

Virginia Van Dusen, et al.,

Plaintiffs,

VS.

Swift Transportation Co., Inc., et al.,

Defendants.

) CASE NO.: CV 10-899-PHX-JWS

ORDER AND JUDGMENT
CERTIFYING THE SETTLEMENT
CLASS AND GRANTING PLAINTIFFS'
MOTION FOR FINAL APPROVAL OF
COLLECTIVE AND CLASS ACTION
SETTLEMENT

THIS MATTER COMING before this Court for hearing on Final Approval of Settlement pursuant to the Court's Orders entered April 22, 2019 (Doc. 1124), June 3, 2019 (Doc. 1127) and July 28, 2019 (Doc. 1129) (conditionally certifying the Settlement Class and preliminarily approving the Settlement together referred to herein as "Preliminary Approval Orders"), now upon application for certification of the Settlement Class and final approval of the Collective and Class Action Settlement ("Settlement") as set forth in the Settlement Agreement ("Agreement"), and due and adequate notice having been given

1 to the members of the Class as required in accordance with the Settlement Agreement and
2 Preliminary Approval Orders and the Court having considered all papers filed and
3 proceedings had herein, including the Final Fairness Hearing held on January 22, 2020 to
4 determine the appropriateness of class certification and the fairness of the Settlement and
5 Plaintiffs' Motion for Attorneys' Fees and Costs, (Doc. 1138), and Motion for Final
6 Approval of Class and Collective Action Settlement, (Doc. 1152), and Supplemental Brief
7 in Support of Final Approval of Class and Collective Action Settlement, (Doc 1141), the
8 documents and exhibits in support thereof, and otherwise being fully informed in the
9 premises and for good cause appearing therefore, the Court finds that the certification of
10 the Settlement Class is appropriate and that the Settlement is fair, reasonable, adequate,
11 and in the best interests of the Class and further finds that Plaintiffs' request for attorneys'
12 fees and costs is fair and reasonable.

13 Accordingly,

14 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

15 1. This Order and Judgment granting class certification and approving the
16 Settlement Agreement incorporates by reference the definitions and terms used in the
17 Settlement Agreement, and all capitalized terms herein shall have the same meanings as
18 set forth in the Settlement Agreement.

19 2. This Court has jurisdiction over the subject matter of this lawsuit and over
20 all members of the Class.

21 3. The Court finds that final collective action certification pursuant to Section
22 16(b) of the Fair Labor Standards Act, 29 U.S.C. §216 (b) and class certification of the
23 Settlement Class and appointment of Class Counsel under Rule 23 of the Federal Rules
24 of Civil Procedure is appropriate and satisfies all of the conditions of Rule
25 23(a),(b)(3),(e) and (g) and hereby certifies the following collective action class and
26 Settlement Class under Rule 23(b)(3):

27 any and all individuals who entered into an independent contractor agreement
28 with Swift Transportation Co. of Arizona, LLC ("Swift") and any affiliated

1 entity (as defined in the parties' Settlement Agreement), and also entered into a
2 lease agreements with Interstate Equipment Leasing, LLC ("IEL") at any time
3 prior to January 1, 2019, regardless of whether the individual participates in the
4 Settlement unless said individual opts-out of the Settlement as set forth herein.

5 4. After consideration of the evidence, the Court finds that the mailing and
6 emailing of the Notice Packets to all known addresses, as updated through the NCOA
7 registry and further traces where necessary, constituted the best notice practicable under
8 the circumstances, and that the individual notices constituted valid, due, and sufficient
9 notice to all persons entitled thereto, complying fully with the requirements of Fed. R.
10 Civ. P. 23 and due process.

11 5. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, this Court
12 hereby approves the Settlement as set forth in the Agreement, finds that said Settlement
13 is, in all respects, fair, reasonable, adequate and in the best interests of Class Members,
14 directs that the Settlement be consummated in accordance with the terms and conditions
15 set forth in the Agreement, and orders all Parties to take the necessary steps to effectuate
16 the Settlement as set forth in the Settlement Agreement.

17 6. Defendants have complied with the Class Action Fairness Act of 2005, PL
18 109-2 (2005) and 28 U.S.C. § 1715 and its notice obligations by providing appropriate
19 federal and state officials with information about the Settlement.

20 7. The Court hereby makes the following findings:

21 A. This case was originally filed in 2009. Plaintiffs drove trucks for Swift
22 Transportation Co. of Arizona LLC ("Swift") using equipment leased from
23 Interstate Equipment Leasing, LLC ("IEL"). They alleged on behalf of
24 themselves, an FLSA collective and a Rule 23 class of similarly employed lease
25 operators that Swift, IEL, and individual Defendants Jerry Moyes and Chad
26 Killibrew (hereafter collectively referred to as "Defendants") misclassified their
27 lease operator drivers as independent contractors and failed to pay them the legally
28 required minimum wages for each hour worked per week in violation of the Fair

1 Labor Standards Act (“FLSA”), 29 U.S.C. § 206 *et seq.* Plaintiffs also alleged
2 violations of state wage and contract laws as well as violations of federal forced
3 labor statutes, 18 U.S.C. §§ 1589, 1595. Defendants deny all of Plaintiffs’
4 allegations and contend that they and other owner-operators were properly
5 classified as independent contractors under state and federal law.

6 B. On May 21, 2010, after transferring venue to the District of Arizona,
7 Defendants moved to compel arbitration of the claims under the Federal Arbitration
8 Act (FAA) and the Arizona Arbitration Act (AAA) pursuant to an arbitration clause
9 in Plaintiffs’ Contractor Agreements which contained a class action waiver. *See*
10 *Doc 127*. Plaintiffs opposed arguing, *inter alia*, that they were exempt from
11 arbitration pursuant to § 1 of the FAA (9 U.S.C. § 1). *Doc. 188 at 9-15*. On
12 September 30, 2010, this Court enter an order granting Defendants’ motion to
13 compel arbitration finding that the delegation clause in the arbitration agreement
14 required the arbitrator to determine whether Plaintiffs were exempt from the FAA
15 and the AAA. *Doc 223*.

16 C. Plaintiffs filed a petition for mandamus which the Ninth Circuit denied,
17 although in doing so the Court indicated that district courts should decide the
18 exemption question. *In re Van Dusen*, 654 F.3d 858 (9th Cir. 2011). Plaintiffs
19 moved for reconsideration and the Court again ordered arbitration but certified its
20 order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). *Doc. 321*. On
21 appeal the Ninth Circuit reversed and directed the Court to decide the exemption
22 question. *Van Dusen v. Swift*, 544 Fed. Appx. 724 (9th Cir. 2013). After
23 Defendants’ petition for certiorari was denied, *Swift Transp. Co. v. Van Dusen*,
24 573 U.S. 916 (2014), the Court entered a scheduling order for resolving the
25 exemption issue, including deadlines for discovery on the misclassification issue,
26 as well as setting a schedule for dispositive motions, and, if necessary, a trial of
27 the exemption issue. *Doc 548*.

1 D. Defendants then filed a petition for mandamus and an appeal arguing that
2 the Court should not have permitted discovery before deciding the exemption
3 question. The appeal was dismissed for lack of jurisdiction, *Swift Transp. v. Van*
4 *Dusen*, 830 F.3d 893 (9th Cir. 2016), and the petition for mandamus was denied
5 with one dissent and a concurring opinion that indicated the concurring judge might
6 have agreed with the dissent if the case had come up on appeal. *In re Swift*
7 *Transportation Co., Inc.*, 830 F.3d 913 (9th Cir. 2016).

8 E. The parties engaged in extensive discovery on the employer/employee issue.
9 Upon completion of discovery, the parties filed cross motions for partial summary
10 judgment on the question of whether the Plaintiffs' contracts were contracts of
11 employment exempt from arbitration pursuant to § 1 of the FAA. Docs 771 and
12 792. On January 6, 2017, the Court found that the contracts were contracts of
13 employment exempt from arbitration pursuant to § 1 of the FAA and § 12-1517 of
14 the AAA. Doc 862.

15 F. A few days following the partial summary judgment Order, Doc. 862, Swift
16 informed its drivers operating trucks under a lease agreement, that they had to sign
17 a new retroactive contractor agreement or be terminated. The new agreement
18 included provisions that Plaintiffs viewed as attempting to pre-empt potential
19 remedies in this case and make drivers financially liable to Defendants if they were
20 adjudged to be employees. On motion by Plaintiffs, the Court found those
21 provisions coercive and, to prevent a potential chilling effect, ordered Defendants
22 to send out a corrective notice clearly stating that the new agreement's provisions
23 would not affect drivers' rights and remedies in this case. Doc. 917.

24 G. Defendants appealed the partial summary judgment order denying
25 arbitration pursuant to 9 U.S.C. § 16(a)(1)(B). *Swift Transp. Co. v. Van Dusen*, No.
26 17-15102 (9th Cir.). The Court stayed the case pending appeal, Doc 918. On
27 motion by Plaintiffs the Court subsequently ordered Swift to provide Plaintiffs with
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1 the names and contact information of potential class members to ameliorate the
2 delay caused by the appeal in light of the existing difficulties of contacting class
3 members due to the length of the proceedings in the event the class was eventually
4 certified. Docs. 976, 1016. Swift sought mandamus review of that Order. *In re*
5 *Swift Transp. Co.*, No. 17-71757 (9th Cir. Filed June 15, 2017). The 9th Circuit
6 stayed the order compelling production of class information and referred the
7 mandamus petition to the merits panel considering Swift's appeal from the order
8 finding Plaintiffs exempt from arbitration under FAA§1. *Id.* D.E. 7 (9th Cir. Nov.
9 14, 2017).

10 H. Prior to the scheduled oral argument of the Defendants' appeal and
11 mandamus petition, the Supreme Court granted *certiorari* in *New Prime Inc v.*
12 *Oliviera*, 138 S.Ct. 1134 (2018), to decide two questions: (1) whether a claim of
13 exemption under § 1 of the FAA should be decided by the court or the arbitrator
14 when an arbitration agreement contains a delegation clause, and (2) whether the
15 term "contracts of employment" as used in FAA§ 1 applies to contracts with
16 independent contractors or only to contracts with employees. Because the outcome
17 of these issues could potentially render the pending appeals (and all prior orders in
18 the case) moot, the Ninth Circuit stayed Defendants' appeal and mandamus petition
19 pending resolution of the *New Prime* case. *Van Dusen v. Swift*, No. 17-15102, Dkt
20 Entry: 55 (9th Cir. Feb. 27, 2018).

21 I. The Settlement is the result of extensive arm's length adversarial
22 negotiations and mediation process. The parties engaged in arms-length settlement
23 negotiations in 2017 and 2018 with the assistance of Mark Rudy, an experienced
24 mediator in the wage and hour and collective and class action field. Eventually a
25 settlement was reached on February 7, 2019.

26 J. The terms of the Settlement Agreement are explained in detail in the parties'
27 Joint Motion for Preliminary Approval of the Settlement and Plaintiffs' Motion Final
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1 Approval of Class and Collective Action Settlement Motion for Final Approval of
2 the Settlement. In summary, the Settlement provides for a Settlement Fund of
3 \$100,000,000. A total of \$70,000,000 of that fund was to be divided among 19,955
4 class members according to a formula that takes into account the number of weeks a
5 driver drove under a contract and lease, his or her earnings and hours of work, and
6 potentially applicable statutes of limitations. The Settlement provides that Plaintiffs
7 could seek up to 1/3 of the fund as fees and costs. However, Plaintiffs have limited
8 their fee request to \$29,000,000 in fees and \$116,541.96 in Class Counsel's costs
9 and \$270,00 in Settlement administration costs. Up to \$250,000 of the fund was set
10 aside for service awards for the five named plaintiffs.

11 K. As set forth in Named Plaintiffs' and Class Counsels declarations, Named
12 Plaintiffs took considerable risks and provided significant services to the Settlement
13 Class.

14 L. Class Counsel has extensive experience in FLSA and class and collective
15 action litigation and Class Counsel is therefore well equipped to negotiate a fair
16 settlement for Named Plaintiffs and the Class. Class Counsel's opinion merits great
17 weight both because of Class Counsel's familiarity with the Action and because of
18 their extensive experience in similar actions. Based on their analysis and evaluation
19 of the relevant factors, Class Counsel has represented that they are satisfied that the
20 terms and conditions of this Agreement are fair, reasonable, and adequate and in the
21 best interests of the Class Members.

22 M. All counsel represented the interests of their clients competently and
23 vigorously. Class Counsel devoted a considerable amount of time, effort and
24 resources and diligently and proactively represented the interests of the Plaintiffs and
25 the Class Members in litigating this case and in securing the terms of the Settlement
26 and ensuring a fair, adequate and equitable distribution of the Settlement Fund.

27 N. On April 22, 2019, this Court granted preliminary approval of the parties
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1 request to conditionally certify the case, for purposes of settlement, as an FLSA
2 collective action and as a Rule 23(b)(3) class action on behalf of the 19,955
3 individuals covered by the Settlement. Doc. 1124 at 2. At the same time the Court
4 granted preliminary approval to the Settlement Agreement “as being fair,
5 reasonable, and adequate to the Class Members. *Id.* The Court approved the form
6 and content of the parties proposed Class Notices as well as the methods proposed
7 for distributing the Notices as “the best practicable under the circumstances.” *Id.*
8 The Court found that the proposed methods of distributing the Notices complied
9 “with the requirements of Rule 23 . . . , the Constitution of the United States, and
10 any other applicable law. *Id.*

11 O. In seeking preliminary approval of the Settlement Agreement, Plaintiffs
12 specifically requested that the Court consider and grant preliminary approval to
13 Plaintiffs’ fee and expense request so that it could be included in the Class Notice,
14 thereby giving the Class Members an opportunity to bring any objections they may
15 have with the fee request to the Court’s attention. The Notice issued to the Class
16 Members contained the following language:

17 Deductions from the Settlement Funds: Before the Settlement Fund is
18 divided among the drivers, the Court may allow the following amounts to
19 be deducted from the Fund: (1) up to 29% of the fund to pay the attorneys’
20 fees of the Named Plaintiffs’ attorneys for their work in litigating the case
21 and obtaining the settlement agreement. These attorneys have pursued this
22 case on behalf of the Named Plaintiffs and the other Swift drivers for over
23 nine years including four appeals without receiving any compensation for
24 their services. They did so with the understanding that they would receive
25 a portion of from the settlement fund established through their efforts; (2)
26 up to \$750,000 to reimburse the attorneys for the substantial costs they
27 have incurred litigating the case over the past nine years and for the costs
28 of administering the settlement fund including the cost of sending this
notice and sending the money to participating drivers if the settlement is
approved; (3) up to \$50,000 as a Service Award to each of the five Named
Plaintiffs to compensate them for the risks they took and the time they spent
pursuing this case over the past ten years nine years to generate the
settlement fund. The service awards to these individuals are in addition to
their regular share of the settlement funds. The total of all deductions from
the Settlement Fund will not exceed 30%.

1 Doc. 1109-2 at pp. 3-4 of 9; Doc. 1109-3, at pp. 3-4.

2 P. Upon conclusion of the Notice Period, a total of six objections to
3 the Settlement were filed with the Settlement Administrator. The Court
4 has carefully considered those objections. Those objections did not
5 object to the essential fairness of the Settlement, or to the amount of the
6 fees and costs sought by Plaintiffs' counsel, or to the requested service
7 payments for the five Named Plaintiffs. To the extent they raise specific
8 objections, those objections are based on misunderstandings of the
9 Settlement Agreement and do not call into question the fundamental
10 fairness of the Settlement.

11 Q. The Court has considered the extraordinary length of these
12 proceedings (more than ten years), the fact that Class Counsel has
13 participated in six Ninth Circuit appeal and/or mandamus proceedings
14 and a certiorari motion before the Supreme Court, and the proactive steps
15 Class Counsel has taken to protect the interests of the Settlement Class
16 Members, the care, skill and diligence Class Counsel has demonstrated
17 throughout these proceedings, the significant risks and expenses
18 undertaken by Class Counsel in bringing and prosecuting this
19 contingency case, along with the extraordinary benefits of the monetary
20 relief and other relief provided under the Settlement Agreement. Based
21 on all of these considerations and the results achieved, the risks of
22 litigation, the benefits accorded under the Settlement, the skill required
23 and quality of Class Counsel's work, the fact that in addition to the
24 monetary relief, Class Counsel generated benefits beyond the cash
25 settlement; the contingent nature of the fee; common fund fee awards in
26 similar cases; length of this litigation, number of appeal proceedings and
27 the financial burden carried by counsel, the Court finds that attorneys'

1 fees in the amount of 29% of the Settlement Fund is warranted.

2 8. The terms and provisions of the Settlement as embodied by the parties'
3 Settlement Agreement have been entered into in good faith and are hereby fully and
4 finally approved as fair, reasonable, adequate, and in the best interests of the Class, and in
5 full compliance with all applicable requirements of the Federal Rules of Civil Procedure
6 and the Rules of this Court and any other applicable law or due process requirements. The
7 Parties are hereby directed to comply with the terms of the Settlement Agreement and this
8 Order and Final Judgment.

9 9. The Court hereby approves the Settlement Class Member Payout Formula
10 (Exhibit 1 to the Settlement Agreement), and payment of the Individual Settlement
11 Payments to Participating Settlement Class Members in accordance with the Payout
12 Formula, the methods for calculating the Individual Settlement Payments to Omitted Class
13 Members and their Class Member Teammates as set forth in Plaintiffs' Supplemental
14 Brief In Support of Motion For Final Approval, Doc 1141.

15 10. Defendants shall promptly assist with determining whether the Omitted
16 Class Members are Class Members and that Parties shall resolve the 17 remaining claims
17 by potentially Omitted Class Members (listed on Ex. E to the Tuddenham Second Supp.
18 Decl.) and assign Settlement Awards to any of them that are Class members as soon as
19 possible so that Class Members have an opportunity to opt out before the Effective Date.
20 The Omitted Class Members shall promptly be notified of their award and release and
21 shall have until the Effective Date to opt-out. The Court also approves the Parties'
22 agreement to pay Omitted Class Members out of \$250,000 of the unused portion of the
23 \$750,000 in costs that were set aside in the Order Granting Preliminary Approval of the
24 Settlement with the remaining \$113,458 in unused cost money reverting to the Funds
25 available for distribution to the Class.

26 11. Class Counsel shall file a Notice with the Court as soon as possible after the
27 Effective Date indicating (a) which "incomplete claimants" will be treated as non-

1 participating Class Members because of their failure to complete their claim forms, (b)
2 which claimants with social security number discrepancies should be treated as non-class
3 members; and (c) which of the Omitted Class Members are to be treated as non-Class
4 Members because they opted out.

5 12. Having approved the methods of allocating the Class Funds, the Court
6 hereby approves as fair and reasonable the specific Individual Settlement Awards to
7 Participating Settlement Class Members set forth on Exhibit A to the Second Supp. Decl.
8 of E. Tuddenham, Doc. 1142), incorporated herein by reference, *provided that*: (1) the
9 Participating Class Members on Exhibit C to the Second Supp. Decl. of E. Tuddenham
10 complete their claim forms by the Effective Date and (2) the Parties confirm by the
11 Effective Date that Participating Class Members on Exhibit D to the Second Supp. Decl.
12 of E. Tuddenham are Class Members. Defendants shall promptly assist with determining
13 whether claimants with non-matching social security numbers are Class Members,
14 including by comparing the social security number on the claim form and on the Class list
15 with their records.

16 13. The Court approves the Settlement Awards to the Omitted Class Members
17 set forth on Exhibit E to the Second Supp. Decl. of E. Tuddenham, incorporated herein by
18 reference, and approves awards using the same methodology to any additional Omitted
19 Class Members the parties agree to by the Effective Date *provided that* the Omitted Class
20 Members do not opt-out of the Settlement by the Effective Date.

21 14. Defendants shall deposit the Total Settlement Fund Amount into the
22 Qualified Settlement Fund established by the Settlement Administrator no later than 14
23 business days after the Settlement Effective Date and shall provide notice and
24 confirmation to Plaintiffs that the funds have been transferred.

25 15. Individuals on Exhibit C to the Second Supp. Decl of E. Tuddenham who
26 fail to complete their claims by the Effective Date shall be regarded as non-participating
27 class members bound by the Settlement Agreement but shall not receive their Individual
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1 Settlement Payment. Individuals on Exhibit D to that Declaration who fail to confirm
2 they are Class Members by the Effective Date and individuals on Exhibit E who opt-out
3 by the Effective Date shall be treated as non-class members whose rights are unaffected
4 by this Class Settlement.

5 16. With respect to the five Claimants on Exhibit C for whom evidence of the
6 death of the Class Member was submitted as Exhibit F to the Second Supp. Decl. of E.
7 Tuddenham, the Court finds that the evidence presented is sufficient to establish the death
8 of the Class Member and those claims are deemed complete. Other Claimants on behalf
9 of deceased Class Members may establish the death of the Class Member up to the
10 Effective Date through documents similar to those attached to Exhibit F to the Second
11 Supp. Decl. of E. Tuddenham and may, but need not, present a death certificate to
12 complete their claims.

13 17. The Court grants Service Awards to Named Plaintiffs in the amount of
14 \$50,000 per Named Plaintiff as the reasonable value of the services provided by each of
15 the Named Plaintiffs to the Class Members in litigating and resolving this Action.

16 18. Plaintiffs' Motion for Attorneys' Fees and Costs is granted, and Class
17 Counsel are hereby awarded \$29,000,000 as attorneys' fees and costs and expenses in the
18 amount of \$116,541.96 for a total payment to Class Counsel of \$29,116,541.96 to be paid
19 out of the Total Settlement Fund as attorneys' fees and attorneys' costs and expenses.

20 19. The Settlement Administrator is directed to pay all Participating Class
21 Members their Individual Settlement Awards in accordance with the List of Participating
22 Class Members and allocations attached as Exhibit A to the Second Supp. Decl. of E.
23 Tuddenham as well as in accordance with the Individual Settlement Awards listed on
24 Exhibit E and such additional Awards to Omitted Class members that the Parties agree to
25 by the Effective Date are Omitted Class Members subject to the conditions set forth
26 herein.. Payments to Participating Class Members, taxes owed by employees, attorneys'
27 fees, attorneys' costs and expenses, and Service Awards shall be made within 10 days
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1 after payment of the Total Settlement Fund Amount into a Qualified Settlement Fund, or
2 as soon thereafter as possible. The Settlement Administrator, SSI, is permitted to obtain
3 reimbursement from the Settlement Fund for its earned fee, in an amount up to \$270,000.
4 Any unused portion of the \$270,000 shall be retained by Defendants.

5 20. The existence of any disputes or unresolved issues shall not affect
6 compliance with, funding and implementation of the Settlement Agreement.

7 21. A list of Settlement Class Members is attached as Exhibit A to the
8 Declaration of Mark Patton and incorporated herein by reference, Doc. 1134-1, as
9 supplemented by the list of Omitted Class Members attached as Exhibit E to the
10 Supplemental Declaration of E. Tuddenham, Doc 1142.

11 22. A list of Settlement Class Members who chose to exclude themselves from
12 the Action is attached as Exhibit B to the Second Supp. Decl. of E. Tuddenham and
13 incorporated herein by reference. Doc. 1134-2. The Court specifically finds that the four
14 Class Members represented by Attorney Cullen who filed timely requests to opt-out,
15 including the three who previously filed claim forms, are entitled to opt out and will be
16 treated as having excluded themselves from the Action.

17 23. Nine individuals who filed Opt-in Notices (consents to sue) in this case, who
18 are identified in Ex 4 to the Declaration of D. Getman, Doc 1131-3, have been determined
19 not to be Settlement Class Members and the Court hereby orders that these individual are
20 not releasing any claims in this matter and that they and their Consent to Sue forms are
21 hereby dismissed without prejudice.

22 24. Upon the funding of the Qualified Settlement Fund, Settlement Class
23 Members who did not exclude themselves release any further attempt, by lawsuit,
24 administrative claim or action, arbitration, demand, or other action of any kind by each
25 and all of the Settlement Class Members (including participation to any extent in any
26 further class or collective action), to obtain a recovery for work performed pursuant to
27 both an independent contractor agreement entered into with Swift or any affiliated entity
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1 and utilizing equipment leased from IEL based on and related to, arising out of, or arising
2 in connection with each and all of the allegations in the operative complaint in the Action,
3 including without limitation any and all claims arising from alleged misclassification,
4 whether factual or legal, for harms arising during the Settlement Class Period. This
5 release is described in detail in the Settlement Agreement and includes but is not limited
6 to this Action.

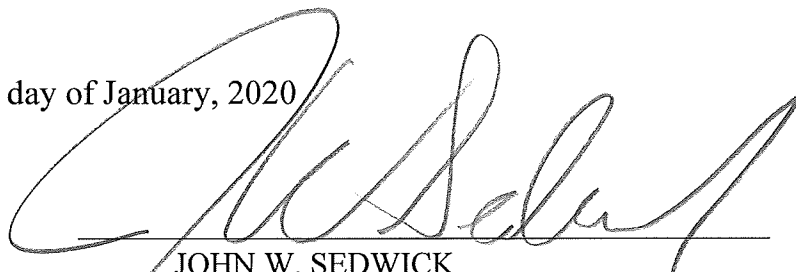
7 25. Upon the funding of the Qualified Settlement Fund, Defendants shall be
8 deemed to have released all Settlement Class Members who did not opt-out of this
9 Settlement from any and all claims known or unknown, contingent or accrued, that are
10 based on, arise out of, or relate in any way to an independent contractor agreement with
11 Swift Transportation and/or an equipment lease with IEL or any services provided under
12 such contractor agreement or lease during the Settlement Class Period, and provided that
13 this release does not apply to any claims arising under active independent contractor
14 agreement with Swift Transportation and/or an equipment lease with IEL after the end of
15 the class period. This release is described in detail in the Settlement Agreement.

16 26. The Court retains exclusive jurisdiction over this matter, and the Parties
17 submit to such exclusive jurisdiction, with respect to effectuating and supervising the
18 interpretation, implementation, and enforcement of the Agreement and any disputed
19 questions of law or fact related thereto as provided in the Agreement. In the event of any
20 disputes they should be brought to the attention of the Court promptly, but such disputes
21 shall not delay Defendants' duty to Fund the Settlement pursuant to ¶14 of the Settlement
22 Agreement except as to the specific Claimant in dispute.

23 27. The Action is hereby dismissed with prejudice as to Named Plaintiffs and
24 all Settlement Class Members who did not exclude themselves from the Action without
25 additional cost to any of the Parties other than as provided for in the Settlement
26 Agreement and herein.

1 28. The Clerk shall enter Final Judgment pursuant to Fed. R. Civ. P. 54(b) and
2 Fed. R. Civ. P. 58(a).

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4 Dated this 22nd day of January, 2020

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6 A handwritten signature in black ink, appearing to read 'J. Sedwick', is written over a horizontal line.

7 JOHN W. SEDWICK

8 SENIOR JUDGE, UNITED STATES DISTRICT COURT
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