

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 12/08/14

DEPT. S27

HONORABLE ROSS M. KLEIN

JUDGE

L. HERNANDEZ
R. HICKMAN, CA

DEPUTY CLERK

HONORABLE
NON-APP

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

Deputy Sheriff

NONE

Reporter

1:30 pm

NS028839

Plaintiff
Counsel

NO APPEARANCES

TOTAL TRANSPORTATION SERVICES I
VS
MIGUEL ARMENTA ET AL
7-8-14 all 3 volumes(inc open v

Defendant
Counsel

NATURE OF PROCEEDINGS:

RULING ON SUBMITTED MATTER;

After submission, the Court signs the Order denying petition to compel arbitration and dismissing action as modified.

Moving Party is ordered to give notice.

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the
MINUTE ORDER - RULING ON SUBMITTED MATTER
upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in LONG BEACH, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: 12/8/14

Sherri R. Carter, Executive Officer/Clerk

<p align="center">MINUTES ENTERED 12/08/14 COUNTY CLERK</p>

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NATURE OF PROCEEDINGS:

By:


L. HERNANDEZ

BET TZEDEK LEGAL SERVICES
KEVIN KISH
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Superior Court Of California
County Of Los Angeles

DEC 08 2014

Sherril R. Carter, Executive Officer/Clerk
By Sherril R. Carter, Deputy
Lilian Hernandez

21 Attorneys for Respondents Jose Garcia, Hugo Menendez, Jose Palma, Jose Rosales, and Ruben
22 Valencia.

23 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

24 **COUNTY OF LOS ANGELES - SOUTH DISTRICT**

25 Case No.: NS028839

26 _____)
27 Total Transportation Services, Inc.,)
28)
29 *Petitioner,*)

30 v.)

31 Jose Armenta, Enrique Canisalez, Jose Garcia,)
32 Oscar Gonzales, Carlos Martinez, Hugo)
33 Menendez, Jose Palma, Alejandro Paz, Oscar)
34 Reyes, Jose Rosales, Walter Trujillo, Ruben)
35 Valencia, Jose Zetino, Manuel de Jesus)
36 Garay, and Julie A. Su, in her official capacity)
37 as the Labor Commissioner of the State of)
38 California,)

39 *Respondents.*)
40 _____)

**[PROPOSED] ORDER DENYING
PETITION TO COMPEL ARBITRATION
AND DISMISSING ACTION**

[Filed concurrently with Respondents'
Opposition; Declarations of Kevin Kish, Jose
Garcia, Hugo Menendez, Jose Palma, Jose
Rosales, Ruben Valencia, and Request for
Judicial Notice]

Complaint filed: May 7, 2014

Hearing: December 4, 2014, 8:30 am

Department: S27
Judge: Hon. Ross M. Klein

1 The Petition to Compel Arbitration of petitioner Total Transportation Services, Inc. came
2 on for hearing before this Court on December 4, 2014 at 8:30 a.m. before the Honorable Ross M.
3 Klein. After full consideration of this matter and all documents, briefing, pleading, evidence and
4 argument filed with the Court or presented at the hearing, the Court finds as follows:

- 5 1. Petitioner Total Transportation Services, Inc. cannot compel arbitration under the
6 Federal Arbitration Act (FAA), 9 U.S.C. § 1 *et seq.*, because the individual
7 respondents are transportation workers exempted from the FAA.
- 8 2. The arbitration agreements under which Petitioner Total Transportation Services, Inc.
9 seeks to compel arbitration do not require arbitration of statutory wage claims filed
10 with the Division of Labor Standards Enforcement.
- 11 3. Petitioner Total Transportation Services, Inc. cannot compel arbitration under the
12 California Arbitration Act (CAA), Cal. Code Civ. Proc. § 1280 *et seq.*, because the
13 waiver of the right to file statutory wage claims with the Division of Labor Standards
14 Enforcement is contrary to state policy and unenforceable.
- 15 4. Pursuant to California Labor Code § 229, Petitioner Total Transportation Services,
16 Inc. cannot compel arbitration of Respondents' claims for unpaid wages.
- 17 5. The arbitration agreements under which Petitioner Total Transportation Services, Inc.
18 seeks to compel arbitration are procedurally and substantively unconscionable and
19 cannot be enforced against respondents.

20 ~~6. Petitioner Total Transportation Services, Inc. has waived its right to seek arbitration~~
21 ~~under the agreements it seeks to enforce in this action.~~

R. Klein 12-8-14
6. The Court incorporates its
rulings on the evidentiary
objections.

22 7. Pursuant to Cal. Evidence Code §§ 452 and 453, the Court takes judicial notice of the
23 following documents for which respondents Garcia, Menendez, Palma, Rosales, and
24 Valencia requested judicial notice:

- 25 a. Notice of Ruling dated July 8, 2014 in *Pacific 9 Transp. Inc. v. Labor Comm'r of*
26 *the State of Cal.*, Los Angeles County Superior Court Case No. BC544496;

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- b. Order on Motion to Compel Arbitration dated June 23, 2014 in *Green Fleet Sys., LLC v. Labor Comm'r of the State of Cal.*, Los Angeles County Superior Court Case No. BS148377;
- c. American Arbitration Association (“AAA”) Standard Fee Schedule;
- d. AAA Commercial Arbitration Rules R-4(b), R-29, R-54, and R-55.

It is ORDERED that:

- 1. The petition of Total Transportation Services, Inc. to compel arbitration is denied.
- 2. The petition is dismissed in its entirety.

Dated: 12-8-14

JUDGE ROSS M. KLEIN

HON. ROSS M. KLEIN