

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

KIRK ROBERTS, FARAJI ARTURO	)	
COUNCIL, TERRENCE	)	
COLVIN-WILLIAMS, REGINALD	)	
BRADLEY, DAVID COLEMAN, and	)	
CARL McROBERTS, JR., on behalf of	)	
themselves and all others similarly situated,	)	
	)	
Plaintiffs,	)	Civil Action No.
	)	2:21-cv-02073-JWB-GEB
v.	)	
	)	
TRANSAM TRUCKING, INC.,	)	
OLATHE NOBLE EQUIPMENT	)	
LEASING, INC., and JACOBSON	)	
HOLDINGS, INC.,	)	
	)	
	)	
Defendants.	)	
	)	

**PLAINTIFFS’ UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF SETTLEMENT**

Plaintiffs Kirk Roberts, *et al.*, on behalf of themselves and all others similarly situated, hereby move this Court for an order:

1. Granting preliminary approval of the Parties’ Stipulation of Settlement Agreement and Release (“Settlement Agreement”), a true and correct copy of which is attached to this Motion as Exhibit A;
2. Granting conditional certification of the following Settlement Classes/Collectives:
  - a. **The FLSA orientation collective:** All individuals who attended company driver orientation in Rockwall, Texas or in Tampa, Florida between October 2020 and March 2021; and

b. **The FLSA lease driver collective:** All individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020; and

c. **The Rule 23 Truth-in-Leasing class:** All individuals who have been subject to an independent contractor agreement with TransAm and/or a lease agreement with ONE Leasing since February 2017 and have: (i) had fuel surcharge deductions taken from their compensation; and/or (ii) have had physical damage insurance deductions taken from their compensation in excess of the amounts listed in their contracts; and/or (iii) have had other charges or deductions made from their compensation in excess of the amounts listed in their contracts as alleged in the Lawsuit.

3. Preliminarily approving Atticus Administration, LLC as Settlement Administrator and preliminarily approving the costs of the claims administration;

4. Preliminarily approving Class Counsel's request for attorneys' fees and costs and the named plaintiffs' and early opt-in plaintiffs' requests for service awards;

5. Approving the Notices of Settlement to be sent to members of the Settlement Classes/Collectives, true and correct copies of which are attached to the Settlement Agreement as Exhibits 1 through 4;

6. Approving the distribution formula and claim procedure set forth in the Settlement Agreement, the Notices, and in Plaintiffs' Memorandum in support of this Motion;

7. Authorizing the Settlement Administrator to mail the approved Notice of Settlement;

8. Approving the proposed schedule and procedure for completing the final approval process as set forth in the Settlement Agreement; and

9. Scheduling a Final Fairness Hearing to take place approximately 120 days after entry of the Preliminary Settlement Approval Order.

Plaintiffs bring this Motion pursuant to Federal Rules of Civil Procedure 23(e) and long-established precedent requiring Court approval for class action settlements. This Motion is based on the accompanying Memorandum of Law, the Declaration of Hillary Schwab in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of the Settlement, the attached Exhibits, and all other records, pleadings, and papers on file in this action. Defendants do not oppose this Motion.

Plaintiffs respectfully request that the Court grant this Motion and enter the Preliminary Approval Order attached as Exhibit B.

Respectfully submitted,  
KIRK ROBERTS, FARAJI ARTURO COUNCIL,  
TERRENCE COLVIN-WILLIAMS,  
REGINALD BRADLEY, DAVID COLEMAN, and  
CARL McROBERTS JR., on behalf of themselves  
and all others similarly situated,

By their attorneys,

/s/ *Brendan J. Donelon*

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**Dated:** April 11, 2024

**CERTIFICATE OF SERVICE**

I certify that on April 11, 2024, I caused a true copy of this document to be served by ECF on all registered participants in this matter.

/s/ Brendan Donelon  
Brendan Donelon

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

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**PLAINTIFFS’ MEMORANDUM IN SUPPORT OF UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF SETTLEMENT**

As explained in detail below, the parties have reached a proposed settlement of this action on behalf of the Settlement Classes/Collectives, and the proposed settlement is fair, reasonable, and adequate. This litigation has been hard-fought over more than three years, and the proposed settlement is the result of arm’s-length negotiations. Accordingly, Plaintiffs respectfully request that the Court grant this motion and enter the Preliminary Approval Order attached to Plaintiffs’ Motion as Exhibit B.

**I. INTRODUCTION.**

This class and collective action has been brought against Defendants TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc., and Jacobson Holdings, Inc., on behalf of individuals who have attended orientation and/or have driven as truck drivers for TransAm Trucking, Inc., alleging violations of federal law under the Fair Labor Standards Act and Truth-

in-Leasing regulations and violations of the Kansas and Florida minimum wage laws and the Kansas Consumer Protection Act.

After years of extensive discovery and hard-fought litigation, followed by arm's-length settlement negotiations involving the exchange of further settlement-related discovery and culminating in a full-day mediation, the Parties have reached a global settlement of the Action, memorialized in the proposed Stipulation of Settlement Agreement and Release ("Settlement Agreement"), attached to Plaintiffs' Motion as Exhibit A. Plaintiffs now seek preliminary approval of the Settlement.

The Parties have resolved the claims of approximately 10,000 potential Settlement Class/Collective members, for a total non-reversionary settlement amount of \$3,750,000. With this proposed settlement, the Parties are resolving claims unlikely to have been prosecuted as individual actions. The settlement provides an excellent benefit to the Class and an efficient outcome in the face of risky litigation. The settlement is fair, reasonable, and adequate in all respects, and Plaintiffs respectfully request that the Court grant the requested approval.

## **II. BACKGROUND.**

### **A. Complaints**

On February 10, 2021, Plaintiffs filed the Complaint in this matter, alleging claims against TransAm Trucking, Inc. under the federal Fair Labor Standards Act and the Kansas Consumer Protection Act, on behalf of individuals who had attended orientation and/or become truck drivers for TransAm. ECF Doc. 1. Shortly thereafter, on March 24, 2021, Plaintiffs filed the First Amended Complaint, which named TransAm Trucking, Inc. and Olathe Noble Equipment Leasing, Inc. as defendants. The First Amended Complaint included: (1) claims under the FLSA and the Florida Minimum Wage Act for unpaid minimum wages during

orientation; (2) a claim under the Kansas Consumer Protection Act on behalf of individuals who had attended orientation to become company (employee) truck drivers but had been induced to become lease drivers; (3) claims under the FLSA and the Kansas Wage Payment Act that Defendants had misclassified lease drivers as independent contractors and failed to pay them all wages owed; (4) a claim under the FLSA on behalf of company drivers, alleging that they had not been paid all minimum wages owed. ECF Doc. 17. Plaintiffs filed a Second Amended Complaint on January 7, 2022, which added Jacobson Holdings, Inc. as a defendant. ECF Doc. 71.

Plaintiffs then filed a motion to file a Third Amended Complaint, seeking to add claims under the federal Truth-in-Leasing (TIL) regulations relating to Defendants' disclosures to lease drivers in their initial contracts and deductions taken from lease drivers' compensation. ECF Doc. 101. Defendants opposed Plaintiffs' motion, and this Court granted the motion on June 7, 2022, holding that Plaintiffs had not unduly delayed in filing their motion, that Defendants would not be prejudiced, and that Defendants had not demonstrated that the addition of the TIL claim would be futile. ECF Doc. 108. The Court noted the voluminous discovery that had been exchanged by that point, stating: "the Court wants to acknowledge the amount of time it would take to comb through over 90,000 pages of discovery to find the information relative to the new claims Plaintiffs seek to include." *Id.* at 6.

## **B. Discovery**

The 90,000 pages of discovery referenced by the Court is only a fraction of the discovery conducted in this case. Plaintiffs issued 40 interrogatories and 133 document requests to Defendants, in response to which Defendants produced more than 105,000 pages of documents and data. Defendants issued interrogatories and document requests to the six named plaintiffs, in

response to which Plaintiffs produced more than 1,000 pages of documents. Schwab Decl. ¶ 15, attached as Exhibit C.

Additionally, Plaintiffs issued document subpoenas to eight third parties, and received almost 30,000 pages of documents and data in response. The subpoenaed documents included insurance documents cited extensively in Plaintiffs' summary judgment briefing. Schwab Decl. ¶ 16.

As for depositions, Plaintiffs took 30(b)(6) depositions of TransAm and ONE Leasing over the course of two days in November 2021, in addition to nine individual depositions in early 2022 and seven individual depositions in late 2022. Defendants took the depositions of the six named plaintiffs in 2021 and seven of the opt-in plaintiffs in 2022. Plaintiffs also took the deposition of Defendants' expert in October 2022, and Defendants took the deposition of Plaintiffs' expert in September 2022. Schwab Decl. ¶ 17.

Additionally, both parties retained expert witnesses who produced reports on issues relating to class/collective certification and summary judgment, and those expert witnesses sat for depositions. Schwab Decl. ¶ 18.

### **C. Summary judgment and class and collective action certification**

In November 2022, Plaintiffs filed two substantive motions. First, Plaintiffs filed a motion for conditional FLSA certification, requesting that the Court certify three collectives: (1) all individuals who attended orientation for Defendants in Texas or Florida; (2) all individuals who have driven for Defendants as lease drivers; and (3) all individuals who have driven for Defendants as company drivers. ECF Doc. 141. Second, Plaintiffs filed a motion for Rule 23 class certification, requesting certification of four classes: (1) all individuals who attended orientation in Florida; (2) all individuals who attended orientation and/or became lease drivers

during the applicable time period for the KCPA claim; (3) all lease drivers during the applicable time period for the KWPA claim; and (4) all individuals who had signed lease agreements, for the TIL claim. ECF Doc. 143.

In December 2022, the parties filed cross-motions for partial summary judgment. Defendants sought summary judgment on: (1) Plaintiffs' KCPA claim; (2) Plaintiffs' FLSA claim relating to time spent in the truck's sleeper berth; (3) Plaintiffs' claim for unpaid minimum wages during orientation; (4) Plaintiffs' TIL claim; and (5) named plaintiff Reginald Bradley's claim. ECF Docs. 158, 159. Plaintiffs moved for summary judgment on Defendants' liability as follows: (1) that Defendant TransAm violated the FLSA by failing to compensate employee drivers for all orientation hours at the federal minimum wage; (2) that Defendant TransAm violated the FMWA by failing to compensate employee drivers for all hours in orientation in Florida at the Florida minimum wage; (3) that Defendant violated the FLSA by making deductions from company drivers' wages for a "truck rental fee"; (4) that Defendants violated the KCPA through several deceptive acts and practices; (5) that Defendants violated the KCPA through unconscionable acts and practices; and (6) that Defendants violated the TIL regulations through several unlawful chargebacks. ECF Docs. 161, 162.

The parties' submissions on these motions were voluminous. In addition to the filing of motions, memoranda, oppositions, and reply briefs on all motions, each side submitted more than 100 exhibits in support of their briefing. Schwab Decl. ¶ 19.

On September 29, 2023, this Court issued a seventy-page decision on the motions for class/collective action certification and summary judgment, granting in part and denying in part three of the motions and denying Plaintiffs' summary judgment motion in its entirety. ECF Doc. 203. On FLSA conditional certification, the Court granted certification of the orientation and

lease driver collectives but denied certification of the company driver collective. The Court granted Rule 23 class certification as to the TIL class for Plaintiffs' claims relating to improper chargebacks relating to fuel surcharges and relating to insurance charges that exceeded amounts in the parties' contracts. The Court granted Defendants' motion for summary judgment on the KCPA claim, the TIL claims against Defendants Olathe Noble Equipment Leasing and Jacobson Holdings, the TIL claim against TransAm as to all violations except certain claims relating to fuel surcharge deductions, some insurance deductions, and escrow funds, and the FLSA minimum wage claim for all company drivers but three, and on Plaintiff Bradley's TIL claim. *Id.*

Plaintiffs then sought certification to the Kansas Supreme Court on the question of the applicability of the KCPA to the claims in this case. ECF Doc. 206. The Court issued a decision denying Plaintiffs' motion on November 30, 2023. ECF Doc. 212.

#### **D. Settlement negotiations**

After the Court issued its decision, defining the contours of the collectives/classes involved and the viable claims, the parties agreed to engage in settlement negotiations. To that end, Plaintiffs identified numerous data sets that they would need in order to calculate potential damages, and Defendants produced those data sets, as well as class lists for the certified classes and collectives. Defendants produced approximately ten spreadsheets with hundreds of thousands of lines of data. Over the several months between the Court's decision and the mediation scheduled for January 2024, the parties worked cooperatively to resolve questions about this data. Plaintiffs' counsel used the data produced by Defendants, as well as the extensive discovery that had already been produced, to calculate potential damages and assess likelihood of success on each of the remaining claims. Plaintiffs' counsel also consulted with an expert witness in determining potential exposure. Schwab Decl. ¶ 20.

On January 31, 2024, the parties attended a full-day mediation with mediator John Phillips, Esq. of Jay Daugherty Mediation & Arbitration in Kansas City, Missouri. The parties reached a proposed settlement at that mediation, which was later memorialized in the Settlement Agreement attached to Plaintiffs' Motion as Exhibit A. Schwab Decl. ¶ 21.

### III. KEY TERMS OF SETTLEMENT.

Under the Settlement Agreement, Defendants will pay a non-reversionary Gross Settlement Amount of Three Million Seven Hundred and Fifty Thousand Dollars (\$3,750,000.00) to resolve this litigation. This amount includes all payments to the Settlement Class/Collective Members; proposed attorneys' fees and costs; proposed service awards to named plaintiffs and early opt-in plaintiffs; the costs of settlement administration; and any other obligation of Defendants under this settlement. Subject to Court approval, the proposed Net Settlement Amount, the amount distributed to Class Participants, is approximately \$2,136,000.00. This amount is the Gross Settlement Amount less costs of settlement administration, proposed attorneys' fees and costs, proposed service awards, and proposed dispute fund. Settlement Agreement, ¶ II.1.

The proposed Settlement Classes/Collectives to which the Settlement Agreement applies are:

- a. **FLSA orientation collective:** all individuals who attended company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021;
- b. **FLSA lease driver collective:** all individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020;
- c. **Truth-in-Leasing class:** all individuals who have been subject to an independent contractor agreement with TransAm and/or a lease agreement with ONE Leasing since February 2017 and have: (i) had fuel surcharge deductions taken from their

compensation; and/or (ii) have had physical damage insurance deductions taken from their compensation in excess of the amounts listed in their contracts; and/or (iii) have had other charges or deductions made from their compensation as alleged in the Third Amended Complaint.

Settlement Agreement, ¶¶ I.6, I.27.

The entire Gross Settlement Amount will be disbursed pursuant to the terms of the Settlement Agreement, and none of it will revert to Defendants. Settlement Agreement, ¶ II.4. Subject to Court approval, Settlement Class/Collective members will receive notice of the settlement via first-class mail, email, and text message (to the extent cell phone numbers are available). *Id.*, ¶ IV.1. Settlement Class/Collective members will be able to submit claim forms via the website for the settlement and/or by email, facsimile, or mail. *Id.*, ¶ IV.4. All Settlement Class/Collective members who do not opt out of the settlement shall release all claims that were brought in this litigation except those claims brought under the FLSA, and all Settlement Class/Collective members who submit claims will also release their claims under the FLSA. *Id.*, ¶ VII.

Settlement Class/Collective members who submit timely and valid claim forms shall receive settlement shares calculated as follows:

- (1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.
- (2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.
- (3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017

and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

Settlement Agreement, Exhibit 1, Section 3.

One-half of any portion of individuals' settlement payments that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099. *Id.*

The Settlement Agreement provides that Plaintiffs will seek service awards for the named and early opt-in plaintiffs (subject to Court approval) to compensate them for their time and effort in service of the Classes/Collectives. The proposed service awards are: a total of \$45,000 for the Named Plaintiffs (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.); and a total of \$19,000 for the early opt-in plaintiffs (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery—Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal—and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery—Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews). Settlement Agreement, ¶ II.1.i, ii. These proposed service awards, totaling \$64,000, represent less than 2% of the Gross Settlement Amount. The Settlement Agreement further provides that Class Counsel

shall seek an attorneys' fee award of \$1,250,000 (1/3 of the Gross Settlement Amount), subject to Court approval, as well as reasonable litigation costs, including the costs of claims administration, of up to \$200,000. *Id.*, ¶ II.a.iii. The Settlement Agreement provides for a dispute fund of up to \$100,000 to resolve disputes and reasonable late claims. *Id.*, ¶ II.1.iv.<sup>1</sup>

Any funds not distributed after resolution of all disputes and expiration of the check cashing period (including funds from uncashed checks) shall be distributed on a *cy pres* basis to Kansas Legal Services. *Id.*, ¶ IV.5.

#### **IV. THE COURT SHOULD GRANT PRELIMINARY APPROVAL OF THIS SETTLEMENT.**

##### **A. Legal standard**

Courts strongly favor settlement as a method for resolving disputes. *See Amoco Prod. Co. v. Fed. Power Comm'n*, 465 F.2d 1350, 1354 (10th Cir. 1972); *see also Sears v. Atchison, Topeka & Santa Fe Ry., Co.*, 749 F.2d 1451, 1455 (10th Cir. 1984); *Trujillo v. Colo.*, 649 F.2d 823, 826 (10th Cir. 1981) (citing “important public policy concerns that support voluntary settlements”). This is especially true in class actions, such as this case. *See Big O Tires, Inc. v. Bigfoot 4x4, Inc.*, 167 F. Supp. 2d 1216, 1229 (D. Colo. 2001). “[The] presumption in favor of voluntary settlement agreements is especially strong in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.” *Tuten v. United Airlines, Inc.*, 41 F. Supp. 3d 1003, 1007 (D. Colo. May 19, 2014); *see also Armstrong v. Bd. of Sch. Dirs.*, 616 F.2d 305, 313 (7th Cir. 1980) (“In the class action context in particular, there is an overriding public interest in favor of settlement. . .”).

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<sup>1</sup> Plaintiffs intend to file a Motion for Approval of Attorneys' Fees, Costs, and Service Awards at the same time as the filing of the Motion for Final Settlement Approval, after the notice has gone out and class members have had an opportunity to participate and/or object to the terms of the settlement. *See also Schwab Decl.* ¶¶ 38-47.

Fed. R. Civ. P. 23 (e) requires judicial approval for any compromise of claims brought on a class-wide basis. “Preliminary approval of a class settlement requires the Court to assess (1) whether the matter is suitable for certification as a class action under Rule 23 and (2) the overall fairness of the proposed settlement . . . [and] the adequacy of the notice the parties propose to send out.” *Gundrum v. Cleveland Integrity Servs.*, 2017 WL 3503328, at \*5 (N.D. Okla. Aug. 16, 2017) (internal quotation marks and citation omitted). The “objective of the court’s inquiry at the preliminary approval stage is to determine whether to direct notice of the proposed settlement to class members, permit the opportunity for objections, and schedule a fairness hearing.” *Id.* (citing *Tripp v. Rabin*, 2016 WL 3615572, at \*2 (D. Kan. July 6, 2016)). “Because preliminary approval is just the first step, courts apply a ‘less stringent’ standard than that at final approval.” *Tripp*, 2016 WL 3615572, at \*2.

The standard for approval of a settlement is that the settlement is fair, adequate and reasonable to the class. *Pliego v. Los Arcos Mexican Rests., Inc.*, 313 F.R.D. 117, 128 (D. Colo. 2016). A trial court may certify a class when it determines the proposed class satisfies the prerequisites of Federal Rule of Civil Procedure 23 (a), and one of the requirements of Rule 23(b). *See Shook v. El Paso Cnty.*, 386 F.3d 963, 971 (10th Cir. 2004); *Tabor v. Hilti, Inc.*, 703 F.3d 1206 (10th Cir. 2013); *Gundrum*, 2017 WL 3503328, at \*6 (citing *Pliego*, 313 F.R.D. at 128).

Plaintiffs now asks this Court to take the first step in the review process, and preliminarily approve the Class for settlement approval. Given the potential and continued risks if the Parties were to proceed and the uncertainty of the outcome in this matter, the settlement represents a favorable resolution of this Action and eliminates the risk that the Class might otherwise recover nothing.

**B. The Court should conditionally certify the proposed settlement classes/collectives for settlement.**

For settlement purposes, and as required by Rule 23(e), the proposed settlement class meets the requirements of Rule 23(a) and Rule 23(b)(3) for certification. The proposed FLSA collectives meet the standard for collective action certification in 29 U.S.C. § 216(b). Indeed, as discussed in Section II.C, *supra*, the Court has already granted class and collective certification as to the claims in this case. For the same reasons set forth in the Court's decision granting certification, it is appropriate to certify the proposed settlement classes/collectives, namely:

- 1) **The FLSA Orientation Collective:** All individuals who attended company driver orientation in Rockwall, Texas or in Tampa, Florida between October 2020 and March 2021; and
- 2) **The FLSA Lease Driver Collective:** All individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020; and
- 3) **The Rule 23 Truth-in-Leasing Class:** All individuals who have been subject to an independent contractor agreement with TransAm and/or a lease agreement with ONE Leasing since February 2017 and have: (i) had fuel surcharge deductions taken from their compensation; and/or (ii) have had physical damage insurance deductions taken from their compensation in excess of the amounts listed in their contracts; and/or (iii) have had other charges or deductions made from their compensation in excess of the amounts listed in their contracts as alleged in the Lawsuit.

The proposed FLSA Orientation Collective is the same collective that the Court conditionally certified, except that the time period for which Plaintiffs seek certification for settlement purposes is narrowed to the time period during which the amount paid for orientation per day was \$50 and/or \$55, *i.e.*, less than the federal minimum wage for eight hours. Because

TransAm increased the daily pay for orientation to \$70 in April 2021, there is no claim for unpaid minimum wages for orientation after March 2021. The proposed FLSA Lease Driver Collective is same collective that the Court already conditionally certified.

The Court certified a class for the Truth-in-Leasing claim under two theories, fuel surcharge deductions and insurance deductions in excess of amounts in drivers' contracts. The proposed Rule 23 Truth-in-Leasing Class for the settlement relates to those practices as well as the other deductions challenged in the case. It is appropriately certified for settlement purposes because it relates to issues that are classwide, namely lease drivers' contracts and deductions taken from their compensation.

As this Court has already held, FLSA collective and Rule 23 class certification is appropriate here. Numerous courts have certified similar collectives and classes (both for settlement purposes and otherwise), raising claims for non-payment of minimum wage and/or violations of the Truth-in-Leasing regulations on behalf of truck drivers. *See, e.g., Nyachira v. New Prime, Inc.*, No. 21-03211-CV-S-BP, 2022 WL 19263987, at \*1 (W.D. Mo. Oct. 31, 2022) (certifying FLSA collective for unpaid orientation); *Haworth v. New Prime, Inc.*, No. 6:19-03025-CV-RK, 2020 WL 1899276 (W.D. Mo. Apr. 16, 2020) (same); *Montoya v. CRST Expedited, Inc.*, 311 F. Supp. 3d 411 (D. Mass. 2018) (*inter alia*, certifying FLSA collective for unpaid orientation and unpaid minimum wages for truck drivers); *Yata v. BDJ Trucking Co.*, 2020 WL 1062332 (N.D. Ill. Mar. 5, 2020) (granting class certification on TIL claims); *Davis v. Colonial Freight Systems, Inc.*, 2018 WL 11225871 (E.D. Tenn. Mar. 2, 2018) (same); *Foster v. CEVA Freight, LLC*, 272 F.R.D. 171 (W.D.N.C. 2011) (same); *Owner-Operator Independent Drivers Ass'n, Inc. v. Allied Van Lines, Inc.*, 231 F.R.D. 280 (N.D. Ill. 2005) (same) *Owner-*

*Operator Independent Drivers Ass'n, Inc. v. Arctic Express, Inc.*, 2001 WL 34366624 (S.D. Ohio Sept. 4, 2001) (same).

Accordingly, and for the reasons in Plaintiffs' motions to certify the FLSA collectives and the Rule 23 classes (ECF Docs. 141, 143) and in the Court's decision granting those motions in part, the Court should certify the proposed collectives and class for settlement purposes.

**C. The proposed settlement is fair, reasonable, and adequate and should be preliminarily approved.**

The Tenth Circuit has identified four factors to determine whether a settlement is fair, reasonable, and adequate: (1) whether the proposed settlement was fairly and honestly negotiated; (2) whether serious questions of law and fact exist, placing the ultimate outcome of the litigation in doubt; (3) whether the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation; and (4) the judgment of the parties that the settlement is fair and reasonable. *Rutter & Wilbanks Corp. v. Shell Oil Co.*, 314 F.3d 1180, 1188 (10th Cir. 2002)); *Lucas v. Kmart Corp.*, 234 F.R.D. 688, 693 (D. Colo. 2006). As demonstrated below, the settlement satisfies each of the criteria and thus warrants this Court's preliminary approval.

**1. The proposed settlement is the product of extensive arm's-length negotiations between experienced counsel and assisted by an experienced mediator.**

Where, as here, a settlement results from "arm's length negotiations between experienced counsel after significant discovery [has] occurred, the Court may presume the settlement to be fair, adequate, and reasonable." *Lucas*, 234 F.R.D. at 693; *see also* MANUAL FOR COMPLEX LITIG. (THIRD) § 30.42, at 238. This action has been pending for over three years. During this time, the parties have litigated the case extensively, including more than thirty depositions, exchange of over 100,000 of pages of written discovery, and at least five contested motions,

including cross-motions for summary judgment and collective and class action certification motions. Schwab Decl. ¶ 22. At that point, thanks to the Court’s detailed decision on summary judgment and class/collective certification, the parties had a clear understanding of the contours of the case and were in a position to negotiate effectively on behalf of the classes/collectives. *Id.*, ¶ 23. They then engaged in settlement-related discovery and several months of back-and-forth to ensure that all necessary data was exchanged, and then a full-day mediation session (over 10 hours) with an experienced mediator. The negotiation process was exhaustive and hard-fought. *Id.*, ¶ 24.

Courts in this Circuit have found settlements fairly and honestly negotiated where “[t]he completeness and intensity of the mediation process, coupled with the quality and reputations of the mediator, demonstrate a commitment by the [p]arties to a reasoned process for conflict resolution that took into account the strengths and weaknesses of their respective cases and the inherent vagaries of litigation.” *Wilkerson v. Martin Marietta Corp.*, 171 F.R.D. 273, 285 (D. Colo. 1997); *see also Horton v. Molina Healthcare, Inc.*, 2019 WL 2207676, at \*1 (N.D. Okla. May 22, 2019) (finding a proposed class action settlement agreement fair and reasonable because, *inter alia*, it was “negotiated in good faith at arms’ length between experienced attorneys familiar with the legal and factual issues of this case aided by an experienced and neutral third-party mediator”); *Ashley v. Reg’l Transp. Dist.*, 2008 WL 384579, at \*5-\*6 (D. Colo. Feb. 11, 2008) (settlement fairly and honestly negotiated where the parties engaged in formal settlement mediation conference and negotiations over four months); *see also Marcus v. Kan. Dept. of Revenue*, 209 F. Supp. 2d 1179, 1182 (D. Kan. 2002) (“When a settlement is reached by experienced counsel after negotiations in an adversarial setting, there is an initial presumption that the settlement is fair and reasonable.”).

This settlement is a product of serious, informed, and non-collusive negotiations among experienced counsel and the mediator, and warrants preliminary approval. Schwab Decl. ¶ 25.

**2. Serious questions of law and fact exist, and the value of an immediate recovery outweighs the mere possibility of future relief after protracted and expensive litigation.**

Numerous serious questions of law and fact exist in this action, all of which are the subject of considerable risk if this case were to continue to be litigated.<sup>2</sup> Schwab Decl. ¶ 26. Some of the risks specific to this case include: (1) on the orientation claim, proving compensable hours worked; (2) on the lease driver FLSA claim, proving that the drivers were misclassified as independent contractors under the FLSA’s multi-factor economic reality test; (3) proving unpaid minimum wages/damages for the lease driver FLSA claim; (3) risks relating to the ascertainment and quantification of damages for Plaintiffs’ TIL claims, *see, e.g., Fox v. TransAm Leasing, Inc.*, 839 F.3d 1209, 1219 (10<sup>th</sup> Cir. 2016) (truck drivers could not recover for TIL violation because they failed to prove actual damages); (4) the potential that one or more of the classes/collectives might be decertified, *see, e.g., Blair v. TransAm Trucking, Inc.*, 309 F. Supp. 3d 977 (D. Kan. 2018) (decertifying FLSA collective of TransAm lease drivers). Schwab Decl. ¶ 27. Also, as with any FLSA collective action, there is the potential for a low opt-in rate, as well as potentially burdensome opt-in and class discovery. *Id.*, ¶ 28.

These are serious questions of law and fact that create great uncertainty in Settlement Class/Collective members’ ability to recover. Schwab Decl. ¶ 29. “The presence of such doubt tips the balance in favor of settlement because settlement creates a certainty of some recovery,

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<sup>2</sup> *See Wilkerson*, 171 F.R.D. at 285 (the value of an immediate recovery, the “monetary worth of the settlement,” “is to be weighed not against the net worth of the defendant, but against the possibility of some greater relief at a later time, taking into consideration the additional risks and costs that go hand in hand with protracted litigation.” (citing *Gottlieb v. Wiles*, 11 F.3d 1004, 1015 (10th Cir. 1993))).

and eliminates doubt, meaning the possibility of no recovery after long and expensive litigation.” *McNeely v. Nat’l Mobile Health Care, LLC*, 2008 WL 4816510, at \*13 (W.D. Okla. Oct. 27, 2008).

Moreover, the complexity, uncertainty, additional expense, and likely duration of further litigation also favor preliminary approval of the settlement. *See In re Motor Fuel Temperature Sales Practices Litig.*, 258 F.R.D. 671, 681 (D. Kan. 2009) (granting preliminary approval because, *inter alia*, “[t]he costs of continued litigation are high, and it is possible that plaintiffs could receive little or no pecuniary relief”); *Ashley*, 2008 WL 384579, at \*7. “The class will be well compensated, relatively speaking, and is better off receiving compensation now as opposed to being compensated, if at all, several years down the line, after the matter is certified, tried, and all appeals are exhausted.” *McNeely*, 2008 WL 4816510, at \*13.

This settlement represents not only a meaningful, immediate recovery for the Settlement Class/Collective, but also one without any risk or additional expenses of further litigation. Schwab Decl. ¶ 30. This benefit must be compared to the risk that the Class may recover nothing after decertification proceedings, expert discovery, contested trial, and most likely, appeals, many years into the future, or that litigation would deplete funds available to satisfy a judgment. *Id.*, ¶ 31. These factors thus support preliminary approval of the proposed settlement.

**3. The parties agree that the settlement is fair and reasonable, further supporting preliminary approval.**

“Counsel[‘s] judgment as to the fairness of the agreement is entitled to considerable weight.” *Childs v. Unified Life Ins. Co.*, 2011 WL 6016486, at \*14 (N.D. Okla. Dec. 2, 2011) (quoting *Lucas*, 234 F.R.D. at 695 and *Marcus*, 209 F. Supp. 2d at 1183)). “In addition to considering the judgment of the parties with respect to the proposed settlement, the Court should

also ‘defer to the judgment of experienced counsel who has competently evaluated the strength of his proofs.’” *Johnson v. Tulsa*, 2003 U.S. WL 24015151, at \*11 (N.D. Okla. May 12, 2003).

Here, Class Counsel and Defendants’ counsel – law firms with great experience in complex class litigation, particularly in truck driver cases – have agreed to settle this Action after serious arms-length negotiation, extensive exchange of discovery, and many months of discussions. Schwab Decl. ¶ 32. Class Counsel believes that the settlement amount is fair and reasonable in light of their extensive investigation, motion practice, the risks of continued litigation, and their overall experience. *Id.*, ¶ 33. Plaintiffs and Class Counsel further recognize the great expense and length of proceedings necessary to continue this litigation through notice to class members and potential opt-in plaintiffs, opt-in and damages discovery, expert reports and discovery, decertification motions, trial, and inevitable appeals. *Id.*, ¶ 34.

Based on Class Counsel’s estimates, the Gross Settlement Amount of \$3,750,000.00 represents a significant portion of the total calculated exposure at trial, especially in light of the risks discussed *supra*. *Id.*, ¶ 35. There are many ways to calculate economic damages in these types of cases, and all of them would likely have been the subject of substantial and costly economic expert discovery. Class Counsel estimates that Defendants’ maximum likely potential single damages for the claims on which the Court granted collective and/or class certification is approximately \$3,780,000. On the TIL claims which the Court did not certify but also did not dismiss on summary judgment (specifically, those relating to required physical damage insurance and escrow accounts), the potential likely exposure on a classwide basis would be significantly higher, approximately \$10 million. However, obtaining such a result would require both a reconsideration by the Court of its decision to deny class certification and success on the merits and a determination of actual damages for those claims. Because of the risks and the uncertainty

of potential recovery, in addition to the necessary delays were this case to be litigated to conclusion, the proposed settlement of \$3,750,000.00 is a reasonable percentage of the best case scenario. *Id.*, ¶ 36.

Given the risks, delays, and uncertainty inherent in continued litigation, Plaintiff and Class Counsel believe that the settlement is fair and reasonable to avoid the cost and uncertainty of continuing litigation. *Id.*, ¶ 37.

#### **4. The proposed notice is reasonable.**

The Court must ensure that Class Members receive the best notice practicable under the circumstances of the case. *See Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985); *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 174-75 (1974). Procedural due process does not guarantee any particular procedure but rather requires only notice reasonably calculated “to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Rule 23 (e) (1) requires that the Court “direct notice in a reasonable manner to all class members who would be bound by the proposal.” Fed. R. Civ. P. 23(e)(1). “Notice” in this context consists of both the form and manner in which Class Members will be notified of the Settlement and the final fairness hearing. *Id.* The notice must “fairly apprise . . . prospective members of the class of the terms of the proposed settlement so that class members may come to their own conclusions about whether the settlement serves their interests.” *Gooch v. Life Investors Ins. Co. of Am.*, 672 F.3d 402, 423 (6th Cir. 2012) (internal quotations omitted).

Here, the proposed Notice of Settlement (“Notice”), attached as Exhibit 1 to the Settlement Agreement, and manner of distribution negotiated and agreed upon by the Parties are “the best notice practicable.” Schwab Decl. ¶ 48; Fed. R. Civ. P. 23 (c) (2)(B). The proposed Notice fulfills the requirement of neutrality in class notices. *Id.* *See Conte*, NEWBERG ON

CLASS ACTIONS, § 8.39 (3rd Ed. 1992). It summarizes the proceedings necessary to provide context for the settlement and summarizes the terms and conditions of the settlement, including an explanation of how the Gross Settlement Amount will be allocated between the Plaintiff, Class Counsel, the Settlement Administrator, and the Class Members, as applicable, in an informative, coherent and easy-to-understand manner, all in compliance with the Manual for Complex Litigation’s recommendation that “the notice contain a clear, accurate description of the terms of the settlement.” Schwab Decl. ¶ 49; MANUAL FOR COMPLEX LITIGATION, Settlement Notice, § 21.312 (4th ed. 2004).

Here, the proposed Notice will be tailored to the individual, in that individuals will only receive notice relating to the classes/claims applicable to them. There are four versions of the Notice:

- 1) A version for individuals who are part of all three classes/collectives, attached to the Settlement Agreement as Exhibit 1;
- 2) A version for individuals who are part of the FLSA Orientation Collective only, attached as Exhibit 2;
- 3) A version for individuals who are part of the FLSA Lease Driver Collective and the Rule 23 TIL Class, attached as Exhibit 3; and
- 3) A version for individuals who are part of the Rule 23 TIL Class only, attached as Exhibit 4.<sup>3</sup>

The proposed Notices of Proposed Class Action Settlement (“Notice”), attached as Exhibits 1 through 4 to the Settlement Agreement, and manner of distribution negotiated and agreed upon by the Parties are “the best notice practicable.” Schwab Decl. ¶ 48.

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<sup>3</sup> Anyone who is part of the FLSA Lease Driver Collective will necessarily be part of the Rule 23 TIL Class – because they are all lease drivers within the statute of limitations for the TIL claim – so there is no notice for the FLSA Lease Driver Collective only.

The Notice is written in plain and easily understood language and clearly, fairly, and concisely describe the nature of the Action, the definition of the Class, the Class claims and issues, that Class Members may object and appear personally or enter an appearance through an attorney if desired, that the Court will exclude from the Class any member who requests exclusion, the binding effect of a class judgment on the Class Members and the releases, Class Counsel’s contact information, the settlement Administrator’s contact information, the significant terms of the Settlement and the total amount Defendants have agreed to pay the Class, and the Court approval process, including Class Counsel’s request for attorneys’ fees and reasonable expenses, as well as for service awards on behalf of the named plaintiffs and early opt-in plaintiffs. *See* Settlement Agreement, Exs. 1-4; *see also* Schwab Decl. ¶ 49.

The proposed Notice thus fairly apprises Settlement Class/Collective members of the settlement’s terms, the schedule for future events and deadlines, and their legal rights in connection with the proceedings. Schwab Decl. ¶ 50; *see, e.g., Gooch*, 672 F.3d at 423 (“When a class has settled its claims, ‘[t]he contents of a . . . notice are sufficient if they inform the class members of the nature of the pending action, the general terms of the settlement, that complete and detailed information is available from the court files, . . . that any class member may appear and be heard at the hearing,’ . . . and ‘information [about] the class members’ right to exclude themselves and the results of failure to do so.’” (internal citation omitted)); *Thacker v. Chesapeake Appalachia, L.L.C.*, 259 F.R.D 262, 272 (E.D. Ky. 2009) (finding that the proposed notice – similar to the notice proposed here – satisfied the requirements of Rule 23(c)(2)(B)).

The plan for dissemination of the Notice is also fair, reasonable, and adequate. All Settlement Class/Collective members have been identified, and the Notices will be sent to each Settlement Class/Collective member via first-class mail, email, and text message (to the extent

that cell phone numbers are available). Additionally, appropriate and reasonable efforts will be made by the Settlement Administrator to update the contact information in the database and to search for any outdated addresses, and a settlement website will be available for Class Members to review all relevant settlement documents and contact information and submit claim forms. *See* Schwab Decl. ¶ 51. This method of disseminating notice is unquestionably reasonable. *See, e.g., Haworth v. New Prime, Inc.*, No. 6:19-03025-CV-RK, 2020 WL 1899276, at \*2 (W.D. Mo. Apr. 16, 2020) (“[T]he Court authorizes notice by email with a 60-day opt-in period . . .”); *Romero v. Clean Harbors Surface Rentals USA, Inc.*, 368 F. Supp. 3d 152, 163 (D. Mass. 2019) (“[T]he Court agrees with Romero that email notice is appropriate in this case because it is likely to be more effective than alternative methods.”); *Graham v. Hall’s S. Kitchens, LLC*, No. 2:18-CV-02621-RMG, 2018 WL 6177971, at \*2 (D.S.C. Nov. 27, 2018) (“[T]he Court finds that notice via email is appropriate in today’s mobile society.”); *Landry v. Swire Oilfield Servs., L.L.C.*, 252 F. Supp. 3d 1079, 1129 (D.N.M. 2017) (“The Court finds persuasive the Plaintiffs’ argument that communication via email and text message will ‘increase the chance of the class members receiving and reading the notice.’”).

The proposed plan for submission of claim forms is that individuals be permitted to submit claim forms to participate in the settlement on the settlement website, using secure electronic signatures, or via traditional methods of email, fax or mail. This plan is reasonable and assures that there will be no unreasonable barriers to class members participating in the settlement. Schwab Decl. ¶ 52. Courts routinely approve plans such as this one. *See, e.g., Wade v. Furmanite Am., Inc.*, No. 3:17-CV-00169, 2018 WL 2088011, at \*8 (S.D. Tex. May 4, 2018) (noting that “recent technological advances . . . have made electronic signatures trustworthy, valid, and enforceable”); *Landry*, 252 F. Supp. 3d at 1130 (“[T]he Court concludes that class

members should be allowed to electronically execute their consent forms.”); *Mraz v. Aetna Life Ins. Co.*, No. 3:12-CV-805, 2014 WL 5018862, at \*5 (M.D. Pa. Oct. 7, 2014) (“[W]e live in a time when all manner of commercial transactions are routinely cemented by electronic submission.”); *see also* Fed. R. Civ. P. 5(d)(3) (“A court may . . . allow papers to be filed, signed, or verified by electronic means. . .”); *Romero*, 368 F. Supp. 3d at 163 (“Romero’s counsel is permitted to create a standalone webpage through which group members can electronically submit their consent forms.”).

The content of the notice, the plan for its dissemination among class members, and the plan for submission of claim forms are all fair, reasonable, and adequate and supported by substantial precedent and should be approved by this Court. Schwab Decl. ¶ 53.

**5. The Court should approve the proposed schedule.**

The Settlement Agreement contains the following proposed schedule, which Plaintiffs respectfully request this Court approve:

<b>Activity</b>	<b>Deadline</b>
Filing of preliminary settlement approval motion	April 11, 2024
Defendants to issue CAFA Notice on the appropriate federal and state officials, as required by 28 U.S.C. § 1715(b)	14 days after filing of preliminary settlement approval motion (April 25, 2024)
Defendants to provide names and contact information of Settlement Class/Collective members to Class Counsel and Settlement Administrator	14 days after Preliminary Settlement Approval Order
Settlement Administrator to send notice to Settlement Class/Collective members	30 days after Preliminary Settlement Approval Order
Defendants to deposit \$3,750,000.00 into Qualified Settlement Fund established by Settlement Administrator	45 days after Preliminary Settlement Approval Order

Reminder notice to issue	30 days before Claim, Opt-Out, and Objection Deadline
Claim, Opt-Out, and Objection Deadline	60 days after sending of Notice
Requested date for Final Approval and Fairness Hearing	120 days after Preliminary Settlement Approval Order
Deadline for Settlement Administrator to make payments under the Settlement to claiming Settlement Class/Collective Members, Plaintiffs for the Service Awards, Class Counsel for attorneys' fees and costs, and itself for Administration Costs	30 days after Final Approval Order
Deadline for to cash settlement checks	180 days after mailing settlement checks
Uncashed checks and amounts not distributed from Dispute Fund to be distributed on <i>cy pres</i> basis to Kansas Legal Services	30 days after deadline for cashing or depositing checks

*See* Settlement Agreement (Pls.' Mot., Exhibit A).

**V. CONCLUSION.**

For the foregoing reasons, Plaintiffs respectfully request that this Court grant preliminary approval of the Settlement as to the Class, in accordance with the schedule set forth herein. A proposed Order is attached to Plaintiffs' Motion as Exhibit B.

Respectfully submitted,

KIRK ROBERTS, FARAJI ARTURO COUNCIL,  
TERRENCE COLVIN-WILLIAMS,  
REGINALD BRADLEY, DAVID COLEMAN, and  
CARL McROBERTS JR., on behalf of themselves  
and all others similarly situated,

By their attorneys,

/s/ Brendan J. Donelon  
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*\*Admitted pro hac vice*

**Dated:** April 11, 2024

**CERTIFICATE OF SERVICE**

I certify that on April 11, 2024, I caused a true copy of this document to be served by ECF on all registered participants in this matter.

/s/ Brendan Donelon  
Brendan Donelon

# **Exhibit A**

## Stipulation of Settlement Agreement and Release

## **STIPULATION OF SETTLEMENT AGREEMENT AND RELEASE**

This STIPULATION OF SETTLEMENT AGREEMENT AND RELEASE (the “Agreement”) is made by and between (a) TransAm Trucking, Inc. (“TransAm”), Olathe Noble Equipment Leasing, Inc. (“ONE Leasing”) and Jacobson Holdings, Inc. (“JHI”) (collectively TransAm, ONE Leasing and JHI are referred to herein as “Defendants”), and (b) Named Plaintiffs Kirk Roberts, Faraji Arturo Council f/k/a John Curtis, Terrence Colvin-Williams, Reginald Bradley, David Coleman, and Carl McRoberts Jr., on behalf of themselves, and as representatives of the Opt-In Plaintiffs, the Collective Class Members, and the Rule 23 Class Members as defined in Section 1 herein.

WHEREAS, on February 10, 2021, the Named Plaintiffs filed a Complaint against TransAm in the United States District Court for the District of Kansas, styled *Roberts, et al. v. TransAm Trucking, Inc.*, Case No. 2:21-cv-2073-JWB-GEB, which Complaint was later twice amended to, among other things, add ONE Leasing and JHI as Defendants (the “Lawsuit”); and

WHEREAS, in the Lawsuit, the Named Plaintiffs asserted claims as representatives of the Class Members in a collective and class action, alleging that (a) Defendants failed to pay drivers minimum wages under the Federal Fair Labor Standards Act (“FLSA”), Kansas Wage Payment Act (“KWPA”), and Florida law; (b) TransAm and JHI engaged in deceptive business practices under the Kansas Consumer Protection Act (“KCPA”) to induce individuals to become independent contractors rather than company drivers; (c) Defendants misclassified drivers as independent contractors and those drivers are entitled to minimum wage under the FLSA as well as damages for unlawful deductions under the KWPA; and (d) Defendants violated federal Truth-in-Leasing statutes and regulations; and

WHEREAS, in Phase I of the Lawsuit, the Parties exchanged extensive discovery, including substantial document production and review of voluminous time-keeping records and pay data, which were reviewed and analyzed by experts, and took over thirty depositions, and such discovery has enabled each party to understand and assess the detail and substance of their respective claims and defenses; and

WHEREAS, in September 2023, the Court entered an Order in which it, among other things, (1) conditionally certified a collective actions based on Counts I and V in the Lawsuit for certain FLSA minimum wage claims, and certified a Rule 23 class based on Count VII in the Lawsuit for certain alleged Truth in Leasing violations; (2) granted summary judgment on Count III for alleged KCPA violations; (3) declined to certify Counts II (alleged minimum wage violations under Florida law), IV (alleged unlawful deductions under the KWPA), and VI (alleged FLSA minimum wage violations for company drivers); and

WHEREAS, Defendants have always denied and continue to expressly deny any liability for any claims and allegations ever asserted in the Lawsuit with respect to the Named Plaintiffs, the Class Members, or any other person; and deny that they have violated the FLSA, KWPA, Florida wage payment laws, the KCPA, or federal Truth in Leasing regulations or any other law, rule or regulation or common law claim relating to the payment of or deductions from compensation to the Named Plaintiffs, Class Members, or any other persons; and Defendants

maintain that they have at all times properly compensated the Named Plaintiffs, Class Members, and all of TransAm's drivers, including but not limited to all other alleged independent contractor drivers who provided services to TransAm pursuant to independent contractor agreements; and

WHEREAS, the Parties engaged in mediation on January 31, 2024 and entered into a Memorandum of Understanding to resolve this matter, without admitting or conceding any liability or damages, and solely to avoid the burden, expense and uncertainty of continuing the Lawsuit, the Parties have voluntarily agreed to resolve any and all disputes between them, including but not limited to all claims and allegations that were raised or could have been raised in the Lawsuit, and the right to appeal any orders that have been entered in this Lawsuit; and

WHEREAS, Class Counsel conducted a thorough and diligent investigation into the facts of the Lawsuit over the course of approximately three years, and the Named Plaintiffs and Class Counsel are of the opinion that the terms set forth in this Agreement are fair, reasonable, and adequate and in the best interests of the Collective Class Members and Rule 23 Class Members in light of all known facts and circumstances, including the risk presented by the defenses asserted by Defendants, the risk of decertification, the risk of summary judgment, and the delays associated with the litigation, trial and an appeal process, and ultimately the risk of collecting any awards against the Defendants. Defendants are aware of the opposing risks of each of these situations, and the potential exposure faced if unsuccessful in defeating collective or class certification, and ultimately losing at trial and/or on appeal; and

WHEREAS, it is the desire of the Parties to fully, finally, and forever settle, compromise, waive and discharge all disputes and claims arising from or related to the Lawsuit, and that this Agreement shall constitute a full and complete settlement and release by the Named Plaintiffs and Participating Class Members of the Lawsuit and the Released Claims against the Released Parties.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties agree as follows:

## **I. DEFINITIONS**

The capitalized terms used throughout this Agreement are defined as follows and apply wherever used, including in the recitals.

1. "Administrator" means the third-party administrator selected by the Parties that is responsible for mailing the Notices, collecting the Claim and Release Forms, making payments to the Participating Class Members under the terms of this Agreement, making payments to Class Counsel under the terms of this Agreement, making all necessary payments of employer and employee payroll taxes if any, and issuing IRS Forms W-2 and 1099 to the Participating Class Members and Class Counsel.
2. "Agreement" means this Stipulation of Settlement Agreement and Release and the terms outlined herein.
3. "Claim and Release Form" means the forms agreed upon by the Parties and approved

by the Court, that are to be completed by the Opt-In Plaintiffs, Collective Class Members or the Rule 23 Class Members to opt-in to this Settlement. Such forms accompany the Notice and are attached hereto as part of Exhibits 1-4.

4. "Claim Deadline" means the date that occurs sixty (60) days after the date Notice is mailed to the Collective Class Members and Rule 23 Class Members, which is the date by which Collective Class Members and Rule 23 Class Members must return a completed Claim and Release Form. If this date is on a Saturday, Sunday, or federally recognized holiday, the Claim Deadline shall be the following business day.
5. "Class Counsel" means attorneys Hillary Schwab, Brant Casavant, and Rachel Smit of Fair Work, P.C., and Brendan Donelon and Daniel Craig of Donelon, P.C.
6. "Collective Class Members" includes the following:
  - a. The FLSA orientation collective: All individuals who attended company driver orientation in Rockwall, Texas or in Tampa, Florida between October 2020 and March 2021; and
  - b. The FLSA lease driver collective: All individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020.
7. "Court" means the United States District Court for the District of Kansas.
8. "Defense Counsel" means Shannon Johnson, Gregory Whiston, and Benjamin Reed with the law firm of Seigfreid Bingham, P.C.
9. "Fairness Hearing" means the hearing set by the Court in the Preliminary Approval Order whereby the Collective Class Members and Rule 23 Class Members are permitted to present any objections to this Agreement.
10. "Final Approval Date" means the date the Court enters its Final Approval Order.
11. "Final Approval Order" means any order issued by the Court after the Fairness Hearing which grants final approval of the Settlement, authorizes the distribution of payments to Class Counsel, Named Plaintiffs, Op-In Plaintiffs, and Participating Class Members, and the Third-Party Administrator, under the terms forth herein, and dismisses with prejudice the Participating Class Members' Released Claims against the Released Parties.
12. "Gross Settlement Amount" means the total amount of settlement money that can possibly be paid by Defendants under this Settlement Agreement. The amount of the Gross Settlement Amount is \$3,750,000.00.
13. The "Hold-Back Fund" is a fund, which is part of the Gross Settlement Amount, which

will be set aside to resolve any disputes that may arise concerning the amounts payable to Participating Class Members or for the correction of computation of the amounts paid to any Named Plaintiff, Opt-in Plaintiff, or Participating Class Member, or to pay an overage due on the estimated fees and costs for the Administrator.

14. "Lawsuit" means the action filed on February 10, 2021 by the Named Plaintiffs against TransAm in the United States District Court for the District of Kansas, styled *Roberts, et al. v. TransAm Trucking, Inc.*, Case No. 2:21-cv-2073-JWB-GEB, which initial complaint was later twice amended to, among other things, add ONE Leasing and JHI as Defendants, and each and every claim and allegation asserted therein, including each and every claim and allegation asserted in each amended pleading.
15. "Named Plaintiffs" means Kirk Roberts, Faraji Arturo Council f/k/a John Curtis, Terrence Colvin-Williams, Reginald Bradley, David Coleman, and Carl McRoberts Jr.
16. "Net Settlement Fund" is the amount that represents the Gross Settlement Amount after deduction of: (a) Court-approved attorneys' fees, (b) payment for the Administrator's costs and expenses, (c) the service awards to Named Plaintiffs and Opt-In Plaintiffs; and (d) the Hold-Back Fund.
17. "Notice" means the notices sent to the Named Plaintiffs, Opt-In Plaintiffs, Collective Class Members and the Rule 23 Class Members, and their related Claim and Release Forms, all attached hereto as Exhibits 1-4, which have been approved by the Parties and are subject to the approval of the Court.
18. "Parties" means the Named Plaintiffs, Current Opt-In Plaintiffs, Collective Class Members, Rule 23 Class Members, and Defendants.
19. "Opt-In Plaintiffs" mean the additional plaintiffs who were not named in the pleadings but who have already opted-in to the Lawsuit as of the date of this Agreement, specifically Jonathan Moore, Manuel Cuevas Vega, Roberto Teixeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Frederick Neal, Cecil Brown, Carlton Baker, Deshawnta Lavell Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews.
20. "Participating Class Member" means a Collective Class Member or Rule 23 Class Member who returns their Claim and Release Form by the Claim Deadline indicating their decision to participate and receive payment under the terms of this Settlement.
21. "Payment Deadline" means the date that falls thirty (30) days after the Final Approval Date.
22. "Plan of Allocation" is the method by which the amount owed under this Settlement will be allocated for payment to each Collective Class Member and Rule 23 Class Member, the description of which has been set forth in Section II.

23. "Preliminary Approval Date" means the date the Court enters the Preliminary Approval Order.
24. "Preliminary Approval Order" means any order issued by the Court which grants preliminary approval of the Settlement; and which authorizes the distribution of the Notices attached hereto as Exhibits 1-4 to the Collective Class Members and Rule 23 Class Members; and which preliminarily approves the allocation of the Gross Settlement Amount as set forth herein; and which sets a date for a final Fairness Hearing before the Court.
25. "Released Claims" means any and all claims that were alleged in the Lawsuit, including claims for nonpayment of wages or minimum wages under the FLSA or state or local law, unfair or deceptive business practices, misclassification of drivers, unlawful deductions from pay under federal or state law, and violations of the federal Truth-in-Leasing statutes and regulations and any other claims relating to the terms and/or enforcement of the terms of the Independent Contractor Agreements or Equipment Lease Agreements signed by drivers, as a result of actions or omissions through and including the Claim Deadline.
26. "Released Parties" means Defendants TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc., Jacobson Holdings, Inc., and their present, future, and former predecessors, successors, parents, subsidiaries, affiliates, assigns, insurers (including, but not limited to, Atlantic Specialty Insurance Company and its parents, subsidiaries, and affiliates), officers, directors, board members, managers, supervisors, attorneys, agents, representatives, heirs, spouses, and employees, including, without limitation, any investors, trusts, or other similar or affiliated entities and all persons acting by, through, under, or in concert with any of them, including any party that was or could have been named as a defendant in this action.
27. "Rule 23 Class Members" are defined as all individuals who have been subject to an independent contractor agreement with TransAm and/or a lease agreement with ONE Leasing since February 2017 and have: (i) had fuel surcharge deductions taken from their compensation; and/or (ii) have had physical damage insurance deductions taken from their compensation in excess of the amounts listed in their contracts; and/or (iii) have had other charges or deductions made from their compensation in excess of the amounts listed in their contracts as alleged in the Lawsuit.

## **II. ALLOCATION OF THE PAYMENT**

Subject to the Court's approval, and without any admission of liability whatsoever, Defendants agree to pay a total collective and class-wide settlement amount or Gross Settlement Amount of \$3,750,000.00, inclusive of all costs, fees, attorneys' fees, expenses, claims administration costs, service awards, and all other claims for payment, reimbursement, or other remuneration.

1. The Gross Settlement Amount shall be allocated as follows:
  - i. Service awards to the Named Plaintiffs for a total of \$45,000 (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.), for which each Named Plaintiff will receive an IRS Form 1099 designating such payment as “other income.”
  - ii. Service awards of \$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery (Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal) and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery (Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews), for a total of \$19,000, for which each Opt-in Plaintiff will receive an IRS Form 1099 designating such payment as “other income.”
  - iii. Attorneys’ fees not to exceed one-third of the Gross Settlement Amount, totaling \$1,250,000, to be paid to Class Counsel. The Administrator shall issue an IRS Form 1099 for the payments to Class Counsel set forth in this paragraph in the normal course of business, and any and all taxes relating to the payments described in this paragraph shall be the sole responsibility of Class Counsel. Class Counsel agrees to indemnify and hold harmless Defendants and the Released Parties for any taxes due or owing by Class Counsel, the Collective Class Members, or Rule 23 Class Members on any payments hereunder.
  - iv. A Hold-Back Fund in the amount of \$100,000 to resolve any disputes that may arise concerning the amounts payable to claiming Class Members or for the correction of computation of the amounts paid to any Named Plaintiff, Opt-in Plaintiff, or Class Member, or to pay an overage due on the estimate for the Administrator as set forth in Paragraph 1(v) below and to pay the employer’s share of payroll taxes on amounts to be paid as W2 wages. Plaintiffs’ counsel shall be responsible for making the determinations about whether and how to use the Hold-Back Fund, subject to review by Defendants’ counsel.
  - v. Costs for retention of the Administrator to administer the proposed settlement herein and for Class Counsel’s reasonable litigation costs, in the estimated amount of \$200,000;
2. The remainder of the Gross Settlement Amount shall be used for establishment of a Net Settlement Fund of at least \$2,136,000, consisting of any remaining amounts left from the Gross Settlement Amount after allocation of Paragraphs 1(i) – (v) above, which shall be divided among the Named Plaintiffs, Opt-In Plaintiffs and Class Members, taking into account each person’s potential damages for orientation wages, fuel surcharge deductions, contractor wages, and/or insurance deductions, as set forth

in Section 3 of the Notice of Settlement. IRS Form 1099s shall be issued by Defendants to each Class Member.

3. The Named Plaintiffs, Opt-In Plaintiffs and Participating Class Members shall have one-hundred and eighty (180) calendar days from the date the settlement checks are mailed to them by the Administrator to cash or otherwise negotiate their settlement checks.
4. Any portion of the allocations proposed Paragraphs 1(i) – (v), *supra*, not approved by the Court shall be considered part of the Net Settlement Fund and shall be made available for distribution to the claiming Class Members. No portion of the Gross Settlement Amount or the Net Settlement Fund shall revert to Defendants.
5. All taxes relating to the payments made to the Named Plaintiffs, Opt-In Plaintiffs, and Participating Class Members pursuant to this Agreement shall be the sole responsibility of the Named Plaintiffs, Opt-In Plaintiffs, and Participating Class Members. As to the payments reported as non-wage income, Named Plaintiffs, Opt-In Plaintiffs, and Participating Class Members agree to indemnify and hold harmless Defendants and the Released Parties for any taxes due or owing by such Named Plaintiffs, Opt-In Plaintiffs, and Participating Class Members on such payments. Further, payments made under this Agreement are not intended to and will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under any bonus, pension, and retirement programs of Defendants or 401(k) plans that may be maintained by Defendants, their parents or affiliates, nor will such payments count as earnings or compensation with respect to, or be considered to apply to, or be applied for purposes of any bonus, pension, and retirement programs of Defendants or 401(k) plans that may be maintained by Defendants, their parents or affiliates. Defendants retain the right, if necessary, to modify the language of their benefit plans and pension, bonus and other programs, if necessary, to make clear that any amounts paid pursuant to this Agreement are not for hours worked, hours paid or any similar measuring term as defined by any plans and programs for purposes of eligibility, vesting, benefit accrual or any other purpose. Nothing in this Agreement shall be deemed to reinstate employment or change the dates of employment for any individual not currently employed by Defendants.
6. Except for the fees, costs, and other expenses expressly set forth in this Section II, the Parties shall bear responsibility for their own fees, costs, and expenses incurred by them or arising out of the litigation associated with this Lawsuit, and will not seek reimbursement thereof from any other party to this Agreement or the Released Parties.
7. As more fully set forth in this Agreement, the payments described herein shall be contingent upon (i) execution of this Agreement, and (ii) entry by the Court of an appropriate order approving the Parties' settlement as set forth in Section V of this Agreement.

### **III. NO ADMISSION OF LIABILITY**

Defendants expressly deny any wrongdoing associated with the claims in the Lawsuit and make no admission of liability. Defendants maintain that they have complied with applicable federal, state, and local laws at all times. It is expressly understood and agreed by the Parties that this Agreement is being entered into by Defendants as a compromise and solely for the purpose of avoiding the cost and disruption of ongoing litigation and defending any claims asserted in this Lawsuit. Nothing in this Agreement, the settlement proposals exchanged by the Parties, or any motions filed or orders entered pursuant to this Agreement, may be construed or deemed as an admission by Defendants of any liability, culpability, negligence, or wrongdoing as to any person or entity, and this Agreement, including its provisions, payment of the Gross Settlement Amount, its execution, and implementation, including any motions filed or orders entered, shall not in any respect be construed as offered or deemed admissible as evidence, or referred to in any arbitration or legal proceeding for any purpose, except in an action or proceeding to approve, interpret, or enforce this Agreement. Neither this Agreement nor anything in it, nor any part of the negotiations that occurred in connection with the creation of this settlement, shall constitute evidence with respect to any issue or dispute, including without limitation the propriety of collective or class treatment, in any litigation, legal proceeding, or administrative proceeding.

#### **IV. NOTICE PROCEDURE**

The Parties agree to the following procedure for notice to the Collective Class Member and Rule 23 Class Members:

1. Within fourteen (14) days of the Preliminary Approval Date, the Defendants shall provide the names, last known mailing addresses, and (to the extent available) phone numbers and email addresses for the Collective Class Members and Rule 23 Class Members to Class Counsel and the Administrator in Excel format. Within thirty (30) days of the Preliminary Approval Date, the administrator shall send the Notices, including the Claim and Release Forms, in the forms attached hereto as Exhibits 1-4, to the Named Plaintiffs, Opt-In Plaintiffs, Collective Class Members and Rule 23 Class Members via first class mail, and via email and text message to the extent available. The Notice will explain the method of calculation and minimum payments for each claim and will provide an opportunity for the Opt-In Plaintiff, Collective Class Member, or Rule 23 Class Member to opt-out of the Settlement so that they can separately pursue their claims, if any, against Defendants if they choose or to object to the Settlement. It will also inform the Opt-In Plaintiffs, Collective Class Member, and/or Rule 23 Class Member of what the Released Claims are against the Released Parties. The Notice to the Named Plaintiffs, Opt-In Plaintiffs, Collective Class Members, and Rule 23 Class Members will also inform them of the date of the Fairness Hearing and the process for objecting to the Settlement.
2. Collective Class Members and Rule 23 Class Members will receive a Notice relating to the claims for which they are part of the Collectives and/or Class. The Notices and Claim Forms are attached hereto as follows:
  - Exhibit 1: Notice to individuals who are part of the FLSA Orientation Collective, the FLSA Lease Driver Collective, and the Rule 23 Truth-in-

Leasing Class (electronic and paper forms);

- Exhibit 2: Notice to individuals who are part of the FLSA Orientation Collective only (electronic and paper forms);
  - Exhibit 3: Notice to individuals who are part of the FLSA Lease Driver Collective, and the Rule 23 Truth-in-Leasing Class only (electronic and paper forms); and
  - Exhibit 4: Notice to individuals who are part of the Rule 23 Truth-in-Leasing Class only (electronic and paper forms).
3. Approximately halfway through the claim period, a reminder notice shall be sent by email and, where available, by text to those who have not responded to the original Notice.
  4. Claim forms may be submitted by Participating Class Members by mail, e-mail, fax, or using an online claims submission process established by the Administrator.
  5. The Administrator shall inform Defense Counsel on the day that Notice was mailed to the Collective Class Members and Rule 23 Class Members.

## **V. COURT APPROVALS AND DISMISSAL**

Plaintiffs' counsel shall be responsible for seeking preliminary and final approval of the settlement, including preparing all notices, exhibits, motions, and briefing in connection with the approval process, subject to review by Defendants' counsel.

1. Preliminary Approval: In connection with seeking preliminary approval by the Court of the settlement contemplated herein, and consistent with any direction provided by the Court, after conferring with and obtaining assent from Defendants' counsel, Class will submit a motion for preliminary settlement approval and proposed Order for the Court's review and consideration, granting conditional collective and class certification, and preliminarily approving the Agreement, adjudging the terms herein to be fair, reasonable and adequate, and directing consummation of the Agreement's terms and provisions regarding notice to the Class Members.
2. Final Approval and Dismissal of the Lawsuit: In connection with seeking final approval by the Court of the settlement contemplated herein, and consistent with any direction provided by the Court with regards to requirements for the Final Approval Hearing, after conferring with and obtaining assent from Defendants' counsel, Class Counsel will submit a motion for final settlement approval and proposed Order for the Court's review and consideration granting final approval of the Agreement; adjudging the terms herein to be fair, reasonable and adequate; directing consummation of the Agreement's terms and provisions; and dismissing the Lawsuit (and each and every claim and allegation asserted therein) on the merits and with prejudice, and permanently barring

all participating Class Members from prosecuting against any Released Parties any of the Released Claims (as further set forth in Section VII), and for the Court to retain jurisdiction to enforce the terms of the Agreement.

3. In the event the Court does not approve this Agreement, this Agreement shall be null and void in its entirety, unless expressly agreed in writing by all Parties, and the Parties agree each party shall be returned to the exact same position as before execution of this Agreement. Further, this Agreement is not meant to be, and will not be, construed as an admission that Defendants are liable for damages or any other relief and Defendants reserve the right to continue to deny they engaged in activity that would warrant liquidated damages or any other damages. The Parties agree each party reserves the right to contest certification (or failure to certify) the claims in the Lawsuit, including conditional certification, of the Collective and Rule 23 Classes, and any other claims made by Plaintiffs or defenses that Defendants could bring. Further, nothing in this Agreement, nor information exchanged solely in support of this agreement or within settlement negotiations or mediation, shall be utilized to prosecute or defend against the claims in the Lawsuit.

#### **VI. FUNDING PROCESS, PARTICIPATION, AND NON-PARTICIPATION**

1. Within forty-five (45) days after Preliminary Approval Date, and consistent with any Preliminary Approval Order entered by the Court, Defendants shall pay the Gross Settlement Amount into a qualified settlement account or “QSF” as directed by the Administrator.
2. A Collective Class Member’s and Rule 23 Class Member’s Claim and Release Form must be postmarked, or returned via facsimile or e-mail or online claim submission, by the Claim Deadline. Within seven (7) days after the Claim Deadline, the Administrator shall provide to Class Counsel and Defense Counsel the executed Claim and Release Forms (including forms where any such person “opts-out” of the Settlement), along with an Excel spreadsheet reflecting the gross payout from the Net Settlement and FLSA Settlement Fund and/or Rule 23 Settlement Fund for each Participating Class Member.
3. Any Rule 23 Class Member’s objection to the Settlement must be post-marked, or returned via facsimile or e-mail or online claim submission, by the Claim Deadline. The Administrator shall provide Class Counsel a copy of any objection upon its receipt per the requirements set forth in the Notice, and Class Counsel shall timely file said objections with the Court.
4. The Administrator shall make payments to the Participating Class Members by the Payment Deadline. The face of each check sent to Participating Class Members, or bolded language of a notice enclosed with each check, shall clearly state that the check must be cashed within one-hundred and eighty (180) calendar days.
5. If any Participating Class Member does not cash or otherwise negotiate the settlement payment within 180 days, such checks will be void and a stop-pay notice will be placed

on such unnegotiated checks. In such event, those Participating Class Members will be deemed to have waived irrevocably any right in or claim to settlement funds, and any such funds shall be distributed on a *cy pres* basis to Kansas Legal Services approximately thirty (30) days after the expiration of the deadline to negotiate settlement checks. Such Participating Class Members who returned a Claim and Release Form indicating their desire to participate in the Settlement, but did not cash or otherwise negotiate either check, will nevertheless be bound by this Agreement and the Release provisions contained herein.

6. Collective Class Members or Rule 23 Class Members who return a Claim and Release Form indicating their desire to not participate in the Settlement will be deemed to have waived irrevocably any right in or claim to any funds under this Settlement, but will not be deemed to have waived their right to assert any of the Released Claims against any of the Released Parties in a separate legal proceeding if they so choose.
7. Collective Class Members who do not return a Claim and Release Form, or fail to timely return a Claim and Release Form by the Claim Deadline, will be deemed to have waived irrevocably any right in or claim to any funds under this Settlement, and will have waived their right to assert any of the Released Claims against any of the Released Parties, except for any FLSA claims which they may pursue in a separate legal proceeding if they so choose.

## **VII. RELEASES BY CLASS MEMBERS**

1. By operation of this Agreement and except as to such rights or claims as may be created by this Agreement or those non-waivable by law, the Named Plaintiffs and their respective heirs, beneficiaries, designees, legatees, executors, administrators, successors-in-interest, and assigns, hereby irrevocably and unconditionally forever and fully release, and covenant not to sue, Defendants and the Released Parties for the Released Claims.
2. By operation of this Agreement and except as to such rights or claims as may be created by this Agreement or those non-waivable by law, the Participating Class Members, and their respective heirs, beneficiaries, designees, legatees, executors, administrators, successors-in-interest, and assigns, hereby irrevocably and unconditionally forever and fully release, and covenant not to sue, Defendants and the Released Parties for, the Released Claims.
3. By operation of this Agreement and except as to such rights or claims as may be

created by this Agreement or those non-waivable by law, Rule 23 Class Members who do not return a Claim and Release Form and do not opt out of the Settlement, or fail to timely return a Claim and Release Form by the Claim Deadline, and their respective heirs, beneficiaries, designees, legatees, executors, administrators, successors-in-interest, and assigns hereby irrevocably and unconditionally forever and fully release, and covenant not to sue, Defendants and the Released Parties for the Released Claims, *except for* any claims they might have under the FLSA against the Released Parties.

4. To the extent permitted by law, the Named Plaintiffs waive any right or ability to be a class or collective action representative or to otherwise participate in any putative or certified class, collective or multi-party action or proceeding in any action in which Defendants are parties and such claim or action is based upon the Released Claims. The Named Plaintiffs further represent that they currently have no knowledge of any claims that they have against the Defendants or Released Parties other than the claims asserted in the Lawsuit.
5. The Parties acknowledge that this Agreement does not limit any party's right, where applicable, to file or participate in an investigative proceeding of any federal, state or local governmental agency, or to otherwise communicate with such an agency regarding matters within their jurisdiction. To the extent permitted by law, the Named Plaintiffs agree that if such an administrative claim is made, they shall not be entitled to recover any individual monetary relief or other individual remedies to the extent such a claim exists or arises out of actions prior to the execution of this Agreement.

## **VIII. NOTICES**

Unless otherwise specifically provided herein, all notices, demands or other communications given hereunder shall be in writing and may be sent by e-mail or U.S. Mail as follows:

To Named Plaintiffs, Opt-In Plaintiffs, or any other Class Member:

Hillary Schwab  
192 South Street, Suite 450  
Boston, MA 02111  
hillary@fairworklaw.com

To the Defendants:

Shannon D. Johnson  
Gregory Whiston  
Seigfreid Bingham, PC  
2323 Grand Boulevard, Suite 1000  
Kansas City, Missouri 64108  
sjohnson@sb-kc.com  
gwhiston@sb-kc.com

## **IX. OTHER MISCELLANEOUS PROVISIONS**

1. This Agreement, and its attachments, constitutes the entire agreement between the Parties concerning the subject matter hereof. No extrinsic oral or written representations or terms shall modify, vary or contradict the terms of this Agreement. In the event of any conflict between this Agreement and any other Settlement-related document, the Parties intend that this Agreement shall be controlling. For the avoidance of any doubt, this Agreement fully replaces the Memorandum of Understanding that was executed between the Parties on or about January 31, 2024.
2. The signatories to this Agreement hereby represent that they are fully authorized to enter into this Agreement and to bind the Parties hereto to the terms and conditions hereof. All of the Parties acknowledge that they have been represented by competent, experienced counsel throughout all negotiations, which preceded the execution of this Agreement, and this Agreement is made with the consent and advice of Class Counsel and Defense Counsel, who have jointly prepared this Agreement. This Agreement shall be construed as a whole according to its fair meaning and intent, and not strictly for or against any party, regardless of who drafted or who was principally responsible for drafting this Agreement or any specific term or condition thereof.
3. The Parties agree to use their best efforts and to fully cooperate with each other to accomplish the terms of this Agreement, including but not limited to, execution of the Agreement and any required filings with the Court, and to take such other action as may reasonably be necessary to implement and effectuate the terms of this Agreement.
4. All disputes relating to this Agreement and its implementation shall be within the continuing jurisdiction of the Court over the terms and conditions of this Agreement, until all payments and obligations contemplated by the Agreement have been fully carried out.
5. No waiver, modification, or amendment of the terms of this Agreement and/or its attachments shall be valid or binding unless in writing, signed by and on behalf of all of the Parties, and then only to the extent set forth in such written waivers, modifications, or amendments, and approved by the Court.
6. This Agreement shall be governed and conformed in accordance with the laws of the State of Kansas without regard to its conflict of laws provisions, and the Parties consent to jurisdiction and venue in Kansas federal courts. This Agreement, and the exhibits hereto, shall be considered to have been negotiated, executed, and delivered, and to have been wholly performed in the State of Kansas. To the extent that the Court retains jurisdiction, this Agreement shall be subject to the continuing jurisdiction of the United States District Court for the District of Kansas. In the event of a breach of any provision of this Agreement, either party may institute an action specifically to enforce any term or terms of this Agreement and/or to seek any damages for breach. Should any provision of this Agreement be declared illegal or unenforceable by any court of competent jurisdiction and cannot be modified to be enforceable, excluding the general release language and compensation afforded, such provision shall immediately become null and

void, leaving the remainder of this Agreement in full force and effect.

7. This Agreement may be signed in counterparts, each of which shall be deemed an original, but all of which, taken together shall constitute the same instrument. A signature made on a faxed or electronically mailed copy of the Agreement or a signature transmitted by facsimile or electronic mail will have the same effect as the original signature. Electronic (e.g., DocuSign) signatures will be valid and have the same effect as an original signature.
8. This Agreement shall not be construed to create rights in, or to grant remedies to, or to delegate any duty, obligation, or undertaking established herein to any third party as a beneficiary of this Agreement.
9. This Agreement shall be binding upon, and inure to the benefit of, the Parties and their affiliates, agents, employees, beneficiaries, heirs, executors, administrators, successors, and assigns.
10. As to documents produced in the Lawsuit, the terms of the Protective Order (ECF Doc. 35), as approved by the Court, shall continue to remain in full force and effect, notwithstanding anything to the contrary in this Agreement, and the Parties will continue to protect any Confidential Information (as defined by the Protective Order) exchanged by the Parties in the course of the Lawsuit. The Parties' negotiations and the terms of this Settlement Agreement shall be held confidential other than necessary disclosures and settlement approval process made to the Court. Class Counsel, the Named Plaintiffs, and each Participating Class Member hereby covenant that they will not issue, nor cause to be issued, any statements to the public or media regarding the Settlement or any of its terms, including statement on any website(s) or via social media except as necessary to complete the Notice terms of this Agreement.
11. The Parties represent and agree that the Lawsuit involves a bona fide dispute between them, that the proposed settlement contemplated in this Agreement is fair and equitable to all parties concerned and provides for an equitable distribution of settlement amounts and service awards to the Named Plaintiffs, Opt-In Plaintiffs, and the Participating Class Members, that the settlement contemplated in this Agreement contains an award of reasonable attorneys' fees and costs, and that Class Counsel is hereby waiving and releasing any liens for costs and/or attorney fees with respect to this Lawsuit other than the payments contemplated herein.
12. Defendants have not been notified of any liens and/or pending legal claims applicable to the settlement payments made pursuant to this Agreement, and therefore the Parties stipulate and agree that Defendants will not be responsible for any unpaid liens or legal claims applicable to the amounts paid pursuant to this Agreement.
13. Defendants and their attorneys make no representations concerning the tax consequences of entering into this Agreement and resulting from the manner of payment, and are not rendering tax advice. The Named Plaintiffs, Opt-In Plaintiffs and

Participating Class Members are completely responsible for any tax liability they incur as a result of the above-referenced payments and the manner of these payments.

14. The Parties state that they have read this Agreement and understand it and have had the advice of their respective attorneys before signing this Agreement. They further acknowledge that they have had sufficient time to fully consider this Agreement and that they voluntarily signed it without any coercion or pressure from any person. They further understand that this Agreement contains all of the terms and agreements relating to resolution of the Lawsuit and any allegations contained therein, and that they are not relying upon any oral statements or representations of the Parties or any of the Parties' officers, directors, managers, owners, shareholders, employees, attorneys, representatives, and agents.

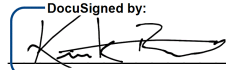
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**THE PARTIES FREELY AND KNOWINGLY, AFTER DUE CONSIDERATION AND AFTER CONSULTING WITH COUNSEL REGARDING THIS AGREEMENT, ENTER INTO THIS AGREEMENT WITH THE NAMED PLAINTIFFS INTENDING TO WAIVE, SETTLE AND RELEASE CLAIMS AS SET FORTH HEREIN.**

The Parties knowingly and voluntarily sign this Agreement as of the date set forth below:

**PLAINTIFFS**

**DEFENDANTS**

DocuSigned by:  



47A959D8B3B74AA  
**Kirk Roberts**

Dated: 4/11/2024

\_\_\_\_\_  
Name:

On behalf of TransAm Trucking, Inc.

Dated: April \_\_, 2024

DocuSigned by:  


5EC735A90ADE430  
**Faraji Arturo Council**

Dated: 4/11/2024

\_\_\_\_\_  
Name:

On behalf of Olathe Noble Equipment Leasing, Inc.

Dated: April \_\_, 2024

DocuSigned by:  
**Terrence Colvin-Williams**

47449B81E280490...  
**Terrence Colvin-Williams**

Dated: 4/10/2024

\_\_\_\_\_  
Name:


On behalf of Jacobson Holdings, Inc.

Dated: April \_\_, 2024

DocuSigned by:  


DFE51CCC981645F  
**Reginald Bradley**

Dated: 4/10/2024

DocuSigned by:  


B32706156F304C8  
**David Coleman**

Dated: 4/10/2024

DocuSigned by:  


DCE28000D3140B  
**Carl McRoberts**

Dated: 4/11/2024

THE PARTIES FREELY AND KNOWINGLY, AFTER DUE CONSIDERATION AND AFTER CONSULTING WITH COUNSEL REGARDING THIS AGREEMENT, ENTER INTO THIS AGREEMENT WITH THE NAMED PLAINTIFFS INTENDING TO WAIVE, SETTLE AND RELEASE CLAIMS AS SET FORTH HEREIN.

The Parties knowingly and voluntarily sign this Agreement as of the date set forth below:

PLAINTIFFS

\_\_\_\_\_  
Kirk Roberts

Dated: April \_\_, 2024

\_\_\_\_\_  
Faraji Arturo Council

Dated: April \_\_, 2024

\_\_\_\_\_  
Terrence Colvin-Williams

Dated: April \_\_, 2024

\_\_\_\_\_  
Reginald Bradley

Dated: April \_\_, 2024

\_\_\_\_\_  
David Coleman

Dated: April \_\_, 2024

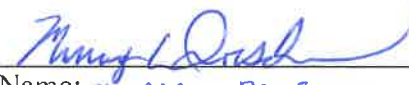
\_\_\_\_\_  
Carl McRoberts

Dated: April \_\_, 2024

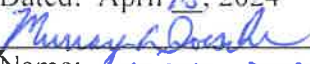
DEFENDANTS

  
\_\_\_\_\_  
Name: JOE JACOBSON  
On behalf of TransAm Trucking, Inc.

Dated: April 10, 2024

  
\_\_\_\_\_  
Name: MURRAY DROSCHER  
On behalf of Olathe Noble Equipment Leasing, Inc.

Dated: April 10, 2024

  
\_\_\_\_\_  
Name: MURRAY DROSCHER  
On behalf of Jacobson Holdings, Inc.

Dated: April 10, 2024

# **EXHIBIT 1**

EXHIBIT 1-A  
ELECTRONIC VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español, haga clic [aquí](#).

**This is not a solicitation from a lawyer. The United States District Court  
for the District of Kansas authorized this Notice.**

TO: **[First\_Name] «Last\_Name»**  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for three claims that may affect you: (1) a claim under the federal Fair Labor Standards Act ("FLSA") that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 ("the Company Driver Orientation Claim"); (2) a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked ("the Lease Driver Minimum Wage Claim"); and (3) a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers' pay without clearly and specifically disclosing those deductions in the independent contractor agreement ("the Truth-in-Leasing Claim").
- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

(1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by clicking the button below, by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).

**CLICK HERE TO FILE CLAIM**

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is **[60 days from mailing]**.

(4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is **[60 days from mailing]**.

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act ("FLSA").

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in

fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery - Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal - and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery - Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.
- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.

(5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.

(6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

(1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.

(2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.

(3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## SECTION 4: RELEASE OF CLAIMS

### Class Member Release

If you are eligible and participate in the settlement by submitting a claim form , or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request

for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

**CLICK HERE TO FILE CLAIM**

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement:** You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance

through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_ day, **[insert date]**, at **[time]** Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by **[insert date 2 weeks before final fairness hearing]**. If you would like to receive a copy of that motion, please

contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator  
[insert address]  
Telephone: [insert]  
Fax: [insert]  
Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.  
Rachel Smit, Esq.  
Brant Casavant, Esq.  
Fair Work, P.C.  
192 South Street, Suite 450  
Boston, MA 02116  
Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)  
Telephone (call/text): [add]

Brendan J. Donelon, Esq.  
Donelon, P.C.  
4600 Madison, Suite 810  
Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, *et seq.* and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com)  
or [insert telephone number] if your contact information changes.*

EXHIBIT 1-B  
PAPER VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO

Para español: <https://www.transamsettlement.com/> [insert]

**This is not a solicitation from a lawyer. The United States District Court  
for the District of Kansas authorized this Notice.**

TO: [First\_Name] «Last\_Name»  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for three claims that may affect you: (1) a claim under the federal Fair Labor Standards Act (“FLSA”) that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 (“the Company Driver Orientation Claim”); (2) a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked (“the Lease Driver Minimum Wage Claim”); and (3) a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers’ pay without clearly and specifically disclosing those deductions in the independent contractor agreement (“the Truth-in-Leasing Claim”).
- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

- (1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).
- (2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.
- (3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is **[60 days from mailing]**.
- (4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is **[60 days from mailing]**.

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act ("FLSA").

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the

amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery - Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal - and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery - Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.
- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.
- (5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.
- (6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

- (1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.
- (2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.
- (3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## SECTION 4: RELEASE OF CLAIMS

### Class Member Release

If you are eligible and participate in the settlement by submitting a claim form , or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available online at [www.transamsettlement.com/\[insert\]](http://www.transamsettlement.com/[insert]) or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)). Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement:** You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through

counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_ day, **[insert date]**, at **[time]** Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by **[insert date 2 weeks before final fairness hearing]**. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at **[insert telephone number]**, by text at **[insert text number]**, or via email at **info@transamsettlement.com**. The full contact information for the

Settlement Administrator is:

TransAm Settlement Administrator

[insert address]

Telephone: [insert]

Fax: [insert]

Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

**You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.**

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, *et seq.* and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_  
\_\_\_\_\_ Signature

\_\_\_\_\_  
Printed Name

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com)  
or [insert telephone number] if your contact information changes.*

# **EXHIBIT 2**

EXHIBIT 2-A  
ELECTRONIC VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
You may also visit <https://www.transamsettlement.com/> for more information.

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español, haga clic [aquí](#).

**This is not a solicitation from a lawyer.**

**The United States District Court for the District of Kansas authorized this Notice.**

TO: **[First\_Name] «Last\_Name»**  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for one claim that may affect you: (1) a claim under the federal Fair Labor Standards Act (“FLSA”) that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 (“the Company Driver Orientation Claim”). There are two other claims being resolved as part of this settlement: a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked (“the Lease Driver Minimum Wage Claim”); and a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers’ pay without clearly and specifically disclosing those deductions in the independent contractor agreement (“the Truth-in-Leasing Claim”). According to TransAm’s records, you are not affected by the settlements of the Lease Driver Minimum Wage Claim or the Truth-in-Leasing Claim because you have not been a lease driver subject to an independent contractor agreement with TransAm at any time since February 10, 2017.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement for the Company Driver Orientation Claim. You have the following two options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have two options in this lawsuit:

(1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by clicking the button below, by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).

**CLICK HERE TO FILE CLAIM**

(2) **Do nothing:** If you do nothing, you will not receive a monetary payment from the settlement.

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act (“FLSA”).

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in

fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal – and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery – Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this

case.

- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.
- (5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.
- (6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

- (1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.
- (2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.
- (3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the

named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for interest, penalties, and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## SECTION 4: RELEASE OF CLAIMS

### Class Member Release

If you are eligible and participate in the settlement by submitting a claim form, then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their

compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

[CLICK HERE TO FILE CLAIM](#)

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim. However, there are deadlines for filing a claim, and the deadline for you to file such a claim (outside of this settlement) may have expired.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-*

*workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_\_ day, [insert date], at [time] Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by [insert date 2 weeks before final fairness hearing]. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator  
[insert address]  
Telephone: [insert]  
Fax: [insert]  
Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, *et seq.* and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_  
\_\_\_\_\_ Signature

\_\_\_\_\_  
Printed Name

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com)  
or [insert telephone number] if your contact information changes.*

EXHIBIT 2-B  
PAPER VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español: <https://www.transamsettlement.com/insert>

**This is not a solicitation from a lawyer.**  
**The United States District Court for the District of Kansas authorized this Notice.**

TO: **[First\_Name] «Last\_Name»**  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for one claim that may affect you: (1) a claim under the federal Fair Labor Standards Act (“FLSA”) that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 (“the Company Driver Orientation Claim”). There are two other claims being resolved as part of this settlement: a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked (“the Lease Driver Minimum Wage Claim”); and a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers’ pay without clearly and specifically disclosing those deductions in the independent contractor agreement (“the Truth-in-Leasing Claim”). According to TransAm’s records, you are not affected by the settlements of the Lease Driver Minimum Wage Claim or the Truth-in-Leasing Claim because you have not been a lease driver subject to an independent contractor agreement with TransAm at any time since February 10, 2017.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement for the Company Driver Orientation Claim. You have the following two options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have two options in this lawsuit:

- (1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).
- (2) **Do nothing:** If you do nothing, you will not receive a monetary payment from the settlement.

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act (“FLSA”).

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that

require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal – and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery – Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.
- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.

(5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.

(6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

(1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.

(2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.

(3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation

for interest, penalties, and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## SECTION 4: RELEASE OF CLAIMS

### Class Member Release

If you are eligible and participate in the settlement by submitting a claim form, then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available at <https://www.transamsettlement.com/insert> and/or by contacting the Settlement

Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim. However, there are deadlines for filing a claim, and the deadline for you to file such a claim (outside of this settlement) may have expired.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_\_ day, [insert date], at [time]

Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by [insert date 2 weeks before final fairness hearing]. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

#### SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator

[insert address]

Telephone: [insert]

Fax: [insert]

Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

**You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.**

#### SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.  
Fair Work, P.C.  
192 South Street, Suite 450  
Boston, MA 02116  
Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)  
Telephone (call/text): [add]

Brendan J. Donelon, Esq.  
Donelon, P.C.  
4600 Madison, Suite 810  
Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, *et seq.* and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com) or [insert telephone number] if your contact information changes.*

# **EXHIBIT 3**

EXHIBIT 3-A  
ELECTRONIC  
VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español, haga clic [aquí](#).

**This is not a solicitation from a lawyer.**

**The United States District Court for the District of Kansas authorized this Notice.**

TO: [First\_Name] «Last\_Name»  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for two claims that may affect you: (1) a claim under the federal Fair Labor Standards Act (“FLSA”) that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 (“the Company Driver Orientation Claim”); (2) a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers’ pay without clearly and specifically disclosing those deductions in the independent contractor agreement (“the Truth-in-Leasing Claim”). There is one other claim being resolved as part of this lawsuit: a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked (“the Lease Driver Minimum Wage Claim”). According to TransAm’s records, you are not affected by the settlements of the Lease Driver Minimum Wage Claim because you have not been a lease driver subject to an independent contractor agreement with TransAm at any time since September 29, 2020.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement for the Company Driver Orientation Claim and the Truth-in-Leasing Claim. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

(1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by clicking the button below, by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).

**CLICK HERE TO FILE CLAIM**

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is [60 days from mailing].

(4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is [60 days from mailing].

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including

three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act (“FLSA”).

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers’ compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs’ allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys’ fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the

resolution of their individual claims against Defendants.

(3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal--and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery – Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.

(4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.

(5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.

(6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

(1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.

(2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.

(3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## SECTION 4: RELEASE OF CLAIMS

### Class Member Release

If you are eligible and participate in the settlement by submitting a claim form , or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time

spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

**CLICK HERE TO FILE CLAIM**

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail,

email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement:** You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on **\_\_\_\_\_ day, [insert date], at [time]** Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by **[insert date 2 weeks before final fairness hearing]**. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at **[insert telephone number]**, by text at **[insert text number]**, or

via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator

[insert address]

Telephone: [insert]

Fax: [insert]

Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, et seq. and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com) or [insert telephone number] if your contact information changes.*

EXHIBIT 3-B  
PAPER VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español, haga clic [aquí](#).

**This is not a solicitation from a lawyer.**

**The United States District Court for the District of Kansas authorized this Notice.**

TO: [First\_Name] «Last\_Name»  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for two claims that may affect you: (1) a claim under the federal Fair Labor Standards Act (“FLSA”) that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 (“the Company Driver Orientation Claim”); (2) a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers’ pay without clearly and specifically disclosing those deductions in the independent contractor agreement (“the Truth-in-Leasing Claim”). There is one other claim being resolved as part of this lawsuit: a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked (“the Lease Driver Minimum Wage Claim”). According to TransAm’s records, you are not affected by the settlements of the Lease Driver Minimum Wage Claim because you have not been a lease driver subject to an independent contractor agreement with TransAm at any time since September 29, 2020.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

- (1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).
- (2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.
- (3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is **[60 days from mailing]**.
- (4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is [60 days from mailing].

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards

Act ("FLSA").

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and

Frederick Neal--and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery - Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.

- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.
- (5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.
- (6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

- (1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.
- (2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.
- (3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

#### **SECTION 4: RELEASE OF CLAIMS**

##### **Class Member Release**

If you are eligible and participate in the settlement by submitting a claim form , or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the

federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a

monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement:** You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_\_ day, [insert date], at [time] Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by [insert date 2 weeks before final fairness hearing]. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator  
[insert address]  
Telephone: [insert]  
Fax: [insert]  
Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, et seq. and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

***Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com) or [insert telephone number] if your contact information changes.***

# **EXHIBIT 4**

EXHIBIT 4-A  
ELECTRONIC VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español, haga clic [aquí](#).

**This is not a solicitation from a lawyer.**  
**The United States District Court for the District of Kansas authorized this Notice.**

TO: **[First\_Name] «Last\_Name»**  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for one claim that may affect you: a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers' pay without clearly and specifically disclosing those deductions in the independent contractor agreement ("the Truth-in-Leasing Claim"). There are two other claims being resolved as part of this settlement: a claim under the federal Fair Labor Standards Act ("FLSA") that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 ("the Company Driver Orientation Claim"); and a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked ("the Lease Driver Minimum Wage Claim"). According to TransAm's records, you are not affected by the settlements of the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim because you did not attend orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021

and have not been a lease driver subject to an independent contractor agreement with TransAm at any time since September 29, 2020.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement for the Truth-in-Leasing Claim. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

(1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by clicking the button below, by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).

**CLICK HERE TO FILE CLAIM**

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is [60 days from mailing].

(4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is [60 days from mailing].

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act ("FLSA").

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers' compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs' allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys' fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams,

and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.

(3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal--and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery – Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.

(4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.

(5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.

(6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

(1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.

(2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.

(3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The

minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

## **SECTION 4: RELEASE OF CLAIMS**

### **Class Member Release**

If you are eligible and participate in the settlement by submitting a claim form, or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc.*

*et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

**CLICK HERE TO FILE CLAIM**

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing**: If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement**: If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement**: You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement

Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on **\_\_\_\_\_ day, [insert date], at [time]** Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by **[insert date 2 weeks before final fairness hearing]**. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator

[insert address]

Telephone: [insert]

Fax: [insert]

Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

**You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.**

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, et seq. and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_ Signature \_\_\_\_\_

Printed Name \_\_\_\_\_

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City: \_\_\_\_\_  
State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Email Address: \_\_\_\_\_

***Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com) or [insert telephone number] if your contact information changes.***

EXHIBIT 4-B  
PAPER VERSION

**NOTICE OF SETTLEMENT FOR CURRENT AND FORMER DRIVERS FOR  
TRANSAM TRUCKING, INC.**

*Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*  
D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB

*Please read carefully. Your legal rights may be affected.*  
*You may also visit <https://www.transamsettlement.com/> for more information.*

AVISO IMPORTANTE A MIEMBROS POTENCIALES DEL COLECTIVO  
Para español: <https://www.transamsettlement.com/insert>

**This is not a solicitation from a lawyer.**

**The United States District Court for the District of Kansas authorized this Notice.**

TO: **[First\_Name] «Last\_Name»**  
*TransAm Driver Code: [insert] (if applicable)*

- A proposed settlement has been reached in this case brought on behalf of individuals who (1) attended orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021; and/or (2) have been lease drivers subject to independent contractor agreements with TransAm since February 10, 2017. The case is called *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.* and has been filed in the United States District Court for the District of Kansas, Civil Action No. 2:21-cv-02073-JWB-GEB.
- The settlement involves monetary compensation for one claim that may affect you: a claim under federal Truth-in-Leasing regulations that TransAm has taken deductions from lease drivers' pay without clearly and specifically disclosing those deductions in the independent contractor agreement ("the Truth-in-Leasing Claim"). There are two other claims being resolved as part of this settlement: a claim under the federal Fair Labor Standards Act ("FLSA") that TransAm failed to pay at least minimum wage for all time during orientation between October 2020 and March 2021 ("the Company Driver Orientation Claim"); and a claim under the FLSA that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least minimum wage for all hours worked ("the Lease Driver Minimum Wage Claim"). According to TransAm's records, you are not affected by the settlements of the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim because you did not attend orientation for TransAm Trucking in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021

and have not been a lease driver subject to an independent contractor agreement with TransAm at any time since September 29, 2020.

- You are receiving this notice because you have been identified as a person potentially eligible to join or otherwise affected by this settlement. You have the following four options relating to the lawsuit.

## SECTION 1: YOUR OPTIONS REGARDING THE SETTLEMENT

You have four options in this lawsuit:

- (1) **File a claim:** In order to receive your monetary payment from this settlement, you must file a claim. The deadline to file a claim is **[60 days from mailing]**. **If you do not file a claim by [60 days from mailing], you will lose your right to receive a monetary payment from the settlement.** You may file a claim by visiting the settlement website, [www.transamsettlement.com](http://www.transamsettlement.com), or by emailing, mailing or faxing a claim form to the Settlement Administrator (see Section 7 for contact information).
- (2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing claims will be released (meaning you cannot pursue those claims), but you will not receive a monetary payment from the settlement.
- (3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement, you must send a request to be excluded from the class to the Settlement Administrator. Further instructions are set forth in Section 5, below. The deadline to exclude yourself from the settlement is **[60 days from mailing]**.
- (4) **Object to the settlement:** You may object to the settlement. Further instructions are set forth in Section 5, below. The deadline to object to the settlement is [60 days from mailing].

## SECTION 2: DESCRIPTION OF LAWSUIT

This case was originally filed on February 10, 2021. Plaintiffs have made several claims in this lawsuit relating to their time as truck drivers for TransAm Trucking, including three claims for which monetary compensation is available under this settlement.

First, as to the Company Driver Orientation Claim, Plaintiffs have claimed that TransAm did not pay drivers the full federal minimum wage of \$7.25 per hour for all

hours worked during orientation attended in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021, in violation of the federal Fair Labor Standards Act (“FLSA”).

Second, as to the Lease Driver Minimum Wage Claim, Plaintiffs have claimed that TransAm has misclassified lease drivers as independent contractors when they were in fact employees and has not paid lease drivers at least the federal minimum wage for all hours worked, in violation of the FLSA.

Third, as to the Truth-in-Leasing Claim, Plaintiffs have claimed that TransAm has not complied with the Truth-in-Leasing regulations, which are federal regulations that require motor carriers to disclose clearly in their independent contractor agreements the amounts of all deductions that will be made from drivers’ compensation, including but not limited to deductions relating to expenses, insurance, and escrow funds.

TransAm denies the Plaintiffs’ allegations and maintains that it properly paid all Plaintiffs. Although the Court has preliminarily approved this settlement, the Court made no decisions about whether the Plaintiffs were correct in their allegations. Defendants strongly deny they violated any law with respect to the wages and overtime wages paid to its employees. Defendants contend that their policies and compensation practices are proper and in compliance with the law at all times. Defendants decided that it is a better use of their resources to resolve this matter now, so that they can direct their time and resources to their business operations and, thereby, to the welfare of all of their employees and customers.

### **SECTION 3: SETTLEMENT BENEFITS AND TERMS**

The parties have agreed to settle the case on behalf of all affected individuals for \$3,750,000. Subject to Court approval, this amount shall be divided as follows:

- (1) Up to 1/3 (\$1,250,000) in attorneys’ fees for Class Counsel.
- (2) Amounts of up to a total of \$45,000 to the named plaintiffs in this case (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) for their service as named plaintiffs in the case and for the resolution of their individual claims against Defendants.
- (3) Amounts of up to a total of \$19,000 to individuals who filed early opt-in consent forms to join this action (\$2,000 each to the Opt-In Plaintiffs who submit claims to

participate in the Settlement and who participated in discovery – Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal--and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery – Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown, Shannon Powell, Walter Clark III, and Valerie Andrews) for their service in this case.

- (4) Up to \$200,000 for the costs of claim and settlement administration and Class Counsel's reasonable litigation costs.
- (5) A dispute fund of \$100,000 to resolve disputes and reasonable late claims and to pay the employer's share of payroll taxes on amounts to be paid as W2 wages.
- (6) The remaining amount (at least \$2,136,000) to be distributed to claiming class members.

The amount for claiming class members shall be divided among the claims as follows:

- (1) **Company Driver Orientation Claim:** \$125,000 will be distributed among individuals who attended TransAm company driver orientation in Rockwall, Texas or Tampa, Florida between October 2020 and March 2021. This amount will be divided equally among all eligible individuals who submit timely and valid claim forms. The minimum payment that eligible individuals can expect to receive from this claim is \$35.
- (2) **Lease Driver Minimum Wage Claim:** \$700,000 will be distributed among individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.00 per week as a lease driver for TransAm since September 29, 2020.
- (3) **Truth-in-Leasing Claim:** \$1,311,000 will be distributed among individuals who have been subject to an independent contractor agreement with TransAm since February 2017 and have had charges or deductions made from their compensation. The minimum payment that eligible individuals can expect to receive from this claim will be \$8.75 per week as a lease driver for TransAm since February 1, 2017.

These amounts will be distributed in full to claiming class members. No amount shall revert to the Defendants. Amounts that are not claimed shall be redistributed to those class members who do submit claim forms.

The Court has ultimate authority to accept, reject, or modify the attorneys' fees, the additional amounts for the named plaintiffs, and the award of costs, and the settlement is not contingent on the Court's approval of the amounts requested for those items. Any amounts that the Court does not award in attorneys' fees, additional amounts for the named plaintiffs, and/or costs will be reallocated to be distributed to claiming class members.

One-half of any portion of your settlement payment that is attributable to the Company Driver Orientation Claim, and/or the Lease Driver Minimum Wage Claim shall be considered wages and shall be subject to the withholding of all applicable local, state, and federal taxes, and reported on an IRS Form W-2. Any remaining payments are considered compensation for the Truth-in-Leasing Claim and/or interest, penalties and liquidated damages, and will not be subject to payroll withholdings, and will be reported on an IRS Form 1099.

Please consult with your accountant or other tax advisor regarding the tax consequences of the settlement, including the non-monetary relief provided pursuant to the settlement, which is described below. No attorneys involved in this settlement can provide you with tax advice.

#### **SECTION 4: RELEASE OF CLAIMS**

##### **Class Member Release**

If you are eligible and participate in the settlement by submitting a claim form , or you do not submit a request for exclusion from the settlement as to the Truth-in-Leasing Claim (as described in more detail in Section 5, below), then, as part of this settlement (subject to Court approval), you will release the following claims against TransAm Trucking, Inc., Olathe Noble Equipment Leasing, Inc. (a/k/a ONE Leasing), and Jacobson Holdings:

All claims that were brought on behalf of the classes of which you are a part in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB. There are seven claims in the Third Amended Complaint which are covered by this release, specifically: (1) Count 1: a claim that TransAm should have paid at least the federal minimum wage for all time spent in orientation in Rockwall, Texas and/or Tampa, Florida under the federal Fair Labor Standards Act; (2) Count 2: a claim that TransAm should have paid at least the Florida minimum wage for all time spent in orientation in Tampa, Florida under the

federal Florida Minimum Wage Act; (3) Count 3: a claim that Defendants violated the Kansas Consumer Protection Act in their representations and actions relating to lease drivers; (4) Count 4: a claim that Defendants have violated the Kansas Wage Payment Act in connection with their classification and compensation of lease drivers; (5) Count 5: a claim that Defendants have violated the Fair Labor Standards Act in connection with their classification and compensation of lease drivers; (6) Count 6: a claim that Defendants have violated the Fair Labor Standards Act in connection with their compensation of company drivers; (7) Count 7: a claim that Defendants have violated the federal Truth-in-Leasing regulations in connection with their lease agreements, deductions from compensation, and treatment of escrow funds as to lease drivers.

A copy of the Third Amended Complaint is available [here](#) and/or by contacting the Settlement Administrator at the contact information in Section 7 below. You may also contact Class Counsel (contact information in Section 8 below) for more information about the scope of claims in this case.

If you are not part of any class or collective (including if you do not opt in to the Company Driver Orientation Claim and/or the Lease Driver Minimum Wage Claim), then this release would not cover those claims. All persons who submit a valid request for exclusion from the settlement for the Truth-in-Leasing Claim are not bound by this release.

## SECTION 5: YOUR OPTIONS

If you are receiving this Notice, you have the following options:

(1) **Submit a Claim Form:** If you wish to receive your settlement payment, you must submit a claim form no later than **[60 days from mailing]**.

You may submit your Claim Form by visiting the Settlement Administrator's website at [www.transamsettlement.com](http://www.transamsettlement.com) and clicking on "File a Claim" in the banner at the top of the webpage. You may also submit your Form to the Settlement Administrator via mail, email, or facsimile. The Settlement Administrator's contact information is in Section 7 below (and is also available on the website, [www.transamsettlement.com/contact](http://www.transamsettlement.com/contact)).

Your signed Form must be submitted electronically or by facsimile or postmarked by **[60 days from mailing]**.

(2) **Do nothing:** If you do nothing, your right to pursue the Truth-in-Leasing Claim will be released (meaning you cannot pursue those claims), but you will not receive a

monetary payment from the settlement. You will not be releasing the Company Driver Orientation Claim or the Lease Driver Minimum Wage Claim. However, there are deadlines for filing those claims, and the deadline for you to file such a claim (outside of this settlement) may have expired.

(3) **Exclude yourself from the settlement:** If you wish to be excluded from the settlement as to the Truth-in-Leasing Claim, you must send a request to be excluded from the class to the Settlement Administrator. To be effective, the request for exclusion must include: (i) your full name, address, email address, and telephone number; (ii) a statement that you request to be excluded from the settlement and understand that you will not be eligible to recover any money as part of the settlement; and (iii) your signature and the date. Requests for exclusion must be sent to the Settlement Administrator at the address set forth above and in Section 7 by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**. **If you exclude yourself from the settlement, you will not receive any monies from the settlement.**

(4) **Object to the settlement:** You may object to the settlement. If you object and the settlement is approved, you will release all claims as described in Section 4, above, as applicable to you. If you intend to object, you may, but need not, enter an appearance through counsel of your choice. If you do, you will be responsible for your own attorneys' fees and costs.

Any objection to the settlement must include: (i) your full name, address, email address, and telephone number; (ii) a written statement of all grounds for the objection; (iii) a statement whether you intend to appear at the Final Fairness Hearing; and (iv) your signature and the date. If you intend to appear at the Final Fairness Hearing through counsel, the objection must also state the identity of all attorneys representing you who will appear at the Final Fairness Hearing. Objections must be sent to the Settlement Administrator at the address set forth above and in Section 7, below, by mail, email, or facsimile, and must be submitted or postmarked by **[60 days from mailing]**.

Settlement Class Members who do not timely make their objections in this manner will be deemed to have waived all objections and shall not be heard or have the right to appeal approval of the settlement. If you object to the settlement but would like to receive the full amount to which you are entitled if your objection is overruled by the Court, then you **must** submit a Claim Form in addition to your objection no later than **[60 days from mailing]**. If you submit an objection but do not submit a Claim Form and your objection is overruled, then you will not receive a monetary payment from the settlement.

*Please note that it is unlawful for any of the Defendants to take any action against you for participating in this lawsuit. The claims process is confidential and your co-workers and managers will not know whether you joined the settlement, nor will that information be publicly available unless otherwise required by a court order.*

## SECTION 6: COURT APPROVAL PROCESS

The Court has preliminarily approved the settlement and has scheduled a Final Approval Hearing to take place before the Honorable John W. Broomes, in the United States District Court for the District of Kansas on \_\_\_\_\_ day, [insert date], at [time] Central Time in Courtroom 238 at 401 North Market, Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as additional amounts to the named plaintiffs. To confirm that the hearing is going forward on the scheduled date and time and/or to inquire about appearing at the hearing by telephone or video conference, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below).

Class Counsel will file a motion for attorneys' fees and costs by [insert date 2 weeks before final fairness hearing]. If you would like to receive a copy of that motion, please contact the Settlement Administrator or Class Counsel (contact information in Sections 7 and 8, below) after that date.

## SECTION 7: QUESTIONS ABOUT THIS NOTICE

If you have any questions regarding this Notice, you can contact the Settlement Administrator tollfree at [insert telephone number], by text at [insert text number], or via email at [info@transamsettlement.com](mailto:info@transamsettlement.com). The full contact information for the Settlement Administrator is:

TransAm Settlement Administrator

[insert address]

Telephone: [insert]

Fax: [insert]

Email: [info@transamsettlement.com](mailto:info@transamsettlement.com)

You may also visit [www.transamsettlement.com](http://www.transamsettlement.com) for more information.

## SECTION 8: CLASS COUNSEL

Participating class members will be represented by the following attorneys, who have been appointed by the Court to represent the drivers as Class Counsel.

Contact information for Class Counsel is:

Hillary Schwab, Esq.

Rachel Smit, Esq.

Brant Casavant, Esq.

Fair Work, P.C.

192 South Street, Suite 450

Boston, MA 02116

Email: [hillary@fairworklaw.com](mailto:hillary@fairworklaw.com)

Telephone (call/text): [add]

Brendan J. Donelon, Esq.

Donelon, P.C.

4600 Madison, Suite 810

Kansas City, MO 64112

**CLAIM FORM AND RELEASE OF CLAIMS**

I understand that I am a member of the class(es) identified in the Notice of Settlement I received, described in more detail in the Notice of Settlement: (the Company Driver Orientation Claim; and/or the Lease Driver Minimum Wage Claim; and/or the Truth-in-Leasing Claim). I further understand that I can contact the TransAm Settlement Administrator (contact information in Section 7 of the Notice) for more information about the class(es) I am part of.

I hereby consent to participate in this settlement pursuant to the FLSA, 29 U.S.C. § 201, et seq. and Fed. R. Civ. P. 23 and receive a monetary payment as to these claims. I understand that, by participating in the settlement, I am releasing all claims that have been brought in the Third Amended Complaint filed in this case, *Kirk Roberts, et al. v. TransAm Trucking, Inc. et al.*, D. Kan. Civil Action No. 2:21-cv-02073-JWB-GEB.

I hereby designate Class Counsel (as identified in Section 8 of the Notice) as my attorneys for all purposes in connection with this case, including the settlement.

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

-----  
*NOTE: This Lower Portion Will Not Be Filed with the Court*

Phone Number: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Email Address: \_\_\_\_\_

*Please contact the Settlement Administrator at [info@transamsettlement.com](mailto:info@transamsettlement.com)  
or [insert telephone number] if your contact information changes.*

**Exhibit B**  
**Proposed Order**



- a. **The FLSA orientation collective:** All individuals who attended company driver orientation in Rockwall, Texas or in Tampa, Florida between October 2020 and March 2021; and
- b. **The FLSA lease driver collective:** All individuals who have personally driven for TransAm subject to an independent contractor agreement with TransAm that they themselves signed while leasing a truck from ONE Leasing since September 29, 2020; and
- c. **The Rule 23 Truth-in-Leasing class:** All individuals who have been subject to an independent contractor agreement with TransAm and/or a lease agreement with ONE Leasing since February 2017 and have: (i) had fuel surcharge deductions taken from their compensation; and/or (ii) have had physical damage insurance deductions taken from their compensation in excess of the amounts listed in their contracts; and/or (iii) have had other charges or deductions made from their compensation in excess of the amounts listed in their contracts as alleged in the Lawsuit.

2. For purposes of this settlement only, the Settlement Classes/Collectives are preliminarily certified, and all Settlement Class Members shall have the right to file claim forms to participate in the settlement, to object to the settlement, and to exclude themselves from the settlement through the procedures set forth in the Parties' Settlement Agreement.

3. This Court finds that the Settlement Agreement is fair, reasonable, and adequate, and within the range of possible approval, subject to further consideration at the Final Fairness Hearing as set forth below in Paragraph 6, *infra*.

4. The Court preliminary approves Atticus Administration, LLC as Settlement Administrator and preliminarily approves the costs of the claims administration.

5. Court preliminary approves Class Counsel's request for attorneys' fees and costs and the named plaintiffs' and early opt-in plaintiffs' requests for service awards.

6. This Court finds that the Notices of Proposed Class Action Settlement, attached to the Settlement Agreement as Exhibits 1 through 4, satisfy the requirements of due process and the Federal Rules of Civil Procedure, constitute the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Court approves the form and content of the Notices and Claim Forms.

7. The Court approves the distribution formula and claim procedure set forth in the Settlement Agreement, the Notices, and in Plaintiffs' Memorandum in support of their Motion for Preliminary Settlement Approval.

8. The Court authorizes the Settlement Administrator to mail the approved Notice of Settlement.

9. The Court approves the proposed schedule and procedure for completing the final approval process as set forth in the Settlement Agreement and in Plaintiffs' Memorandum in support of their Motion for Preliminary Settlement Approval.

10. The Final Fairness Hearing shall take place before the Honorable John W. Broomes on \_\_\_ day, \_\_\_\_\_, 2024, at \_\_:\_\_.m. at the United States District Court for the District of Kansas in Courtroom 238 of the United States District Court at 401 North Market Street, in Wichita, Kansas 67202. The purpose of the hearing is for the Court to decide whether the proposed settlement is fair, reasonable, and adequate as to the Class and should be approved and, if so, to determine what amount of attorneys' fees and expenses should be awarded to Class Counsel and what amount should be awarded as service awards to the Named Plaintiffs and early opt-in plaintiffs. The Court will also hear and consider any properly lodged objections at that

time. If the Final Fairness Hearing is conducted via videoconference, then information about how to participate in the videoconference hearing shall be available by contacting the Court.

ENTERED this \_\_\_\_ day of \_\_\_\_\_, 2024.

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The Honorable John W. Broomes

# **Exhibit C**

Declaration of  
Hillary Schwab

**UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS**

KIRK ROBERTS, FARAJI ARTURO	)	
COUNCIL, TERRENCE	)	
COLVIN-WILLIAMS, REGINALD	)	
BRADLEY, DAVID COLEMAN, and	)	
CARL McROBERTS, JR., on behalf of	)	
themselves and all others similarly situated,	)	
	)	
Plaintiffs,	)	Civil Action No.
	)	2:21-cv-02073-JWB-GEB
v.	)	
	)	
TRANSAM TRUCKING, INC.,	)	
OLATHE NOBLE EQUIPMENT	)	
LEASING, INC., and JACOBSON	)	
HOLDINGS, INC.,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF HILLARY SCHWAB, ESQ. IN SUPPORT OF PLAINTIFFS’  
UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT**

I, Hillary Schwab, hereby declare as follows:

1. I am lead attorney for Plaintiffs in this matter. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Approval of Settlement. This Declaration is based on my personal knowledge.
  
2. A true and correct copy of the fully executed Stipulation of Settlement Agreement and Release (aka the “Settlement Agreement”) is attached to Plaintiffs’ Motion for Preliminary Approval of Settlement as Exhibit A. The Notices of Proposed Class Action Settlement (“Notice”) are attached to the Settlement Agreement as Exhibits 1 through 4.

**I. QUALIFICATIONS, EXPERIENCE, AND EXPERTISE OF CLASS COUNSEL.**

3. I founded Fair Work, P.C. in 2013 with my colleague Stephen Churchill. Prior to forming Fair Work, I was a partner at a nationally recognized employee rights law firm, Lichten & Liss-Riordan P.C., and at Pyle, Rome, Lichten, Ehrenberg, & Liss-Riordan, P.C., a Boston-area labor and employment firm.

4. For the past 17+ years, I have worked exclusively as a plaintiff-side attorney representing employees in a variety of contexts but focusing primarily on class and collective action litigation.

5. Earlier in my career, I clerked for the Honorable Robert P. Patterson, Jr., at the United States District Court for the Southern District of New York, and for the Honorable Leonard I. Garth at the United States Court of Appeals for the Third Circuit. I also worked as a Blackmun Fellowship Attorney at the Center for Reproductive Rights and as an Assistant Attorney General at the Wisconsin Department of Justice.

6. Over the course of my legal career, I have successfully represented employees in numerous cases at all levels of the state and federal judiciary, including before the United States Supreme Court in *New Prime, Inc. v. Oliveira*, 139 S. Ct. 532 (2019), before the Massachusetts Supreme Judicial Court in *DeWeese-Boyd v. Gordon College*, 487 Mass. 31 (2021), and before the United States Court of Appeals for the First Circuit in *Montoya v. CRST Expedited, Inc.*, 88 F. 4<sup>th</sup> 309 (1<sup>st</sup> Cir. 2023).

7. Over the past eleven years, I have been appointed class counsel or co-counsel in numerous wage and employment actions, including (*inter alia*): *Cormier v. Landry's Seafood House-North Carolina, Inc.*, D. Mass. Case No. 1:13-cv-11822; *Chebotnikov v. LimoLink, Inc.*, 2017 WL 2909808 (D. Mass. Jul. 6, 2017); *Gefrich v. Deep Ellum, Inc.*, D. Mass. Case No. 1:14-

cv-10568; *Sennott v. Gordon Food Service, Inc.*, D. Mass. Case No. 1:14-cv-11402; *Vargas v. National DCP, LLC*, D. Mass. Case No. 1:15-cv-12829; *Montoya v. CRST Expedited, Inc.*, D. Mass. Case No. 1:16-cv-10095.

8. In addition to my work in Massachusetts, I have successfully represented workers in cases in other parts of the United States and have been appointed as class counsel in cases in Florida, Illinois, and Missouri, among others. *See, e.g., Nyachira v. New Prime, Inc.*, 2022 WL 19239768 (W.D. Mo. Nov. 7, 2022) (granting class certification on truckers' Missouri wage claims); *Nyachira v. New Prime, Inc.*, 2022 WL 19263987 (W.D. Mo. Oct. 31, 2022) (granting conditional certification of truck drivers' FLSA claims); *Haworth v. New Prime, Inc.*, 448 F. Supp. 3d 1060 (W.D. Mo. 2020) (conditionally certifying nationwide FLSA collective action on behalf of truck drivers); *Griffith v. Landry's, Inc.*, 2017 WL 11002193 (M.D. Fl. Jan. 30, 2017) (certifying state-wide class of wait staff employees); *Barreda v. Prospect Airport Services, Inc.*, 2008 WL 7431262 (N.D. Ill. Sept. 29, 2008) (certifying FLSA collective action of skycaps).

9. I have successfully resolved dozens of wage cases on a class and collective action basis, in the process recovering (by my best estimate) tens of millions in damages for aggrieved workers. *See, e.g., Jackson v. Western Flyer Express, Inc.*, W.D. Okla. Case No. 5:22-cv-00068-J; *Montoya v. CRST Expedited, Inc.*, D. Mass. Case No. 16-10095; *Oliveira v. New Prime, Inc.*, D. Mass. Case No. 15-10603; *Dvornikov v. Landry's, Inc.*, D. Mass. Case No. 15-13286; *Rosano v. TPG Hospitality, Inc.*, D. Mass. Case No. 15-13645; *Homer v. Del Frisco's of Boston, LLC*, D. Mass. Case No. 15-13958; *Wall v. Air Ventures, LLC*, Suffolk Case No. 19-2458; *Reilly v. The Convertible Castle, Inc., d/b/a Bernie & Phyl's Furniture*, Bristol Case No. 19-00449; *Morin v. Boxborough Regency LLC*, Middlesex Case No. 18-3514; *Wall v. BL Restaurant Operations, LLC*, Suffolk Case No. 18-00026; *Costello v. City Tap House Fort Point, LLC*, Suffolk Case No.

18-0098; *Frost v. Malden/Dockside, Inc.*, Suffolk Case No. 17-2204; *Sennott v. Gordon Food Services, Inc.*, D. Mass. Case No. 14-11402; *Yarpah v. Bowden Hospitality Newton, LLC*, Suffolk Case No. 16-2746; *Johnson v. Legal Sea Foods, LLC*, Suffolk Case No. 15-0678; *Clark v. Legal Sea Foods, LLC*, Suffolk Case No. 14-1026; *Cormier v. Landry's, Inc.*, D. Mass. Case No. 13-11822; *Lumpkin v. George Best, Inc.*, Suffolk Case No. 15-2908; *Zawadzki v. Craigie Bistrot LLC*, Middlesex Case No. 13-4608; *LaPlante v. Foco, Inc.*, Worcester Case No. 13-1184; *Crenshaw v. Texas Roadhouse, Inc.*, D. Mass. Case No. 11-10549; *Gibson v. South Bay Mental Health Center, Inc.*, Suffolk Case No. 12-3637; *Reynolds v. Oznemoc, Inc.*, Suffolk Case No. 10-2003; *Oyola v. Idexx Laboratories, Inc.*, Worcester Case 10-1023; *DiIorio v. The Ritz-Carlton Hotel Company, LLC*, Suffolk Case No. 07-0131; *Godt v. Anthony's Pier Four, Inc.*, Suffolk Case No. 07-3919; and *Williams v. Hard Rock Café International, Inc.*, Suffolk Case No. 08-1783.

10. I have spoken on numerous panels and at several conferences concerning employment matters. These include speaking at the National Employment Lawyers Association's Wage and Hour Seminar in 2017; serving as a panelist at the Robert Fuchs Labor Conference in 2015 and 2021; and speaking on numerous other panels hosted by the National Consumer Law Center, the Massachusetts Bar Association, MCLE New England, and the Boston Bar Association, among others.

11. My colleagues have similarly dedicated their professional practices to representing workers, including truck drivers, in wage and hour and other employment-related cases.

12. Rachel Smit, Esq. graduated *magna cum laude* from Carleton College in 1999 with a degree in Sociology/Anthropology, received a Master in Public Affairs with a

concentration in economics and public policy from Princeton University in 2007, and graduated *magna cum laude* from Boston University School of Law in 2013, where she received the Warren S. Gilford Humanity and Law Prize for commitment to public service. During her first two years of practice, she was funded by the Skadden Fellowship Foundation to represent employees in cases of wage theft as an attorney with the Employment Law Unit at Greater Boston Legal Services. Attorney Smit has worked closely with me at Fair Work, P.C. on numerous class actions, including *Oliveira v. New Prime, Inc.* She served as class counsel in the following cases that were either certified as class actions under a federal or state Rule 23 standard, or conditionally certified as collective actions under the Fair Labor Standards Act: *Gonzalez v. XPO Last Mile, Inc.*, 2022 WL 95930 (D. Mass. Jan. 10, 2022); *Montoya v. CRST Expedited, Inc.*, 311 F. Supp. 3d 411 (D. Mass. 2018); *Lichy v. Centerline Commc'ns LLC*, 2018 WL 1524534 (D. Mass. Mar. 28, 2018); *Chebotnikov v. LimoLink, Inc.*, 2017 WL 2909808 (D. Mass. Jul. 6, 2017); Memorandum of Decision and Order on Plaintiffs' Motion to Certify Class, *Jackson v. Sons of Divine Providence, Inc.*, Suffolk Superior Court, Civil Action No. 16-02910 (Jun. 18, 2019); and Memorandum of Decision and Order on Plaintiffs' Motion for Class Certification, *Bodkin v. Centerline Commc'ns LLC*, Plymouth Superior Court, Civil Action No. 15-00265 (Feb. 13, 2017).

13. Brant Casavant is a 2008 graduate of Northeastern University School of Law. He has focused his practice almost exclusively on wage and hour class action litigation. Most recently, Attorney Casavant successfully represented a class of 250 sales employees before the Massachusetts Supreme Judicial Court, which affirmed an \$8 million judgment on their behalf. See *Sutton v. Jordan's Furniture, Inc.*, SJC No. 13382 (Mar. 28, 2024). His substantial experience has led other courts to conclude that he is adequate class counsel. See *Dvornikov*,

2017 WL 1217110, at \*11 (Attorney Casavant was “clearly qualified, experienced, and able to undertake this litigation”); *Levi v. Gulliver’s Tavern, Inc.*, 2018 WL 10149710, at \*8-\*9 (D.R.I. April 23, 2018) (Attorney Casavant “has experience with numerous class action cases based on similar claims, and there is no conflict of interest apparent from the record”); *Goldberg v. EF Education First, Inc.*, 2017 WL 4400028, at \*9 n.3 (“Plaintiff’s counsel are well-versed in class litigation and are adequate to serve as class counsel”); *Sutton v. Jordan’s Furniture, Inc.*, 2020 WL 13042078, at \*2 (Mass. Super. Dec. 21, 2020).

14. Brendan J. Donelon, Esq. has significant experience in litigating FLSA wage and hour cases across the country and enjoys an impeccable reputation for success and specialization in this area of law. Donelon has 25 years of legal experience and has served as lead class counsel in dozens of FLSA and Rule 23 class actions. Donelon, P.C. has recovered in excess of \$110 million dollars on behalf of wage and hour class members. He is one of few attorneys to actually try several wage and hour class cases before juries. He has been recognized as *Super Lawyer* for several consecutive years via Thomson Reuters’ peer review. Mr. Donelon was recently recognized by *The Missouri Lawyers’ Weekly* on its “The Power List — Power 30 — Employment Law.”

## **II. CASE SUMMARY AND PROCEDURAL HISTORY.**

15. Discovery in this case has been extensive. Plaintiffs issued 40 interrogatories and 133 document requests to Defendants, in response to which Defendants produced more than 103,644 pages of documents and data. Defendants issued interrogatories and document requests to the six named plaintiffs, in response to which Plaintiffs produced more than 1,000 pages of documents.

16. Additionally, Plaintiffs issued document subpoenas to eight third parties, and received almost 30,000 pages of documents and data in response. The subpoenaed documents included insurance documents cited extensively in Plaintiffs' summary judgment briefing.

17. Plaintiffs took 30(b)(6) depositions of TransAm and ONE Leasing over the course of two days in November 2021, in addition to nine individual depositions in early 2022 and seven individual depositions in late 2022. Defendants took the depositions of the six named plaintiffs in 2021 and seven of the opt-in plaintiffs in 2022. Plaintiffs also took the deposition of Defendants' expert in October 2022, and Defendants took the deposition of Plaintiffs' expert in September 2022.

18. Both parties retained expert witnesses who produced reports on issues relating to class/collective certification and summary judgment, and those expert witnesses sat for depositions.

19. The parties' submissions on Plaintiffs' class and collective certification motions and the parties' cross-motions for partial summary judgment were voluminous. In addition to the filing of motions, memoranda, oppositions, and reply briefs on all motions, each side submitted more than 100 exhibits in support of their briefing.

20. After the Court issued its decision, defining the contours of the collectives/classes involved and the viable claims, the parties agreed to engage in settlement negotiations. To that end, Plaintiffs identified numerous data sets that they would need in order to calculate potential damages, and Defendants produced those data sets, as well as class lists for the certified classes and collectives. Defendants produced approximately ten spreadsheets with hundreds of thousands of lines of data. Over the several months between the Court's decision and the mediation scheduled for January 2024, the parties worked cooperatively to resolve questions

about this data. Plaintiffs' counsel used the data produced by Defendants, as well as the extensive discovery that had already been produced, to calculate potential damages and assess likelihood of success on each of the remaining claims. Plaintiffs' counsel also consulted with an expert witness in determining potential exposure.

21. On January 31, 2024, the parties attended a full-day mediation with mediator John Phillips, Esq. of Jay Daugherty Mediation & Arbitration in Kansas City, Missouri. The parties reached a proposed settlement at that mediation, which was later memorialized in the Settlement Agreement attached to Plaintiffs' Motion as Exhibit A.

### **III. THE PROPOSED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE.**

22. This action has been pending for over three years. During this time, the parties have litigated the case extensively, including more than thirty depositions, exchange of over 100,000 of pages of written discovery, and at least five contested motions, including cross-motions for summary judgment and collective and class action certification motions.

23. Once the Court issued its detailed decision on summary judgment and class/collective certification, the parties had a clear understanding of the contours of the case and were in a position to negotiate effectively on behalf of the classes/collectives.

24. They then engaged in settlement-related discovery and several months of back-and-forth to ensure that all necessary data was exchanged, and then a full-day mediation session with an experienced mediator. The negotiation process was exhaustive and hard-fought.

25. This settlement is a product of serious, informed, and non-collusive negotiations among experienced counsel and the mediator and warrants preliminary approval.

26. Numerous serious questions of law and fact exist in this action, all of which are the subject of considerable risk if this case were to continue to be litigated.

27. Some of the risks specific to this case include: (1) on the orientation claim, proving compensable hours worked; (2) on the lease driver FLSA claim, proving that the drivers were misclassified as independent contractors under the FLSA's multi-factor economic reality test; (3) proving unpaid minimum wages/damages for the lease driver FLSA claim; (3) risks relating to the ascertainment and quantification of damages for Plaintiffs' TIL claims, *see, e.g., Fox v. TransAm Leasing, Inc.*, 839 F.3d 1209, 1219 (10<sup>th</sup> Cir. 2016) (truck drivers could not recover for TIL violation because they failed to prove actual damages); (4) the potential that one or more of the classes/collectives might be decertified, *see, e.g., Blair v. TransAm Trucking, Inc.*, 309 F. Supp. 3d 977 (D. Kan. 2018) (decertifying FLSA collective of TransAm lease drivers).

28. Also, as with any FLSA collective action, there is the potential for a low opt-in rate, as well as potentially burdensome opt-in and class discovery.

29. These are serious questions of law and fact that create great uncertainty in Class Members' ability to recover.

30. This settlement represents not only a meaningful, immediate recovery for the Class, but also one without any risk or additional expenses of further litigation.

31. This benefit must be considered to the risk that the Class may recover nothing after certification proceedings, summary adjudication, appeals, contested trial, and most likely, further appeals, many years into the future, or that litigation would deplete funds available to satisfy a judgment.

32. Class Counsel and Defendants' counsel – law firms with great experience in complex class litigation, particularly in truck driver cases – have agreed to settle this Action after serious arms-length negotiation, extensive exchange of discovery, and many months of discussions.

33. Class Counsel believes that the settlement amount is fair and reasonable in light of their extensive investigation, motion practice, the risks of continued litigation, and their overall experience.

34. Plaintiffs and Class Counsel further recognize the great expense and length of proceedings necessary to continue this litigation against Defendants through class and collective notice, class and opt-in discovery, decertification motions, further expert designations and discovery, trial, and inevitable appeals.

35. Based on Class Counsel's estimates, the Gross Settlement Amount of \$800,000.00 represents a significant portion of the total calculated exposure at trial, especially in light of the risks discussed *supra*.

36. There are many ways to calculate economic damages in these types of cases, and all of them would likely have been the subject of substantial and costly economic expert discovery. Class Counsel estimates that Defendants' maximum likely potential single damages for the claims on which the Court granted collective and/or class certification is approximately \$3,780,000. On the TIL claims which the Court did not certify but also did not dismiss on summary judgment (specifically, those relating to required physical damage insurance and escrow accounts), the potential likely exposure on a classwide basis would be significantly higher, approximately \$10 million. However, obtaining such a result would require both a reconsideration by the Court of its decision to deny class certification and success on the merits and a determination of actual damages for those claims. Because of the risks and the uncertainty of potential recovery, in addition to the necessary delays were this case to be litigated to conclusion, the proposed settlement of \$3,750,000.00 is a reasonable percentage of the best case scenario.

37. Given the risks, delays, and uncertainty inherent in continued litigation, Plaintiffs and Class Counsel believe that the settlement is fair and reasonable to avoid the cost and uncertainty of continuing litigation.

#### **V. SERVICE AWARDS**

38. The requested service awards for the Named Plaintiffs (\$15,000 for named plaintiff Kirk Roberts, \$10,000 for named plaintiff Terrence Colvin-Williams, and \$5,000 each for named plaintiffs Reginald Bradley, Faraji Arturo Council, David Coleman, Carl McRoberts Jr.) are intended to compensate them for the critical role they played in this case, and the time, effort, and risks they undertook in helping secure the result obtained on behalf of the Collective/Class Members.

39. In agreeing to serve as Class representatives, the Named Plaintiffs formally agreed to accept the responsibilities of representing the interests of all Collective/Class Members.

40. Additionally, the Named Plaintiffs participated actively in case development, drafting of pleadings, discovery, and preparation for and attendance at mediation and other settlement negotiations.

41. Similarly, the requested service awards for early opt-in plaintiffs (\$2,000 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who participated in discovery—Roberto Texeira, Nasiir Truitt, Timothy Jarman, Dimetrius Jones, Carlton Baker, Cecil Brown, and Frederick Neal—and \$500 each to the Opt-In Plaintiffs who submit claims to participate in the Settlement and who were not required to respond to discovery—Deshawnta Wright, Daryl Salmon, Dennis Hubbard, Johnnie Otis, Darin Rucker, Brian Lester, Roy Brown,

Shannon Powell, Walter Clark III, and Valerie Andrews) are intended to compensate them for the work they did in furtherance of the claims in this case.

42. The requested service awards are reasonable and consistent with the jurisprudence in this jurisdiction regarding the range of and basis for service awards.

In re EpiPen (Epinephrine Injection, USP) Mktg., Sales Pracs. & Antitrust Litig., No. 17-MD-2785-DDC-TJJ, 2022 WL 2663873, at \*6 (D. Kan. July 11, 2022) (“Empirical evidence shows that incentive awards are now paid in most class suits and average between \$10,000 to \$15,000 per class representative.”); *Harlow v. Sprint Nextel Corp.*, No. CV 08-2222-KHV, 2018 WL 2568044, at \*7 (D. Kan. June 4, 2018) (approving \$7,500 service payments to each of four named plaintiffs, noting that “[s]ervice payments induce individuals to become class representatives and reward them for time sacrificed and personal risk incurred on behalf of the class” and that plaintiffs had “expended significant time meeting with class counsel, reviewing case filings, producing documents, responding to written discovery, preparing for and attending depositions and assisting counsel” and had “incurred significant risk by opposing their former or current employer”); *In re Universal Serv. Fund Tel. Billing Pracs. Litig.*, No. 02-MD-1468-JWL, 2011 WL 1808038, at \*2 (D. Kan. May 12, 2011) (granting incentive award of \$10,000 as “reasonable and appropriate” where named plaintiff “actively participated in the litigation by producing numerous documents, preparing for and submitting to a deposition, consulting with counsel,” etc.).

## **VI. ATTORNEYS’ FEES AND COSTS.**

43. In their fee petition to be submitted with their final approval papers, Class Counsel will request up to 1/3 of the Gross Settlement Amount, (i.e., \$1,250,000), plus reasonable litigation costs, including the costs of claims administration, of up to \$200,000. Class

Counsel will submit a fee petition with their Motion for Final Settlement Approval, detailing why this standard one-third attorneys' fee award is fair reasonable, and adequate in this case. One-third of a global class fund is a standard fee request in the Tenth Circuit and this Court. *See e.g., Elston v. Horizon Glob. Americas, Inc.*, CV 19-2070-KHV, 2020 WL 6318660, at \*7 (D. Kan. Oct. 28, 2020) (In FLSA common fund settlement, the Court found, “[a] fee award of 38.6 per cent is within the range of around one-third of the settlement fund. For these reasons, the lodestar and percentage methods weigh in favor of finding the attorneys’ fees reasonable.”); *Foster v. Robert Brogden's Olathe Buick GMC, Inc.*, 17-2095-DDC-JPO, 2019 WL 6715470, at \*6 (D. Kan. Dec. 10, 2019) (finding a fee of 33% of common fund typical); *Hoffman v. Poulsen Pizza LLC*, 15-2640-DDC-KGG, 2017 WL 25386, at \*9 (D. Kan. Jan. 3, 2017) (approving attorneys’ fee of 33% of the common fund settlement in FLSA matter); *Koehler v. Freightquote.com, Inc.*, No. 12-2505-DDC-GLR, 2016 WL 3743098, at \*8 (D. Kan. July 13, 2016) (approving fee award equal to 33% of the common fund).

44. In this case, given the excellent results achieved, this standard one-third fee is warranted. There was no guarantee of compensation or reimbursement. Rather, counsel undertook all the risks of this litigation on a completely contingent fee basis, bearing all of the risks of the litigation. Additionally, the claims in this case are novel, and the result obtained is ensuring substantial relief to a large number of individuals.

45. Class Counsel respectfully submits that a one-third recovery for fees is modest and appropriate. The lodestar amount will increase with preparation of the final approval papers, preparation and attendance at remaining hearings, correspondence and communications with Class Members, and settlement administration and oversight.

46. Class Counsel also requests reimbursement for their litigation costs.

47. The fee and costs award should be preliminarily approved as fair and reasonable.

## **VII. THE NOTICE OF SETTLEMENT AND RELATED ADMINISTRATION.**

48. Here, the proposed Notices of Proposed Class Action Settlement (“Notice”), attached as Exhibits 1 through 4 to the Settlement Agreement, and manner of distribution negotiated and agreed upon by the Parties are “the best notice practicable.”

49. The Notice is written in plain and easily understood language and clearly, fairly, and concisely describe the nature of the Action, the definition of the Class, the Class claims and issues, that Class Members may object and appear personally or enter an appearance through an attorney if desired, that the Court will exclude from the Class any member who requests exclusion, the binding effect of a class judgment on the Class Members and the releases, Class Counsel’s contact information, the settlement Administrator’s contact information, the significant terms of the Settlement and the total amount Defendants have agreed to pay the Class, and the Court approval process, including Class Counsel’s request for attorneys’ fees and reasonable expenses, as well as for service awards on behalf of the named plaintiffs and early opt-in plaintiffs. *See* Settlement Agreement, Exs. 1-4.

50. The proposed Notice thus fairly apprises Class Members of the settlement’s terms, the schedule for future events and deadlines, and their legal rights in connection with the proceedings.

51. The plan for dissemination of the Notice is also fair, reasonable, and adequate. All Class Members have been identified, and the Notices will be sent to each Class Member via text, email, and/or first-class mail. Additionally, appropriate and reasonable efforts will be made by the Settlement Administrator to update the contact information in the database and to search for

any outdated addresses, and a settlement website will be available for Class Members to review all relevant settlement documents and contact information and submit claim forms.

52. The proposed plan for submission of claim forms is that individuals be permitted to submit claim forms to participate in the settlement on the settlement website, using secure electronic signatures, or via traditional methods of email, fax or mail. This plan is reasonable and assures that there will be no unreasonable barriers to class members participating in the settlement.

53. The content of the notice, the plan for its dissemination among class members, and the plan for submission of claim forms are all fair, reasonable, and adequate and supported by substantial precedent and should be approved by this Court.

I declare under penalty of perjury that the foregoing is true and correct and is based on my own personal knowledge.

Executed this 11th day of April, 2024, in Boston, Massachusetts.

/s/ Hillary Schwab  
Hillary Schwab