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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROBERT MENDEZ, an individual,)	Case No. CV 11-02478 CW
RANDY J. MARTINEZ, an)	
individual, ANTHONY A.)	Assigned to the Hon. Claudia Wilken
HARANG, an individual, KEVIN)	Courtroom 2
JOHNSON, SR., an individual on)	Filed: May 20, 2011
behalf of all others similarly situated)	
and the general public,)	ORDER FOR PRELIMINARY
)	APPROVAL OF CLASS ACTION
Plaintiffs,)	SETTLEMENT, SETTING OF A
)	FINAL APPROVAL HEARING
vs.)	AND APPROVAL OF NOTICE TO
)	THE CLASS
R+L CARRIERS, Inc., a)	
Corporation, R&L CARRIERS)	
SHARED SERVICES, LLC, a)	
Corporation, and DOES 1-10,)	
)	
Defendants.)	
)	

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 The Court, having fully reviewed the Class Representatives' Motion for
2 Preliminary Approval of Class Action Settlement and all supporting documents
3 **HEREBY MAKES THE FOLLOWING DETERMINATIONS AND ORDERS:**

4
5 1. The Court finds, on a preliminary basis, that the Final Settlement Agreement
6 appears to be within the range of reasonableness of a settlement which could
7 ultimately be given final approval by this Court; the Court notes that Defendants
8 R+L CARRIERS, Inc. and R&L CARRIERS SHARED SERVICES, LLC have
9 agreed to pay the entire Settlement Amount of \$9,500,000, plus the employer's
10 share of payroll taxes, to the Class Members, Class Representatives, Class Counsel,
11 the Claims Administrator, and the State of California Labor Workforce and
12 Development Agency, in full satisfaction of the claims as more specifically
13 described in the Final Settlement Agreement;

14 ///

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16 It further appears to the Court, on a preliminary basis, that the settlement is
17 fair and reasonable to Class Members when balanced against the probable outcome
18 of further litigation, liability and damages issues, and potential appeals of rulings.
19 It further appears that significant formal and informal discovery, investigation,
20 research, and litigation has been conducted such that counsel for the Parties at this
21 time are able to reasonably evaluate their respective positions. It further appears
22 that settlement at this time will avoid substantial costs, delay and risks that would
23 be presented by the further prosecution of the litigation. It also appears that the
24 proposed Settlement has been reached as the result of intensive, informed and
25 non-collusive negotiations between the Parties;

26
27 **ACCORDINGLY, GOOD CAUSE APPEARING, THE MOTION FOR**
28 **ORDER OF PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT**

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 IS HEREBY GRANTED.

2
3 2. The Court finds that the Notice of Proposed Class Action Settlement and
4 Exclusion Form fully advises Class Members of the proposed settlement, of
5 preliminary Court approval of the proposed Settlement, exclusion timing and
6 procedures, dispute resolution procedures, and of the Final Approval Hearing.
7 These documents fairly and adequately advise Class Members of the terms of the
8 proposed Settlement and the benefits available to Class Members thereunder, as
9 well as their right to exclude themselves from the Class and procedures for doing
10 so, and of the Final Approval Hearing and the right of Class Members to file
11 documentation in objection and to appear in connection with said hearing; the
12 Court further finds that said Notice clearly comports with all constitutional
13 requirements including those of due process;

14 ///

15 ///

16 ACCORDINGLY, GOOD CAUSE APPEARING, THE COURT HEREBY
17 APPROVES THE PROPOSED NOTICE OF PROPOSED CLASS ACTION
18 SETTLEMENT;

19
20 3. The mailing to the present and last known addresses of the Class Members
21 constitutes an effective method of notifying Class Members of their rights with
22 respect to the Settlement; ACCORDINGLY, IT IS HEREBY ORDERED as
23 follows:

24
25 (a) On or before December 27, 2013 Defendants shall forward to the
26 appointed Claims Administrator, Rust Consulting, Inc., a database (in an electronic
27 spreadsheet format) of all Class Members, including the names, last known
28 addresses, telephone numbers, dates of employment, social security numbers, and

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 respective total weeks worked during the Class Period (May 20, 2007 through
2 December 23, 2013;

3
4 (b) On or before January 2, 2014, the Claims Administrator, Rust
5 Consulting, Inc., shall mail to each member of the Settlement Class, by first class,
6 postage pre-paid, the Notice of Class Action Settlement, Exclusion Form, and a
7 postage-paid envelope addressed to the Claims Administrator. All mailings shall
8 be made to the present and/or last known mailing address of the Class Members
9 based on Defendants' records, as well as addresses that may be located by the
10 Claims Administrator, who will conduct standard address searches in cases of
11 returned mail. The Court finds that the mailing of notices to Class Members as set
12 forth in this paragraph is the best means practicable by which to reach Class
13 Members and is reasonable and adequate pursuant to all constitutional and
14 statutory requirements including all due process requirements;

15
16 (c) On or before January 16, 2014, Defendants will provide confirmation
17 that they have provided notice to all appropriate Federal and State officials
18 pursuant to 28 U.S.C. § 1715.

19
20 4. IT IS FURTHER ORDERED that all:

21 (a) Requests for Exclusion must be mailed to the Claims Administrator,
22 postmarked on or before February 3, 2014, excepting Class Members who had
23 Notice Packets remailed, who shall have until February 18, 2014;

24
25 (b) Objections must be filed with the Court as described in the Class
26 Notice and also served on Class Counsel and on Defense Counsel on or before
27 February 3, 2014, excepting Class Members who had Notice Packets remailed,
28 who shall have until February 18, 2014;

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

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5. IT IS FURTHER ORDERED that the Final Approval Hearing shall be held before the undersigned at 2:00 p.m. on March 6, 2014; at the above-entitled court located at 1301 Clay Street, Oakland, California, 94612 to consider the fairness, adequacy and reasonableness of the proposed Settlement preliminarily approved by this Order of Preliminary Approval, and to consider the application of Class Counsel for an award of reasonable attorneys' fees, litigation expenses, Class Representative Service Payments, and for costs of claims administration incurred;

6. IT IS FURTHER ORDERED that the motion for final approval of the Settlement shall be served and filed with the Court on or before February 6, 2014; the motion for attorneys' fees and costs shall be filed on or before January 10, 2014.

7. IT IS FURTHER ORDERED that pending final determination of whether this proposed Settlement should be granted final approval, no Class Member, either directly or representatively, or in any other capacity, shall commence or prosecute any action or proceeding asserting any of the Class Members' Released Claims, as defined in the Settlement Agreement, against Defendants in any court or tribunal;

8. IT IS FURTHER ORDERED that any party to this case, including Class Members, may appear at the Final Approval Hearing in person or by counsel, and may be heard to the extent allowed by the Court, in support of or in opposition to, the Court's determination of the good faith, fairness, reasonableness and adequacy of the proposed Settlement, the requested attorneys' fees and litigation expenses, and any Order of Final Approval and Judgment regarding such Settlement, fees and expenses; provided, however, that no person, except Class Counsel and counsel for Defendants, shall be heard in opposition to such matters unless such

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 person has complied with the conditions set forth in the amended Notice of
2 Proposed Class Action Settlement which conditions are incorporated therein;

3
4 9. IT IS FURTHER ORDERED that in the event of the occurrence of the
5 Effective Date, as defined in the Settlement Agreement, all Class Members, except
6 those who have requested exclusion from the settlement, and their successors shall
7 conclusively be deemed to have given full releases of any and all Released Claims
8 as defined in the Settlement Agreement against Defendants, their former and
9 present parents, subsidiaries, affiliated corporations and entities, and each of their
10 respective officers, officials, directors, employees, partners, shareholders and
11 agents, any other successors, assigns or legal representatives (“Released Parties”)
12 and all such Class Members and their successors shall be permanently enjoined and
13 forever barred from asserting any Released Claims against any Released Parties as
14 described by the Settlement Agreement;

15
16 10. IT IS FURTHER ORDERED that if, for any reason, the Court does not
17 execute and file an Order of Final Approval, or if the Effective Date does not occur
18 for any reason whatsoever, the proposed Settlement Agreement and the proposed
19 Settlement subject of this Order and all evidence and proceedings had in
20 connection therewith, shall be without prejudice to the status quo ante rights of the
21 parties to the litigation as more specifically set forth in the Settlement Agreement.

22
23 11. IT IS FURTHER ORDERED that, pending further order of this Court, all
24 proceedings in this matter except those contemplated herein and in the Settlement
25 Agreement are stayed.

26
27
28 12. IT IS FURTHER ORDERED THAT the parties shall make the following

**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**

1 changes to the Notice of Proposed Class Action Settlement before issuing the
2 Notice to class members:

3
4 (a) On the first page of the Notice, change the clause “and there could be a
5 trial which the drivers might win more money” to “and there could be a trial in
6 which case the drivers might win more money.”


7
8 (b) On the second page of the Notice, change the date of the conclusion of
9 the class period from “December 19, 2013” to “December 23, 2013.”

10
11 13. Based on the parties’ representations at the preliminary approval hearing,
12 the parties are directed to use the same skip-tracing procedures that they agreed to
13 use to remail undelivered Class Notices in order to remail any undelivered
14 settlement checks.

15
16 The Court expressly reserves the right to adjourn or continue the Final Approval
17 Hearing from time-to-time without further notice to the Class Members.

18
19 IT IS SO ORDERED.

20
21 Dated: December 23, 2013


22 Hon. Claudia Wilken
23 JUDGE OF THE UNITED STATES
24 DISTRICT COURT FOR THE
25 NORTHERN DISTRICT OF
26 CALIFORNIA

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**ORDER FOR PRELIMINARY APPROVAL OF CLASS ACTION
SETTLEMENT**