

# TEAMSTERS

## National Freight Industry Negotiating Committee



BLAST FAX

To: Local Unions having YRC Freight Operations

From: Tyson Johnson, Int'l V.P. and Director, National Freight Division

Date: July 20, 2012

Re: Decisions and Remedies for Pilot Grievances under the Restructuring Agreement

A handwritten signature in black ink, appearing to read "Tyson Johnson", written over a horizontal line.

As you are aware, various disputes have developed regarding the application of the YRCW restructuring agreement ("MOU"). Pilot cases were heard on these disputes. A decision on the merits of the "4-Hour Employee" cases was made on April 26, 2011. On February 22, 2012, decisions on the merits of MOU Pilot cases 1, 2, 5, 7, 8, 13, 15, 16, 18, 21, 24, and 25 were reached. Although the decisions resolved the merits of the underlying pilot cases, the Company disputed whether it had any monetary liability on any of the cases. Thereafter the Regional Freight Coordinators contacted the Local Unions to review in detail the specific number and nature of the pending grievances. Last week the parties reached a final resolution concerning the applicable remedies.

Attached please find the following:

- Decision on the merits of the "4-Hour Employee" cases
- Decisions on the merits of MOU Pilot Cases 1, 2, 5, 7, 8, 13, 15, 16, 18, 21, 24, and 25.
- A copy of the remedial resolution.

It is the intent that the remedial concepts be applied consistently throughout the country. Please familiarize yourself with the attached decisions and make sure that the Company remains in full compliance with them. We will insist that the Company adhere to these decisions. Although some of these cases do not carry monetary remedies, they will be strictly enforced going forward and nothing limits or prohibits appropriate monetary awards for future violations of the same type or nature.

Finally, this difficult process has taken approximately 18-20 months to reach full resolution. It appears to be near completion. Thank you for your patience and perseverance.

**AGREEMENT CONCERNING THE REMEDIES APPLICABLE TO THE  
GRIEVANCE DECISIONS ARISING OUT OF THE MOU PILOT CASES**

In accordance with the decisions on the various pilot grievances arising under the restructuring MOU, the parties agree to the following remedial principles:

**I. REMEDIES FOR THE "4-HOUR EMPLOYEE" GRIEVANCES**

In accordance with the decision dated April 26, 2011:

- Item 1 (Breaks): No monetary remedy is involved in this claim.
- Item 2 (4-Hour employees – held over): Appropriate monetary damages are due on meritorious and timely filed grievances. In such cases, where it can be established with reasonable certainty that a specific senior employee did not get work as a result of the improper extension of the 4-hour employee, that senior employee may be entitled to damages. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate the underlying factual basis for each individual claiming entitlement to a monetary remedy.
- Item 3 (4-Hour employees – second punch): If timely and meritorious grievances were filed, a monetary remedy is appropriate. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy.
- Item 4 (4-Hour employees entitled to OT after 8 hours): If timely and meritorious grievances were filed, a monetary remedy is appropriate. Overtime would be paid to 4-Hour employees after 8 hours work in a day. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy.
- Item 5 (4-Hour employees working back to back or overlapping shifts): If timely and meritorious grievances were filed, a monetary remedy is appropriate. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy.
- Item 6 (Use of 4-Hour employees to avoid expansion of regular active service seniority board): The Company shall not use 4-hour employees to avoid expansion of the regular active service seniority board. No monetary damages are appropriate at the present time.

• Item 7 (use of a 4-hour employee for more than 4 hours constitutes a regular shift for purposes of returning a laid off employee to regular service under the applicable supplement): Use of a 4-hour employee for more than 4 hours shall count as a qualifying day for triggering recall in accordance with the applicable supplement. A monetary remedy is appropriate provided the involved Local Union is able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy. Furthermore, the Company cannot "regularly or consistently" work a 4-Hour employee in excess of 4 hours. ~~(The Subcommittee shall maintain jurisdiction to review any allegations.)~~

\*For clarification, the Subcommittee shall maintain jurisdiction to review any allegation that the company is using the 4 hour employee to reduce or avoid expansion of the regular seniority employees. That is the sole purpose and intent of the decision for subcommittee oversight.

• Item 8 (Company not required to work 4-Hour employee on premium or overtime if a 4-Hour employee is available to work at straight time, and Company has straight time hours to offer): Under the circumstances of this claim, there is no monetary remedy at the present time.

## II. REMEDIES FOR THE OTHER PILOT GRIEVANCES

### A. DECISION ON ELIMINATION OF STRAIGHT 8 HOUR SHIFTS AND 4 TEN HOUR SHIFTS [GRIEVANCE NO. 1].

• There is no monetary remedy for this matter. The Company is expected to strictly comply with the decision.

### B. DECISION ON THE T-RULE [GRIEVANCE NO. 2].

• The Company shall abide by the T-Rule where it exists. The Restructuring MOUs do not change any applicable T-Rules. Therefore any alleged violations of T-Rules should be processed under the normal grievance process.

### C. DECISION ON WHETHER THE ROAD DRIVERS CAN BE REQUIRED TO PERFORM DROP AND HOOKS AT THE 19 HOLLAND VELOCITY TERMINALS [GRIEVANCE NO. 5].

• The Committee denied this grievance. Consequently, there is no monetary remedy. This case, however, is limited to those 19 velocity centers, namely: Atlanta, GA; Buffalo, NY; Charlotte, NC; Cincinnati, OH; Des Moines, IA; Detroit, MI; Harrisburg, PA; Indianapolis, IN; Joliet, IL; Kansas City, MO; Nashville, TN; Owatonna, MS; Richmond, VA; Rock Island, IL; South Bend, IN; St. Louis, MO; Toledo, OH; Tomah, WI; and Youngstown, OH.

**D. DECISION ON FOREIGN DRIVER/SLEEPER TEAMS [GRIEVANCE NO. 7].**

• Foreign drivers/sleeper teams arriving at sleep destinations are not required to break units and place trailers to the dock. However, drivers arriving at a dark destination terminal with a single trailer, who need to take their power unit to the hotel, may be required to drop the trailer provided there is an open door at the dock. This applies only if all of the following are met: 1) arriving at a dark destination terminal with a single trailer; 2) the driver needs to take the power unit to the hotel; and 3) there is an open door at the dock. Also, this does not apply at your domicile terminal. No monetary remedy is involved in this claim up to this point, however strict compliance with the decision will be required on a going forward basis.

**E. DECISION ON SENIORITY FOR WORK ASSIGNMENT AND OVERTIME [GRIEVANCE NOS. 8 AND 15].**

• Seniority prevails for work assignments within the local cartage classification, as long as the work assignment does not force an overtime situation or force the Company to extend a 4-hour laid off employee to work beyond 4 hours, unless the Company has notified the 4-hour employee that he/she will work more than 4 hours or that the Company intends to work him/her in excess of 4 hours. If timely and meritorious grievances were filed, a 50% monetary remedy would be appropriate under the unique circumstances of this case. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy.

**F. DECISION ON HOSTLER WORK ASSIGNMENTS [GRIEVANCE NO. 13].**

• Seniority prevails for work assignments among various hostler (switcher, jockey) assignments and when the need exists to move employees within the hostler (switcher, jockey) assignment, the junior employee will be moved first. No monetary remedy is involved in this claim up to this point, however strict compliance with the decision will be required on a going forward basis.

**G. DECISION ON PAST PRACTICE AND EMPLOYEE BREAKS [GRIEVANCE NO. 16].**

• If a location has more than two breaks, the Restructuring Agreement does not affect the number of breaks provided to employees in that location where the number of breaks are as a result of past practice or due to a written agreement with the Local Union. No monetary remedy is involved in this claim up to this point however strict compliance with the decision will be required on a going forward basis.

**H. DECISION ON CONVERSION OF EIGHT HOUR SHIFTS TO FOUR HOUR SHIFTS [GRIEVANCE NO. 18].**

• This matter is remanded to Bob Paffenroth to resolve remedial issues with the Company.

**I. DECISION ON HOLIDAY, SICK, PERSONAL HOLIDAY AND VACATION PAY [GRIEVANCE NO. 21].**

• The Restructuring Agreement does not change the qualifications in the Supplements for employees to be eligible for holiday pay, sick pay, personal holidays, and vacation pay. Therefore, the Company is in violation of the Supplement by reducing the amount of pay due each employee who qualifies for such benefits under the Supplement. If timely and meritorious grievances were filed, a 100% monetary remedy is appropriate. In order to claim an entitlement to a monetary remedy, the involved Local Union must be able to demonstrate with reasonable certainty the underlying basis for each individual claiming entitlement to a monetary remedy. Furthermore, vacation, holiday, sick and personal days shall be paid on a full 8 hour day (i.e. even if the employee is a "4-Hour Employee"). 2010 vacation shall be paid out to the employees and 2011 vacation shall be paid/taken at the employees' option in accordance with the contract.

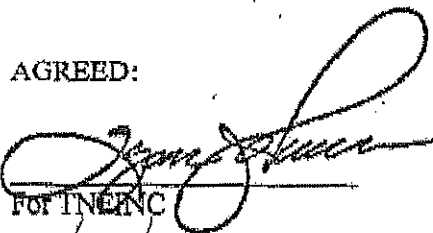
**J. DECISION ON WESTERN REGION SHUTTLE AGREEMENT [GRIEVANCE NO. 24].**

• The Restructuring Agreement provides that road drivers are permitted to make one drop and pick en route to his/her destination terminal and he/she is also able to make one drop and pick en route on his/her return trip. The Western Shuttle Agreement does not permit road drivers to load and unload freight (fingerprint) during a drop and pick in either direction. This matter is remanded to Paffenroth to resolve remedial issues with the Company.

**K. DECISION ON CALIFORNIA BREAK TIME [GRIEVANCE NO. 25].**

• The Company must comply with California law regarding breaks. No monetary remedy is involved in this claim up to this point.

AGREED:

  
For TNEINC

7/12/2012  
Date

AGREED:

  
For the Company

7/12/2012  
Date

## **DECISION TO RESOLVE 4-HOUR EMPLOYEE GRIEVANCES**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance Nos. 9, 10, 11, 12, 17, 19, 20, and 26 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding the 4-hour laid off employee established under the Agreement:

1. There shall be a ten minute break after 2 hours and another ten minute break for 4-hour employees being worked for more than 4 hours. The second ten minute break shall occur immediately after the 4th hour. A 4-hour employee who works six or more hours is entitled to a 30 minute lunch break which shall not start before the 4<sup>th</sup> hour and must be completed before the start of the 6<sup>th</sup> hour. A 4-hour employee who works more than 6 hours and receives a lunch break shall not be entitled to more than two (2) ten (10) minute breaks.
2. In the event 4-hour employees are needed for more than 4 hours, opportunities to hold over beyond 4 hours shall be offered on a seniority basis. The Company is required to inform all employees who accept work beyond 4 hours that, if there is additional work opportunities later in that same work day, it will be offered to other laid off employees in the order of their seniority. 4-hour employees who did not work more than 4 hours during their first punch will be offered a second punch in the same work day in seniority order.
3. A 4-hour employee may punch twice in one day, provided the 4-hour employee did not work more than 4 hours during his or her first punch that same day. Opportunities for a second punch shall be offered on a seniority basis to laid off employees who did not work more than 4 hours during his or her first punch. 4-hour employees who worked more than 4 hours during his or her first punch shall not have a seniority claim to a second punch until there are no longer other available laid off employees to accept 4 hour work opportunities.
4. 4-hour employees shall be entitled to overtime pay for any hours worked over 8 hours in a workday. The workday will be defined by the current practices under the applicable Supplement.

5. The language of the Restructuring Agreement prohibits the Company from working 4-hour employees on overlapping or back-to-back shifts. If the Company works a 4-hour employee on overlapping or back-to-back shifts, a senior active or laid off employee, who did not have a work call, will have a claim for 8 hours pay. In the event a terminal has multiple start-times, the Company must maintain a written record indicating on which shift each 4-hour employee is connected. Such written records shall be available at the beginning of each shift for the steward to pick-up a copy.
6. It is a violation of the Restructuring Agreement for the Company to utilize the 4-hour employee in order to reduce or avoid expansion of the regular active seniority board.
7. The use of the 4-hour employee for more than 4 hours in a single shift constitutes a shift under the applicable Supplement for returning laid off employees to active status. The Subcommittee shall maintain jurisdiction to review any allegation that the Company is using 4-hour employees to reduce or avoid expansion of regular seniority employees. It is a violation of the Restructuring Agreement for the Company to regularly or consistently work the 4-hour employee in excess of 4 hours.
8. The Company is not required to offer work to a 4-hour employee on a premium day or on overtime if there is an available 4-hour employee who can perform the work at straight time, provided the Company has available straight time hours to offer.

For TNFINC:

Date: 4/26/2011

For YRCW:

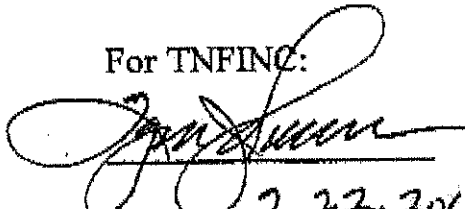
Date: 4/26/2011

**DECISION TO RESOLVE GRIEVANCE ON ELIMINATION OF  
STRAIGHT EIGHT HOUR SHIFTS AND FOUR TEN HOUR SHIFTS**

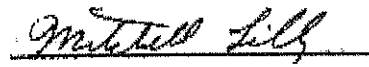
The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 1 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether the Company has the right to eliminate straight eight hour shifts and four ten hour shifts:

Prior to the elimination of agreements with Local Unions providing for straight eight hour shifts or four ten hour shifts, the Company is required to meet with the Locals and negotiate the elimination of such shifts. The shifts shall remain unchanged if the parties fail to negotiate their elimination. However, if the Company has a signed written agreement with the Local Union that contains a right to cancel the entire agreement containing the straight eight hour shifts and/or four ten hour shifts, the Company may exercise its right to cancel the written agreement.

For TNFINC:

  
Date: 2.22.2012

For YRCW:

  
Date: 2/22/2012

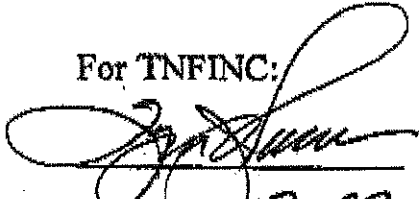


**DECISION ON THE T-RULE**

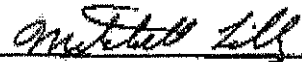
The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 2 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding the T-Rule:

The Company shall abide by the T-Rule where it exists. The T-Rule is not addressed in the Restructuring Agreement.

For TNFINC:

  
Date: 2.22.2012

For YRCW:

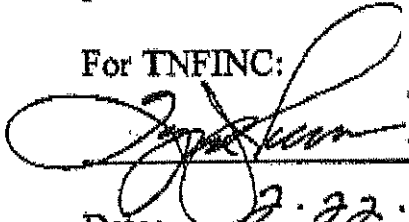
  
Date: 2/22/2012

**DECISION ON WHETHER ROAD DRIVERS ARE REQUIRED TO  
PERFORM DROP AND HOOKS AT THE 19 USF HOLLAND  
VELOCITY CENTERS**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 5 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether road drivers are required to perform drop and hooks at the 19 USF Holland velocity centers:

The grievance is denied. Consequently, road drivers are required to perform drop and hooks at the 19 USF Holland velocity centers.

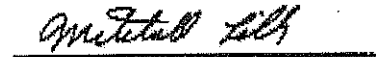
For TNFINC:



Date:

2.22.2012

For YRCW:



Date:

2/22/2012

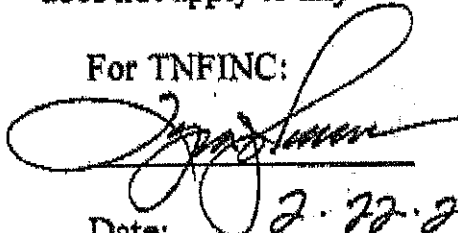
**DECISION ON WHETHER FOREIGN DRIVERS/SLEEPER TEAMS  
AT SLEEP DESTINATIONS ARE REQUIRED TO BREAK UNITS  
AND PLACE TRAILERS TO THE DOCK WITH HOSTLERS ON  
DUTY AND WHILE THE TERMINAL IS NOT DARK**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 7 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether foreign drivers/sleeper teams arriving at sleep destinations are required to break units and place trailers to the dock with hostlers on duty and while the terminal is not dark:

The grievance is upheld. Consequently, foreign drivers/sleeper teams arriving at sleep destinations are not required to break units and place trailers to the dock.

Furthermore, drivers arriving at a dark destination terminal with a single trailer, who need to take their power unit to the hotel, may be required to drop the trailer provided there is an open door at the dock. This paragraph does not apply to any other origins or destinations.

For TNFINC:



Date:

2.22.2012

For YRCW:



Date:

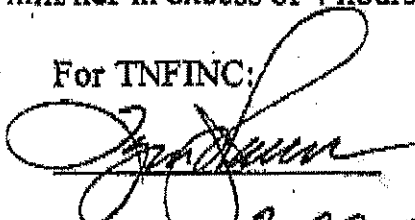
2/22/2012

**DECISION ON SENIORITY FOR WORK ASSIGNMENTS AND  
OVERTIME**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance Nos. 8 and 15 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether the Company can force eight (8) hour local cartage employees to the street before requiring the four (4) hour laid off classification employee to go to the street or whether the senior employee is required to stay on overtime when a laid off four (4) hour classification employee can work at straight time:

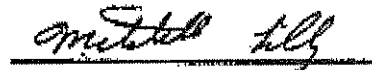
Seniority prevails for work assignments within the local cartage classification, as long as the work assignment does not force an overtime situation or force the Company to extend a 4-hour laid off employee to work beyond 4 hours, unless the Company has notified the 4-hour employee that he/she will work more than 4 hours or that the Company intends to work him/her in excess of 4 hours.

For TNFINC:



Date: 2.22.2012

For YRCW:



Date: 2/22/2012

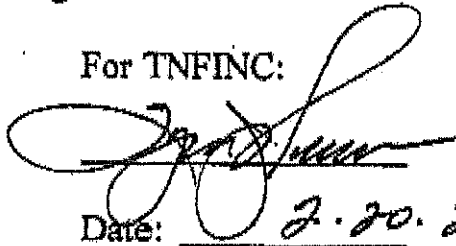


**DECISION ON PAST PRACTICE AND THE NUMBER OF  
EMPLOYEE BREAKS**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 16 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether past practices for the number of breaks continue in effect:

If a location has more than two breaks, the Restructuring Agreement does not affect the number of breaks provided to employees in that location where the number of breaks are as a result of past practice or due to a written agreement with the Local Union.

For TNFINC:



Date:

2.20.2012

For YRCW:



Date:

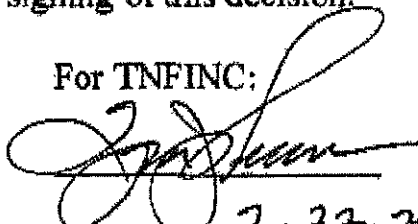
2/22/2012

**DECISION ON CONVERSION OF EIGHT HOUR SHIFTS TO FOUR  
HOUR SHIFTS**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 18 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether the Company's bill count declined to support the reduction in the number of eight (8) hour shifts:

This case shall be referred back to a subcommittee of Bob Paffenroth for TNFINC and Tom Walters for YRCW for a determination as to whether the Company's bill count declined to support the reduction in the number of eight (8) hour shifts. This determination shall be made within 30 days of the signing of this decision.

For TNFINC:



Date:

2.22.2012

For YRCW:



Date:

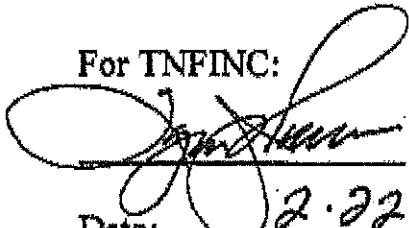
2/22/2012

**DECISION ON HOLIDAY, SICK, PERSONAL HOLIDAY, AND  
VACATION PAY**

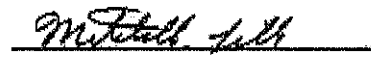
The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 21 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether, if a four (4) hour guaranteed employee meets the qualifications in his Supplement to be eligible for holiday pay, sick pay, personal holidays, and vacation pay, the Company is in violation of the Supplement by reducing the amount of pay due each employee:

The Restructuring Agreement does not change the qualifications in the Supplements for employees to be eligible for holiday pay, sick pay, personal holidays, and vacation pay. Therefore, the Company is in violation of the Supplement by reducing the amount of pay due each employee who qualifies for such benefits under the Supplement.

For TNFINC:

  
Date: 2.22.2012

For YRCW:

  
Date: 2/22/2012

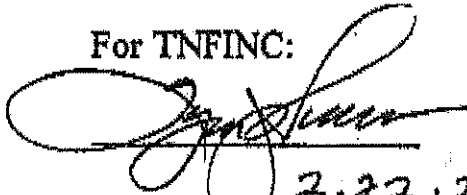


**DECISION ON WESTERN REGION SHUTTLE AGREEMENT**

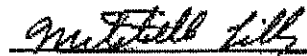
The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 24 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether the Company is in violation of the Western Region Shuttle Agreement of 1988 by requiring road drivers to load and unload (fingerprint) freight at a customer and whether road drivers are required to perform city pick-up and delivery work between a city terminal and another terminal within the Local Union's jurisdiction:

The Restructuring Agreement provides that road drivers are permitted to make one drop and pick en route to his/her destination terminal and he/she is also able to make one drop and pick en route on his/her return trip. The Western Shuttle Agreement does not permit road drivers to load and unload freight (fingerprint) during a drop and pick in either direction.

For TNFINC:

  
Date: 2.22.2012

For YRCW:

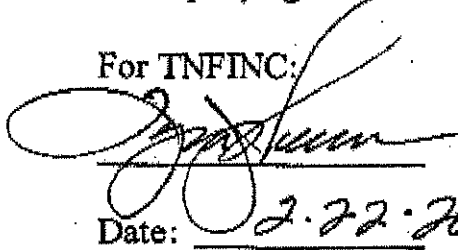
  
Date: 2/22/2012

**DECISION ON BREAK TIME AND CALIFORNIA LAW**

The Subcommittee referred to in Paragraphs 13 and 17 of the Restructuring Agreement provides the following guidance to resolve Pilot Grievance No. 25 on the Memorandum, dated January 29, 2011 from Tyson Johnson to YRCW Labor Representatives, regarding whether the Company is in compliance with the California State Law in providing employees a net 10 minute break after 2 hours of work:

The Company agrees to comply with California law regarding break time.

For TNFINC:

  
\_\_\_\_\_

Date: 2.22.2012

For YRCW:

  
\_\_\_\_\_

Date: 2/22/2012