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Attorneys for Defendant
Ryder Integrated Logistics, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Jim Swain,

Plaintiff,

v.

Ryder Integrated Logistics, Inc. and
DOES 1 through 10, inclusive,

Defendants.

CASE NO. 3:10-cv-04192-CRB

**JOINT STIPULATION AND
[PROPOSED] ORDER REGARDING
MEDIATION AND CASE
MANAGEMENT CONFERENCE**

1 Pursuant to 28 USC §1447(C), the only parties that have appeared in this action,
2 Plaintiff Jim Swain (“Plaintiff”) and Defendant Ryder Integrated Logistics, Inc.
3 (“Defendant”), through their respective counsel, hereby jointly stipulate and request that
4 the Court change the date of the Case Management Conference in the above-captioned
5 matter from its current date of July 22, 2011 to October 28, 2011. The parties further
6 stipulate and request that the new Case Management Conference date be treated as the
7 initial Case Management Conference date for the purpose of calculating the deadline for
8 meetings between counsel, initial disclosures, and reports to the Court pursuant Rule 26.

9 This stipulation is made and entered into by the parties on the following basis:

10 1) On February 22, 2011, pursuant to the stipulation of the parties, this Court
11 ordered that the parties complete a private mediation no later than July 18, 2011.

12 2) Pursuant to this Court’s Order, the parties scheduled a mediation before
13 JAMS mediator Joel Grossman for June 17, 2011.

14 3) This Court’s order of February 22 also required the parties to exchange
15 specific documents in advance of the mediation. Among the requirements was that
16 Defendant provide Plaintiff with a random sample of paper time records for members of
17 the putative class.

18 4) Pursuant to the Court’s order of February 22, Plaintiff provided Defendant
19 with a list that specified a random sample of locations and time periods for which paper
20 records would be provided.

21 5) After gathering approximately 50% of the requested records, Defendant
22 determined that the sample requested by Plaintiff would require the production of
23 approximately 28,000 paper records.

24 6) To date, Defendant has produced nearly 14,000 pages of documents.

25 7) The parties have agreed that a smaller sample should be used, and Plaintiff
26 has provided Defendant with a modified sample request. Defendant is currently in the
27 process of reviewing that modified request.
28

1 8) As a result of the sheer number of documents that have been produced and
2 the need to further modify the sample, the current mediation date of June 17, 2011 will not
3 provide sufficient time for Defendant to produce the remaining documents and allow the
4 parties to evaluate the data and prepare their positions before mediation.

5 9) The parties contacted the mediator, Joel Grossman, and based on his
6 schedule and the schedule of the parties, the first available date to continue the mediation
7 is September 7, 2011, which the parties have already confirmed with Mr. Grossman.

8 10) Defendant represents that as of this date, Defendant has not made any
9 payments pursuant to California Labor Code §226.7. On that basis, Plaintiff will
10 withdraw his Special Interrogatories 7 and 8.

11 11) Defendant has been diligently gathering and reviewing documents that were
12 requested by Plaintiff in an attempt to meet the current deadlines, but given the number of
13 documents involved, the current mediation date of June 17, 2011 is simply impossible to
14 meet.

1 **IT IS HEREBY STIPULATED:**

2 The parties stipulate and respectfully request the Court order as follows: the
3 Case Management Conference in the above-captioned matter is hereby changed from its
4 current date of July 22, 2011 to October 28, 2011. That the new Case Management
5 Conference date shall be treated as the initial Case Management Conference date for the
6 purpose of calculating the deadline for meetings between counsel, initial disclosures, and
7 reports to the Court pursuant Rule 26. The parties shall complete mediation before the
8 new case management conference date. The parties shall continue to exchange pre-
9 mediation discovery as described in the February 22, 2011 order .

10 DATED: June 2, 2011

LITTLER MENDELSON
MICHELLE HEVERLY
KEITH JACOBY

13 By: /s/ Keith A/ Jacoby
14 Keith A. Jacoby
15 Attorneys for Defendant
16 RYDER INTEGRATED LOGISTICS,
17 INC.

18 DATED: June 2, 2011

THE GRAVES FIRM
ALLEN GRAVES

21 By: /s/ Allen Graves
22 Allen Graves
23 Attorneys for Plaintiff
24 JIM SWAIN

24 **ORDER**

25 It is so ordered.

26 DATED: June 3, 2011

27 By: _____
28 Hon. Charles R. Breyer

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