

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Owner-Operator Independent Drivers  
Association, et al.,

Plaintiffs,

vs.

Swift Transportation Co., Inc. (AZ), et  
al.,

Defendants.

No. CV-02-1059-PHX-PGR

STIPULATED JUDGMENT

Pursuant to the parties' Joint Submission of Proposed Final Judgment  
(doc. #391),

IT IS ORDERED AND ADJUDGED as follows:

1. Pursuant to the Court's Order of September 27, 2007, the Court declares:
  - a. That defendant Swift Transportation Co., Inc. (AZ) violated 49 C.F.R. § 376.12(h) by failing to disclose to plaintiffs Marc Mayfield, Frank Belcher, David Hayes, Valerie Helton, and Gerald Webb prior to January 1, 2003 that certain of its deductions from their compensation for services and products it advanced to them were in excess of its costs;
  - b. That defendant Swift Transportation Co., Inc. (AZ) violated 49 C.F.R. § 376.12(k)(2) by failing to disclose in the performance bond requirement in its

1 contractor agreements with plaintiffs Marc Mayfield, Frank Belcher, David Hayes,  
2 Valerie Helton, and Gerald Webb prior to January 1, 2003, the specific items to  
3 which deductions from the bond could be applied.

4 2. Pursuant to the Court's September 27, 2007 Order, the following claims in  
5 Count I and/or Count II of the First Amended Class Action Complaint against  
6 defendant Swift Transportation Co., Inc. (AZ) are dismissed with prejudice:

7 a. That defendant Swift Transportation Co., Inc. (AZ) violated 49 C.F.R.  
8 § 376.12(h) with regard to the contractor agreements entered into with plaintiffs  
9 Frank Belcher and David Hayes on or after January 1, 2003;

10 b. That defendant Swift Transportation Co., Inc. (AZ), violated 49 C.F.R.  
11 § 376.12(i) with regard to its dealings with plaintiffs Marc Mayfield, Frank Belcher,  
12 David Hayes, Valerie Helton, and Gerald Webb;

13 c. That defendant Swift Transportation Co., Inc. (AZ) violated 49 C.F.R.  
14 § 376.12(k)(2) by making improper deductions from the escrow accounts of  
15 plaintiffs Marc Mayfield, Frank Belcher, David Hayes, Valerie Helton, and Gerald  
16 Webb, and violated 49 C.F.R. § 376.12(k)(6) by failing to timely return unused  
17 escrow accounts to those plaintiffs upon the termination of their contractor  
18 agreements;

19 d. That plaintiffs Marc Mayfield, Frank Belcher, David Hayes, Valerie  
20 Helton, and Gerald Webb are entitled monetary damages for any violations of the  
21 Truth-in-Leasing regulations by defendant Swift Transportation Co., Inc. (AZ);

22 e. That any named plaintiff or plaintiff Owner-Operator Independent  
23 Drivers Association, Inc. is entitled to injunctive relief stemming from any violation  
24 of the Truth-in-Leasing regulations by defendant Swift Transportation Co., Inc.  
25 (AZ).

1 3. Pursuant to the Court's September 15, 2009 Order, judgment is granted in  
2 favor of defendant Swift Transportation Co., Inc. on all plaintiffs' claims for  
3 restitution or disgorgement stemming from any violation of the Truth-in-Leasing  
4 regulations by defendant Swift Transportation Co., Inc. (AZ).

5 4. Pursuant to the Court's September 15, 2009 Order, any and all remaining  
6 claims set forth in the First Amended Class Action Complaint by plaintiffs Owner-  
7 Operator Independent Drivers Association, Inc., Marc Mayfield, Frank Belcher,  
8 David Hayes, David Rush, Valarie Helton, John Nunn, Sr., Roy Sparks, Olin  
9 Sparks, Paul Hawkins, and Frank Carter are dismissed with prejudice as to  
10 defendant Swift Transportation Co., Inc. (AZ).

11 5. Pursuant to the Court's September 27, 2007 Order, any and all claims set  
12 forth in Counts III and IV of the First Amended Class Action Complaint against  
13 defendant Swift Transportation Co., Inc. (AZ) and all claims in the First Amended  
14 Class Action Complaint against defendant Swift Transportation Co., Inc. (NV) not  
15 otherwise terminated with prejudice by the Stipulation of Dismissal of Counts III  
16 and IV of the First Amended Complaint are dismissed with prejudice.

17 6. Pursuant to the Court's October 10, 2008 Order, any and all claims set  
18 forth in the First Amended Class Action Complaint of plaintiffs David Hayes,  
19 David Rush, Valarie Helton, John Nunn, Sr., Roy Sparks, Olin Sparks, Paul  
20 Hawkins, and Frank Carter are dismissed with prejudice as to all defendants as  
21 set forth therein.

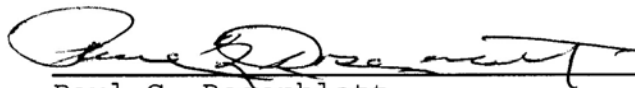
22 7. Pursuant to the Court's October 10, 2008 Order, any and all claims set  
23 forth in the First Amended Class Action Complaint against defendants M.S.  
24 Carriers, Inc. and M.S. Carriers Warehousing & Distribution, Inc. are dismissed  
25 with prejudice.  
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1 8. Pursuant to the Court's September 15, 2009 Order, any and all claims set  
2 forth in the First Amended Class Action Complaint by plaintiffs Wayne Bibicoff  
3 and Gerald Webb are dismissed as to all defendants with prejudice for lack of  
4 prosecution pursuant to Fed.R.Civ.P. 41(b).

5 9. The parties shall bear their own costs as enumerated in 28 U.S.C. § 1920.

6 10. Pursuant to Fed.R.Civ.P. 54(d), all proceedings concerning attorneys'  
7 fees under 49 U.S.C. § 14704(e) shall be deferred pending appeal. The parties  
8 shall provide the Court with a status report setting forth their position(s) regarding  
9 such attorneys' fees no later than sixty (60) days after resolution of all appellate  
10 proceedings.

11 DATED this 27<sup>th</sup> day of October, 2009.

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15 Paul G. Rosenblatt  
16 United States District Judge  
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