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ERNEST C. HARVEY, II, individually,  
21 and on behalf of all others similarly situated  
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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA  
3 SAN JOSE DIVISION

4 ROY D. TAYLOR, ARLETHA FLUD,  
5 THOMAS J. WOOD, ERNEST C.  
6 HARVEY, II, individually, and on behalf  
of all other similarly situated,,

7 Plaintiff,

8 v.

9 FEDEX FREIGHT, INC., an Arkansas  
10 Corporation, and DOES 1 through 20,  
inclusive,

11 Defendant.

Case No. 5:10-CV-02118 LHK

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER REGARDING  
POSSIBLE CONTINUANCE OF  
HEARING ON MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENT**

12  
13 WHEREAS, the parties have reached a settlement of the above-entitled matter, and a  
14 Motion for Preliminary Approval of the class action settlement was filed by the Class on July 22,  
15 2011. On August 5, 2011, Defendant filed a Statement of Non-Opposition, indicating that it did not  
16 oppose the motion and attaching a final copy of the Stipulated Settlement Agreement.

17 WHEREAS, on June 10, 2011, this Court issued an Order setting the hearing date on  
18 the Motion for Preliminary Approval for September 1, 2011. That Order indicated that the Court  
19 would rule on the papers if possible, and if a ruling on the papers was made, the hearing date would  
20 be vacated.

21 WHEREAS, to the extent a hearing is required on the Motion for Preliminary  
22 Approval, it will require attendance of Class Counsel, Counsel for Defendant and Defendant's  
23 General Counsel to work through any issues identified by the Court.

24 WHEREAS, lead trial counsel for Defendant FedEx Freight, Inc., Keith Jacoby, is set  
25 for trial in a matter in the U.S. District Court for the Central District before Judge Margaret S.  
26 Morrow in the matter of *Cordova v. Comerica Bank*, Case No. 09-CV-08905 MMM (PLAx). That  
27 trial is set to commence on August 30, 2011 and is not expected to be concluded by September 1,

1 2011. All pre-trial work has been done on the case, and Judge Morrow has indicated that she is  
2 available for trial on the scheduled date.

3 WHEREAS, Defendant's General Counsel, Richard Goldaber, is also unavailable on  
4 September 1, 2011, due to a previous commitment.

5 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and  
6 between Plaintiffs Roy Taylor, Arletha Flud, Thomas Wood and Ernest Harvey and Defendant  
7 FedEx Freight, Inc., through their respective counsel, and subject to approval by the Court, that to  
8 the extent a hearing on the pending Motion for Preliminary Approval of Class Action Settlement is  
9 necessary, the hearing shall be moved one week to September 8, 2011, or another mutually  
10 convenient date should the Court be unavailable on September 8, 2011. The Case Management  
11 Conference, which is currently set for September 1, 2011, shall also be moved to the same date. The  
12 Parties will file a Joint Case Management Conference Statement by September 1, 2011.

13  
14 Dated: August 15, 2011

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16 /s/  
17 MICHELLE B. HEVERLY  
18 LITTLER MENDELSON  
19 A Professional Corporation  
20 Attorneys for Defendant  
21 FEDEX FREIGHT, INC.

19 Dated: August 15, 2011

22 \_\_\_\_\_  
23 /s/  
24 MICHAEL L. CARVER  
25 LAW OFFICES OF MICHAEL L. CARVER  
26 Attorneys for Plaintiffs

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**ORDER**

The Court having reviewed the foregoing joint stipulation, IT IS HEREBY ORDERED as follows:

The Motion for Preliminary Approval of Class Settlement of the above captioned case shall be heard on September 15, 2011. The Case Management Conference shall be scheduled for the same day. The Parties shall file a Case Management Conference Statement by September 1, 2011.

Dated: August 19, 2011

  
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HONORABLE LUCY KOH