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[ALL COUNSEL LISTED ON NEXT PAGE]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JORGE R. QUEZADA, individually, and on
behalf of all others similarly situated,

Plaintiff,

v.

CON-WAY FREIGHT INC.,

Defendant.

) Case No. C 09-03670 JSW
) Related to C 10 00100 JSW

) **STIPULATION TO ANSWER**
) **STANDING AS RESPONSIVE**
) **PLEADING TO THIRD AMENDED**
) **COMPLAINT**

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STIPULATION: ANSWER AS RESPONSIVE
PLEADING

CASE NO. C 09-03670 JSW

STIPULATION

1
2 The parties hereto, by and through their respective counsel, hereby stipulate and
3 request the Court to order as follows:

4 WHEREAS, on February 22, 2013, Defendant Con-way Freight, Inc. (“Defendant”)
5 moved to stay proceedings in this case pending the Ninth Circuit’s decisions in two pending appeals
6 addressing the scope of federal preemption of California meal and rest break requirements;

7 WHEREAS, in opposition to Defendant’s Motion to Stay, Plaintiff asserted that he
8 had abandoned the cause of action for allegedly missed rest breaks asserted in the operative Second
9 Amended Complaint;

10 WHEREAS, on March 25, 2013, the Court issued an Order denying Defendant’s
11 Motion to Stay and ordering Plaintiff to file an amended complaint omitting the rest-break claim on
12 before April 2, 2013;

13 WHEREAS, on April 2, 2013, Plaintiff filed his Third Amended Complaint in this
14 action, omitting his rest-break cause of action and making other minor changes to conform the
15 pleading to other intervening proceedings in the case;

16 WHEREAS, when Plaintiffs filed their Second Amended Complaint, Defendant
17 concluded that its earlier Answer to the Amended Complaint was sufficient to stand as its response to
18 the Second Amended Complaint, and entered into a stipulation to that effect on July 14, 2010, which
19 stipulation was accepted and so ordered by this Court;

20 WHEREAS, Defendant similarly concludes that an amended Answer is not necessary
21 to address the changes in Plaintiff’s allegations between the Second Amended Complaint and the
22 now-operative Third Amended Complaint;

23 WHEREAS, the preparation of an Answer to the Third Amended Complaint would
24 amount to an unnecessary expenditure of resources where the parties agree that the claims and
25 defenses at issue in this matter are fairly raised by the current pleadings.

26 IT IS HEREBY STIPULATED AND AGREED, by and through the parties’
27 respective counsel of record, that Defendant’s existing Answer shall stand as its responsive pleading
28 to Plaintiffs’ Third Amended Complaint. Because the parties entered into a similar stipulation,

1 approved by the Court, with regard to the Second Amended Complaint, the operative Answer
2 incorporated here was filed in response to Plaintiff's Amended Complaint.

3 IT IS SO STIPULATED.

4 Dated: April 19, 2013

5 /s/ Angela J. Rafoth
6 RICHARD H. RAHM
7 ANGELA J. RAFOTH
8 LITTLER MENDELSON
A Professional Corporation
Attorneys for Defendant
CON-WAY FREIGHT INC.

9 Dated: April 19, 2013

10 /s/ Lawrence Cagney
11 LAWRENCE CAGNEY
12 WESTRUP KLICK LLP
Attorneys for Plaintiff
JORGE QUEZADA

13 PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO ORDERED:
14

15 Dated: April 23, 2013

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17 HON. JEFFREY S. WHITE

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21 Firmwide:119795452.3 012187.1046