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TRANSPORTATION, LLC and the Putative Class

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 ELITE LOGISTICS
15 CORPORATION, NGL
TRANSPORTATION, LLC, and on
16 behalf of all others similarly situated,

17 Plaintiff,

18 v.

19 MOL (AMERICA), INC., and DOES
20 1-10,

21 Defendant.

22 MOL (AMERICA) INC. and MITSUI
O.S.K. LINES, LTD.,

23 Counterclaim Plaintiffs,

24 v.

25 ELITE LOGISTICS
CORPORATION, and ROES 1-10,

26 Counterclaim Defendant.
27
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Case No.: 2:11-cv-02952 DDP (PLAx)
Judge Assigned: Judge Dean D. Pregerson
Complaint Filed: April 7, 2011
Trial Date: None Set

**DECLARATION OF DAVID C. WRIGHT
RE NOTICE TO CLASS IN SUPPORT OF
PLAINTIFF'S MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT**

Hearing Date: Monday, April 26, 2021
Hearing Time: 10:00 a.m.
Courtroom: 9C

1 I, DAVID C. WRIGHT, declare and state as follows:

2 1. I am an attorney licensed to practice law before all of the courts of the State
3 of California and I am a partner with the law firm of McCune Wright Arevalo, LLP,
4 counsel of record for Plaintiff NGL Transportation, LLC, (“Plaintiff”). The following
5 facts are within my personal knowledge or based on records and files at my law firm,
6 and, if called upon as a witness, I could and would testify competently thereto.

7 2. As Class Counsel, I was authorized and directed to perform all settlement
8 administration duties set out in the Settlement Agreement, including providing Notice to
9 the class members and establishing, maintaining, and administering a website dedicated
10 to the Settlement which will provide information about the Settlement, including all
11 relevant documents, pursuant to the Court’s Order Granting Preliminary Approval of
12 Class Settlement (Order”), dated October 2, 2020. (Dkt No. 223.)

13 **SETTLEMENT NOTICE PROGRAM**

14 3. The elements of the Notice Program included Notice via email, Notice via
15 U.S. Mail, and a dedicated website on which the Notice has been posted.

16 **Notice to the Class**

17 4. Class Counsel identified 434 Class Members based upon the per diem
18 charge data provided by Defendant, as analyzed by Plaintiffs’ expert, Arthur Olsen.

19 5. Of the 434 Class Members, Class Counsel was able to identify current email
20 addresses for 302 class members. On February 24, 2021, Class Counsel emailed Notice
21 to those 302 Class Members. Of these, Class Counsel was unable to deliver a total of 77
22 Notices. Of these, a total of 20 Notices sent by email could not be delivered to Class
23 Members because the email address no longer existed, the email account was closed, or
24 the email address had a bad domain name or address error (collectively, “Hard
25 Bouncebacks”). The remaining 57 Notices sent by email could not be delivered to Class
26 Members due to an inactive or disabled account, the recipient’s mailbox was full,
27 technical auto-replies, or the recipient server was busy or unable to deliver (collectively,
28

1 “Soft Bouncebacks”). For the 77 Class Members for whom email bouncebacks were
2 received, supplemental notice was effected using First Class U.S. Mail.

3 6. For the remaining 132 class members for whom Class Counsel could not
4 identify current email addresses, Class Counsel identified the mailing/physical address
5 for each class member through online public source information. On February 24, 2021,
6 Class Counsel sent notice to these 132 Class Members via First Class United States Mail.
7 Of these mailed notices, 33 were returned by the U.S. Post Office as undeliverable.
8 Searches utilizing the California Secretary of State business search portal and, where
9 necessary, the Secretary of State business search portal of the foreign state corresponding
10 to the mailing address of the class members, were conducted for these 33 class members.
11 Of these, 20 of the Class Members were determined to no longer be going concerns based
12 on the following status listed in the Secretary of State records: Withdrawn (1);
13 Suspended (10); Dissolved (6); Forfeited (1); Inactive (1); and Surrender (1). No record
14 could be located for 7 of the Class Members. Five of these class members were
15 determined to be going concerns with mailing address information that was at variance
16 with the mailing address used for the notice. Supplemental notice is being provided to
17 these class members. One class member was listed as “Active” but the mailing address
18 on file with the California Secretary of State was the same address to which the original
19 Notice had been mailed.

20 **Website**

21 7. Pursuant to Section 5(d) of the Order, on February 24, 2021, Class Counsel
22 launched the Settlement Website, [https://mccunewright.com/mol-america-intermodal-
23 container-per-diem-class-settlement/](https://mccunewright.com/mol-america-intermodal-container-per-diem-class-settlement/), containing detailed information about the
24 Settlement. The Settlement Website address was included in the Notice sent to Class
25 Members. The Notice, along with other relevant documents, was posted on the
26 Settlement Website, so that potential claimants may review and download them. The
27 Settlement Website also includes relevant dates and other Settlement-related information
28

CERTIFICATE OF SERVICE

I certify that on April 14, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send a notice of electronic filing to all CM/ECF participants in the above-referenced matter.

By: /s/ David C. Wright
David C. Wright

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