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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

(UNLIMITED JURISDICTION)

ANTONIA CANO, on behalf of herself, all others similarly situated, and the general public,

Plaintiff,

vs.

ABLE FREIGHT SERVICES, INC., a California corporation; and DOES 1-50, inclusive,

Defendant.

Case No.: BC639763
[Assigned For All Purposes To
Hon. John Shepard Wiley, Jr., Dept. 9]

FIRST AMENDED STIPULATION OF CLASS SETTLEMENT AND RELEASE

Action Filed: 11/07/16

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This Stipulation of Settlement and Release (the "***Settlement Stipulation***") is made and entered into by and between Plaintiff Antonia Cano ("***Plaintiff***") and Defendant Able Freight Services, Inc., a California corporation ("***Able Freight***" or "***Defendant***"), subject to the terms and conditions below and the approval of the Court. Cano and Able Freight are referred to collectively below as the "***Parties***" or individual, a "***Party***."

BACKGROUND AND RECITALS

1. On October 28, 2016, Cano notified the Labor and Workforce Development Agency ("***LWDA***") and Able Freight in writing of Able Freight's alleged violation of the Labor Code, including failures to pay all wages earned. On or about November 7, 2016, Cano filed a class action complaint against Able Freight in the Superior Court of the State of California for the County of Los Angeles, Case No. BC639763, captioned *Cano et al. v. Able Freight Holdings, Inc. et al.* (the "***Lawsuit***"). On February 24, 2017, Plaintiff filed a First Amended Complaint which added a claim under the Labor Code Private Attorneys General Act of 2004, Labor Code § 2698, *et seq.* ("***PAGA***").

2. Although Able Freight denies that Plaintiff's claims have merit, on September 18, 2017, following a full day of mediation of the Lawsuit before mediator Jeffrey Krivis, during which the Parties engaged in informed arm's length negotiations, the Parties agreed to material terms of settlement to resolve the Lawsuit. That day, the Parties entered into a short form settlement agreement with respect to the core terms of a tentative Memorandum of Understanding ("***MOU***"). The Parties are now entering into this formal Stipulation of Class Settlement and Release to document the detailed terms of their settlement, on a class-wide basis, subject to the Court's approval.

3. In advance of mediation, Plaintiff investigated the claims in this case by, among other things, reviewing Defendant's applicable wage and hour policies and reviewing time and payroll records for Plaintiff and multiple "Settlement Class Members" (defined below), obtaining information from Defendant concerning the number of Settlement Class Members, their wage rates, and information derived from time and payroll records produced by Defendant concerning the claims at issue.

4. Pursuant to the MOU, the parties conducted discovery following mediation to confirm the amount of unpaid overtime wages Able Freight paid and the number of California hourly employees affected during the relevant time period.

5. For purposes of this Settlement Stipulation, the "***Settlement Class***" to be conditionally certified is defined to consist of all persons employed by Defendant as non-exempt, hourly-paid employees in the State of California during the Settlement Period who Defendants did not pay a premium wage to for hours worked in excess of eight in a day. The "***Settlement Period***" is defined as November 7, 2012 through the date of the Preliminary Approval Order herein. It shall be an opt-out class. Each member of the Settlement Class is referred to herein as a "***Settlement Class Member.***" Defendant estimates that, as of the date of the mediation, there were approximately 679 Settlement Class Members. Settlement Class Members who do not opt-out are collectively referred to herein as "***Participating Settlement Class Members***" or individually, a "***Participating Settlement Class Member.***"

6. To settle the Lawsuit on a class-wide basis, the Parties conditionally stipulate and agree that the requirements for certifying the Settlement Class have been met and are met in this case solely for purposes of this Settlement Stipulation. If the Court does not grant preliminary and final approval of this Settlement Stipulation, the parties will not otherwise stipulate to class certification. More specifically, the Parties conditionally stipulate and agree that:

(a) The number of Settlement Class Members is sufficiently numerous so as to make it impracticable to join all Settlement Class Members;

(b) The Settlement Class is ascertainable;

(c) Questions of law and fact common to the Settlement Class predominate over questions merely affecting individual Settlement Class Members, and a class-wide resolution of the Lawsuit is superior to other available means for the fair and efficient adjudication of the Claims;

(d) The Claims alleged by Plaintiff are typical of the claims of the Settlement Class Members;

(e) David Spivak of the Spivak Law Firm and Walter Haines of the United Employees Law Group should be deemed "***Class Counsel***" and will fairly and adequately protect the interests of the Settlement Class; and

(f) The prosecution of separate actions by individual members of the Settlement Class would create the risk of inconsistent or varying adjudications, which would establish incompatible standards of conduct.

7. Able Freight is entering into this Settlement Stipulation without any admission of liability, and Plaintiff agrees that this Settlement Stipulation does not reflect or contain any admission of liability by Able Freight. Since the inception of the Lawsuit, Able Freight has denied, and continues to deny, that there is any truth to Plaintiff's allegations, including but not limited to Plaintiff's Claims that Plaintiff and the Settlement Class Members have been damaged by any acts or omissions on the part of Able Freight further denies that, for any purpose other than settling the Lawsuit, this action is appropriate for class treatment. Rather, Able Freight contends, among other things, that Able Freight has complied at all times with the California Labor Code, the California Business & Professions Code, the IWC Wage Orders, and all other applicable California laws.

8. Plaintiff contends, by contrast, that she has filed a meritorious action that Able Freight violated numerous state wage and hour laws, as set forth in paragraph 1, above, and that class certification is appropriate.

9. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge all claims, disputes, debts, liabilities, demands, obligations, guarantees, costs, expenses, attorneys' fees, penalties, damages, or causes of action, contingent or accrued, now existing or hereafter arising from, or relating to, the factual allegations and Claims asserted in the Lawsuit (the "***Settlement Class Member Settled Claims***"). To achieve a full and complete release of the Settlement Class Member Settled Claims as to Able Freight and the "Able Freight Releasees" (as defined in paragraph 10, below), the Settlement Class and each Settlement Class Member shall be bound by the Release, as fully set forth and described in paragraphs 27 through 28, below.

10. It is the intention of the Parties that following the Court's entry of the Judgment, and upon the Final Settlement Date (as defined in paragraph 15, below), this Settlement Stipulation shall constitute a full and complete settlement and release by Plaintiff and the Settlement Class Members of all the Settlement Class Member Settled Claims, as fully set forth and described in paragraphs 27 through28, below. The release shall include in its effect Able Freight and each of its past, present and future affiliates, parent companies, subsidiaries, shareholders, lenders, officers, partners, directors, employees, agents, attorneys, insurers, predecessors, representatives, accountants, plan administrators, heirs, trustees and successors and assigns, and each and all of their respective past, present and future officers, partners,

directors, servants, agents, shareholders, members, employees, representatives, accountants, insurers, and attorneys and all persons acting under, by, through, or in concert with any of them (collectively, the "***Able Freight Releasees***").

TERMS OF SETTLEMENT

11. **Common Fund.** Subject to the terms and conditions provided below, Able Freight shall fund a common settlement fund (the "***Common Fund***") in the gross amount of $1,500,000 (the "***Gross Fund Value***"). The Common Fund shall be used to pay, and is inclusive of, all settlement distributions to be paid to the Settlement Class Members, the costs of claims administration, Plaintiff's attorneys' fees and expenses, Plaintiff's requested enhancement award, the PAGA Payment, and all of the employee's withholding and payroll tax obligations. The employer's share of payroll taxes shall be paid by Able Freight in addition to the Gross Fund Value.

12. **No Reversion**. Upon the Final Settlement Date (defined in paragraph 15, below), the Common Fund shall be all-in, with no reversion to Able Freight. All amounts paid into the Common Fund by Able Freight will be held in a segregated client trust account by the Claims Administrator.

13. **Tax and Withholding Obligations**. Subject to Able Freight's oversight and approval, the Claims Administrator shall: (i) withhold from the "***Wage Portion***," as defined in paragraph 16(d) below, all payroll and income taxes required by law to be withheld and/or paid on behalf of the employee from its distributions to the Settlement Class, and (ii) remit the same to the appropriate government agencies. The Claims Administrator shall report individual settlement amounts to all required taxing and other authorities, withhold the standard employee's share of payroll taxes from the wage portion of each of the individual settlement amounts, pay the employer's share of payroll taxes on the wage portion of each of the individual settlement amounts from separately deposited employer funds in excess of the Gross Fund Value, and transmit these amounts to the taxing authorities, and issue IRS Forms W-2 and 1099s. Upon completion of administration of the Settlement, the Claims Administrator shall provide written certification of such completion to the Court and counsel for all Parties.

14. **Net Fund Value**. The Net Fund Value ("***Net Fund Value***") shall equal the net amount available for payment to Settlement Class Members, pursuant to the procedures set forth below, after deducting from the Common Fund the expenses charged for claims administration,

Plaintiff's attorneys' fees and costs, the LWDA's share of the PAGA Payment, and the enhancement award. The Net Fund Value also includes all applicable employee payroll taxes and withholding obligations arising in connection with this Settlement Stipulation, as provided in Paragraph 13, above.

15. **Settlement Date**. The settlement embodied in this Settlement Stipulation shall become effective upon entry of the Order Granting Final Approval of Class Action Settlement and Judgment (the "***Judgment***"), in substantially the form attached as Exhibit 3. However, the Court shall also retain jurisdiction to construe, interpret, implement and enforce this Settlement Stipulation. The "***Final Settlement Date***" will be the date of entry of the Judgment if no objections to the settlement are filed. If objections are filed and overruled, and no appeal is taken of the Judgment, then the Final Settlement Date will be 65 days after the entry of the Judgment. If an appeal is taken from the Court's overruling of objections to the settlement, then the Final Settlement Date will be 20 days after the appeal is dismissed or after an appellate decision affirming the Judgment becomes final.

16. **Settlement Payments and Costs of Administration**:

(a) **Attorneys' Fees and Costs**. In consideration for settling this matter and in exchange for the release of all claims by the Settlement Class, and subject to final approval, Able Freight agrees that Class Counsel should be awarded a sum not to exceed $500,000 (one third of the Gross Fund Value), to be paid from the Common Fund, to compensate and reimburse Class Counsel for all of the work already performed by Class Counsel in this case and all of the work remaining to be performed by Class Counsel in securing Court approval of the Settlement, administering the Settlement, and making sure that the Settlement is fairly administered and implemented. Class Counsel will separately seek recovery of their actual litigation costs including but not limited to the charges for filing fees, service, copying, on-line legal research, travel, mediation, in an amount not to exceed $25,000, to be paid from the Common Fund. Able Freight will not file or otherwise assert any objection to Class Counsel's requests for attorneys' fees or litigation costs in accordance with this paragraph. Should the Court approve a lesser percentage or amount of fees and/or costs, the unapproved portion or portions shall revert to the Net Fund Value to be distributed to the Settlement Class on a proportional basis, relative to the size of their claims, in accordance with other administration and distribution requirements provided below.

(b) **Enhancement Award.** Subject to approval by the Court, the Parties further agree that Plaintiff should receive an enhancement award in the amount of $20,000, to be paid from the Common Fund, in consideration for her services as the named Plaintiff and in exchange for the Named Plaintiff Release set forth in paragraphs –30 through 32, below. This enhancement award shall be paid to Plaintiff in addition to her respective share of the distribution made to the Settlement Class from the Net Fund Value. Able Freight will not file or otherwise assert any objection to Plaintiff's request for an enhancement award in accordance with this paragraph. Should the Court approve an enhancement award less than that set forth herein, the unapproved portion or portion shall revert to the Net Fund Value to be distributed to the Settlement Class on a proportional basis, relative to the size of their claims, in accordance with other administration and distribution requirements provided below.

(c) **PAGA Payment.** In accordance with Labor Code section 2698 *et seq.*, the Parties agree that $20,000 shall be paid from the Common Fund to settle Plaintiff's PAGA claims. Of this amount, 75 percent (amounting to $15,000), shall be paid to the California Labor and Workforce Development Agency (the "***LWDA***"). The other 25 percent (amounting to $5,000) shall be allocated to the Net Fund Value.

(d) **Allocation of the Settlement Class Members' Shares.** Each Settlement Class Member's share of the Net Fund Value shall be allocated as follows for tax purposes: 25% to the payment of wages/unpaid premium pay (including all applicable employee payroll taxes and withholding obligations arising in connection with this settlement, as provided in paragraph 13, above) ("***Wage Portion***") and 37.5% to interest and 37.5% to penalties. Only the Wage Portion is subject to payroll tax and income withholding requirements. Each Participating Settlement Class Member shall assume full responsibility and liability for correctly characterizing the compensation received from the Net Fund Value for tax purposes and for the payment of any other taxes owing on that amount.

(e) **Calculation of Settlement Class Members' Shares in the Net Fund Value.** In consideration for this settlement and the release of Able Freight and Able Freight Releasees, as set forth in paragraphs 27 through 29, below, each Settlement Class Member shall be entitled to a share proportionate to the number of workweeks he or she worked for Able Freight during the Settlement Period ("***Total Workweeks***"). Each workweek that occurred while a Settlement Class Member was an import or export specialist will be assigned two times the

value of any other workweek. Subject to withholding required by law and the deduction of all employee payroll tax obligations, as provided for above, each Participating Settlement Class Member shall ultimately be entitled to a distribution in the amount of that fraction of the remainder of the Net Fund Value of which the numerator is the number of each individual Participating Settlement Class Member's Total Workweeks and the denominator is the sum total of all Settlement Class Members' Total Workweeks (the "***Weighted Share***").

(f) **Payment Procedure.** Within fifteen (15) calendar days after the Final Settlement Date, Defendant shall fund the Gross Fund Value to the Claims Administrator. Within 15 calendar days after receiving funding, the Claims Administrator shall promptly transmit, by first class mail, Settlement checks, calculated in accordance with the formula provided in paragraph 16(e), to all Participating Settlement Class Members. At the same time, the Claims Administrator shall also pay Court-approved attorneys' fees, costs, Claims Administrator expenses, Plaintiff's enhancement award, and the PAGA Payment. Defendant shall have no obligation to fund the Gross Fund Value unless and until 15 calendar days after the Final Settlement Date occurs. Participating Settlement Class Members will have 180 days from the date of issuance to cash their Settlement checks. Any and all uncashed or returned Settlement checks shall be remitted to the cy pres recipient.

(g) **Uncashed Checks.** Any check issued to any Participating Class Member shall remain valid and negotiable for one hundred and eighty (180) calendar days from the date of its issuance, but if not cashed within that time it will be deemed null and void and of no further force and effect, and the amount of the check will be paid as follows: (a) Fifty Percent (50%) to the Employment Rights Project of Bet Tzedek; (b) Twenty-five percent (25%) to the California State Treasury for deposit in the Trial Court Improvement and Modernization Fund, established in Section 77209 of the Government Code, and subject to appropriation in the annual Budget Act for the Judicial Council to provide grants to trial courts for new or expanded collaborative courts or grants for Sargent Shriver Civil Counsel; and (c) Twenty-five percent (25%) to the California State Treasury for deposit in the Equal Access Fund of the Judicial Branch, to be distributed in accordance with Sections 6216 to 6223, inclusive, of the California Business and Professions Code, except that administrative costs shall not be paid to the State Bar or the Judicial Council from this sum. The Claims Administrator shall notify Class Counsel and Defendant's Counsel of any undeliverable and uncashed checks. However, the affected Participating Class Members shall

nevertheless remain members of the Settlement Class and shall be bound by all terms of this Settlement Stipulation and the Court's final approval order.

(h) **Costs of Claims Administrator**. The parties have selected Simpluris, Inc. ("Simpluris") as Claims Administrator in this action. Simpluris has agreed to perform all necessary class administration duties for a fee estimated to be under $30,000. This administration duty shall include, without limitation, searching for updated addresses before mailing class notices, mailing class notices, performing necessary skip traces on notices returned as undeliverable, calculating, processing, and mailing settlement checks, handling tax withholding, contributions, reporting and filings, and interest processing for relating to the segregated client trust account. All claims administration costs shall be deducted from the Common Fund, consistent with the payment procedure provided in paragraph 16(f).

(i) **Tax Treatment of Enhancement Award**. The Claims Administrator will provide Plaintiff with an IRS Form 1099 for her individual enhancement award, if any, and Plaintiff shall assume full responsibility and liability for correctly characterizing the enhancement award for tax purposes and for the payment of any other taxes owing on that amount.

NOTICE TO THE SETTLEMENT CLASS

17. The Parties agree that, within twenty-one (21) calendar days of the Court's entry of an Order granting preliminary approval of this Settlement Stipulation, Able Freight will provide to the Claims Administrator all of the following information about each Settlement Class Member ("***Class Data List***"): (i) name, (ii) last known home address and telephone number, (iii) Social Security Number, and (iv) hire date and (v) termination date, if any. The Class Data List will also indicate whether workweek took place while a Settlement Class Member was employed as an import or export specialist. Able Freight shall provide the Class Data List to the Claims Administrator in Microsoft Excel format or other electronic format acceptable to the Claims Administrator. The Claims Administrator will perform address updates and verifications as necessary before mailing out the Notices, as provided in paragraph 20, below.

18. Within 15 calendar days of its receipt of the Class Data List, the Claims Administrator will send Settlement Class Members, by first-class mail, a court-approved Notice

of Class Action Settlement ("***Notice***") in the form attached as Exhibit 1. In accordance with paragraph 16(e), each Notice will be individualized so as to inform the Settlement Class Members of their respective estimated Weighted Shares (proportionate to their Total Workweeks).

19. If any Settlement Class Member timely disputes the amount of his or her Total Workweeks, as provided for in the Notice, the Parties' Counsel will make a good faith effort to resolve the dispute informally. If counsel for the Parties cannot agree, the dispute shall be submitted to the Claims Administrator, who shall examine all available written records in an attempt to resolve the dispute. Able Freight's records shall be presumed accurate and control unless the Settlement Class Member provides satisfactory proof that Able Freight's records are incorrect. In any event, the Claims Administrator will make every reasonable effort to resolve any such disputes before final approval of this settlement.

OPT-OUTS, OBJECTIONS, AND DISTRIBUTIONS

20. As set forth in the Notice (Exhibit 1 hereto), Settlement Class Members will have 60 days (the "***Opt-Out Period***") from the date the Notices are mailed by the Claims Administrator to postmark their requests for exclusion, if any, and/or to submit written objections. The Claims Administrator will perform one skip-trace on returned mail and re-mail Notices to updated address (if any) within 10 days of receiving notice that a Notice was undeliverable. It is the intent of the parties that reasonable means be used to locate Settlement Class Members.

21. Able Freight will provide the Class Data List to the Claims Administrator in the form of an Excel spreadsheet, and the Claims Administrator will use the Class Data List to calculate each Settlement Class Member's Weighted Share. Upon the expiration of the Opt-Out Period, the Claims Administrator will: (i) calculate the amount of the distributions owing to each Settlement Class Member, based on his or her Total Workweeks, and (ii) certify jointly to Class Counsel and Able Freight's counsel, the amounts of those distributions and which members of the Settlement Class, if any, have returned requests for exclusion from the Settlement Class. Upon completion of its calculations, the Claims Administrator shall provide Plaintiff and Able Freight, by and through their respective counsel, with a report listing the amount of the anticipated payment to be made to each Settlement Class Member and the

amount of each payment that is attributed to (i) wages, and (ii) interest and penalties, pursuant to paragraph 16(d).

22. **Opt-Outs/Requests for Exclusion.** Any Settlement Class Member, other than the Plaintiff, may elect to be excluded from the Settlement Class at any time during the Opt-Out Period. To be effective, any such election must be made in writing; must contain the name, address, telephone number, and last four digits of the social security number of the Settlement Class Member requesting exclusion; must be signed by the Settlement Class Member who is electing to be excluded; and must be mailed to the Claims Administrator and postmarked on or before the end of the Opt-Out Period. The date of the postmark on the mailing envelope shall be the exclusive means to determine whether a request for exclusion is timely. Any Settlement Class Member who timely requests exclusion in compliance with these requirements: (i) shall not have any rights under this Settlement Stipulation, (ii) shall not be entitled to receive his or her allegedly unpaid overtime and double time wages and Weighted Share, (iii) shall not be entitled to submit an objection to this Settlement Stipulation, and (iv) shall not be bound by this Settlement Stipulation, or the Judgment.

23. **Objections.** Any Settlement Class Member, other than the Plaintiff or any Settlement Class Member who elects to opt out of the Settlement Class, may object to this Settlement Stipulation, by filing with the Court and serving on Class Counsel and Defense Counsel, a complaint in intervention to join the Lawsuit as a party, and a written objection, signed by the objecting Settlement Class Member or his or her attorney, along with all supporting papers by no later than the last day of the Opt-Out Period. The written objection shall include the full name, address, date of birth, and dates of employment at Able Freight of the objector and the basis for any objection and, if the objector is represented by counsel, the name and address of the objector's counsel. The objection must also state whether the Settlement Class Member intends to appear at the final approval hearing and present oral argument. In the discretion of the Court, any Settlement Class Member, or person purporting to object on behalf of any Settlement Class Member, may be received or considered by the Court at the final approval hearing, *regardless* of whether a written notice of objection is filed, as set forth above. However, Settlement Class Members who fail to file a timely objection or to intervene as a party may be deemed to have waived any right to object and any and all objections to the Settlement Stipulation.

24. Upon the Final Settlement Date, the Claims Administrator shall comply with the payment procedure set forth in paragraph 16(f). Proof of payment will be filed with the Court and provided to the Parties' counsel.

RIGHT TO RESCISSION IN THE EVENT OF EXCESS OPT-OUTS

25. Notwithstanding any other provision of this Settlement Stipulation, Able Freight retains the right, in the exercise of its sole discretion, to nullify the settlement within 30 days of expiration of the Opt-Out Period, if Settlement Class Members representing 5% or more of the number of the Total Workweeks comprising the Settlement Period opt out of the settlement. If Able Freight wishes to exercise this right, Able Freight must do so by written notice sent by mail or electronic mail to Class Counsel within the 30-day period. None of the Parties or respective counsel shall, directly or indirectly, solicit or otherwise encourage opt-outs. In the event of such a rescission: (i) no party may use the fact that the Parties agreed to settle this case in any future proceeding in this Lawsuit or any other action, including but not limited to, in support of a motion for class certification or as evidence of Able Freight's liability in this lawsuit or the lack thereof, (ii) all amounts paid into the Common Fund shall be returned to Able Freight, and (iii) Able Freight shall pay the Claims Administrator costs incurred by the Claims Administrator.

NO RIGHT TO RESCISSION BASED ON FUTURE COURT DECISIONS

26. Plaintiff and Able Freight understand that, depending on how various cases before higher courts concerning class and representative action claims are decided, in hindsight this Settlement Stipulation might be viewed as either overly generous or not large enough. It is likely that decisions in pending cases concerning class action cases and the interplay between arbitration agreements and class and representative action claims will be issued between the date this Settlement Stipulation is executed and the Final Settlement Date. Plaintiff and Able Freight agree that this Settlement Stipulation is negotiated in good faith based on the probabilities of how various cases could turn out, and is final and binding. Both Plaintiff and Able Freight further agree that they will not seek to invalidate this Settlement Stipulation because of any final decision in any of the various cases before higher courts concerning class and representative action claims.

RELEASE BY THE SETTLEMENT CLASS

27. Except as to the required payments into the Common Fund by Able Freight, as provided in this Settlement Stipulation, and with the exception of only those Settlement Class Members who timely opt-out pursuant to the procedures set forth in this Settlement Stipulation, upon final approval by the Court of this Settlement Stipulation, and as of the Final Settlement Date, and for the duration of the Settlement Period (November 7, 2012 through the date of the Preliminary Approval Order), Plaintiff and each of the Settlement Class Members hereby release Able Freight and Able Freight Releasees of and from the Settlement Class Member Settled Claims, as defined in paragraph 9, which include, but are not limited to, any and all claims for:

(a) Restitution, damages and penalties arising from Able Freight's alleged failure to pay earned overtime and double time wages pursuant to California Labor Code §§ 510 and 1194;

(b) Unprovided rest and meal periods and unpaid premium wages under Labor Code §§ 226.7, 512 and 1198;

(c) Waiting time penalties pursuant to California Labor Code Section 203 arising out of Able Freight's alleged failure to pay in a timely manner all overtime and double time wages owed at termination pursuant to California Labor Code Sections 201 and/or 202;

(d) Penalties and damages under California Labor Code Section 226 which arise out of Able Freight's alleged failure to provide accurate pay statements stating all earned overtime and double time wages;

(e) Penalties under California Labor Code Section 2699 (PAGA) arising out of Able Freight's alleged violation of the Settlement Class Member Settled Claims alleged in the Complaint;

(f) Claims for unfair business practices pursuant to California Business and Professions Code section 17200 et seq. premised only upon the Settlement Class Member Settled Claims; and

(g) All claims pled or which could have been pled in the Lawsuit arising from any of the facts alleged therein, including but not limited to claims of any and every nature based on any of the statutory provisions identified therein, and all penalty claims, no matter how pled.

28. The Settlement Class Member Settled Claims released by Plaintiff and the Settlement Class Members herein also include any claim(s) for taxes or tax liabilities arising from, or associated with, this settlement or any claim released pursuant to paragraph 9, as well as any and all claims for attorneys' fees or costs for the duration of the Settlement Period.

29. Upon the Final Settlement Date, and subject to Able Freight's compliance with paragraph 11, Class Counsel also fully and finally releases Able Freight and Able Freight Releasees from any and all claims Class Counsel may have for fees, costs, or any other sums relating to this Lawsuit.

NAMED PLAINTIFF SETTLED CLAIMS

30. In exchange for the consideration set forth in this Settlement Stipulation, which includes consideration beyond which the Settlement Class Members will be entitled to receive before entering into this Settlement Stipulation, the receipt and sufficiency of which is expressly acknowledged, in addition to releasing the Settlement Class Member Settled Claims as set forth above, Plaintiff, on behalf of herself and her heirs, executors, administrators, attorneys, agents, representatives and assigns, does hereby and forever release, waive, acquit and discharge Able Freight Releasees from any and all claims, causes of action, actions, damages, losses, demands, accounts, reckonings, rights, debts, liabilities, obligations, disputes, controversies, payments, costs and attorneys' fees of every kind and character, known or unknown, existing or contingent, latent or patent, regarding the matters alleged in, arising from or related to Plaintiff's employment with Able Freight, the cessation of said employment or the filing, or prosecution or defense of the Action (the "***Named Plaintiff Release***").

31. It is the intention of the Plaintiff and Able Freight that the Named Plaintiff Release entered into by Plaintiff as a part of this Settlement Stipulation shall be effective as a bar to all actions, causes of action, obligations, costs, expenses, attorneys' fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind, known or unknown, suspected or unsuspected. In connection with the Named Plaintiff Release, Plaintiff acknowledges that she is aware and familiar with the provisions of California Civil Code Section 1542 which provides as follows:

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

OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

32. Plaintiff hereby waives and relinquishes all rights and benefits which he or she may have under Section 1542 of the California Civil Code and any other law to the same or similar effect. Plaintiff expressly agrees that the release provisions herein contained shall be given full force and effect in accordance with each and all of their express terms and provisions, including but not limited to those terms and provisions relating to unknown or unsuspected claims, demands and causes of action hereinabove specified. Plaintiff specifically agrees to assume the risk of the subsequent discovery or understanding of any matter, fact or law which, if now known or understood, would in any respect have affected the Named Plaintiff Release set forth in this Settlement Stipulation.

DUTIES OF THE PARTIES PRIOR TO COURT APPROVAL

33. Within 30 days of the Parties' full and complete execution of this Settlement Stipulation, Class Counsel shall file in Court and serve a motion for an Order granting preliminary approval to this Settlement Stipulation. The proposed "***Preliminary Approval Order***" shall be in substantially the form attached hereto as Exhibit 2. The Preliminary Approval Order will accomplish the following:

a. Schedule a final fairness hearing on the question of whether the proposed settlement, including payment of attorneys' fees and costs, and Plaintiff's enhancement award, should be finally approved as fair, reasonable, and adequate as to the Settlement Class Members;

b. Conditionally certify the Settlement Class for all Claims;

c. Approve as to form and content the proposed Notice;

d. Direct the mailing of Notices by first class mail to the Settlement Class Members;

e. Grant preliminarily approval to the settlement subject only to the objections of Settlement Class Members, if any, and final review by the Court;

f. Preliminarily approve Class Counsel's request for litigation costs in an amount estimated not to exceed $25,000.00;

g. Preliminarily approve Class Counsel's request for attorneys' fees and litigation expenses, subject to final review of the Court;

h. Preliminarily approve Class Counsel's request that Plaintiff receive an enhancement award;

i. Preliminarily approve the proposed PAGA Payment provided for in paragraph 16(c); and

i. Plaintiff and the Settlement Class Members shall be preliminarily enjoined from initiating or continuing other proceedings regarding the Settlement Class Member Settled Claims, including but not limited to filing any claims for monetary relief of the Settlement Class Member Settled Claims before the Division of Labor Standards and Enforcement ("***DLSE***") or in any forum whatsoever. Inclusion of these provisions in the Preliminary Approval Order is a material part of the consideration for this Settlement.

FINAL APPROVAL AND DUTIES FOLLOWING FINAL APPROVAL

34. Following preliminary approval of this Settlement Stipulation, Class Counsel will promptly submit the Judgment, in substantially the form attached hereto as Exhibit 3, which will accomplish the following:

a. Approve the Parties' settlement, adjudging the terms thereof to be fair, reasonable, and adequate, and directing consummation of its terms and provisions;

b. Approve Class Counsel's attorneys' fees and costs as provided for in paragraph 16(a), above;

c. Approve Plaintiff's enhancement award and the PAGA Payment; and

d. Bar all members of the Settlement Class from prosecuting against Able Freight or Able Freight Releasees, any of the Settlement Class Member Settled Claims. Such entry of final judgment shall operate to permanently bar and enjoin all Settlement Class Members (excluding those who submit a valid and timely Opt-Out form) from instituting, commencing, prosecuting, or pursuing, either directly or in any other capacity, any of the claims, damages, causes of action, or claims for attorneys' fees asserted in the Lawsuit or identified as Settlement Class Member Settled Claims in this Settlement Stipulation, including but not limited to filing any claims for monetary relief of the Settlement Class Member Settled Claims before the DLSE, or in any forum whatsoever. Inclusion of these provisions in the Final

Order and Judgment Approving Class Settlement is a material part of the consideration for this Settlement.

PARTIES' AUTHORITY

35. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement Stipulation and bind the Parties to the terms and conditions of this Settlement Stipulation.

CONTINUING JURISDICTION

36. The Court shall retain continuing jurisdiction over this case under California Code of Civil Procedure section 664.6 to ensure performance under this Settlement Stipulation.

MUTUAL FULL COOPERATION

37. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement Stipulation, including but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement Stipulation. The Parties shall use their best efforts, including all efforts contemplated by this Settlement Stipulation and any other reasonable efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement Stipulation and the terms set forth herein. As soon as practicable after execution of this Settlement Stipulation, Class Counsel shall, with the assistance and cooperation of Able Freight and its counsel, take all necessary steps to secure the Court's final approval of this Settlement Stipulation.

NO PRIOR ASSIGNMENTS

38. The Parties represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged.

NO ADMISSION

39. Nothing contained herein, nor the consummation of this Settlement Stipulation, shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Able Freight specifically denies any liability. Each of the Parties has entered into this Settlement Stipulation with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

CONSTRUCTION

40. The Parties agree that the terms and conditions of this Settlement Stipulation are the result of lengthy, intensive arms-length negotiations between the Parties, and that this Settlement Stipulation shall not be construed in favor of or against any party by reason of the extent to which any party or his, her, or its counsel participated in the drafting of this Settlement Stipulation.

CAPTIONS AND INTERPRETATIONS

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

MODIFICATION

42. This Settlement Stipulation may not be altered, or modified, except in writing and signed by the Parties and approved by the Court. This Settlement Stipulation may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

INTEGRATION CLAUSE

43. This Settlement Stipulation and the attached exhibits contain the entire agreement between the Parties relating to the settlement and transaction contemplated hereby, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived except in writing.

BINDING ON ASSIGNS

44. This Settlement Stipulation shall be binding upon and inure to the benefit of the Parties and their respective heirs, trustees, executors, administrators, successors and assigns.

CLASS COUNSEL SIGNATORIES

45. It is agreed that because of the large number of Settlement Class Members, it is impossible or impractical to have each Settlement Class Member execute this Settlement Stipulation. The Notice, Exhibit 1, will advise all Settlement Class Members of the binding nature of the release and such shall have the same force and effect as if this Settlement Stipulation were executed by each Settlement Class Member.

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COUNTERPARTS

46. This Settlement Stipulation may be executed in counterparts and transmitted by mail, facsimile or email. When each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Stipulation, which shall be binding upon and effective as to all Parties.

NO PUBLICITY

47. The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the settlement. In addition, the Parties and their counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the settlement of this case in any manner that identifies the Defendant, including but not limited to any postings on any websites maintained by Class Counsel. Neither Plaintiff nor Class Counsel will discuss the terms or the fact of the settlement with third parties other than: (i) their immediate family members, (ii) their respective accountants or lawyers as necessary for tax purposes; or (iii) other Settlement Class Members. Plaintiff and Class Counsel agree not to publish any of the terms or conditions of this settlement in any manner that identifies the Defendant. However, Class Counsel may identify this Settlement in other matters to demonstrate their adequacy as counsel in such other matters.

IN WITNESS WHEREOF: the undersigned have duly executed this Agreement as of the date indicated below:

Dated: 5/16/2018 12:01:33 PM PDT

By: DocuSigned by: A Cano 21A8BE67899E436...
Antonia Cano
Plaintiff and Settlement Class Representative

Dated: _____

By: _____
David Spivak
The Spivak Law Firm
Counsel for Plaintiff and the Class

Dated: _____

By: _____
Walter Haines

COUNTERPARTS

46. This Settlement Stipulation may be executed in counterparts and transmitted by mail, facsimile or email. When each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement Stipulation, which shall be binding upon and effective as to all Parties.

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47. The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the settlement. In addition, the Parties and their counsel agree that they will not engage in any advertising or distribute any marketing materials relating to the settlement of this case in any manner that identifies the Defendant, including but not limited to any postings on any websites maintained by Class Counsel. Neither Plaintiff nor Class Counsel will discuss the terms or the fact of the settlement with third parties other than: (i) their immediate family members, (ii) their respective accountants or lawyers as necessary for tax purposes; or (iii) other Settlement Class Members. Plaintiff and Class Counsel agree not to publish any of the terms or conditions of this settlement in any manner that identifies the Defendant. However, Class Counsel may identify this Settlement in other matters to demonstrate their adequacy as counsel in such other matters.

IN WITNESS WHEREOF: the undersigned have duly executed this Agreement as of the date indicated below:

Dated: _____

By: _____
Antonia Cano
Plaintiff and Settlement Class Representative

Dated: 5/16/18

By: _____
David Spivak
The Spivak Law Firm
Counsel for Plaintiff and the Class

Dated: May 16, 2018

By: _____
Walter Haines

The United Employees Law Group
Counsel for Plaintiff and the Class

ABLE FREIGHT SERVICES, INC.

Dated: May 14, 2018

By: _____
Jim Pope, its Controller

Kaufman McAndrew LLP

Dated: May 16, 2018

By: _____
Mitchell F. Kaufman
Counsel for Defendant
Able Freight Services, Inc.

Kaufman McAndrew LLP

Dated: May 16 2018

By: _____
Stephen F. McAndrew
Counsel for Defendant
Able Freight Services, Inc.