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15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

16 **IN AND FOR THE COUNTY OF LOS ANGELES**

17
18 WORREN JACKSON, on behalf of himself,
19 all others similarly situated, and on behalf of
the general public,

20 Plaintiff,

21 vs.

22 LMS TRANSPORTATION LLC; GREG
23 SOUTHERN; ANDREA SOUTHERN; and
DOES 3-100,

24 Defendants.
25

Case No. BC635316

**STIPULATION FOR SETTLEMENT AND
RELEASE OF CLASS ACTION CLAIMS**

1 This Stipulation for Settlement and Release of Class Action Claims (“Settlement
 2 Agreement” or “Agreement”) is entered into between WARREN JACKSON (“Plaintiff” or “Class
 3 Representative”), on his own behalf and as a proposed representative plaintiff on behalf of the
 4 Settlement Class to be certified pursuant to this Settlement Agreement (as described in Paragraph
 5 10, below) and each of the members of that Settlement Class (individually, a “Settlement Class
 6 Member” and, collectively, “Settlement Class Members”), on the one hand, and *Specially*
 7 *Appearing* Defendants GREG SOUTHERN and ANDREA SOUTHERN (“Defendants”), on the
 8 other hand. For purposes of this Agreement, Plaintiff and Defendants are referred to individually as
 9 a “Party” and collectively as the “Parties.” This Settlement Agreement pertains to all claims that
 10 have been and/or are asserted, or reasonably could have been asserted, based on the facts and/or
 11 theories that have been filed by Plaintiff, as described in the Recitals below, including without
 12 limitation the Class Action Complaint filed in the Lawsuit (as defined in Paragraph 1 below) and
 13 Amendment thereto, and claims that could have been brought under applicable law based on the
 14 facts and/or theories alleged in any such pleadings. This Settlement Agreement is subject to the
 15 terms and conditions hereof and the approval of the Court in the Lawsuit.

16 **RECITALS**

17 1. On September 27, 2016, Plaintiff filed a Class Action Complaint in the Los Angeles
 18 County Superior Court (the “Court”), Case No. BC635316, entitled *Warren Jackson, on behalf of*
 19 *himself, all others similarly situated, and on behalf of the general public v. LMS Transportation*
 20 *LLC; and Does 1-100*, alleging claims for: (1) failure to pay all straight time wages; (2) failure to
 21 pay overtime wages; (3) failure to provide meal periods and/or pay meal period premiums; (4)
 22 failure to provide rest periods and/or pay rest period premiums; (5) failure to provide accurate
 23 itemized wage statements; (6) failure to pay all wages due at the time of termination of
 24 employment; and (7) violation of the California Unfair Competition Law, Business & Professions
 25 Code § 17200, *et seq.* (the “Lawsuit”). Plaintiff seeks to recover meal and rest break premium
 26 payments, straight time and overtime wages, wage statement penalties, waiting time penalties,
 27 restitution, injunctive relief, interest, and attorneys’ fees and costs.

28

1 2. On March 20, 2020, Plaintiff filed an Amendment to Class Action Complaint
2 purporting to substitute Defendants Does 1 and 2 with Greg Southern and Andrea Southern, which
3 was granted by the Court on June 16, 2020, thereby changing the caption of the Lawsuit to *Worren*
4 *Jackson, on behalf of himself, all others similarly situated, and on behalf of the general public v.*
5 *LMS Transportation LLC; Greg Southern; Andrea Southern; and Does 3-100.*

6 3. On September 29, 2020, Defendants timely removed the Lawsuit to the United
7 States District Court for the Central District of California (the “District Court”), wherein it was
8 assigned Case No. 2:20-cv-08939-GW-E.

9 4. Over the next several months, the Parties engaged in extensive settlement
10 discussions and negotiations and reached an agreement in principle on a proposed class action
11 settlement.

12 5. On January 19, 2021, the Parties agreed and stipulated that the Lawsuit be remanded
13 to the Los Angeles County Superior Court for further proceedings on approval of the Parties’
14 proposed class action settlement, without waiver or limitation of Defendants’ right to re-remove the
15 Lawsuit to federal court if such settlement is not approved. On January 25, 2021, the District Court
16 granted the Parties’ stipulation and issued an Order remanding the Lawsuit to this Court.

17 6. For purposes of this Settlement Agreement, the “Settlement Class” consists of all
18 current and former employees employed by Defendant LMS Transportation LLC (“LMS”) in the
19 State of California as salaried, non-exempt industrial vehicle drivers, truck workers, industrial truck
20 workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar
21 job designations and titles from September 27, 2012 through the date of preliminary approval of the
22 settlement by the Court (the “Settlement Class Period”).

23 7. No Admission of Liability by the Defendants. Defendants, on behalf of themselves,
24 LMS, and their respective employees and agents, deny any liability or wrongdoing of any kind
25 associated with the claims being settled and released herein. Defendants contend, among other
26 things, that they and LMS have complied at all times with all applicable laws and assert that the
27 Settlement Class Members were properly compensated for all time worked, and otherwise treated at
28 all times in compliance with all applicable laws. Neither this Settlement Agreement nor any exhibit

1 hereto, nor any other document pertaining to the settlement contemplated herein, may be offered in
2 this or any other case or proceeding as evidence of any admission by Defendants of any liability on
3 any claims for damages or other relief. Any stipulation or admission by Defendants contained
4 herein is made for settlement purposes only.

5 8. In the interest of avoiding the costs and disruption of ongoing litigation and
6 resolving the claims asserted in the Lawsuit, Defendants believe that the settlement negotiated
7 between the Parties and set forth in this Settlement Agreement is fair, reasonable, and adequate, as
8 do the Parties' counsel and Plaintiff.

9 9. It is the desire of Plaintiff, on his own behalf and on behalf of the Settlement Class
10 Members, to fully, finally, and forever settle, compromise, and discharge any and all claims, rights,
11 demands, charges, complaints, causes of action, obligations or liability of any and every kind that
12 are, have been or reasonably could have been asserted based on the facts and/or theories alleged in
13 the pleadings filed in the Lawsuit and any other claims that could have been brought under
14 applicable law based on the facts and/or theories alleged in any of the pleadings that have been filed
15 in the Lawsuit, through the date of final approval of the settlement, including a waiver of rights
16 under California Civil Code Section 1542 with respect to such released claims to the extent that
17 statute is otherwise applicable, as more fully described in the specific terms of the releases given by
18 the Class Representative and by the Settlement Class Members who do not opt-out of the settlement
19 (as set forth in Paragraphs 31 and 32, below), and are not to be construed or interpreted by any
20 language in the Recitals portion of this Settlement Agreement.

21 **TERMS OF THE SETTLEMENT**

22 10. Stipulation for Conditional Class Certification: The Parties stipulate and agree to the
23 conditional certification of the Settlement Class for purposes of this Agreement only. Should for
24 whatever reason, the settlement set forth in this Agreement not become final, the Parties' stipulation
25 to such class certification as part of this Agreement shall become null and void *ab initio* and shall
26 have no bearing on, and shall not be admissible in connection with, the issue of whether or not
27 certification would be appropriate in a non-settlement context. Defendants expressly reserve their
28 rights and declare that, to the extent Plaintiff may otherwise be permitted to seek class certification,

1 they intend to oppose class certification and the pursuit of such claims vigorously should the
2 settlement set forth in this Agreement not become final and Plaintiff's putative class action claims
3 are allowed to be pursued in any other action or proceeding. Further, the Parties agree that all
4 defenses to Plaintiff's action, including based on jurisdiction, are fully and expressly reserved and
5 not waived unless and until the Court grants final approval of the settlement under this Agreement.

6 11. Establishment of the Gross Settlement Fund: This settlement is being made on a
7 non-reversionary basis, such that Defendants will pay the entirety of the agreed upon total
8 settlement amount. The agreed total settlement amount is One Hundred Thousand Dollars
9 (\$100,000.00) (the "Gross Settlement Fund" or "GSF").

10 12. The payment by Defendants of the GSF of \$100,000.00 pursuant to this Settlement
11 Agreement shall settle and forever resolve all of the Released Claims (as defined below), and will
12 include: (a) all payments to Settlement Class Members, (b) both employee-side and employer-side
13 payroll taxes associated with the Individual Settlement Payments (as defined below), (c) all costs of
14 administration of the settlement, (d) all attorneys' fees and costs as awarded by the Court, and (e)
15 any Enhancement Award (as defined below) to the Class Representative as awarded by the Court.
16 No additional funding or payment by Defendants will be required under this Agreement. The
17 payments made to Settlement Class Members shall not be construed as any type of compensation
18 for purposes of determining eligibility for any health and/or welfare benefits, unemployment
19 compensation or other compensation or benefits provided by LMS and/or Defendants. In addition,
20 no individual receiving a payment based on this settlement shall be entitled to any additional or
21 increased health, welfare, retirement or other benefits as a result of their participation in the
22 settlement under this Agreement.

23 13. Calculation of Net Settlement Fund: The Net Settlement Fund ("NSF") for the
24 Settlement Class will constitute the total sum from which Settlement Class Members will be paid.
25 The NSF is the GSF less Court-approved Settlement Administration Costs (as defined in Paragraph
26 18, below), Class Counsel's Court-approved attorneys' fees and litigation costs and expenses, and
27 any Court-approved Enhancement Award (as defined below) for the Class Representative. The
28 remaining sum after all these deductions shall represent the NSF, which will be used to calculate

1 the settlement share that each Settlement Class Member will receive after the Effective Date (as
2 defined in Paragraph 14, below). All employee-side and employer-side payroll taxes shall also be
3 paid from the NSF.

4 14. Effective Date: This Settlement Agreement shall become effective when the
5 settlement is considered as “Final.” This Agreement is contingent upon the final approval by the
6 Court. For purposes of this Settlement Agreement, “Effective Date” and “Final” mean (i) in the
7 event that the settlement has received Final Approval by the Court, and regardless of whether any
8 timely objections thereto have been filed or withdrawn, then upon the passage of the applicable date
9 for any interested party to seek appellate review of the Court’s order of final approval of the
10 settlement without a timely appeal being filed; or, (ii) in the event that a timely appeal of the
11 Court’s order of final approval has been filed, then the Settlement Agreement shall be final when
12 the applicable appellate court has rendered a final decision or opinion affirming the Court’s final
13 approval without material modification, and the applicable date for seeking further appellate review
14 has passed without further appellate review being sought. In the event that the Court fails to
15 approve the settlement, or if the appropriate appellate court fails to approve the settlement: (a) this
16 Settlement Agreement shall have no force and effect and the parties shall be restored to their
17 respective positions prior to entering into it, and no Party shall be bound by any of the terms of this
18 Settlement Agreement; (b) Defendants shall have no obligation to make any payments to the
19 Settlement Class Members, Plaintiff, Plaintiff’s counsel, or any other person or entity as a result of
20 this Agreement; (c) any preliminary approval order, final approval order or judgment shall be
21 vacated; and (d) this Settlement Agreement and all negotiations, statements, proceedings and data
22 relating thereto shall be deemed confidential settlement communications and not subject to
23 disclosure for any purpose in any proceeding.

24 15. Attorneys’ Fees and Costs: Subject to the Court’s approval, “Class Counsel” refers
25 to Plaintiff’s Counsel in this Litigation: David Mara, Esq. and Matthew Crawford, Esq. of Mara
26 Law Firm, PC and Keith J. Stone, Esq. of Law Offices of Keith J. Stone. Class Counsel may apply
27 to the Court for an award of attorneys’ fees and costs and expenses incurred in connection with the
28 prosecution of this matter, and all of the work remaining to be performed by Class Counsel in

1 documenting the Settlement, securing Court approval of the Settlement (including all related
2 appellate work), carrying out their duties to see that the Settlement is fairly administered and
3 implemented, and obtaining dismissal of the Lawsuit, in an amount not to exceed one-fourth (1/4)
4 of the GSF (i.e. up to \$25,000.00), and for an award of reasonable costs and expenses in an amount
5 not to exceed \$7,500.00, subject to approval by the Court. Amounts awarded by the Court for
6 attorneys' fees and costs shall be paid from the GSF. Any allocated and requested fees and costs
7 that are not awarded by the Court at final approval will be added back into the Net Settlement Fund
8 for distribution to the participating Class Members, as addressed herein.

9 16. Enhancement Award: Subject to approval by the Court, if Plaintiff signs the
10 Settlement Agreement and does not opt-out of the settlement, Plaintiff may apply to the Court for
11 an enhancement award not to exceed \$10,000.00, in consideration for serving as a Class
12 Representative ("Enhancement Award"). The Enhancement Award is in addition to the Individual
13 Settlement Payment (as defined below) to which Plaintiff is entitled along with all other Settlement
14 Class Members. Plaintiff hereby understands and agrees that he is not eligible for future
15 employment with LMS, Defendants or any of the Released Parties (as defined below), that he will
16 not seek or apply for any such employment, that Defendants and the Released Parties are under no
17 obligation and can decline to hire Plaintiff if he applies for or seeks such employment, and
18 Defendants and the Released Parties can terminate Plaintiff's employment sought and obtained in
19 violation of the foregoing without obtaining Defendants' written consent.

20 17. In the event that a lesser sum is awarded for Class Counsel's attorneys' fees and
21 costs referenced above in Paragraph 15, or for the Enhancement Award referenced above in
22 Paragraph 16, the approval by the Court of any such lesser sum(s) shall not be grounds for Plaintiff
23 and/or Class Counsel to terminate the settlement, but such an order shall be appealable by them. In
24 the event that such an appeal is filed, administration of the settlement shall be stayed, only as to
25 those amounts under appeal, pending resolution of the appeal. Any amount not awarded as fees
26 and/or costs, or Enhancement Award, and is not challenged via appeal by Plaintiff and/or Class
27 Counsel, shall be added to the NSF and distributed to the Settlement Class Members in accordance
28 with the terms of this Settlement Agreement. If after the exhaustion of such appellate review, any

1 additional amounts remain which are distributable to the Settlement Class Members, the cost of
2 administration of such additional payments will be paid out of such additional amounts, and will not
3 be chargeable to or payable by Defendants.

4 18. Settlement Administration Costs: Subject to Court approval, the Parties designate
5 Phoenix Settlement Administrators (“Phoenix”) to administer the settlement in this action
6 (“Settlement Administrator”), pursuant to a competitive bid obtained by Plaintiff’s counsel from
7 Phoenix confirming that Phoenix is the most cost competitive, with a preliminary budget to
8 administer the settlement for fees and costs of up to \$7,500.00 (“Settlement Administration Costs”).
9 All Settlement Administration Costs shall be paid from the GSF and shall include all costs incurred
10 by the Settlement Administrator in the administration of the settlement. The Settlement
11 Administrator’s duties of administration shall include, without limitation, receiving and updating
12 through normal and customary procedures the Class List to be produced by Defendants, so that it is
13 updated prior to the Notice being mailed, printing and mailing the Court approved Notice of Class
14 Action Settlement (the “Notice”), performing necessary additional skip traces on Notices and/or
15 checks returned as undeliverable, calculating Settlement Class Members’ shares of the NSF,
16 preparing and mailing of settlement checks to Settlement Class Members, establishing a settlement
17 website as described hereafter, responding to Settlement Class Members inquiries as appropriate,
18 preparing any appropriate tax forms required by any governmental taxing authority or agency in
19 connection with the settlement payments and remitting those forms and any required payments to
20 the appropriate governmental agencies, and generally performing all normal and customary duties
21 associated with the administration of such settlements. The Settlement Administrator and
22 Defendants will be required to cooperate and coordinate with each other with respect to the
23 calculation, reporting and payment of all payroll taxes and withholdings in accordance with all
24 applicable laws and requirements of government taxing authorities. The Settlement Administrator
25 will coordinate the calculations of the payroll taxes and deductions with Defendants to ensure that,
26 to the extent such taxes and deductions are or could be deemed to have been made by the
27 Settlement Administrator on behalf of LMS or Defendants by government taxing authorities, they

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1 are made in compliance with Defendants' or LMS' respective tax withholding and remittance
2 obligations for such payments.

3 19. No Claim Form Required: Settlement Class Members that do not opt-out of the
4 Settlement ("Participating Class Members") shall share in the NSF, as set forth in detail in
5 Paragraph 20 hereafter. Settlement Class Members shall not be required to complete a claim form
6 in order to receive their share of the NSF. Settlement Class Members shall receive a Notice of
7 Class Action Settlement informing them of the terms of the Settlement and providing them with an
8 estimate of their individual share of the NSF. Unless a Settlement Class Member timely and
9 properly elects to opt-out of the settlement, a check representing the Participating Class Member's
10 settlement payment will be mailed to them pursuant to the terms of this Agreement ("Individual
11 Settlement Payment").

12 20. Calculation of Individual Settlement Payments: Each Settlement Class Member's
13 shares of the net settlement fund will be allocated on a pay periods pro rata basis. Each Settlement
14 Class Member's share of the NSF shall be calculated by multiplying the NSF by a fraction, the
15 numerator of which is the total number of pay periods the Participating Class Member who was
16 employed by LMS in California during the Settlement Class Period and the denominator of which
17 is the total number of pay periods all of the Settlement Class Members worked for LMS in
18 California during the Settlement Class Period. Such pay periods shall be calculated by the
19 Settlement Administrator from LMS' records.

20 21. Opt-Out Rights to Settlement: The Notice mailed to all Settlement Class Members
21 will advise each class member of their right to opt-out of the Settlement Agreement. Any
22 Settlement Class Member who wishes to opt-out from the Settlement Agreement must submit any
23 such opt-out election notice, also referred to as a Request for Exclusion, in writing to the Settlement
24 Administrator postmarked no later than forty-five (45) calendar days from the date of mailing of the
25 Notice to the Settlement Class Members. Any opt-out submission must contain the following
26 language, in order to effectuate the Settlement Class Member's election to opt-out: "I elect to opt-
27 out of the *Jackson v. LMS Transportation LLC, et al.* class action settlement. I understand that by
28 doing so, I will not be able to participate in the settlement, and will not receive a share of the

1 settlement proceeds.” The Notice shall include the specific address for Settlement Class Members
2 to use if mailing an opt-out letter. In the event that 5% or more of the Settlement Class Members
3 submit elections to opt-out of the settlement, Defendants will have the right to rescind and terminate
4 the settlement without prejudice to their pre-settlement positions and defenses in the Lawsuit.
5 Should the 5% threshold for opt-outs be exceeded, the Settlement Administrator shall notify lead
6 counsel for all Parties via email immediately.

7 22. Objection Rights to Settlement: The Notice mailed to all Settlement Class Members
8 will advise each Settlement Class Member of their right to object to all or any part of the Settlement
9 Agreement. Any Settlement Class Member who wishes to object must not submit an opt-out to the
10 Settlement Administrator, and should send to the Settlement Administrator, postmarked no later
11 than forty-five (45) calendar days from the date of mailing of the Notice, a written Objection
12 statement including the Settlement Class Member’s full name and the grounds of objection, signed
13 by the objecting Settlement Class Member, or his or her attorney, along with all supporting papers.
14 Settlement Class Members may also object to the Settlement by appearing at the final approval
15 hearing. The Settlement Administrator shall send any objections it receives to Defense Counsel and
16 Class Counsel within three (3) business days of receipt. The Court retains final authority with
17 respect to the consideration and admissibility of any Settlement Class Member objections. Counsel
18 for the Parties shall file any response to the objections submitted by objecting Settlement Class
19 Members at least ten (10) court days before the date of the Final Fairness and Approval Hearing.

20 23. Challenges to Calculations: A Settlement Class Member may dispute the amount of
21 his or her Individual Settlement Payment, and the number of pay periods used to calculate the
22 Individual Settlement Payment, by timely sending a written notice to the Settlement Administrator
23 informing the Settlement Administrator of the nature of the dispute and providing any records or
24 documentation supporting the Settlement Class Member’s position. To be considered timely, any
25 dispute regarding the settlement payment or the underlying data used to calculate the settlement
26 payment must be submitted by the Settlement Class Member within forty-five (45) days of the
27 mailing of the Notice. In response to any timely dispute, the Settlement Administrator shall
28 examine the records provided by Defendants and the Settlement Class Member. Unless the

1 Settlement Class Member can establish a different period of employment based on documentary
2 evidence, the total number of pay periods established by LMS' records will control. Class Counsel
3 and Defendants' Counsel will then make a good faith effort to resolve the dispute informally. If
4 counsel for the Parties cannot agree, the dispute shall be resolved by the Settlement Administrator,
5 who shall examine the records provided by Defendants and the Settlement Class Member, and shall
6 be the final arbiter of disputes relating to a Settlement Class Member's pay periods. The Settlement
7 Administrator's determination regarding any such dispute shall be final for purposes of
8 administering notice of the Settlement, subject to final review, determination and approval by the
9 Court.

10 24. Funding of Settlement: Within ten (10) business days following the Effective Date,
11 Defendants shall transfer the Gross Settlement Fund amount of One Hundred Thousand Dollars
12 (\$100,000.00) to the Settlement Administrator. No funds will be payable by Defendants prior to
13 that time.

14 25. Payment Procedures: Within ten (10) business days after Defendants' deposit of the
15 GSF funds into the account created by the Settlement Administrator, the Settlement Administrator
16 shall pay Individual Settlement Payments from the NSF to all Participating Class Members, and any
17 Court-approved attorneys' fees, costs, Enhancement Award, Settlement Administration Costs, and
18 taxes.

19 26. Tax Treatment of Settlement Payments:

20 a. Settlement payments will be allocated 25% for unpaid wages, 25% for
21 statutory penalties, 25% for statutory or other non-wage damages, and 25% for interest.

22 b. Each recipient of any monies paid in accordance with this Settlement
23 Agreement is responsible for any taxes associated with the monies received by each recipient with
24 the exception of the employee-side and employer-side payroll taxes which shall be paid from the
25 NSF.

26 c. If required by state or federal tax requirements, the Settlement Administrator
27 will prepare appropriate W-4 payroll tax deductions for that portion of each settlement payment on
28 which payroll tax withholdings are required. Where otherwise required, the Settlement

1 Administrator will prepare a Form 1099 for Settlement Class Members. The 1099 form will reflect
2 each Participating Class Member's non-wage income. The Settlement Administrator will be
3 responsible for preparing these forms timely and correctly. Settlement Class Members will be
4 responsible for correctly characterizing the compensation that they receive pursuant to the Form
5 1099 and for payment of any taxes owing on said amount.

6 d. The Parties acknowledge and agree that neither Defendants nor Defendants'
7 attorneys have made any representations regarding the tax consequences of the settlement payments
8 made under this Settlement Agreement. Participating Class Members will be required to pay all
9 federal, state or local employee-side taxes, if any, which are required by law to be paid with respect
10 to their Individual Settlement Payments. The Parties further agree that Defendants shall have no
11 legal obligation to pay, on behalf of Settlement Class Members, any taxes, deficiencies, levies,
12 assessments, fines, penalties, interest or costs, which may be required to be paid with respect to the
13 settlement payments other than as provided for in this Agreement.

14 27. Tax Treatment of Class Representative Enhancement Award: The Settlement
15 Administrator will prepare and have delivered to Plaintiff an IRS Form 1099 for the Enhancement
16 Award. Plaintiff will be responsible for correctly characterizing the Enhancement Award for tax
17 purposes and for payment of any taxes related to the Enhancement Award.

18 28. Undistributed Funds: The checks for individual settlement payments mailed to
19 Settlement Class Members will remain negotiable for 180 days. If an envelope mailed to a
20 Settlement Class Member is returned and no forwarding address can be located for the Settlement
21 Class Member after reasonable efforts have been made, or the checks are not cashed within 180
22 days of mailing, then the funds represented by checks returned as undeliverable and those checks
23 remaining un-cashed for more than 180 days after issuance (collectively, "Voided Settlement
24 Checks") will be sent to the State of California Unclaimed Property Fund in the name of that Class
25 Member, to be held by the State Controller's Office for the benefit of those Class Members until
26 such time as they claim their property, as allowed by law. The Parties agree this disposition results
27 in no "unpaid residue" under California Civil Procedure Code § 384(b), as the entire Net Settlement
28 Amount will be paid to Settlement Class members, whether or not all checks are cashed.

1 **NOTICE TO THE CLASS**

2 29. Compilation of Class List: The Parties agree that within thirty (30) calendar days
3 after preliminary approval of this Settlement Agreement by the Court, Defendants will provide a
4 “Class List” to the Settlement Administrator. The Class List shall include the following information
5 about each Settlement Class Member in an electronic format, to the extent reasonably available
6 from LMS’s remaining records:

- 7 (1) First and last name;
- 8 (2) Last known home address as reflected in LMS’ personnel records;
- 9 (3) Last known telephone number as reflected in LMS’ personnel records (if any);
- 10 (4) Social Security Number;
- 11 (5) Hire date of record with LMS; and
- 12 (6) Termination date of record with LMS.

13 The Class List provided to the Settlement Administrator shall be used only by the
14 Settlement Administrator and only for purposes of administering the settlement as provided for in
15 this Agreement, and the Settlement Administrator shall not disclose the contents thereof except as
16 expressly permitted under this Agreement. Within 5 calendar days of calculating the Individual
17 Settlement Payment amounts for each person on the Class List, the Settlement Administrator will
18 provide to counsel for Plaintiffs and counsel for Defendant a list that includes only the following:

19 (a) employee identification number as provided by Defendant to the Settlement Administrator; (b)
20 class member identification number as assigned by the Settlement Administrator, (c) number of
21 credited pay periods (if applicable) and (d) the amount of the calculated Individual Settlement
22 Payments for each such person on the Class List. The restrictions on the use and disclosure of the
23 Class List set forth in this Agreement shall be deemed, upon entry of the Court’s Order granting
24 preliminary approval of this Settlement, to be a protective order entered by the Court subject to full
25 enforcement by the Parties to this Agreement and the Court, and by taking on the administration of
26 the Settlement, the Settlement Administrator agrees that it and its employees, agents and
27 representatives are bound by such protective order.

28 Prior to the initial mailing, the Settlement Administrator will check all Settlement Class

1 Member addresses against the National Change of Address database and shall update any addresses
2 before mailing the Notice to the Settlement Class Members, and will otherwise obtain all Class List
3 information not otherwise reasonably available to Defendants. In response to any dispute raised by
4 a putative Settlement Class Member about their omission from the Class List, the Settlement
5 Administrator shall examine the records provided by Defendants and any documents provided by
6 the putative Settlement Class Member to determine whether the putative Settlement Class Member
7 should be included in the Settlement Class. Unless the putative Settlement Class Member can
8 establish that they should have been included on the Class List based on documentary evidence,
9 LMS' records will control. Class Counsel and Defendants' Counsel will then make a good faith
10 effort to resolve the dispute informally. If counsel for the parties cannot agree, the dispute shall be
11 resolved by the Settlement Administrator, who shall examine the records provided by the
12 Defendants and the putative Settlement Class Member, and the Settlement Administrator shall be
13 the final arbiter of disputes relating to a putative Settlement Class Member's omission from the
14 Class List. The Settlement Administrator's determination regarding any such dispute shall be final
15 for purposes of administering notice of the Settlement, subject to final review, determination and
16 approval by the Court.

17 30. Dissemination of Notice of Class Action Settlement: Within ten (10) business days
18 of its receipt of the Class List, the Settlement Administrator will send the Settlement Class
19 Members, by first-class mail, at their most current address of record or such other address as located
20 by the Settlement Administrator, the court-approved Notice of Class Action Settlement in the form
21 attached hereto as **Exhibit A**.

22 If a Notice of Class Action Settlement is returned because of an incorrect address, within
23 five (5) business days from receipt of the returned Notice, the Settlement Administrator will
24 conduct a search for a more current address for the Settlement Class Member and re-mail the Class
25 Notice to the Settlement Class Member. The Settlement Administrator will use the National Change
26 of Address Database and skip traces to attempt to find the current address. The Settlement
27 Administrator will be responsible for taking reasonable steps to trace the mailing address of any
28 Settlement Class Member for whom a Notice of Class Action Settlement is returned by U.S. Postal

1 Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all
2 undelivered mail; performing address searches for all mail returned without a forwarding address;
3 and promptly re-mailing to Settlement Class Members for whom new addresses are found. The
4 Settlement Administrator is unable to locate a better address, the Notice of Class Action Settlement
5 shall be re-mailed to the original address. If the Notice of Class Action Settlement is re-mailed, the
6 Settlement Administrator will note for its own records the date and address of each re-mailing.
7 Settlement Class Members who received a re-mailed Notice will have an additional fifteen (15)
8 calendar days in which to submit an objection, opt-out of the settlement, or dispute the amount of
9 his or her Individual Settlement Payment.

10 **RELEASE BY THE CLASS**

11 31. Upon the occurrence of the Effective Date, and once Defendants have paid the GSF
12 in full, each Participating Class Member will release Defendants and each of their affiliates, parent
13 companies, subsidiaries, shareholders, officers, officials, partners, directors, members, owners,
14 servants, employees, employers, agents, contractors, attorneys, insurers, predecessors,
15 representatives, accountants, executors, personal representatives, successors and assigns, past,
16 present, and future, and each and all of their respective officers, partners, directors, members,
17 owners, servants, agents, shareholders, employees, employers, agents, contractors, representatives,
18 executors, personal representatives, accountants, insurers, attorneys, pension, profit sharing,
19 retirement savings, health and welfare, and any other employee benefit plans of any nature and the
20 respective trustees, administrators, sponsors, fiduciaries, successors, agents and employees of all
21 such plans, predecessors, successors and assigns, past, present, and future, and all persons acting
22 under, by, through, or in concert with any of them, including without limitation LMS (collectively,
23 the “Released Parties”), of and from the following “Released Claims”: any and all allegations,
24 claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs,
25 expenses, attorneys’ fees, damages, obligations or liabilities of any and every kind, contingent or
26 accrued, that are, were or reasonably could have been asserted based on the facts and/or theories
27 alleged in the Class Action Complaint and Amendment thereto, and/or in any other pleading filed in
28 the Lawsuit including but not limited to those that were, are or could be the basis of any of the

1 claims (including without limitation under theories of successor liability, joint employer liability,
2 agency and/or conspiracy) that the Released Parties failed to pay or underpaid wages of any type
3 (including minimum, regular, overtime, and double time wages), failed to provide or pay for missed
4 or non-compliant meal breaks, failed to provide or authorize and permit or pay for missed or non-
5 compliant rest breaks, failed to furnish accurate itemized wage statements, failed to timely pay
6 wages of any type, failed to reimburse business expenses, violated the California Unfair
7 Competition Law (“UCL”), based in whole or in part on any direct or imputed violation of any
8 federal, state, local or administrative constitution, charter, law, rule, regulation or ordinance and
9 whether for economic damages, noneconomic damages, restitution, statutory penalties, civil
10 penalties, liquidated damages, punitive damages, interest, attorneys’ fees, costs of suit or other
11 monies, through the earlier of the date of the Final Approval of this Settlement Agreement.

12 **ADDITIONAL RELEASE BY CLASS REPRESENTATIVE**

13 32. In addition to the Release set forth in Paragraph 31, Plaintiff and Class
14 Representative, for himself alone, releases the Released Parties of and from any and all claims,
15 debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys’ fees, damages,
16 actions or causes of action of every kind or nature, contingent or accrued, which do or may exist as
17 of the date of the execution of this Settlement Agreement and through and including the date of
18 Final Approval of this Settlement Agreement. In connection therewith, Plaintiff and Class
19 Representative waives the provisions of California Civil Code Section 1542 which states:

20 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT**
21 **THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR**
22 **SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF**
23 **EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR**
24 **HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER**
25 **SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

26 **DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL**

27 33. The Parties shall promptly seek the Court’s approval of this settlement. As soon as
28 practicable after execution of this Settlement Agreement, and not later than ten (10) court days

1 thereafter, Class Counsel and Plaintiff, as the Class Representative, will move the Court for the
2 entry of a preliminary approval order which would accomplish the following:

3 a. Schedule a final fairness hearing on the question of whether the settlement,
4 including the payment of attorneys' fees and costs and the Enhancement Award, should be finally
5 approved as fair, reasonable, and adequate, and finally resolving any outstanding issues or disputes
6 remaining from the administration of the Notice;

7 b. Approve, as to form and content, the proposed Notice of Class Action
8 Settlement;

9 c. Direct the mailing of the Notice of Class Action Settlement by first class mail
10 to the Settlement Class Members;

11 d. Preliminarily approve the settlement subject to the final review and approval
12 by the Court;

13 e. Preliminarily approve the Settlement Administrator selected by Class
14 Counsel as the Settlement Administrator and approving payment of the Settlement Administration
15 Costs;

16 f. Preliminarily approve Class Counsel's request for attorneys' fees and
17 litigation expenses and costs subject to final review and approval by the Court;

18 g. Preliminarily approve Class Counsel's request that Class Representative
19 receive an Enhancement Award in the amount of up to \$10,000.00 subject to final review and
20 approval by the Court; and

21 h. Conditionally certify the proposed Settlement Class for settlement purposes
22 only.

23 Concurrently with the filing of the motion for preliminary approval of the settlement under
24 this Agreement, Class Representative and Class Counsel will provide copies to Defendants' counsel
25 of all confirmations of such submissions made by Class Representative and Class Counsel.

26 **DUTIES OF THE PARTIES FOLLOWING PRELIMINARY APPROVAL**

27 34. In conjunction with the request for final approval of the Settlement provided for in
28 this Settlement Agreement, Class Counsel will submit a proposed final order and Judgment:

- 1 a. Granting Final Approval of the Settlement, adjudging the terms thereof to be
2 fair, reasonable, and adequate, and directing consummation of its terms and provisions;
- 3 b. Approving Class Counsel’s application for an award of attorneys’ fees and
4 reimbursement of costs;
- 5 c. Approving the Enhancement Award to the Class Representative;
- 6 d. Permanently enjoining and restraining Plaintiff and Participating Class
7 Members from and against initiating or pursuing any claims settled herein and released by this
8 Settlement Agreement; and
- 9 e. Entering a Judgment dismissing the Class Action on the merits and with
10 prejudice, and providing that no further notice of the entry thereof needs to be provided to
11 Settlement Class members.

12 Not later than five (5) calendar days prior to the submission of the motion(s) seeking the
13 foregoing, Plaintiff’s counsel will submit a near-final draft thereof (including all supporting papers
14 and proposed order) to counsel for Defendants for its review and comment.

15 **PARTIES’ AUTHORITY**

16 35. The signatories hereto hereby represent that they are fully authorized to enter into
17 this Settlement Agreement and bind the Parties hereto to the terms and conditions hereof.

18 **MUTUAL FULL COOPERATION**

19 36. The Parties agree to fully cooperate with each other to accomplish the terms of this
20 Settlement Agreement, including but not limited to execution of such documents and to take such
21 other actions as may reasonably be necessary to implement the terms of this Settlement Agreement.
22 The Parties shall use their best efforts, including all efforts contemplated by this Settlement
23 Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to
24 effectuate this Settlement Agreement and the terms set forth herein. As soon as practicable after
25 execution of this Settlement Agreement, Class Counsel shall, with the assistance and cooperation of
26 Defendants and their counsel, take all necessary steps to secure the Court’s preliminary approval of
27 this Settlement Agreement and, following the Effective Date, take all necessary steps to secure the
28 dismissal with prejudice of the Class Action.

1 **NO PRIOR ASSIGNMENTS**

2 37. The Parties hereto represent, covenant, and warrant that they have not, directly or
3 indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any
4 person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein
5 released and discharged except as set forth herein.

6 **CONSTRUCTION**

7 38. The Parties hereto agree that the terms and conditions of this Settlement Agreement
8 are the result of lengthy, intensive, arms-length discussions and negotiations between the Parties
9 and each Party’s legal counsel. The Parties further agree that this Settlement Agreement shall not
10 be construed in favor of, or against, any Party by reason of the extent to which any Party, or his or
11 her counsel, participated in the drafting of this Settlement Agreement.

12 **CAPTIONS AND INTERPRETATIONS**

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

17 **MODIFICATION**

18 40. This Settlement Agreement may not be changed, altered, or modified, except in
19 writing and signed by the Parties or their Counsel hereto, and approved by the Court. This
20 Settlement Agreement may not be discharged except by performance in accordance with its terms
21 or by a writing signed by the Parties hereto.

22 **INTEGRATION CLAUSE**

23 41. This Settlement Agreement contains the entire agreement between the Parties
24 relating to the settlement and the transaction contemplated hereby, and all prior or contemporaneous
25 agreements, understandings, representations, and statements, whether oral or written and whether
26 by a Party or such Party’s legal counsel. No rights hereunder may be waived except in writing.

27 **BINDING ON ASSIGNS**

28 42. This Settlement Agreement shall be binding upon and inure to the benefit of the

1 Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

2 **CLASS COUNSEL SIGNATORIES**

3 43. It is agreed that because of the large number of Settlement Class Members, it is
4 impossible or impractical to have each Settlement Class Member execute this Settlement
5 Agreement. As such, Class Counsel is signing on behalf of the Settlement Class Members. In
6 addition, the Notice of Class Action Settlement, **Exhibit A**, will advise all Settlement Class
7 Members of the binding nature of the Release and such shall have the same force and effect as if
8 this Settlement Agreement were executed by each Settlement Class Member.

9 **CONFIDENTIALITY**

10 44. Plaintiff and Class Counsel will maintain the proposed settlement and this
11 Settlement Agreement as confidential and not publicly disclose the same except as set forth herein
12 and in Paragraph 45, below. Except as set forth in Paragraph 45, below, or as otherwise agreed in
13 writing between the Parties, both before and following the execution of this Settlement Agreement
14 by the Parties and their counsel, there will be no direct or indirect comment or publication by
15 Plaintiff and Class Counsel of the settlement in terms of affirmative or responsive media
16 statements/comments, press releases or conferences, website postings or content, social media
17 postings or content, other Internet postings or content, subscribed email messages, newsletters,
18 disseminated updates, mass mailings, or any other comment or publication to the press, media or
19 public at large. This shall not apply to or limit the public filing of motions or other case materials
20 by Class Counsel in the Lawsuit related to seeking and obtaining Court approval of the proposed
21 settlement and the related awards of attorneys' fees and costs, enhancements and the other relief set
22 forth in this Settlement Agreement, or to communications between Class Counsel and Plaintiff or
23 Settlement Class Members in the Lawsuit, except that prior to the filing of the motion for
24 preliminary approval of the Settlement in the State Action, Class Counsel shall not discuss the
25 settlement with Settlement Class Members other than the named Plaintiff. Class Counsel may
26 otherwise state only that the Lawsuit have been settled on terms mutually agreeable to the Parties.
27 The Parties understand and agree that there may be media coverage of the settlement of the Lawsuit
28 not initiated by Plaintiff or Class Counsel, directly or indirectly. It is also agreed and understood

1 that the Parties and each and every Settlement Class Member, may disclose the settlement to their
2 families, plus their legal, tax, or accounting advisors, insurance companies, or as required by law,
3 regulatory rules or regulatory requirements.

4 **WEBSITES**

5 45. The Parties agree that the Settlement Administrator may use U.S. Mail and an
6 information-only website to provide notice and information about the settlement to Settlement Class
7 Members, including the posting of any Final Judgment or Final Approval Order issued by the
8 Court. The domain name used for the Settlement Administrator’s website for the settlement will be
9 subject to Defendants’ reasonable approval. Not later than the date that the Settlement
10 Administrator must remit any unclaimed funds to the State of California’s unclaimed property fund
11 pursuant to the terms of the court-approved settlement, the Settlement Administrator’s website for
12 the settlement will be taken down. No information about the Lawsuit or the settlement may be
13 posted on any of Class Counsel’s websites. Defendants consent to Class Counsel listing the case
14 name, number, and a short description of the claims in declarations filed in court listing their prior
15 cases to provide their qualifications to be appointed as class counsel.


16 **COUNTERPARTS**

17 46. This Settlement Agreement may be executed in counterparts, and when each Party
18 has signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
19 and, when taken together with other signed counterparts, shall constitute one Settlement Agreement,
20 which shall be binding upon and effective as to all Parties.

21 **GOVERNING LAW**

22 47. The Parties agree that California law governs the interpretation and application of
23 this Settlement Agreement, except to the extent governed by federal law in which case federal law
24 will apply.

25
26 DATED: 1/27/2022 | 4:50:00 PM PST, 2022

DocuSigned by:

28C-A79F3D868490
WARREN JACKSON
Plaintiff and Proposed Class Representative

1 DATED: _____, 2022

GREG SOUTHERN
Specially Appearing Defendant

2

3

4 DATED: _____, 2022

ANDREA SOUTHERN
Specially Appearing Defendant

6

7 **AGREED AND APPROVED AS TO FORM AND CONTENT:**

8

9 DATED: January 21, 2022

MARA LAW FIRM, PC

10

By: _____



David Mara, Esq.
Matthew Crawford, Esq.

11

12

Attorneys for Plaintiff
WARREN JACKSON

13

14

15 DATED: Jan. 21, 2022

LAW OFFICES OF KEITH J. STONE

16

By: _____



Keith J. Stone, Esq.

18

Attorneys for Plaintiff
WARREN JACKSON

19

20

21 DATED: _____, 2022

BAKERHOSTETLER LLP

22

By: _____

Matthew C. Kane, Esq.
Amy E. Beverlin, Esq.
Kerri H. Sakaue, Esq.

23

24

Attorneys for *Specially Appearing* Defendants
GREG SOUTHERN and ANDREA
SOUTHERN

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DATED: 1/24/2022 | 6:20 PM EST, 2022

DocuSigned by:
Gregory Southern
93205CE6654B40D...
GREG SOUTHERN
Specially Appearing Defendant

DATED: 1/24/2022 | 6:55 PM EST, 2022

DocuSigned by:
Andrea Southern
C1020105AEE4452...
ANDREA SOUTHERN
Specially Appearing Defendant

AGREED AND APPROVED AS TO FORM AND CONTENT:

DATED: _____, 2022

MARA LAW FIRM, PC

By: _____
David Mara, Esq.
Matthew Crawford, Esq.

Attorneys for Plaintiff
WARREN JACKSON

DATED: _____, 2022

LAW OFFICES OF KEITH J. STONE

By: _____
Keith J. Stone, Esq.

Attorneys for Plaintiff
WARREN JACKSON

DATED: 1/24/2022 | 7:16 PM EST, 2022

BAKERHOSTETLER LLP

DocuSigned by:
Matthew Kane
A77DB73EF933433...
By: _____
Matthew C. Kane, Esq.
Amy E. Beverlin, Esq.
Kerri H. Sakaue, Esq.

Attorneys for *Specially Appearing Defendants*
GREG SOUTHERN and ANDREA
SOUTHERN

Exhibit A

NOTICE OF CLASS ACTION SETTLEMENT

YOU MAY BE ENTITLED TO MONEY UNDER THE PROPOSED CLASS ACTION SETTLEMENT. PLEASE READ THIS NOTICE CAREFULLY; IT INFORMS YOU ABOUT YOUR LEGAL RIGHTS.

*A court authorized this notice. This is not a solicitation.
This is not a lawsuit against you and you are not being sued.
However, your legal rights are affected by whether you act or don't act.*

TO: All current and former employees employed by Defendant LMS Transportation LLC (“LMS”) in the State of California as salaried, non-exempt industrial vehicle drivers, truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from September 27, 2012 through [the date the Court enters an order granting Preliminary Approval].

The California Superior Court, County of Los Angeles (the “Court”) has granted preliminary approval of a proposed settlement (“Settlement”) of the above-referenced class action lawsuit (“Lawsuit”). Because your rights may be affected by this proposed Settlement, it is important that you read this Notice of Class Action Settlement (“Notice”) carefully.

The Court has certified the following class for settlement purposes (“Settlement Class” or “Settlement Class Members”):

All current and former employees employed by Defendant LMS Transportation LLC (“LMS”) in the State of California as salaried, non-exempt industrial vehicle drivers, truck workers, industrial truck workers, industrial truck drivers, industrial vehicle drivers, industrial workers, and/or other similar job designations and titles from September 27, 2012 through [the date the Court enters an order granting Preliminary Approval].

The purpose of this Notice is to provide a brief description of the claims alleged in the Lawsuit, the key terms of the Settlement, and your rights and options with respect to the Settlement.

INFORMATION CONTAINED IN THIS NOTICE:

1. Why Have I Received This Notice?.....	Page 2
2. What Is This Case About?	Page 2
3. Am I a Settlement Class Member?	Page 3
4. How Does This Class Action Settlement Work?.....	Page 3
5. Who Are the Attorneys Representing the Parties?	Page 3
6. What Are My Options?.....	Page 4
7. How Do I Opt Out or Exclude Myself From This Settlement?	Page 4
8. How Do I Object to the Settlement?	Page 4
9. How Does This Settlement Affect My Rights?	Page 5
10. How Much Can I Expect to Receive From This Settlement?.....	Page 5
11. How Will Class Counsel and the Plaintiff Be Paid?.....	Page 7

1. *Why Have I Received This Notice?*

Greg Southern and Andrea Southern are Defendants in this lawsuit and are referred to as “Defendants” in this notice. LMS’s records indicate that you are a Settlement Class Member. The Settlement will resolve all Settlement Class Members’ Released Claims, as described below, from September 27, 2012 through [the date the Court enters an order granting Preliminary Approval] (this time period is called the “Class Period”).

A Preliminary Approval Hearing was held on [the date of Preliminary Approval], in the California Superior Court, County of Los Angeles. The Court conditionally certified the Class for settlement purposes only and directed that you receive this Notice.

The Court will hold a Final Approval Hearing concerning the proposed Settlement on [the date of final approval hearing], 2021 at [time a.m./p.m.], before Judge Yvette M. Palazuelos in Department 9, located at the Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012.

Should you wish and be permitted to attend the Final Approval Hearing in person, please be mindful of the California Superior Court, County of Los Angeles’ current procedures and requirements in light of the COVID-19 pandemic, which requires:

- All persons entering any courthouse or courtroom shall wear a face mask over their nose and mouth at all times within public areas of the courthouse or courtroom.
- Non-exempt¹ individuals who decline or refuse to wear a face mask will be denied entry to the courthouse and/or courtroom.
- Individuals who remove their face masks after entering the courthouse or courtroom will be reminded to wear them. If they refuse, they may be denied services, may have their legal matters rescheduled and/or will be asked to leave the courthouse or courtroom immediately.
- Persons who refuse to leave voluntarily will be escorted out of the courthouse and/or courtroom by Los Angeles County Sheriff’s Department’s personnel.
- Individuals are required to maintain at least (6) six feet of physical distance from all persons (except those within their household) at all times. Comply with social distancing signage throughout the courthouse.
- Use hand sanitizer when entering the courthouse, practice good hand-washing hygiene and cover coughs and sneezes, preferably with a tissue.

2. *What Is This Case About?*

The action entitled *Worren Jackson on behalf of himself, all others similarly situated, and on behalf of the general public, vs. LMS Transportation LLC, et al.*, was commenced by Plaintiff Jackson (“Plaintiff”) on September 27, 2016 and is pending in the Los Angeles County Superior Court (Case Number BC635316). Plaintiff brought this action seeking damages, restitution, penalties, interests, costs and attorney’s fees and other relief based on the following alleged causes of action: 1) failure to pay straight time wages; 2) failure to pay overtime wages; 3) failure to provide meal periods; 4) failure to authorize and permit rest periods; 5) failure to provide accurate itemized wage statements; 6) waiting time penalties for failure to pay all wages due at time of termination; and 7) violation of the Unfair Competition Law.

¹ Persons with a medical condition, mental health condition, or disability that precludes them from wearing a face mask, are exempt from the Order. Nevertheless, they must take whatever protective measures their condition permits, such as wearing a face shield with a drape on the bottom edge as long as their medical condition allows it. Individuals with disabilities who seek an exemption from this Order as a reasonable accommodation pursuant to the Americans with Disabilities Act (ADA) or Rule 1.100 of the California Rules of Court, should contact the ADA liaison at each courthouse. A list of liaisons is available at www.lacourt.org/ada/adahome.aspx.

The Court has not made any determination as to whether the claims advanced by the Plaintiff have any merit. In other words, the Court has not determined whether any laws have been violated, nor has it decided in favor of Plaintiff or Defendants or LMS; instead, both sides agreed to resolve the lawsuit with no decision or admission of who is right or wrong. By agreeing to resolve the lawsuit, all parties avoid the risks and cost of a trial. Defendants and LMS contend that Settlement Class Members were properly compensated and expressly deny that they did anything wrong or that they violated the law and further deny any liability whatsoever to Plaintiff or to the Class.

3. *Am I A Settlement Class Member?*

You are a Settlement Class Member if you are or were a salaried, non-exempt industrial vehicle driver, truck worker, industrial truck worker, industrial truck driver, industrial vehicle driver, industrial worker, or another similar job designation or title who worked for LMS in California at any time between September 27, 2012 through **[the date the Court enters an order granting Preliminary Approval]**.

4. *How Does This Class Action Settlement Work?*

The settlement of the Lawsuit resolves the Released Claims of all Settlement Class Members, except for those who exclude themselves from the Class by requesting to be excluded in the manner set forth below.

Plaintiff and Class Counsel believe the Settlement is fair and reasonable. The Court must also review the terms of the Settlement and determine if it is fair and reasonable to the Class.

The Court file has the Settlement documents, which explain the Settlement in greater detail. If you would like copies of the Settlement documents, you can contact Class Counsel, whose contact information is below, and they will provide you with a copy free of charge.

5. *Who Are the Attorneys Representing the Parties?*

Class Counsel / Attorneys for Plaintiff	Attorneys for Defendants
<p style="text-align: center;">MARA LAW FIRM, PC David Mara, Esq. Matthew Crawford, Esq. 2650 Camino Del Rio North, Suite 205 San Diego, California 92108 Telephone: (619) 234-2833 Fax: (619) 234-4048</p> <p style="text-align: center;">LAW OFFICES OF KEITH J. STONE Keith J Stone, Esq. 555 West Beech Street, Suite 210 San Diego, CA 9101 Telephone: (619) 531-2022 Fax: (619) 531-8824</p>	<p style="text-align: center;">MCGUIREWOODS LLP Matthew C. Kane, Esq. Kerri H. Sakaue, Esq. 1800 Century Park East, 8th Floor Los Angeles, CA 90067 Telephone: (310) 315-8200 Fax: (310) 315-8210</p>

The Court has decided that Mara Law Firm, PC and Law Offices of Keith J. Stone are qualified to represent you and all other Settlement Class Members. You do not need to hire your own attorney because Class Counsel is working on your behalf. But, if you want your own attorney, you may hire one at your own cost.

6. *What Are My Options?*

The purpose of this Notice is to inform you of the proposed Settlement and of your options. Each option has its consequences, which you should understand before making your decision. Your rights regarding each option, and the steps you must take to select each option, are summarized below and explained in more detail in this Notice.

Important Note: Defendants will not retaliate against you in any way for participating or not participating in this Settlement.

- 1. DO NOTHING:** If you do nothing and the Court grants final approval of the Settlement, you will become part of the Lawsuit and will receive a payment from the Settlement. You will release the Released Claims (defined in Section 9 below) and give up your right to pursue the Released Claims against Defendants and the Released Parties (defined in Section 9 below).
- 2. OPT OUT:** If you do not want to participate as a Settlement Class Member, you may “opt out,” which will remove you from the Class and this Lawsuit. If the Court grants final approval of the Settlement, you will **not** receive a Settlement payment and you will **not** give up the right to sue Defendants and the Released Parties for the Released Claims. **See Section 7 for more details.**
- 3. OBJECT:** You may file a legal objection to the proposed Settlement. If you would like to object, you may not opt out of this case. **See Section 8 for more details.**

7. *How Do I “Opt Out” Or Exclude Myself From This Settlement?*

If you do not want to take part in the Settlement (i.e. you want to “opt out” of the Settlement), you must submit a written Request for Exclusion to the Settlement Administrator. The written request for exclusion must: (a) state the Class Member’s name, address, telephone number, and social security number or employee identification number; (b) state the Settlement Class Member’s intention to exclude themselves from or opt-out of the Settlement (e.g. “I elect to opt-out of the *Jackson v. LMS Transportation LLC, et al.* class action settlement. I understand that by doing so, I will not be able to participate in the settlement, and will not receive a share of the settlement proceeds.”); (c) be addressed to the Settlement Administrator at [address]; (d) be signed by the Settlement Class Member or his or her lawful representative; and (e) be postmarked no later than [the Response Deadline].

If the Court approves the Settlement at the Final Approval Hearing, the Court will enter a Judgment. If you do not request exclusion from the Settlement, the Judgment will bind you to the terms of the Settlement.

8. *How Do I Object To The Settlement?*

If you wish to object to the Settlement, you cannot opt out of the Settlement. You may object to the Settlement, personally or through an attorney, by submitting your objection in writing, signed, dated, and mailed to the Settlement Administrator postmarked no later than [the Response Deadline]. The objection must state: (a) the case name (e.g. Jackson v. LMS Transportation) and case number (BC635316); (b) the objecting person’s or

his/her attorney's full name; (c) the words "Notice of Objection" or "Formal Objection;" and (d) describe, in clear and concise terms, the legal and factual arguments supporting the objection.

Settlement Class Members may (though are not required to) appear at the Final Approval Hearing, either in person or through the objector's own counsel. If the Court rejects your objection, you will receive a Settlement payment and you will be bound by the terms of the Settlement.

9. *How Does This Settlement Affect My Rights? What are the Released Claims?*

If the Court approves the proposed Settlement, the Court will enter a Judgment. All Settlement Class Members who do not opt out of the Settlement will be bound by the Judgment and will release Defendants, LMS and the Released Parties from the Released Claims.

The "**Released Parties**" are: Defendants and LMS and each of their affiliates, parent companies, subsidiaries, shareholders, officers, officials, partners, directors, members, owners, servants, employees, employers, agents, contractors, attorneys, insurers, predecessors, representatives, accountants, executors, personal representatives, successors and assigns, past, present, and future, and each and all of their respective officers, partners, directors, members, owners, servants, agents, shareholders, employees, employers, agents, contractors, representatives, executors, personal representatives, accountants, insurers, attorneys, pension, profit sharing, retirement savings, health and welfare, and any other employee benefit plans of any nature and the respective trustees, administrators, sponsors, fiduciaries, successors, agents and employees of all such plans, predecessors, successors and assigns, past, present, and future, and all persons acting under, by, through, or in concert with any of them, including without limitation LMS.

The "**Released Claims**" are: Any and all allegations, claims, debts, rights, demands, charges, complaints, actions, causes of action, guarantees, costs, expenses, attorneys' fees, damages, obligations or liabilities of any and every kind, contingent or accrued, that are, were or reasonably could have been asserted based on the facts and/or theories alleged in the Class Action Complaint and Amendment thereto, and/or in any other pleading filed in the Lawsuit including but not limited to those that were, are or could be the basis of any of the claims (including without limitation under theories of successor liability, joint employer liability, agency and/or conspiracy) that the Released Parties failed to pay or underpaid wages of any type (including minimum, regular, overtime, and double time wages), failed to provide or pay for missed or non-compliant meal breaks, failed to provide or authorize and permit or pay for missed or non-compliant rest breaks, failed to furnish accurate itemized wage statements, failed to timely pay wages of any type, failed to reimburse business expenses, violated the California Unfair Competition Law ("UCL"), based in whole or in part on any direct or imputed violation of any federal, state, local or administrative constitution, charter, law, rule, regulation or ordinance and whether for economic damages, noneconomic damages, restitution, statutory penalties, civil penalties, liquidated damages, punitive damages, interest, attorneys' fees, costs of suit or other monies.

10. *How Much Can I Expect to Receive From This Settlement?*

The total maximum amount that Defendants could be required to pay under this Agreement shall be up to but no more than \$100,000 ("Gross Settlement Fund" or "GSF").

The following deductions (subject to the Court's approval) will be made from the \$100,000.00 Gross Settlement Fund:

- (1) the Class Representative Enhancement Award, which will not exceed \$10,000.00 to Plaintiff;
- (2) Class Counsel's attorneys' fees, which will not exceed 1/4 of the Gross Settlement Fund (\$25,000.00);

- (3) Class Counsel's actual litigation costs, which will not exceed \$7,500.00; and
- (4) the Settlement Administration Costs to Phoenix Settlement Administrators, estimated not to exceed \$7,500.00.

After deducting the above-referenced items, the remainder (the "Net Settlement Fund") will be distributed amongst all Settlement Class Members who have not requested exclusion from the Settlement.

A. How Are Settlement Payments Calculated?

Each Settlement Class Member's shares of the net settlement fund will be allocated on a pay periods pro rata basis. Each Settlement Class Member's share of the NSF shall be calculated by multiplying the NSF by a fraction, the numerator of which is the total number of pay periods the Participating Class Member who was employed by LMS in California during the Settlement Class Period and the denominator of which is the total number of pay periods all of the Settlement Class Members worked for LMS in California during the Settlement Class Period. Such workweeks shall be calculated by the Settlement Administrator from LMS's records.

B. How Much Will I Receive From the Settlement?

Based upon the calculation above, your approximate share of the Net Settlement Fund, is as follows: \$ [redacted], less your employee taxes. This is based on LMS's records, which shows you worked [redacted] pay periods as a Settlement Class Member during the Class Period.

C. How Do I Dispute My Pay Periods Allotment?

If you disagree with the number of pay periods you worked as stated in this Notice, you must notify the Settlement Administrator by mail at [address] and provide a statement of the number of total pay periods you worked while employed with LMS as a Settlement Class Member during the Class Period. Your statement must be postmarked by [Response Deadline].

If you have any documentation supporting your dispute, you are encouraged to submit it for review. In the absence of such documentation, LMS's records will be presumed correct and you will receive a settlement payment according to the pay periods listed in this Notice.

D. What Taxes Will be Withheld From Settlement Class Members' Settlement Payments?

Twenty-five percent (25%) of each Settlement Class Member's settlement payment is intended to settle each Settlement Class Member's claims for unpaid wages (the "Wage Portion"). The Wage Portion will be reduced by applicable employee payroll tax withholdings and deductions. Defendants' share of legally required payroll taxes for the Wage Portion will be paid separate and apart from this Settlement. The Settlement Administrator will issue an IRS Form W-2 for the Wage Portions of each Settlement Class Member's settlement payment.

Twenty-five percent (25%) of each Settlement Class Member's settlement payment is intended to settle each Settlement Class Member's claims for interest, twenty-five percent (25%) is intended to settle claims for statutory penalties, and the remaining twenty-five (25%) is intended to settle claims for statutory or other non-wage damages ("Non-Wage Portion"). The Non-Wage Portion will not be reduced by payroll tax withholdings and deductions. The Settlement Administrator will issue an IRS Form 1099 for the Non-Wage Portion of each Class Member's settlement payment.

E. What Will Happen to Uncashed Settlement Checks?

You will have 180 days from the date of issuance to cash or deposit your Settlement check. It is strongly recommended that you immediately cash your Settlement check upon receipt. If any checks remain uncashed or not deposited by the expiration of the 180-day period, the Settlement Administrator will cancel the checks and pay the uncashed amounts to the State of California Unclaimed Property Fund in your name, to be held by the State Controller's Office for your benefit until such time as you claim your property, as allowed by law.

11. *How Will Class Counsel and the Plaintiff be Paid?*

Payments to Class Counsel and Plaintiff are subject to Court approval. Class Counsel will be paid up to \$25,000.00 (which is one-fourth of the Gross Settlement Fund) for attorneys' fees and an additional amount in actual litigation costs incurred in litigating this matter, which will not exceed \$7,500.00.

Plaintiff will be paid an amount not to exceed \$10,000, for the initiating and prosecuting this case, and undertaking the risks of paying litigation costs in the event this Lawsuit had been lost.

IF YOU NEED MORE INFORMATION OR HAVE ANY QUESTIONS, you may contact Class Counsel listed above, or the Settlement Administrator at the telephone number listed below, toll free. You can also obtain documents related to this case and this settlement by visiting [\[administrator website\]](#), a website maintained by the Settlement Administrator. Please refer to the LMS Class Action Settlement.

This Notice does not contain all of the terms of the proposed Settlement or all of the details of these proceedings. For more detailed information, you may refer to the underlying documents and papers on file with the Court at Spring Street Courthouse, 312 North Spring Street, Los Angeles, CA 90012.² You may also contact Class Counsel, whose contact information is above, and they will provide you with a copy of the Settlement documents or case documents free of charge.

PLEASE DO NOT TELEPHONE THE COURT OR COURT'S CLERK FOR INFORMATION ABOUT THIS SETTLEMENT.

² Should you wish to review the Court's files in person, please be mindful of the California Superior Court, County of Los Angeles' current procedures and requirements in light of the COVID-19 pandemic, as noted on Page 2.