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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**SIMON V. GARCIA, ROY VAN
KEMPEN, CHRISTOPHER YANEZ, and
EMMA YANEZ, on behalf of themselves
and all others similarly situated,**

Plaintiffs,

v.

**GORDON TRUCKING, INC., a
California corporation; STEVE
GORDON, an individual, BOB
GOLDBERG, an individual; and DOES 1
through 20 inclusive,**

Defendants.

**CASE NO. 1:10-CV-0324 AWI SKO
ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Plaintiffs have made a Motion for Preliminary Approval of Class Action Settlement, which consists of conditional certification of a settlement class, approval of the notice to be sent to the class about the settlement, the election to be excluded form, and claim form, and the setting of a date for a fairness hearing for final approval of the settlement. After review and consideration of the Parties' Joint Stipulation of Settlement and the papers in support of the Motion for Preliminary Approval,

IT IS HEREBY ORDERED as follows:

- 1. The proposed class satisfies the requirements of a settlement class because the class

1 members are readily ascertainable and a well-defined community of interest exists in the
2 questions of law and fact affecting the Parties.

3 2. The Parties' Joint Stipulation of Settlement ("Settlement"), attached as Exhibit "1" to
4 the Declaration of S. Brett Sutton in support of Plaintiffs' Motion for Preliminary Approval of
5 Class Action Settlement, is granted preliminary approval as it meets the criteria for preliminary
6 settlement approval. The Settlement appears to fall within the range of possible approval as fair,
7 adequate and reasonable, and to be the product of arm's-length and informed negotiations and to
8 treat all Class Members fairly.

9 3. The Parties' proposed notice plan is constitutionally sound because individual notices
10 will be mailed to all Class Members whose identities are known to the Parties, and such notice is
11 the best notice practicable. The Parties' proposed Notice of Proposed Settlement of Class Action,
12 proposed Claim Forms and Election to Be Excluded Form, attached as Exhibits "2" through "4,"
13 respectively, to the Declaration of S. Brett Sutton in support of Plaintiffs' Motion for Preliminary
14 Approval of Class Action Settlement, are sufficient to inform Class Members of the terms of the
15 Settlement, their rights under the Settlement, their rights to object to the Settlement, and the
16 processes for doing so, are all approved.

17 4. The following class of persons are certified as the Class in this action solely for
18 purposes of the Settlement:

19 "Class" or "Settlement Class" shall mean all current and former employee drivers of GTI
20 who resided in California at any time within the Class Period, as defined below, whose
21 job duties include, among other things, driving commercial motor vehicles and who
22 are/were paid, in part, on a cents-per-mile basis, and whose names appear on the list
23 attached as Exhibit 1 to the Settlement.

24 5. Any Class Member who submits a timely and valid Claim Form within sixty days after
25 the date the Claims Administrator mails the Notice, Claim Form and Election to Be Excluded
26 Form will receive a Settlement Share.

27 6. Any Class Member who wishes to comment on or object to the Settlement or who
28 elects not to participate in the Settlement has until sixty days after the mailing of the Notice to
submit his or her comment, objection, or Election to Be Excluded pursuant to the procedures set
forth in the Class Notice.

1 7. Rust Consulting, Inc. is appointed to act as the Claims Administrator, pursuant to the
2 terms set forth in the Settlement.

3 8. Plaintiffs Simon V. Garcia, Roy Van Kempen, Christopher Yanez and Emma Yanez
4 are appointed Class Representatives. S. Brett Sutton of Sutton Hatmaker Law Corporation and
5 James R. Patterson of Patterson Law Group, APC, are appointed Co-Class Counsel.

6 9. The Notice, Claim Forms and Election to Be Excluded Forms will be disseminated
7 according to the notice plan described in the Settlement and substantially in the form submitted
8 by the Parties. Proof of distribution of such forms will be filed by the Parties at or prior to the
9 final approval hearing.

10 10. Defendants are directed to provide the Claims Administrator, not later than
11 fourteen days after the date of this Order, an electronic database listing the name, last known
12 address and telephone number, and total number of weeks worked (“Class Data”) within the
13 relevant time period, as specified by the Settlement.

14 11. The Claims Administrator is directed to mail the approved Notice, Claim Form and
15 Election to Be Excluded Form by first-class mail to the Class Members not later than ten days
16 after receipt of the Class Data from Defendants.

17 12. A final approval and fairness hearing will be held on October 29, 2012 at 1:30 PM in
18 Courtroom 2 to determine whether the Settlement should be granted final approval as fair,
19 reasonable, and adequate as to the Class Members. The Court will hear all evidence and
20 argument necessary to evaluate the Settlement, and will consider the Class Representatives’
21 request for Incentive Awards and Class Counsels’ request for attorneys’ fees and costs.

22 13. Pursuant to the procedures set forth in the Settlement, any Class Member may object
23 to any part of the Settlement. For any comments or objections to be considered at the final
24 approval hearing, the Class Member must file comments and/or objections with the Clerk of the
25 Court indicating briefly the nature of the Class Members’ comments and/or objection. Such
26 documents must be filed with the Court and mailed to Class Counsel not later than sixty days
27 from the date the Class Notice is mailed and must set forth, in clear and concise terms, a
28 statement of why the objector believes the Court should not approve the Settlement, including

1 the legal and factual arguments supporting the objection. If an objector also wishes to appear at
2 the Final Approval Hearing, in person or through an attorney, he or she must also file a notice of
3 intention to appear at the same time as the objection is filed.

4 14. The Court retains jurisdiction to consider all further applications arising out of or
5 in connection with the Settlement.

6
7 IT IS SO ORDERED.

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9 Dated: June 7, 2012


CHIEF UNITED STATES DISTRICT JUDGE

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