1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF CALIFORNIA 10 ----00000----11 12 TODD SHOOK, HERSCHEL CIV. NO. 1:14-1415 WBS BAM BERRINGER on behalf of 1.3 himself and others similarly ORDER situated, and on behalf of 14 all other "aggrieved" employees, 15 Plaintiffs, 16 V. 17 INDIAN RIVER TRANSPORT CO., a 18 Florida Corporation, and DOES 1-10, inclusive, 19 Defendants. 20 2.1 ----00000----22 Before the court are defendant's Suggested 23 Modifications to December 7, 2016 Final Pretrial Order filed 24 December 14, 2016. (Docket No. 47). On December 19, 2016, the 25 court ordered that plaintiffs file any response or opposition to 26 the proposed modifications within seven days. (Docket No. 48.)

The December 19, 2016 order also explained that if plaintiffs

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filed no response or opposition, the court would grant defendant's request and modify the final pretrial order accordingly. Plaintiffs filed no response to defendant's proposed modifications. Accordingly, the court hereby ORDERS as follows:

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- 1. Exhibit B of the Pretrial Order is amended to include additional California resident drivers who performed work for defendant out of its Turlock, California facility and who received Safe Harbor payments from defendant.
- 2. Exhibit B of the Pretrial Order is also amended to note that Mark Gressett, Safety Director for defendant, will provide testimony regarding when and how these payments were made and to whom.
- 3. Exhibit D of the Pretrial Order is amended to allow defendant to present evidence with respect to defendant's Safe Harbor payments, including (1) each letter mailed by defendant to each driver regarding the payment he or she received and (2) copies of the checks provided to each driver evidencing the Safe Harbor payments.
- 4. Exhibit D of the Pretrial Order is also amended to include a copy of the recording of defendant's notice to elect the Safe Harbor, as recorded by the California Department of Industrial Relations and as available on its website.
- 5. Exhibit B of the Pretrial Order is also amended to include Shannon Ross, Terminal Manager for defendant, as an additional witness. Mr. Ross will provide testimony regarding how much time California resident drivers spend outside of California.

6. The parties may submit supplemental or amended trial briefs if Congress amends the Federal Aviation Administration Authorization Act after the parties submit their opening trial briefs.

IT IS SO ORDERED.

Dated: January 3, 2017

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WILLIAM B. SHUBB

UNITED STATES DISTRICT JUDGE