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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CURTIS MARKSON, MARK  
MCGEORGE, CLOIS MCCLENDON,  
and ERIC CLARK, individuals on behalf  
of themselves and all others similarly  
situated,

Plaintiffs,

v.

CRST INTERNATIONAL, INC.; CRST  
EXPEDITED, INC.; C.R. ENGLAND,  
INC.; WESTERN EXPRESS, INC.;  
SCHNEIDER NATIONAL CARRIERS,  
INC.; SOUTHERN REFRIGERATED  
TRANSPORT, INC.; COVENANT  
TRANSPORT, INC.; PASCHALL  
TRUCK LINES, INC.; STEVENS  
TRANSPORT, INC.; and DOES 1 TO  
10,

Defendants.

Case Number: 5:17-cv-01261-SB (SPx)

**Plaintiffs' Notice of Motion and Motion  
for Preliminary Approval of Class  
Action Settlement**

Judge: Hon. Stanley Blumenfeld, Jr.

Date: October 28, 2022

Time: 8:30 a.m.

Location: Courtroom 6C  
350 West 1st Street  
Los Angeles, California 90012

Action Filed: May 15, 2017

Removal Date: June 22, 2017

**NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL**  
**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**NOTICE IS HEREBY GIVEN** that, on **October 28, 2022 at 8:30 AM** or as soon thereafter as the matter may be heard, in Courtroom 6C of the United States District Court for the Central District of California, located at the United States Courthouse at 350 W. 1<sup>st</sup> Street, Los Angeles, California, before the Honorable Stanley Blumenfeld, Jr., pursuant to Federal Rules of Civil Procedure 23(e) and (g), Plaintiffs Curtis Markson, Mark McGeorge, Clois McClendon, and Eric Clark (“Plaintiffs”) individually and on behalf of all others similarly situated, will and do hereby move this Court for entry of an Order:

1. Preliminarily certifying a Settlement Class for purposes of a settlement between Plaintiffs and Defendant C.R. England, Inc.;

2. Preliminarily certifying the Settlement Subclasses for purposes of a settlement between Plaintiffs and Defendants CRST International, Inc., and CRST Expedited, Inc.;

3. Preliminarily appointing Plaintiffs as Class Representatives for purposes of settlement;

4. Preliminarily appointing Mark M. Seltzer, Steven G. Sklaver, Matthew Berry, Krysta Kauble Pachman, and Ian M. Gore of Susman Godfrey L.L.P., William J. Gorham and Robert J. Wasserman of Mayall Hurley P.C., Craig J. Ackermann and Avi Kreitenberg of Ackermann & Tilajef, P.C., and Jonathan Melmed of Melmed Law Group, P.C. as Class Counsel for purposes of settlement;

5. Preliminarily approving the settlement as fair, adequate, and reasonable, based upon the terms set forth in the Settlement Agreement, including payments by C.R. England, Inc. of the amount of \$925,000, and by CRST International, Inc., and CRST Expedited, Inc. in the amount of \$1,200,000;

1           6.     Preliminarily approving Service Awards of up to \$10,000 (\$5,000 from  
2 each of the Settling defendants) for each of the named Plaintiffs from the Gross  
3 Settlement Fund in recognition of their significant service to the Settlement Class;

4           7.     Preliminarily approving Plaintiff's Counsel's request for an amount not in  
5 excess of one-fourth of the benefits created for the Class (that is, the value of the Gross  
6 Settlement Fund), plus reimbursement of litigation costs incurred in litigating and  
7 resolving this case;

8           8.     Preliminarily approving all administrative fees incurred in administering all  
9 class notice and the settlement, including those fees incurred by the Settlement  
10 Administrator;

11          9.     Setting a schedule to implement the settlements;

12          10.    Ordering all of the Defendants to provide contact information for members  
13 of the settlement class to the claims administrator for purposes of providing notice to the  
14 class;

15          11.    Appointing JND Legal Administration as the third-party Settlement  
16 Administrator for disseminating settlement class notices and for settlement  
17 administration; and

18          12.    Approving the proposed postcard, email, and long form notices and  
19 ordering them to be disseminated to the class as provided in the Settlement Agreements.

20          This motion is based upon the supporting Memorandum of Points and Authorities,  
21 the Declaration of Jonathan Melmed, the Settlement Agreements, and the other papers  
22 and exhibits filed herewith.

23          No defendants oppose entry of an Order filed herewith granting preliminary  
24 approval of the proposed class action settlement and setting a final approval and fairness  
25 hearing.

26          This motion is made following the conference of counsel pursuant to L.R. 7-3  
27 which took place on September 2, 2022.

1 Dated: September 22, 2022

/s/Jonathan Melmed

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

This motion seeks preliminary approval of two class action settlements (the “Settlements”), one between Plaintiffs Curtis Markson, Mark McGeorge, Clois McClendon, and Eric Clark (“Plaintiffs”) and Defendant C.R. England, Inc. (“C.R. England”), and one between Plaintiffs and Defendants CRST International, Inc., and CRST Expedited, Inc. (collectively “CRST”) (collectively will be referred to as the “Third Cluster of Settling Defendants”).

Here, CRST and C.R. England will pay a total Gross Settlement Amount (“GSA”) of \$2,125,000 (with CRST paying \$1,200,000, and C.R. England paying \$925,000). The Settlements bring the total settlements reached in this case to \$11.875 million on behalf of the Settlement Classes, as follows:

	<b>Settling Defendants</b>	<b>Amount</b>
<i>First</i> Cluster of Settling Defendants	1. Paschall Truck Lines, Inc.	\$700,000.00
	2. Schneider National Carriers, Inc.	\$750,000
	3. Covenant Transport, Inc. and Southern Refrigerated Transport, Inc.	\$800,000
	4. Western Express, Inc.	\$2,000,000
<i>Second</i> Cluster of Settling Defendants	5. Stevens Transport, Inc.	\$5,500,000.00
<i>Third</i> Cluster of Settling Defendants (this Motion)	6. C.R. England	\$925,000
	7. CRST	\$1,200,000
<b>Total Settlements Reached:</b>		<b>\$11,875,000</b>

The Settlements<sup>1</sup>, which were reached after conducting more than thirty depositions, and the exchange and review of hundreds of thousands of documents and millions of lines of data, were negotiated with the assistance of Barbara Reeves, an experienced mediator with antitrust experience, including as an attorney with the United States Department of Justice Antitrust Division. CRST and C.R. England are the final cluster of all defendants in this action who Plaintiffs allege took part in a conspiracy to

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<sup>1</sup> The Settlement Agreements are attached as **Exhibits 1** and **2**, respectively, to the Declaration of Jonathan Melmed (“Melmed Decl.”), ¶ 4.

1 suppress truck driver compensation by entering into “no-poaching” agreements.

2 In connection with the CRST Settlement, Plaintiffs seek provisional certification  
3 of the **Antitrust Subclass**, which is defined as all current and former drivers “Under  
4 Contract” as motor vehicle carrier drivers with CRST, C.R. England, Western Express,  
5 Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant  
6 Transport, Inc., Paschall Truck Lines, Inc., or Stevens Transport, Inc., at any time from  
7 May 15, 2013, through April 6, 2022; and of the **Labor Code Subclass**, which is defined  
8 as all persons who (1) signed a Pre-Employment Driver Training Agreement or Driver  
9 Employment Contract with CRST, (2) participated in CRST’s Driver Training Program  
10 in California, and (3) were charged for their DOT physical, DOT drug screening,  
11 administrative fees, and/or the \$3,950 or \$6,500 Contract Fee after failing to complete  
12 their contractually-required 8 to 10 month Employment Term, at any time between May  
13 15, 2013 through April 6, 2022.

14 In connection with the C.R. England Settlement, Plaintiffs seek provisional  
15 certification of a class of all current and former drivers “Under Contract” as commercial  
16 motor vehicle drivers with CRST, C.R. England, Western Express, Inc., Schneider  
17 National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc.,  
18 Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013,  
19 through April 1, 2022.

20 Plaintiffs now respectfully request that the Court enter an order: (1) preliminarily  
21 approving the Settlements; (2) conditionally certifying the Settlement Classes under  
22 Fed. R. Civ. P. 23(b)(3) for settlement purposes; (3) appointing JND Legal  
23 Administration (“JND”) as the settlement administrator; (4) approving the Class  
24 Notices, and ordering them to be disseminated; and (5) scheduling a hearing for final  
25 approval of the Settlements.

## 26 **II. BACKGROUND**

### 27 **A. The Parties**

28 Plaintiffs Markson, McGeorge and McClendon are former employees of CRST.

1 Plaintiff Clark is a former employee of C.R. England. Melmed Decl. ¶ 8. CRST are Iowa  
2 corporations, and C.R. England, is a Utah corporation. *Id.* at ¶ 8.

3 **B. Summary of Claims and Procedural History**

4 1. *Claims Asserted by Plaintiffs against All Defendants*

5 Plaintiffs' Fourth Amended Complaint ("4AC") asserts causes of action against  
6 all Defendants for (1) violation of Section One of the Sherman Act (15 U.S.C. § 1); and  
7 (2) violation of the Cartwright Act (Cal. Bus. & Prof. Code §§ 16702, *et seq.*).

8 As part of the alleged conspiracy, Plaintiffs allege that Defendants agreed to  
9 refrain from hiring each other's "Under Contract" drivers, and that absent the  
10 conspiracy, the affected Under Contract drivers would otherwise have been offered  
11 employment by one or more of the Defendants. *See* 4AC, Dkt. No. 228 at ¶ 2.  
12 Specifically, Plaintiffs allege that Defendants entered into a "no-poaching" arrangement  
13 whereby they agreed not to hire drivers who at the time of their application remain  
14 "Under Contract" with another trucking company. The "Under Contract" designation,  
15 as described above, is generally used for individuals who agreed to be employed by a  
16 Defendant for a specified period of time to receive training offered by, funded by, or  
17 reimbursed by the Defendant. If the driver remains employed with the Defendant for a  
18 set period, then certain amounts of the driver training school tuition costs are waived.  
19 However, for some Defendants, if the driver is terminated or quits before the end of that  
20 period, the driver must repay the company for some or all of the training and remains  
21 "Under Contract" until the money is repaid. So long as the driver remains "Under  
22 Contract," Plaintiffs allege that Defendants refuse to hire the driver. *Id.*

23 Plaintiffs allege that Defendants enforced their agreement by monitoring the  
24 hiring practices of competing trucking companies and attempting to prevent the hiring  
25 of any "Under Contract" drivers. *Id.* at ¶ 8. For example, certain Defendants sent letters  
26 to other trucking companies informing them that the applicant remains "Under Contract"  
27 and urging them not to interfere with the contract by hiring the driver. In furtherance of  
28 the alleged conspiracy, Plaintiffs allege that Defendants have enforced this policy by

1 refusing to hire drivers that remain “Under Contract” with the other Defendants.

2 Plaintiffs alleged (and Defendants CRST and C.R. England deny) that Defendants  
3 unreasonably restrained trade and commerce in violation of the Sherman Act, 15 U.S.C.  
4 § 1, and as to some of the Defendants, the Cartwright Act, Cal. Bus. & Prof. Code §§  
5 16720 *et seq.* and which constitutes unfair competition in violation of California’s Unfair  
6 Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.*

7 2. Claims Asserted by Plaintiffs Against CRST Only

8 In Plaintiffs’ 4AC Plaintiffs also assert causes of action against CRST only for  
9 **(1)** unreasonable charges and penalties associated with training Commercial Driver’s  
10 Licenses (CDL) (Cal. Civ. Code § 1671); **(2)** failure to reimburse and/or indemnify for  
11 all necessary expenditures or losses incurred in direct consequence of discharge of job  
12 duties (Cal. Lab. Code § 2802); **(3)** unlawful deductions from wages (Cal. Lab. Code §§  
13 221, 222.5, 224, 231, and 2802); **(4)** unfair business practices based on the foregoing  
14 (Cal. Bus. & Prof. Code § 17200); and **(5)** Private Attorneys General Act (“PAGA”)  
15 penalties based on the foregoing Labor Code violations (Cal. Lab. Code § 2699 *et seq.*).

16 Specifically, Plaintiffs alleged that CRST’s Pre-Employment Driver Training  
17 Agreement (“PEDTA”) and Driver Employment Contract (“DEC”) are procedurally and  
18 substantively unconscionable in that they unreasonably call for the repayment of  
19 amounts greater than those actually expended by CRST and do so without **(a)** apprising  
20 Labor Code Subclass members of the amounts actually expended or **(b)** accounting for  
21 amounts collected from them. Plaintiffs claimed that the Termination Fees were illegal  
22 liquidated damage charges under Cal. Civ. Code § 1671 (Section 1671) and sought  
23 reimbursement of them under Cal. Lab. Code § 2802 (Section 2802). They also sought  
24 reimbursement of various pre-employment expenses incurred to attend CRST’s Driver  
25 Training Program (“DTP”) under Section 2802. Plaintiffs also sought restitution of the  
26 Termination Fees and the pre-employment expenses under the Unfair Competition Law  
27 (UCL). Plaintiffs further alleged that the costs charged for US Department of  
28 transportation (“DOT”) physical and drug screening tests and other administrative fees

1 also constitute unlawful chargebacks and deductions under Cal. Lab. Code §§ 221,  
2 222.5, 224, 231, and 2802. Finally, Plaintiffs sought late wage payment penalties under  
3 Cal. Lab. Code § 203 as well as penalties under PAGA based on the foregoing Labor  
4 Code violations.

5 CRST denies all of these allegations in their entirety and maintains that CRST did  
6 not improperly seek recovery of amounts that were greater than what CRST was entitled  
7 to recover and that CRST complied fully with all existing laws.

8 3. Procedural History, Discovery, and Settlement.

9 On May 15, 2017, Plaintiffs Markson and McGeorge filed their complaint in San  
10 Bernardino County Superior Court against CRST alleging causes of action for  
11 unreasonable charges and penalties associated with training for CDL licenses and  
12 unlawful unfair business practices. On June 22, 2017, CRST removed the action to the  
13 Central District of California. Thereafter, the Parties engaged in significant discovery,  
14 including depositions of Plaintiffs Markson and McGeorge as well as CRST's Fed. R.  
15 Civ. P. 30(b)(6) designee.

16 On March 1, 2018, the Parties stipulated to the filing of Plaintiffs' First Amended  
17 Complaint ("FAC"). Dkt. No. 42. The FAC pled two additional causes of action against  
18 CRST for fraudulent business practices in violation of Labor Code section 2802 and  
19 violations of Labor Code sections 201 and 202. *Id.*

20 Thereafter, on April 30, 2018, Plaintiffs Markson and McGeorge filed their  
21 Second Amended Complaint ("SAC") alleging an additional claim under PAGA.

22 On July 26, 2018, Plaintiffs filed their Third Amended Complaint ("TAC") adding  
23 Clois McClendon and Eric Clark as additional Plaintiffs, and adding C.R. England,  
24 Western Express, Schneider National, and Southern Refrigerated as additional  
25 defendants. Most notably, the TAC also added new causes of action for violations of the  
26 Sherman Act and California's Cartwright Act. Dkt. No. 55. Schneider filed a motion to  
27 dismiss the TAC on September 10, 2018, Dkt. No. 85, and it was denied on October 22,  
28 2018, Dkt No. 103. Subsequently, all of the Defendants named in the TAC filed a Rule

1 12(b)(6) motion to dismiss and it was also denied. *See* Dkt. No. 130.

2 After more discovery, on February 14, 2020, Plaintiffs moved to file their 4AC to  
3 add Covenant Transport, Stevens Transport, and Paschall Truck Lines. Plaintiffs also  
4 sought to expand the geographic scope of the class to a nationwide class. Dkt No. 213-  
5 1. On April 14, 2020, the Court granted Plaintiffs' motion for leave to file the 4AC, Dkt.  
6 No. 226, which Plaintiffs subsequently filed on April 15, 2020. Dkt No. 228. *Id.*

7 On June 4, 2020, CRST, C.R. England, Western Express, and Schneider filed a  
8 motion to dismiss the 4AC. Dkt No. 272. Additionally, on June 22, 2020, Covenant,  
9 Southern Refrigerated, Stevens, and Paschall filed separate motions to dismiss the 4AC.  
10 Dkt Nos. 278 and 281, respectively. *Id.* On February 10, 2021, the Court denied  
11 Defendants' motions to dismiss. Dkt No. 381. *Id.*

12 Thereafter, the Parties engaged in significant additional written discovery and  
13 depositions, and on June 25, 2021, the Parties attended a mediation with experienced  
14 mediator, Barbara Reeves. Melmed Decl. ¶ 9. Shortly before the mediation, and with the  
15 mediator's assistance, Plaintiffs and Paschall reached a settlement. The other parties  
16 engaged in settlement discussions for a full day on June 25, 2021, and additional  
17 settlement discussions occurred afterward with the assistance of the mediator. After  
18 several additional months of negotiating with and through the mediator, Plaintiffs and  
19 Paschall, Schneider, Covenant, Southern Refrigerated, and Western Express were able  
20 to agree on Settlement terms. *Id.*

21 On August 27, 2021, Plaintiffs filed motions to certify litigation classes for their  
22 claims against CRST, CRE, and Stevens. *See* Dkt. Nos. 483, 494, and 482, respectively.  
23 On November 10, 2021, the Court vacated the hearing on Plaintiffs' motions for class  
24 certification. *See* Dkt. No. 529. On February 24, 2022, the Court denied Plaintiffs'  
25 motions to certify classes in the case. *See* Dkt. No. 561. On March 10, 2022, Plaintiffs  
26 filed a motion to modify the Court's class certification order to certify a CRST-only  
27 class or, in the alternative, to file a renewed motion to certify a CRST-only class. *See*  
28 Dkt. No. 569. On April 6, 2022, the Court denied Plaintiffs' motion to modify the class



1 certification order. See Dkt. No. 600.

2 4. The Settlements and Approvals, To Date

3 On December 6, 2021, Plaintiffs filed their Motion for Preliminary Approval of  
4 Class Action Settlements in connection with the settlements reached with Paschall,  
5 Schneider, Covenant, Southern Refrigerated, and Western Express. Dkt. No. 537. On  
6 February 24, 2022, this Court granted Plaintiffs' motion. Dkt. No. 562.

7 On March 2, 2022, Plaintiffs filed their Motion for Preliminary Approval of Class  
8 Action Settlement in connection with the settlement reached with Stevens Transport,  
9 Inc. Dkt. No. 564. On April 1, 2022, this Court granted Plaintiffs' motion. Dkt. No. 590.

10 On July 1, 2022, Plaintiffs filed their Motion for Final Approval of Class Action  
11 Settlements in connection with the settlements reached with Paschall, Schneider,  
12 Covenant, Southern Refrigerated, Western Express, and Stevens. Dkt. No. 610. On  
13 August 5, 2022, this Court granted the Motion for Final Approval (Dkt. No. 681) and  
14 entered final judgment on August 10, 2022 (Dkt. No. 688). Plaintiffs now move the court  
15 for preliminary approval of the settlements between the final 2 remaining Defendants.

16 **C. Summary of the Proposed Settlements**

17 1. Economic Terms – CRST

18 Under the terms of the Settlement with CRST, CRST shall be discharged of all  
19 claims that were asserted or could have been asserted in the lawsuit by the two  
20 Settlement Classes (the Antitrust Subclass and the Labor Code Subclass) in in exchange  
21 for its agreement to pay the GSA of \$1,200,000. From the GSA, Plaintiffs request the  
22 following deductions to arrive at the Net Settlement Amount: **(1)** the fees and expenses  
23 of the Settlement Administrator; **(2)** Plaintiffs' Incentive Awards of up to \$5,000.00  
24 each; **(3)** attorneys' fees not in excess of 25% of the monetary benefits created for the  
25 Settlement Class (that is, the value of the GSA); **(4)** reimbursement of expenses and  
26 costs incurred up to \$250,000.00; and **(5)** PAGA penalties to be paid to the LWDA.

27 If the Court approves the settlement, the Net Settlement Fund shall be distributed  
28 to each member of the Settlement Classes who does not opt out based upon the number

1 of weeks he or she worked for Defendants. The Net Settlement Fund shall be allocated  
2 between the Antitrust Subclass and the Labor Code Subclass as follows: 75% to the  
3 Antitrust Subclass and 25% to the Labor Code Subclass.

4           2.     *Economic Terms – C.R. England*

5           Under the terms of the Settlement with C.R. England, C.R. England shall be  
6 discharged of all claims that were asserted or could have been asserted in the lawsuit by  
7 the Settlement Class (as defined in the Settlement Agreement) in exchange for its  
8 agreement to pay the GSA of \$925,000. From the GSA, Plaintiffs request the following  
9 deductions to arrive at the Net Settlement Amount: **(1)** the fees and expenses of the  
10 Settlement Administrator; **(2)** Plaintiffs' Incentive Awards of up to \$5,000.00 each;  
11 **(3)** attorneys' fees not in excess of 25% of the monetary benefits created for the  
12 Settlement Class (that is, the value of the GSA); and **(4)** reimbursement of expenses and  
13 costs incurred up to \$250,000.00.

14           If the Court approves the settlement, the Net Settlement Fund shall be distributed  
15 to each member of the Settlement Classes who do not opt out based upon the number of  
16 weeks he or she worked for Defendants.

17           3.     *Additional Non-Cash Relief and Benefits*

18           In addition to the combined \$2,125,000 non-reversionary cash benefits, the  
19 Settlement Agreements generally provide for the following forms of non-monetary relief  
20 as a benefit to the Settlement Classes:

21           •     CRST will not send "Under Contract" letters to other Defendants  
22 concerning any member of the Settlement Classes who (i) were involuntarily terminated  
23 by CRST, or (ii) for whom a non-compete agreement is not legally enforceable under  
24 applicable state law.

25           •     CRST will not sue any of C.R. England, Schneider National Carriers, Inc.,  
26 Southern Refrigerated Transport, Inc., Covenant Transportation, Inc., Stevens  
27 Transport, Inc., Western Express, Inc., or Paschall Truck Lines, Inc., for hiring any  
28 member of the Settlement Classes due to their Under Contract status with CRST.



1           • CRST will not refuse to hire a driver involuntarily terminated by another  
2 carrier on the sole basis that the driver is Under Contract with another carrier, except in  
3 the case of a valid and enforceable non-compete obligation.

4           • C.R. England will not send “Under Contract” letters to the other Defendants  
5 concerning any member of the Settlement Class who was involuntarily terminated by  
6 England or whom England considers ineligible for rehire.

7           • C.R. England will not sue any of CRST Stevens Transport, Inc., Western  
8 Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc.,  
9 Covenant Transportation, Inc., or Paschall Truck Lines, Inc., for hiring any member of  
10 the Settlement Class due to their Under Contract status with C.R. England.

11           • C.R. England will not refuse to hire a driver involuntarily terminated by  
12 another carrier on the sole basis that the driver is Under Contract with another carrier,  
13 except in the case of a valid and enforceable non-compete obligation.

14           **D. Dissemination of the Class Notice**

15                 1. The Proposed Notice Process

16           Upon preliminary approval of the Settlements, JND will prepare to disseminate  
17 class notice via the postal service, e-mail, and the establishment of a settlement website.  
18 This shall include conducting searches on the national change of address database to  
19 update any addresses provided by the Defendants consistent with their normal practices,  
20 including skip tracing.

21           Notice will be accomplished three ways. First, JND will mail a copy of the  
22 proposed postcard notices (in English and Spanish), *see* Melmed Decl., Ex. 3, to all Class  
23 Members by first class U.S. Mail, using the most current mailing address information  
24 provided by the Defendants or obtained by JND in its searches for updated address  
25 information. The postcard notice will direct Class Members to review the long form  
26 notice, *see* Melmed Decl. Ex. 3, hosted on a settlement website to be established by JND,  
27 which will allow Class Members to easily access Settlement information. Plaintiffs also  
28 propose that notice be provided to Class Members via e-mail *in addition to* the postcard.

1 The proposed notice will inform Class Members of their rights to exclude  
2 themselves from the Settlements and of their right to object to the Settlements. Any Class  
3 Member who has not excluded him or herself can object to the Settlements if he or she  
4 has a concern. The notice will also inform Class Members of their ability to speak at the  
5 final approval hearing.

6 2. The Proposed Notice Process And Class Notices Provide The Best  
7 Notice Practicable Under The Circumstances

8 Under Rule 23(e)(1)(B), “the court must direct notice in a reasonable manner to  
9 all class members who would be bound by” a proposed settlement. Class notice for  
10 settlements must comply with due process requirements and, therefore, must be  
11 “reasonably calculated, under all the circumstances, to apprise interested parties of the  
12 pendency of the action and afford them an opportunity to present their objections.” *Mejia*  
13 *v. Walgreen Co.*, 2020 WL 6887749, at \*12 (E.D. Cal., 2020).

14 “Best practicable notice requires individual notice to all class members whose  
15 names and addresses may be ascertained through reasonable effort. Nevertheless, it does  
16 not necessarily require that every . . . class member actually receive notice. That is, due  
17 process requires reasonable effort to inform affected class members through individual  
18 notice, not receipt of individual notice.” *See Rannis v. Recchia*, 380 F. App’x 646, 650  
19 (9th Cir. 2010) (internal citations and quotation marks omitted). Plaintiffs’ proposed  
20 notice plan provides individual notice through both postcards mailed via the postal  
21 service **and** e-mail notices, as well as a long-form notice and other information available  
22 on a public website. A true and correct copy of each of the three notices is attached to  
23 the Declaration of Jonathan Melmed as **Exhibit 3**.

24 The postcard notice will be mailed directly to Class Members by first-class mail  
25 to their last known address as provided by the Defendants and after JND conducts a  
26 National Change of Address search to update any addresses provided. JND will also  
27 engage in address searches consistent with its normal practices, including skip tracing.  
28 Additionally, the e-mail notice will be e-mailed directly to Class Members at their last

1 known e-mail address as provided by the Defendants to JND. The postcard and e-mail  
2 notices will direct Class Members to review the long form notice on the settlement  
3 website. This will ensure that the notice of the Settlements reaches the greatest number  
4 of Class Members possible and takes into account the mobile nature of the truck driving  
5 profession by providing for two forms of notice.

6 Additionally, providing notice of the settlements by first class mail and email is  
7 the best notice practicable because Class Members are located throughout the United  
8 States and no single newspaper (or other method of notice) would suffice to provide  
9 notice to Class Members across the country. Furthermore, due process requires only  
10 reasonable efforts be taken to reach class members; every Class Member need not  
11 actually receive the Class Notice. *See, e.g., Rannis*, 380 F. App'x at 650; *Silber v.*  
12 *Mabon*, 18 F.3d 1449, 1454 (9th Cir. 1994). And unlike consumer class actions, where  
13 Class Members may be difficult to locate, the Settlement Class here is highly  
14 ascertainable because of the availability of Class Member data from the Defendants,  
15 including last known addresses, e-mail addresses, and phone numbers. Courts have  
16 generally found that a combination of postcard and e-mail notices is sufficient to satisfy  
17 due process concerns. *See, e.g., Gascho v. Global Fitness Holdings, LLC*, 822 F.3d 269,  
18 289–90 (6th Cir. 2016); *Phillips v. Caliber Home Loans, Inc.*, 2021 WL 3030648, at \*8  
19 (D. Minn. July 19, 2021); *Perez v. Performance Food Grp., Inc.*, 2019 WL 13032142,  
20 at \*9-10 (C.D. Cal. Jan. 28, 2019); *Lloyd v. Navy Fed. Credit Union*, 2018 WL 5247367,  
21 at \*3 (S.D. Cal. Oct. 22, 2018).

22 Further, under Fed. R. Civ. P. 23(c)(2)(B), the notice must concisely and clearly  
23 state in plain, easily understood language: **(1)** the nature of the action; **(2)** the definition  
24 of the class certified; **(3)** the class claims, issues or defenses; **(4)** that a class member  
25 may enter an appearance through counsel if the member so desires; **(5)** that the Court  
26 will exclude from the class any member who requests exclusion, stating when and how  
27 members may elect to be excluded; and **(6)** the binding effect of a class judgment on  
28 class members under Rule 23(c)(3). Fed. R. Civ. P. 23(c)(2)(B); *see generally Eisen v.*

1 *Carlisle and Jacquelin*, 417 U.S. 156 (1974).

2 The content of the proposed notice fully complies with due process and Fed. R.  
3 Civ. P. 23. The notice provides specifics regarding the date, time, and place of the final  
4 approval hearing, and informs Class Members that they may enter an appearance. The  
5 notice informs Class Members how to exercise their rights and make informed decisions  
6 regarding the proposed Settlements, and tells them that if they do not request to be  
7 excluded, the judgment will be binding upon them. The notice describes the terms of the  
8 Settlement, informs Class Members how individual recoveries will be determined, and  
9 includes a settlement website where all relevant case documents can be found. The  
10 proposed notice is more than adequate to put Class Members on notice of the  
11 Settlements. *See, e.g., Mendoza v. Tucson School Dist. No. 1*, 623 F.2d 1338, 1351 (9th  
12 Cir. 1980) (“very general description of the... settlement” satisfies the standards).

13 In addition, the amount of time for Class Members to opt out of, or object to, the  
14 Settlements complies with due process requirements. Plaintiffs propose a 45-day notice  
15 period, which courts have previously upheld. *See, e.g., Greco v. Ginn Development Co.*,  
16 635 F. App’x 628, 634 (11th Cir. 2015); *Nitsch v. Dreamworks Animation SKG Inc.*,  
17 2016 WL 4424965, at \*5 (N.D. Cal. July 6, 2016); *North Star Capital Acquisitions, LLC*  
18 *v. Krig*, 2011 WL 65662, at \*4 (M.D. Fla. Jan. 10, 2011) (“The Court further finds that  
19 the timing of the dissemination of the Class Notice, at least 45 days prior to the Fairness  
20 Hearing, comports with due process and the requirements of Rule 23.”); 2 *McLaughlin*  
21 *on Class Actions* § 6:18 (11th ed.) (“Courts have consistently held that 30 to 60 days  
22 between the mailing (or other dissemination) of class notice and the last date to object  
23 or opt out, coupled with a few more weeks between the close of objections and the  
24 settlement hearing, affords class members an adequate opportunity to evaluate and, if  
25 desired, take action concerning a proposed settlement.”).

26 3. *The Court Should Appoint JND As The Settlement Administrator*

27 Plaintiffs further propose that the Court appoint JND to serve as the Settlement  
28 Administrator. JND administered the First and Second Cluster of settlement in this

1 matter and is experienced in administering class action settlements and has been  
2 appointed as a settlement claims administrator by several courts. *See, e.g., Perchlak v.*  
3 *Liddle & Liddle*, 2021 WL 4797030, at \*5 n.2 (C.D. Cal. July 16, 2021); *In re Keurig*  
4 *Green Mountain Single-Serve Coffee Antitrust Litig.*, 2020 WL 7389330, at \*5  
5 (S.D.N.Y. Dec. 16, 2020) (“JND has handled some of the largest recent settlement  
6 administration issues . . . JND also has extensive experience in handling claims  
7 administration in the antitrust context.”); *Villafan v. Broadspectrum Downstream Servs.,*  
8 *Inc.*, 2020 WL 6822908, at \*8 (N.D. Cal. Nov. 20, 2020); *Defrees v. Kirkland*, 2018 WL  
9 11365542, at \*4 (C.D. Cal. Apr. 10, 2018) (“[C]ourts in this circuit have approved JND  
10 as the claims administrator in a number of class action settlements.”); *Kissel v. Code 42*  
11 *Software, Inc.*, 2017 WL 10560526, at \*9 (C.D. Cal., 2017).

12 4. *The Scope of the Release Against CRST*

13 As to the **Antitrust Subclass** only, the Releasees shall be completely released,  
14 acquitted, and forever discharged from any and all claims, demands, actions, suits, causes  
15 of action under any federal, state or local law of any jurisdiction in the United States, that  
16 Releasors, or each of them, ever had, now has, or hereafter can, shall, or may ever have,  
17 that now exist or may exist in the future arising out of any conduct alleged in the Fourth  
18 Amended Complaint or prior Complaints, or any act or omission of the Releasees (or any  
19 of them), concerning CRST’s alleged participation, from May 15, 2013 through April 6,  
20 2022, in a conspiracy not to hire truck drivers Under Contract with another Defendant or  
21 with any other motor carrier, including, but not limited to claims or allegations that, at  
22 any point in time one or more of the Releases in any way attempted to suppress or  
23 diminish wages or pay of any kind or diminish or restrict other employment opportunities  
24 or mobility for Under Contract drivers because of their Under Contract status  
25 (collectively, the “Released Claims”). Further, as to their claims concerning CRST’s  
26 alleged participation, from May 15, 2013 through April 6, 2022, in a conspiracy not to  
27 hire truck drivers Under Contract with another carrier, the Releasors waive their rights  
28 under Cal. Civil Code § 1542.

1 As to the **Labor Code Subclass** only, the Releasees shall be completely released,  
2 acquitted, and forever discharged from any and all claims, demands, actions, suits,  
3 causes of action under any federal, state or local law of any jurisdiction in the United  
4 States, that Releasors, or each of them, ever had, now has, or hereafter can, shall, or may  
5 ever have, that now exist or may exist in the future arising out of any conduct alleged in  
6 the 4AC or prior Complaints, or any act or omission of the Releasees (or any of them),  
7 concerning CRST's alleged violation of California Civil Code section 1671, California  
8 Code of Civil Procedures section 1060, California Business and Professions Code  
9 section 17200 et seq., California Labor Code sections 201, 202, 221, 222.5, 224, 231,  
10 and 2802, as well as claims for PAGA penalties based on its alleged violation of the  
11 foregoing Labor Code provisions.

12 5. *The Scope of the Release Against C.R. England*

13 As to the C.R. England Settlement class, the Releasors fully, finally, and forever  
14 release, acquit, and discharge the Releasees from any and all claims, demands, actions,  
15 suits, and causes of action under any federal, state, or local law of any jurisdiction in the  
16 United States (whether based on any statute, regulation, common law, or any other  
17 theory) that Releasors, or any of them, ever had, now has, or hereafter can, shall, or may  
18 ever have, that now exist or may exist in the future, arising out of or relating to any  
19 conduct that was alleged or could have been alleged in the Action, including in the  
20 Fourth Amended Complaint or prior complaints, or any act or omission of the Releasees  
21 (or any of them) concerning C.R. England's alleged participation, from May 15, 2013  
22 through April 1, 2022, in any conspiracy not to hire truck drivers Under Contract with  
23 any other motor carrier, including but not limited to any claims or allegations that, at  
24 any point in time, one or more of the Releasees in any way attempted to suppress or  
25 diminish wages or pay of any kind or diminish or restrict other employment  
26 opportunities or mobility for Under Contract truck drivers because of their "Under  
27 Contract" status (all of the foregoing, collectively, the "Released Claims"). Further, as  
28 to their claims concerning C.R. England's alleged participation, from May 15, 2013,



1 through April 1, 2022, in a conspiracy not to hire truck drivers Under Contract with  
2 another carrier, the Releasors' waive their rights under Cal. Civil Code § 1542.

3 **III. THE COURT SHOULD CERTIFY THE CLASS FOR SETTLEMENT**  
4 **PURPOSES UNDER FED. R. CIV. P. 23**

5 Plaintiffs seek to certify a settlement class pursuant to Fed. R. Civ. P. 23. Rule 23  
6 requires that all class action settlements satisfy two primary prerequisites before a court  
7 may grant certification for purposes of preliminary approval: **(1)** that the settlement class  
8 meets the requirements for class certification if it has not yet been certified, *see Hanlon*  
9 *v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998); and **(2)** that the settlement is  
10 fair, reasonable, and adequate, *see* Fed. R. Civ. P. 23(e)(2). Here, both requirements for  
11 preliminary approval of this class action settlement are satisfied.

12 **A. The Settlement Class Satisfies Fed. R. Civ. P. 23(a) and (b)**

13 Rule 23(a) sets out four prerequisites for certification: **(1)** numerosity,  
14 **(2)** commonality, **(3)** typicality, and **(4)** adequacy of representation. Rule 23(b)(3)  
15 further provides that a class action may be maintained if “the court finds that the  
16 questions of law or fact common to the members of the class predominate over any  
17 questions affecting only individual members, and that a class action is superior to other  
18 available methods for the fair and efficient adjudication of the controversy.” These  
19 prerequisites have been sufficiently met here to certify a settlement class for settlement  
20 purposes only, which is reviewed differently than a proposed litigation class. *See, e.g.,*  
21 *In re Hyundai and Kia Fuel Economy Litig.*, 926 F.3d 539, 558 (9th Cir. 2019); *In re*  
22 *Dynamic Random Access Memory (DRAM) Antitrust Litig.*, No. M-02-1486-PJH, 2013  
23 WL 12333442, at \*46 n.112 (N.D. Cal. Jan. 8, 2013).

24 This court previously denied certification of Plaintiffs' antitrust claims against  
25 CRST and C.R. England because it was not persuaded that there was a viable way of  
26 proving class wide damages. Dkt. No. 561. Courts are willing to certify settlement  
27 classes, however, even after class certification has been denied in the litigation context.  
28 *See, e.g., In re American Int'l Group Secs. Litig.*, 265 F.R.D. 157, 175 (S.D.N.Y. 2010),

1 *vacated and remanded*, 689 F.3d 229, 236-7 (2d Cir. 2012) (“[T]hey jointly moved for  
2 preliminary approval of the settlement, arguing that even if certification of a litigation  
3 class was inappropriate, the court could—and should—nonetheless certify a settlement  
4 class. Relying on the Supreme Court’s decision in *Amchem Prods., Inc. v. Windsor*, 521  
5 U.S. 591, 619–20 (1997), the Settling Parties argued that the individual reliance issues  
6 that led the court to deny class certification would not pose a problem of trial  
7 manageability because the very existence of the settlement eliminated the need for a  
8 trial.”); *see also Sullivan v. DB Investments*, 667 F.3d 273, 335 (3d Cir. 2011) (en banc)  
9 (approving settlement class after class certification motion had been denied; the  
10 concurrence notes: “some inquiries essential to litigation class certification are no longer  
11 problematic in the settlement context. A key question in a litigation class action is  
12 manageability—how the case will or can be tried, and whether there are questions of  
13 fact or law that are capable of common proof. But the settlement class presents no  
14 management problems because the case will not be tried.”). Similarly, here, since the  
15 Settlements dispose of the need to prove up damages, a settlement class is appropriate  
16 under the laxer standard for settlement class certification set forth in *Amchem*.

17 1. Rule 23(a)(1) Numerosity

18 The first prerequisite of class certification requires that the class be “so numerous  
19 that joinder of all members is impracticable[.]” Fed. R. Civ. P. 23(a)(1). Plaintiffs need  
20 not state the exact number of class members; “[a] reasonable estimate . . . satisfies the  
21 numerosity requirement.” *Franklin v. Midwest Recovery Sys., LLC*, 2021 WL 1035121,  
22 at \*2 (C.D. Cal. Feb. 5, 2021) (Blumenfeld, J.). And “[i]t’s generally accepted that when  
23 a proposed class has at least forty members, joinder is presumptively impracticable  
24 based on numbers alone.” *In re Banc of Cal. Secs. Litig.*, 326 F.R.D. 640, 646 (C.D. Cal.  
25 2018). Numerosity is easily satisfied because there are over 80,000 members in the  
26 Settlement Class; notably, this Court has already found that “the numerosity requirement  
27 is easily satisfied.” Dkt. No. 561 at 14.

28 2. Rule 23(a)(2) Commonality



1 Plaintiffs contend that the requirement to show common questions of fact and law  
2 is not an onerous one: a single common question of fact or law will do. *See Franklin*,  
3 2021 WL 1035121, at \*2. “Where an antitrust conspiracy has been alleged,” as here,  
4 “courts have consistently held that the very nature of a conspiracy antitrust action  
5 compels a finding that common questions of law and fact exist.” *Tawfilis v. Allergan*,  
6 *Inc.*, 2017 WL 3084275, at \*11 (C.D. Cal. June 26, 2017) (quoting *In re High-Tech*  
7 *Employee Antitrust Litig.*, 985 F. Supp. 2d 1167, 1180 (N.D. Cal. 2013)) (quotation  
8 marks omitted). This case involves common class-wide issues that are apt for resolution  
9 via a class-wide settlement. There are significant common questions in that Defendants’  
10 alleged conspiracy deprived thousands of workers of better compensation and allegedly  
11 denied them opportunities to advance their careers at other companies. Here, the central  
12 question is the lawfulness of Defendants’ alleged illicit agreement, which is applied  
13 uniformly to all Class Members during the Class Period. Because all Class Members  
14 were subject to Defendants’ alleged conspiracy, commonality is readily satisfied.  
15 Notably, this Court has previously found that “the commonality requirement is therefore  
16 satisfied.” Dkt. No. 561 at 15.

17 3. Rule 23(a)(3) Typicality

18 Typicality requires that the named plaintiffs’ claims be typical of the claims of the  
19 class. “Under the rule’s permissive standards, representative claims are ‘typical’ if they  
20 are reasonably co-extensive with those of absent class members; they need not be  
21 substantially identical.” *Castillo v. Bank of Am., NA*, 980 F.3d 723, 729 (9th Cir. 2020)  
22 (quotation marks omitted). “In antitrust cases, typicality usually will be established by  
23 plaintiffs and all class members alleging the same antitrust violations by defendants.”  
24 *Nitsch v. Dreamworks Animation SKG Inc.*, 315 F.R.D. 270, 284 (N.D. Cal. 2016). Here,  
25 the Plaintiffs were employed in the same or similar position as all other Class members  
26 and were “Under Contract” drivers subject to the alleged conspiracy. Moreover,  
27 Plaintiffs and the Class Members allege the same injuries arising from the Defendants’  
28 common conduct: suppression of compensation caused by the Defendants’ illegal no-

1 poaching conspiracy. “This is all that is required to show typicality.” *Nitsch*, 315 F.R.D.  
2 at 285. Notably, this Court has already found that “Plaintiffs have therefore established  
3 typicality.” Dkt. No. 561 at 16.

4 4. Rule 23(a)(4) Adequacy

5 Rules 23(a)(4) and 23(g) require that class representatives and class counsel be  
6 capable of fairly and adequately representing the interests of the class. “Representation  
7 is adequate if (1) the named plaintiffs and their counsel are able to prosecute the action  
8 vigorously[;] (2) the named plaintiffs do not have conflicting interests with the unnamed  
9 class members; and (3) the attorney representing the class is qualified and competent.”  
10 *Franklin*, 2021 WL 1035121, at \*3.

11 “Plaintiffs and members of the proposed class share an interest in proving that  
12 [d]efendants’ conduct violated the antitrust laws and suppressed their compensation, and  
13 [p]laintiffs have diligently litigated this case.” *Nitsch*, 315 F.R.D. at 285. Plaintiffs have  
14 produced thousands of documents, responded to numerous interrogatories and requests  
15 for admission, and have each been deposed. Moreover, Plaintiffs do not have any  
16 conflicts with the proposed Settlement Classes. Notably, this Court has previously found  
17 that “the named Plaintiffs adequately and fairly represent the interests of the Antitrust  
18 Class and the California Antitrust Subclass.” Dkt. No. 561 at 18.

19 Likewise, Class Counsel have no conflicts of interest and have vigorously  
20 prosecuted the action on behalf of Plaintiffs and the Settlement Class. Melmed Decl. ¶¶  
21 1. Susman Godfrey L.L.P, Mayall Hurley P.C., Ackermann & Tilajef, P.C., and Melmed  
22 Law Group P.C. all have significant experience litigating class actions and have been  
23 certified by numerous state and federal courts as competent and adequate class counsel.  
24 *See* Declaration of Marc M. Seltzer in Support of Plaintiffs’ Motion for Class  
25 Certification of their Antitrust Claims (“Seltzer Cert. Decl.”), Dkt. No. 483–39;  
26 Declaration of Robert J. Wasserman in Support of Plaintiffs’ Motion for Class  
27 Certification of their Antitrust Claims (“Wasserman Cert. Decl.”), Dkt. No. 483–47;  
28 Declaration of Craig J. Ackermann in Support of Plaintiffs’ Motion for Class

1 Certification of their Antitrust Claims (“Ackermann Cert. Decl.”), Dkt. No. 483–48; and  
2 Declaration of Jonathan Melmed in Support of Plaintiffs’ Motion for Class Certification  
3 of their Antitrust Claims (“Melmed Cert. Decl.”), Dkt. No. 483–49.

4           5.     Rule 23(b)(3) Predominance and Superiority

5           Certification under Rule 23(b)(3) is proper “whenever the actual interests of the  
6 parties can be served best by settling their differences in a single action.” *Hanlon*, 150  
7 F.3d at 1022 (internal quotation marks omitted). The rule requires two different  
8 inquiries, specifically a determination as to whether: **(1)** “questions of law or fact  
9 common to class members predominate over any questions affecting only individual  
10 members[;]” and **(2)** “a class action is superior to other available methods for fairly and  
11 efficiently adjudicating the controversy.” Fed. R. Civ. P. 23(b)(3); *see also Spann v. J.C.*  
12 *Penney Corp.*, 314 F.R.D. 312, 321–22 (C.D. Cal. 2016). If a class is to be certified for  
13 settlement purposes, this “obviates the need to litigate individualized issues that would  
14 make a trial unmanageable.” *See Hyundai*, 926 F.3d at 558.

15           a.     Predominance

16           Predominance “requires a showing that *questions* common to the class  
17 predominate, not that those questions will be answered, on the merits, in favor of the  
18 class.” *Amgen Inc. v. Conn. Retirement Plans & Trust Funds*, 568 U.S. 455, 459 (2013)  
19 (emphasis in original). The rule “does *not* require” that each element of a plaintiffs’  
20 claim be susceptible to classwide proof. *Id.* at 469 (emphasis in original). Thus, “[w]hen  
21 one or more of the central issues in the action are common to the class and can be said  
22 to predominate, the action may be considered proper under Rule 23(b)(3) even though  
23 other important matters will have to be tried separately, such as damages or some  
24 affirmative defenses peculiar to some individual class members.” *Tyson Foods, Inc. v.*  
25 *Bouaphakeo*, 577 U.S. 442, 453–54 (2016) (quotation marks omitted).

26           The “purpose of class certification is merely to select the method best suited to  
27 adjudication of the controversy fairly and efficiently.” *Stockwell v. City & Cnty. of San*  
28 *Francisco*, 749 F.3d 1107, 1112 (9th Cir. 2014) (quotation marks and alteration

1 omitted). So while the predominance inquiry may entail some overlap with the merits of  
2 plaintiffs' claims, it is not a license to engage in "free-ranging merits inquiries at the  
3 certification stage." *Amgen*, 568 U.S. at 465-66. "Merits questions may be considered to  
4 the extent—but only to the extent—that they are relevant to determining" whether class  
5 certification is appropriate. *Id.* at 466.

6 In antitrust cases, such as here, "courts repeatedly have held that the existence of  
7 the conspiracy is the predominant issue and warrants certification even where significant  
8 individual issues are present." *Thomas & Thomas Rodmakers, Inc. v. Newport Adhesives*  
9 *& Composites, Inc.*, 209 F.R.D. 159, 167 (C.D. Cal. 2002) (quotation marks omitted).  
10 "Predominance is a test readily met in certain cases alleging . . . violations of the  
11 antitrust laws." *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997).

12 Moreover, a settlement "eliminates the need for courts considering settlement  
13 class certifications to grapple with such issues as whether or how the fact of damage, or  
14 'antitrust impact,' could be proved on a classwide basis in order to find that common  
15 issues predominate. Proof of injury has no practical application if the defendant has  
16 offered compensation to all class members and the case is not going to be tried." *In re*  
17 *Dynamic Random Access Memory (DRAM) Antitrust Litig.*, 2013 WL 12333442, at \*46  
18 n.112 (N.D. Cal. Jan. 8, 2013). Notably, this Court has previously found that "[a]s to the  
19 existence of an antitrust violation, the Court finds that Rule 23(b)(3) is satisfied because  
20 "questions of law or fact common to class members predominate over any questions  
21 affecting only individual members." Dkt. No. 561 at 23.

22 b. Superiority

23 Determining whether a class action is superior requires the Court to consider the  
24 following factors: "the class members' interests in individually controlling the  
25 prosecution or defense of separate actions; the extent and nature of any litigation  
26 concerning the controversy already begun by or against class members; the desirability  
27 or undesirability of concentrating the litigation of the claims in the particular forum; and  
28 the likely difficulties in managing a class action." Fed. R. Civ. P. 23(b)(3). Generally,

1 “if common questions are found to predominate in an antitrust action,” “then courts  
2 generally have ruled that the superiority [requirement] is satisfied.” Wright et al.,  
3 *Federal Practice & Procedure* § 1781 (3d ed. 2021).

4 In a case with tens of thousands of class members, as here, “a class action  
5 promotes efficiency and judicial economy.” *Franklin*, 2021 WL 1035121, at \*8. It would  
6 be inefficient and cost prohibitive to litigate thousands of individual proceedings rather  
7 than on a class-wide basis. That is especially so “[i]n antitrust cases such as this,” where  
8 the claims of individual drivers “are likely to be too small to justify litigation, but a class  
9 action would offer those with small claims the opportunity for meaningful redress.” *In*  
10 *re Aftermarket Automotive Lighting Prods. Antitrust Litig.*, 276 F.R.D. 364, 375 (C.D.  
11 Cal. 2014) (quotation marks omitted). Moreover, requiring class members to litigate  
12 their claims individually would merely multiply the number of trials asking the same  
13 questions and relying on the same evidence. In addition, there is no other related  
14 litigation regarding the Defendants’ alleged conspiracy, and prosecution of separate  
15 actions by individual class members would create an undue risk of inconsistent rulings.  
16 Given “[t]he nature of defendants’ alleged overarching conspiracy and the desirability  
17 of concentrating the litigation in one proceeding . . . class treatment is superior to other  
18 methods of adjudication,” especially for settlement purposes. *Nitsch*, 315 F.R.D. at 316.

19 **B. The Settlement is Fair, Reasonable, and Adequate**

20 In deciding whether to approve a class action settlement, the Court must find that  
21 the proposed settlement is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2).

22 Courts regularly consider whether the settlement is fair, non-collusive, and “all  
23 the normal perils of litigation as well as the additional uncertainties inherent in complex  
24 class actions.” *In re Beef Indus. Antitrust Litig.*, 607 F.2d 167, 179-80 (5th Cir. 1979).  
25 Included in this analysis are considerations of “(1) the strength of the plaintiffs’ case;  
26 (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of  
27 maintaining class action status throughout the trial; (4) the amount offered in settlement;  
28 (5) the extent of discovery completed and the stage of the proceedings; (6) the experience

1 and views of counsel; (7) the presence of a governmental participant; and (8) the reaction  
2 of the class members to the proposed settlement.” *In re Bluetooth Headset Prods. Liab.*  
3 *Litig.*, 654 F.3d 935, 946 (9th Cir. 2011) (quoting *Churchill Village, L.L.C. v. Gen. Elec.*,  
4 361 F.3d 566, 575 (9th Cir. 2004)). There is a presumption of fairness “if the settlement  
5 is recommended by class counsel after arm’s-length bargaining.” *Wren v. RGIS*  
6 *Inventory Specialists*, 2011 WL 1230826, at \*6 (N.D. Cal. Apr. 1, 2011). There is “a  
7 strong judicial policy that favors settlements, particularly where complex class action  
8 litigation is concerned.” *In re Syncor ERISA Litig.*, 516 F.3d 1095, 1101 (9th Cir. 2008).  
9 Applying these factors, the proposed settlement is fair.

10 The Settlements represent a fair compromise given the risks and uncertainties  
11 presented by continued litigation. Melmed Decl. ¶¶ 7, 23. As noted, CRST and C.R.  
12 England continue to deny any liability and asserted and would have continued to assert  
13 legal and factual grounds to defend against this action. *Id.* While Plaintiffs remain  
14 confident in their claims, Plaintiffs found it prudent to secure a substantial recovery from  
15 CRST and C.R. England on behalf of the Class and avoid the risks of further litigation.

16 The GSA is fair and reasonable in light of the strengths and weaknesses of  
17 Plaintiffs’ claims against CRST and C.R. England and their defenses. Moreover, “it is  
18 well-settled law that a cash settlement amounting to only a fraction of the potential  
19 recovery does not . . . render the settlement inadequate or unfair” *Officers for Justice*,  
20 688 F.2d at 628. As such, “[t]he fact that a proposed settlement may only amount to a  
21 fraction of the potential recovery does not, in and of itself, mean that the proposed  
22 settlement is grossly inadequate and should be disapproved.” *Id.* Accordingly, district  
23 courts have found that settlements for substantially less than the plaintiff’s claimed  
24 damages were fair and reasonable, especially when taking into account the uncertainties  
25 involved with litigation. *See Nitsch v. Dreamworks Animation SKG Inc.*, 2017 WL  
26 2423161 (N.D. Cal. June 5, 2017).

27 As to the Antitrust Subclass and the C.R. England Settlement Class, this Court  
28 has already denied class certification. Dkt. No. 561. For that reason, without the



1 Settlements currently before the Court, the Class Members would receive nothing. The  
2 Settlements create actual recovery the Settlement Classes otherwise would not receive.

3 As to the Labor Code Subclass, CRST set forth a series of defenses, any one of  
4 which, if successful, could potentially defeat the claims plead. For example, CRST  
5 argued that Plaintiffs cannot recover under the UCL because they have adequate  
6 remedies at law through other claims. Citing to, *Mish v. TForce Freight, Inc.*, No. 21-  
7 CV-04094-EMC, 2021 WL 4592124, at \*5 (N.D. Cal. Oct. 6, 2021), CRST argued that  
8 where a plaintiff seeks relief under the UCL for the same alleged violations covered by  
9 other claims brought directly under applicable statutes, the derivative UCL claims  
10 cannot proceed because the primary claims necessarily provide the plaintiff with an  
11 adequate remedy at law.

12 Further, CRST argued that Labor Code Section 2802 does not require an employer  
13 to reimburse the cost of training that is required by federal law, not the employer. CRST  
14 contended that the DLSE has recognized that “[t]here is generally no requirement that  
15 an employer pay for training leading to licensure or the cost of licensure for an  
16 employee.” *DLSE Op. Ltr.* (Nov. 17, 1994) at 1. Instead, when the license is required by  
17 a statute, “the cost of licensing must be borne by the employee.” *Id.*

18 Additionally, CRST argued that Plaintiffs cannot recover *pre-employment*  
19 expenses. CRST argued that, pursuant to *Johnson v. WinCo Foods, LLC*, \_\_ F.4th \_\_,  
20 No. 21-55501, 2022 WL 2112792, at \*3-5 (9th Cir. June 13, 2022) (recognizing that the  
21 plaintiffs “were not yet employees” when they took their preemployment drug tests),  
22 such pre-employment expenses are not recoverable by employees.

23 Moreover, CRST argued that Plaintiffs failed to identify evidence sufficient to  
24 prove that the Termination Fee was unreasonable *at the time they entered into the DEC*.  
25 Under Section 1671(b), a liquidated damages clause is presumptively valid unless the  
26 challenging party can demonstrate it was unreasonable when he or she agreed to it. Cal.  
27 Civ. Code § 1671(b). CRST argued that the Termination Fee is necessarily the fair  
28 market value of the DTP because it was the same amount drivers would have paid if they

1 had elected to enter the DTP without committing to work the Employment Term.

2 Further, CRST argued that Plaintiffs are not entitled to Labor Code section 203  
3 penalties. Section 203 provides that an employer who “willfully fails to pay” an  
4 employee’s wages at the time the employee resigns or is fired is subject to a waiting time  
5 penalty. Cal. Lab. Code § 203(a). CRST argued that they did not fail to pay Plaintiffs  
6 any *wages* and that their good faith defenses to Plaintiffs claims preclude a finding of  
7 willful non-payment. *See* 8 C.C.R. § 13520(a) (stating that an employer does not  
8 “willfully” fail to pay wages if there is “a good faith dispute” those wages were due).

9 CRST also argued that they did not violate Labor Code section 221 because  
10 Plaintiffs authorized the deductions from their wages. Specifically, Labor Code section  
11 224 states that Section 221 does not “make it unlawful for an employer to withhold or  
12 divert any portion of an employee’s wages when the . . . deduction is expressly  
13 authorized in writing by the employee ...” Cal. Lab. Code § 224. CRST contended that  
14 each Plaintiff executed agreements expressly agreeing to repay funds through  
15 deductions from their wages.

16 Accordingly, if CRST prevailed on any of these defenses, Plaintiffs’ Non-  
17 Antitrust claims could have been defeated and the proposed settlement is fair, adequate,  
18 and reasonable, in light of the risks associated with Plaintiffs’ claims.

19 **C. The Parties Sufficiently Investigated this Matter**

20 As detailed above, the Parties engaged in a significant exchange of substantive  
21 information relating to Class Members’ claims, including formal discovery, more than  
22 thirty depositions, as well as the exchange of hundreds of thousands of documents and  
23 millions of lines of data. Based upon the record that was developed, Plaintiffs’ Counsel  
24 were able to estimate class damages and assess the risks of further litigation. Melmed  
25 Decl. ¶¶ 22-35. It was only after the parties investigated and evaluated the strengths and  
26 weaknesses of the case and engaged in hard-fought negotiations with the assistance of  
27 an experienced mediator that this settlement was reached. *Id.* at ¶ 3, 9, 22. This litigation,  
28 therefore, has reached the stage where the parties have a clear view of the strengths and



1 weaknesses of their cases sufficient to support the Settlement. *See Lewis v. Starbucks*  
2 *Corp.*, 2008 WL 4196690, at \*6 (E.D. Cal. Sept. 11, 2008) (“approval of a class action  
3 settlement is proper as long as discovery allowed the parties to form a clear view of the  
4 strengths and weaknesses of their cases”).

5 **D. The Informed, Non-Collusive, Arms’-Length Negotiations**

6 Courts routinely presume a settlement is fair where it is reached through arms’-  
7 length bargaining as it was here. *See Hanlon*, 150 F.3d at 1027. “One may take a  
8 settlement amount as good evidence of the maximum available if one can assume that  
9 parties of equal knowledge and negotiating skill agreed upon the figure through arms-  
10 length bargaining...” *Ortiz v. Fibreboard Corp.*, 527 U.S. 815, 852 (1999). Here, the  
11 Settlements are a product of intensive, adversarial litigation between the parties,  
12 including CRST and C.R. England moving for dismissal of Plaintiffs’ amended  
13 complaints, defeating class certification, and moving for summary judgment. In  
14 addition, the parties are represented by skilled and experienced counsel with extensive  
15 backgrounds in complex antitrust and employment litigation and experience litigating  
16 and settling similar class actions. Seltzer Cert. Decl., Dkt. No. 483-39; Wasserman Cert.  
17 Decl. ¶¶ 3–10, Dkt. No. 483–47; Ackermann Cert. Decl. ¶¶ 3-10, Dkt. No. 483–48; and  
18 Melmed Cert. Decl. ¶¶ 2–6, Dkt. No. 483-49. The parties’ negotiations also occurred  
19 with the assistance of a mediator with significant experience in litigating antitrust cases.

20 Moreover, the views of the attorneys actively conducting the litigation are entitled  
21 to significant weight in deciding whether to approve the settlement. *Ellis v. Naval Air*  
22 *Rework Facility*, 87 F.R.D. 15, 18 (N.D. Cal. 1980), *aff’d*, 661 F.2d 939 (9th Cir. 1981).  
23 The parties’ counsel believes that this settlement is fair, adequate, reasonable and in the  
24 best interests of Class, and should be preliminarily approved. Melmed Decl. ¶¶ 3, 7.

25 **IV. CONCLUSION**

26 Accordingly, Plaintiffs’ motion for preliminary approval of the Settlement should  
27 be granted.  
28

1 Dated: September 22, 2022

/s/Jonathan Melmed

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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CURTIS MARKSON, MARK  
MCGEORGE, CLOIS MCCLENDON,  
and ERIC CLARK, individuals on behalf  
of themselves and all others similarly  
situated,

Plaintiffs,

v.

CRST INTERNATIONAL, INC.; CRST  
EXPEDITED, INC.; C.R. ENGLAND,  
INC.; WESTERN EXPRESS, INC.;  
SCHNEIDER NATIONAL CARRIERS,  
INC.; SOUTHERN REFRIGERATED  
TRANSPORT, INC.; COVENANT  
TRANSPORT, INC.; PASCHALL  
TRUCK LINES, INC.; STEVENS  
TRANSPORT, INC.; and DOES 1 TO  
10,

Defendants.

Case Number: 5:17-cv-01261-SB (SPx)

**Declaration of Jonathan Melmed in  
Support of Plaintiffs' Motion for  
Preliminary Approval of Class Action  
Settlement**

Judge: Hon. Stanley Blumenfeld, Jr.

Date: October 28, 2022

Time: 8:30 a.m.

Location: Courtroom 6C  
350 West 1st Street  
Los Angeles, California 90012

Action Filed: May 15, 2017

Removal Date: June 22, 2017

**DECLARATION OF JONATHAN MELMED**

I, Jonathan Melmed, declare as follows:

1. I am an attorney licensed to practice law before this court and the federal and state courts of California. I am over 18 years of age. I am a shareholder in the law firm of Melmed Law Group P.C. (“MLG” “Co-Class Counsel” or “Plaintiffs’ Counsel”), attorneys of record (along with Susman Godfrey L.L.P., Mayall Hurley P.C., and Ackermann & Tilajef, P.C) for Plaintiffs Curtis Markson, Mark McGeorge, Clois McClendon, and Eric Clark (“Plaintiffs”) and the proposed Settlement Classes. I have no knowledge of the existence of any conflicting interests between my firm and any of its attorneys and our co-counsel, Susman Godfrey L.L.P., Mayall Hurley P.C., and Ackermann & Tilaljef, P.C., on the one hand, and Plaintiffs or any other Settlement Class Member, on the other. Unless otherwise indicated, I have personal knowledge of the facts set forth in this declaration and if called upon to testify, could and would testify competently thereto. I am making this declaration in support of Plaintiffs’ Notice of Motion and Motion for Preliminary Approval of Class Action Settlement, which is being filed concurrently herewith.

**I. INTRODUCTION**

2. As part of the Settlements now before the Court, CRST and C.R. England will pay a total Gross Settlement Amount (“GSA”) of \$2,125,000 (with CRST paying \$1,200,000, and C.R. England paying \$925,000). The Settlements bring the total settlements reached in this case to \$11.875 million on behalf of the Settlement Classes, as set forth below:

	<b>Settling Defendants</b>	<b>Amount</b>
<i>First Cluster of Settling Defendants</i> (Final Approval Granted at Dkt. No. 681)	1. Paschall Truck Lines, Inc.	\$700,000.00
	2. Schneider National Carriers, Inc.	\$750,000
	3. Covenant Transport, Inc. and Southern Refrigerated Transport, Inc.	\$800,000
	4. Western Express, Inc.	\$2,000,000

1	<i>Second</i> Cluster of Settling Defendants (Final Approval Granted at Dkt. No. 681)	5. Stevens Transport, Inc.	\$5,500,000.00
2			
3	<i>Third</i> Cluster of Settling Defendants (this Motion)	6. C.R. England	\$925,000
4		7. CRST	\$1,200,000
5	<b>Total Settlements Reached:</b>		<b>\$11,875,000</b>

3. The Settlements, which were reached after conducting more than thirty depositions, and the exchange, processing, and review of hundreds of thousands of documents and millions of lines of data, were negotiated with the assistance of Barbara Reeves, an experienced mediator with antitrust experience, including as an attorney with the United States Department of Justice Antitrust Division. CRST and C.R. England are the final cluster of all defendants in this action who Plaintiffs allege took part in a conspiracy to suppress truck driver compensation by entering into “no-poaching” agreements. Because the Settlements are fair and reasonable, they should be preliminarily approved.

4. In connection with the CRST Settlement<sup>1</sup>, Plaintiffs seek provisional certification of a two subclasses:

A. The **Antitrust Subclass**, defined as all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST, C.R. England, Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., or Stevens Transport, Inc., at any time from May 15, 2013, through April 6, 2022.

B. The **Labor Code Subclass**, defined as all persons who (1) signed a Pre-Employment Driver Training Agreement or Driver Employment Contract with CRST, (2) participated in CRST’s Driver Training Program in California, and (3) were charged for their DOT physical, DOT drug screening, administrative fees, and/or the \$3,950 or \$6,500 Contract Fee after failing to complete their

<sup>1</sup> The Settlements between Plaintiffs and C.R. England and CRST are attached as **Exhibit 1** and **2**, respectively, hereto.

contractually-required 8 to 10 month Employment Term, at any time between May 15, 2013 through April 6, 2022.

5. In connection with the C.R. England Settlement, Plaintiffs seek provisional certification of a class of current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST, C.R. England, Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013, through April 1, 2022.

6. Excluded from the Settlement Classes are officers, directors, senior executives, and personnel in human resources and recruiting departments of CRST and C.R. England.

## **II. FACTUAL BACKGROUND**

7. Collectively, the attorneys at the law firms representing the Plaintiffs have performed substantial work and diligently investigated and prosecuted this case. Our work, in conjunction with the work of our co-counsel, resulted in the creation of a settlement fund for the benefit of the Class. Because of the risks involved in litigating the case, particularly the contested legal and factual issues, Plaintiffs’ Counsel believes these settlements to be fair, reasonable, and adequate.

8. I understand that Plaintiffs Markson, McGeorge and McClendon are former employees of CRST. I understand that Plaintiff Clark is a former employee of C.R. England. I understand that CRST are Iowa corporations, and C.R. England, is a Utah corporation. Plaintiffs alleged that various trucking companies, including Defendants, conspired to restrain competition through reciprocal “no poach” agreements among themselves that resulted in suppressed driver compensation, including the compensation of Class Members.

## **III. MEDIATION**

9. The Parties participated in a mediation pursuant to the Court’s scheduling order with experienced mediator, Barbara Reeves, on June 25, 2021. The settlement



1 negotiations at the mediation were non-collusive and conducted at arms' length.  
2 Plaintiffs and the third cluster of settling defendants continued settlement negotiations  
3 through the subsequent months.

4 **IV. FAIRNESS AND ADEQUACY OF THE PROPOSED SETTLEMENT**

5 10. Under the terms of the Settlement with CRST, CRST shall be discharged  
6 of all claims that were asserted or could have been asserted in the lawsuit by the two  
7 Settlement Classes (the Antitrust Subclass and the Labor Code Subclass) in in exchange  
8 for its agreement to pay the GSA of \$1,200,000. From the GSA, Plaintiffs request the  
9 following deductions to arrive at the Net Settlement Amount: (1) the fees and expenses  
10 of the Settlement Administrator; (2) Plaintiffs' Incentive Awards of up to \$5,000.00  
11 each; (3) attorneys' fees not in excess of 25% of the monetary benefits created for the  
12 Settlement Class (that is, the value of the GSA); (4) reimbursement of expenses and  
13 costs incurred up to \$250,000.00; and (5) PAGA penalties to be paid to the LWDA. If  
14 the Court approves the settlement, the Net Settlement Fund shall be distributed to the  
15 Settlement Class pursuant to a distribution formula to be developed by Settlement Class  
16 Counsel and approved by the Court.

17 11. Under the terms of the Settlement with C.R. England, C.R. England shall  
18 be discharged of all claims that were asserted or could have been asserted in the lawsuit  
19 by the Settlement Class (as defined in the Settlement Agreement) in in exchange for its  
20 agreement to pay the GSA of \$925,000. From the GSA, Plaintiffs request the following  
21 deductions to arrive at the Net Settlement Amount: (1) the fees and expenses of the  
22 Settlement Administrator; (2) Plaintiffs' Incentive Awards of up to \$5,000.00 each;  
23 (3) attorneys' fees not in excess of 25% of the monetary benefits created for the  
24 Settlement Class (that is, the value of the GSA); and (4) reimbursement of expenses and  
25 costs incurred up to \$250,000.00.

26 12. If the Court approves the settlement, the Net Settlement Fund shall be  
27 distributed to the Settlement Class pursuant to a distribution formula to be developed by  
28 Settlement Class Counsel and approved by the Court.

1           13. In addition to the combined \$2,125,000 non-reversionary cash benefits, the  
2 Settlement Agreements generally provide for the following forms of injunctive relief as  
3 a benefit to the Settlement Classes:

4           A. CRST will not send “Under Contract” letters to other Defendants  
5 concerning any member of the Settlement Classes who (i) were involuntarily  
6 terminated by CRST, or (ii) for whom a non-compete agreement is not legally  
7 enforceable under applicable state law (e.g., California, Idaho, North Dakota,  
8 Montana, Oklahoma, Oregon, and Washington).

9           B. CRST will not sue any of C.R. England, Schneider National Carriers,  
10 Inc., Southern Refrigerated Transport, Inc., Covenant Transportation, Inc.,  
11 Stevens Transport, Inc., Western Express, Inc., or Paschall Truck Lines, Inc., for  
12 hiring any member of the Settlement Classes due to their Under Contract status  
13 with CRST.

14           C. CRST will adopt an express policy that prohibits refusing to hire a  
15 driver involuntarily terminated by another carrier on the sole basis that the driver  
16 is Under Contract with another carrier, except in the case of a valid and  
17 enforceable non-compete obligation.

18           D. CRST will stop pursuing and release entitlement to collection efforts  
19 as to any member of the Labor Code Subclass for all unpaid costs for  
20 administrative fees, drug tests, and physical exams, respectively, allegedly owed  
21 to it by any member of the Labor Code Subclass, and CRST will instruct third-  
22 party collection agencies and any other entities that may be involved in collection  
23 efforts for CRST to do the same. This includes CRST taking all action to cease  
24 any collection of these monies by third-party collection agencies and/or any  
25 collection of these monies through deductions from drivers’ pay (for work for  
26 CRST or for any other entities) for members of the Settlement Classes. Despite  
27 denying any and all wrongdoing, CRST agrees that its decision to cease collecting  
28

1 / pursuing these sums was, in part, motivated by Plaintiffs' lawsuit and the  
2 allegations contained therein.

3 E. C.R. England will not send "Under Contract" letters to the other  
4 Defendants concerning any member of the Settlement Class who was  
5 involuntarily terminated by England or whom England considers ineligible for  
6 rehire.

7 F. C.R. England will not sue any of CRST Stevens Transport, Inc.,  
8 Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated  
9 Transport, Inc., Covenant Transportation, Inc., or Paschall Truck Lines, Inc., for  
10 hiring any member of the Settlement Class due to their Under Contract status with  
11 C.R. England.

12 G. C.R. England will adopt an express policy that prohibits refusing to  
13 hire a driver involuntarily terminated by another carrier on the sole basis that the  
14 driver is Under Contract with another carrier, except when C.R. England has a  
15 good faith belief or understanding that the involuntarily terminated driver is  
16 subject to a valid and enforceable non-compete or similar obligation.

17 **V. DISSEMINATION OF THE CLASS NOTICE**

18 14. Upon preliminary approval of the Settlements, JND will prepare to  
19 disseminate class notice via the postal service, e-mail, and the establishment of a  
20 settlement website. This shall include conducting searches on the national change of  
21 address database to update any addresses provided by the Defendants consistent with  
22 their normal practices, including skip tracing. A copy of the proposed notices are  
23 attached hereto as **Exhibit 3**.

24 15. Notice will be accomplished three ways. First, JND will mail a copy of the  
25 proposed postcard notices (in English and Spanish), to all Class Members by first class  
26 U.S. Mail, using the most current mailing address information provided by the  
27 Defendants or obtained by JND in its searches for updated address information. The  
28 postcard notice will direct Class Members to review the long form notice, hosted on a

1 settlement website to be established by JND. The settlement website will allow Class  
2 Members to easily access information regarding the Settlements and the litigation  
3 generally.

4 16. Given the mobile nature of the truck driving profession, Plaintiffs further  
5 propose that notice be provided to Class Members via e-mail *in addition to* the postcard  
6 notice in order to reach as many Class Members as possible.

7 17. The proposed notice will inform Class Members of their rights to exclude  
8 themselves from the Settlements. If a Class Member wishes to exclude themselves from  
9 the Settlements, they will no longer be legally bound the Settlements and will not be  
10 able to receive a payment from the Settlements. Class Members that request exclusion  
11 will keep the right to sue or continue to sue CRST and C.R. England on their own for  
12 the legal claims that the Settlements resolve. If a Class Member does not want the  
13 benefits offered by the Settlements and does not want to be legally bound by the  
14 Settlements, or if he or she wishes to pursue his or her own separate lawsuit against  
15 CRST or C.R. England, he or she must exclude him or herself by submitting a written  
16 request to JND stating his or her intent to exclude him or herself from the Settlements  
17 by the Response Deadline.

18 18. The long form notice will also inform Class Members of their right to object  
19 to the Settlements. Any Class Member who has not excluded themselves can object to  
20 the Settlements if they have a concern. The notice will also inform Class Members of  
21 their ability to speak at the final approval hearing. If a Class Member or their attorney  
22 want to appear and speak at the hearing, the objection must contain: (1) a detailed  
23 description of any and all evidence to be offered at the hearing, including photocopies  
24 of any and all exhibits to be introduced; and (2) the names and addresses of any witnesses  
25 expected to testify at the hearing. Objections, along with any supporting material to be  
26 submitted, must be filed with the Court, with a copy mailed to JND , Settlement Class  
27 Counsel, and Counsel for Settling Defendants postmarked by the Response  
28 Deadline. The Scope of the Release Against CRST

1           19. As to the **Antitrust Subclass** only, the Releasees shall be completely  
2 released, acquitted, and forever discharged from any and all claims, demands, actions,  
3 suits, causes of action under any federal, state or local law of any jurisdiction in the  
4 United States, that Releasors, or each of them, ever had, now has, or hereafter can, shall,  
5 or may ever have, that now exist or may exist in the future arising out of any conduct  
6 alleged in the Fourth Amended Complaint or prior Complaints, or any act or omission  
7 of the Releasees (or any of them), concerning CRST's alleged participation, from May  
8 15, 2013 through April 1, 2022, in a conspiracy among Defendants not to hire truck  
9 drivers Under Contract with another Defendant (the "Released Claims"). Further, as to  
10 their claims concerning CRST's alleged participation, from May 15, 2013 through April  
11 1, 2022, in a conspiracy not to hire truck drivers Under Contract with another carrier,  
12 the Releasor's waive their rights under Civil Code § 1542.

13           20. As to the **Labor Code Subclass** only, the Releasees shall be completely  
14 released, acquitted, and forever discharged from any and all claims, demands, actions,  
15 suits, causes of action under any federal, state or local law of any jurisdiction in the  
16 United States, that Releasors, or each of them, ever had, now has, or hereafter can, shall,  
17 or may ever have, that now exist or may exist in the future arising out of any conduct  
18 alleged in the 4AC or prior Complaints, or any act or omission of the Releasees (or any  
19 of them), concerning CRST's alleged violation of California Civil Code section 1671,  
20 California Code of Civil Procedures section 1060, California Business and Professions  
21 Code section 17200 et seq., California Labor Code sections 201, 202, 221, 222.5, 224,  
22 231, and 2802, as well as claims for PAGA penalties based on its alleged violation of  
23 the foregoing Labor Code provisions.

24 **VI. THE SCOPE OF THE RELEASE AGAINST C.R. ENGLAND**

25           21. As to the C.R England Settlement class, the Releasors fully, finally, and  
26 forever release, acquit, and discharge the Releasees from any and all claims, demands,  
27 actions, suits, and causes of action under any federal, state, or local law of any  
28 jurisdiction in the United States (whether based on any statute, regulation, common law,

1 or any other theory) that Releasors, or any of them, ever had, now has, or hereafter can,  
2 shall, or may ever have, that now exist or may exist in the future, arising out of or relating  
3 to any conduct that was alleged or could have been alleged in the Action, including in  
4 the Fourth Amended Complaint or prior complaints, or any act or omission of the  
5 Releasees (or any of them) concerning England's alleged participation, from May 15,  
6 2013 through, in any conspiracy not to hire truck drivers Under Contract with any other  
7 motor carrier, including but not limited to any claims or allegations that, at any point in  
8 time, one or more of the Releasees in any way attempted to suppress or diminish wages  
9 or pay of any kind or diminish or restrict other employment opportunities or mobility  
10 for Under Contract truck drivers because of their "Under Contract" status (all of the  
11 foregoing, collectively, the "Released Claims"). Further, as to their claims concerning  
12 C.R. England's alleged participation, from May 15, 2013 through April 1, 2022, in a  
13 conspiracy not to hire truck drivers Under Contract with another carrier, the Releasor's  
14 waive their rights under Civil Code § 1542.

15 **VII. THE SETTLEMENT AMOUNTS ARE A FAIR COMPROMISE IN**  
16 **LIGHT OF THE RISKS**

17 22. The Settlement is fair and reasonable and was negotiated at arm's length  
18 between counsel at a private mediation and the subsequent months following mediation.  
19 Counsel for both parties were thoroughly familiar with the complex legal and factual  
20 questions at issue in this litigation. The Settlement is the product of intensive  
21 negotiations with the assistance of an experienced mediator familiar with antitrust  
22 litigation, supported by investigation and direct exchanges of information through  
23 formal discovery and depositions.

24 23. Although Plaintiffs believe that there is a strong possibility of certifying a  
25 class regarding their antitrust claims, we also recognize the potential risk, expense, and  
26 complexity posed by litigation, such as class certification, summary judgment, trial  
27 and/or on the damages awarded, and an appeal that can take several more years to  
28 litigate.



1           24. Given my experience and the experience of my co-counsel, and our own  
2 investigation and evaluation of the facts, I believe the proposed Settlement Agreement  
3 addresses all of the allegations of violations of California state law and federal law by  
4 Stevens and provides adequate monetary relief to Plaintiffs and Class Members.

5           25. Whereas proceeding with litigation would impose significant risk of no  
6 recovery as well as ongoing, substantial additional expenditures of time and resources,  
7 the Settlement achieved confers a benefit on Plaintiffs and Class Members. If the  
8 Settlement was not achieved, continued litigation of the claims would take substantial  
9 time and possibly confer no benefit on Class Members. By contrast, the Settlement will  
10 yield a prompt, certain, and substantial recovery for Class Members, which also benefits  
11 the parties and the Court. The Settlement is fair and reasonable in light of the  
12 complexities of the case, the state of the law, and uncertainties of class certification and  
13 litigation. Given the risks inherent in litigation and the defenses asserted, the Settlement  
14 is fair, adequate, reasonable, and in the best interests of Class Members, and should be  
15 preliminarily approved.

16           26. The Settlements represent a fair compromise given the risks and  
17 uncertainties presented by continued litigation. As noted, CRST and C.R. England  
18 continue to deny any liability and asserted and would have continued to assert legal and  
19 factual grounds to defend against this action While Plaintiffs remain confident in their  
20 claims, Plaintiffs found it prudent to secure a substantial recovery from CRST and C.R.  
21 England on behalf of the Class and avoid the risks of further litigation. Moreover,  
22 continued litigation with CRST and C.R. England would be costly, time consuming, and  
23 uncertain in outcome. The Settlements ensure timely relief and a substantial recovery  
24 for the Class.

25           27. The GSA, negotiated at arms'-length, is fair and reasonable in light of the  
26 strengths and weaknesses of Plaintiffs' claims against CRST and C.R. England and their  
27 defenses. Moreover, "it is well-settled law that a cash settlement amounting to only a  
28 fraction of the potential recovery does not . . . render the settlement inadequate or unfair"



1 *Officers for Justice*, 688 F.2d at 628. Indeed, “the very essence of a settlement is  
2 compromise, ‘a yielding of absolutes and an abandoning of highest hopes.’” *Linney v.*  
3 *Cellular Alaska P’ship*, 151 F.3d 1234, 1242 (9th Cir. 1998). As such, “[t]he fact that a  
4 proposed settlement may only amount to a fraction of the potential recovery does not, in  
5 and of itself, mean that the proposed settlement is grossly inadequate and should be  
6 disapproved.” *Id.* Accordingly, district courts have found that settlements for  
7 substantially less than the plaintiff’s claimed damages were fair and reasonable,  
8 especially when taking into account the uncertainties involved with litigation. *See In re:*  
9 *High-Tech Employee Antitrust Litigation*, Case No. 11-CV-02509-LHK (N.D. Cal.  
10 September 2, 2015) (Dkt. No. 1112); *see also Nitsch v. Dreamworks Animation SKG*  
11 *Inc.*, 2017 WL 2423161 (N.D. Cal. June 5, 2017).

12 28. As to the Antitrust Subclass and the C.R. England Settlement Class, this  
13 Court has already denied class certification. Dkt. No. 561. For that reason, without the  
14 Settlements currently before the Court, the Class Members would receive nothing. The  
15 Settlements create actual meaningful recovery that the Settlement Classes otherwise  
16 would not receive.

17 29. As to the Labor Code Subclass, CRST set forth a series of defenses, any  
18 one of which, if successful, could potentially defeat the claims plead. For example,  
19 CRST argued that Plaintiffs cannot recover under the UCL because they have adequate  
20 remedies at law through other claims. Citing to, *Mish v. TForce Freight, Inc.*, No. 21-  
21 CV-04094-EMC, 2021 WL 4592124, at \*5 (N.D. Cal. Oct. 6, 2021), CRST argued that  
22 where a plaintiff seeks relief under the UCL for the same alleged violations covered by  
23 other claims brought directly under applicable statutes, the derivative UCL claims  
24 cannot proceed because the primary claims necessarily provide the plaintiff with an  
25 adequate remedy at law.

26 30. Further, CRST argued that Labor Code Section 2802 does not require an  
27 employer to reimburse the cost of training that is required by federal law, not the  
28 employer. CRST contended that the California Department of Industrial Relations,

1 Division of Labor Standards Enforcement has recognized that “[t]here is generally no  
2 requirement that an employer pay for training leading to licensure or the cost of licensure  
3 for an employee.” *DLSE Op. Ltr.* (Nov. 17, 1994) at 1. Instead, when the license is  
4 required by a statute, “the cost of licensing must be borne by the employee.” *Id.*

5 31. Additionally, CRST argued that Plaintiffs cannot recover *pre-employment*  
6 expenses. CRST argued that, pursuant to *Johnson v. WinCo Foods, LLC*, \_\_ F.4th \_\_,  
7 No. 21-55501, 2022 WL 2112792, at \*3-5 (9th Cir. June 13, 2022) (recognizing that the  
8 plaintiffs “were not yet employees” when they took their preemployment drug tests),  
9 such pre-employment expenses are not recoverable by employees.

10 32. Moreover, CRST argued that Plaintiffs proffered insufficient evidence to  
11 establish that the termination fee was unreasonable. CRST argued that Plaintiffs’ claim  
12 that the Termination Fee violated Section 1671 fails because Plaintiffs failed to identify  
13 evidence sufficient to prove that the Termination Fee was unreasonable *at the time they*  
14 *entered into the DEC*. Under Section 1671(b), a liquidated damages clause is  
15 presumptively valid unless the challenging party can demonstrate it was unreasonable  
16 when he or she agreed to it. Cal. Civ. Code § 1671(b); *see also Edwards v. Symbolic*  
17 *Intern., Inc.*, 2009 WL 1178662, at \* 5 (S. D. Cal. Apr. 30, 2009). CRST also argued  
18 that the Termination Fee is necessarily the fair market value of the DTP because it was  
19 the same amount drivers would have paid if they had elected to enter the DTP without  
20 committing to work the Employment Term.

21 33. Further, CRST argued that Plaintiffs are not entitled to Labor Code section  
22 203 penalties. Section 203 provides that an employer who “willfully fails to pay” an  
23 employee’s wages at the time the employee resigns or is fired is subject to a waiting time  
24 penalty. Cal Lab. Code § 203(a). CRST argued that they did not fail to pay Plaintiffs any  
25 wages and that their good faith defenses to Plaintiffs claims preclude a finding of willful  
26 non-payment. *See* 8 C.C.R. § 13520(a) (stating that an employer does not “willfully” fail  
27 to pay wages if there is “a good faith dispute” that those wages were due. 8 C.C.R. §  
28 13520(a).

34. CRST also argued that they did not violate Labor Code section 221 because Plaintiffs authorized the deductions from their wages. Specifically, Labor Code section 224 states that Section 221 does not “make it unlawful for an employer to withhold or divert any portion of an employee’s wages when the ... deduction is expressly authorized in writing by the employee to cover . . . deductions not amounting to a rebate or deduction from the standard wage.” Cal. Lab. Code § 224; *Lemus*, 2013 WL 10730259, at \*4 (explaining that deductions do not violate Section 221 if they are authorized in writing and do not amount to deductions from the standard wage). CRST contended that each Plaintiff executed agreements (1) expressly acknowledging that CRST had advanced funds to cover expenses required to attend Phase 1 of the DTP at ASD and (2) expressly agreeing to repay those funds through deductions from compensation earned as CRST employees

35. Accordingly, if CRST prevailed on any of these defenses, Plaintiffs’ Non-Antitrust claims could have been defeated and the proposed settlement is fair, adequate, and reasonable, in light of the risks associated with Plaintiffs’ claims.

**VIII. THE PARTIES INVESTIGATED THIS MATTER TO ALLOW COUNSEL AND THIS COURT TO CONCLUDE THAT THE SETTLEMENT IS FAIR AND REASONABLE**

36. As detailed above, the Parties engaged in a significant exchange of substantive information relating to Class Members’ claims, including formal discovery, more than thirty depositions, as well as the exchange of hundreds of thousands of documents and millions of lines of data. Based upon the record that was developed, Plaintiffs’ Counsel were able to estimate class damages and assess the risks of further litigation. It was only after the parties investigated and evaluated the strengths and weaknesses of the case and engaged in hard-fought negotiations with the assistance of an experienced mediator that this settlement was reached. This litigation, therefore, has reached the stage where the parties have a clear view of the strengths and weaknesses of their cases sufficient to support the Settlement. See *Lewis v. Starbucks Corp.*, 2008 WL

1 4196690, at \*6 (E.D. Cal. Sept. 11, 2008) (“approval of a class action settlement is  
2 proper as long as discovery allowed the parties to form a clear view of the strengths and  
3 weaknesses of their cases”).

4 **IX. FAIRNESS OF THE PROPOSED INCENTIVE AWARDS**

5 37. I believe the proposed Service Awards of up to \$5,000 for each the Named  
6 Plaintiffs for each of the settling Defendants is fair and reasonable. Plaintiffs were  
7 instrumental in prosecuting this lawsuit and were an important source of information  
8 during the course of litigation.

9 38. Plaintiffs provided invaluable assistance to Class Counsel and the Class in  
10 this case, including providing factual background for the mediations and Complaints;  
11 participating in phone calls to discuss litigation and settlement strategy; cooperating in  
12 the collection of thousands of documents and cell phone records; having their  
13 depositions taken; and reviewing the settlement documents. Plaintiffs agreed to  
14 participate in this case with no guarantees of personal benefit. Further, Plaintiffs agreed  
15 to undertake the financial risk of serving as Class Representatives and exposed  
16 themselves to the risk of negative publicity by anyone who opposed this case. The  
17 Settlement Class would have received no benefit from the Settling Defendants had it not  
18 been for the contributions of Plaintiffs.

19 **X. ATTORNEYS’ FEES AND COSTS**

20 39. Through my practice, I have gained experience regarding the obligations  
21 and burdens of representing a class in antitrust actions. This knowledge has allowed me  
22 and my firm to successfully represent plaintiffs in many class actions in the past years.  
23 Numerous courts in California have found that my firm is competent and capable of  
24 representing classes in employment litigation. Plaintiffs are represented by skilled and  
25 experienced counsel with extensive backgrounds in complex antitrust and employment  
26 litigation and experience litigating and settling class actions in employment litigation in  
27 California. Seltzer Cert. Decl., Dkt. No. 483-39; Wasserman Cert. Decl. ¶¶ 3-10, Dkt.  
28

1 No. 483-47; Ackermann Cert. Decl. ¶¶ 3-10, Dkt. No. 483-48; and Melmed Cert. Decl.  
2 ¶¶ 2-6, Dkt. No. 483-49.

3 40. Under the terms of the Settlement Agreements, Class Counsel is requesting  
4 an amount up to 25% of the GSA. This fee amount is fair, reasonable and consistent  
5 with awards obtained in similar cases preliminarily approved by courts. Class Counsel  
6 is also requesting reimbursement of litigation costs in the amount of up to \$1,800,000.00.

7 41. If the Court grants preliminary approval to the settlement and authorizes  
8 the dissemination of a Class Notice, Plaintiffs' Counsel will file a Fee and Expense  
9 Application that will be scheduled to be heard concurrently with the Motion for Final  
10 Approval Hearing and will concurrently provide the Court with an itemized list of costs  
11 incurred.

12 42. As noted, Class Counsel intend to seek approval of attorneys' fees in the  
13 amount of 25% of the combined GSA, which is a reasonable fee, and within the normal  
14 range of fee awards for antitrust actions where fees are awarded as a percentage of the  
15 common fund.

16 I declare under penalty of perjury under the laws of the state of California and the  
17 United States that the foregoing is true and correct on this Thursday, September 22,  
18 2022, at Los Angeles, California.

19  
20  
21 /s/ Jonathan Melmed

22 **JONATHAN MELMED**  
23  
24  
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26  
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# **Exhibit 1**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CURTIS MARKSON, MARK MCGEORGE,  
CLOIS MCCLENDON, and ERIC CLARK,  
as named plaintiffs of a putative class of all  
others similarly situated,

Plaintiffs,

vs.

CRST INTERNATIONAL, INC., CRST  
EXPEDITED, INC.; C.R. ENGLAND, INC.,  
WESTERN EXPRESS, INC., SCHNEIDER  
NATIONAL CARRIERS INC., SOUTHERN  
REFRIGERATED TRANSPORT, INC.,  
COVENANT TRANSPORT, INC.,  
PASCHALL TRUCK LINES, INC.,  
ENGLAND TRANSPORT, INC. and DOES  
110, inclusive,

Defendants.

Case No. 5:17-cv-01261-SB (SPx)

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the “Agreement”) is made and entered into this 8th day of September 2022 (the “Execution Date”) by and between Curtis Markson, Mark McGeorge, Clois McClendon, and Eric Clark (collectively, “Plaintiffs”), individually and on behalf of a Settlement Class, as defined in Paragraph 8 below, and C.R. England, Inc. (“England”). Plaintiffs and England shall be referred to herein collectively as the “Parties,” and each individually as a “Party.”

WHEREAS, Plaintiffs are prosecuting the above-captioned class action case (the “Action”) on their own behalf and on behalf of the Settlement Class against, among others, England;



WHEREAS, Plaintiffs allege that they were injured as a result of England's participation in an unlawful conspiracy to restrain competition through a "no-poach" agreement with the other trucking company defendants named in the Action, resulting in, among other things, suppressed compensation of their drivers, in violation of Section 1 of the Sherman Act and California antitrust laws (i.e., the Cartwright Act);

WHEREAS, England denies Plaintiffs' claims and allegations and has asserted defenses to Plaintiffs' claims in the Action;

WHEREAS, arm's-length settlement negotiations have taken place between Settlement Class Counsel (as defined below) and counsel for England, and this Agreement has been reached as a result of those negotiations;

WHEREAS, Plaintiffs, through their counsel, have conducted an investigation into the facts and the law regarding the Action and have concluded that resolving the claims against England, according to the terms and conditions set forth below, is in the best interest of Plaintiffs and the Settlement Class because of the risks of continuing this Action against England, and the payment of the Settlement Fund and the value of the Injunctive Relief that England has agreed to provide pursuant to Paragraph 23 of this Agreement;

WHEREAS, England, despite its belief that it is not liable for the claims asserted and its belief that it has good defenses thereto, has nevertheless agreed to enter into this Agreement to avoid further expense and inconvenience and the distraction of burdensome and protracted litigation, and to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against England with respect to the allegations in the Action, as more particularly set forth below; and

WHEREAS, Plaintiffs recognize that because of joint and several liability, this Agreement with England does not impair Plaintiffs' ability to collect the full amount of damages to which they and the Settlement Class may otherwise be entitled from non-settling defendants in the Action, and the Parties also recognize that consistent with *Texas Industries v. Radcliffe Materials, Inc.*, 451 U.S. 630 (1981), there is no later right to contribution or indemnity by non-settling defendants as against England in the Action:

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned Parties that the Action be settled, compromised, and dismissed on the merits with prejudice as to the Releasees and, except as hereinafter provided, without fees and costs as to Plaintiffs, the Settlement Class, or England, subject to the approval of the court presiding over the Action (the "Court"), on the following terms and conditions.

**A. Definitions.**

1. "Cooperation" means and refers to those provisions set forth below in Paragraphs 31-33.
2. "Defendant(s)" means and refers to any party named as a defendant in the Action at any time up to and including the date when the Court has entered a final order certifying the Settlement Class described in Paragraph 8 and approving this Agreement under Federal Rule of Civil Procedure 23(e).
3. "Document(s)" is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a) of the Federal Rules of Civil Procedure, including without limitation, electronically stored information. A draft or non-identical copy is a separate document within the meaning of this term.

4. “Opt-Out Deadline” means and refers to the deadline set by the Court for the timely submission of requests by Settlement Class Members to be excluded from the Settlement Class.

5. “Plaintiff Class Representatives” means and refers to those Settlement Class Members, as defined in Paragraph 10 below, who are named plaintiffs in the Action.

6. “Releasee(s)” means and refers to England, its current and former parent companies, subsidiaries, and affiliated companies and entities, and each of the foregoing’s respective current and former officers, owners, directors, managers, members, shareholders, affiliates, subsidiaries, parent companies, attorneys, accountants, insurers, employees, agents, and representatives. “Releasees” does not include any Defendant in the Action or alleged co-conspirator other than England and the aforementioned related parties.

7. “Releasor(s)” means and refers to Plaintiff Class Representatives and the members of the Settlement Class, as defined in Paragraph 8 below, and each of their respective heirs, executors, successors-in-interest, administrators, and assigns.

8. “Settlement Class” means and refers to all current and former drivers “Under Contract” (as defined in Paragraph 12 below) as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 1, 2022. Excluded from the Settlement Class are officers, directors, senior executives, and personnel in human resources and recruiting departments of the Defendants in the Action.

9. “Settlement Class Counsel” means and refers to the law firms of:

Susman Godfrey, L.L.P.  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067

Mayall Hurley P.C.

2453 Grand Canal Boulevard  
Stockton, CA 95207-8253

Ackermann & Tilajef, P.C.  
1180 South Beverly Drive, Suite 610  
Los Angeles, CA 90035

Melmed Law Group, P.C.  
1801 Century Park E, #850  
Los Angeles, CA 90067

10. “Settlement Class Member(s)” means and refers to each member of the Settlement Class who has not timely elected to be excluded from the Settlement Class.

11. The “Settlement Fund” means and refers to the cash amount of nine hundred twenty-five thousand U.S. dollars (\$925,000.00 USD).

12. “Under Contract” means and refers to individuals who executed an agreement with a Defendant in which the person agreed, and became obligated to work, for that Defendant for a specified period of time in return for a commercial driver’s license education or other training provided by, funded by, or reimbursed by that Defendant and who was employed by that Defendant pursuant to that agreement at any time between May 15, 2013 and April 1, 2022.

**B. Approval of This Agreement and Dismissal of Claims Against England.**

13. Plaintiffs and England shall use their best efforts to effectuate this Agreement as quickly as practicable and in such a way as to reasonably prevent material prejudice to England should the effectuation of this Agreement be unsuccessful, including cooperating in seeking the Court’s approval for the establishment of procedures (including the giving of class notice under Federal Rules of Civil Procedure 23(c) and (e)) to secure the complete and final dismissal with prejudice of the Action as to the Releasees only. To the extent that information beyond which England and the other Defendants provided in connection with Plaintiffs’ earlier settlements in this Action is necessary to effectuate Class Notice, allocation, and payments to the Settlement Class, Plaintiffs and

England shall confer in good faith as needed regarding such information, with any disputes to be resolved by the Court.

14. By September 12, 2022, or another time mutually agreed to by Plaintiffs and England, Plaintiffs shall submit to the Court a motion seeking preliminary approval of this Agreement (the “Preliminary Approval Motion”). The Preliminary Approval Motion shall include (i) the proposed form of an order preliminarily approving this Agreement; (ii) authorization to disseminate notice of the settlement and final judgment contemplated by this Agreement to all members of the Settlement Class, and (iii) all other filings required by applicable rules of procedure. Plaintiffs will share with England a draft of the Preliminary Approval Motion and all other settlement related filings, but excluding their attorneys’ Fee and Expense Application, no less than four business days before those materials are filed, and England will have the right to comment upon and object to any language set forth in the Preliminary Approval Motion or any related materials. In order to mitigate the costs of notice and the administration of the settlement, Plaintiffs shall endeavor, if practicable, to disseminate notice with any other settlements that have been or are reached in the Action but which have not already received final approval at the time the Notice Motion is filed. The text of the proposed order and notice shall be agreed upon by Plaintiffs and England before the Preliminary Approval Motion is filed with the Court. If the Court does not grant the Preliminary Approval Motion as filed, the Parties will negotiate in good faith to modify the Agreement directly, and endeavor to resolve any issue(s) to the satisfaction of the Parties and the Court. If the Parties are unable to reach agreement on modified terms, any Party has the right to rescind this Agreement in its entirety pursuant to the procedures set forth in Paragraphs 34 and 35 below. If the Court grants the Preliminary Approval Motion, any motion for final approval of this Agreement shall include a proposed form of order and final judgment that includes at least the terms set forth in Paragraph 15 below.

15. Plaintiffs shall seek entry of an order and final judgment in the Action, the text of which Plaintiffs and England shall agree upon in advance, in connection with the motion for final approval of this Agreement. The terms of that proposed order and final judgment will include, at a minimum, the following provisions:

a) certifying the Settlement Class described in Paragraph 8, pursuant to Rule 23 of the Federal Rules of Civil Procedure, solely for the purposes of this settlement as a settlement class for the Action;

b) as to the Action, approving this settlement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

c) as to England, directing that the Action be dismissed with prejudice and, except as provided for in this Agreement, without costs or fees of any kind owed to the Settlement Class;

d) reserving exclusive jurisdiction over the settlement and this Agreement, including the interpretation, administration and consummation of this settlement, as well as over England, for the duration of its provision of Cooperation pursuant to this Agreement, to the United States District Court for the Central District of California;

e) determining under Federal Rule of Civil Procedure 54(b) that there is no just reason for delay and directing that the judgment of dismissal in the Action as to England shall be final; and

f) providing that (i) the Court's certification of the Settlement Class is without prejudice to, or waiver of the rights of any Defendant to contest certification of any other

class proposed in the Action; (ii) the Court's findings in this Order shall have no effect on the Court's ruling on any motion to certify any class in the Action or on the Court's rulings concerning any Defendant's motion; and (iii) no Party may cite or refer to the Court's approval of the Settlement Class as persuasive or binding authority with respect to any motion to certify any such class, any attempt to appeal prior denials of any motion to certify any such class, or any Defendant's motion.

16. This Agreement shall become final when (i) the Court has entered in the Action a final order certifying the Settlement Class described in Paragraph 8 and approving this Agreement under Federal Rule of Civil Procedure 23(e) and has entered a final judgment in the Action dismissing the Action with prejudice as to England and without costs other than those provided for in this Agreement; and (ii) the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as to England described in subparagraph (i) hereof has expired in the Action or, if appealed, approval of this Agreement and the final judgment in the Action as to England has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review. It is agreed that the provisions of Rule 60 of the Federal Rules of Civil Procedure shall not be taken into account in determining the above-stated times. As of the Execution Date, Plaintiffs and England shall be bound by the terms of this Agreement, which shall not be rescinded except in accordance with Paragraphs 14, 22(h) & (i), 24, and 34-35 of this Agreement.

17. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, Documents, and discussions associated with them, shall be deemed or construed to be an admission of liability by England, or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by England, or an admission of the truth of any of the claims or allegations contained in any complaint or any other pleading filed in the



Action. Further, any evidence of any of the foregoing shall not be discoverable or used in any way, whether in the Action, or in any other arbitration, action, or proceeding whatsoever, against England. England also specifically denies that the Action is appropriate for class treatment for any purpose other than for settlement. England maintains that, among other things, it has complied with all federal and state laws and regulations in all respects. England has entered into this Agreement for the purpose of terminating litigation and specifically terminating the Action against it. England does not admit any wrongdoing or liability to Plaintiffs or the Settlement Class and specifically denies any wrongdoing, liability, and the allegations of the Fourth Amended Complaint filed in the Action (“Fourth Amended Complaint”).

18. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any other action taken to carry out this Agreement by England, shall be referred to, offered as evidence, or received in evidence in any pending or future civil, criminal, or administrative action, arbitration, or other proceeding, whether by the Parties to this Agreement or by any third party, except in a proceeding to enforce this Agreement, or to defend against the assertion of Released Claims, or as otherwise required by law.

**C. Release, Discharge, and Covenant Not to Sue.**

19. In addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final, as set out in Paragraph 16 of this Agreement, and in consideration of payment of the Settlement Fund, as specified in Paragraph 21 of this Agreement, and for other valuable consideration, the Releasors fully, finally, and forever release, acquit, and discharge the Releasees from any and all claims, demands, actions, suits, and causes of action under any federal, state, or local law of any jurisdiction in the United States (whether based on any statute, regulation, common law, or any other theory) that Releasors, or any of them, ever had, now has, or hereafter can, shall, or may ever have, that now exist or may exist in the future, arising out of or relating to any conduct

that was alleged or could have been alleged in the Action, including in the Fourth Amended Complaint or prior complaints, or any act or omission of the Releasees (or any of them) concerning England's alleged participation, from May 15, 2013 through April 1, 2022, in any conspiracy not to hire truck drivers Under Contract with any other motor carrier, including but not limited to any claims or allegations that, at any point in time, one or more of the Releasees in any way attempted to suppress or diminish wages or pay of any kind or diminish or restrict other employment opportunities or mobility for Under Contract truck drivers because of their "Under Contract" status (all of the foregoing, collectively, the "Released Claims"). Notwithstanding the foregoing, this Agreement does not settle or compromise any claim by Plaintiffs or any Settlement Class Member asserted in the Action against any Defendant or alleged co-conspirator other than England and/or the Releasees. All rights against such other Defendants or alleged co-conspirators are specifically reserved by Plaintiffs and the Settlement Class. All rights of any Settlement Class Member, if any, against any and all former, current, and future Defendants or alleged co-conspirators or any other person other than Releasees are specifically reserved by Plaintiffs and Settlement Class Members. Plaintiffs and Settlement Class Counsel covenant that upon approval of this Agreement, England shall have no liability whatsoever under any legal theory or factual basis to Plaintiffs, the Settlement Class, or Settlement Class Counsel regarding the Released Claims, other than England's covenants under this Agreement.

20. In addition to the provisions of Paragraph 19 of this Agreement, Releasors hereby expressly waive and release, upon this Agreement becoming final as set forth in Paragraph 16, any and all provisions, rights, and benefits relating to the Released Claims that are conferred by (a) California Civil Code section 1542, which states:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR**

**HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY;**

or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to California Civil Code section 1542. Each Releasor acknowledges that he, she, or it may hereafter discover facts different from or in addition to those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 19 of this Agreement. Nevertheless, each Releasor hereby expressly waives and fully, finally, and forever settles and releases, as of the Execution Date, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that Plaintiffs have agreed to release pursuant to Paragraph 19, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. Additionally, the Parties agree that California Labor Code sections 206.5 and 2804 (and any similar sections) do not invalidate any provision of this Agreement because, among other things, the claims in this Action are disputed and contested, and the Settlement was bargained for at arms' length, with the assistance of a mediator, and approved by the Court.

**D. Consideration to the Settlement Class.**

21. Subject to the provisions hereof, and in full, complete, and final settlement of the Action as provided herein, England shall pay the Settlement Fund amount of nine hundred twenty-five thousand dollars (\$925,000.00 USD). The Settlement Fund, in conjunction with settlement amounts received from other settling Defendants (other than Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc.), shall be used to pay (i) all notice and administrative fees incurred in administering the Settlement, including those fees incurred by the Settlement Administrator; (ii) any incentive awards to the Plaintiff Class Representatives awarded by the Court; (iii) any attorneys' fees and expenses awarded by the Court to Class Counsel; and (iv) all payments to

the Settlement Class. There will be no reversion of the Settlement Fund to England except as provided in Paragraphs 14, 22(h) & (i), 24, and 34-35 of this Agreement. The Settlement Fund shall be paid into escrow accounts in United States Dollars to be administered in accordance with the provisions of Paragraph 22 of this Agreement (the “Escrow Accounts”). England shall fund 5% of the Settlement Fund within seven (7) business days following entry of any order preliminarily approving this Agreement by the Court, and the remaining balance of the Settlement Fund within ten (10) business days after final approval of this Agreement by the Court.

22. Escrow Accounts.

a) The Escrow Accounts will be established at a financial institution selected by Settlement Class Counsel, with such financial institution serving as escrow agent (“Escrow Agent”) subject to escrow instructions mutually acceptable to Settlement Class Counsel and England, such escrow to be administered by the Escrow Agent under the Court’s continuing supervision and control.

b) The Escrow Agent shall cause the funds deposited in the Escrow Accounts to be invested in short-term instruments backed by the full faith and credit of the United States Government or fully insured in writing by the United States Government, or money market funds rated Aaa and AAA, respectively by Moody’s Investor Services and Standard and Poor’s, invested substantially in such instruments, and shall reinvest any income from these instruments and the proceeds of these instruments as they mature in similar instruments at their then-current market rates.

c) All funds held in the Escrow Accounts shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court,

until such time as such funds shall be distributed pursuant to this Agreement and/or further order(s) of the Court.

**d)** Plaintiffs and England agree to treat the Settlement Fund as being at all times qualified settlement funds within the meaning of Treas. Reg. § 1.468B-1. In addition, the Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this Paragraph 22, including the relation-back election (as defined in Treas. Reg. § 1.468B-1) back to the earliest possible date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.

**e)** For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the administrator shall be Settlement Class Counsel. Settlement Class Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(1)). Such returns (as well as the election described in Paragraph 22(d)) shall be consistent with Paragraph 22(d) and in all events shall reflect that all Taxes, as defined below (including any estimated Taxes, interest, or penalties), on income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided in Paragraph 22(f) hereof.

**f)** All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Settlement Fund, including any taxes or tax detriments that may be imposed upon England or any other Releasee with respect to any

income earned by the Settlement Fund for any period during which the Settlement Fund does not qualify as qualified settlement funds for federal or state income tax purposes (collectively, the “Taxes”); and (ii) expenses and costs incurred in connection with the operation and implementation of Paragraphs 22(d) through 22(f) (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in Paragraph 22(e) (collectively, the “Tax Expenses”)) shall be paid out of the Settlement Fund.

**g)** Neither England nor any other Releasee nor their respective counsel shall have any liability or responsibility for the Taxes, the Tax Expenses, the reporting or payment of the Taxes or Tax Expenses, or any other liabilities or fees described in Paragraph 22. Further, the Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Settlement Fund and shall be timely paid by the Escrow Agent out of the Settlement Fund without prior order from the Court, and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)). England, any other Releasee, and their respective counsel shall not be responsible or have any liability for any matter set forth herein. Plaintiffs and England agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of Paragraphs 22(d) through 22(f).

**h)** If this Agreement does not receive preliminary or final Court approval, including approval of the Settlement Class as defined in Paragraph 8, or if the Action is not

certified as a class action for settlement purposes, or if any Party opts to rescind this Agreement pursuant to Paragraphs 14, 24, or 34-35, then all amounts paid by England into the Settlement Fund (other than costs expended or incurred in accordance with Paragraph 25, up to a maximum of \$50,000) shall be returned to England from the Escrow Account by the Escrow Agent, along with any interest accrued thereon, within thirty (30) calendar days of the occurrence of any of the conditions described in this Paragraph.

i) If this Agreement does not receive preliminary or final Court approval, including approval of the Settlement Class as defined in Paragraph 8, or if the Action is not certified as a class action for settlement purposes, or if any Party opts to rescind this Agreement pursuant to Paragraphs 14, 24, or 34-35, then the status of the Action with respect to England will be deemed to return to the status at the time immediately prior to the filing of the Notice of Settlement (including with respect to England's right to have its motion for summary judgment heard and ruled upon by the Court) and as if the Parties had never executed this Settlement Agreement; and

j) To the extent required by any court or otherwise necessary, Plaintiffs will take all necessary steps to give effect to Paragraphs 22(h) and 22(i) above.

**23. Injunctive Relief.** Subject to the provisions hereof, and in full, complete and final settlement of the Action as provided herein, England further agrees to the following injunctive relief:

a) England will not send "Under Contract" letters to the other Defendants concerning any member of the Settlement Class who was involuntarily terminated by England or whom England considers ineligible for rehire.



**b)** England will not sue any of CRST International, Inc., CRST Expedited, Inc., Stevens Transport, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transportation, Inc., or Paschall Truck Lines, Inc., including those entities' parent companies, subsidiaries, agents, heirs, or assigns, for hiring any member of the Settlement Class due to their Under Contract status with England; *provided, however*, that nothing herein prevents England from asserting a cause of action against either (a) any member of the Settlement Class for violating a valid and enforceable non-compete or other contractual obligation, or (b) any motor carrier for tortious interference of contract as defined by applicable law (not merely normal advertising or the mere hiring of England's at-will members of the Settlement Class), and nothing herein shall be construed as limiting any defenses to such a claim by either a member of the Settlement Class or a carrier.

**c)** England, within a reasonable time following execution of this Agreement not to exceed 120 days, will adopt an express policy that prohibits refusing to hire a driver involuntarily terminated by another carrier on the sole basis that the driver is Under Contract with another carrier, except when England has a good faith belief or understanding that the involuntarily terminated driver is subject to a valid and enforceable non-compete or similar obligation. Nothing in this Agreement shall preclude England from applying its own hiring criteria or refusing to hire any driver who does not meet England's hiring criteria, in its sole and exclusive discretion, on any grounds other than the driver's Under Contract status with another carrier. Similarly, and notwithstanding anything to the contrary herein, nothing in this Agreement shall preclude England from declining to hire a

driver if it, in its sole discretion, believes or determines that hiring the driver could subject or expose England to legal liability.

d) For the avoidance of doubt, subject to Paragraph 23(a) above, England may take any action, including by letter or other correspondence or means of communication, to notify other motor carriers of their potential interference with England's non-compete agreements with its Under Contract drivers and to enforce such agreements.

24. **Exclusions.** Within ten (10) business days after the Opt-Out Deadline, Settlement Class Counsel will cause copies of timely requests for exclusion from the Settlement Class to be provided to counsel for England. With respect to any potential Settlement Class Member who requests exclusion from the Settlement Class, England reserves all of its legal rights and defenses, including but not limited to any defenses relating to whether the excluded Settlement Class Member has standing to bring any claim. If fifteen percent (15%) or more of the individuals constituting the Settlement Class opt out of the Settlement Class, England will have the unilateral right to withdraw from this settlement and rescind this Agreement in its entirety and may do so, in its sole discretion, by providing notice through the procedure set forth in Paragraph 34 below. If England elects to rescind this Agreement, then all parts of the Settlement Fund shall be returned to England as set forth in Paragraph 35 below.

25. **Payment of Expenses.**

a) England agrees to permit use of a portion of the Settlement Fund towards notice to the Settlement Class and the costs of administration of the Settlement Fund. Plaintiffs shall be responsible for selecting the third-party Settlement Administrator for administration of the settlement. The first \$50,000 of such notice and administration expenses are not recoverable if this settlement does not become final or is terminated to the extent such funds have actually been expended or incurred for notice and administration costs. Other than as set

forth in this Paragraph 25, England shall not be liable for any of the costs or expenses of the litigation of the Action, including attorneys' fees, fees and expenses of expert witnesses and consultants, and costs and expenses associated with discovery, motion practice, hearings before the Court, appeals, trials, or the negotiation of other settlements, or for class administration and costs.

b) Subject to Paragraph 25(a) above, in order to mitigate the costs of notice and administration of the settlement, Plaintiffs shall endeavor, if practicable, to disseminate notice with any other settlements reached with England or other Defendants in the Action, and to apportion the costs of notice and administration on a pro rata basis across the applicable settlements.

**E. The Settlement Fund.**

26. Releasors' sole recourse for settlement and satisfaction against the Releasees of all Released Claims is against the Settlement Fund, and Releasors shall have no other recovery against England or any other Releasee.

27. The "Net Settlement Fund" shall consist of the Settlement Fund less: (i) all administrative fees incurred in administering all class notice and the settlement, including those fees incurred by the Settlement Administrator; (ii) any incentive awards to the Plaintiff Class Representatives; and (iii) any attorneys' fees and expenses. The Net Settlement Fund shall be distributed to the Settlement Class (i.e., those who do not opt out pursuant to Paragraph 52) pro rata based on the number of weeks Class Members worked for one of the Defendants. No submission of a Claim Form will be required to receive a settlement distribution. All settlement payments will not be subject to deductions and withholdings, for which IRS Forms 1099-MISC will be issued.

28. After this Agreement becomes final within the meaning of Paragraph 16, the Settlement Fund shall be distributed in accordance with the plan to be submitted to the Court at the appropriate time by Settlement Class Counsel, subject to approval by the Court. In no event shall any Releasee have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Settlement Fund, including but not limited to the costs and expenses of such distribution and administration, except as expressly otherwise provided in Paragraph 25 of this Agreement.

29. Plaintiffs and Settlement Class Counsel shall be reimbursed and indemnified solely out of the Settlement Fund for all fees, expenses, and costs, as provided by Court order. England and the other Releasees shall not be liable for any costs, fees, or expenses of any of Plaintiffs' or the Settlement Class's respective attorneys, experts, advisors, agents, or representatives; rather, all such costs, fees, and expenses as approved by the Court shall be paid out of the Settlement Fund.

30. Settlement Class Counsel's Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for Plaintiff Class Representatives.

a) Settlement Class Counsel may submit an application or applications to the Court (the "Fee and Expense Application") for: (i) an award of attorneys' fees not in excess of one-third of the benefits created for the Settlement Class (that is, the value of the Settlement Fund plus the value of non-cash relief secured); plus (ii) reimbursement of expenses and costs incurred in connection with prosecuting the Action, Plaintiff Class Representative incentive awards, plus interest on such attorneys' fees, costs and expenses at the same rate and for the same period as earned by the Settlement Fund (until paid) as may be awarded by the Court (the "Fee and Expense Award"), all of which may be paid solely out of the Settlement Fund. Plaintiffs will move for an incentive award to be paid from the Settlement

Fund not to exceed \$5,000 per Plaintiff Class Representative. Settlement Class Counsel reserve the right to make additional applications for Court approval of fees and expenses incurred and reasonable incentive awards, but in no event shall England or any other Releasees be responsible to pay any such additional fees and expenses except to the extent they are paid out of the Settlement Fund.

b) Subject to Court approval, Plaintiffs and Settlement Class Counsel shall be reimbursed and paid solely out of the Settlement Fund for all expenses, including but not limited to attorneys' fees and past, current, or future litigation expenses and incentive awards, and in no event shall England or any other Releasee be responsible to pay any such expenses, except to the extent they are paid out of the Settlement Fund. Settlement Class Counsel's Fee and Expense Award(s), as awarded by the Court, shall be payable at Plaintiffs' option immediately upon the entry of an Order approving such Fee and Expense Award(s), or such later date if required by the Court, notwithstanding the existence of any timely filed objections thereto, or potential appeal therefrom, or collateral attack on the settlement or any part thereof, subject to Settlement Class Counsel's obligation to make appropriate refunds or repayments to the Settlement Fund with interest, if and when, as a result of any appeal and/or further proceeding on remand, or successful collateral attack, the fee or award of expenses is reduced or reversed, or if the Agreement is rescinded or terminated pursuant to Paragraphs 14, 22(h) & (i), 24, or 34-5.

c) The procedure for and the allowance or disallowance by the Court of the application by Settlement Class Counsel for attorneys' fees, costs and expenses, and incentive awards for Plaintiff Class Representatives to be paid out of the Settlement Fund are not part of this Agreement, and are to be considered by the Court separately from the Court's

consideration of the fairness, reasonableness and adequacy of the Settlement, and any order or proceeding related to the Fee and Expense Application(s), or any appeal from any such order shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the judgment approving the settlement.

d) Neither England nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to any payment to Settlement Class Counsel and/or Plaintiffs of any Fee and Expense Award in the Action.

e) Neither England nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to the allocation among Settlement Class Counsel, Plaintiffs and/or any other person who may assert some claim thereto, of any Fee and Expense Award that the Court may make in the Action.

**F. Cooperation.**

31. In return for the release and discharge provided herein, England agrees, if requested, to timely prepare a declaration, pursuant to Rule 902(11) of the Federal Rules of Evidence, for all Documents produced by England in this Action.

32. If this Agreement fails to receive preliminary or final approval by the Court as contemplated in Paragraphs 13-16 hereof, including final approval of the Settlement Class as defined in Paragraph 8, or if it is terminated by any Party under any provision herein, the Parties agree that neither Plaintiffs nor Settlement Class Counsel shall be permitted to introduce into evidence against England, at any hearing or trial, or in support of any motion, opposition or other pleading in the Action or in any other federal or state or foreign action alleging a violation of any law relating to the subject matter of the Action, any declaration provided in connection with any Cooperation by England, other Releasees, or their counsel. This limitation shall not apply to any discovery served or

produced as part of the Action, in which Settlement Class Counsel participated. Notwithstanding anything contained herein, Plaintiffs and the Settlement Class are not relinquishing any existing rights to pursue discovery as may be permitted by law against England in the event that this Agreement fails to receive preliminary or final approval by the Court as contemplated in Paragraphs 13-16 hereof, including final approval of the Settlement Class as defined in Paragraph 8, or in the event that it is terminated by any Party under any provision herein.

33. If either England or Plaintiffs elects to disclose publicly the fact that a settlement has been reached in this Action (other than in the Preliminary Approval Motion or other, subsequent filing in this Action), neither England nor Plaintiffs shall disclose anything other than (1) England and Plaintiffs agreed to a settlement to resolve the Action; (2) the amount of the Settlement Fund; and (3) England denies any and all wrongdoing and liability and the allegations made by Plaintiffs in the Action. Nothing in this provision shall be used to, or otherwise restrict, Plaintiffs' and Settlement Class Counsel's ability to discuss with any member of the Settlement Class this settlement, the Action, anything related to the Action, or any information that appears in the public record.

**G. Rescission If This Agreement Is Not Approved or Final Judgment Is Not Entered.**

34. In addition to any rights of rescission set forth above, England and Plaintiffs shall each, in their sole discretion, have the option to rescind this Agreement in its entirety if any of the following conditions arise: (a) if the Court refuses to approve this Agreement or any material part hereof, (b) if the Court does not certify the Settlement Class in accordance with the specific Settlement Class definition set forth in this Agreement or a substantially similar definition later agreed upon by the Parties, (c) if approval of this Agreement or the Settlement Class is modified or set aside on appeal, (d) if the Court does not enter the final judgment provided for in Paragraph 15 of this Agreement, or (e) if the Court enters the final judgment and appellate review is sought, and on such review, such final



judgment is not affirmed in its entirety. Before exercising this right to rescind, the Parties will negotiate in good faith to modify the Agreement and endeavor to resolve any issue(s) to the satisfaction of the Parties and the Court. If the Parties fail to reach agreement on modified terms or fail to resolve any issues to the Court's satisfaction, or one of the Parties fails to negotiate in good faith, the Parties shall have fifteen (15) days from the date of one or more of such failures to exercise this right to rescind. Written notice of the exercise of any such right to rescind shall be made according to the terms of Paragraph 47. England does not waive, and instead expressly reserves, all of its rights to defend against the claims alleged in the Action, including, but not limited to, its right to move for summary judgment as to the claims against England if the Court does not grant preliminary or final approval of the Settlement Class. A modification or reversal on appeal of any amount of Settlement Class Counsel's fees and expenses or incentive awards to Plaintiffs awarded by the Court from the Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment, unless such modification or reversal causes harm or prejudice to England.

35. If this Agreement does not become final as set forth in Paragraph 16, or if this Agreement otherwise is terminated pursuant to Paragraphs 14, 22(h) & (i), 4, or 34-35, then this Agreement shall be of no force or effect and any and all parts of the Settlement Fund caused to be deposited in the Escrow Accounts (including interest earned thereon) shall be returned to England within thirty (30) calendar days, less only disbursements up to \$50,000 made in accordance with Paragraph 25 of this Agreement. England expressly reserves all rights and defenses if this Agreement does not become final.

36. Further, and in any event, Plaintiffs and England agree that this Agreement, whether or not it shall become final, and any and all negotiations, documents, and discussions associated with it, (a) shall not be deemed or construed to be an admission or evidence of (i) any violation of any statute or law or of any liability or wrongdoing whatsoever by England or the other Releasees, or of (ii) the

truth of any of the claims or allegations contained in the Fourth Amended Complaint or any other pleading filed in the Action; and (b) shall not be used against England, and evidence thereof shall not be discoverable or used in any way, in the Action or in any other proceeding, whether by a Party to this Action or by any third party. England specifically denies any wrongdoing, any liability, and the allegations of the Fourth Amended Complaint.

37. This Agreement shall be construed and interpreted to effectuate the intent of the Parties, which is to provide, through this Agreement, for a complete resolution of any of the claims asserted by Plaintiffs with respect to each Releasee as provided in this Agreement.

38. The Parties contemplate and agree that, prior to final approval of the settlement as provided for in Paragraphs 13-16 hereof, appropriate notice (i) of the settlement and (ii) of a hearing at which the Court will consider the approval of this Agreement, will be given to the Settlement Class.

#### **H. Miscellaneous.**

39. England shall submit all materials required to be sent to appropriate Federal and State officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and Plaintiffs shall cooperate to provide England with necessary information regarding the Settlement Class and Plaintiffs' claims.

40. Plaintiffs and Settlement Class Counsel represent that, as of the Execution Date, they have not made or sponsored any referral for prosecution of any Releasee to any state or federal agency, including but not limited to the U.S. Department of Justice, U.S. Department of Labor, California Attorney General's Office, and California Department of Industrial Relations. Plaintiffs and Settlement Class Counsel further represent that they do not presently intend to make or sponsor any such referral for prosecution of any Releasee.

41. Subject to any limitations imposed by applicable ethical rules, Settlement Class Counsel, and each of them, represent that they (a) have no current intention to file or prosecute any other legal proceedings against any Releasee over the issues, claims, or conduct that were or could have been presented in this Action, including but not limited to any claims or legal proceedings brought on behalf of any drivers of any non-Defendant motor carriers for any of the conduct alleged in the Released Claims or for any conspiracy or other conduct similar to that alleged in the Released Claims (all of the foregoing collectively, a “Future Claim”); (b) do not have any clients who have engaged them to file or prosecute any Future Claim; (c) have not had, and do not currently intend to have in the future, any discussions with any other attorneys regarding the possibility of filing or prosecuting a Future Claim; (d) do not currently intend to solicit or actively seek clients, or advertise the availability of representation of any person or entity, seeking relief against any of the Releasees for any Future Claim, and (e) do not currently intend to lodge any complaints against any of the Releasees through any mechanism for any Future Claim. Nothing herein shall be construed as, is intended to be, or is a restriction on Settlement Class Counsel’s representation of current clients or the practice of law, including restricting practicing in certain areas or cases in the future.

42. The United States District Court for the Central District of California shall retain jurisdiction over the implementation, enforcement, application, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation and agreement by Plaintiffs and England, including challenges to the reasonableness of any Party’s actions. This Agreement shall be governed by and interpreted according to the substantive laws of the state of California without regard to its choice of law or conflict of laws principles. England will not object to complying with any of the provisions outlined in this Agreement on the basis of jurisdiction. If this Agreement does not receive final,

non-appealable Court approval, England reserves all claims and defenses, including but not limited to those as to the lack of jurisdiction and venue over it in this Action, and Plaintiffs reserve all arguments that any such claims and defenses are invalid.

43. This Agreement constitutes the entire, complete and integrated agreement among Plaintiffs and England pertaining to the settlement of the Action against England, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations and discussions, either oral or written, between Plaintiffs and England in connection herewith. This Agreement may not be modified or amended except in writing executed by Plaintiffs and England, and approved by the Court.

44. This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of Plaintiffs and England. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by Plaintiffs or Settlement Class Counsel shall be binding upon all Settlement Class Members and Releasers. The Releasees (other than England entities which are parties hereto) are third-party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

45. This Agreement may be executed in counterparts by Plaintiffs and England, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Agreement. Execution of this Agreement by the Plaintiff Class Representatives and Settlement Class Counsel shall have the same force and effect as if the Agreement were executed by each Settlement Class Member.

46. Neither Plaintiffs nor England shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

47. Where this Agreement requires any Party to provide notice or any other communication or Document to the other, such notice shall be in writing, and such notice, communication or Document shall be provided by facsimile, or electronic mail (provided that the recipient acknowledges having received that email, with an automatic “read receipt” or similar notice constituting an acknowledgement of an email receipt for purposes of this Paragraph), or letter by overnight delivery to the undersigned counsel of record for the Party to whom notice is being provided.

48. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement subject to Court approval. Plaintiff Class Representatives additionally represent and warrant that they have not assigned any claims covered by this Agreement to any third party. By signing this Agreement, the Plaintiff Class Representatives further agree not to object to the terms of this Agreement or submit any request to opt out of the Settlement Class.

**H. Notice Process.**

49. Defendants have provided contact information for Settlement Class Members to the Settlement Administrator in conjunction with the prior settlements in this case. The information includes information to effectuate class notice (name, driver identification number, last known address, last known e-mail address, and last known phone number), allow the Settlement Administrator to provide any required tax reporting (Social Security numbers), and to facilitate calculating class members’ distribution (dates of hire and termination).

50. Upon preliminary approval and as authorized by the Court, the Settlement Administrator will prepare to disseminate class notice via the postal service, e-mail, and the establishment of a settlement website. This shall include conducting searches on the national

change of address database to update any addresses provided by the Defendants consistent with their normal practices, including skip tracing.

51. Notice will be accomplished three ways. First, the Settlement Administrator will mail a copy of the proposed postcard notice, *see* **Exhibit A**, to all Class Members by first class U.S. Mail, using the most current mailing address information provided by the Defendants or obtained by the Settlement Administrator in its searches for updated address information. The postcard notice will be mailed to all Class Members via first class U.S. Mail as soon as practicable after the Court's granting of preliminary approval. The postcard notice will direct Class Members to review the long form notice, *see* **Exhibit B**, hosted on a settlement website to be established by the Settlement Administrator. The settlement website established by the Settlement Administrator will allow Class Members to easily access information regarding the settlements and the litigation generally. Notice will also be provided to Class Members via e-mail in addition to the postcard notice in order to reach as many Class Members as possible. A copy of the proposed e-mail notice is attached as **Exhibit C**.

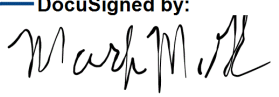
52. The proposed notice will inform Class Members of their rights to exclude themselves from the settlements. If a Class Member wishes to exclude themselves from the settlement, they will no longer be legally bound the settlement and will not be able to receive a payment from the settlement. Class Members that request exclusion will keep the right to sue or continue to sue England on their own for the legal claims that the settlement resolves. If a Class Member does not want the benefits offered by the settlement and does not want to be legally bound by the settlement, or if he or she wishes to pursue his or her own separate lawsuit against England, he or she must exclude him or herself by submitting a written request to the Settlement Administrator stating his or her intent to exclude him or herself from the settlements by the


Response Deadline. The Response Deadline for Class Members to opt out of, or file objections to, the settlements will be forty-five (45) days from the date of mailing of the postcard notice.

53. The long form notice will also inform Class Members of their right to object to the Settlement. Any Class Member who has not excluded themselves can object to the settlement if they have a concern. The notice will also inform Class Members of their ability to speak at the final approval hearing. If a Class Member or their attorney want to appear and speak at the hearing, the objection must contain: (1) a detailed description of any and all evidence to be offered at the hearing, including photocopies of any and all exhibits to be introduced; and (2) the names and addresses of any witnesses expected to testify at the hearing. Objections, along with any supporting material to be submitted, must be filed with the Court, with a copy mailed to the Settlement Administrator, Settlement Class Counsel, and Counsel for England postmarked by the Response Deadline.

**FOR PLAINTIFFS:**

DocuSigned by:  
  
A4FG82DFF442419...  
Curtis Markson

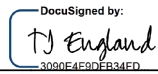
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21FGD50E35494BB...  
Mark McGeorge

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Clois McClelland

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Eric Clark



**FOR DEFENDANT C.R. ENGLAND, INC.**

DocuSigned by:  
  
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Name: TJ England

Title: Chief Legal Officer

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DocuSigned by:



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# **Exhibit 2**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CURTIS MARKSON, MARK MCGEORGE,  
CLOIS MCLENDON, and ERIC CLARK, as  
named plaintiffs of a putative class of all  
others similarly situated,

Plaintiffs,

vs.

CRST INTERNATIONAL, INC., CRST  
EXPEDITED, INC., C.R. ENGLAND, INC.,  
WESTERN EXPRESS, INC., SCHNEIDER  
NATIONAL CARRIERS INC., SOUTHERN  
REFRIGERATED TRANSPORT, INC.,  
COVENANT TRANSPORT, INC.,  
PASCHALL TRUCK LINES, INC.,  
STEVENS TRANSPORT, INC. and DOES 1-  
10, inclusive,

Defendants.

Case No. 5:17-cv-01261-SB (SPx)

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is made and entered into this 22nd day of September, 2022 (“Execution Date”) by and between Plaintiffs, Curtis Markson, Mark McGeorge, Clois McLendon, and Eric Clark, individually and on behalf of two distinct Settlement Classes, as defined in Paragraph 6 below, and Defendants, CRST International, Inc. and CRST Expedited, Inc. (collectively, the “CRST Defendants”).

**Recitals**

Plaintiffs are prosecuting this class action case (the “Action”) on their own behalf and on behalf of the Settlement Classes against, among others, the CRST Defendants.

Plaintiffs allege that they were injured as a result of CRST Defendants’ participation in an unlawful conspiracy to restrain competition through a “no-poach” agreement with other trucking company Defendants resulting in, among other things, suppressed compensation of their drivers,

in violation of Section 1 of the Sherman Act and the California antitrust laws (i.e., the Cartwright Act).

Plaintiffs also allege that the CRST Defendants have unlawfully deducted wages from its California drivers' pay for U.S. Department of Transportation (DOT) physicals, drug tests, administrative fees, and training costs and that the CRST Defendants forced its drivers who failed to work for a set period of time to incur substantial debt.

The CRST Defendants deny Plaintiffs' allegations and any liability to Plaintiffs and members of the Settlement Classes and have asserted defenses to Plaintiffs' claims in the Action.

Arm's-length settlement negotiations have taken place between Settlement Classes Counsel (as defined in Paragraph 7) and counsel for the CRST Defendants with the assistance of Plaintiffs' and the CRST Defendants' chosen mediator, Barbara Reeves (the "Mediator"), on or about August 26, 2021, and this Agreement has been reached as a result of subsequent continued negotiations.

Plaintiffs, through their counsel, have conducted an investigation into the facts and the law regarding the Action and have concluded that resolving the claims against the CRST Defendants, according to the terms set forth below, is in the best interest of Plaintiffs and the Settlement Classes because of the payment of the Gross Settlement Fund and the value of the non-monetary relief that the CRST Defendants have agreed to provide pursuant to this Agreement.

The CRST Defendants, despite their belief that they are not liable for any claims that have been or could have been asserted in the Action against them and their belief that they have good defenses thereto, have nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and distraction of burdensome and protracted litigation, to obtain the releases, orders, and judgment contemplated by this Agreement, and to put to rest with finality all claims that have been or could have been asserted against the CRST Defendants with respect to the allegations in the Action, as more particularly set out below.

### **Agreement**

NOW, THEREFORE, in consideration of the covenants, agreements, and releases set forth herein and for other good and valuable consideration, it is agreed by and among the undersigned that the Action be settled, compromised, and dismissed on the merits with prejudice as to the Releasees (as defined in Paragraph 4), subject to the approval of the Court, on the following terms and conditions:

A. **Definitions.**

1. “Defendant(s)” means any party named as a defendant in the Action at any time up to and including the date when the Court has entered a final order certifying the Settlement Classes and approving this Agreement under Federal Rule of Civil Procedure 23(e).

2. “Opt-Out Deadline” means the deadline set by the Court for the timely submission of requests by Settlement Classes Members to be excluded from the Settlement Classes.

3. “Plaintiff Class Representatives” means the named plaintiffs in the Action. Plaintiffs Curtis Markson, Mark McGeorge, Clois McClendon, and Eric Clark are representatives for the Antitrust Subclass, and Plaintiffs Curtis Markson, Mark McGeorge, and Clois McClendon are representatives for the Labor Code Subclass.

4. “Releasees” shall refer to the CRST Defendants, their current and former parent companies, subsidiaries, related companies, joint ventures, predecessors, and affiliated companies and entities, and each of the foregoing’s respective current and former officers, owners, directors, shareholders, managers, employees, affiliates, subsidiaries, attorneys, accountants, insurers, agents, advisors, consultants, pension and welfare benefit plans, representatives, predecessors, successors, and assigns, although not specifically named herein.

5. “Releasors” shall refer to Plaintiff Class Representatives and the members of the respective Settlement Classes, as defined in Paragraph 6 below.

6. The “Settlement Classes” shall refer to and include the following two subclasses:



a) The “**Antitrust Subclass**” shall mean all current and former drivers “Under Contract” (as defined in Paragraph 10 below) as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 6, 2022.

b) The “**Labor Code Subclass**” shall mean all persons who (1) signed a Pre-Employment Driver Training Agreement and/or Driver Employment Contract with the CRST Defendants, (2) participated in the CRST Defendants’ Driver Training Program in California, and (3) were charged for their DOT physical, DOT drug screening, administrative fees, and/or a contract fee after failing to complete their contractually-required 8- to 10-month employment term, at any time between May 15, 2013 through April 6, 2022.

7. “Settlement Classes Counsel” shall refer to the law firms of:

Susman Godfrey, L.L.P.  
1900 Avenue of the Stars, Suite 1400  
Los Angeles, CA 90067

Mayall Hurley P.C.  
2453 Grand Canal Boulevard  
Stockton, CA 95207-8253

Ackermann & Tilajef, P.C.  
1180 South Beverly Drive, Suite 610  
Los Angeles, CA 90035

Melmed Law Group, P.C.  
1801 Century Park E, #850  
Los Angeles, CA 90067

8. “Settlement Classes Member” means each member of the Settlement Classes who has not timely elected to be excluded from the Settlement Classes.

9. The “Gross Settlement Fund” shall be the cash amount of \$1,200,000.

10. “Under Contract” shall mean all natural persons in the United States who executed an agreement with any Defendant in which the person agreed to work for any Defendant for a specified period of time in return for training provided by, funded by, or reimbursed by that Defendant and who was employed by that Defendant between May 15, 2013 through April 6, 2022.

B. Approval of this Agreement and Dismissal of Claims Against the CRST Defendants.

11. Plaintiffs and the CRST Defendants shall use their best efforts to effectuate this Agreement as quickly as practicable, including cooperating in seeking the Court’s approval for the establishment of procedures (including the giving of class notice under Rule 23(c) and (e) of the Federal Rules of Civil Procedure) to secure the complete and final dismissal with prejudice of the Action as to the Releasees only. The CRST Defendants agree to provide all data reasonably necessary for Plaintiffs to effectuate class notice, allocation, and payments to the Settlement Classes.

12. On or before September 22, 2022, Plaintiffs shall submit to the Court a motion seeking preliminary approval of this Agreement (the “Preliminary Approval Motion”). The Preliminary Approval Motion shall include (i) the proposed form of an order preliminarily approving this Agreement, and (ii) a proposed form of order and final judgment that shall include at least the terms set forth in Paragraph 15 below. Plaintiffs will share a draft of the Preliminary Approval Motion (and all other settlement related filings, excluding its attorney fees and expenses application) with the CRST Defendants no less than four business days before it is filed, and the CRST Defendants will have the right to comment upon and object to any language set forth in the Preliminary Approval Motion and any related materials. The text of the proposed order shall be agreed upon by Plaintiffs and the CRST Defendants before submission of the Preliminary Approval Motion. To the extent the Court finds that the Agreement does not meet the standard for preliminary approval, the Parties will negotiate in good faith to modify the Agreement directly or with the assistance of the Mediator and endeavor to resolve the issue(s) to the satisfaction of the Court.

13. As part of their Preliminary Approval Motion, Plaintiffs shall also submit to the Court a request for authorization to disseminate notice of the settlement and final judgment contemplated by this Agreement to all members of the Settlement Classes.

14. Neither Plaintiffs nor the CRST Defendants nor their respective counsel will solicit or otherwise encourage directly or indirectly any member of the Settlement Classes to object to this Agreement, request exclusion from the settlement contemplated by this Agreement, or appeal from the final order terminating the Action pursuant to the Agreement.

15. Plaintiffs shall seek, and the CRST Defendants will not object unreasonably to, the entry of an order and final judgment in the Action, the text of which Plaintiffs and the CRST Defendants shall agree upon before submission of the proposed order to the Court. The terms of that proposed order and final judgment will include, at a minimum, the substance of the following provisions:

a) certifying the Settlement Classes pursuant to Rule 23 of the Federal Rules of Civil Procedure, solely for the purposes of this settlement, as the Settlement Classes for the Action;

b) as to the Action, approving finally this settlement and its terms as being a fair, reasonable, and adequate settlement as to the Settlement Classes Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure and directing its consummation according to its terms;

c) as to the CRST Defendants, directing that the Action be dismissed with prejudice and without costs;

d) reserving exclusive jurisdiction over this settlement and this Agreement, including the interpretation, administration, and consummation of this settlement.

e) determining under Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay and directing that the judgment of dismissal in the Action as to the CRST Defendants shall be final; and

f) providing that (i) the Court's certification of the Settlement Classes is

without prejudice to, or waiver of, the rights of the CRST Defendants to contest certification of any other class proposed in the Action in the event the settlement is not given final approval; (ii) the Court's findings in the proposed order shall have no effect on the Court's ruling on any motion to certify any class in the Action or on the Court's previous rulings denying certification; and (iii) no party may cite or refer to the Court's approval of the Settlement Classes as persuasive or binding authority with respect to any motion to certify any class in the event the settlement is not given final approval.

16. This Agreement shall become final when (i) the Court has entered in the Action a final non-appealable order certifying the Settlement Classes and approving this Agreement under Rule 23(e) of the Federal Rules of Civil Procedure and has entered a final judgment in the Action dismissing the Action with prejudice as to the CRST Defendants without costs to the CRST Defendants; or (ii) if any objection has been filed, the time for appeal or to seek permission to appeal from the Court's approval of this Agreement and entry of a final judgment as to the CRST Defendants described in (i) hereof has expired in the Action or, if appealed, approval of this Agreement and the final judgment in the Action as to the CRST Defendants has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance has become no longer subject to further appeal or review. It is agreed that the provisions of Rule 60 of the Federal Rules of Civil Procedure shall not be taken into account in determining the above-stated times. On the date that Plaintiffs and the CRST Defendants have executed this Agreement, Plaintiffs and the CRST Defendants shall be bound by its terms, and this Agreement shall not be rescinded except in accordance with Paragraphs 25(h), 28, or 38-42 of this Agreement.

17. Neither this Agreement (whether or not it should become final) nor the final judgment, nor any and all negotiations, documents, and discussions associated with them, shall be deemed or construed to be an admission of liability by the CRST Defendants, or evidence of any violation of any statute or law or of any liability or wrongdoing whatsoever by the CRST Defendants, or an admission of the truth of any of the claims or allegations contained in any

complaint or any other pleading filed in the Action, and evidence thereof shall not be discoverable or used in any way, whether in the Action, or any other arbitration, action, or proceeding whatsoever, against the CRST Defendants. The CRST Defendants also deny that the Action is appropriate for class treatment for any purpose other than for settlement. The CRST Defendants have entered into this Agreement for the purpose of terminating litigation and specifically terminating the Action against themselves and do not admit any wrongdoing or liability to the Plaintiffs or the Settlement Classes, and specifically deny any wrongdoing, liability, and the allegations of the Fourth Amended Complaint filed in this Action. Neither this Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any other action taken to carry out this Agreement by the CRST Defendants, shall be referred to, offered as evidence, or received in evidence in any pending future civil, criminal, or administrative action, arbitration, or proceedings, except in a proceeding to enforce this Agreement, or to defend against the assertion of Released Claims (as defined in Paragraphs 19, 21, and 23), or as otherwise required by law.

18. Provided that the Court's final order certifying the Settlement Classes and approving this Agreement under Rule 23(c) of the Federal Rule of Civil Procedure ("Final Order") is consistent with the terms and conditions of this Agreement, if members of the Settlement Classes do not timely object to the settlement contemplated by this Agreement, then Plaintiffs, individually and as Plaintiff Class Representatives and the CRST Defendants and their respective counsel waive any and all rights to appeal from the Final Order, including, but not limited to, all rights to any post-judgment proceeding and appellate proceeding, such as a motion to vacate or set aside judgment, and any extraordinary writ, and the Final Order will become non-appealable 30 days after it is entered.

C. Release, Discharge, and Covenant Not to Sue.

19. **The Antitrust Subclass Release.** As to the **Antitrust Subclass** only, in addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final, and in consideration of payment of the Gross Settlement Fund, and for other

valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, and causes of action under any federal, state, or local law of any jurisdiction in the United States (whether based on statute, regulation, common law, or any other theory), that Releasors, or any of them, ever had, now has, or hereafter can, shall, or may ever have, that now exist or may exist in the future arising out of any conduct alleged in the Fourth Amended Complaint or prior Complaints in this Action, or any act or omission of the Releasees (or any of them), concerning the CRST Defendants' alleged participation, from May 15, 2013 through April 6, 2022, in a conspiracy not to hire truck drivers Under Contract with another named Defendant or with any motor carrier, including but not limited to any claims or allegations that, at any point in time, one or more of the Releasees in any way attempted to suppress or diminish wages of any kind or restrict other employment opportunities, information, or employment mobility for Under Contract truck drivers because of the Under Contract status (the "Antitrust Released Claims"). Notwithstanding the foregoing, this Agreement does not settle or compromise any claim by Plaintiffs or any Settlement Classes Member asserted in the Action against any Defendant or alleged co-conspirator other than the CRST Defendants.

20. In addition to the provisions of Paragraphs 21 and 23 of this Agreement and without limiting in any way the provisions of Paragraph 19, Releasors hereby expressly waive and release, upon this Agreement becoming final, any and all provisions, rights, and benefits, as to their claims concerning the CRST Defendants' alleged participation, from May 15, 2013 through April 6, 2022, in a conspiracy not to hire truck drivers Under Contract with another carrier or to suppress or diminish wages of any kind or to restrict employment opportunities, information, or employment mobility, conferred by (a) § 1542 of the California Civil Code, which states:

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

or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 19 of this Agreement, but each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the CRST Defendants and Plaintiffs have agreed to release pursuant to Paragraph 19, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts.

21. **The Labor Code Subclass Release.** As to the **Labor Code Subclass** only, in addition to the effect of any final judgment entered in accordance with this Agreement, upon this Agreement becoming final, and in consideration of payment of the Gross Settlement Fund, and for other valuable consideration, the Releasees shall be completely released, acquitted, and forever discharged from any and all claims, demands, actions, suits, and causes of action under any federal, state, or local law of any jurisdiction in the United States (whether based on statute, regulation, common law, or any other theory), that Releasors, or each of them, ever had, now has, or hereafter can, shall, or may ever have, that now exist or may exist in the future arising out of any conduct alleged in the Fourth Amended Complaint or prior Complaints, or any act or omission of the Releasees (or any of them), concerning the CRST Defendants' alleged violation of California Civil Code § 1671, California Code of Civil Procedures § 1060, California Business and Professions Code § 17200 *et seq.*, California Labor Code §§ 201, 202, 221, 222.5, 224, 231, and 2802, as well as claims for penalties pursuant to California Labor Code § 2699 based on their alleged violation of the foregoing provisions of California law (the "Labor Code Released Claims").

22. In addition to the provisions of Paragraphs 19 and 23 of this Agreement and without limiting in any way the provisions of Paragraph 21, Releasors hereby expressly waive and release, upon this Agreement becoming final, any and all provisions, rights, and benefits, as to their claims concerning the CRST Defendants' alleged violation of California Civil Code § 1671, California



Code of Civil Procedures § 1060, California Business and Professions Code § 17200 *et seq.*, California Labor Code §§ 201, 202, 221, 222.5, 224, 231, and 2802, as well as claims for penalties pursuant to California Labor Code § 2699 based on their alleged violation of the foregoing provisions of California Law, conferred by (a) § 1542 of the California Civil Code, which states:

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

or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code. Each Releasor may hereafter discover facts other than or different from those which he, she, or it knows or believes to be true with respect to the claims which are released pursuant to the provisions of Paragraph 21 of this Agreement, but each Releasor hereby expressly waives and fully, finally, and forever settles and releases, upon this Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or non-contingent claim that the CRST Defendants and Plaintiffs have agreed to release pursuant to Paragraph 21, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. In addition, the Parties agree that California Labor Code §§ 206.5 and 2804 (and any similar sections) do not invalidate any provision of this Agreement because, among other things, the claims in this Action are disputed and contested, and the Settlement was bargained for at arms' length, with the assistance of counsel and a mediator, and approved by the Court.

23. **Named Plaintiffs' Release.** Plaintiffs, on behalf of themselves and their heirs, executors, legal representatives, successors, and assigns, and in consideration of the payment of the Gross Settlement Fund, release and discharge the Releasees from all charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, penalties, actions, causes of action, suits, rights, demands, costs, losses, debts, expenses (including attorneys' fees

and costs actually incurred), of any nature, known or unknown, at law or in equity, which they may now have or may have after the signing of this Agreement, against the Releasees arising out of or in any way connected with their employment with the Releasees and any and all transactions, occurrences, or matters between the parties, individually or collectively, occurring prior to the date of this Agreement (the “Named Plaintiffs Released Claims”). Without limiting the foregoing general release, Plaintiffs understand that this general release applies to, but is not limited to, the following:

- a) All claims and causes of action asserted in any complaint filed in this Action, including the Fourth Amended Complaint, including claims for (i) violation of the Sherman Act, 15 U.S.C. § 1, (ii) violation of the Cartwright Act, California Business & Professional Code §§ 1670, *et seq.*, (iii) unreasonable charges for and penalties associated with training for Commercial Driver Licenses in violation of California Civil Code §§ 1670, *et seq.* and California Code of Civil Procedure § 1060, (iv) unlawful, unfair, and fraudulent business practices in violation of California Business & Professional Code § 17200 *et seq.*, (v) violation of California Labor Code § 2802, (v) violation of California Labor Code §§ 201, 202, and 203, (vi) penalties under the Private Attorney Generals Act, California Labor Code §§ 2698, *et seq.*, and (vii) violation of California Labor Code §§ 221, 222.5, 224, and 231;
- b) All claims arising from any alleged violation by the Releasees of any federal, state, or local statutes, or ordinances, including, but not limited to: (i) the Fair Labor Standards Act; (ii) Title VII of the Civil Rights Act of 1964, as amended; (iii) the Age Discrimination in Employment Act; (iv) the Older Workers Benefit Protection Act; (v) the Family and Medical Leave Act; (vi) the Equal Pay Act; (vii) the Americans with Disabilities Act; (viii) 42 U.S.C. § 1981, as amended; (ix) the Employee Retirement Income Security Act; (x) the Consolidated Omnibus Budget Reconciliation Act; (xi) the Rehabilitation Act of 1973; (xii) the Civil Rights Act

of 1991; (xiii) the Pregnancy Discrimination Act; (xiv) California Labor Code §§ 98.6, 201-204, 210, 221, 226(a), 226.7, 226.8, 512, 558(a), 1194, 1197, 1197.1, 1198, 2698, *et seq.*, 2802; (xv) the Fair Employment & Housing Act; (xvi) Wage Order No. 9-2001; and (xvii) any other wage and hour and employment discrimination laws;

- c) All claims based on constitutional, statutory, common law, or regulatory grounds, and all claims based on theories of workers' compensation retaliation, breach of contract or implied covenant, deprivation of equity interest, shareholder rights, conversion, defamation, retaliation, wrongful or constructive discharge, fraud, misrepresentation, promissory estoppel, or intentional or negligent infliction of emotional distress;
- d) All claims arising from alleged violations of California and other states' common law, including, but not limited to, claims for breach of duty of good faith and fair dealing; breach of contract; conversion; unjust enrichment; and detrimental reliance; and
- e) All claims for any relief, no matter how denominated, including, but not limited to, claims for penalties, back pay, front pay, vacation pay, holiday pay, personal time off, bonuses, compensatory damages, punitive damages, attorney fees, costs, and expenses.

The Antitrust Released Claims, the Labor Code Released Claims, and the Named Plaintiffs Released Claims are collectively referred to herein as the "Released Claims." Plaintiffs acknowledge and agree that they have had at least 21 days to consider this Agreement. Upon executing this Agreement, Plaintiffs shall have 7 days following their execution of this Agreement in which they may revoke this Agreement. This Agreement shall not be enforceable until this revocation period has expired without Plaintiffs exercising their right of revocation. Notice of the revocation of this Agreement must be in writing and delivered to James H. Hanson, Scopelitis, Garvin, Light, Hanson and Feary, P.C., 10 West Market Street, Suite 1400, Indianapolis, IN 46204,

no later than 10:00 a.m. Eastern Standard Time on the next business day following the expiration of the seven-day period. By executing this Agreement, Plaintiffs acknowledge and further agree not to file or re-file any of the claims asserted in the Fourth Amended Complaint in this Action or any other complaints or charges against the Releasees related to conduct occurring prior to the date of this Agreement.

Plaintiffs also acknowledge there is a risk that, after they sign and return this Agreement, Plaintiffs may incur or suffer losses, damages, or injuries that are unknown or unanticipated at this time. Plaintiffs, after conferring with their counsel, hereby assume that risk and agree that this Agreement and the general release of claims it contains shall apply to all unknown and unanticipated claims as well as those known and anticipated. Plaintiffs hereby relinquish and waive any and all claims against the Releasees, and they expressly warrant that they have been fully advised by their attorneys of the contents of California Civil Code § 1542. Further, it is Plaintiffs' desire to fully, finally and forever settle, compromise, and discharge disputes and claims asserted in the Action against the Releasees, whether known or unknown, liquidated or unliquidated. Plaintiffs waive, as to all claims identified in Paragraph 23 all rights and benefits afforded by California Civil Code § 1542 and do so understanding the significance of that waiver. California Civil Code § 1542 provides as follows:

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

Thus, notwithstanding the provisions of California Civil Code § 1542, Plaintiffs hereby expressly waive and relinquish all rights and benefits under California Civil Code § 1542 and any law or legal principle of similar effect in any jurisdiction with respect to the releases granted in this Agreement. Plaintiffs understand and agree that they are providing the Releasees with a full and complete release with respect to the claims identified in Paragraph 23, including any claims

for penalties, attorneys' fees, and costs. In addition, the parties agree that California Labor Code §§ 206.5 and 2804 (and any similar sections) do not invalidate any provision of this Agreement because, among other things, the claims in this Action are disputed and contested, and the Settlement was bargained for at arms' length, with the assistance of counsel and a mediator, and approved by the Court.

In exchange for the Named Plaintiffs' Release, the CRST Defendants will agree to forego collection of and release any amounts owed by Plaintiffs Curtis L. Markson, Mark McGeorge, and Clois McClendon.

D. Consideration to the Settlement Classes.

24. Subject to the provisions hereof, and in full, complete, and final settlement of the Action as provided herein, the CRST Defendants shall pay the Gross Settlement Fund amount of \$1,200,000 within thirty (30) days of the Final Order becoming a final, non-appealable order. The Gross Settlement Fund shall be used to pay (i) all notice and administrative fees incurred in administering the Settlement, including those fees incurred by the Settlement Administrator (as defined in Paragraph 29); (ii) any incentive awards to the Plaintiff Class Representatives awarded by the Court; (iii) any attorneys' fees and expenses awarded by the Court; (iv) all payments to the Settlement Classes; and (v) the \$50,000 PAGA Payment (\$37,500 to the LWDA and \$12,500 to the Labor Code Subclass as alleged aggrieved employees under PAGA). There will be no reversion of the Gross Settlement Fund to the CRST Defendants. The Gross Settlement Fund shall be paid into escrow accounts in United States Dollars to be administered in accordance with the provisions of Paragraph 25 of this Agreement (the "Escrow Accounts"). The CRST Defendants shall fund \$50,000 of the Gross Settlement Fund within seven (7) days following entry of any order preliminarily approving this Agreement with the Settlement Administrator, and the remaining balance of the Gross Settlement Fund within thirty (30) days after the final approval of this Agreement becomes a final, non-appealable order.

25. Escrow Accounts.

- a) The Escrow Accounts will be established at a financial institution selected

by Settlement Classes Counsel, with such financial institution serving as escrow agent (“Escrow Agent”) subject to escrow instructions mutually acceptable to Settlement Classes Counsel and the CRST Defendants, such escrow to be administered by the Escrow Agent under the Court’s continuing supervision and control.

b) The Escrow Agent shall cause the funds deposited in the Escrow Accounts to be invested in short-term instruments backed by the full faith and credit of the United States Government or fully insured in writing by the United States Government, or money market funds rated Aaa and AAA, respectively by Moody’s Investor Services and Standard and Poor’s, invested substantially in such instruments, and shall reinvest any income from these instruments and the proceeds of these instruments as they mature in similar instruments at their then current market rates.

c) All funds held in the Escrow Accounts shall be deemed and considered to be in *custodia legis* of the Court and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed pursuant to this Agreement and/or further order(s) of the Court.

d) Plaintiffs and the CRST Defendants agree to treat the Gross Settlement Fund as being at all times qualified settlement funds within the meaning of Treas. Reg. § 1.468B-1. It shall be the responsibility of the Escrow Agent to timely and properly prepare and deliver the necessary documentation for signature by all necessary parties and thereafter to cause the appropriate filings to occur to treat the Gross Settlement Amount as qualified settlement funds.

e) For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the administrator shall be Settlement Classes Counsel. Settlement Classes Counsel shall timely and properly file all information and other tax returns necessary or advisable with respect to the Gross Settlement Fund (including without limitation the returns described in Treas. Reg. § 1.468B-2(k)(1)). Such returns shall be consistent with Paragraph 25(d) and in all events

shall reflect that all Taxes, as defined below (including any estimated Taxes, interest, or penalties), on income earned by the Gross Settlement Fund shall be paid out of the Gross Settlement Fund as provided in Paragraph 25(f) hereof.

f) All (i) taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Gross Settlement Fund, including any taxes or tax detriments that may be imposed upon the CRST Defendants or any other Releasee with respect to any income earned by the Gross Settlement Fund for any period during which the Gross Settlement Fund does not qualify as qualified settlement funds for federal or state income tax purposes (“Taxes”); and (ii) expenses and costs incurred in connection with the operation and implementation of Paragraphs 25(d) through 25(f) (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in Paragraph 25(e) (“Tax Expenses”)), shall be paid out of the Gross Settlement Fund.

g) Neither the CRST Defendants nor any other Releasee nor their respective counsel shall have any liability or responsibility for the Taxes or the Tax Expenses. Further, the Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Gross Settlement Fund and shall be timely paid by the Escrow Agent out of the Gross Settlement Fund without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to any claimants authorized by the Court any funds necessary to pay such amounts including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2). The CRST Defendants shall not be responsible or have any liability therefor. Plaintiffs and the CRST Defendants agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of Paragraphs 25(d) through 25(f).

h) If this Agreement does not receive final Court approval, including final

approval of the Settlement Classes, or if the Action is not certified as a class action for settlement purposes, then all amounts advanced by the CRST Defendants into the Gross Settlement Fund shall be returned to the CRST Defendants from the Escrow Account by the Escrow Agent along with any interest accrued thereon within thirty (30) days of the Court's denial of final approval of the Agreement and/or Settlement Classes, and Plaintiffs and the CRST Defendants will equally share the costs expended or incurred in accordance with Paragraph 25 up to \$25,000. If this Agreement does not receive final Court approval, including final approval of the Settlement Classes, or if the Action is not certified as a class action for settlement purposes, then the status of the Action with respect to the CRST Defendants will be deemed to return to the status at the time immediately prior to the filing of the Notice of Settlement and as if the Parties had never executed this Settlement Agreement.

i) To the extent required by any court or otherwise necessary, Plaintiffs will take all necessary steps to give effect to subparagraph h above.

26. Each individual settlement amount to the **Antitrust Subclass** and the **Labor Code Subclass** shall constitute penalties, interest, and reimbursement (and each participating **Labor Code Subclass** member will be issued an IRS Form 1099 by the Settlement Administrator for such payment to him or her). With respect to the payment of the PAGA monies to the **Labor Code Subclass**, all such payments shall be treated as payments owing for penalties and interest thereon and shall not be considered wages. The Settlement Administrator shall issue to members of the **Antitrust Subclass** and **Labor Code Subclass** an IRS Form 1099 reflecting such payment. Members of the **Antitrust Subclass** and **Labor Code Subclass** shall be solely responsible for the payment of all taxes with respect to any payments made to them.

27. Non-Monetary Relief. Subject to the provisions hereof, and in full, complete, and final settlement of the Action as provided herein, the CRST Defendants agree to the following non-monetary relief:

a) the CRST Defendants ceased sending Under Contract letters in or about



August 2020 and agree not to send Under Contract letters to the other Named Defendants concerning any member of the Settlement Classes (i) who was involuntarily terminated by the CRST Defendants, or (ii) for whom a non-compete agreement is not legally enforceable under applicable state law (e.g., California, Idaho, North Dakota, Montana, Oklahoma, Oregon, and Washington).

b) the CRST Defendants will not sue any of the other Defendants (i.e., C.R. England, Inc., Stevens Transport, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transportation, Inc., or Paschall Truck Lines, Inc., including those entities' parent companies, subsidiaries, agents, heirs, or assigns, for hiring any member of the Settlement Class due to their Under Contract status with the CRST Defendants prior to the date of this Agreement; provided, however, that nothing herein prevents the CRST Defendants from asserting a cause of action against (a) any member of the Settlement Class for violating a valid and enforceable non-compete or other contractual obligation, or (b) any motor carrier for tortious interference of contract as defined by applicable law (not merely normal advertising or the mere hiring of the CRST Defendants' at-will members of the Settlement Class), and nothing herein shall be construed as limiting any defenses to such a claim by either a member of the Settlement Class or a carrier.

c) the CRST Defendants will not refuse to hire a driver involuntarily terminated by another motor carrier on the sole basis that the driver is Under Contract with another carrier, except in the case of a valid and enforceable non-compete obligation. Nothing in this Agreement shall preclude the CRST Defendants from applying their own hiring criteria or refusing to hire any driver who does not meet the CRST Defendants' hiring criteria on any grounds other than the driver's Under Contract status with another carrier and may refuse employment to any such driver if the driver does not meet all of the CRST Defendants' hiring criteria or the CRST Defendants determine the driver should not be hired on any basis unrelated to the driver's Under Contract status.

d) In or about August 2020, the CRST Defendants ceased to pursue collection efforts as to any member of the **Labor Code Subclass** for any and all unpaid costs for administrative fees, drug tests, physical exams, and the CRST Defendants' Driver Training Program above what the CRST Defendants paid to third-party truck driver training schools allegedly owed to it by any member of the **Labor Code Subclass**, and the CRST Defendants have instructed third-party collection agencies and any other entities that may be involved in collection efforts for the CRST Defendants to do the same.

e) The CRST Defendants agrees to release the members of the **Labor Code Subclass** from any and all unpaid costs for administrative fees, drug tests, physical exams, and the amounts paid for the CRST Defendants' Driver Training Program above what the CRST Defendants paid to third-party truck driver training schools allegedly owed to it. The CRST Defendants will consider those costs to be disputed amounts and will not issue IRS Form 1099s to any member of the **Labor Code Subclass** for the same. The members of the **Labor Code Subclass** will be responsible for any tax consequences if the IRS or a state revenue department later determines that those amounts should be considered taxable.

f) The CRST Defendants and any of its related entities shall give no new or additional negative references to any member of the Settlement Classes for having allegedly defaulted on any amounts released pursuant to Paragraph 27(e). The CRST Defendants will not affirmatively, or in response to inquiries from other companies, give negative references for any member of the Settlement Classes for having allegedly defaulted on any amounts released pursuant to Paragraph 27(e), or state that the member of the Settlement Classes owes monies to the CRST Defendants, except as identified above, without prejudice to the CRST Defendants' ability lawfully to do so under applicable law or within the terms of future agreements with any members of the Settlement Classes.

g) Nothing in this Agreement shall limit the CRST Defendants from providing an honest and accurate employment reference for any member of the Settlement Classes nor shall anything in this Agreement require the CRST Defendants to provide any

employment reference for any member of the Settlement Classes, except as required by law.

h) Any motion to require the CRST Defendants to comply with Paragraph 27 shall be filed within 12 months of the Final Order approving each portion of this Agreement.

28. Exclusions.

Within ten (10) business days after the Opt-Out Deadline, Settlement Administrator will cause copies of timely requests for exclusion from the Settlement Classes to be provided to counsel for the CRST Defendants. With respect to any potential Settlement Classes Member who requests exclusion from the Settlement Classes, the CRST Defendants reserve all of their legal rights and defenses, including, but not limited to, any defenses relating to whether the excluded Settlement Classes Member has standing to bring any claim. In the event that the percentage of Settlement Classes Members who opt out exceeds ten (10) percent of the Settlement Classes Members, the CRST Defendants will have the unilateral right to withdraw from this settlement and rescind this Agreement in its entirety, and may do so, in their sole discretion, by providing notice through the procedure set forth in paragraph 50 below. If the settlement is not given final approval, the CRST Defendants' responsibility for such costs shall be limited to no more than \$25,000, and any remaining amounts shall be returned to the CRST Defendants. If less than \$25,000 remains, Plaintiffs shall reimburse the CRST Defendants such that their total out of pocket costs do not exceed \$25,000.

29. Payment of Expenses.

As noted above, the CRST Defendants agree to permit a portion of the Gross Settlement Fund to be used for issuing notice to the Settlement Classes and for the costs of administration of the Gross Settlement Fund. Plaintiffs shall be responsible for selecting the third-party settlement administrator for administration of the settlement ("Settlement Administrator"). Other than as set forth in Paragraphs 25(h), 28, and 29, the CRST Defendants shall not be liable for any of the costs or expenses of the litigation of the Action, including attorneys' fees, costs, and expenses of expert

witnesses and consultants, and costs and expenses associated with discovery, motion practice, hearings before the Court or Special Master, appeals, trials or the negotiation of other settlements, or for settlement class administration and costs.

E. The Gross Settlement Fund.

30. Releasors' sole recourse for settlement and satisfaction against the Releasees of all Released Claims is against the Gross Settlement Fund, and Releasors shall have no other recovery against the CRST Defendants or any other Releasee.

31. The "Net Settlement Fund" shall consist of the Gross Settlement Fund less: (i) all administrative fees incurred in administering all class notices and the settlement, including Taxes, Tax Expenses, and those fees incurred by the Settlement Administrator; (ii) any incentive awards to the Plaintiff Class Representatives ("Incentive Awards"); (iii) any attorneys' fees and expenses, and (iv) the PAGA Payment to the LWDA. The Net Settlement Fund shall be distributed to the Settlement Classes pursuant to a distribution formula to be developed by Settlement Classes Counsel and approved by the Court. The CRST Defendants shall not oppose any such proposed plan of allocation or such plan as may be approved by the Court.

32. The Net Settlement Fund shall be allocated between the **Antitrust Subclass** and the **Labor Code Subclass** as follows: 75% of the Net Settlement Amount to the **Antitrust Subclass** and 25% of the Net Settlement Amount to the **Labor Code Subclass**. The following chart summarizes the allocation of the Gross Settlement Amount.

<b>Gross Settlement Fund</b>	<b>\$1,200,000.00</b>
Attorneys' Fees (25% of GSF)	(up to \$300,000)
Litigation Costs	(up to \$250,000)
Settlement Administration Costs	(up to \$200,000)
Incentive Awards (\$5,000 to each Plaintiff)	(up to \$20,000)
PAGA Payment to LWDA	(\$37,500)

<b>Net Settlement Fund</b>	<b>(approximately) \$392,500</b>
<b>The Net Settlement Fund of \$392,500 shall be divided between the Antitrust Subclass and the Labor Code Subclass as follows:</b> <ul style="list-style-type: none"> <li>• <b>75% to the Antitrust Subclass and 25% to the Labor Code Subclass</b></li> </ul>	

33. After this Agreement becomes final within the meaning of Paragraph 16, the Gross Settlement Fund shall be distributed in accordance with the plan to be submitted to the Court at the appropriate time by Settlement Classes Counsel, subject to approval by the Court. In no event shall any Releasee have any responsibility, financial obligation, or liability whatsoever with respect to the investment, distribution, or administration of the Gross Settlement Fund, including, but not limited to, the costs and expenses of such distribution and administration.

34. Plaintiffs and Settlement Classes Counsel shall be reimbursed and indemnified solely out of the Gross Settlement Fund for all fees, expenses, and costs, as provided by Court order. The CRST Defendants and the other Releasees shall not be liable for any costs, fees, or expenses of any of Plaintiffs' or the Settlement Classes's respective attorneys, experts, advisors, agents, or representatives, but all such costs, fees, and expenses as approved by the Court shall be paid out of the Gross Settlement Fund.

35. Settlement Classes Counsel's Attorneys' Fees, Reimbursement of Expenses, and Incentive Awards for Plaintiff Class Representatives.

a) Settlement Classes Counsel may submit an application or applications to the Court (the "Fee and Expense Application") for: (i) an award of attorneys' fees not in excess of one-third of the benefits created for the Settlement Classes (that is, the value of the Gross Settlement Fund plus the value of non-monetary relief secured); plus (ii) reimbursement of expenses and costs incurred in connection with prosecuting the Action, Plaintiff Class Representative Incentive Awards, plus interest on such attorneys' fees, costs, and expenses at the same rate and for the same period as earned by the Gross Settlement Fund (until paid) as may be awarded by the Court (the "Fee and Expense Award"). Plaintiffs will move for an Incentive Award to be paid from the Gross Settlement Fund not to exceed \$5,000 per Plaintiff Class Representative. Settlement Classes Counsel

reserve the right to make additional applications for Court approval of fees and expenses incurred and reasonable Incentive Awards, but in no event shall the CRST Defendants or any other Releasees be responsible to pay any such additional fees and expenses, which shall be paid out of the Gross Settlement Fund as allowed by the Court.

b) Subject to Court approval, Plaintiffs and Settlement Classes Counsel shall be reimbursed and paid solely out of the Gross Settlement Fund for all expenses including, but not limited to, attorneys' fees and past, current, or future litigation expenses and Incentive Awards, Settlement Classes Counsel's Fee and Expense Award(s), as awarded by the Court, upon the entry of a final, non-appealable order approving such the settlement in this Action.

c) The procedure for and the allowance or disallowance by the Court of the application by Settlement Classes Counsel for attorneys' fees, costs and expenses, and Incentive Awards for Plaintiff Class Representatives to be paid out of the Gross Settlement Fund are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness, and adequacy of this Agreement, and any order or proceeding related to the Fee and Expense Application(s), or any appeal from any such order shall not operate to terminate or cancel this Agreement, or affect or delay the finality of the judgment approving this Agreement.

d) Neither the CRST Defendants nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to any payment to Settlement Classes Counsel and/or Plaintiffs of any Fee and Expense Award(s) in the Action.

e) Neither the CRST Defendants nor any other Releasee under this Agreement shall have any responsibility for, or interest in, or liability whatsoever with respect to the allocation among Settlement Classes Counsel, Plaintiffs, and/or any other person who may assert some claim thereto, of any Fee and Expense Award(s) that the Court may make in the Action.

F. Cooperation.

36. In return for the release and discharge provided herein, the CRST Defendants agree to pay the Gross Settlement Fund and to the non-monetary relief described in Paragraph 27.

37. In the event that this Agreement fails to receive final approval by the Court as contemplated in Paragraphs 11-18 hereof, including final approval of the Settlement Classes, or in the event that it is terminated by either party under any provision herein, the parties agree that neither Plaintiffs nor Settlement Classes Counsel shall be permitted to introduce this Agreement into evidence against the CRST Defendants, at any hearing or trial, or in support of any motion, opposition, or other pleading in the Action or in any other federal or state or foreign action alleging a violation of any law relating to the subject matter of the Action.

G. Rescission if this Agreement is Not Approved or Final Judgment is Not Entered.

38. If the Court refuses to approve this Agreement or any part hereof, including if the Court does not certify the Settlement Classes in accordance with the specific Settlement Classes definition set forth in this Agreement, or if such approval is modified or set aside on appeal, or if the Court does not enter the final judgment provided for in Paragraph 16 of this Agreement, or if the Court enters the final judgment and appellate review is sought, and on such review, such final judgment is not affirmed in its entirety, then the CRST Defendants and Plaintiffs shall each, in their sole discretion, have the option to rescind this Agreement in its entirety. Written notice of the exercise of any such right to rescind shall be made according to the terms of Paragraph 50. A modification or reversal on appeal of any amount of Settlement Classes Counsel's fees and expenses or Incentive Awards to Plaintiffs awarded by the Court from the Gross Settlement Fund shall not be deemed a modification of all or a part of the terms of this Agreement or such final judgment.

39. In the event that this Agreement does not become final as set forth in Paragraph 16, or this Agreement otherwise is terminated pursuant to Paragraphs 25(h), 28, or 29, then this Agreement shall be of no force or effect, and any and all parts of the Gross Settlement Fund caused to be deposited in the Escrow Accounts (including interest earned thereon) shall be

returned forthwith to the CRST Defendants less its one-half share of the administration costs made in accordance with Paragraphs 25(h), 28, and 29 of this Agreement.

40. Further, and in any event, Plaintiffs and the CRST Defendants agree that this Agreement, whether or not it shall become final, and any and all negotiations, documents, and discussions associated with it, shall not be deemed or construed to be an admission of liability or evidence of (i) any violation of any statute or law or of any liability or wrongdoing whatsoever by the CRST Defendants or the other Releasees or (ii) the truth of any of the claims or allegations contained in the Fourth Amended Complaint or any other pleading filed in the Action, and shall not be used against the CRST Defendants, and evidence thereof shall not be discoverable or used in any way, in the Action, or otherwise against the CRST Defendants in this Action or any other proceeding or action.

41. This Agreement shall be construed and interpreted to effectuate the intent of the parties, which is to provide, through this Agreement, for a complete resolution of all claims with respect to the CRST Defendants and each Releasee as provided in this Agreement.

42. The parties to this Agreement contemplate and agree that, prior to final approval of this Agreement as provided for in Paragraphs 11-18 hereof, appropriate notice (i) of the settlement; and (ii) of a hearing at which the Court will consider the approval of this Agreement, will be given to the Settlement Classes.

#### H. Miscellaneous

43. The CRST Defendants shall submit all materials required to be sent to appropriate federal and state officials pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715, and Plaintiffs shall cooperate to provide the CRST Defendants with necessary information regarding the Settlement Classes and Plaintiffs' claims.

44. The United States District Court for the Central District of California shall retain jurisdiction over the implementation, enforcement, and performance of this Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Agreement or the applicability of this Agreement that cannot be resolved by negotiation



and agreement by Plaintiffs and the CRST Defendants, including challenges to the reasonableness of any party's actions. This Agreement shall be governed by and interpreted according to the substantive laws of the State of California without regard to its choice of law or conflict of laws principles. The CRST Defendants shall not object to complying with any of the provisions outlined in this Agreement on the basis of jurisdiction. In the event this Agreement does not receive final, non-appealable Court approval, the CRST Defendants reserve all claims and defenses, including, but not limited to, those as to the lack of jurisdiction and venue over them in this Action.

45. This Agreement constitutes the entire, complete, and integrated agreement among Plaintiffs and the CRST Defendants pertaining to the settlement of the Action against the CRST Defendants, and supersedes all prior and contemporaneous undertakings, communications, representations, understandings, negotiations, and discussions, either oral or written, between Plaintiffs and the CRST Defendants in connection herewith. This Agreement may not be modified or amended except in writing executed by Plaintiffs and the CRST Defendants and approved by the Court.

46. This Agreement shall be binding upon, and inure to the benefit of, the respective present and former heirs, trustees, executors, administrators, representatives, officers, directors, shareholders, agents, employees, insurers, attorneys, accountants, auditors, advisors, consultants, pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries, affiliates, related companies, joint ventures, predecessors, successors, and assigns of Plaintiffs and the CRST Defendants, although not specifically named herein. Without limiting the generality of the foregoing, each and every covenant and agreement made herein by Plaintiffs or Settlement Classes Counsel shall be binding upon all Settlement Classes Members and Releasors. The Releasees (other than the CRST Defendants entities which are Parties hereto) are third-party beneficiaries of this Agreement and are authorized to enforce its terms applicable to them.

47. This Agreement may be executed in counterparts by Plaintiffs and the CRST Defendants, and a facsimile or electronic signature shall be deemed an original signature for purposes of executing this Agreement.

48. Neither Plaintiffs nor the CRST Defendants shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

49. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

50. Where this Agreement requires any party to provide notice or any other communication or document to any other party, such notice shall be in writing, and such notice, communication, or document shall be provided by facsimile or electronic mail (provided that the recipient acknowledges having received that electronic mail, with an automatic "read receipt" or similar notice constituting an acknowledgement of an electronic mail receipt for purposes of this Paragraph), or letter by overnight next day delivery using a commercial delivery service, such as FedEx or UPS, to the undersigned counsel of record for the party to whom notice is being provided.

51. Each of the undersigned attorneys represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Agreement subject to Court approval.

52. Plaintiffs and the CRST Defendants have been represented by counsel in the negotiation of this Agreement, and they and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.

**FOR PLAINTIFFS:**

DocuSigned by:



A4FC82BFF442419...  
Curtis Markson

DocuSigned by:



21FCD60E35494BB...  
Mark McGeorge

DocuSigned by:



14F6D8014B704DE...  
Clois McClendon

**FOR THE CRST DEFENDANTS:**

\_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

48. Neither Plaintiffs nor the CRST Defendants shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

49. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

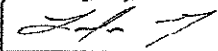
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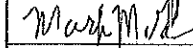
**FOR PLAINTIFFS:**

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Curtis Markson

DocuSigned by:



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Mark McGeorge

DocuSigned by:



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Crois McCendon

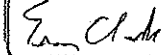
**FOR THE CRST DEFENDANTS:**



Printed Name: Lisa A. Stephenson

Title: VP-General Counsel

DocuSigned by:

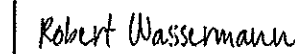


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Eric Clark

**COUNSEL FOR PLAINTIFFS:**

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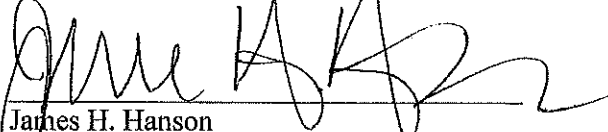
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4867-3929-2464, v. 11

# **Exhibit 3**

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA  
CASE NO. 5:17-cv-01261-SB (SPX)

**You may qualify to participate in a class action settlement. Read this notice carefully.**

**A federal court authorized this notice. This is not a solicitation from a lawyer.**

**Para una notificación en español, visite [www.xxxx.com](http://www.xxxx.com) o llame 1-xxx-xxx-xxxx.**

- A class action lawsuit called *Curtis Markson, Mark McGeorge, Clois McLendon, and Eric Clark* (“Plaintiffs”) vs. *CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., Stevens Transport, Inc. and DOES 1-10* (“Defendants”), Case No. 5:17-cv-01261-SB (SPx), is pending in the United States District Court for the Central District of California (the “Court”).
- The Court provisionally certified a settlement class of the following three groups of individuals:
  1. **The CRST Antitrust Subclass:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 6, 2022.
  2. **The CRST Labor Code Subclass:** all persons who (1) signed a Pre-Employment Driver Training Agreement and/or Driver Employment Contract with CRST International, Inc. and/or CRST Expedited, Inc. (the “CRST Defendants”), (2) participated in the CRST Defendants’s Driver Training Program in California, and (3) were charged for their U.S. Department of Transportation (“DOT”) physical, DOT drug test, administrative fees, and/or the \$3,950 or \$6,500 Contract Fee after failing to complete their contractually-required 8- to 10-month Employment Term, at any time between May 15, 2013 through April 6, 2022.
  3. **The C.R. England Settlement Class:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 6, 2022.
- The CRST Antitrust Subclass, the CRST Labor Code Subclass, and the C.R. England Settlement Class are all collectively referred to in this document as the “Settlement Class.” The individuals in the Settlement Class are referred to in this document as Settlement Class Members.
- Plaintiffs have previously reached settlements with Defendants other than the CRST Defendants and C.R. England, Inc. and have now reached proposed settlements with the CRST Defendants and C.R. England, Inc. (the “Settling Defendants”).
- If approved by the Court, the settlements will resolve Plaintiffs’ claims that they were allegedly injured as a result of the Settling Defendants’ participation in an alleged conspiracy to restrain competition through an alleged “no-poach” agreement with other trucking companies, resulting in allegedly suppressed compensation of their drivers.
- The Settling Defendants deny all of the claims and allegations asserted against them, deny that compensation was suppressed, have asserted defenses to Plaintiffs’ claims, and maintain that they did

**Questions? Visit [www.xxxx.com](http://www.xxxx.com) or call toll-free at 1-xxx-xxx-xxxx**

nothing wrong. However, the Settling Defendants have agreed to the proposed settlements to avoid the cost, inconvenience, and distraction of litigation.

- Through the settlements, the Settling Defendants have agreed to pay a combined \$2,125,000 (“the Settlement Fund”). The Settlement Fund includes the cost of notice and administration of the settlements, any incentive payments to the Plaintiff Class Representatives awarded by the Court, and any attorneys’ fees and expenses awarded by the Court. The remaining funds, referred to as the Net Settlement Fund, will be distributed as payments to qualifying Settlement Class Members (i.e., those who do not opt out) pro rata based on the number of weeks he or she worked for the Defendants. The portion of the Net Settlement Amount allocated to the CRST Labor Code Subclass will be similarly allocated.
- Your legal rights are affected whether you act or don’t act. Please read this notice carefully. You may do nothing or any of the following by sending your written request to the Settlement Administrator:

YOUR LEGAL RIGHTS AND OPTIONS		
<b>ASK TO BE EXCLUDED (“OPT OUT”)</b>	<ul style="list-style-type: none"> <li>• Remove yourself from the settlements and receive no payments or benefits from the settlements,</li> <li>• Keep your right to sue or continue to sue Settling Defendants for the claims resolved in this case,</li> </ul>	Postmarked by [REDACTED]
<b>OBJECT</b>	<ul style="list-style-type: none"> <li>• Tell the Court what you do not like about the settlements—unless you exclude yourself, you will still be bound by the settlements,</li> </ul>	Postmarked by [REDACTED]
<b>ATTEND THE HEARING</b>	<ul style="list-style-type: none"> <li>• Ask to speak in Court about the settlements—if you want your attorney to represent you, you must pay for that attorney.</li> <li>• File your Notice of Intent to Appear by [REDACTED].</li> </ul>	[REDACTED]
<b>DO NOTHING</b>	<ul style="list-style-type: none"> <li>• Remain part of the Settlement Class and receive payments and benefits to qualifying Settlement Class Members.</li> <li>• Give up your right to sue or continue to sue Settling Defendants for the claims resolved in this case.</li> </ul>	

- Your rights and options—and the deadlines to exercise them—are explained in this notice. The deadlines may be moved, canceled, or otherwise modified, so please check the case website, [www.marksondriversettlement.com](http://www.marksondriversettlement.com), regularly for updates and further details.
- The Court in charge of this case still has to decide whether to approve the proposed settlements. **Payments will be made if the Court approves the settlements and the Court’s approval becomes a final, non-appealable order.** Please be patient.



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## **Basic Information**

### **1. Why is there a notice?**

You have the right to know about the proposed settlements and your rights and options before the Court decides whether to approve the settlements. The Court in charge of this case is the United States District Court for the Central District of California. The case is called *Curtis Markson, Mark McGeorge, Clois McLendon, and Eric Clark vs. CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., Stevens Transport, Inc. and DOES 1-10*, Case No. 5:17-cv-01261-SB (SPx). Those who sued are called the Plaintiffs. The companies they sued are called the Defendants.

As a Settlement Class Member, unless you choose to opt out, you will be bound by the judgment of the Court as to the proposed settlements. The Court will resolve issues for everyone in the Settlement Class, except for those who exclude themselves.

***The proposed settlements are with CRST Expedited, Inc., CRST International, Inc., and C.R. England.*** These are the “Settling Defendants.” All of the other defendants in this case have already settled their claims.

If the Court approves the proposed settlements, and after objections and appeals are resolved, you will be bound by the judgment and terms of the settlements. This notice explains the lawsuit, the settlements, and your legal rights.

### **2. What is this lawsuit about?**

Plaintiffs allege they were injured as a result of the Settling Defendants’ alleged participation in a conspiracy to restrain competition through an alleged “no-poach” agreement with other trucking company Defendants resulting in alleged suppressed compensation of their drivers. Plaintiffs also allege that, as to CRST Labor Code Subclass, CRST’s Pre-Employment Driver Training Agreement and Driver Employment Contract were unlawful and that CRST unlawfully sought reimbursement of various expenses, namely DOT physical and drug screening tests, administrative fees, and training.

The Court preliminarily certified the Settlement Class and selected Susman Godfrey, L.L.P., Mayall Hurley P.C., Ackermann & Tilajef, P.C., and Melmed Law Group, P.C. to act as Settlement Class Counsel.

***Plaintiffs have previously reached settlements with Defendants other than the CRST Defendants and C.R. England and have now reached proposed settlements with the Settling Defendants.*** The Settling Defendants deny all of the claims and allegations asserted against them, deny that compensation was suppressed, deny that they unlawfully sought any reimbursements, have asserted a number of defenses to Plaintiffs’ claims, and maintain that they did nothing wrong. However, they have agreed to settle this action to avoid the costs, inconvenience, distractions, and risks of further litigation.

### **3. What is a class action and who is involved?**

In a class action lawsuit, one or more people called class representatives sue on behalf of others who have similar claims, all of whom together are a “class.” Individual class members do not have to file a lawsuit to participate in the class action settlement or be bound by the judgment in the class action. One court resolves the issues for everyone in the class, except for those who exclude themselves from the class.

### **4. Why are there settlements in this case?**

The Court did not decide in favor of either the Plaintiffs or Settling Defendants. Trials involve risks and expenses to both sides; therefore, the Plaintiffs and Settling Defendants have agreed to settle the case. The Plaintiffs and Settlement Class Counsel think the proposed settlements are in the best interests of the Settlement Class and are fair, reasonable, and adequate.

## **Who is Affected?**

### **5. Am I part of the Settlement Class?**

The Settlement Class contains three groups of individuals:

1. **The CRST Antitrust Subclass:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., Stevens Transport, Inc., at any time from May 15, 2013 through April 6, 2022. “Under Contract” means those individuals who executed an agreement with any Defendant in which the person agreed to work for any of the Defendants for a specified period of time in return for training provided by, funded by, or reimbursed by that Defendant and who was employed by that Defendant between May 15, 2013 through April 6, 2022.
2. **The CRST Labor Code Subclass:** all persons who (1) signed a Pre-Employment Driver Training Agreement or Driver Employment Contract with the CRST Defendants, (2) participated in the CRST Defendants’ Driver Training Program in California, and (3) were charged for their DOT physical, DOT drug test, administrative fees, and/or the \$3,950 or \$6,500 Contract Fee after failing to complete their contractually-required 8- to 10-month Employment Term, at any time between May 15, 2013 through April 6, 2022.
3. **The C.R. England Settlement Class:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 1, 2022. “Under Contract” means those individuals who executed an agreement with a Defendant in which the person agreed, and became obligated to work, for that Defendant for a specified period of time in return for a commercial driver’s license education or other training provided by, funded by, or reimbursed by that Defendant and who was employed by that Defendant pursuant to that agreement at any time between May 15, 2013 and April 6, 2022.

### **6. I’m still not sure if I’m included.**

If you are still not sure if you are included in the Settlement Class, please review the detailed information contained in the Settlement Agreements, available at [www.marksondriverantitrustsettlement.com](http://www.marksondriverantitrustsettlement.com). You may also call the Settlement Administrator at 1-xxx-xxx-xxxx.

## **The Settlement Benefits**

### **7. What do the settlements provide?**

If the settlements are approved, the Settling Defendants will pay \$2,125,000 to the Settlement Fund. The Settlement Fund will be used to pay: (1) the Settlement Administrator for administering the settlement and notice, (2) Plaintiff Class Representative awards (not to exceed \$5,000 per Plaintiff Class Representative per each Settling Defendant), and (3) any attorneys' fees (not to exceed one-fourth of the benefits created for the Settlement Class) and any expenses awarded by the Court (up to \$400,000). The remainder of the Settlement Fund ("Net Settlement Fund") will be available for distribution to qualifying Settlement Class Members. The Net Settlement Fund will be distributed on a pro rata basis based on the number of weeks class members worked for one of Defendants.

The Settling Defendants also agree to the following:

- The CRST Defendants will not send "Under Contract" letters to other Defendants concerning any member of the Settlement Classes who (i) were involuntarily terminated by the CRST Defendants, or (ii) for whom a non-compete agreement is not legally enforceable under applicable state law (e.g., California, Idaho, North Dakota, Montana, Oklahoma, Oregon, and Washington).
- The CRST Defendants will not sue any C.R. England, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transportation, Inc., Stevens Transport, Inc., or Paschall Truck Lines, Inc., for hiring any member of the Settlement Class due to their Under Contract status with the CRST Defendants.
- The CRST Defendants will not refuse to hire a driver involuntarily terminated by another carrier on the sole basis that the driver is Under Contract with another carrier, except in the case of a valid and enforceable non-compete obligation.
- The CRST Defendants have already ceased sending "Under Contract" letters to potential employers and will stop pursuing and release entitlement to collection efforts as to any member of the Labor Code Subclass for all unpaid costs for administrative fees, drug tests, and physical exams, respectively, allegedly owed to it by any member of the Labor Code Subclass, and the CRST Defendants will instruct third-party collection agencies and any other entities that may be involved in collection efforts for the CRST Defendants to do the same. This includes the CRST Defendants taking all action to cease any collection of these monies by third-party collection agencies and/or any collection of these monies through deductions from drivers' pay (for work for the CRST Defendants or for any other entities) for members of the Labor Code Subclass. The CRST Defendants have reserved the right to seek collection of amounts they paid to third-party truck driver training schools for the training of drivers.
- C.R. England will not send "Under Contract" letters to the other Defendants concerning any member of the Settlement Class who was involuntarily terminated by C.R. England or whom C.R. England considers ineligible for rehire.
- C.R. England will not sue CRST International, Inc., CRST Expedited, Inc., Stevens Transport, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transportation, Inc., or Paschall Truck Lines, Inc., for hiring any member of the Settlement Class due to their Under Contract status with C.R. England.
- C.R. England will not refuse to hire a driver involuntarily terminated by another carrier on the sole basis that the driver is Under Contract with another carrier, except in the case of a valid and enforceable non-compete obligation.

For further information regarding this non-monetary relief, please review the detailed information contained in the Settlement Agreements, available on the case website at [www.marksondriversettlement.com](http://www.marksondriversettlement.com). You may also call the Settlement Administrator at 1-xxx-xxx-xxxx.

#### **8. What can I get from the settlements?**

The Net Settlement Fund will be distributed to the Settlement Class on a pro rata basis based on the number of weeks class members worked for one of the Defendants as approved by the Court. Please be patient. In addition, please consult the case website, [www.marksondriversettlement.com](http://www.marksondriversettlement.com), regularly for updates on the case.

### **Excluding Yourself from the Settlements**

You can exclude yourself or “opt out” from the settlements.

#### **9. What does it mean if I exclude myself from the settlements?**

If you exclude yourself from the settlements, you will no longer be legally bound by the settlements and you will not be able to receive a payment and/or debt forgiveness (if applicable) from the settlements. You will keep the right to sue or continue to sue the Settling Defendants on your own for the legal claims that the settlements resolve.

#### **10. If I don’t exclude myself from the settlements, can I sue the Settling Defendants for the same thing later?**

No. Unless you exclude yourself from the settlements, you give up your right to sue the Settling Defendants for the claims that the settlements resolve. If you have your own pending lawsuit against any of the Settling Defendants, speak to your lawyer in that lawsuit immediately to determine whether you must exclude yourself from the settlements in order to continue your own lawsuit against the Settling Defendants.

#### **11. What am I giving up by staying in the settlements?**

Unless you exclude yourself from the settlements, you remain a Settlement Class Member. By staying in the Settlement Class, all Court orders relating to any legal claims against Settling Defendants will apply to you and legally bind you.

#### **12. How do I exclude myself from the settlements?**

If you do not want the benefits offered by the settlements and you do not want to be legally bound by the settlements, or if you wish to pursue your own separate lawsuit against the Settling Defendants, you must exclude yourself by submitting a written request to the Settlement Administrator stating your intent to exclude yourself from the settlements by [REDACTED].

Your exclusion request must include:

- Your full name, date of birth, last four digits of your Social Security number, current address, telephone number, and email address (if available);
- Which Defendant you were “Under Contract” with;
- A statement saying that you want to be excluded from the settlements in *Markson, et al. vs. CRST International, Inc., et al.*, Case No. 5:17-cv-01261-SB (SPx); and

- Your signature.

You must mail your exclusion request, postmarked by [REDACTED] to:

[REDACTED] – EXCLUSIONS  
c/o JND Legal Administration  
PO Box [REDACTED]  
Seattle, WA [REDACTED]

If you don't include the required information or timely submit your request for exclusion, you will remain a Settlement Class Member and you will be bound by the orders of the Court.

## **Objecting to the Settlements**

### **13. How do I tell the Court that I don't like the settlements?**

If you are a Settlement Class Member and you have not excluded yourself from the settlements, you can object to the settlements if you don't like part, or all of them. The Court will consider your views.

To object to the settlements, you must file a written objection with the Court that includes:

- Your full name, date of birth, last four digits of your Social Security number, current address, email address (if available), and telephone number;
- If represented by an attorney with respect to your objection, the name, address, email address, bar number, telephone number, and signature of your attorney;
- Which Defendant you were "Under Contract" with;
- A written statement containing the factual and legal grounds for the objection(s);
- A statement, under penalty of perjury, indicating your membership in the Settlement Class;
- A statement indicating whether or not you or your attorney intend to speak at the Final Approval Hearing;
- Your signature or the signature of your legally-authorized representative;
- The case name and case number (*Markson, et al. vs. CRST International, Inc., et al.*, Case No. 5:17-cv-01261-SB (SPx)).

If you or your attorney want to appear and speak at the Final Approval Hearing, your Objection must also contain: (1) a detailed description of any and all evidence you may offer at the Final Approval Hearing, including photocopies of any and all exhibits which you or your attorney may introduce; and (2) the names and addresses of any witnesses you expect to call to testify at the Final Approval Hearing.

Your objection, along with any supporting material you wish to submit, must be filed with the Court, with a copy mailed to the Settlement Administrator, Settlement Class Counsel, and Counsel for Settling Defendants postmarked by \_\_\_\_\_, 2022 at the following addresses:

Clerk of the Court	Settlement Class Counsel
<p>Office of the Clerk United States District Court for the Central District of California U.S. Courthouse 350 West 1st Street Los Angeles, California 90012 Courtroom 6C</p>	<p>Susman Godfrey L.L.P. 1201 Third Avenue, Suite 3800 Seattle, WA 98101 Telephone: (206) 516-3880 Email: <a href="mailto:igore@susmangodfrey.com">igore@susmangodfrey.com</a> Attn: Ian M. Gore</p> <p>Mayall Hurley, P.C. 2453 Grand Canal Blvd. Stockton, CA 95207 Telephone: (209) 477-3833 Email: <a href="mailto:rwasserman@mayallaw.com">rwasserman@mayallaw.com</a> Attn: Robert J. Wasserman</p> <p>Ackermann &amp; Tilajef, P.C. 1180 South Beverly Drive, Suite 610 Los Angeles, CA 90035 Telephone: (310) 277-0614 Email: <a href="mailto:cja@ackermanntilajef.com">cja@ackermanntilajef.com</a> Attn: Craig J. Ackermann</p> <p>Melmed Law Group, P.C. 1801 Century Park East #850 Los Angeles, CA 90067 Telephone: (310) 824-3828 Email: <a href="mailto:jm@melmedlaw.com">jm@melmedlaw.com</a> Attn: Jonathan Melmed</p>
Settlement Administrator	Counsel for Settling Defendants



XXXX c/o JND Legal Administration P.O. Box xxxx Seattle, WA 98111-xxxx	<b>James H. Hanson</b> Scopelitis Garvin Light Hanson and Feary PC 10 West Market Street, Suite 1400 Indianapolis, IN 46204 317-637-1777 Fax: 317-687-2414 Email: jhanson@scopelitis.com  <b>Seth M Goldstein</b> Nossaman LLP 18101 Von Karman Avenue, Suite 1800 Irvine, CA 92612 949.833.7800 Fax: 9849.833.7878 Email: sgoldstein@nossaman.com
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**14. What is the difference between excluding myself and objecting?**

Objecting is telling the Court that you do not like something about the settlements. You can object only if you do not exclude yourself from the settlements. If you object and the Court overrules your objection, you will still be a part of the Settlement Class and be bound by the settlements. Excluding yourself is telling the Court that you do not want to be part of the settlements. If you exclude yourself, you have no standing to object because the settlements no longer affect you.



## **The Lawyers Representing You**

### **15. Do I have a lawyer in this case?**

The Court has appointed the law firms of Susman Godfrey, L.L.P., Mayall Hurley P.C., Ackermann & Tilajef, P.C., and Melmed Law Group, P.C. as Settlement Class Counsel on behalf of the Plaintiffs and Settlement Class Members. Their contact information is provided above in Question 13. If you wish to remain a Settlement Class Member, you do not need to hire your own lawyer because Settlement Class Counsel is working on your behalf.

If you wish to pursue your own case separately, or if you exclude yourself from the settlements, these lawyers will no longer represent you. You may need to hire your own lawyer if you wish to pursue your own lawsuit against any of the Settling Defendants.

### **16. How will the lawyers be paid?**

You will not have to pay any fees or out-of-pocket costs for the Settlement Class Counsel. Any attorneys' fees awarded by the Court will be paid from the Settlement Fund and will not exceed one-quarter of the benefits created for the Settlement Class. In addition, the litigation expenses awarded by the Court will not exceed \$400,000.00.

## **The Court's Fairness Hearing**

### **17. When and where will the Court decide whether to approve the settlements?**

The Court will hold a Fairness Hearing at [REDACTED] at the United States District Court for the Central District of California, U.S. Courthouse, 350 West 1st Street, Los Angeles, California 90012, Courtroom 6C. At the Fairness Hearing, the Court will consider whether the proposed settlements should be approved as fair, reasonable, and adequate. The Court will consider how much to pay Settlement Class Counsel for their litigation costs. If there are objections, the Court will consider them. After the hearing, the Court will decide whether to approve the settlements. We do not know how long these decisions will take, so please be patient.

### **18. Do I have to come to the hearing?**

No. Settlement Class Counsel will answer any questions the Court may have. However, you are welcome to attend at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not necessary.

### **19. May I speak at the hearing?**

Yes. If you did not request exclusion from the settlements, you may ask permission for you or your own attorney to speak at the Fairness Hearing at your own expense. To do so, you must send a letter saying that it is your "Notice of Intention to Appear." Your request must be filed with the Clerk of the Court and served on Settlement Class Counsel and Counsel for Settling Defendants no later than [REDACTED]. The addresses for the Court, Settlement Class Counsel and Counsel for Settling Defendants are provided in Question 13. You cannot ask to speak at the hearing if you exclude yourself from the settlements.

## **If You Do Nothing**

### **20. What happens if I do nothing at all?**

If you do nothing, you will remain part of the Settlement Class and you will be able to participate in any payments and benefits to qualifying Settlement Class Members. However, you will give up your right to sue or continue to sue Settling Defendants for the claims resolved in this case.

## **Getting More Information**

### **21. How do I get more information about the case?**

This notice summarizes the case and the proposed settlements. More detailed information is available at [www.marksondriversettlement.com](http://www.marksondriversettlement.com). You can also contact the Settlement Administrator:

XXXX  
c/o JND Legal Administration  
P.O. Box xxxx  
Seattle, WA 98111-xxxx  
[info@wxxxx.com](mailto:info@wxxxx.com)  
xxx-xxx-xxx

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE.**

**Attention:** A federal court authorized this Notice. This is not junk-mail, an advertisement, or a solicitation from a lawyer. You may be eligible for a payment from a classaction settlement in the case entitled Markson, et al. v. CRST International, Inc.

A settlement has been reached in a class action lawsuit against CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc. (collectively “Defendants”).

The proposed settlements are with CRST International, Inc., CRST Expedited, Inc., and C.R. England, Inc. (collectively the “Settling Defendants”) relating to the alleged participation in a conspiracy to restrain competition through an alleged “no poach” agreement with other trucking companies resulting in allegedly suppressed compensation (collectively, the “Settlements”). All of the Defendants, including the Settling Defendants, deny all of the claims and allegations asserted against them, deny that compensation was suppressed, and maintain that they did nothing wrong.

**WHO IS INCLUDED?** The settlement covers three groups of individuals:

1. **The CRST Antitrust Subclass:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., CRST Defendants, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., Stevens Transport, Inc., at any time from May 15, 2013 through April 6, 2022.
2. **The CRST Labor Code Subclass:** all persons who (1) signed a Pre-Employment Driver Training Agreement or Driver Employment Contract with Defendant CRST Expedited, Inc., (2) participated in CRST Expedited, Inc.’s Driver Training Program in California, and (3) were charged for their DOT physical, DOT drug screening, administrative fees, and/or the \$3,950 or \$6,500 Contract Fee after failing to complete their contractually-required 8 to 10 month Employment Term, at any time between May 15, 2013 through April 6, 2022.
3. **The C.R. England Settlement Class:** all current and former drivers “Under Contract” as motor vehicle carrier drivers with CRST International, Inc., CRST Expedited, Inc., C.R. England, Inc., Western Express, Inc., Schneider National Carriers, Inc., Southern Refrigerated Transport, Inc., Covenant Transport, Inc., Paschall Truck Lines, Inc., and Stevens Transport, Inc., at any time from May 15, 2013 through April 1, 2022.

**SETTLEMENT BENEFITS.** The Settlements provide two types of benefits to Settlement Class Members: 1) a monetary payment based upon the number of weeks you worked for Defendants; and 2) injunctive relief.

**YOU DO NOT NEED TO FILE A CLAIM TO RECEIVE A PAYMENT UNDER THE SETTLEMENTS.**

**YOUR OPTIONS.** If you do nothing, you will remain in the Settlement class, will be eligible for a payment, will be bound by the decisions of the Court and will give up your rights to sue the Settling

Defendants for the claims resolved by the Settlements. If you do not want to be legally bound by the Settlements, you must exclude yourself from the Settlement class by [REDACTED]. If you stay in the Settlement class, you may object to it by [REDACTED].

A more detailed notice is available to explain how to exclude yourself or object. Please visit the website at [www.truckerantitrustsettlement.com](http://www.truckerantitrustsettlement.com). On [REDACTED], the Court will hold the Final Approval Hearing to determine whether to approve (1) the Settlements; (2) Class Counsel's request for attorneys' fees of up to 25 percent of the Total Settlement Value of \$2,125,000; (3) reimbursement of Class Counsel's expenses and costs incurred; and (4) service awards of up to \$5,000 for each of the four class representatives for each of the two Settling Defendants. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. This is only a summary. For more information, call or visit the website at [www.truckerantitrustsettlement.com](http://www.truckerantitrustsettlement.com).

Claimant ID:

1  
2  
3  
4 **UNITED STATES DISTRICT COURT**  
5 **CENTRAL DISTRICT OF CALIFORNIA**  
6

7 CURTIS MARKSON, MARK  
8 MCGEORGE, CLOIS MCCLENDON,  
9 and ERIC CLARK, individuals on behalf  
10 of themselves and all others similarly  
situated,

11 Plaintiffs,

12 v.

13 CRST INTERNATIONAL, INC.; CRST  
14 EXPEDITED, INC.; C.R. ENGLAND,  
15 INC.; WESTERN EXPRESS, INC.;  
16 SCHNEIDER NATIONAL CARRIERS,  
17 INC.; SOUTHERN REFRIGERATED  
18 TRANSPORT, INC.; COVENANT  
19 TRANSPORT, INC.; PASCHALL  
20 TRUCK LINES, INC.; STEVENS  
TRANSPORT, INC.; and DOES 1 TO  
10,

21 Defendants.  
22

Case Number: 5:17-cv-01261-SB (SPx)

**[Proposed] Order Granting  
Preliminary Approval of Class Action  
Settlement**

23  
24 Plaintiffs' Motion for Preliminary Approval of Class Action Settlements came  
25 before this Court. The Court, having considered the papers submitted by the parties,  
26 hereby orders the following:  
27  
28

1           1.     The Court grants preliminary approval of the settlement (the “C.R. England  
2 Settlement”) reached between Plaintiffs and C.R. England, Inc.

3           2.     The Court grants preliminary approval of the settlement (the “CRST  
4 Settlement”) reached between Plaintiffs and CRST International, Inc. and CRST  
5 Expedited, Inc. The C.R. England Settlement and the CRST Settlement are referred to  
6 collectively herein as “the Settlements”.

7           3.     The Settlements each fall within the range of reasonableness and appear to  
8 be presumptively valid, subject only to any objections that may be raised at the final  
9 fairness hearing and final approval by this Court.

10          4.     The Court hereby schedules a final fairness hearing on the question of  
11 whether the proposed Settlement, attorneys’ fees and costs to Class Counsel, and the  
12 Class Representatives’ Service Awards should be finally approved as fair, reasonable  
13 and adequate as to the members of the Settlement Classes.

14          5.     It is ordered that the Settlement Classes are preliminarily certified for  
15 settlement purposes only.

16          6.     The Court preliminarily appoints Plaintiffs Curtis Markson, Mark  
17 McGeorge, Clois McClendon, and Eric Clark as class representatives for the Settlement  
18 Class.

19          7.     The Court further preliminarily appoints Mark M. Seltzer, Steven G.  
20 Sklaver, Matthew Berry, Krysta Kauble Pachman, and Ian M. Gore of Susman Godfrey  
21 L.L.P., William J. Gorham and Robert J. Wasserman of Mayall Hurley P.C., Craig J.  
22 Ackermann and Avi Kreitenberg of Ackermann & Tilajef, P.C., and Jonathan Melmed  
23 of Melmed Law Group, P.C. as Class Counsel for the Settlement Classes. The Court  
24 finds Class Counsel adequate and experienced in similar litigation.

25          8.     This Court approves, as to form and content, the postcard, email, and long  
26 form Notice, in substantially the forms attached to the Declaration of Jonathan Melmed  
27  
28

as **Exhibit 3**. The Court approves the procedure for Settlement Class Members to participate in, to opt out of, or to object to, the Settlements as set forth in the Settlements.

9. The Court directs the dissemination of the postcard and email notices by first class mail and email, respectively, to the Settlement Class Members. The Court finds that the proposed notice plan meets the requirements of due process and provides the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

10. The Court appoints JND Class Action Administration as the Settlement Administrator.

11. The Court **ORDERS** that the Parties comply with the following implementation schedule:

Deadline for the Settlement Administrator to disseminate the postcard, email, and long form Notice	Within 30 days of this Order
Deadline for Class Members to object or opt out of the proposed Settlements	45 days after mailing of the mailing of the Class Notice
Final fairness hearing in re whether the proposed Settlement, attorneys' fees and costs to Class Counsel, and the Class Representatives' Service Awards should be finally approved as fair, reasonable and adequate as to the members of the Settlement Classes	Not less than 100 days following the Court's entry of this Order

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

**STANLEY BLUMENFELD, JR.**  
United States District Judge