

Alvin M. Gomez, Esq., Cal. Bar No. 137818
Stephen Noel Ilg, Esq., Cal. Bar No. 275599
GOMEZ LAW GROUP
2725 Jefferson Street, Suite 7
Carlsbad, CA 92008
Tel 858.552.0000 / Fax 760.542-7761
alvingomez@thegomezlawgroup.com
silg@ilglegal.com

Attorneys for Plaintiffs
MERARDO ATILIO CRUZ, *et al.*

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
A Limited Liability Partnership
Including Professional Corporations
ADAM R. ROSENTHAL, Cal. Bar No. 246722
HILARY A. HABIB, Cal. Bar No. 293431
TIMOTHY T. KIM, Cal. Bar No. 314365
333 South Hope Street, 43rd Floor
Los Angeles, California 90071-1422
Telephone: 213.620.1780
Facsimile: 213.620.1398
arosenenthal@sheppardmullin.com
hhabib@sheppardmullin.com

Attorneys for Defendant
TRANS OCEAN CARRIER INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST

MERARDO ATILIO CRUZ, CARLOS DE
LA CRUZ, LUIS ARMANDO ESPANA,
MARIO ELIAS GARCIA, MARIO ELIAS
GARCIA, JR., SANTOS GONZALO
ESCOBAR, FRANCISCO SAUL
HERNANDEZ, JEURY JOSUE MARTINEZ,
VICTOR ANTONIO SANCHEZ, ERICK
ADIEL TENAS, HARVY PINEDA COFFIN,
JOSUE HERNANDEZ, ANGEL MACIAS,
AND ON BEHALF OF ALL UNAMED
PLAINTIFFS SIMILARLY SITUATED,

Plaintiffs,

v.

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

Defendant.

Case No. BC634606
Judge Amy Hogue
Dept. 7

**STIPULATION AND SETTLEMENT OF
CLASS, COLLECTIVE, AND
REPRESENTATIVE CLAIMS**

Complaint Filed: September 20, 2016
FAC Filed: July 9, 2019
Trial Date: None Set

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently
2 pursue and recommend in good faith, Plaintiffs MERARDO ATILIO CRUZ, CARLOS DE LA
3 CRUZ, LUIS ARMANDO ESPANA, MARIO ELIAS GARCIA, MARIO ELIAS GARCIA, JR.,
4 SANTOS GONZALO ESCOBAR, FRANCISCO SAUL HERNANDEZ, JEURY JOSUE
5 MARTINEZ, VICTOR ANTONIO SANCHEZ, ERICK ADIEL TENAS, HARVY PINEDA
6 COFFIN, JOSUE HERNANDEZ, and ANGEL MACIAS (collectively "Named Plaintiffs" or
7 "Plaintiffs"), individually and on behalf of all others similarly situated Independent
8 Owner/Operator Drivers ("Drivers"), on the one hand; and Defendant TRANS OCEAN
9 CARRIER, INC. ("TOC" or "Defendant"), on the other hand (collectively, the "Parties" and
10 individually, a "Party"), hereby agree to the following binding settlement of the class, collective,
11 and representative action designated Merardo Atilio Cruz, et al. v. Trans Ocean Carrier,
12 Inc., Superior Court of the State of California, County of Los Angeles, Case No. BC634606 (the
13 "Action"), pursuant to the terms and conditions set forth below (the "Settlement," "Settlement
14 Agreement" or "Agreement").

15 **I. Defined Terms**

16 As used herein, the following terms are defined as:

17 **A. "Action."**

18 Merardo Atilio Cruz, et al. v. Trans Ocean Carrier, Inc., Superior Court of the State of
19 California, County of Los Angeles, Case No. BC634606

20 **B. "Agreement," "Settlement," "Settlement Agreement," or "Stipulation."**

21 This Stipulation and Settlement of Class, Collective, and Representative Claims.

22 **C. "Attorneys' Fees and Cost Award" or "Attorneys' Fees Award."**

23 The amount authorized by the Court to be paid to Class Counsel for the services they have
24 rendered and expenses they have incurred in prosecuting the Action. Class Counsel shall request,
25 and Defendant will not oppose, a gross Attorneys' Fees Award of up to \$433,333.33, in addition
26 to verified costs not to exceed \$55,000.00 to be supported by a Declaration from Class Counsel.

1 **D. "Claims Administrator."**

2 PhoenixClassAction Administration Solutions shall be the third-party class action
3 settlement claims administrator as agreed to by the Parties and approved by the Court for the
4 purposes of administering this Settlement. The Parties each represent that they do not have any
5 financial interest in the Claims Administrator or otherwise have a relationship with the Claims
6 Administrator that could create a conflict of interest.

7 **E. "Claims Administration Costs."**

8 The costs payable from the Class Settlement Amount to the Claims Administrator for
9 administering this Settlement, including, but not limited to, printing, distributing, and tracking
10 documents for this Settlement, calculating estimated amounts per Class Member, tax reporting,
11 distributing the Class Settlement Amounts, and providing necessary reports and declarations, and
12 other duties and responsibilities set forth herein to process this Settlement Agreement, and as
13 requested by the Parties. The Claims Administration Costs will be paid from the Gross Settlement
14 Amount, including, if necessary, any such costs in excess of the amount represented by the Claims
15 Administrator as being the maximum costs necessary to administer the Settlement. The Claims
16 Administration Costs are currently estimated to be \$6,750.00. To the extent actual Claims
17 Administration Costs are greater than \$6,750.00, such excess amount will be deducted from the
18 Class Settlement Amount, subject to the Court's approval. The Claims Administration Costs
19 pursuant to the Payment Schedule.

20 **F. "Class" and "Class Members."**

21 The Class is composed of all Drivers who contracted directly with TOC as independent
22 contractors, from September 20, 2012 through the date upon which the Court grants Preliminary
23 Approval of this Settlement. The estimated class size is 128 class members.

24 **G. "Class Counsel."**

25 Alvin M. Gomez and Stephen Noel II of the Gomez Law Group.

26 **H. "Class List and Data Report."**

27 An Excel spreadsheet of the names, current mailing addresses and telephone numbers, last
28 four digits of social security numbers, dates Drivers contracted with TOC during the Settlement

1 Class Period, and the respective number of Qualifying Workweeks of each Class Member during
2 the Settlement Class Period.

3 **I. "Settlement Class Period."**

4 The period from September 20, 2012 through the date upon which the Court grants
5 Preliminary Approval of this Settlement.

6 **J. "Court."**

7 The Superior Court for the State of California for the County of Los Angeles.

8 **K. "Defendant."**

9 Trans Ocean Carrier, Inc.

10 **L. "Defendant's Counsel."**

11 Adam Rosenthal, Hillary Habib, and Timothy Kim of Sheppard, Mullin, Richter, and
12 Hampton, LLP.

13 **M. "Effective Date."**

14 The date by which, after the Court's Final Judgment, the Claims Administrator mails Class
15 Members their third and final payment from Defendant. For the purposes of this paragraph, the
16 Court's Final Judgment "becomes final" upon the latter of: (i) if there are no objections to the
17 settlement, then the date of final approval by the Court; (ii) if there are objections to the
18 settlement, and if an appeal, review or writ is not sought from the order granting final approval of
19 the settlement, the 61st day after service of notice of entry of the order granting final approval; or
20 (iii) if an appeal, review or writ is sought from the order granting final approval, the day after the
21 order is affirmed or the appeal, review or writ is dismissed or denied, and the order is no longer
22 subject to further judicial review.

23 **N. "Final Approval Hearing."**

24 The hearing at which the Court considers whether to finally approve the Settlement and to
25 enter the Final Judgment. In Plaintiff's motion for final approval, Plaintiff shall provide the Court
26 with the [Proposed] Order Granting Motion for Final Approval attached hereto as **Exhibit D**.

27 **O. "General Release."**

28

1 The release set forth below wherein the Named Plaintiffs, with respect to their individual
2 claims only, agree to release the Released Parties from any and all claims as specified herein,
3 including entering into a 1542 Waiver. In consideration for the 1542 waiver, the named Plaintiffs
4 will each receive \$1,000.00

5 **P. "Gross Individual Settlement Payment."**

6 The Settlement amounts for each individual Class Member resulting from the calculations
7 set forth herein.

8 **Q. "Gross Settlement Amount."**

9 The total gross amount to be paid by Defendant pursuant to the Settlement, which under no
10 circumstances may exceed One Million and Three Hundred Thousand Dollars (\$1,300,000.00),
11 inclusive of all payments to Class Members, attorneys' fees, costs and expenses directly related to
12 the Action, which includes all such fees and costs incurred to date, as well as all such fees and
13 costs incurred in documenting the Settlement, administering the Settlement (including the Claims
14 Administrator's fees and expenses), the Service Awardsto the Named Plaintiffs, and payment to
15 the State of California Labor and Workforce Development Agency(the "LWDA").

16 **R. "Individual Settlement Payment."**

17 The amount of each Participating Class Member's Gross Individual Settlement Payment.

18 **S. "Named Plaintiffs."**

19 PlaintiffsMERARDO ATILIO CRUZ, CARLOS DE LA CRUZ, LUIS ARMANDO
20 ESPANA, MARIO ELIAS GARCIA, MARIO ELIAS GARCIA, JR., SANTOS GONZALO
21 ESCOBAR, FRANCISCO SAUL HERNANDEZ, JEURY JOSUE MARTINEZ, VICTOR
22 ANTONIO SANCHEZ, ERICK ADIEL TENAS, HARVY PINEDA COFFIN, JOSUE
23 HERNANDEZ, and ANGEL MACIAS.

24 **T. "Net Settlement Fund."**

25 The funds available to be distributed to Participating Class Members under this Stipulation
26 after payment of any Attorneys' Fees and Cost Award, Service Awards, Claims Administration
27 Costs, and the Private Attorneys General Act ("PAGA") Payment to the Labor and Workforce
28 Development Agency ("LWDA") (i.e., 75% of PAGA civil penalties).

1 **U. "Notice."**

2 The Notice(s) of Pendency of Class Action Settlement which describe(s) the procedure and
3 time period for Class Members to opt out of or object to the Settlement, and the date set for the
4 Final Approval Hearing (substantially in the form attached hereto as **Exhibits A and B**). This
5 Notice will also advise the Class Members may consult the website set up by the parties and the
6 Claims Administrator to receive notice of any changes in time and/or location of the Final
7 Approval Hearing.

8 **V. "Notice Packet."**

9 The packet that will be sent via first-class regular U.S. mail to all Class Members and shall
10 include the Notice in English and Spanish.

11 **W. "Notice Response Deadline" and "Opt-Out/Objection Deadline Date."**

12 The date forty-five (45) calendar days after all Notice Packets are mailed to Class Members
13 by the Claims Administrator.

14 **X. "PAGA Payment."**

15 Defendant's payment of \$7,500.00, with 25%, or \$1,875.00, allocated to Class Members
16 and 75%, or \$5,625.00, to be paid to the LWDA, all to be paid from the Gross Settlement Amount.
17 This PAGA Payment is made pursuant to California Labor Code §2699(i). The Parties agree
18 notice of the Settlement shall be sent to the LWDA concurrently with their Motion for Preliminary
19 Approval. Class Counsel shall provide a copy of this notice to Defendant's counsel.

20 **Y. "Participating Class Member."**

21 A Class Member who does not submit a valid Request for Exclusion and is entitled to
22 receive his/her share of the Net Settlement Fund. Participating Class Members will release all
23 Released Parties from the Released Claims as of the Effective Date, i.e., after the Claims
24 Administrator mails out the third and final payment.

25 **Z. "Parties."**

26 Defendant, the Named Plaintiffs, and the Class Members who do not opt-out of the
27 Settlement.

28 **AA. "Payment Schedule."**

The Gross Settlement will 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:¹

	Date	Settlement Fund to Class Members ²	Gross to all Named Plaintiffs as Service Awards	Class Counsel ³	LWDA	Claims Administrator
First Installment Payment ⁴	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
Second Installment Payment	365 Days after the First Installment Payment ⁵	\$283,889.56	\$21,666.66	\$144,444.44	\$0	\$0
Third Installment Payment	365 Days after the Second Installment Payment	\$258,888.21	\$21,666.68	\$144,444.45	\$0	\$0

BB. "Preliminary Approval Order."

¹ Nothing herein prevents Defendant from accelerating any of the installment payments in order to accelerate the timing of the Effective Date. In the event that any installment payments are wired to the Claims Administrator earlier than the date(s) specified in this Agreement, the Claims Administrator shall immediately initiate payments as set forth in the Payment Schedule.

² Settlement payments to Class Members are inclusive of any and all disputed wage claims pursued in this Action and settled as part of the Released Claims.

³ Inclusive of Class Counsel's fees and costs.

⁴ 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.

⁵ In the event the 365th day falls on a weekend or Holiday, the payments will be distributed by the Claims Administrator on the next business day.

1 The Order issued by the Court preliminarily approving the terms of the Settlement. As
2 part of Plaintiff's motion for preliminary approval, Plaintiff shall provide the Court with the
3 [Proposed] Order Granting Preliminary Approval as set forth in **Exhibit C**.

4 **CC. "Qualified Settlement Fund."**

5 The fund established by the Claims Administrator at a FDIC insured bank, with at least
6 one branch located in Los Angeles County, pursuant to Internal Revenue Code Section 1.468B-1,
7 and funded by Defendant pursuant to the Qualified Settlement Fund Deposit Schedule.

8 **DD. "Qualified Settlement Fund Deposit Schedule."**

9 Defendant shall deposit funds into the Qualified Settlement Fund pursuant to the following
10 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 Payment Schedule.	\$450,000.00
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

21 **EE. "Qualifying Week(s)."**

22 The seven-day period(s) commencing on Sunday at 12:00 a.m. and ending on a Saturday at
23 11:59 p.m. in which a Class Member contracted as a Driver with Defendant in California during
24 the Settlement Class Period.

25 **FF. "Released Claims."**

26 As of the date the Claims Administrator mails out the third and final payment, all Class
27 Members (other than those who submit a timely and valid Request for Exclusion) shall fully and
28 finally release the Released Parties from any and all Released Claims. The Released Claims

1 include any and all claims reasonably related to claims in the Action (including but not limited to
2 claims in the First Amended Complaint), as well as any and all local, state, and/or federal wage
3 and hour claims (including all claims under the California Labor Code and the Fair Labor
4 Standards Act) for unpaid wages, unreimbursed business expenses, minimum wage, overtime, off-
5 the-clock work, meal periods, rest periods, wage statement violations, wage theft, the Wage Orders
6 of the Industrial Welfare Commission, Hours of Service violations, interest, penalties, and
7 attorneys' fees, waiting time penalties, withholding from wages and the related provisions of the
8 California Labor Code including but limited to Labor Code Sections (and all relevant subsections)
9 201-204, 210, 216, 218.6, 221, 224, 226, 226.3, 226.7, 510, 512, 516, 558, 621, 1171.5, 1174,
10 1194, 1198, 2698, 2750.3, 2802, and 3351, derivative claims under California Business &
11 Professions Code Sections 17200 *et seq.* and all claims under any California Industrial Welfare
12 Commission Wage Order, the Fair Labor Standards Act 29 U.S.C. § 201 *et seq.*, and the Private
13 Attorneys General Act of 2004, Labor Code section 2698 *et seq.* ("PAGA"); and any and all
14 claims that were or could have been asserted based on the facts pleaded in the Lawsuit or any
15 amendments thereto for any purported violation of any local, state, or federal wage and hour laws,
16 regulations, and/or ordinances, including such laws, regulations, and/or ordinances related to the
17 non-payment of wages, minimum wages, overtime wages, misclassification, or any other wage-
18 related or recordkeeping-related claims; liquidated damages; attorneys' fees, costs and expenses;
19 pre- and post-judgment interest; or damages or relief of any kind arising from the allegation that
20 the Class Members were misclassified and not properly compensated for all time worked on a
21 daily or weekly basis, under state or federal law, at any time through Preliminary Approval.

22 **GG. "Released Parties."**

23 Defendant and its parents, predecessors, successors, subsidiaries, affiliates, related
24 companies, brother and/or sister companies, divisions, joint venturers, assigns, any entities
25 deemed a client employer or labor contractor of Defendant under Labor Code section 2810.3,
26 service providers, insurers, consultants, subcontractors, any individual or entity deemed a statutory
27 employer or joint employers (under any legal theory of joint employment) and all respective
28

agents, employees, officers, directors, stockholders, shareholders, owners, fiduciaries, insurers, consultants, subcontractors, and attorneys thereof.

HH. "Service Award."

The amount that the Court authorizes to be paid to the Named Plaintiffs over and above their Individual Settlement Payments in recognition of their efforts in assisting with the prosecution of the Action on behalf of the Class Members and in return for executing a General Release of all Claims and other promises as set forth in this Agreement. The Named Plaintiffs will request a Service Award up to \$4,000.00 gross per Named Plaintiffs, which Defendant will not oppose. The Named Plaintiffs will be issued an IRS Form 1099 in connection with their Service Award.

II. RECITALS

A. Investigation of the Action.

The Parties have conducted significant investigation of the facts and law during the prosecution of the Action. Such discovery and investigation includes, among other things, (a) the exchange and review of information subject to the mediation privilege, (b) the inspection and analysis of records relating to the claims of the Named Plaintiffs and putative class members, (c) extensive written discovery along with extensive depositions, (d) the filing of, and opposition to, a motion for class certification, (e) analysis of potential class-wide damages, and (f) analysis of Defendant's financial situation. At the request of the mediator Hon. Mitchel R. Goldberg, Ret., and subject to the mediation privilege, Defendant provided the mediator with financial records regarding the Company's financial condition and ability to fund a settlement based upon Defendant's financial condition. These records were not provided to Plaintiffs' Counsel.

Counsel for the Parties engaged in extensive discussions about the strengths and weaknesses of the claims and defenses and Defendant's financial condition. The Parties participated in two full-day mediation sessions. The first before respected mediator Robert Kaplan on November 27, 2018, which did not result in a settlement. The second, before the Hon. Mitchel

1 R. Goldberg, Ret., also an experienced and well-regarded mediator and retired Bankruptcy Judge,
2 on June 5, 2020, where an agreement in principle was reached.

3
4
5 **B. Benefits of Settlement to Class Members.**

6 Named Plaintiffs and Class Counsel recognize the expense and length of continued
7 proceedings necessary to litigate the disputes through trial and through any possible appeals.
8 Named Plaintiffshave also taken into account the uncertainty and risk of the outcome of further
9 litigation, the uncertain merits of the claims, and the difficulties and delays inherent in such
10 litigation. Named Plaintiffs and Class Counsel are also aware of the burdens of proof necessary to
11 establish liability for the claims asserted in the Action, both generally and in response to
12 Defendant's defenses thereto. Named Plaintiffs and Class Counsel have also taken into account
13 Defendant's agreement to enter into a Settlement that confers substantial relief upon the Class
14 Members. Class Counsel further considered Defendant's current financial situation, and with the
15 assistance of Judge Goldberg, agree that the only way for Defendant to fund this settlement and
16 remain in business, is by paying out the settlement over a three year period as set forth in the
17 Qualified Settlement Fund Deposit Schedule. Based on the foregoing, Named Plaintiffs and Class
18 Counsel have determined that the Settlement set forth in this Agreement is a fair, adequate and
19 reasonable Settlement, and is in the best interests of the Class.

20 **C. Defendant's Reasons for Settlement.**

21 Defendant has concluded that any further defense of this litigation would be protracted and
22 expensive. Defendant has already expended substantial amounts of time, energy, and resources,
23 and unless this Settlement is approved, Defendant will be forced to continue litigating this dispute,
24 through summary judgment and possibly trial and appeals. Defendant has also taken into account
25 the risks of further litigation in reaching its decision to enter into this Settlement, including, but
26 not limited to the expense and delay of continued lengthy proceedings necessary to defend the
27 Action through trial and through appeals, the uncertain outcome of the litigation, the risk of
28 continued litigation in complex actions, the difficulties and delays inherent in such litigation, and

1 the current uncertainties surrounding the enforcement of AB 5 (including California Labor Code
2 §2750.3) and the preemptive effect of the Federal Aviation Administration Authorization Act of
3 1994 as applied to the Drivers. Because Defendant believes strongly in the legality of its business
4 model, Defendant will not be “reclassifying” Drivers as employees. Defendant is confident that
5 Drivers are, and have always been, properly classified as independent contractors. Defendant has,
6 therefore, agreed to settle in the manner and upon the terms set forth in this Agreement to put to
7 rest the Claims as set forth in the Action.

8 As to the Released Claims, Defendant vehemently denies and continues to deny each of
9 those claims. Defendant has repeatedly asserted and continues to assert defenses thereto, and has
10 expressly denied and continues to deny any wrongdoing or legal liability arising out of any of the
11 facts or conduct alleged in the Action.

12 **D. Intent of the Settlement.**

13 The Settlement set forth herein intends to achieve the following: (1) entry of an order
14 approving the Settlement; (2) entry of judgment of the Action, and (3) discharge of Released
15 Parties from liability for any and all of the Released Claims.

16 **III. STIPULATION AND AGREEMENT**

17 ***NOW, THEREFORE, IT IS HEREBY STIPULATED***, by Named Plaintiffs on behalf of
18 the Class Members on the one hand, and Defendant on the other hand, and subject to the approval
19 of the Court, that the Action is hereby being compromised and settled pursuant to the terms and
20 conditions set forth in this Agreement and that 120 calendar days after the Court’s Final Judgment,
21 and the payment by Defendant of the First Installment Payment, the Claims Administrator shall
22 file a Declaration with the Court regarding distribution of funds, subject to the continuing
23 jurisdiction of the Superior Court as set forth below, and subject to the following terms and
24 conditions:

25 **A. Release as to All Class Members.**

26 As of the Effective Date, all Participating Class Members (other than those who submit a
27 timely and valid Request for Exclusion), including the Named Plaintiffs, release the Released
28

1 Parties from the Released Claims. The Participating Class Members agree not to sue or otherwise
2 make a claim against any of the Released Parties for the Released Claims.

3 **B. General Release by Named Plaintiffs.**

4 In addition to the releases made by the Class Members as set forth herein, Named
5 Plaintiffs, in their individual capacity and with respect to their individual claims only, agree to
6 release the Released Parties from any and all claims, known and unknown, under federal, state
7 and/or local law, statute, ordinance, regulation, common law, or other source of law, including but
8 not limited to claims arising from or related to their alleged employment with Defendant and their
9 compensation while performing services for Defendant ("Named Plaintiffs' Released Claims").
10 Named Plaintiffs' Released Claims are not limited to claims arising from or related to the Action.
11 Named Plaintiffs' Released Claims include all statutory and common law claims for unpaid
12 wages, including, but not limited to, failure to pay minimum wage, overtime compensation, and
13 interest; penalties for missed meal periods and rest periods; payment for all hours worked,
14 including off-the-clock work; failure to reimburse for necessary business expenses; inaccurate
15 wage statements; failure to keep accurate records; unfair business practices; penalties, including,
16 but not limited to, wage statement penalties, minimum-wage penalties, and waiting time penalties;
17 and attorneys' fees and costs. Named Plaintiffs' Released Claims include all claims arising under
18 the California Labor Code (including, but not limited to, sections 201, 202, 203, 204, 210, 218.6,
19 221, 225.5, 226, 226.7, 510, 511, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1197.2, 1198, 2698
20 *et seq.*, and 2802); the Wage Orders of the California Industrial Welfare Commission; California
21 Business and Professions Code section 17200 *et seq.*; the California common law of contract; the
22 California Government Code, the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; and federal
23 common law.

24 Named Plaintiffs' Released Claims include all claims, whether known or unknown. Even
25 if the Named Plaintiffs discover facts in addition to or different from those that they now know or
26 believe to be true with respect to the subject matter of Named Plaintiffs' Released Claims, those
27 claims will remain released and forever barred. Thus, the Named Plaintiffs expressly waive the
28 benefits of section 1542 of the California Civil Code, which reads:

1
2 **"A general release does not extend to claims that the creditor or releasing party**
3 **does not know or suspect to exist in his or her favor at the time of executing the**
4 **release and that, if known by him or her, would have materially affected his or**
5 **her settlement with the debtor or released party."**

6
7 **C. Service Award to Named Plaintiffs.**

8 Subject to Court approval, for Named Plaintiffs' time and effort in bringing and
9 prosecuting this matter and in exchange for the Named Plaintiffs' Released Claims and other
10 obligations in this Agreement, the Named Plaintiffs shall be paid up to \$4,000.00 each (as a gross
11 amount over three years per the Payment Schedule), or such other amount as the Court may order.
12 This payment is expressly made in return for the releases described above. This Service Awards
13 shall be paid to each of the Named Plaintiffs by the Claims Administrator consistent with the
14 Payment Schedule. The Service Awards shall be made solely from the Qualified Settlement
15 Funds. The Parties agree that a decision by the Court to award Named Plaintiffs an amount less
16 than the amount stated above shall not be a basis for either Named Plaintiffs and/or Class Counsel
17 to void this Agreement. The Claims Administrator shall issue a Form 1099 -- MISC, Box 3 to
18 each of the Named Plaintiffs for the Service Award. Plaintiffs agree to provide the Claims
19 Administrator with an executed Form W-9 before the Service Award is issued. Any amounts
20 awarded for a Service Award to Named Plaintiffs less than the amount listed above will result in
21 the non-awarded funds being part of the Net Settlement Fund available for distribution to the Class
22 Members. Named Plaintiffs shall be solely and legally responsible to pay any and all applicable
23 taxes on these payments and shall hold Defendant harmless from any claim or liability for taxes,
24 penalties or interest arising as a result of the payments. These Service Awards shall be in addition
25 to Named Plaintiffs' individual share of the Net Settlement Fund as Class Members.

26 Defendant makes no representations as to the tax treatment or legal effect of the payments
27 called for herein, and Named Plaintiffs are not relying on any representation by Defendant in this
28

1 regard. Named Plaintiffs understand and agree that they will be solely responsible for the payment
2 of any taxes and penalties assessed on the payment to them described herein.

3 **D. Creation of the Qualified Settlement Fund and Administration of the**
4 **Settlement.**

5 Within five calendar days after the Court's Final Judgment, the Claims Administrator shall
6 establish the Qualified Settlement Fund. Within fifteen (15) business days after the Court's Final
7 Judgment, Defendant shall deposit the First Installment of the Gross Settlement Amount (i.e.
8 \$425,000.00) as required by this Stipulation and as set forth in the Qualified Settlement Fund
9 Deposit Schedule into the Qualified Settlement Fund created by the Claims Administrator. All
10 payments Defendant is required to make pursuant to the Qualified Settlement Fund Deposit
11 Scheduleshall be made from the Qualified Settlement Fund. Payments from the Qualified
12 Settlement Fund shall be made for: (1) the Service Awards to the Named Plaintiffs; (2) Attorneys'
13 Fees and Cost Award paid to Class Counsel; (3) the Claims Administration Costs; and (4) the
14 amount allocated to the LWDA for its 75% share of the PAGA Payment. The balance remaining
15 shall constitute the Net Settlement Fund from which Gross Individual Settlement Payments are
16 available to be made to the Participating Class Members as set forth in the Agreement.

17 **E. Attorneys' Fees and Cost Award.**

18 Defendant agrees not to oppose any application or motion by Class Counsel for an
19 Attorneys' Fees and Cost Award that consists of attorneys' fees up to \$433,333.33, in addition to
20 verified costs not to exceed \$55,000.00, to be supported by a declaration from Class Counsel.
21 Any amount awarded to Class Counsel for attorneys' fees and/or costs less than the amounts
22 sought will result in the non-awarded amounts to be part of the Net Settlement Fund, available for
23 distribution to Participating Class Members. The Parties agree that a decision by the Court to
24 award Class Counsel fees and/or costs in an amount less than the amount stated above shall not be
25 a basis for either Named Plaintiffs and/or Class Counsel to void this Agreement. As of the Court's
26 Final Judgment, Class Counsel shall be paid their Attorneys' Fees and Cost Award as set forth in
27 the Payment Schedule. Class Counsel shall be solely and legally responsible to pay all applicable
28

1 taxes on the payment made pursuant to this Paragraph. A Form 1099 – MISC, Box 14 shall be
2 provided to Class Counsel for the payment made pursuant to this Paragraph.

3 **F. Claims Administrator.**

4 The Claims Administrator shall be paid for the costs of administration of the Settlement
5 from the Gross Settlement Amount. The estimate of such costs of administration for the
6 disbursement of the Gross Settlement Amount is \$6,750.00. Any amount awarded for costs of
7 administration to the Claims Administrator less than this amount will result in the non-awarded
8 amount being made part of the Net Settlement Fund, available for distribution to Participating
9 Class Members. This estimate includes the required tax reporting on the Gross Settlement
10 amounts, including the issuing of 1099 Forms (if any). Ten business days prior to the Final
11 Approval Hearing, the Claims Administrator shall provide to counsel for the Parties with a
12 statement detailing the costs of administration of the Gross Settlement Amount to date, and a not-
13 to-exceed budget of the Claims Administrator's costs during the three year administration of this
14 Settlement. A Form 1099 – MISC, Box 7 shall be issued to the Claims Administrator.

15 **G. Preliminary Approval Hearing.**

16 As part of this Settlement, the Parties agree to the following procedures for obtaining
17 preliminary Court approval of the Settlement:

18 1. Named Plaintiffs shall request a hearing before the Court to request preliminary
19 approval of the Settlement and to request the entry of the Preliminary Approval Order.

20 2. Simultaneous with the filing of the Stipulation and Settlement of Class Action
21 Agreement, and solely for purposes of this Settlement, Named Plaintiffs will request the Court
22 enter the Preliminary Approval Order, preliminarily approving and conditionally certifying the
23 class for Settlement purposes only, and setting a date for a Final Approval Hearing.

24 3. In conjunction with this hearing, Named Plaintiffs will submit this Stipulation
25 and Settlement of Class Action Agreement, which sets forth the terms of this Settlement
26 Agreement, and will include proposed forms of all notices and other documents, as attached
27 hereto, necessary to implement the Settlement. Defendant shall have no less than five (5) business
28

1 days to review and propose revisions prior to such submission. The Order shall provide for Notice
2 of the Settlement and related matters to be sent to Class Members as specified herein.

3 4. Simultaneous with the filing of the Stipulation and Settlement of Class Action
4 Agreement, and solely for the purposes of this Settlement, Named Plaintiffs will submit this
5 Settlement Agreement to the LWDA pursuant to Labor Code section 2699(1)(2).

6 **H. Settlement Administration/Management.**

7 The Individual Settlement Payments shall be managed and administered as follows:

8 1. Defendant shall have no obligation to segregate the funds to be used for the Gross
9 Settlement Amount from other assets. Defendant will retain exclusive authority over, and
10 responsibility for, the funds comprising the Gross Settlement Amount until such time as each of
11 the three deposits must be made as described in the Qualified Settlement Fund Deposit Schedule.
12 The Claims Administrator shall not receive any payment until Defendant is obligated to fund the
13 Qualified Settlement Fund pursuant to the Qualified Settlement Fund Deposit Schedule.

14 2. Phoenix Class Action Administrator Solutions shall be retained to serve as Claims
15 Administrator, subject to Court approval. The Parties represent that they do not have any financial
16 interest in the Claims Administrator or otherwise have a relationship with the Claims
17 Administrator that could create a conflict of interest.

18 3. Defendant shall provide the Claims Administrator with the Class List and Data
19 Report within twenty (20) days after entry of the Preliminary Approval Order. Class Counsel
20 shall not be entitled to review or receive the Class List and Data Report.

21 4. Within fifteen (15) calendar days of receipt of the Class List and Data Report, the
22 Claims Administrator shall mail the Notice Packet to each Class Member in accordance with the
23 procedures set forth herein.

24 5. Ten (10) calendar days after the Opt-out/Objection Deadline Date, the Claims
25 Administrator shall provide Defendant's Counsel and Class Counsel a report showing: (i) the
26 names and number of Class Members who have objected to the Settlement; (ii) the names of Class
27 Members opting out of the Settlement (i.e., Class Members who submitted a Request for
28

Exclusion); (iii) the name and amount owed to each Participating Class Member in total over the three year period; and (iv) a statement estimating and detailing the Claims Administration Costs.

6. The Parties agree to cooperate in the Settlement administration process and to make all reasonable efforts to control and minimize the costs and expenses incurred.

7. The Claims Administrator shall be responsible for: translating the Notice Package from English into Spanish, printing and mailing the Notice Package (in English and Spanish); receiving and reporting the Request for Exclusions and objections submitted by Class Members; mailing Individual Settlement Payments to Participating Class Members as set forth in the Payment Schedule; and other tasks as the Parties mutually agree or the Court orders the Claims Administrator to perform. The Claims Administrator shall keep Defendant's Counsel and Class Counsel timely apprised of the performance of all Claims Administrator responsibilities.

8. The Claims Administrator, on Defendant's behalf, shall have the authority and obligation to make payments, credits and disbursements, including payments and credits in the manner set forth herein, to Participating Class Members calculated in accordance with the methodology set out in this Agreement and Orders of the Court.

9. Any tax return filing required by this Agreement shall be made by the Claims Administrator. Any expenses incurred in connection with such filing shall be a cost of administration of the Settlement and are included as part of the Claims Administration Costs.

10. No person shall have any claim against Defendant or Defendant's Counsel, the Named Plaintiffs, Class Members, the Class, Class Counsel or the Claims Administrator based on distributions and payments made in accordance with this Agreement.

11. No person shall have any claim against Defendant or Defendant's Counsel, Named Plaintiffs, Class Members, the Class, Class Counsel or the Claims Administrator based on failure to become a Participating Class Member, for any reason.

I. Calculation of Individual Settlement Payments.

The Gross Individual Settlement Payment for each Participating Class Member shall be determined as follows:

1 1. Defendant will calculate the total number of Qualifying Weeks that all Class
2 Members contracted with TOC as a Driver during the applicable Settlement Class Period(s)
3 (“Total Workweeks”). The value of each Qualifying Week shall be determined by the Claims
4 Administrator by dividing the Net Settlement Proceeds by the total number of Qualifying Weeks
5 available to the Class Members during the Settlement Class Period (“Week Point Value”).

6 2. To determine the Gross Individual Settlement Payment for each Class Member
7 over the entire three (3) year administration period, the Claims Administrator will multiply the
8 individual’s Total Workweeks by the Workweek Point Value.

9 3. This is a “non-claims made” settlement, which means Class Members will not be
10 required to submit a claim to the Claims Administrator in order to receive settlement funds. As
11 such, the Claims Administrator will send every Class Member notice of the settlement, apprising
12 the Class Member of the terms and conditions of the settlement (in a form to be drafted jointly by
13 the Parties and approved by the Court), explaining that each Class Member may (1) participate in
14 the settlement (but need not submit a claim thereby becoming Class Members), (2) opt-out of the
15 settlement (and not be bound by the release nor receive any funds), or (3) object at the Final
16 Approval Hearing or file a formal objection to the settlement.

17 4. All Gross Individual Settlement Payments will be allocated as follows: 50% to
18 settlement of claims for reimbursable business expenses and interest; and 50% to settlement of
19 claims for statutory penalties. The payments shall be reported on an IRS Form 1099. Named
20 Plaintiffs and Class Members shall assume full responsibility and liability for the payment of taxes
21 due on such settlement payments.

22 5. No withholding shall be made from the Gross Individual Settlement Payment. The
23 Claims Administrator will issue an IRS Form 1099 for the Gross Individual Settlement Payment.

24 6. Each Participating Class Member shall receive a total of three(3) checks over the
25 three (3) year administration of the Settlement, one check with each Installment Payment. Each
26 check will be treated as non-wage payments and reported as an IRS Form 1099. Because certain
27 costs will be paid completely from the First Installment Payment (i.e., Claims Administration
28 Costs, the LWDA Payment, and reimbursement of Class Counsel’s Legal Costs), the amount of

the initial check to Class Members will be slightly lower than the second and third checks. The amount of the second and third checks to Class Members will be approximately the same as each other.

7. The Parties agree to settle this Action for the Gross Settlement Amount of \$1,300,000. There shall be no reversion to Defendant. The Gross Settlement Amount and other actions and forbearances taken by Defendant shall constitute adequate consideration for the Class Settlement and will be made in full and final settlement of: (a) the Released Claims, (b) Attorneys' Fees and Cost Award, (c) the PAGA Payment, and (d) any other obligation of Defendant under this Stipulation. The payments are not being made for any other purpose and shall not be construed as compensation for purposes of determining eligibility for any health and welfare benefits or unemployment compensation.

8. Any money from uncashed checks will be donated to a nonprofit proposed by Class Counsel, Casa Cornelia Law Center and approved by the Court as the designated *cy pres*.

IV. Notice to Class Members.

Notice of the Settlement shall be provided to all Class Members as follows:

A. Notice by First-Class Mail.

Within 15calendar days after receipt of the Class List and Data, the Claims Administrator shall mail the Notice Packet (in English and Spanish) to the Class Members via first-class regular U.S. mail. Prior to mailing, the Claims Administrator will perform a search based on the National Change of Address Database to update and correct for any known or identifiable address changes. If a new address is obtained by way of a returned Notice Packet, then the Claims Administrator shall promptly forward the original Notice Packet to the updated address via first-class regular U.S. mail indicating on the original Notice Packet the date of such re-mailing. Upon re-mailing, Class Members will be given an additional seven days to respond.

B. Opt-Out/Objection Deadline Date.

Class Members will have 45calendar days from the mailing of the Notice Packet to "opt out" of the Settlement or object to the Settlement, unless the Class Member attends the Final Approval Hearing and makes an objection in person at the Final Approval Hearing. The Court will

1 hear from any Class Member who attends the Final Approval Hearing and asks to speak regarding
2 his or her objection.

3 **C. Procedure for Undeliverable Notices.**

4 With respect to any Notices returned to the Claims Administrator as non-delivered on or
5 before the Deadline Date, the Claims Administrator shall perform a single re-mailing by
6 forwarding the original Notice to the forwarding address affixed thereto within 15 calendar days.
7 Upon re-mailing, Class Members will be given an additional seven days to respond. If no
8 forwarding address is provided, then the Claims Administrator shall promptly attempt to
9 determine a correct address using a single skip-trace, computer or other search using the name,
10 address and/or Social Security number of the individual involved, and shall then perform a single
11 re-mailing within 15 calendar days. Upon re-mailing, Class Members will be given an additional
12 seven days to respond. In the event the procedures in this paragraph are followed and the intended
13 recipient of a Notice Packet still does not receive the Notice Packet, the Class Member shall be
14 bound by all terms of the Settlement and any Final Judgement entered by the Court if the
15 Settlement is approved by the Court.

16 **D. Procedure for Objecting to the Class Action Settlement.**

17 The Notice shall provide that those Class Members who wish to object to the Settlement
18 may attend the Final Approval Hearing, and object in person at the Final Approval Hearing, may
19 file an objection with the Court, or mail a written statement of objection ("Notice of Objection") to
20 the Claims Administrator no later than the Opt-Out/Objection Deadline Date. The Claims
21 Administrator shall provide counsel for the Parties with complete copies of all objections received,
22 including the postmark dates for each objection, within five business days of receipt. Class
23 Counsel will provide copies of any objections and supporting documents to the Court concurrently
24 with the notice of motion for final approval. Any attorney who intends to represent an individual
25 objecting to the Settlement must file a notice of appearance with the Court and serve counsel for
26 all parties, at least ten calendar days before the Final Approval Hearing.

27 **E. Procedure for Opting Out/Requesting Exclusion.**

28

1 The Notice shall provide that those Class Members who wish to request exclusion from the
2 Settlement must: (a) set forth the name, address, and telephone number of the Class Member
3 requesting exclusion, (b) state "I wish to be excluded from the settlement class in the Merardo
4 Atilio Cruz, et al. v. Trans Ocean Carrier, Inc., Superior Court of the State of California, County
5 of Los Angeles, Case No. BC634606," or words substantially to that effect; (c) be signed by the
6 Class Member; (d) be returned by mail, addressed to the Claims Administrator at the specified
7 address indicated in the Notice Packet; and (e) be postmarked on or before the Claims/Request for
8 Exclusion/Objection Deadline Date, to be valid. The date of the postmark on the return mailing
9 envelope shall be the exclusive means to determine whether a Request for Exclusion has been
10 timely submitted. Any Class Member who submits a valid and timely Request for Exclusion shall
11 no longer be a member of the Class, shall be barred from participating in this Settlement, shall be
12 barred from objecting to this Settlement and shall receive no benefit from this Settlement. Any
13 Class Member who does not submit a valid and timely Request for Exclusion shall be bound by
14 the terms and conditions of this Settlement, to include the Released Claims. Class Counsel will
15 provide copies of Request for Exclusion to the Court at least ten days before the Final Approval
16 Hearing.

17 **F. No Solicitation of Settlement Objections or Opt-Outs.**

18 The Parties agree to use their best efforts to carry out the terms of this Settlement. At no
19 time shall any of the Parties or their counsel seek to solicit or otherwise advise, encourage or
20 influence Class Members to submit written objections to the Settlement, to opt-out of the
21 Settlement or to appeal from the Final Judgment.

22 **G. Procedure for Payment to Participating Class Members.**

23 The procedure for payment to Class Members of Individual Settlement Payments is as
24 follows:

25 a. There is no claim form. Class Members will receive their Individual Settlement
26 Payments as described herein, unless they timely opt-out of the Settlement.

b. Each Class Member's Qualifying Week(s) and estimated Gross Individual Settlement Payment will be set forth on the Class Member's Notice Packet (or an attachment thereto).

c. If a Class Member disputes the Gross Individual Settlement Payment or the dates he/she contracted with Defendant as a Driver as listed on a Claim Form, the Class Member may produce evidence to the Claims Administrator indicating the dates he/she contends to have contracted with Defendant during the applicable Settlement Class Period. Defendant's records will be presumed determinative, absent evidence to rebut Defendant's records, but the Claims Administrator will evaluate the evidence submitted by the Class Member and make the final decision as to which dates should be applied. The deadline to dispute the Gross Individual Settlement Payment or the dates a Class Member contracted with Defendant as a Driver as listed on a Claim Form will be within the 45-day Opt-Out/Objection Deadline Date.

d. Individual Settlement Payments for Participating Class Members shall be paid pursuant to the formula set forth in the Payment Schedule. The first settlement check will note that the Class Member releases FLSA claims by cashing the check, and will contain words (in English and Spanish) to the following effect: "*My endorsing, cashing, or depositing of this check constitutes my consent to join the lawsuit entitled Merardo Altilio Cruz, et al. v. Trans Ocean Carrier, Inc., Superior Court of the State of California, County of Los Angeles, Case No. BC634606, and my release of claims therein pursuant to the Settlement of the lawsuit and provisions of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. Section 216(b).*" Participating Class Members shall have 180 days from the date of issuance to cash their settlement checks.

e. Should any question arise regarding the determination of eligibility for, or the amounts of, any Individual Settlement Payment under the terms of this Agreement, Class Counsel and Defendant's Counsel shall meet and confer in an attempt to reach agreement. If they cannot agree, the Claims Administrator shall make the final determination, and that determination shall be conclusive, final and binding on all Parties, including all Class Members.

f. Any checks issued by the Claims Administrator to Class Members shall be negotiable for 180 days from issuance, at which time the funds representing the money from the

1 “uncashed checks” shall be paid to a nonprofit proposed by Class Counsel, Casa Cornelia Law
2 Center and approved by the Court.

3 g. Non-Participating Class Members shall receive no Individual Settlement Payment,
4 and their request not to participate will reduce neither the Gross Settlement Amount nor the Net
5 Settlement Fund.

6 **H. Final Approval Hearing and Entry of Final Judgment.**

7 Upon expiration of the Opt-Out/Objection Deadline Date, with the Court’s permission the
8 Final Approval Hearing shall be conducted to determine final approval of the Settlement along
9 with the amount properly payable for: (i) reasonable Attorneys’ Fees and Costs Award; (ii) any
10 Service Award; and (iii) reasonable Claim Administration Costs. The Final Approval Hearing
11 shall not be held earlier than 30 calendar days from the Opt-Out/Objection Deadline Date. Class
12 Members will be apprised of the Final Approval Hearing and any changes in time or location to
13 the Final Approval Hearing via the website set up by the parties and the Administrator. Upon final
14 approval of the Settlement by the Court, the Parties shall present the Final Judgment to the Court
15 for its approval. After entry of the Final Judgment, the Court shall have continuing jurisdiction
16 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the
17 Settlement; (ii) Settlement administration matters; and (iii) such post-Final Judgment matters as
18 may be appropriate under court rules or as set forth in this Agreement.

19 **I. Certification by Claims Administrator After the Third Installment.**

20 No later than eighty (80) days after the Third Installment Payments are distributed from the
21 Qualified Settlement Fund, the Claims Administrator shall file a Declaration of Distribution
22 attesting that funds were distributed in accordance with the Court-approved Settlement
23 Agreement, provided the Settlement is effective.

24 **J. Final Report by Claims Administrator to the Court**

25 Within thirty (30) days after the expiration date of checks from the final disbursement of
26 all funds from the Gross Settlement Amount (i.e. after the Third Installment Payments are made),
27 the Claims Administrator will serve on the Parties and file with the Court a declaration providing a
28 final report on the disbursement of all funds from the Gross Settlement Amount.

1 **V. Additional Provisions.**

2 **A. Tolerance.**

3 If 10% or more of the Class Members elect to opt out of the Settlement, Defendant may, at
4 its election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null
5 and void. Defendant must exercise this right of rescission, in writing, to Class Counsel, within
6 fifteen (15) calendar days after the Claims Administrator notifies the Parties of the total number of
7 opt-outs. If the option to rescind is exercised, then Defendant shall be solely responsible for all
8 costs of the claims administration accrued to that point.

9 **B. Nullification of Settlement Agreement.**

10 In the event: (i) the Court does not enter the Order specified herein; (ii) the Court does not
11 finally approve the Settlement as provided herein; (iii) the LWDA objects to the Settlement;
12 (iv) the Court does not enter a Final Judgment as provided herein; (v) Defendant exercises its
13 option to nullify the Agreement; or (vi) the Settlement does not become final for any other reason;
14 this Settlement Agreement shall be null and void. Any order or judgment entered by the Court in
15 furtherance of this Settlement shall be treated as void from the beginning, and the Stipulations and
16 Recitals contained herein shall be of no force or effect, and shall not be treated as an admission by
17 the Parties or their Counsel. In such a case, the Parties and any funds to be awarded under this
18 Settlement shall be returned to their respective statuses as of the date and time immediately prior
19 to the execution of this Agreement, and the Parties shall proceed in all respects as if this
20 Settlement Agreement had not been executed, except that any fees already incurred by the Claims
21 Administrator shall be paid by Defendant.

22 **C. Publicity/Non-Disclosure.**

23 The Parties and their counsel agree that they will not issue any press releases, initiate any
24 contact with the press, respond to any press inquiry or have any communication with the press
25 about the fact, amount or terms of the Settlement. Class Counsel may respond to press inquiries
26 by stating the matter has been resolved and refer the press to court filings. In addition, the Parties
27 and their counsel agree that they will not engage in any advertising or distribute any marketing
28 materials specifying any material terms relating to the Settlement of this case, including but not

1 limited to any postings on any websites maintained by Class Counsel. To the extent counsel for
2 either Party wish to advertise this settlement, such advertising will be limited to a statement that a
3 matter was settled. The Claims Administrator shall not create nor maintain any website regarding
4 this Settlement at any time. Any communication about the Settlement to Class Members prior to
5 the Court-approved mailing will be limited to a statement that a settlement has been reached and
6 the details will be communicated in a forthcoming Court-approved notice. Prior to preliminary
7 approval, Named Plaintiffs are prohibited from discussing the terms or the fact of the settlement
8 with third parties other than (1) their immediate family members, (2) their accountants or lawyers
9 as necessary for tax purposes; or (3) other Class Members. At all times, the Named Plaintiffs are
10 prohibited from communicating about the terms or the fact of the settlement on any form of social
11 media ("Social Media Bar"). In the event of a proven breach of the Social Media Bar, Named
12 Plaintiffs shall forfeit one-half of their respective class representative enhancement payment, as a
13 form of liquidated damages.

14 **D. Exhibits and Headings.**

15 The terms of this Agreement include the terms set forth in any attached exhibits, which are
16 incorporated by this reference as though fully set forth herein. Any exhibits to this Agreement are
17 an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this
18 Agreement are inserted for convenience only and do not constitute a part of this Agreement.

19 **E. Amendment or Modification.**

20 This Agreement may be amended or modified only by a written instrument signed by
21 counsel for all Parties or their successors-in-interest.

22 **F. Entire Agreement.**

23 This Agreement and any attached exhibits constitute the entire agreement among these
24 Parties, and no oral or written representations, warranties or inducements have been made to any
25 Party concerning this Agreement or its exhibits other than the representations, warranties and
26 covenants contained and memorialized in such documents.

1 **G. Authorization to Enter into Settlement Agreement.**

2 Counsel for all Parties warrant and represent that they are expressly authorized by the
3 Parties whom they represent to negotiate this Agreement and to take all appropriate action
4 required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms
5 and to execute any other documents required to effectuate the terms of this Agreement. The
6 Parties and their counsel will cooperate with each other and use their best efforts to effect the
7 implementation of the Settlement. In the event the Parties are unable to reach agreement on the
8 form or content of any document needed to implement the Settlement, or on any supplemental
9 provisions that may become necessary to effectuate the terms of this Settlement, the Parties may
10 seek the assistance of the Court to resolve such disagreement. The person(s) signing this
11 Agreement on behalf of Defendant represents and warrants that he/she/they are authorized to sign
12 this Agreement on Defendant's behalf.

13 **H. Binding on Successors and Assigns.**

14 This Agreement shall be binding upon, and inure to the benefit of, the successors or
15 assigns of the Parties hereto, as previously defined.

16 **I. California Law Governs.**

17 All terms of this Agreement and the exhibits hereto shall be governed by and interpreted
18 according to the laws of the State of California.

19
20
21 **J. Counterparts.**

22 This Agreement may be executed in one or more counterparts. All executed counterparts
23 and each of them shall be deemed to be one and the same instrument.

24 **K. This Settlement Is Fair, Adequate and Reasonable.**

25 The Parties believe this Settlement is a fair, adequate and reasonable Settlement of this
26 Action and have arrived at this Settlement after extensive arms-length negotiations, taking into
27 account all relevant factors, present and potential.

28 **L. Jurisdiction of the Court**

1 The Court shall retain jurisdiction with respect to the interpretation, implementation and
2 enforcement of the terms of this Agreement and all orders and judgments entered in connection
3 therewith, and the Parties and their counsel hereto submit to the jurisdiction of the Court for
4 purposes of interpreting, implementing and enforcing the Settlement embodied in this Agreement
5 and all orders and judgments entered in connection therewith.

6 **M. Cooperation and Drafting.**

7 Each of the Parties has cooperated in the drafting and preparation of this Agreement, and,
8 therefore, in any construction made to this Agreement, the same shall not be construed against any
9 of the Parties.

10 **N. Invalidity of Any Provision.**

11 Before declaring any provision of this Agreement invalid, the Court shall first attempt to
12 construe the provisions as valid and enforceable to the fullest extent possible consistent with
13 applicable law.

14 **O. Translation from English to Spanish.**

15 The Named Plaintiffs acknowledge that prior to entering into this Agreement, Class
16 Counsel provided them with a written or oral translation of the entire Agreement from
17 English to Spanish. The Named Plaintiffs affirm that they fully understand the terms and
18 conditions of this Agreement, and knowingly enter into this Agreement on behalf of
19 themselves and all Class Members.

20 Los Demandantes nombrados reconocen que antes de celebrar este Acuerdo, los
21 Abogados de la Clase les proporcionaron una traducción escrita u oral de todo el Acuerdo
22 del inglés al español. Los Demandantes nombrados afirman que comprenden
23 completamente los términos y condiciones de este Acuerdo, y a sabiendas lo firman en
24 nombre de ellos mismos y de todos los Miembros de la Clase.

25
26 Dated: 1/6/2021

DocuSigned by:
1-6-21
928B5011E0074F5

27 Plaintiff MERARDO ATILIO CRUZ AKA SANTOS
28 ISRAEL CRUZ

1 Dated: 1/7/2021

DocuSigned by:



3106731B94D04C7

Plaintiff CARLOS DE LA CRUZ

2
3 Dated: 1/6/2021

DocuSigned by:

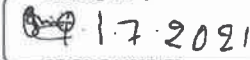


70D0F1A0B5E34B6

Plaintiff LUIS ARMANDO ESPANA

5 Dated: 1/7/2021

DocuSigned by:



0F1E0ADA482F4EB

Plaintiff MARIO ELIAS GARCIA

7
8 Dated: 1/7/2021

DocuSigned by:



A0292C29603041F

Plaintiff MARIO ELIAS GARCIA, JR AKA MARIO
ELIAS GARCIA TOBAR

10 Dated: 1/7/2021

DocuSigned by:



FA5F7E001F644G

Plaintiff SANTOS GONZALO ESCOBAR

12
13 Dated: 1/6/2021

DocuSigned by:

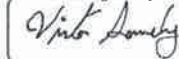


3DD23CED061F464

Plaintiff JEURY JOSUE MARTINEZ

15 Dated: 1/7/2021

DocuSigned by:



73B1A8793AA74B6

Plaintiff VICTOR ANTONIO SANCHEZ

17 Dated: 1/6/2021

DocuSigned by:



18D77A5C5CCD47B

Plaintiff FRANCISCO SAUL HERNANDEZ

19
20 Dated: 1/7/2021

DocuSigned by:



0419B2B25F62434

Plaintiff ERICK ADIEL TENAS

22 Dated: 1/7/2021

DocuSigned by:



E71A24E2A2AA4A0

Plaintiff HARVY PINEDA COFFIN

24 Dated: 1/7/2021

DocuSigned by:



79C8FE33A3D54F1

Plaintiff JOSUE HERNANDEZ

26 Dated: 1/7/2021

DocuSigned by:



B733B2BC03B64F0

Plaintiff ANGEL MACIAS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Date: 01/12/2021

TRANS OCEAN CARRIER, INC.

By: _____

Name: Richard Tsao

Its: UP Operations

Dated: 1/12/2021

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP

By

Adam Rosenthal

ADAM R. ROSENTHAL
HILARY H. HABIB
TIMOTHY T. KIM
Attorneys for Defendant
TRANS OCEAN CARRIER, INC.

Dated: _____

GOMEZ LAW GROUP

By

ALVIN M. GOMEZ
Attorneys for the Named Plaintiffs

Dated: _____

GOMEZ LAW GROUP

By

STEPHEN NOEL ILG
Attorneys for the Named Plaintiffs

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TRANS OCEAN CARRIER, INC.

Date: _____

By: _____

Name: _____

Its: _____

Dated: _____

SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP

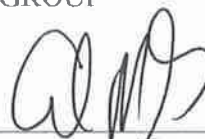
By _____

ADAM R. ROSENTHAL
HILARY H. HABIB
TIMOTHY T. KIM
Attorneys for Defendant
TRANS OCEAN CARRIER, INC.

Dated: 1/11/21

GOMEZ LAW GROUP

By



ALVIN M. GOMEZ
Attorneys for the Named Plaintiffs

Dated: 1/11/2021

GOMEZ LAW GROUP

By

DocuSigned by:

Stephen Noel Ilg

30C19D0322B1465...

STEPHEN NOEL ILG
Attorneys for the Named Plaintiffs