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13 **UNITED STATES DISTRICT COURT**
 14 **CENTRAL DISTRICT OF CALIFORNIA**

15	VICTOR FUENTES, an individual,)	CASE NO. 2:14-CV-00790-ODW-FFM
16	JOSE AVILA, an individual, MARIO)	
17	NAVARRO, an individual, GEORGE)	<u>CLASS ACTION</u>
18	GARCIA, JR., an individual;)	
19	Individually and on Behalf of All)	JOINT STIPULATION REGARDING
20	Similarly Situated Individuals,)	PLAINTIFFS' MOTION FOR
21	Plaintiffs,)	PRELIMINARY APPROVAL OF
22	v.)	CLASS ACTION SETTLEMENT
23	MACY'S WEST STORES, INC., an)	The Honorable Judge Otis D. Wright II
24	Ohio corporation; JOSEPH ELETTO)	Location: Courtroom 11
25	TRANSFER, INC., a New York)	Hearing Date: N/A
26	corporation, and DOES 1 through 25,)	Time: N/A
27	Inclusive,)	
28	Defendants.)	

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and GEORGE GARCIA, JR., Individually and on Behalf of All Similarly Situated
21 Individuals

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23 Plaintiffs VICTOR FUENTES, MARIO NAVARRO, JOSE AVILA, and
24 GEORGE GARCIA, JR., ("Plaintiffs"), on behalf of themselves and the putative
25 class, and Defendants MACY'S WEST STORES, INC. ("Macy's") and JOSEPH
26 ELETTO TRANSFER, INC. ("Eletto") (collectively hereinafter referred to as
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1 “Defendants”) (Plaintiffs and Defendants are collectively the “Parties”), by and
2 through their respective counsel of record, hereby stipulate and agree to the
3 following:

4 1. Shortly before the Parties engaged in mediation with the Honorable
5 Peter D. Lichtman (Ret.), in July of 2014, Eletto provided Plaintiffs with an estimate
6 of the number of individuals in the putative class. At that time, Eletto estimated the
7 putative class to be around 225 individuals. Eletto based this figure on two
8 assumptions: (1) number of total truck runs during the putative class period; and (2)
9 an estimate of driver and helper turnover during the putative class period.

10 2. The Parties agreed in principle to the terms of a settlement in October
11 of 2014, and subsequently entered into a formal settlement agreement on or about
12 January 29, 2015. Shortly thereafter, on February 13, 2015, Plaintiffs filed a Notice
13 of Motion and Motion for Preliminary Approval of Class Action Settlement;
14 Memorandum of Points and Authorities in Support Thereof (ECF No. 38)
15 (“Preliminary Approval Motion”). Plaintiffs also filed the Declaration of Thomas
16 Falvey in Support of the Preliminary Approval Motion (ECF No. 38-1) (“Falvey
17 Declaration”).

18 3. The Preliminary Approval Motion and Falvey Declaration both
19 represent that there are about 225 individuals in the putative class, the number
20 provided by Eletto to Plaintiffs prior to the mediation in July of 2014.

21 4. Eletto has since engaged in a process of going one-by-one through
22 thousands of hard-copy background-check records in order to better ascertain the
23 membership of the putative class for purposes of compliance with the Class Action
24 Fairness Act of 2005, 28 U.S.C. § 1715, and, ultimately, settlement administration.
25 As a result of this process, Eletto now believes that the current number of class
26 members is about 612. This estimate is higher than before for two reasons. First,
27

1 new drivers and helpers have joined the putative class since July of 2014. Second,
2 the driver and helper turnover at the facility is higher than initially estimated.

3 5. The Parties have discussed the new estimate of the size of the putative
4 class and agree that it does not affect the Settlement Agreement executed by the
5 Parties. The Settlement Agreement does not make any reference to an estimated
6 number of putative class members. Moreover, the new class-size estimate does not
7 materially affect the putative class members' overall alleged damages. Plaintiffs'
8 claimed damages are allegedly caused when a driver or helper makes a truck run,
9 and the total number of truck runs during the putative class period has not changed.
10 Put differently, while the Parties now know that there are more drivers and helpers
11 (due to the passage of time and higher-than-estimated turnover), the number of truck
12 runs driven during the class period, and consequently the number of days worked by
13 drivers and helpers, has not changed.

14 NOW, THEREFORE, the Parties hereby stipulate, agree, and respectfully
15 request that the Court, in considering the Preliminary Approval Motion, take into
16 account the revised estimate of total class members, and that the Court grant the
17 Preliminary Approval Motion.

18
19 Dated: March 16, 2015

Respectfully submitted,

20
21 /s/ Robert L. Browning
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14 Individually and on Behalf of All Similarly
15 Situated Individuals
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on March 16, 2015. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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