

# **EXHIBIT 1**

**TO SUPPLEMENTAL DECLARATION OF  
JOSHUA G. KONECKY**

1 Joshua G. Konecky, SBN 182897  
jkonecky@schneiderwallace.com  
2 Leslie H. Joyner, SBN 262705  
ljoyner@schneiderwallace.com  
3 Nathan B. Piller, SBN 300569  
npiller@schneiderwallace.com  
4 SCHNEIDER WALLACE  
COTTRELL KONECKY WOTKYNS LLP  
5 2000 Powell St. Suite 1400  
Emeryville, CA 94608  
6 Telephone: (415) 421-7100  
Facsimile: (415) 421-7105  
7

8 Class Counsel

9 WILLIAM HAYS WEISSMAN, Bar No. 178976  
JEFFREY J. MANN, Bar No. 253440  
10 LITTLER MENDELSON, P.C.  
Treat Towers  
11 1255 Treat Boulevard  
Suite 600  
12 Walnut Creek, CA 94597  
Telephone: 925.932.2468  
13 Fax No.: 925.946.9809

14 Attorneys for Defendant  
VALLEY RELOCATION AND STORAGE OF  
15 NORTHERN CALIFORNIA

16 SUPERIOR COURT OF CALIFORNIA

17 COUNTY OF SAN FRANCISCO

18 ROBERT ORTIZ, individually and on  
19 behalf of all others similarly situated,

20 Plaintiff,

21 v.

22 VALLEY RELOCATION AND  
23 STORAGE OF NORTHERN  
CALIFORNIA, INC. and DOES 1 through  
24 50, inclusive,

25 Defendants.

Case No. CGC-14-542925

**CLASS ACTION**

**REVISED JOINT STIPULATION OF  
CLASS ACTION SETTLEMENT**

Exhibit A: Class Notice

Complaint Filed: November 26, 2014

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**STIPULATION OF CLASS ACTION SETTLEMENT**

IT IS HEREBY STIPULATED, by and between Plaintiff Robert Ortiz (“Plaintiff”), on behalf of himself and the Class Members, on the one hand, and Defendant Valley Relocation and Storage of Northern California, Inc. (“Valley” or “Defendant”) on the other hand, and subject to the approval of the Court, that the Action is hereby being compromised and settled pursuant to the terms and conditions set forth in this Revised Joint Stipulation of Settlement and that the Court shall make and enter judgment, subject to the continuing jurisdiction of the Court as set forth below, subject to the definitions, recitals and terms set forth herein which by this reference become an integral part of this Agreement. This Revised Joint Stipulation of Settlement supersedes the previous Stipulation of Settlement that was executed by the Parties on or about January 17, 2018:

**DEFINITIONS**

- 1. “Agreement” means this Joint Stipulation of Class Action Settlement.
- 2. “Action” means ROBERT ORTIZ, individually and on behalf of all others similarly situated, Plaintiff, v. VALLEY RELOCATION AND STORAGE OF NORTHERN CALIFORNIA, INC. and DOES 1 through 50, inclusive, Defendants, originally filed on November 26, 2014, in San Francisco County Superior Court and assigned Case No. CGC-14-542925.
- 3. “Class Counsel” means Joshua Konecky, Leslie Joyner and Nathan Piller of Schneider Wallace Cottrell Konecky Wotkins, LLP, 2000 Powell Street, Suite 1400, Emeryville, California, 94608.
- 4. “Class Information” means information regarding Class Members that Valley will compile in good faith from their records and provide to the Settlement Administrator. The Class Information shall be formatted as a Microsoft Excel spreadsheet and shall include each Class Member’s: (a) full name; (b) last known mailing addresses; (c) last known home and/or mobile telephone numbers; (d) last known email addresses, (e) date of signed Subhaul Agreement, (f) date of termination of Subhaul Agreement, if any; and (f) number of Compensable Workweeks during which each such person provided services for Defendant while under Defendant’s Subhaul Agreement, from November 26, 2010, through November 13, 2017.
- 5. “Class Member” means: Any individuals who have signed Defendant’s Subhaul

1 Agreement and who have personally made one or more deliveries for Defendant in California, at any  
2 time between November 26, 2010 and November 13, 2017, excluding the two individuals who opted  
3 out of this case pursuant to the Class Notice mailed out on June 23, 2016.

4 6. “Class Period” means the period from November 26, 2010 through November 13, 2017.

5 7. “Class Representative Service Payment” means the amount that the Court authorizes to be  
6 paid to Plaintiff Robert Ortiz, not to exceed Five Thousand Dollars and No Cents (\$5,000.00), subject  
7 to Court approval, which is in addition to his Individual Settlement Payment, in recognition of his  
8 efforts and risks in assisting with the prosecution of the action.

9 8. “Net Settlement Fund” means the Gross Settlement Amount, less any of the following  
10 payments that may be approved by the Court: Settlement Administration Costs; Class Counsel  
11 Attorneys’ Fees Award, Class Counsel Litigation Costs; Class Representative Service Payment; and  
12 seventy-five percent of the LWDA Payment.

13 9. “Compensable Workweeks” means the number of workweeks during which Class  
14 Members provided services for Defendant under a Subhaul Agreement during the Class Period,  
15 regardless of how many days during the week or hours during the day the services were provided.

16 10. “Court” means the Superior Court of California for the County of San Francisco.

17 11. “Defendant” means Valley Relocation and Storage of Northern California, Inc., and each  
18 of its parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns and/or  
19 joint venturers.

20 12. “Defense Counsel” or “Counsel for Defendant” shall mean William Hays Weissman and  
21 Jeffrey J. Mann of Littler Mendelson, P.C. Treat Towers, 1255 Treat Boulevard, Suite 600, Walnut  
22 Creek, CA 94597.

23 13. “Effective Date” shall mean the later of the following dates: (1) the date of final resolution  
24 of a timely appeal by a Settlement Class Member of any Court order overruling his or her objection to  
25 the Settlement; (2) the date time expires to file an appeal of any Court order overruling a Settlement  
26 Class Member’s objection to the Settlement; or (3) if no objection to the Settlement is timely filed, the  
27 date of the Court’s Final Approval Order and Judgment.

28 14. “Estimated Individual Settlement Payment” means the estimated amount payable to each

1 Settlement Class Member.

2 15. “Final Approval” means that the Final Approval Order and Judgment have been entered  
3 and the Court has made its final orders concerning approval of the Settlement, as well as its final orders  
4 concerning attorneys’ fees and costs to Class Counsel and the Class Representative Service Payment.

5 16. “Final Approval Hearing” or “Final Approval/Fairness Hearing” means a hearing held by  
6 the Court to consider Final Approval of the Settlement, including the merits of objections, if any, to  
7 the Settlement, as well as what attorneys’ fees and costs to be awarded to Class Counsel, and any Class  
8 Representative Service Payment to be awarded to the Class Representative.

9 17. “Final Approval Order and Judgment” means an order and judgment issued by the Court,  
10 approving the Settlement and this Agreement as binding upon Plaintiff, Defendant and the Settlement  
11 Class Members.

12 18. “Gross Settlement Amount” means Seven Hundred and Forty-Five Thousand Dollars and  
13 No Cents (\$745,000.00), which sum includes the Individual Settlement Payments (including all  
14 required withholdings from Individual Settlement Payments, but excluding all employer-side payroll  
15 taxes and obligations), any attorneys’ fees and costs awarded to Class Counsel, any Class  
16 Representative Service Payment awarded to the Class Representative, any Settlement Administration  
17 Costs approved by the Court, and any LWDA Payment approved by the Court. This is a non-  
18 reversionary settlement. In no event shall Defendant be liable for less than Seven Hundred and Forty-  
19 Five Thousand Dollars and No Cents (\$745,000.00), plus any employer side tax obligations that may  
20 become due, as a result of this Settlement.

21 19. “Individual Settlement Payment” means the amount payable from the Net Settlement Fund  
22 to any Settlement Class Member.

23 20. “LWDA Payment” means 75% of Thirty-Seven Thousand Two Hundred and Fifty Dollars  
24 and No Cents (\$37,250.00). The Parties have agreed to allocate Thirty-Seven Thousand Two Hundred  
25 and Fifty Dollars and No Cents (\$37,250.00) in satisfaction of any claim for penalties that may be  
26 owed to that agency under the Private Attorneys General Act (“PAGA”), Cal. Labor Code section  
27 2698, *et seq.* 75% of the allocated Thirty-Seven Thousand Two Hundred and Fifty Dollars and No  
28 Cents (\$37,250.00) will be paid to the Labor & Workforce Development Agency (LWDA) and 25%

1 will be distributed to the Settlement Class Members by the Settlement Administrator.

2 21. “Notice of Settlement” or “Class Notice” means the notice which informs Class Members  
3 of the terms of the Settlement and their rights under the Settlement, substantially in the form attached  
4 hereto as **Exhibit A**.

5 22. “Parties” means Plaintiff and Defendant, collectively.

6 23. “Preliminary Approval” means the date on which the Court grants preliminary approval  
7 of the Settlement.

8 24. “Preliminary Approval Order” means the Court’s order issued and entered by the Court  
9 following a Motion for Preliminary Approval of the Agreement and setting a Final Approval/Fairness  
10 Hearing.

11 25. “Released Claims” means all claims that have been alleged or that could have been alleged  
12 in this Action based on the facts and legal theories stated in the First Amended Complaint, filed  
13 January 6, 2017, including but not necessarily limited to all of the following claims for relief: (a)  
14 violation of California Labor Code §§ 226.7(a) and 512(a) (denial of meal breaks); (b) violation of  
15 California Labor Code § 226.7(a) (denial of rest breaks); (c) violation of California Labor Code §§  
16 200 and 204 (failure to pay compensation for all time worked); (d) violation of California Labor Code  
17 §§ 226(a), 1174 and 1175 (inaccurate wage statements); (e) violation of California Labor Code §§  
18 201-203 (unpaid wages at discharge); (f) violation of California Labor Code § 1194 (failure to pay  
19 overtime); (g) violation of California Labor Code §§ 221 and 2802 (unreimbursed expenses and  
20 unlawful deduction from pay); (h) violations of California Business & Professions Code §§ 17200, *et*  
21 *seq.*; (i) representative action under the Private Attorneys General Act (“PAGA”); (j) any other claims  
22 or penalties under the wage and hour laws pleaded in the Action or that could have been pleaded based  
23 on the facts and legal theories alleged in the First Amended Complaint. (Collectively, “Released  
24 Claims.”) The Released Claims also include all claims Plaintiff and Settlement Class Members may  
25 have against the Released Parties arising out of (i) the payment and allocation of attorneys’ fees and  
26 costs to Class Counsel pursuant to this Agreement and (ii) the payment of the Class Representative  
27 Service Payment pursuant to this Agreement. The period applicable to the Released Claims shall  
28 extend from November 26, 2010, through November 13, 2017. It is the intent of the Parties that the

1 judgment entered by the Court upon Final Approval of the Settlement shall have *res judicata* effect  
2 and be final and binding upon Plaintiff, Defendant and all Settlement Class Members who have not  
3 expressly opted out of the Settlement.

4 26. “Released Parties” means Defendant Valley Relocation of Northern California, Inc., and  
5 its affiliates and related entities, including, without limitation, its parents and subsidiaries,  
6 predecessors, successors, divisions, joint ventures and assigns, and each of these entities’ past, present  
7 and/or future direct and/or indirect directors, officers, employees, partners, members, investors,  
8 principals, agents, insurers, co-insurers, re-insurers, shareholders, administrators, parent companies,  
9 subsidiaries, affiliates, divisions, predecessors, successors, assigns, attorneys and personal or legal  
10 representatives.

11 27. “Request for Exclusion” means a timely letter submitted by a Class Member to the  
12 Settlement Administrator indicating a request to be excluded (i.e. “opt-out”) from the Settlement  
13 Class.

14 28. “Reserve Fund” means 2% of the Net Settlement Amount, which will be set aside and used  
15 to pay late or unanticipated claims. If, after the payment of any unanticipated or late claims pursuant  
16 to Paragraph 58, and the deposit of the amount of any uncashed settlement checks pursuant to  
17 Paragraph 56, the residual still remaining in the Reserve Fund is equal to or exceeds \$8,275, then this  
18 residual (minus administration costs estimated to be \$2,500) will be re-distributed to the Settlement  
19 Class Members in the same proportion as the formula set forth in Paragraph 57(b) below, except that  
20 the workweek ratio for each Settlement Class Member will be multiplied by the amount remaining in  
21 the Reserve Fund (after subtracting the reasonable administration costs of a second distribution), rather  
22 than by 98% of the Net Settlement Fund. If, after the payment of any unanticipated or late claims,  
23 the residual still remaining is less than \$8,275 (the estimated costs of administering a second  
24 distribution), any residual will be distributed in accordance with Code of Civil Procedure Section 384,  
25 as amended on June 27, 2017: (1) 25% to the Trial Court Improvement and Modernization Fund of  
26 the State of California Treasury, (2) 25% to the Equal Access Fund of the Judicial Branch of the State  
27 of California, and (3) 50% donated to Bay Area Legal Aid, the parties’ agreed-upon *cy pres*  
28 beneficiary, which provides civil legal services to the indigent.

1 29. "Response Deadline" means the date sixty (60) days after the post marked date that the  
2 Settlement Administrator mails the First Class Notice to Class Members and the last date on which  
3 Class Members may submit a request for exclusion and/or objection to the Settlement.

4 30. "Settlement" means the disposition of the Action pursuant to this Agreement.

5 31. "Settlement Administration Costs" means the amount to be paid to the Settlement  
6 Administrator from the Gross Settlement Amount to effectuate the administration of the Settlement,  
7 in an amount currently estimated to be \$6,000. If and to the extent that the fees charged by the  
8 Settlement Administrator are less than \$6,000, the balance will be contributed to the Net Settlement  
9 Fund.

10 32. "Settlement Administrator" means Simpluris, Inc.

11 33. "Settlement Class" means all Class Members who do not submit a timely and valid Request  
12 for Exclusion as provided in this Agreement.

13 34. "Settlement Class Member" means any Class Member who does not submit a timely and  
14 valid Request for Exclusion as provided in this Agreement.

### 15 **RECITALS**

16 35. Procedural History. This action was filed by Herman Johnson as a putative class action on  
17 November 26, 2014, against Defendant Valley Relocation and Storage of Northern California, Inc.  
18 The initial complaint alleged that Defendant failed to reimburse business expenses, failed to pay  
19 minimum wages, failed to pay overtime compensation, failed to pay for all hours worked, failed to  
20 provide meal periods, failed to authorize and permit rest periods, failed to keep accurate payroll  
21 records, failed to furnish accurate wage statements, and owed waiting time penalties under the  
22 California Labor Code. The complaint also alleged unfair competition and unlawful business practices  
23 based on these alleged Labor Code violations. The case was filed in San Francisco County Superior  
24 Court and assigned case number CGC-14-542925.

25 36. On February 8, 2015, the Court denied Defendant's motion to transfer venue.

26 37. On March 30, 2016, the Court granted Plaintiff's Motion for Class Certification and  
27 certified a class of all individuals who have personally made one or more deliveries for Defendants in  
28 California, while being classified by Defendants as independent contractor[s] at any time beginning



1 four years before the filing of this Complaint until resolution of this action.

2 38. On May 26, 2016, defendant submitted a petition for writ of mandate seeking review of  
3 the Court's order certifying the class, which the Court of Appeal for the First Appellate District denied  
4 on July 12, 2016.

5 39. On November 4, 2016, the Court denied Defendant's motion to decertify the class and  
6 Defendant's motion for judgment on the pleadings, but removed Mr. Johnson as the class  
7 representative.

8 40. On November 8, 2016, the parties participated in mediation on before Tripper Ortman. The  
9 case did not settle at the mediation.

10 41. On December 29, 2016, the Court granted Plaintiff's motion to amend the complaint to  
11 substitute the current representative plaintiff, Robert Ortiz as class representative.

12 42. Beginning on February 28, 2017, a three-day bench trial was held on Valley's independent  
13 contractor defense. On the second day of the trial, Valley made and oral motion for a directed verdict  
14 and decertification of the class, which was denied.

15 43. Following the bench trial, Valley filed its third motion for decertification, which the Court  
16 denied on July, 13, 2017.

17 44. On August 24, 2017, the Court issued its Statement of Decision on the bench trial  
18 concluding that Valley misclassified the class members as independent contractors rather than  
19 employees.

20 45. On November 1, 2017, the parties participated in a second mediation this time before the  
21 Honorable William J. Cahill (Ret.). While the Parties did not reach a settlement at the mediation, Judge  
22 Cahill issued a mediator's proposal which each party was free to accept or reject. Both parties  
23 scrutinized the proposal and eventually agreed to accept the proposal. As a result, the Parties came to  
24 an agreement on material terms to resolve the action in its entirety.

25 46. Benefits of Settlement to Class Members. Plaintiff and Class Counsel recognize the  
26 expense and length of continued proceedings necessary to litigate this action through a liability and  
27 damages trial and through any possible appeals. Plaintiff has also taken into account the uncertainty  
28 and risk of the outcome of further litigation, and the difficulties and delays inherent in such litigation.

1 Plaintiff and Class Counsel are also aware of the difficulties in establishing damages for the Settlement  
2 Class. Plaintiff and Class Counsel have also taken into account the extensive settlement negotiations  
3 conducted. Moreover, Plaintiff and Class Counsel have taken into account the financial condition of  
4 Defendant as part of the calculus in terms of coming up with a reasonable settlement amount. Based  
5 on the foregoing, Plaintiff and Class Counsel have determined that the Settlement set forth in this  
6 Agreement is a fair, adequate and reasonable settlement, and is in the best interests of the Settlement  
7 Class. As part of the robust investigation and exchange of documents and information for settlement,  
8 Valley has identified 59 Class Members, including two who did not begin working with Valley until  
9 the second half of 2017. The Parties reached an agreement to settle premised on the Defendant's  
10 representation at the time of mediation that there are approximately 57 Class Members eligible to  
11 participate in the Settlement (two individuals opted out of this case pursuant to the Class Notice mailed  
12 out on June 23, 2016). In the event additional Class Members are identified, such that either the total  
13 number of Class Members exceeds 59 by 5% or more and/or the number of Compensable Workweeks  
14 exceeds the Compensable Workweeks attributable to these 59 Class Members by 5% or more, then  
15 there will be an upward adjustment of the Gross Settlement Amount in proportion to the additional  
16 number of Compensable Workweeks as compared to the total number of Workweeks representing the  
17 original 59 Class Members

18 47. Defendant's Reasons for Settlement. Valley has concluded that any further defense of this  
19 litigation would be protracted and expensive for all Parties. Substantial amounts of time and resources  
20 of Valley has been spent and, unless this Settlement is made, will continue to be devoted to the defense  
21 of the claims asserted by Plaintiff and the Settlement Class. Valley has also taken into account the  
22 risks of further litigation and its financial condition in reaching its decision to enter into this  
23 Settlement. Despite continuing to contend that it is not liable for any of the claims set forth by Plaintiff,  
24 Defendant has, nonetheless, agreed to settle in the manner and upon the terms set forth in this  
25 Agreement to put to rest the claims as set forth in the Action without any admission of wrongdoing.

26 48. Settlement Class Members' Claims. Settlement Class Members have claimed and continue  
27 to claim that the Released Claims have merit and give rise to liability on the part of Defendant. This  
28 Agreement is a compromise of disputed claims. Nothing contained in this Agreement and no

1 documents referred to herein and no action taken to carry out this Agreement may be construed or  
2 used as an admission by or against the Settlement Class Members or Class Counsel or Defendant and  
3 Defendant's Counsel as to the merits or lack thereof of the claims asserted.

4 **TERMS OF AGREEMENT**

5 49. Preliminary Approval of the Settlement. On or about February 20, 2018, Plaintiff will file  
6 an Unopposed Motion for Preliminary Approval, along with this Revised Joint Stipulation of Class  
7 Action Settlement and Class Notice.

8 50. Release as to All Class Members. It is the desire of the Parties to fully, finally, and forever  
9 settle, compromise, and discharge disputes and claims arising from or related to this Action. Upon the  
10 Final Approval by the Court, Judgment will be entered. Upon the Final Approval by the Court and by  
11 operation of this Agreement's terms, all Settlement Class Members who do not submit valid and timely  
12 written Requests for Exclusion (opt-out), fully release and discharge the Released Parties from all  
13 Released Claims.

14 51. Dismissal of Cross Complaint against Robert Ortiz. Upon the Final Approval by the Court  
15 and by operation of this Agreement's terms, the Cross-complaint filed on January 26, 2017 against  
16 Plaintiff Robert Ortiz will be dismissed with prejudice. Each side will bear its own attorney's fees and  
17 costs associated with the cross-complaint, and except as otherwise set forth in this Joint Stipulation,  
18 no other amounts shall be due from Defendant to Plaintiff Robert Ortiz or his counsel.

19 52. Taxes. The Net Settlement Fund is a common fund that will be administered as a Qualified  
20 Settlement Fund for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1, and the  
21 "administrator" of the Net Settlement Fund, within the meaning of Treas. Reg. § 1.468B-2(k), shall  
22 comply with all applicable requirements, which shall include, without limitation, (a) preparing a  
23 "Regulation Section 1.468B-3 Statement" pursuant to Treas. Reg. § 1.468B-3(e) on behalf of Plaintiff  
24 and Defendant and providing copies to Class Counsel and Counsel for Defendant for review and  
25 approval (which approval shall not be unreasonably withheld); and (b) preparing and timely filing on  
26 behalf of the Net Settlement Fund (i) such income tax and other returns and statements as are required  
27 to comply with Treas. Reg. § 1.468B-2 and the other applicable provisions of the Internal Revenue  
28 Code of 1986, as amended (the "Code"), and (ii) all necessary state or local tax returns. In the event

1 that any amounts to be distributed to the Settlement Class remain unpaid, that amount will be  
2 redistributed to the Settlement Class.

3 53. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the  
4 “acknowledging party” and each Party to this Agreement other than the acknowledging party, an  
5 “other party”) acknowledges and agrees that: (1) no provision of this Agreement, and no written  
6 communication or disclosure between or among the Parties or their attorneys and other advisers, is or  
7 was intended to be, nor shall any such communication or disclosure constitute or be construed or be  
8 relied upon as, tax advice within the meaning of United States Treasury Department circular 230  
9 (31 CFR part 10, as amended); (2) the acknowledging party (a) has relied exclusively upon his, her or  
10 its own, independent legal and tax counsel for advice (including tax advice) in connection with this  
11 Agreement, (b) has not entered into this Agreement based upon the recommendation of any other Party  
12 or any attorney or advisor to any other Party, and (c) is not entitled to rely upon any communication  
13 or disclosure by any attorney or advisor to any other party to avoid any tax penalty that may be imposed  
14 on the acknowledging party, and (3) no attorney or advisor to any other Party has imposed any  
15 limitation that protects the confidentiality of any such attorney’s or adviser’s tax strategies (regardless  
16 of whether such limitation is legally binding) upon disclosure by the acknowledging party of the tax  
17 treatment or tax structure of any transaction, including any transaction contemplated by this  
18 Agreement.

19 54. Settlement Administration. Within fifteen (15) calendar days after Preliminary Approval  
20 of this Joint Stipulation of Settlement, Defendant shall provide the Settlement Administrator with the  
21 Class Information for purposes of mailing the Class Notice to Class Members.

22 a. Notice By First Class U.S. Mail. Upon receipt of the Class Information, the Settlement  
23 Administrator will perform a search based on the National Change of Address Database to update and  
24 correct any known or identifiable address changes. No more than fourteen (14) calendar days after  
25 Defendant provides the Class Information, the Settlement Administrator shall mail copies of the Class  
26 Notice to all Class Members via regular First Class U.S. Mail, and email to the extent available. The  
27 email Notice will contain the same content and language as the Notice sent by U.S. Mail, and to the  
28 extent practicable the same formatting as the Notice sent by U.S. Mail. The email Notice will be

1 substantially in the form attached as **Exhibit A**. The Settlement Administrator shall exercise its best  
2 judgment to determine the current mailing address for each Class Member. The address identified by  
3 the Settlement Administrator as the current mailing address shall be presumed to be the best mailing  
4 address for each Class Member.

5 b. Notice by Posting at Warehouse. No later than the date for mailing the Class Notice  
6 set forth above, Defendant shall post the Class Notice in its Concord, San Jose and West Sacramento  
7 warehouses in the places where notices are customarily posted. Additionally, the Administrator will  
8 maintain a website for the purpose of this settlement and will post the notice that goes out, a copy of  
9 this Agreement, a copy of the operative Complaint, all documents filed in connection with preliminary  
10 and final approval, and all court orders that relate to settlement thereon.

11 c. Undeliverable Notices. Any Class Notices returned to the Settlement Administrator as  
12 non-delivered on or before the Response Deadline shall be re-mailed to the forwarding address affixed  
13 thereto. If no forwarding address is provided, the Settlement Administrator shall promptly attempt to  
14 determine a correct address by use of skip-tracing, or other search using the name, address and/or  
15 Social Security number of the Class Member involved, and shall then perform a re-mailing, if another  
16 mailing address is identified by the Settlement Administrator. Class Members who received a re-  
17 mailed Class Notice shall have their Response Deadline extended ten (10) days from the original  
18 Response Deadline.

19 d. Class Notice. The Class Notice will be provided to the Class Members in both English  
20 and Spanish in substantially the form attached as **Exhibit A**. Each Class Notice shall provide the Class  
21 Member with the estimated number of Workweeks that will be credited to that Class Member, the total  
22 estimated Workweeks that will be credited to all potential Settlement Class Members, and the formula  
23 that will be used to calculate the Individual Settlement Payments for all Settlement Class Members.  
24 This purpose of providing this information in the Notice is to enable each Class Member to calculate  
25 his or her Estimated Individual Settlement Payment. The Class Notice shall also include instructions  
26 for submitting a written Request for Exclusion from the Settlement as well as instructions for objecting  
27 to the Settlement.

28 e. Disputes Regarding the Estimated Individual Settlement Payments. Class Members

1 will have the opportunity, should they disagree with Defendant’s records regarding their estimated  
2 Compensable Workweeks, and their resulting Estimated Individual Settlement Payment, to provide  
3 documentation and/or an explanation to show contrary dates during which they provided services for  
4 Defendant under the Subhaul Agreement. If there is a dispute, the Settlement Administrator will  
5 consult with the Parties to determine whether an adjustment is warranted. The Settlement  
6 Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement  
7 Payments under the terms of this Agreement. The Settlement Administrator’s determination of the  
8 eligibility for and amount of any Individual Settlement Payment shall be binding upon the Settlement  
9 Class Members and the Parties.

10 f. Disputes Regarding Administration of Settlement. Any disputes not resolved by the  
11 Settlement Administrator concerning the administration of the Settlement will be resolved by the Court  
12 under the laws of the State of California. Prior to any such involvement of the Court, counsel for the  
13 Parties will confer in good faith to resolve the disputes without the necessity of involving the Court.

14 g. Exclusions. The Class Notice shall state that Class Members who wish to exclude  
15 themselves from the Settlement must submit a written Request for Exclusion to the Settlement  
16 Administrator by the Response Deadline. To be valid, the written request for exclusion must: (1)  
17 explicitly and unambiguously state words to the effect of: “I wish to exclude myself from the  
18 settlement reached in the matter of *Robert Ortiz v. Valley Relocation and Storage of Northern*  
19 *California, Inc.* I understand by excluding myself, I will not receive any money from the settlement  
20 reached in this matter”; (2) contain the name, address, telephone number and the last four digits of the  
21 Social Security number of the person requesting exclusion; (3) be signed by the Class Member; (4)  
22 addressed to the Settlement Administrator at the specified address; and (5) be postmarked by the  
23 Response Deadline. The date of the postmark on the return mailing envelope on the Request for  
24 Exclusion shall be the exclusive means used to determine whether the Request for Exclusion was  
25 timely submitted. Any Class Member who submits a timely and valid Request for Exclusion will not  
26 be entitled to any recovery under the Settlement and will not be bound by the terms of the Settlement  
27 or have any right to object, appeal or comment thereon. Class Members who do not submit a valid and  
28 timely written Request for Exclusion on or before the Response Deadline shall be bound by all terms

1 of the Settlement and any final judgment entered in this Action if the Settlement is approved by the  
2 Court. No later than ten (10) calendar days after the Response Deadline, the Settlement Administrator  
3 shall provide Class Counsel and Counsel for Defendant with a final list of the Class Members who  
4 have timely submitted written Request for Exclusions. At no time shall any of the Parties or their  
5 Counsel seek to solicit or otherwise encourage Class Members to submit Requests for Exclusion from  
6 the Settlement.

7 h. Objections. The Class Notice shall state that Class Members who wish to object to the  
8 Settlement must mail to the Settlement Administrator a written statement of objection (“Objection”)  
9 by the Response Deadline. To be valid, the Objection must (1) be signed by the Class Member; (2)  
10 state the full name of the Class Member; (3) be addressed to the Settlement Administrator at the  
11 specified address; and (4) be postmarked by the Response Deadline. The postmark date shall be the  
12 means for determining that an Objection is timely. Class Members who fail to make objections in the  
13 manner specified above shall be deemed to have waived any objections and shall be foreclosed from  
14 making any objections (whether by appeal or otherwise) to the Settlement. Although not required,  
15 any Class Member making an objection will be asked to state the factual and legal basis for the  
16 objection and and to indicate whether the Class Member intends to appear at the Final  
17 Approval/Fairness Hearing, with or without separate counsel. Class Members who submit a timely  
18 and valid Notice of Objection will have a right to appear at the Final Approval/Fairness Hearing to  
19 have their objections heard by the Court. At no time shall any of the Parties or their Counsel seek to  
20 solicit or otherwise encourage Class Members to file or serve written objections to the Settlement or  
21 appeal from the Final Approval Order and Judgment. Class Counsel shall not represent any Class  
22 Members with respect to any such objections. The Settlement Administrator shall email any objections  
23 to Counsel for the Parties promptly upon receipt, and Class Counsel shall lodge any objections with  
24 the Court.

25 55. Funding and Allocation of Gross Settlement Amount. This is a non-reversionary  
26 Settlement in which Defendant is required to pay the entirety of the Gross Settlement Amount. No  
27 amount of the Gross Settlement Amount will revert to Defendant. Defendant will pay the Gross  
28 Settlement Amount to the Settlement Administrator, to be held in a Qualified Settlement Fund, no

1 later than thirty (30) days prior to the hearing date on the motion for Final Approval.

2 56. Individual Settlement Payments. Individual Settlement Payments will be paid from the Net  
3 Settlement Fund and shall be paid pursuant to the terms set forth herein. Individual Settlement  
4 Payments for Settlement Class Members shall be mailed by regular First Class U.S. Mail to Settlement  
5 Class Members' last known mailing address within ten (10) days of the Effective Date. The Settlement  
6 Administrator will be responsible for issuing a form W-2 for the amount deemed as wages and an IRS  
7 Form 1099 for the portions allocated to penalties and interest. Any checks issued to Settlement Class  
8 Members shall remain valid and negotiable for one hundred and eighty (180) days from the date of  
9 their issuance. After that time, any uncashed amounts will be paid into the Reserve Fund for  
10 distribution to late and/or unanticipated claims, or the agreed upon *cy pres* beneficiary, according to  
11 the provisions in Paragraph 58 below.

12 57. Calculation of Individual Settlement Payments. The Settlement Administrator will  
13 calculate the total Compensable Workweeks for all Settlement Class Members. Each class member  
14 who will receive a percentage of the Net Settlement Fund will be calculated as follows:

15 a. First, 2% of the Net Settlement Fund will be reserved for a Reserve Fund for late and  
16 unexpected claims.

17 b. Second, the following formula will be used to determine the individual settlement  
18 shares for each Settlement Class Member:

19 Individual Settlement Award =

20 
$$\frac{[\text{Individual Settlement Class Member Compensable Workweeks}]}{[\text{Total Settlement Class Member Compensable Workweeks}]} \times [98\% \text{ of Net Settlement Fund}]$$
  
21

22 c. Twenty-Five Percent (25%) of each individual settlement award shall be treated as  
23 wages, and paid pursuant to a W-2, and Seventy-Five Percent (75%) shall be treated as unreimbursed  
24 business expenses, penalties and interest and paid pursuant to a Form 1099.

25 58. Payments from Reserve Fund. 2% of the Net Settlement Fund will be reserved for late and  
26 unanticipated claims. Any late and unanticipated claims that are made within 180 days from the date  
27 of Final Approval and Judgment shall be paid using the same formula or proportion for the Class  
28 Members above, if there are sufficient funds in the Reserve Fund. If there are not sufficient funds in



1 the Reserve Fund, late and unanticipated claims that are made within 180 days from the date of Final  
2 Approval and Judgment shall be paid their pro-rated share under the formula above. In order to  
3 determine if there are sufficient funds in the Reserve Fund to pay all late or unanticipated claims in  
4 full or pro-rated, payments from the Reserve Fund will not occur before the 180 day period referenced  
5 in this paragraph. The payments will be made promptly after the 180 day period.

6 a. If, after the payment of any unanticipated or late claims as set forth in the preceding  
7 Paragraph, and the deposit of the amount of any uncashed settlement checks pursuant to Paragraph 56,  
8 the residual still remaining in the Reserve Fund is equal to or exceeds \$8,275, then this residual (minus  
9 administration costs currently estimated to be \$2,500) will be re-distributed to the Settlement Class  
10 Members in the same proportion as the formula set forth in Paragraph 57(b) below, except that the  
11 workweek ratio for each Settlement Class Member will be multiplied by the amount remaining in the  
12 Reserve Fund (after subtracting the reasonable administration costs of a second distribution), rather  
13 than by 98% of the Net Settlement Fund.

14 b. If, after the payment of any unanticipated or late claims, the residual still remaining is  
15 less than \$8,275 (the estimated administrative costs for a second distribution), any residual will be  
16 distributed in accordance with Code of Civil Procedure Section 384, as amended June 27, 2017: (1)  
17 25% to the Trial Court Improvement and Modernization Fund of the State of California Treasury, (2)  
18 25% to the Equal Access Fund of the Judicial Branch of the State of California, and (3) 50% donated  
19 to Bay Area Legal Aid, the parties' agreed-upon *cy pres* beneficiary, which provides civil legal  
20 services to the indigent.

21 59. Class Representative Service Payment. Defendant agrees not to oppose or object to any  
22 application or motion by Plaintiff Ortiz for a Class Representative Service Payment of up to Five  
23 Thousand Dollars and No Cents (\$5,000.00) for his time and effort in bringing and prosecuting this  
24 matter and in exchange for a release of the Released Claims. The Class Representative's Service  
25 Payment shall be paid to Plaintiff Ortiz from the Gross Settlement Amount no later than ten (10)  
26 calendar days after Effective Date. Any portion of the requested Class Representative's Service  
27 Payments that is not awarded to the Plaintiff shall be part of the Net Settlement Fund and shall be  
28 distributed to Settlement Class Members as part of the initial Individual Settlement Payments. The

1 Settlement Administrator shall issue an IRS Form 1099 to Plaintiff for his Class Representative's  
2 Service Payment. Plaintiff shall be solely and legally responsible to pay any and all applicable taxes  
3 on his Class Representative's Service Payment and shall hold harmless Defendant from any claim or  
4 liability for taxes, penalties, or interest arising as a result of the Class Representative's Service  
5 Payment. The Class Representative's Service Payment shall be in addition to the Plaintiff's Individual  
6 Settlement Payment as a Settlement Class Member.

7 60. Class Counsel Attorneys' Fees Award. Defendant agrees not to oppose or object to any  
8 application or motion by Class Counsel for attorneys' fees not to exceed one-third (1/3) of the Gross  
9 Settlement Amount (or \$248,333.33), plus costs and expenses supported by a declaration from Class  
10 Counsel, currently estimated to be approximately \$44,000, from the Gross Settlement Amount. Any  
11 portion of the requested Class Counsel Attorneys' Fees Award that is not awarded to Class Counsel  
12 shall be part of the Net Settlement Fund and shall be distributed to Settlement Class Members as part  
13 of the initial Individual Settlement Payments. The Class Counsel Attorneys' Fees Award shall be paid  
14 to Class Counsel from the Gross Settlement Amount within ten (10) calendar days following the  
15 Effective Date. Class Counsel shall be solely and legally responsible to pay all applicable taxes on the  
16 payment made pursuant to this paragraph. The Settlement Administrator shall issue an IRS Form 1099  
17 – MISC to Class Counsel for the payments made pursuant to this paragraph.

18 61. LWDA Payment. Subject to Court approval, the Parties have allocated 5% of the Gross  
19 Settlement Amount, or Thirty-Seven Thousand Two Hundred and Fifty Dollars and No Cents  
20 (\$37,250.00) for the payment of claims brought under the Private Attorneys General Act of 2004, Cal.  
21 Lab. Code § 2698 *et seq.* California Labor Code section 2699(i) requires that the Parties distribute any  
22 settlement of PAGA claims as follows: seventy-five percent (75%) to the LWDA for enforcement of  
23 labor laws and education of employers; and twenty-five percent (25%) to "aggrieved employees" (i.e.,  
24 Settlement Class Members.) Therefore, Twenty-Seven Thousand Nine Hundred and Thirty-Seven  
25 Dollars and Fifty Cents (\$27,937.50) shall be paid to the LWDA by the Settlement Administrator no  
26 later than ten (10) calendar days following the Effective Date. Nine Thousand Three Hundred and  
27 Twelve Dollars and Fifty Cents (\$9,312.50) shall be paid as part of the Net Settlement Fund to be  
28 distributed in accordance with the terms of this Agreement.

1           62.    Settlement Administration. The Settlement Administrator shall be paid for the costs of  
2 administration of the Settlement from the Gross Settlement Amount. The estimate of such costs of  
3 administration for the disbursement of the Gross Settlement Amount is Six Thousand Dollars and No  
4 Cents (\$6,000.00). No fewer than ten (10) calendar days prior to the Final Approval /Fairness Hearing,  
5 the Settlement Administrator shall provide the Parties with a statement detailing the costs of  
6 administration of this Settlement. The Settlement Administrator may pay itself the Settlement  
7 Administration Costs immediately after the Effective Date. The Settlement Administrator, on  
8 Defendant's behalf, shall have the authority and obligation to make payments, credits and  
9 disbursements, including payments and credits in the manner set forth herein, to Settlement Class  
10 Members calculated in accordance with the methodology set out in this Agreement and orders of the  
11 Court.

12           The Parties agree to cooperate in the Settlement administration process and to make all  
13 reasonable efforts to control and minimize the cost and expenses incurred in administration of the  
14 Settlement. The Parties each represent they do not have any financial interest in the Settlement  
15 Administrator or otherwise have a relationship with the Settlement Administrator that could create a  
16 conflict of interest.

17           The Settlement Administrator shall be responsible for: processing and mailing payments to the  
18 Plaintiff, Class Counsel, the LWDA, and Settlement Class Members; printing and mailing the Class  
19 Notices to the Class Members as directed by the Court; receiving and reporting the Requests for  
20 Exclusion submitted by Class Members; deducting taxes from Individual Settlement Payments and  
21 distributing tax forms; processing and mailing tax payments to the appropriate state and federal taxing  
22 authorities; providing declaration(s) as necessary in support of Preliminary and/or Final Approval of  
23 this Settlement; and other tasks as the Parties mutually agree or the Court orders the Settlement  
24 Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the  
25 performance of all Settlement Administrator responsibilities. No later than fourteen (14) calendar days  
26 after the Response Deadline, the Settlement Administrator shall provide Counsel for the Parties with  
27 a final accounting of the Gross Settlement Amount and report the amount of all payments to be made  
28 to each Settlement Class Member.

1 No person shall have any claim against Defendant, Plaintiff, Settlement Class Members, Class  
2 Counsel or the Settlement Administrator based on distributions and payments made in accordance  
3 with this Agreement.

4 63. Final Approval/Fairness Hearing and Entry of Judgment. Upon expiration of the Response  
5 Deadline, with the Court's permission, a Final Approval/Fairness Hearing shall be conducted to  
6 determine Final Approval of the Settlement, along with the amount properly payable for (i) the Class  
7 Counsel Attorneys' Fees Award, (ii) the Class Representative Service Payment, (iii) Individual  
8 Settlement Payments, (iv) the Settlement Administration Costs, (v) the LWDA Payment, and entry of  
9 judgment. Pursuant to California Rule of Court 3.769(h), after granting Final Approval, the Court shall  
10 retain jurisdiction over the Parties to enforce the terms of the judgment.

11 64. Nullification of Settlement Agreement. If the Court for any reason does not finally approve  
12 this Settlement, this Agreement shall be considered null and void and all parties to this Settlement  
13 shall stand in the same position, without prejudice, as if the Settlement had been neither entered into  
14 nor filed with the Court. Invalidation of any material portion of this Settlement shall invalidate this  
15 Settlement in its entirety unless the parties agree in writing that the remaining provisions shall remain  
16 in full force and effect

17 65. Motions for Preliminary and Final Approval. Class Counsel will provide an opportunity  
18 for Counsel for Defendant to review the Motions for Preliminary and Final Approval prior to filing  
19 with the Court. The Parties and their Counsel will cooperate with each other and use their best efforts  
20 to effect the Court's approval of the Motions for Preliminary and Final Approval.

21 66. Exhibits and Headings. The terms of this Agreement include the terms set forth in any  
22 attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any  
23 Exhibit to this Agreement is an integral part of the Settlement. The descriptive headings of any  
24 paragraphs or sections of this Agreement are inserted for convenience of reference only and do not  
25 constitute a part of this Agreement.

26 67. Amendment or Modification. This Agreement may be amended or modified only by a  
27 written instrument signed by Counsel for all Parties or their successors-in-interest.

28 68. Entire Agreement. This Agreement and any attached Exhibits between the Parties

1 constitute the entire Agreement among these Parties, and no oral or written representations, warranties  
2 or inducements have been made to any Party concerning this Agreement or its Exhibits other than the  
3 representations, warranties and covenants contained and memorialized in the Agreement and its  
4 Exhibits.

5 69. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and  
6 represent they are expressly authorized by the Parties whom they represent to negotiate this Agreement  
7 and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this  
8 Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms  
9 of this Agreement. The Parties and their Counsel will cooperate with each other and use their best  
10 efforts to effect the implementation of the Settlement. The person signing this Agreement on behalf of  
11 Defendant represents and warrants that he or she is authorized to sign this Agreement on their behalf.  
12 Plaintiff represents and warrants that he is authorized to sign this Agreement and that he has not  
13 assigned any claim, or part of a claim, covered by this Settlement to a third-party.

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

16 71. California Law Governs. All terms of this Agreement and the Exhibits hereto and any  
17 disputes arising hereunder shall be governed by and interpreted according to the laws of the State of  
18 California.

19 72. Cooperation. The Parties agree to cooperate fully with each other to accomplish the terms  
20 and requirements of this Agreement, including but not limited to, the execution of such documents  
21 and to take such other action as may reasonably be necessary to implement the terms of this stipulated  
22 Agreement. The Parties will cooperate in a timely manner to incorporate these terms and all other  
23 reasonable and necessary terms that may be required to effectuate a fair and reasonable settlement,  
24 subject to Court approval. If the Court rejects the Settlement for reasons other than the amount being  
25 insufficient, the Parties agree to cooperate fully with each other in restructuring the Agreement in a  
26 way that does not increase the Gross Settlement Amount to meet the Court's concerns.

27 73. Mutual Non-Disparagement. The Parties mutually agree not to make or knowingly  
28 encourage any other person to make any public or private statement, whether oral or written, that

1 disparages, defames, or is derogatory about the other Party. The foregoing shall not be violated by  
2 truthful statements in response to a legal process, required governmental testimony or filings, or  
3 administrative or arbitral proceedings (including, without limitation, depositions in connection with  
4 such proceedings).

5 74. Counterparts. This Agreement may be executed in one or more counterparts. A signature,  
6 including electronic signature, sent by facsimile or scanned and sent by electronic mail shall have the  
7 same force and effect as an original signature. All executed counterparts and each of them shall be  
8 deemed to be one and the same instrument provided that Counsel for the Parties to this Agreement  
9 shall exchange among themselves copies or originals of the signed counterparts. This Agreement will  
10 become effective on the date when the last person signs and dates it.

11 75. This Settlement Is Fair, Adequate and Reasonable. The Parties believe this Settlement is a  
12 fair, adequate and reasonable settlement of this Action and have arrived at this Settlement after  
13 extensive arms-length negotiations, taking into account all relevant factors, present and potential.

14 76. Invalidity of Any Provision. Before declaring any provision of this Agreement invalid, the  
15 Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with  
16 applicable precedents so as to define all provisions of this Agreement valid and enforceable.

17 77. Notices. Unless otherwise specifically provided, all notices, demands or other  
18 communications in connection with this Stipulation shall be: (1) in writing; (2) deemed given on the  
19 third business day after mailing; and (3) sent via United States registered or certified mail, return  
20 receipt requested, addressed as follows:

<b>To Plaintiff:</b>	<b>To Defendant:</b>
Joshua Konecky Leslie Joyner Nathan Piller SCHNEIDER WALLACE COTTRELL KONECKY WOTKYNS LLP. 2000 Powell Street, Suite 1400 Emeryville, CA 94608 Telephone: (415) 421-7100 Facsimile: (415) 421-7105	William Hays Weissman Jeffrey J. Mann LITTLER MENDELSON, P.C. Treat Towers 1255 Treat Boulevard, Suite 600 Walnut Creek, CA 94597 Telephone: 925.932.2468 Fax No.: 925.946.9809

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**ROBERT ORTIZ**

Dated: 02/19/2018



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ROBERT ORTIZ

Dated: Feb 19, 2018



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JOSHUA KONECKY  
LESLIE JOYNER  
NATHAN PILLER  
SCHNEIDER WALLACE  
COTTRELL KONECKY WOTKYNs LLP  
Attorneys for Plaintiffs

**DEFENDANT VALLEY RELOCATION  
AND STORAGE OF NORTHERN  
CALIFORNIA, INC.**

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

\_\_\_\_\_  
VALLEY RELOCATION AND STORAGE  
OF NORTHERN CALIFORNIA

NAME: \_\_\_\_\_

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

\_\_\_\_\_

WILLIAM HAYS WEISSMAN  
JEFFREY J. MANN  
LITTLER MENDELSON, P.C.  
Attorneys for Defendant Valley Relocation  
And Storage Of Northern California

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**ROBERT ORTIZ**

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


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ROBERT ORTIZ

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

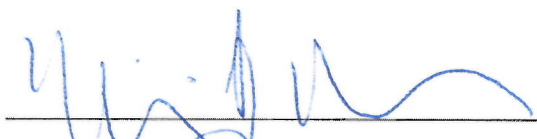
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JOSHUA KONECKY  
LESLIE JOYNER  
NATHAN PILLER  
SCHNEIDER WALLACE  
COTTRELL KONECKY WOTKYNs LLP  
Attorneys for Plaintiffs

**DEFENDANT VALLEY RELOCATION  
AND STORAGE OF NORTHERN  
CALIFORNIA, INC.**

Dated: February 20, 2018

  
\_\_\_\_\_  
VALLEY RELOCATION AND STORAGE  
OF NORTHERN CALIFORNIA  
NAME: Mark Robson

Dated: 2-20-2018

  
\_\_\_\_\_  
WILLIAM HAYS WEISSMAN  
JEFFREY J. MANN  
LITTLER MENDELSON, P.C.  
Attorneys for Defendant Valley Relocation  
And Storage Of Northern California