

1 **WORKMAN LAW FIRM, PC**  
Robin G. Workman (Bar #145810)  
2 robin@workmanlawpc.com  
177 Post Street, Suite 800  
3 San Francisco, CA 94108  
Telephone: (415) 782-3660  
4 Facsimile: (415) 788-1028

5 Attorneys for Plaintiff, Marvin Nash  
and all others similarly situated

6 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
7 JOHN L. BARBER, SB# 160317  
E-Mail: John.Barber@lewisbrisbois.com  
8 ALAN RUPE, Pro Hac Vice  
E-Mail: Alan.Rupe@lewisbrisbois.com  
9 NANETTE TURNER KALCIK, Pro Hac Vice  
E-Mail: Nanette.Kalcik@lewisbrisbois.com  
10 633 West 5th Street, Suite 4000  
Los Angeles, California 90071  
11 Telephone: 213.250.1800  
Facsimile: 213.250.7900

12 **LEWIS BRISBOIS BISGAARD & SMITH LLP**  
13 ANTHONY C. OCEGUERA, SB# 259117  
E-Mail: Anthony.Oceguera@lewisbrisbois.com  
14 2020 West El Camino Avenue, Suite 700  
Sacramento, California 95833  
15 Telephone: 916.564.5400  
Facsimile: 916.564.5444

16 Attorneys for Defendant Horizon Freight System, Inc.

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19

20 MARVIN NASH,

21 Plaintiff,

22 vs.

23 HORIZON FREIGHT SYSTEM, INC., and  
24 Does 1 through 50, inclusive,

25 Defendants.  
26  
27  
28

No. 3:19-CV-01883-VC

**JOINT STIPULATION OF CLASS  
ACTION SETTLEMENT AND RELEASE**

1 IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff MARVIN NASH  
2 (“Class Representative” or “Plaintiff”), on behalf of himself and all others similarly situated to him  
3 and as defined below, and HORIZON FREIGHT SYSTEM, INC. (“Defendant”), as set forth below:

4 **I. The Conditional Nature of This Stipulation**

5 This Joint Stipulation of Class Action Settlement and Release (“Stipulation,” “Settlement,”  
6 or “Settlement Agreement”), including all associated exhibits or attachments, is made for the sole  
7 purpose of resolving the above-captioned matter (the “Litigation”) on a class-wide basis. This  
8 Stipulation and the settlement it evidences is made in compromise of disputed claims and is  
9 subject to approval by the Court. Because the Litigation was filed as a class action, this  
10 Settlement must receive preliminary and final approval from the Court. In the event the Court  
11 does not execute and file the Order Granting Final Approval of Settlement, or in the event the  
12 Court does not enter the Judgment (as defined below), or the associated Judgment does not become  
13 final for any reason, this Stipulation will be deemed null and void, it will be of no force or effect  
14 whatsoever, it will not be referred to or used for any purpose whatsoever, and the negotiation,  
15 terms and entry of it shall remain subject to the provisions of California Evidence Code §§ 1119  
16 and 1152 and Rule of Evidence 408.

17 Defendant denies all of the claims and allegations asserted in the Litigation (as defined  
18 herein). Defendant has agreed to resolve this Litigation via this Stipulation, but to the extent this  
19 Stipulation is deemed void or does not take effect, Defendant does not waive, but rather expressly  
20 reserves, all rights to challenge all such claims and allegations in the Litigation upon all procedural  
21 and factual grounds, or to assert any and all defenses or privileges. The Class Representative and  
22 his counsel agree that Defendant retains and reserves these rights.

23 **II. The Parties to this Stipulation**

24 This Stipulation (with the associated exhibits) is made and entered into by and among the  
25 following parties (“collectively, the “Settling Parties”): (i) the Class Representative Marvin Nash  
26 (on behalf of himself and each of the members of the class), with the assistance and approval of  
27 his counsel (the “Class Counsel”); and (ii) Defendant Horizon Freight System, Inc., with the  
28 assistance and approval of its counsel of record in the Litigation. This Stipulation is intended by

1 the Settling Parties to result in a Judgment and to fully, finally, and forever resolve, discharge and  
2 settle the Released Claims (defined below) upon and subject to the terms and conditions thereof.

3 **III. Procedural Posture**

4 On February 22, 2019, Plaintiff commenced a class action suit against Defendant by filing  
5 his Class Action Complaint for Damages in Alameda County Superior Court. On April, 8, 2019,  
6 Defendant removed the case to the United States District Court, Northern District of California.  
7 On January 30, 2020, Plaintiff filed his First Amended Class Action Complaint, the operative  
8 complaint, alleging causes of action for: (1) meal break violations (Cal. Lab. Code §§ 226.7 & 512  
9 & Applicable Industrial Commission Wage Orders (“IWC WO”) § 11; (2) rest break violations  
10 (Cal. Lab. Code §§ 226.7 & Applicable IWC WO § 12); (3) Reimbursement Violations (Cal. Lab.  
11 Code § 2802); (4) Inaccurate Wage Statements (Cal. Lab. Code §§ 226 & 226.2); (5) Deduction  
12 Violations (Cal. Lab. Code § 221); (5) Unlawful, Unfair and Fraudulent Business Practices; Bus.  
13 & Prof. Code § 17200 *et seq.*; and (7) Labor Code Private Attorney General Act of 2004 (the  
14 “PAGA”) (Cal. Lab. Code § 2698, *et seq.*).

15 On July 27, 2020, the Court granted in part Defendant’s Motion for Partial Summary  
16 Judgment. On December 23, 2020, the Court granted Plaintiff’s Motion for Class Certification,  
17 certifying a class of California drivers who contracted with and drove for Defendant dating back to  
18 February 22, 2015.

19 On September 13, 2021, the Parties participated in a full-day mediation with David  
20 Rotman. The mediation was a successful, arms-length negotiation, that resulted in a mediator’s  
21 proposal ultimately accepted by both parties, with the Parties executing a Memorandum of  
22 Understanding and agreeing to settle this matter and enter into this Stipulation.

23 **IV. Defendant’s Denial of Wrongdoing or Liability**

24 Defendant denies all of the claims and contentions alleged by the Plaintiff in the Litigation,  
25 and has asserted multiple defenses to liability, class certification (and at the time of settlement had  
26 pending a Motion for Class Decertification), and damages. Defendant does not, by this Settlement  
27 Agreement or otherwise, admit any liability of wrongdoing of any kind. Nonetheless, Defendant has  
28 taken into account the uncertainty and risks inherent in any litigation, particularly class action

1 litigation, and concluded that to continue the Litigation and proceed to trial, which was set for  
2 September 20, 2021, would be expensive and that it is desirable that the Litigation be fully and  
3 finally settled in the manner and upon the terms and conditions set forth in this Stipulation.

4 The Parties understand and acknowledge that this Settlement Agreement constitutes a  
5 compromise and settlement of disputed claims. No action taken by the Parties whether previously  
6 or in connection with the negotiations or proceedings connected with the Settlement or this  
7 Agreement shall be deemed or construed to be an admission of the truth or falsity of any allegations,  
8 claims, or defenses heretofore made, or an acknowledgment or admission by any party of any fact,  
9 fault, liability, or wrongdoing of any kind whatsoever.

10 Neither the Settlement, nor any act performed or document executed pursuant to or in  
11 furtherance of the Settlement: (a) is or may be deemed to be, or may be used as, an admission of, or  
12 evidence of, the validity of any claim made by the Plaintiff or Class Members, or of any wrongdoing  
13 or liability of the Released Parties (as defined below); or (b) is or may be deemed to be, or may be  
14 used as, an admission of, or evidence of, any fault or omission of any of the Released Parties, in the  
15 Litigation or in any proceeding in any court, administrative agency or other tribunal; or construed  
16 as an admission by Plaintiff regarding the validity of any allegation or claim asserted in this Action  
17 or that Plaintiff has waived any allegation or claim asserted in the Action.

18 In addition to any other defenses Defendant may have at law, in equity, or otherwise, to the  
19 extent permitted by law, this Settlement Agreement may be pleaded as a full and complete defense  
20 to, and may be used as the basis for an injunction against, any action, suit or other proceeding that  
21 may be instituted, prosecuted or attempted in breach of this Settlement Agreement or the releases  
22 contained herein.

23 In light of the above, Defendant has determined that it is desirable and beneficial to it that  
24 the Litigation be settled in the manner and upon the terms and conditions set forth in this  
25 Stipulation.

26 **V. Claims of the Class Representative and Benefits of Settlement**

27 The Class Representative believes that the claims asserted in the Litigation have merit. The  
28 Class Representative and Class Counsel recognize and acknowledge, however, the expense and time

1 associated with continued litigation against Defendant through trial, and/or appeals. The Class  
2 Representative and Class Counsel have also taken into account the uncertain outcome and risks of  
3 any litigation, and in particular class actions such as this Litigation, as well as the difficulties and  
4 delays inherent in such litigation. The Class Representative and Class Counsel are also mindful of  
5 the inherent problems of proof in establishing and overcoming potential defenses to the claims  
6 asserted in the Litigation. In light of these considerations, the Class Representative and Class  
7 Counsel believe that the Settlement set forth in the Stipulation confers substantial benefits and is in  
8 the best interests of the Class.

9 **VI. Terms of Stipulation and Agreement of Settlement**

10 **1. Definitions**

11 As used in all parts of this Stipulation (including the exhibits which are incorporated as part  
12 of the Stipulation), the following terms have the meanings specified below:

13 1.1 “Settlement Class” or “Class Members” means any and all persons who drove for  
14 Defendant within the State of California at any time from February 22, 2015 to the Preliminary  
15 Approval Date.

16 1.2 “Class Counsel” means Robin Workman of Workman Law Firm, PC, 177 Post  
17 Street, Suite 800, San Francisco, CA 94108

18 1.3 “Class Period” means the time period from February 22, 2015 to the Preliminary  
19 Approval Date.

20 1.4 “Court” means the United States District Court, Northern District of California.

21 1.5 “Effective Date” means the later of: (a) if no objections to the Settlement are  
22 submitted, the date on which the Court issues the Final Approval Order and Entry of Judgment; (b)  
23 if any objections to the Settlement are submitted, the date which is forty-five (45) calendar days  
24 after notice of entry of the Final Approval Order and Entry of Judgment if no notice is filed within  
25 that time seeking appeal of the Final Approval Order and Entry of Judgment and if no motion for  
26 extension to appeal is filed; or (c) if a notice of appeal is filed, the date upon which all appellate  
27 and/or other proceedings resulting from the notice of appeal have been terminated in such a manner  
28 as to permit the Final Approval Order and Entry of Judgment to take effect in substantially the form

1 described herein

2 1.6 “Individual Settlement Amount” means the total gross amount due to an individual  
3 Participating Class Member, inclusive of pre- and post-judgment interest. Each Participating Class  
4 Member’s Individual Settlement Amounts will be based on, the number of weeks they were  
5 contracted with Defendant during the Class Period, divided by the total number of weeks  
6 Participating Class Members were contracted with Defendant during the Class Period. This number  
7 will then be multiplied by the Net Settlement Amount to determine the Individual Settlement  
8 Amount.

9 1.7 “Final Approval Order and Judgment” means order to be entered by the Court  
10 determining that the settlement reached on behalf of the class is fair, reasonable and adequate.

11 1.8 “Judgment” means the judgment to be rendered by the Court pursuant to this  
12 Stipulation.

13 1.9 “Last Known Address” means the most recently recorded mailing address for a Class  
14 Member, as such information is contained in employment, payroll, or personnel records maintained  
15 by Defendant.

16 1.10 “Maximum Settlement Amount” is the amount of Three Million Dollars and Zero  
17 Cents (\$3,000,000.00), which is the maximum amount to be paid by Defendant pursuant to the  
18 Settlement Agreement, which will include: Attorneys’ Fees and Costs, Settlement Administration  
19 Costs, Service Payment, and the Net Settlement Amount.

20 1.11 “Net Settlement Amount” means the Maximum Settlement Amount, less the amount  
21 that will be available for payment to all Participating Class Members (subject to the occurrence of  
22 the Effective Date), and is calculated by subtracting all of the following from the Maximum  
23 Settlement Amount: (1) attorneys’ fees in the amount of up to \$990,000.00 and reimbursement of  
24 litigation costs and expenses in the amount of up to \$300,000.00 to Class Counsel (“Attorneys’ Fees  
25 and Costs”); (2) service award to Plaintiff Marvin Nash in the amount of up to \$15,000.00 (and in  
26 exchange for general release of individual claims) (“Service Payment”); (3) fees and expenses of  
27 administration of the Settlement to the Settlement Administrator in an amount not to exceed  
28 \$9,000.00 (“Settlement Administration Costs”). The Net Settlement Amount is currently estimated

1 to be approximately \$1,686,000.00, and this figure may change depending on the actual amounts  
2 awarded by the Court for the Settlement Administration Costs, Attorneys' Fees and Costs, and  
3 Service Payments.

4 1.12 "Notice of Class Action Settlement" or "Class Notice(s)" means a notice titled  
5 "Notice of Class Action Settlement" to be approved by the Court, substantially in the form attached  
6 hereto as "**Exhibit 1.**" The Notice of Class Action Settlement will constitute the class notice  
7 pursuant to Federal Rules of Civil Procedure, Rule 23.

8 1.13 "Opt Out" means a Class Member's act of excluding him or herself from the  
9 Settlement, by way of submitting a timely and valid Request for Exclusion to the Settlement  
10 Administrator, in conformity with the requirements set forth herein and in the Class Notice.

11 1.14 "Participating Class Members" or "Settlement Class" means all Class Members who  
12 do not Opt Out pursuant to Paragraph 3.3.4 and, thus, become bound by the Judgment.

13 1.15 "Skip Tracing" means the utilization of Accurint or Experian, after the Reasonable  
14 Address Verification, to review the accuracy of and, if possible, to update a mailing address for a  
15 Class Member in the event that his or her Class Notice is returned to the Settlement Administrator  
16 as undeliverable without a forwarding address.

17 1.16 "Person" means a natural person, corporation, company, partnership, firm,  
18 association, or society.

19 1.17 "Preliminary Approval Date" means the date on which the Court grants preliminary  
20 approval of the Settlement.

21 1.18 "Preliminary Approval Order" means an order to be executed and filed by the Court,  
22 substantially in the form that the parties mutually agree to and lodge with the Court, and an order  
23 setting a Final Approval Hearing.

24 1.19 "Reasonable Address Verification" means the utilization of the National Change of  
25 Address Database maintained by the United States Postal Service to review the accuracy of and, if  
26 possible, update a mailing address.

27 1.20 "Released Claims" shall collectively mean all claims, demands, rights, liabilities and  
28 causes of action against the Released Parties (as defined below) for any type of relief and penalties,

1 that (1) accrued at any time during February 22, 2015 to the date of the Court’s preliminary approval  
2 of this Agreement for the Settlement Class, and that (2) were or could have been alleged based on  
3 the facts and allegations made in Plaintiff’s operative First Amended Class Action Complaint,  
4 including but not limited to misclassification of Plaintiff and class members, failure to provide meal  
5 breaks or provide compensation for missed meal breaks, failure to authorize and permit rest breaks  
6 or provide compensation for missed rest breaks, failure to pay unpaid wages, failure to reimburse  
7 Plaintiff and class members for work-related expenses, failure to provide accurate wage statements,  
8 failure maintain accurate payroll records showing hours worked daily and wages earned, failure to  
9 pay Plaintiff and class members all wages when due, failure to pay Plaintiff and class members all  
10 wages due at the time of termination, taking deductions from compensation, unfair business  
11 practices, violation of the Labor Code and Industrial Welfare Commission Wage Orders and for  
12 PAGA penalties and other associated penalties. The release does not extend to any claims that were  
13 not or could not have been alleged in the operative First Amended Class Action Complaint based  
14 on the facts and allegations made therein and specifically excludes claims for workers’  
15 compensation, personal injuries, unemployment insurance, state disability compensation, claims  
16 under the Employment Retirement Income Security Act of 1974, previously vested benefits under  
17 any employer sponsored benefits plan, discrimination, retaliation, and harassment including but not  
18 limited to those arising under the Age Discrimination In Employment Act, the California Fair  
19 Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal  
20 Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the  
21 Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal  
22 laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990  
23 or violations of any other state or federal law, rule or regulation concerning discrimination,  
24 retaliation and/or harassment.

25 1.21 “Released Parties” means Defendant Horizon Freight Systems, Inc. and each of its  
26 parent companies, subsidiaries, affiliates, current and former management companies, shareholders,  
27 members, agents (including any investment bankers, accountants, insurers, reinsurers, attorneys and  
28 any past, present or future officers, directors and employees) predecessors, successors, and assigns.



1           1.22 “Response Deadline” means the date that is forty-five (45) calendar days after the  
2 date on which the Settlement Administrator initially mails the Class Notice to the Class Members,  
3 which will be the deadline for a Class Member to Opt Out and/or object to the Settlement, and which  
4 will be indicated on the Class Notice that is mailed to the Class Members.

5           1.23 “Request for Exclusion” means a written request to be excluded from the Settlement,  
6 which must be made in writing submitted to the Settlement Administrator by mail, postmarked on  
7 or before the Response Deadline, and which must contain the case name (*Marvin Nash v Horizon*  
8 *Freight System, Inc.*, United States District Court for the Northern District of California, Case No.  
9 3:19-CV-01883-VC), as well as the Class Member’s full name, address, telephone number, last four  
10 (4) digits of his or her Social Security number, and signature, and a clear statement indicating that  
11 he or she seeks to exclude him or herself from the Settlement.

12           1.24 “Settlement Administrator” means the third-party settlement administration firm,  
13 ILYM Group, Inc.

14           1.25 “Final Approval Hearing” means a hearing set by the Court for the purpose of  
15 determining the fairness, adequacy and reasonableness of the Settlement pursuant to class action  
16 procedures and requirements and entering Judgment, and required under California Rule of Court,  
17 Rule 3.769(a).

18           1.26 “Unknown Claims” means any Released Claims which the Class Representative does  
19 not know or suspect to exist in his favor at the time of the entry of the Judgment, and which if known  
20 might have affected the settlement with and release of Defendant.

21           1.27 “Updated Address” means a mailing address that was updated via a Reasonable  
22 Address Verification, via an updated mailing address provided by the United States Postal Service  
23 or a Class Member, via Skip Tracing, or via a Locator Service.

24                           **2. Settlement Amount, Timing of Payments, Tax Reporting Obligations, and**  
25                           **Other Obligations of Defendant and the Settlement Administrator**

26           2.1 Defendant will fund the total Maximum Settlement Amount. The Maximum  
27 Settlement Amount will be paid as follows: Defendant shall deposit the required maximum payout  
28 of \$3,000,000.00 with the Settlement Administrator in one installment no later than thirty (30) days

1 after the Effective Date. If the Court's approval of this settlement is overturned on appeal, all  
2 settlement funds deposited by Defendant with the Settlement Administrator to date shall be refunded  
3 to Defendant within (14) days of the Court's order declining to approve the settlement, and  
4 Defendant shall be excused from making any further settlement payment installments.

5           2.2     The Settlement Administrator will administer the Settlement and perform any  
6 function related to settlement administration at the agreed-upon instruction of both Class Counsel  
7 and Defendant, including, and not limited to, establishing and maintaining a settlement website and  
8 toll-free telephone line for Class Members to call with inquiries regarding the Settlement,  
9 distributing the Class Notice, performing skip traces with respect to Class Notices that are returned  
10 as undeliverable and without a forwarding address on or before the Response Deadline, receiving  
11 and processing Requests for Exclusion and objections to the Settlement, adjudicating Class  
12 Members' disputes regarding number of weeks they were contracted with Defendant, providing  
13 Class Counsel and counsel for Defendant with weekly updates on the status of the settlement  
14 administration process (including the names and percentages of Class Members who Opt Out or  
15 object), calculating and handling inquiries regarding the calculation of the Individual Settlement  
16 Amounts, preparing a declaration to submit to the Court that details the settlement notice  
17 administration process and identifies each Class Member who Opts Out, and distributing the  
18 Maximum Settlement Amount. The actions of the Settlement Administrator will be governed by  
19 the terms of this Stipulation. The Parties, through their counsel, may provide written information  
20 needed by the Settlement Administrator pursuant to the Stipulation.

21           2.3     The Parties agree to cooperate in good faith and to coordinate with each other and  
22 the Settlement Administrator to carry out the terms of the Settlement, including, without limitation,  
23 by providing reasonably available information regarding Class Members.

24           2.4     Defendant, through the Settlement Administrator, will distribute payments as  
25 follows:

26                   (a) Class Representative Enhancement Payment: Subject to Court approval, the  
27 Plaintiff Marvin Nash shall receive a service award of \$15,000.00. Defendant agrees not to  
28 oppose the amount of the Class Representative's service award. Since it is the intent of the Parties

1 that the service award to the Named Plaintiff and Class Representative is for his service to the  
2 Class Members, and not wages, the Claims Administrator will not withhold any taxes from the  
3 service award. The Claims Administrator will report the service award on a Form 1099-NEC,  
4 which it will provide to the Named Plaintiff and Class Representative and to the pertinent taxing  
5 authorities.

6 (b) Attorneys' Fees and Litigation Costs: Class Counsel shall submit their  
7 Application for Award of Attorneys' Fees and Costs to the Court before the Final Approval  
8 Hearing. However, Class Counsel will include information about the fees they intend to request  
9 and their lodestar calculation in the Motion for Preliminary Approval. Class Counsel will seek  
10 attorneys' fees and costs in the amount of \$990,000.00, and actual costs up to \$300,000.00, subject  
11 to proof and court approval. Class Counsel shall serve Defendant with copies of all documents in  
12 support of their Application for Award of Attorneys' Fees and Costs. Defendant agrees not to  
13 oppose the Application for Award of Attorneys' Fees and Costs. The Claims Administrator will  
14 report the attorneys' fees and costs award on a Form 1099-NEC, which it will provide to Class  
15 Counsel and to the pertinent taxing authorities.

16 (c) Claims Administration Costs: Subject to Court approval, the Claims  
17 Administrator shall be paid an amount which is expected to not exceed \$9,000.00 for all fees and  
18 costs relating to the administration of this settlement, all tax document preparation, custodial fees  
19 and accounting fees, all costs and fees associated with preparing, issuing, and mailing any and all  
20 Class Notices, all costs and fees associated with computing, reviewing, and paying distributions  
21 from the Maximum Settlement Amount, all costs and fees associated with preparing any tax  
22 returns and any other filings required by any governmental taxing authority or agency, all costs  
23 and fees associated with preparing any other notices, reports, or filings to be prepared in the course  
24 of administering disbursements from the Maximum Settlement Amount, and any other costs and  
25 fees incurred and/or charged by the Claims Administrator in connection with the execution of its  
26 duties under this Stipulation.

27 2.5 No later than forty-five (45) calendar days after Effective Date and fifteen (15)  
28 calendar days after the payment of funds to the Settlement Administrator, Defendant, through the

1 Settlement Administrator, and according to the terms, conditions and procedures set forth in  
2 Paragraph 2.6 of this Stipulation, shall pay to each Participating Class Member their Individual  
3 Settlement Amount. Each of the payments to Participating Class Members will be inclusive of  
4 interest. With regard to payments in settlement of claims, these payments shall be issued through  
5 a 1099-NEC form and not subject to withholdings or deductions.

6 2.6 The Claims Administrator shall compute the Individual Settlement Amount for the  
7 Participating Class Members as follows:

8 (a) The payment of the Individual Settlement Amounts will be calculated by  
9 using the formula set forth in Paragraph 1.6.

10 (b) The Parties agree that the above-described formula and distribution methods  
11 are reasonable and fair in light of the Parties' investigation of the claims of the Class, and the  
12 relative degree of uncertainty, risk of outcome of further litigation, and difficulties and delays  
13 inherent in such litigation of these claims.

14 2.7 Defendant, through the Claims Administrator, will report each payment made on  
15 the Maximum Settlement Amount to government authorities including the Internal Revenue  
16 Service as required by law. Defendant, through the Claims Administrator, shall report payments to  
17 the Internal Revenue Service (and other relevant governmental agencies) as non-employee  
18 compensation in the year of payment on a Form 1099-NEC, or similar form issued to the  
19 Participating Class Members in question.

20 2.8 Participating Class Members will have one hundred and eighty (180) days to cash  
21 settlement checks. To the extent that there are excess funds from uncashed checks or Class  
22 Members who cannot be located, the parties agree that such funds shall be tendered to the  
23 California State Controller's Office for deposit into the California Unclaimed Property Fund in the  
24 name of the Class Member 180 days after the checks have been mailed to the Participating Class  
25 Members.

### 26 **3. Procedure for Approval and Implementation of Settlement**

#### 27 **3.1 Preliminary Approval**

28 3.1.1 The Class Representative, through his counsel of record, will file an

1 unopposed motion for preliminary approval of Settlement, seeking an order approving the  
2 Settlement pursuant to Federal Rule of Civil Procedure, Rule 23, and this Stipulation will be filed  
3 with the Court contemporaneously and/or as part of the motion. By way of the motion, the Class  
4 Representative will request that the Court enter a Preliminary Approval Order, approving the  
5 distribution of the Class Notice and scheduling the Final Approval Hearing for the purposes of  
6 determining whether to grant final approval of the Settlement and enter Judgment.

7           3.1.2 The Settlement will be void if the Court categorically refuses to enter the  
8 Preliminary Approval Order in its entirety or in a substantially similar form; however, the Parties  
9 are to take all reasonable steps to cure any non-material issues so as to avoid the Settlement being  
10 void.

### 11           **3.2 Notice to Class Members**

12           3.2.1 If, by entering the Preliminary Approval Order, the Court provides  
13 authorization to send the Class Notices, the Settlement Administrator will facilitate the mailing of  
14 the Class Notices and Opt Out Forms to all Class Members, no later than thirty (30) calendar days  
15 after entry of the Preliminary Approval Date. The Class Notices and Opt Out Forms shall be mailed  
16 via first class mail through the United States Postal Service, postage pre-paid. Each Class Notice  
17 shall include a postage prepaid return envelope. The envelope shall bear the following phrase in the  
18 bottom left-hand corner: IMPORTANT – HORIZON FREIGHT SYSTEM, INC. CLASS ACTION  
19 SETTLEMENT INFORMATION. PLEASE OPEN IMMEDIATELY. The mailing enclosing the  
20 Class Notice and Opt Out Form will not contain any other materials. The Class Notice, Opt Out  
21 Form, and the envelope or covering shall be marked to denote the return address of the Settlement  
22 Administrator.

23           3.2.2 Defendant will prepare a list, in an electronically usable format for the  
24 Settlement Administrator, containing for each Class Member, to the extent Defendant has such  
25 information, the following: the full name, Last Known Address, dates Class Member was contracted  
26 with Defendant during the Class Period (“Class List”). By granting preliminary approval of the  
27 Settlement, the Court will be deemed to have authorized Defendant to provide the Settlement  
28 Administrator with the Class List. Defendant will provide the Class List to the Settlement

1 Administrator and Class Counsel within fourteen (14) calendar days following the Preliminary  
2 Approval Date.

3           3.2.3 For the Class Representative, the Settlement Administrator shall mail the  
4 Class Notice to the Class Representative in care of Class Counsel at Class Counsel's address.

5           3.2.4 For Class Members who have been designated by Defendant on the Class List  
6 as actively contracted with Defendant, the Settlement Administrator shall mail the Class Notice to  
7 the Last Known Address provided by Defendant, no Reasonable Address Verification will be  
8 conducted on Class Members designated by Defendant as active, as the Settling Parties agree that  
9 Defendant should have the most updated address information for these Class Members.

10           3.2.5 For Class Members who were not contracted with Defendant as of the  
11 Preliminary Approval Date, prior to mailing the Class Notice, the Settlement Administrator will  
12 undertake a Reasonable Address Verification to ascertain the accuracy of the Last Known Address  
13 of the Class Member. To the extent this process yields an Updated Address, that Updated Address  
14 will be treated as the Last Known Address for purposes of this Stipulation and for Class Notice  
15 mailing.

16           3.2.6 If a Class Member is known to be deceased, the Class Notice for that deceased  
17 Class Member will be mailed to the Last Known Address (or Updated Address, if applicable) of the  
18 legal representative of the deceased Class Member's estate, to the extent known; otherwise, it will  
19 be mailed to the Last Known Address (or Updated Address, if applicable) of the deceased Class  
20 Member.

21           3.2.7 Unless the Settlement Administrator receives a Class Notice returned from  
22 the United States Postal Service for reasons discussed below in this paragraph, on or before the  
23 Response Deadline, that Class Notice will be deemed to have been mailed and received by the Class  
24 Member to whom it was sent five (5) calendar days after the mailing. In the event that subsequent  
25 to the first mailing of a Class Notice and on or before the Response Deadline, the Class Notice is  
26 returned to the Settlement Administrator by the United States Postal Service without a forwarding  
27 address, the Settlement Administrator will undertake a Skip Tracing on the Class Member to attempt  
28 to ascertain the current address of the Class Member, and if such an address is ascertained, the

1 Settlement Administrator will undertake a single re-mailing of the Class Notice to any Updated  
2 Address that is located for the Class Member, within three (3) business days of receipt of the returned  
3 Class Notice, and the Class Notice will be deemed mailed and received at that point. In the event  
4 that subsequent to the initial mailing of a Class Notice and on or before the Response Deadline, the  
5 Class Notice is returned to the Settlement Administrator by the United States Postal Service with a  
6 forwarding address for the Class Member, the forwarding address will be deemed the Updated  
7 Address for the Class Member, the Settlement Administrator will undertake a single re-mailing of  
8 the Class Notice to the Updated Address within three (3) business days of receipt of the returned  
9 Class Notice, and the Class Notice will be deemed mailed and received at that point. The Settlement  
10 Administrator will include a cover letter with any re-mailing to inform the Class Member that the  
11 Class Notice was re-mailed and that he or she has the later of the Response Deadline or ten (10)  
12 calendar days from the date on which the Class Notice was re-mailed (which shall be the date the  
13 re-mailing of the Class Notice is postmarked) to Opt Out, object to the Settlement. Compliance  
14 with the procedures described in this paragraph will constitute due and sufficient notice to Class  
15 Members of this Settlement and of the Final Approval Hearing, and will satisfy the requirements of  
16 due process. Nothing else will be required of or done by the Parties, Class Counsel, counsel for  
17 Defendant, or the Settlement Administrator to provide notice of the Settlement and the Final  
18 Approval Hearing.

19                 3.2.8 No later than seven (7) calendar days after the Response Deadline, the  
20 Settlement Administrator will provide Class Counsel and counsel for Defendant with a declaration  
21 attesting to completion of the notice process, including any attempts to obtain Updated Addresses  
22 for, and the re-sending of, any returned Class Notices, to be filed with the Court by Class Counsel.

23                 **3.3 Responses to the Notice of Class Action Settlement**

24                 3.3.1 Objections to Settlement: Class Members who do not Opt Out may object  
25 pursuant to Federal Rule of Civil Procedure, Rule 23(e)(5) by submitting a written objection to the  
26 Settlement to the Court, postmarked no later than the Response Deadline. A written objection to  
27 the Settlement must be signed by the Class Member and dated, and additionally state the Class  
28 Member's name, dates he contracted with Defendant in California, the case name and number of

1 the Action (*Marvin Nash v. Horizon Freight System, Inc.*, United States District Court, Northern  
2 District of California, Case No. 3:19-CV-01883-VC), all legal and factual bases for objection to the  
3 Settlement, whether the Class Member intends to appear at the Final Approval Hearing, and whether  
4 the Class Member is represented by legal counsel (and if so, identifying the legal counsel and  
5 providing said legal counsel's mailing address). Alternatively, Class Member's may choose to voice  
6 their objections at the Final Approval Hearing, although they are not required to do so. A Class  
7 Member who objects to the Settlement will still be considered a Participating Class Member who is  
8 subject to the Settlement.

9           3.3.2 Opting Out of Settlement: Class Members may elect to opt out of the  
10 settlement and, thus, exclude themselves from the entire Litigation and the Settlement Class of  
11 which they are a member. Class Members who wish to exercise this option must send to the  
12 Settlement Administrator a signed and completed Request for Exclusion Form, which must be  
13 postmarked on or before the Opt Out Deadline. If a proper Request for Exclusion Form is not  
14 received by the Settlement Administrator from a Class Member on or before the Opt Out Deadline,  
15 then that Class Member will be deemed to have forever waived his or her right to opt out of the  
16 Settlement Class. The Class Notice will advise Class Members of the option to opt out of the  
17 settlement and will contain instructions on how to do so. Class Members who do not properly  
18 request exclusion from the class action settlement by submitting valid and timely Request for  
19 Exclusion Forms shall be deemed Members of the Settlement Class. Class Members who do  
20 properly request exclusion from the class action settlement by submitting valid and timely Request  
21 for Exclusion Forms shall have no further role in the Litigation, and for all purposes they shall be  
22 regarded as if they never were parties to this Litigation, and, thus, they shall not be entitled to any  
23 benefits as a result of this Litigation.

24           3.3.3 If a Class Member submits both a Request for Exclusion and an objection  
25 to the Settlement, the Request for Exclusion will be accepted and the objection will be disregarded.

26           3.3.4 The Parties agree that the Response Deadline will not be extended, and no  
27 untimely submissions will be honored, under any circumstances, unless mutually agreeable by the  
28 Parties and/or except to the extent permitted under Paragraph 3.2.7.



1           **3.4 Final Approval Hearing.**

2           3.4.1 After the Response Deadline, a Final Approval Hearing will be held before  
3 the Court in order to: (1) determine whether the Court should grant final approval of the Settlement  
4 and enter Judgment; (2) consider objections to the Settlement; and (3) consider Class  
5 Representative’s application for an award of Attorneys’ Fees and Costs to Class Counsel and the  
6 Service Payment to the Class Representative. At the Final Approval Hearing, the Parties will request  
7 that the Court grant final approval of the Settlement and issue the Final Approval Order and Entry  
8 of Judgment. The Parties will take all reasonable efforts to secure entry of the Final Approval Order  
9 and Entry of Judgment. If the Court rejects the Stipulation, fails to issue the Final Approval Order  
10 and Entry of Judgment, this Stipulation will be void, and Defendant will have no obligation to make  
11 any payments under the Settlement, other than the Settlement Administration Costs; however, the  
12 Parties and their counsel agree to make all reasonable efforts to fix any non-material issues that the  
13 Court cites for its non-approval.

14           3.4.2 The Parties shall file a post-distribution accounting in accordance with the  
15 Court’s Procedural Guidance for Class Action Settlements and as directed by the Court upon final  
16 approval of the Settlement.

17           **3.5 Releases**

18           3.5.1 Release by Participating Class Members. Upon the Effective Date, each of  
19 the Participating Class Members (including the Class Representative) will be deemed to have, and  
20 by operation of the Judgment will have fully, finally, and forever released, relinquished and  
21 discharged Defendant and the Released Parties from any and all Released Claims.

22           3.5.2 Class Representative’s General Release of Claims

23           i. In addition to those releases set forth in Paragraph 3.5.1 hereof, with  
24 respect to any and all Released Claims, upon the Effective Date, the Class Representative will  
25 expressly and will be deemed to have, and by operation of the Judgment will have, waived the  
26 provisions, rights and benefits of California Civil Code § 1542 with respect to the Released Claims,  
27 which provides as follows:

28   **A general release does not extend to claims that the creditor or**

1 releasing party does not know or suspect to exist in his or her  
2 favor at the time of executing the release and that, if known by  
3 him or her, would have materially affected his or her settlement  
with the debtor or released party.

4 ii. In consideration for the Service Payments and as an inducement for  
5 Defendant to enter into this Stipulation, with respect to the Class Representative only, the Released  
6 Claims will additionally include any and all claims including Unknown Claims against Defendant  
7 that accrued during the Class Period, but does not include claims for: age discrimination under the  
8 Age Discrimination In Employment Act, unemployment insurance, workers' compensation benefits,  
9 state disability compensation, previously vested benefits under any Employer-sponsored benefits  
10 plan or claims under the Employment Retirement Income Security Act of 1974.

11 iii. The Class Representative may hereafter discover facts in addition to  
12 or different from those which he now knows or believes to be true with respect to the subject matter  
13 of the Released Claims, but the Class Representative, upon the Effective Date, will be deemed to  
14 have, and by operation of the Judgment will have fully, finally, and forever settled and released any  
15 and all Released Claims, known or unknown, suspected or unsuspected, contingent or non-  
16 contingent, whether or not concealed or hidden, which then exist, or previously have existed upon  
17 any theory of law or equity now existing or coming into existence in the future, including, but not  
18 limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty,  
19 law or rule, without regard to the subsequent discovery or existence of such different or additional  
20 facts. The Class Representative acknowledges that the foregoing waiver was separately bargained  
21 for and a key element of the Settlement of which this release is a part. Notwithstanding any other  
22 provision of this Stipulation, the Parties recognize that because the only Unknown Claims released  
23 by this Stipulation are those Unknown Claims that meet the definition of Released Claims, the  
24 release effectuated by this Stipulation will not extend to Unknown Claims other than those described  
25 in Paragraph 1.26 above.

26 **3.6 Termination of Settlement; Reasonable Steps to Cure.**

27 3.6.1 In the event that the Settlement is not approved in its entirety by the Court, or  
28 in the event that the Effective Date does not occur, Defendant will have the option to void the

1 Settlement, and in such case, no payments will be made by Defendant to anyone, other than the cost  
2 of administration, in accordance with the terms of this Stipulation, and this Stipulation will be  
3 deemed null and void with no effect on the Litigation whatsoever. Notwithstanding this provision,  
4 the Parties agree to take all reasonable steps to cure any issues cited by the Court as reason for non-  
5 approval of any matter(s) filed with the Court for preliminary and final approval. In the event that  
6 more than ten percent (10%) of the Class Members Opt Out by submitting timely and valid Requests  
7 for Exclusion to the Settlement Administrator by the Response Deadline, Defendant will have the  
8 right to terminate and void this Settlement; however, Defendant must notify Class Counsel, of its  
9 intention to nullify the Settlement in writing, within three (3) weeks after the expiration of the  
10 Response Deadline.

11 **3.7 Miscellaneous Provisions.**

12 3.7.1 No Person will have any claim against Class Counsel, the Settlement  
13 Administrator, or any of the Released Parties based on the payments made or other actions taken  
14 substantially in accordance with the Settlement or further orders of the Court.

15 3.7.2 In the event that the Settlement is not substantially approved by the Court,  
16 after all reasonable steps to cure have been exhausted, or the Settlement is terminated, cancelled,  
17 declared void, or fails to become effective in accordance with its terms, or if the Judgment does not  
18 become final, or to the extent cancellation is otherwise provided for in this Stipulation, the Parties  
19 will resume the Litigation at that time as if no Stipulation had been entered. In such event, the terms  
20 and provisions of the Stipulation will have no further force and effect with respect to the Parties and  
21 will not be used in this Litigation or in any other proceeding for any purpose, and any Judgment or  
22 order entered by the Court in accordance with the terms of the Stipulation will be treated as vacated.  
23 Notwithstanding any other provision of this Stipulation, if the Court should fail to award attorneys'  
24 fees to Class Counsel in the full amount provided for in this Stipulation, no order of the Court or  
25 modification of any order of the Court concerning the amount of any attorneys' fees to be paid by  
26 Defendant to Class Counsel pursuant to this Settlement will constitute grounds for cancellation or  
27 termination of the Stipulation or grounds for limiting any other provision of the Judgment. It is  
28 agreed that no order of the Court, including any order concerning attorneys' fees, may alter or

1 otherwise increase the Maximum Settlement Amount.

2                   3.7.3 The Parties (a) acknowledge that it is their intent to consummate this  
3 agreement; (b) agree to cooperate to effectuate and implement all terms and conditions of the  
4 Stipulation and to exercise their best efforts to accomplish the foregoing terms and conditions of the  
5 Stipulation; (c) agree to seek and to attempt to obtain preliminary and final approval by Court of the  
6 Settlement; and (d) agree to reasonably work together to seek and attempt to obtain preliminary and  
7 final approval of the Stipulation should the Court not grant approval upon the first presentation.

8                   3.7.4 The Parties and attorneys agree to keep the Settlement confidential until the  
9 motion for preliminary approval of the Settlement is filed. Thereafter, the Parties will agree to make  
10 no comments to the media or otherwise publicize the terms of the Settlement.

11                   3.7.5 The Parties agree that they will not make or publish written statements which  
12 are disparaging to the reputation of the other or their corporate parents and affiliates.

13                   3.7.6 The Stipulation compromises claims which were contested and the subject of  
14 a good faith dispute, and it will not be deemed an admission by any of the Parties as to the merits of  
15 any claim or defense. The Parties agree that the amounts paid in settlement of the Litigation and the  
16 other terms of the Settlement were negotiated at arms-length and in good faith with sufficient  
17 information by the Parties and reflect a settlement that was reached voluntarily after consultation  
18 with competent legal counsel.

19                   3.7.7 All of the exhibits to the Stipulation and material and integral parts hereof  
20 and are fully incorporated herein by this reference.

21                   3.7.8 The Stipulation may be amended or modified only by a written instrument  
22 signed by or on behalf of all Parties or their respective counsel, subject to approval by the Court.

23                   3.7.9 The Stipulation constitutes the entire agreement among the Parties hereto and  
24 no representations, warranties or inducements have been made to any party concerning the  
25 Stipulation or its exhibits other than the representations, warranties and covenants contained and  
26 memorialized in such documents. Except as otherwise provided herein, each party will bear its own  
27 costs.

28                   3.7.10 The Parties understand and acknowledge that: (a) they have performed an

1 independent investigation of the allegations of fact and law made in connection with this Litigation;  
2 and (b) even if they may hereafter discover facts in addition to, or different from, those that they  
3 now know or believe to be true with respect to the subject matter of the Litigation as reflected in  
4 this Settlement Agreement, that will not affect or in any respect limit the binding nature of this  
5 Settlement Agreement. It is the Parties' intention to resolve their disputes in connection with this  
6 Litigation pursuant to the terms of this Settlement Agreement and thus, in furtherance of their  
7 intentions, the Settlement Agreement will remain in full force and effect notwithstanding the  
8 discovery of any additional facts or law, or changes in law, and this Settlement will not be subject  
9 to rescission or modification by reason of any changes or differences in facts or law, subsequently  
10 occurring or otherwise.

11                   3.7.11 Class Counsel, on behalf of the Class Members, is expressly authorized by  
12 the Class Representative to take all appropriate action required or permitted to be taken by the Class  
13 pursuant to the Stipulation to affect its terms and also expressly authorized to enter into any  
14 modifications or amendments to the Stipulation.

15                   3.7.12 Each counsel or other Person executing the Stipulation or any of its exhibits  
16 on behalf of any Parties hereby warrants that such Person has full and express authority to do so.

17                   3.7.13 The Stipulation may be executed in one or more counterparts. All executed  
18 counterparts and each of them will be deemed to be one and the same instrument. A complete set of  
19 executed counterparts will be filed with the Court.

20                   3.7.14 The Stipulation will be binding upon, and inure to the benefit of, the  
21 successors and assigns of the parties hereto; however, this Stipulation is not designed to and does not  
22 create any third-party beneficiaries unless otherwise specifically provided herein.


23                   3.7.15 The Court will retain jurisdiction with respect to implementation and  
24 enforcement of the terms of the Stipulation, and all parties hereto submit to the jurisdiction of the  
25 Court for purposes of implementing and enforcing the Settlement embodied in the Stipulation.

26                   3.7.16 The Stipulation and the exhibits hereto will be considered to have been  
27 negotiated, executed and delivered, and to have been wholly performed, in the State of California,  
28 and the rights and obligations of the parties to the Stipulation will be construed and enforced in


1 accordance with, and governed by, the internal, substantive laws of the State of California without  
2 regard to principles of conflicts of law.

3 3.7.17 The language of all parts of this Stipulation will in all cases be construed as  
4 a whole, according to its fair meaning, and not strictly for or against either party. No party will be  
5 deemed the drafter of this Stipulation. The Parties acknowledge that the terms of the Stipulation are  
6 contractual and are the product of negotiations between the parties and their counsel. Each party  
7 and their/its counsel cooperated in the drafting and preparation of the Stipulation. In any  
8 construction to be made of the Stipulation, the Stipulation will not be construed against any party  
9 and the canon of contract interpretation set forth in California Civil Code § 1654 will not be applied.

10 3.7.18 Should any deadlines set forth in the Stipulation require any action to be taken  
11 on a weekend or a Court holiday, then the action may be taken on the next business day, unless  
12 otherwise specified by law or rule of Court, except that should the Response Deadline (or  
13 extension(s) thereof specified in the Stipulation relating to a deficiency notice or a re-mailing) fall  
14 on a Saturday and regular U.S. Mail service is in operation that day, then no further extension  
15 pursuant to this paragraph will apply to these specific deadlines.

16 DATED: 09 / 29 / 2021, 2021 By:   
17 Plaintiff Marvyn Nash

18  
19 DATED: \_\_\_\_\_, 2021 By:  
20 David Ferrante  
21 on behalf of Defendant Horizon Freight System,  
22 Inc.

23 DATED: September 29, 2021 By:   
24 Robin Workman  
25 Attorneys for Plaintiff and the Class


26 DATED: \_\_\_\_\_, 2021 By: \_\_\_\_\_  
27 Alan Rupe  
28 Lewis Brisbois Bisgaard & Smith LLP  
Attorneys for Defendant

1 accordance with, and governed by, the internal, substantive laws of the State of California without  
2 regard to principles of conflicts of law.


3 3.7.17 The language of all parts of this Stipulation will in all cases be construed as  
4 a whole, according to its fair meaning, and not strictly for or against either party. No party will be  
5 deemed the drafter of this Stipulation. The Parties acknowledge that the terms of the Stipulation are  
6 contractual and are the product of negotiations between the parties and their counsel. Each party  
7 and their/its counsel cooperated in the drafting and preparation of the Stipulation. In any  
8 construction to be made of the Stipulation, the Stipulation will not be construed against any party  
9 and the canon of contract interpretation set forth in California Civil Code § 1654 will not be applied.

10 3.7.18 Should any deadlines set forth in the Stipulation require any action to be taken  
11 on a weekend or a Court holiday, then the action may be taken on the next business day, unless  
12 otherwise specified by law or rule of Court, except that should the Response Deadline (or  
13 extension(s) thereof specified in the Stipulation relating to a deficiency notice or a re-mailing) fall  
14 on a Saturday and regular U.S. Mail service is in operation that day, then no further extension  
15 pursuant to this paragraph will apply to these specific deadlines.

16 DATED: \_\_\_\_\_, 2021 By: \_\_\_\_\_  
17 Plaintiff Marvin Nash

18  
19 DATED: October 4, 2021 By:   
20 David Ferrante  
21 on behalf of Defendant Horizon Freight System,  
22 Inc.

23 DATED: \_\_\_\_\_, 2021 By: \_\_\_\_\_  
24 Robin Workman  
25 Attorneys for Plaintiff and the Class

26 DATED: 10/05/2021, 2021 By:   
27 Alan Rupe  
28 Lewis Brisbois Bisgaard & Smith LLP  
Attorneys for Defendant

# EXHIBIT 1



## NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

*Marvin Nash v. Horizon Freight System, Inc.*  
United States District Court Northern District of California  
Case No. 3:19-CV-01883-VC

*A court authorized this Notice. This is not a solicitation by a lawyer. You are not being sued.*

IF YOU DROVE FOR HORIZON FREIGHT SYSTEM, INC. (“DEFENDANT”) IN CALIFORNIA AT ANY TIME BETWEEN FEBRUARY 22, 2015 THROUGH <<PRELIM DATE>>, THIS PROPOSED CLASS ACTION SETTLEMENT MAY AFFECT YOUR RIGHTS.

### ***Why should you read this Notice?***

A proposed settlement (the “Settlement”) has been reached in a class action lawsuit entitled *Marvin Nash v. Horizon Freight System, Inc.*, Case No. 3:19-CV-01883-VC (the “Action”). The purpose of this Notice of Proposed Class Action Settlement (“Notice”) is to briefly describe the Action and to inform you of your rights and options in connection with the Action and the proposed Settlement. The proposed Settlement will resolve all claims in the Action.

A hearing concerning final approval of the proposed Settlement is scheduled to be held before the Hon. Vince Chhabria on <<FINAL APPROVAL DATE>>, 2021, at <<TIME>> in Courtroom 4 – 17<sup>th</sup> Floor of the United States District Court Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, to determine whether the Settlement is fair, adequate, and reasonable. The date of the final approval hearing may change without further notice to the class. Class members should check the settlement website or the Court’s PACER site, identified below, to confirm that the date has not changed. As a Class Member, you are eligible to receive an individual Settlement Payment under the Settlement and will be bound by the release of claims described in this Notice and the Settlement Agreement filed with the Court, unless you timely request to be excluded from the Settlement.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:</b>	
<b>DO NOTHING – GET MONEY</b>	If you do nothing, you will be considered part of the Class and will receive settlement benefits as explained more fully below. You will also give up rights to pursue a separate legal action against Defendant for the Released Claims asserted in the Action as explained more fully below.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS DEADLINE TO EXCLUDE YOURSELF: &lt;&lt; RESPONSE DATE &gt;&gt;</b>	You have the option to pursue separate legal action against Defendant about the claims in the Action. If you choose to do so, you must exclude yourself, in writing, from the Settlement by submitting a written Request to be Excluded. As a result, you will not receive any benefits under the Settlement.
<b>OBJECT TO THE SETTLEMENT DEADLINE TO SUBMIT WRITTEN OBJECTIONS: &lt;&lt; RESPONSE DATE &gt;&gt;</b>	You can ask the Court to deny approval by filing an objection. You can’t ask the Court to order a different settlement; the Court can only approve or reject the settlement. If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want to happen, you must object.  Any objection to the proposed settlement must be in writing. If you file a timely written objection, you may, but are not required to, appear at the Final Approval Hearing, either in person or through your own attorney. If you appear through your own attorney, you are responsible for hiring and paying that attorney. All written objections and supporting papers must (a) clearly identify the case name and number ( <i>Nash v. Horizon Freight System, Inc.</i> , Case Number 3:19-CV-01883-VC), (b) be submitted to the Court either by mailing them to the Class Action Clerk, United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102-3489, or by filing them in person at any location of the United States District Court

	for the Northern District of California, and (c) be filed or postmarked on or before << <b>RESPONSE DATE</b> >>.
--	--

***Who is affected by this proposed Settlement?***

The Court has certified the following class (the “Class”):

Any and all persons who drove for Defendant in California at any time during the period beginning February 22, 2015 through <<**PRELIM DATE**>> (the Class Period), regardless of whether such persons currently drive for Defendant.

According to Defendant’s records, you are a member of the Class (“Class Member”).

***What is this case about?***

In the Action, Plaintiff Marvin Nash (“Plaintiff”) alleged on behalf of Plaintiff and the Class that Defendant was liable for the following: (1) meal break violations (Cal. Lab. Code §§ 226.7 & 512 & Applicable Industrial Commission Wage Orders (“IWC WO”) § 11; (2) rest break violations (Cal. Lab. Code §§ 226.7 & Applicable IWC WO § 12); (3) Reimbursement Violations (Cal. Lab. Code § 2802); (4) Inaccurate Wage Statements (Cal. Lab. Code §§ 226 & 226.2); (5) Deduction Violations (Cal. Lab. Code § 221); (5) Unlawful, Unfair and Fraudulent Business Practices: Bus. & Prof. Code § 17200 et seq.; and (7) Labor Code Private Attorney General Act of 2004 (the “PAGA”) (Cal. Lab. Code § 2698, et seq.). However, Plaintiff currently seeks reasonable expense reimbursements, recovery of wages for improper deductions, restitution, interest, attorneys’ fees, and costs.

Horizon Freight System, Inc. denies all liability and is confident that it has strong legal and factual defenses to these claims, but it recognizes the risks, distractions, and costs associated with litigation. Horizon Freight System, Inc. contends that its conduct is and has been lawful at all times relevant and that Plaintiff’s claims do not have merit and do not meet the requirements for class certification.

This Settlement is a compromise reached after good faith, arm’s length negotiations between Plaintiff and Horizon Freight System, Inc. (the “Parties”), through their attorneys, and is not an admission of liability on the part of Horizon Freight System, Inc. Both sides agree that, in light of the risks and expenses associated with continued litigation, this Settlement is fair, adequate, and reasonable. Plaintiff also believes this Settlement is in the best interests of all Class Members.

The Court has not ruled on the merits of Plaintiff’s claims or Horizon Freight System, Inc.’s defenses.

***Who are the attorneys representing the Parties?***

The attorneys representing the Parties in the Action are:

**Class Counsel**

Robin G. Workman (Bar #145810)  
robin@workmanlawpc.com  
177 Post Street, Suite 800  
San Francisco, CA 94108  
Telephone: (415) 782-3660  
Facsimile: (415) 788-1028

**Defendant’s Counsel**

Alan Rupe, Pro Hac Vice  
Alan.Rupe@lewisbrisbois.com  
Anthony Oceguela (Bar #259117)  
Anthony.Oceguela@lewisbrisbois.com  
LEWIS BRISBOIS BISGAARD &  
SMITH LLP  
2020 W. El Camino Ave, Ste. 700  
Sacramento, CA 95833  
Telephone: (916) 564-5400  
Facsimile: (916) 564-5444

***What are the Settlement terms?***

Subject to final Court approval, Horizon Freight System, Inc. will pay \$3,000,000.00 (the “Maximum Settlement Amount”) for: (a) Individual Settlement Payments to Settlement Class Members; (b) the Court-approved Class Representative Service Payment to Plaintiff; (c) the Court-approved attorneys’ fees and costs to Class Counsel; and (d) payment to the Settlement Administrator for settlement administration services.

**Individual Settlement Payments.** After deduction from the Maximum Settlement Amount for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, and settlement administration costs, there will be a Net Settlement Amount. From this Net Settlement Amount, Defendant will make an Individual Settlement Payment to each Class Member who does not request to be excluded from the Settlement ("Participating Class Members").

The Net Settlement Amount shall be divided among all Participating Class Members on a pro rata basis, based upon the total number of weeks each respective Participating Class Member was contracted with Horizon Freight System, Inc. during the Class Period. **REMINDER:** If you believe your estimated Individual Settlement Amount is incorrect because the number of total weeks you were contracted with Horizon Freight System, Inc. within the Class Period is wrong, the deadline to dispute the weeks reported for you is <<**RESPONSE DATE**>>.

For tax reporting purposes, the Individual Settlement Payments shall be classified as nonemployee compensation and reported on IRS Form 1099-NEC.

All checks for Individual Settlement Amounts paid to Settlement Class Members shall advise that the checks will remain valid and negotiable for one hundred and eighty (180) days from the date of the checks' issuance and shall thereafter automatically be void if not cashed by a Participating Class Member within that time. Any Individual Settlement Amount that is not cashed by a Participating Class Member within one hundred and eighty (180) days of issuance shall be transmitted to the California State Controller's Office for deposit into the California Unclaimed Property Fund in the name of the Participating Class Member. In such event, the Participating Class Member shall nevertheless remain bound by the Settlement.

None of the Parties or attorneys make any representations concerning the tax consequences of this Settlement or your participation in it. Participating Class Members should consult with their own tax advisors concerning the tax consequences of the Settlement. Class Counsel is unable to offer advice concerning the state or federal tax consequences of payments to any Class Member.

**Class Counsel Attorneys' Fees and Costs, Class Representative Service Award, Settlement Administration Costs and Payment to the LWDA.** Class Counsel will ask the Court to award attorneys' fees of up to \$990,000.00 (one third) of the Gross Settlement Amount and reimbursement of reasonable costs incurred in the Action not to exceed \$300,000.00. In addition, Class Counsel will ask the Court to authorize a Class Representative Service Payment of up to \$15,000.00 for efforts in bringing the case on behalf of the Class. The Parties estimate the cost of administering the Settlement will not exceed \$ **9,000**.

### ***What claims are being released by the proposed Settlement?***

Upon the final approval by the Court of this Settlement, and except as to such rights or claims as may be created by this Settlement, the Class Representatives, the Class and each Class Member who has not submitted a valid and timely request for exclusion, will release claims as follows:

- 1) **Identity of Released Parties.** Defendant, each of its respective parent companies, subsidiaries, affiliates, current and former management companies, shareholders, members, agents (including without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present, or future officers, directors, and employees) predecessors, successors, and assigns. (collectively "Horizon Releasees").
- 2) **Claims Released by Class Members.** All claims, demands, rights, liabilities and causes of action against the Released Parties (as defined above) for any type of relief and penalties, that (1) accrued at any time during February 22, 2015 to the date of the Court's preliminary approval of this Agreement for the Settlement Class, and that (2) were or could have been alleged based on the facts and allegations made in Plaintiff's operative First Amended Class Action Complaint, including but not limited to misclassification of Plaintiff and class members, failure to provide meal breaks or provide compensation for missed meal breaks, failure to authorize and permit rest breaks or provide compensation for missed rest breaks, failure to pay unpaid wages, failure to reimburse Plaintiff and class members for work-related expenses, failure to provide accurate wage statements, failure maintain accurate payroll records showing hours worked daily and wages earned, failure to pay Plaintiff and class members all wages when due, failure to pay Plaintiff and class members all wages due at the time of termination, taking deductions from compensation, unfair business practices,

violation of the Labor Code and Industrial Welfare Commission Wage Orders and for PAGA penalties and other associated penalties. The release does not extend to any claims that were not or could not have been alleged in the operative First Amended Class Action Complaint based on the facts and allegations made therein and specifically excludes claims for workers' compensation, personal injuries, unemployment insurance, state disability compensation, claims under the Employment Retirement Income Security Act of 1974, previously vested benefits under any employer sponsored benefits plan, wrongful termination, discrimination, retaliation, and harassment including but not limited to those arising under the Age Discrimination In Employment Act, the California Fair Employment and Housing Act, Title VII of the Federal Civil Rights Act of 1964, and/or Federal Civil Rights Act of 1991, or any similar state or federal laws, the California Family Rights Act, the Federal Family Medical Leave Act, the California Pregnancy Leave Law, or similar state or federal laws, the Federal Equal Pay Act of 1963, violations of the Americans with Disabilities Act of 1990 or violations of any other state or federal law, rule or regulation concerning discrimination, retaliation and/or harassment.

### ***What are my options in this matter?***

You have two options under this Settlement, each of which is further discussed below. You may: (A) remain in the Class and receive an Individual Settlement Amount; or (B) exclude yourself from the Settlement. If you choose option (A), you may also object to the Settlement, as explained below.

If you remain in the Class, you will be represented at no cost by Class Counsel. Class Counsel, however, will not represent you for purposes of making objections to the Settlement. If you do not exclude yourself from the Settlement, you will be subject to any Judgment that will be entered in the Action, including the release of the Released Claims as described above.

**OPTION A. Remain in the Class.** If you wish to remain in the Class and be eligible to receive an Individual Settlement Payment under the Settlement, **you do not need to take any action.** By remaining in the Class and receiving settlement monies, you consent to the release of the Released Claims as described above.

**Objecting to the Settlement:** If you believe the proposed Settlement is not fair, reasonable, or adequate in any way, you have several options that you may use to object to it or express any concerns. To object, you may appear in person at the Final Approval Hearing and state your objections to the Court, you can have an attorney object for you, or you can file an objection at any location of the United States District Court for the Northern District of California, or submit a simple written statement of objection to the Court at the following address: United States District Court for the Northern District of California, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102-3489. If you submit a written objection, the written objection should contain sufficient information to confirm your identity and the reason for the objection, including: (1) your full name; (2) the dates you contracted with Defendant to drive in California; (3) the case name and number of the Action; (4) the reason for the objection; (5) whether you intend to appear at the Final Approval Hearing; (6) whether you are represented by legal counsel and if so, their name and mailing address; (7) your signature; and (8) be postmarked on or before <<**RESPONSE DATE**>> and **returned to the Court** at the address listed above to ensure that it is received in time to be considered by the Court. If you do not object in writing, the Court will still allow you to state any objections you may have at the Final Approval Hearing. You **do not** have to object in writing to explain any objections you have at the Final Approval Hearing. **Even if you object, you will be bound by the terms of the Settlement, including the release of Released Claims as set forth above, unless the Settlement is not finally approved by the Court.**

Regardless of the form, an objection, alone, will not satisfy the requirement that a Settlement Class Member must formally intervene and become a party of record in the action to appeal a Judgment entered following an Order finally approving this Settlement.

**OPTION B. Request to Be Excluded from the Settlement and Receive No Money from the Settlement.** If you do not want to be part of the Settlement, you must return an OPT OUT Form to the Settlement Administrator at [REDACTED]. In order to be valid, your Request for Exclusion from Settlement must be signed and postmarked on or before <<**RESPONSE DATE**>>. If you do not submit a signed OPT OUT Form to the Settlement Administrator on time (as evidenced by the postmark) your Request will be rejected, you will be deemed a Settlement Class Member, and you will be bound by the release of Released Claims as described above and all other terms of the Settlement. If you submit a signed OPT OUT Form by the deadline to request exclusion,

you will have no further role in the Action. **You will not be entitled to any benefit, including money**, as a result of the Action and Settlement. You will not be able to complain to the Court about any aspect of the Settlement.

***What is the next step in the approval of the Settlement?***

The Court will hold a Final Approval Hearing regarding the fairness, reasonableness, and adequacy of the proposed Settlement, the plan of distribution, Class Counsel's request for attorneys' fees and costs, the Class Representative Service Payment to Plaintiff, and the settlement administration costs on <<DATE>>, 2022, at <<TIME>> in Courtroom 4 – 17<sup>th</sup> Floor of the United States District Court Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102. The Final Approval Hearing may be continued without further notice to Class Members. You are not required to attend the Final Approval Hearing to receive an individual Settlement Payment.

If the Court grants Final Approval of the Settlement, the Order granting Final Approval and entering a Judgment will be posted on a website created by the Settlement Administrator for this case for a period of at least 90 days following the entry of that Order in the Court record. That website is: <<website>>.

***How can I get additional information?***

This notice summarizes the proposed settlement. For the precise terms and conditions of the settlement, please see the settlement agreement available at [www.██████████.com](http://www.██████████.com), by contacting class counsel at 415-782-3660, by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>, or by visiting the office of the Clerk of the Court for the United States District Court for the Northern District of California, San Francisco Courthouse, 450 Golden Gate Avenue, San Francisco, CA 94102, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THIS SETTLEMENT.**