor Code section 2698 *et seq.* (“PAGA”); and any and all claims that  
7 were or could have been asserted based on the facts pleaded in the Lawsuit or any amendments  
8 thereto for any purported violation of any local, state, or federal wage and hour laws, regulations,  
9 and/or ordinances, including such laws, regulations, and/or ordinances related to the non-  
10 payment of wages, minimum wages, overtime wages, misclassification, or any other wage-  
11 related or recordkeeping-related claims; liquidated damages; attorneys’ fees, costs and expenses;  
12 pre- and postjudgment interest; or damages or relief of any kind arising from the allegation that  
13 the Class Members were misclassified and not properly compensated for all time worked on a  
14 daily or weekly basis, under state or federal law, at any time through Preliminary Approval.

15 18. The Court further confirms and finds that nothing contained in the Settlement  
16 Agreement, the Preliminary Approval Order, this Final Approval Order and Judgment, or any  
17 other Order entered in this action shall in any way or manner constitute an admission or  
18 determination of liability by or against Defendant, or any other Class Members’ Released Parties  
19 with respect to any of the claims and causes of action asserted by the Settlement Class or any  
20 member thereof, and shall not be offered in evidence in any action or proceeding against  
21 Defendant, or any other Class Members’ Released Parties in any court, administrative agency, or  
22 other tribunal for any purpose whatsoever, other than to the extent necessary to enforce the  
23 provisions of the Settlement Agreement or this Order. This paragraph shall not, however,  
24 diminish or otherwise affect the obligation, responsibilities, or duties of Defendant under the  
25 Settlement Agreement and this Final Approval Order and Judgment.

26  
27 **JUDGMENT**

28 19. In accordance with, and for the reasons stated in, the Final Approval Order,



1 judgment shall be entered whereby, except for the three (3) opt-outs, Plaintiffs and all Class  
2 Members shall take nothing from Defendant, except as expressly set forth in the Stipulation.

3 20. Pursuant to California Procedure Section 664.6 and Rule 3.769(h) of the  
4 California Rules of Court, this Court reserves exclusive and continuing jurisdiction over this  
5 action, the Plaintiffs/Class Representatives, Class Members, and Defendant, for the purposes of:

- 6 (a) Supervising the implementation, enforcement, construction, and interpretation of the  
7 Stipulation, the Preliminary Approval Order, the plan of allocation, the Final  
8 Approval Order, and the Judgment; and  
9 (b) Supervising distribution of amounts paid under this Settlement.

10 21. By January 22, 2024, Plaintiffs' Counsel shall submit a Supplemental Declaration  
11 from the Claims Administrator stating the amount of money distributed to the Class and the  
12 amount of uncashed checks which shall be transferred to the designated *cy pres* beneficiary, Casa  
13 Cornelia Law Center. Plaintiffs' Counsel shall concurrently file an Amended Judgment that  
14 states the amount distributed to the Class and to the *cy pres*.  
15

16 22. On January 29, 2024 at 10:00 a.m., a non-appearance compliance hearing will be  
17 scheduled to confirm completion of the distribution process and submissions of the Amended  
18 Judgment and the Supplemental Declaration from the Administrator.

19  
20 **IT IS SO ORDERED.**

21  
22 Dated: 5-26-21

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25 \_\_\_\_\_  
26 HONORABLE AMY D. HOGUE  
27 JUDGE OF THE SUPERIOR COURT  
28