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11	UNITED STAT	ES DISTRICT COURT
12	SOUTHERN DISTRICT OF CALIFORNIA	
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14	MANUELA RUELAS MENDOZA, behalf of herself	CASE NO. 3:13CV2344-LAB (JMA)
15	and all others similarly situated,	HON. LARRY ALAN BURNS
16	Plaintiff,	ORDER PRELIMINARILY APPROVING SETTLEMENT,
17	VS.	PROVIDING FOR NOTICE, ÁND SETTING FINAL APPROVAL
18	PACER CARTAGE, INC.; and DOES 1 through 100, inclusive,	HEARING
19 20	Defendants.	
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	ORDER PRELIMINARILY APPROVING SETTLEMENT, PROVIDING FOR NOTICE, AND SETTING FINAL APPROVAL HEARING (3:13CV2344-LAB (JMA))	

ORDER PRELIMINARILY APPROVING SETTLEMENT, PROVIDING FOR 1 2 NOTICE, AND SETTING FINAL APPROVAL HEARING 3 The parties have entered into agreements, contained in the Stipulation of 4 5 Settlement of Class Action and Release, to settle the claims in this case. The agreements are attached as Exhibit A to Plaintiff's Motion for Preliminary Approval. The settlement 6 is subject to review under Rule 23 of the Rules of Civil Procedure. 7 8 Plaintiffs filed and served on all parties hereto a motion for preliminary approval 9 of the Settlement. The Settlement is not an admission of, or evidence of, liability on the part of Defendants, or a lack thereof on the part of Plaintiffs. 10 11 The Court has reviewed the proposed settlement, and **ORDERS** that: 12 1. For purposes of settlement only, the class is certified and defined as 13 follows: "All current and former California employees of Defendant, employed in California, at any time beginning August 19, 2009 through the date notice is mailed to the 14 Class (the "Class period"), and who drove a truck as an "independent contractor" for 15 Defendant." 16 2. A member of the Class shall hereinafter be referred to as a "Settlement 17 18 Class Member." 3. The Court hereby preliminarily approves, as fair, reasonable, and adequate 19 20 under Fed. R. Civ. P. 23, the proposed Settlement as reflected in the Stipulation. 4. A hearing (the "Settlement Fairness Hearing") pursuant to Fed. R. Civ. P. 21 23(e) is hereby set and will be held before the Court on June 27, 2016, at 12:00 noon for 22 23 the following purposes: 24 to determine whether the proposed Settlement as reflected in the a. 25 Stipulation is fair, reasonable, and adequate, and should be finally approved by the Court; 26 27 -2 28 ORDER PRELIMINARILY APPROVING SETTLEMENT, PROVIDING FOR NOTICE, AND SETTING FINAL APPROVAL HEARING (3:13CV2344-LAB (JMA))

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b. to determine whether the proposed Order and Final Judgment as 1 2 provided under the Stipulation should be entered, and to determine whether the release by 3 the Class, as set forth in the Stipulation, should be provided;

- to consider Class Counsel's application for an award of attorneys' c. 4 fees and reimbursement of expenses; and 5
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d. to rule upon such other matters as the Court may deem appropriate. 5. The Court may approve the Stipulation with or without modification (if agreed to by the parties) and with or without further notice of any kind.

9 6. The Court approves the form, substance and requirements of the Settlement Notice (attached as Exhibit 1 to the Settlement Agreement). The Court directs Defendant 10 to provide the Class List to the Settlement Administrator and Class Counsel no later than 11 12 14 days from the date of this order. The Court directs the Settlement Administrator to 13 disseminate the Settlement Notice no later than 14 days from the date it receives the Class List from Defendant. The Settlement Administrator shall provide Class Counsel 14 with proof of the dissemination of the Settlement Notice and Class Counsel shall, at or 15 before the Settlement Fairness Hearing, file with the Court proof of the dissemination of 16 the Settlement Notice. 17

18 7. The form and method set forth herein of notifying the Settlement Class of 19 the Settlement reflected in the Stipulation and their terms and conditions meet the 20 requirements of Rule 23 of the Federal Rules of Civil Procedure, and due process, 21 constitute the best notice practicable under the circumstances, and shall constitute due 22 and sufficient notice to all persons and entities entitled thereto.

- 23 8. The Court hereby appoints the firm of Kurtzman Carson Consultants, LLC 24 (the "Settlement Administrator") to supervise and administer the notice procedure under 25 the direction of the parties, as well as the processing of claims as more fully set forth below. The Settlement Administrator shall ensure that the Settlement Notice is mailed to 26 the Settlement Class Members within the time set forth in this order. The fees of the 27 - 3 -
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Settlement Administrator together with the costs of notice, shall be paid by Defendant,
 and without further order of the Court.

9. Settlement Class Members shall be bound by all determinations and
judgments in this Action with respect to the Settlement reflected in the Stipulation,
whether favorable or unfavorable, unless such persons request exclusion from the Class
in a timely and proper manner, as hereinafter provided.

10. A Settlement Class Member wishing to request exclusion shall mail the 7 request in written form, by first class mail, postage prepaid, and postmarked no later than 8 9 45 calendar days from the date the Class Notice is mailed, to the address specified in the Settlement Notice. Such request for exclusion shall clearly indicate the name and address 10 11 of the person seeking exclusion, that the sender requests to be excluded from the Class in 12 Mendoza v. Pacer Cartage, Inc., USDC Case No. 2344-LAB, and must be signed by such 13 person. The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise 14 accepted by the Court. Copies of all requests for exclusion received by the Settlement 15 Administrator shall be delivered to Class Counsel and counsel for Defendant within 5 16 business days of receipt thereof. 17

18 11. Settlement Class Members requesting exclusion from the Settlement Class19 shall not be entitled to receive any payment as defined in the Stipulation.

20 12. Any Settlement Class Member may enter an appearance in this litigation, at
21 his, her, or its own expense, individually or through counsel of their choice. Any
22 Settlement Class Member who does not enter an appearance will be represented by Class
23 Counsel.

13. The Court will consider comments and/or objections to the Settlement
reflected in the Stipulation or the award of attorneys' fees and reimbursement of expenses
only if such comments or objections and any supporting papers are filed in writing with
the Clerk of the Court, United States District Court for the Southern District of

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ORDER PRELIMINARILY APPROVING SETTLEMENT, PROVIDING FOR NOTICE, AND SETTING FINAL APPROVAL HEARING (3:13CV2344-LAB (JMA))

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1	California, 333 West Broadway, Suite 1410, San Diego, California, 92101, and copies of		
2	all such papers are served, on or before June 7, 2011 on the following counsel:		
3	CLASS COUNSEL DEFENDANT'S COUNSEL		
4	CLASS COUNSELDEFENDANT'S COUNSELKabateck Brown Kellner, LLPScopelitis, Garvin, Light, Hanson		
5	Brian S. Kabateck, Esq.& Feary, P.C.Joshua H. Haffner.James H. Hanson, Esq.		
6	Joshua II. Hannel.James II. Hanson, Esq.644 S. Figueroa Street10 W. Market Street, Suite 1500		
7	Los Angeles, CA 90017 Indianapolis, IN 46204		
8	Attendance at the Settlement Fairness Hearing is not necessary; however, persons		
9	wishing to be heard orally in opposition to the approval of the Stipulation, and/or the		
10	request for attorneys' fees are required to indicate in their written objection their intention		
11	to appear at the hearing. Persons who intend to object to the Stipulation and/or Class		
12	Counsel's application for an award of attorneys frees and remoursement of expenses and		
13	desire to present evidence at the hearing thereon must include in their written objections		
14	the identity of any witnesses they may call to testify and exhibits they intend to introduce		
15	into evidence at said hearing.		
16	14. Settlement Class Members do not need to appear at the hearing or take any		
17	other action to indicate their approval.		
18	15. All papers in support of final approval of the Settlement reflected in the		
19	Stipulation, and the application of Class Counsel for an award of attorneys' fees and		
20	reimbursement of expenses shall be filed and served no less than fourteen (14) days		
21	before the Settlement Fairness Hearing.		
22	16. If: (i) the Stipulation is terminated by Defendant; or (ii) any specified		
23	condition to the Settlement set forth in the Stipulation is not satisfied and the satisfaction		
24	of such condition is not waived by the parties thereto; or (iii) the Court rejects, in any		
25	respect, the Order and Final Judgment in substantially the form and content annexed to		
26	the Stipulation and Class Counsel and Counsel for the Defendant do not consent to the		
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	FINAL APPROVAL HEARING (3:13CV2344-LAB (JMA))		

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entry of another form of order in lieu thereof, or (iv) the Court rejects the Stipulation, 1 2 including any amendment thereto approved by Class Counsel and Counsel for the Defendant; or (v) the Court approves the Stipulation, including any amendment thereto 3 approved by Class Counsel and Counsel for the Defendant, but such approval is reversed 4 5 on appeal and such reversal becomes final; or (vi) the Settlement reflected in the Stipulation is terminated or this Order does not become effective for any reason, then, in 6 any such event, this Order Preliminarily Approving Settlement and Providing for Notice 7 shall be null and void as to the applicable, parties, of no further force or effect, and 8 9 without prejudice to any party, and may not be introduced as evidence or referred to in any actions or proceedings by any person or entity. 10

- 11 17. The Court retains jurisdiction over the parties, including the power to
 12 consider whether or not the proposed Settlement reflected in the Stipulation should be
 13 approved pursuant to Fed. R. Civ. P. 23(e).
- 14 18. The magistrate judge will retain jurisdiction over this class action to
 15 consider all further matters arising out of or connected with the Settlement reflected in
 16 the Stipulation, including enforcement of the release provided for in the Stipulation. All
 17 counsel and named parties should sign and submit the consent form as required in the
 18 Court's standing order, paragraph 3(a).
- 19 **IT IS SO ORDERED.**

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21 Dated: February 26, 2016

Honorable Larry Alan Burns United States District Judge

ORDER PRELIMINARILY APPROVING SETTLEMENT, PROVIDING FOR NOTICE, AND SETTING FINAL APPROVAL HEARING (3:13CV2344-LAB (JMA))

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