

(SPACE BELOW FOR FILING STAMP ONLY)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Case No. 1:07-cv-01546-OWW-TAG
**SETTLEMENT STIPULATION;
RELEASES; DISMISSAL; ORDER**

17 IT IS HEREBY STIPULATED by and between Plaintiff RWI TRANSPORTATION,
18 LLC, ("RWI"), and Defendant MAJOR EXPRESS, INC., ("MAJOR EXPRESS"), and their
19 undersigned attorneys, as follows:

20 1. The parties hereby agree to settle and compromise each and every claim of any
21 kind, whether known or unknown, arising directly or indirectly from the acts or omissions that
22 gave rise to the above-captioned action under the terms and conditions set forth in this
23 Stipulation. The parties, by this agreement, intend this to be a mutual release of all claims, on the
24 part of RWI release all claims it has in connection with this pending lawsuit, and on the part of
25 MAJOR EXPRESS (which shall hereafter include its drivers, representatives, owners, officers,
26 heirs, assigns, representatives, agents, employees) releasing any and all claims it now has against
27 RWI, known or unknown, which in any way relate to prior transportation agreements, contracts,
28 and compensation therefore that MAJOR EXPRESS contends it is owed from RWI.

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STIPULATED SETTLEMENT; RELEASE; ORDER 1:07-CV-01546-OWW-TAG

1 2. Defendant MAJOR EXPRESS, shall waive any claim for attorneys fees and/or
2 costs, and shall waive any and all claims, demands, rights, and causes of action of whatsoever
3 kind and nature it (or its drivers, representatives, owners, officers, heirs, assigns, representatives,
4 agents, and employees) now has against RWI related to any monies that RWI may owe it (or its
5 drivers, representatives, owners officers, heirs, assigns, representatives, agents, and employees).
6 RWI accepts the foregoing consideratione in full settlement and satisfaction of any and all claims,
7 demands, rights, and causes of action of whatsoever kind and nature, arising from, and by reason
8 of, any and all known and unknown, foreseen and unforeseen damage to property and the
9 consequence thereof, resulting, and to result, from the subject matter of this action which RWI or
10 its assigns, and each of them, now have or may hereafter acquire against MAJOR EXPRESS, its
11 agents, servants, and employees.

12 3. RWI and its assigns hereby agree to accept the consideration set forth in paragraph
13 2, including MAJOR EXPRESS of any and all claims against it for outstanding monies, in full
14 settlement and satisfaction of any and all claims, demands, rights, and causes of action of
15 whatsoever kind and nature arising from, and by reason of, any and all known and unknown,
16 foreseen and unforeseen damage to property and the consequences thereof which they may have
17 or hereafter acquire against MAJOR EXPRESS, its agents, servants, and employees on account of
18 the same subject matter that gave rise to this action, including any future claim or lawsuit of any
19 kind or type whatsoever, whether known or unknown, and whether for compensatory or
20 exemplary damages.

21 4. RWI and MAJOR EXPRESS' undersigned attorneys represent that they have
22 explained, and RWI and MAJOR EXPRESS warrants and represents that they intend, that this
23 Stipulation shall release all existing and future claims arising directly or indirectly from the acts
24 or omissions that gave rise to the above—captioned action, or any claims by MAJOR EXPRESS
25 for moneys owed to it by RWI, including claims that are unknown and unforeseen,
26 notwithstanding Section 1542 of the Civil Code of the State of California, which provides as
27 follows:

28 A general release does not extend to claims which the creditor does

1 not know or suspect to exist in his or her favor at the time of
2 executing the Release, which if known by him or her must have
3 materially affected his or her settlement with the debtor.

4 5. This Stipulation is not, is in no way intended to be, and should not be construed as,
5 an admission of liability or fault on the part of RWI or MAJOR EXPRESS, or their agents,
6 servants, or employees, and it is specifically denied by each that they are liable to one another for
7 the claims released herein. This settlement is entered into by all parties for the purpose of
8 compromising disputed claims and avoiding the expenses and risks of further litigation.

9 6. The parties agree that they will each bear their own costs, fees, and expenses in
10 connection with this litigation.

11 7. The parties and their undersigned attorneys agree to execute and deliver such other
12 and further documents as may be required to carry out the terms of this agreement.

13 8. Each person signing this Stipulation warrants and represents that he or she
14 possesses full authority to bind the person(s) on whose behalf he or she is signing to the terms of
15 the Stipulation.

16 9. Each person signing this Stipulation warrants and represents that no promises,
17 inducements, or other agreements not expressly contained herein have been made; that this
18 Stipulation contains the entire agreement between the parties; and that the terms of this
19 Stipulation are contractual and not mere recitals. This Stipulation may not be altered, amended,
20 modified, or otherwise changed in any respect, except by a writing duly executed by the party to
21 be charged. All prior oral understandings, agreements, and writings are superseded by this
22 Stipulation and are of no force or effect.

23 10. Each person executing this Stipulation represents that he or she has read and
24 understands its contents; that he or she executes this Stipulation voluntarily; that he or she has not
25 been influenced by any person acting on behalf of any party.

26 11. Based on this stipulation, the above-captioned action is hereby DISMISSED
27 WITH PREJUDICE as between RWI and MAJOR EXPRESS, and, upon approval by the Court
28 as provided below, the Clerk of the Court is requested to enter this dismissal and release in the
official docket.

1 12. This Stipulation may be signed in one or more counterparts, each of which shall be
2 deemed to be an original and all of which together shall constitute one and the same instrument.

3 13. Notwithstanding the entry of a dismissal herein, the parties hereby stipulate that
4 this Court shall retain jurisdiction to enforce the terms of this settlement.

5 Dated: February 17, 2009

6 McCORMICK, BARSTOW, SHEPPARD,
7 WAYTE & CARRUTH LLP

8 By: _____ /s/ Shane M. Cahill
9 Shane M. Cahill
10 Attorneys for Plaintiff
11 RWI TRANSPORTATION, LLC

12 Dated: December 15, 2008

13 RWI TRANSPORTATION, LLC

14 By: _____ /s/ David Bose
15 David Bose
16 RWI TRANSPORTATION, LLC

17 Dated: February 17, 2009

18 PEEL, GARCIA & STAMPER, LLP

19 By: _____ /s/ Manuel Garcia
20 Manuel Garcia
21 Attorneys for Defendant
22 MAJOR EXPRESS, INC.

23 Dated: January 15, 2009

24 By: _____ /s/ Gabriel Gill

25 Print Name: _____ Gabriel Gill
26 MAJOR EXPRESS, INC.

ORDER

IT IS SO ORDERED.

Dated: February 18, 2009.

/s/ OLIVER W. WANGER

United States District Judge