



29 **W I T N E S S E T H:**

30 **WHEREAS**, on September 3, 2012, the parties entered into a Settlement  
31 Agreement (hereafter “the Agreement”) in the above styled case; and

32 **WHEREAS**, on October 4, 2012, the Court entered a Consent Order [Dkt.  
33 18] in which it approved the Settlement Agreement; and

34 **WHEREAS**, on October 16, 2012, the Court entered an Order referring the  
35 case to Magistrate Judge James Clay Fuller for further proceedings in accordance  
36 with the Consent Order; and

37 **WHEREAS**, on March 27, 2013 the parties amended the Settlement  
38 Agreement, styled First Amendment to Settlement Agreement; and

39 **WHEREAS**, on April 8, 2013, the Magistrate Judge entered an Order [Dkt.  
40 25] approving and incorporating the First Amendment to Settlement Agreement;  
41 and

42 **WHEREAS**, the parties thereafter began to calculate the amounts to be paid  
43 to the OPT-IN PLAINTIFF in accordance with Paragraphs 20 and 21 of the  
44 Settlement Agreement; and

45 **WHEREAS**, the parties thereafter became engaged in a dispute concerning  
46 the calculations performed in accordance with Paragraphs 20 and 21 of the  
47 Settlement Agreement and the amount to be paid to Plaintiffs’ accountants, and

48           **WHEREAS**, the parties have reached agreement on the calculations  
49 performed in accordance with Paragraphs 20 and 21 of the Settlement Agreement  
50 and the amount to be paid to Plaintiffs' accountants; and

51           **WHEREAS**, the parties desire to commit their agreement to writing;

52           **NOW, THEREFORE**, in exchange for good and valuable consideration,  
53 the sufficiency and receipt of which is hereby acknowledged, **DEFENDANTS** and  
54 the **NAMED PLAINTIFFS** agree as follows:


- 55 1) Backpay that was previously paid to any Opt-In Plaintiff shall be applied  
56 against the total amount of backpay owed, regardless of the week in which  
57 the backpay was paid.
- 58 2) Ackerman will accept the calculations performed by Plaintiff's accountants  
59 (IAG) for the nine drivers whose calculations it sampled.
- 60 3) Ackerman will credit each of the remaining 19 Opt-In Plaintiffs with an  
61 additional fifty dollars (\$50.00) as backpay for unpaid minimum wages or  
62 unpaid overtime and an additional fifty dollars (\$50.00) as liquidated  
63 damages.
- 64 4) Plaintiffs will not dispute the calculations of Defendant's accountant for the  
65 backpay due to the Opt-In Plaintiffs that were not included in IAG's sample,  
66 as adjusted by Paragraph 3 above.

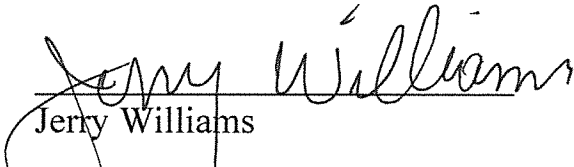
- 67 5) Within ten days of Court approval of this Second Amended Settlement  
68 Agreement, Ackerman will pay to IAG Forensics the sum of twelve  
69 thousand five hundred dollars (\$12,500.00) in satisfaction of Ackerman's  
70 obligation to bear the expense of the work performed by IAG Forensics as  
71 set forth in Paragraph 23 of the Settlement Agreement.
- 72 6) Neither the Settlement Agreement nor the First or Second Amendments  
73 thereto shall be interpreted to create any further liability of Ackerman to  
74 bear the expense of Plaintiff's accountants.
- 75 7) Upon execution of this Second Amendment to Settlement Agreement, the  
76 parties will file with the Court a joint motion seeking approval of the this  
77 Second Amended Settlement Agreement.
- 78 8) Upon Court approval of the Joint Motion, the parties will file a notice of  
79 final settlement as set forth in Paragraph 28 of the Settlement Agreement.

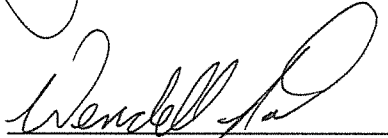
80 **IN WITNESS WHEREOF**, the parties hereto have set their hands and  
81 seals, the date first written above.

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83 Ackerman Wrecker Service, Inc.  
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86 By: Walter Glenn Smith  
87 Walter Glenn Smith  
88 Its President  
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Walter Glenn Smith

  
Jerry Williams

  
Wendell Neal