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8	IN THE SUPERIOR COURT OF TH	E STATE OF CALIFORNIA
9	IN AND FOR THE COUNTY	OF LOS ANGELES
	CENTRAL CIVI	L WEST
10	ENVIRONMENTAL LAW FOUNDATION,	
11	OUR CHILDREN'S EARTH FOUNDATION, COMMUNITIES FOR A BETTER	CASE NO. BC 401484
12	ENVIRONMENT, On Behalf of the General Public,	[PROPOSED] STIPULATED JUDGMENT BETWEEN
13	Plaintiffs,	ALL PLAINTIFFS AND MICHAEL'S TRANSPORTATION SERVICE, INC.
14	V.	
15		C F1 1 N 7 2000
16	ATLANTIC EXPRESS OF L.A., INC.; ATLANTIC EXPRESS OF CALIFORNIA,	Case Filed: Nov. 7, 2008 Trial Date: Not set Hon. Carl J. West
17	INC.; EMBREE BUSES, INC.; STUDENT TRANSPORTATION OF AMERICA, INC.;	Tion. Cuit V. V. Cot
18	SANTA BARBARA TRANSPORTATION	Dept. 311
19	CORPORATION; STORER TRANSPORTATION SCHOOL AND	
20	CONTRACT SERVICE; STORER	
21	TRANSPORTATION SERVICE; MERCED TRANSPORTATION COMPANY;	
22	MICHAEL'S TRANSPORTATION	
23	SERVICE, INC.; and DOES 1 through 100, inclusive	
24	Defendants,	
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1	<u>RECITALS</u>
2	WHEREAS,
3	a. Michaels' Transportation Service, Inc. ("Michael's" or "Operator") owns and
4	operates School Buses in the State of California;
5	b. Plaintiffs Environmental Law Foundation ("ELF"), Our Children's Earth
6	("OCE"), and Communities for a Better Environment ("CBE") brought this action against
7	Operator seeking preliminary and permanent injunctive relief and penalties under California's
8	Proposition 65, The Safe Drinking Water and Toxic Enforcement Act, California Health and
9	Safety Code § 25249.6, et seq. ("Proposition 65" or "Act"), alleging that operator had exposed
10	passengers and drivers to diesel engine exhaust without providing a warning pursuant to the Act;
11	c. Operator denies that it has violated Proposition 65 or any other provision of law;
12	d. Plaintiffs and Operator (collectively "the Parties") wish to resolve all claims in
13	this action;
14	e. Without any admission of liability, the Parties consent to the entry of this
15	Stipulated Judgment to resolve all of the claims in this action;
16	THEREFORE, THE PARTIES HEREBY AGREE AND IT IS ADJUDGED AND
17	ORDERED AS FOLLOWS:
18	TERMS AND CONDITIONS
19	1. Definitions
20	The following terms are defined as follows:
21	(a) "Approved Diesel Emission Control Strategy" shall mean a CARB-verified Level
22	III active or passive pollution control device, verified for use only with tested engines
23	that meet minimum exhaust temperature requirements for a specified portion of each
24	bus's duty cycle.
25	(b) "CARB" shall mean the California Air Resources Board.
26	(c) "Effective Date" shall mean the date the Judge signs this Stipulated Judgment.
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- (p) "Year of Delivery" shall mean no more than 12 months from the date the School Bus is delivered to the School Bus Fleet Operator.
- **2. List of Buses**: Attached hereto as Exhibit A is a complete list of all diesel School Buses owned and operated by Operator as of November 7, 2008.

3. Fleet Modernization:

- (a) Operator agrees to Retrofit or Replace 100% of their Existing Fleet which are pre-2003 model year diesel-fueled School Buses over 14,000 lbs GVWR and are still owned and operated by an Operator as of October 1, 2010.
- (b) Low-Use Vehicles shall be exempt from the requirement set forth in the preceding subparagraph. However, if a School Bus designated as a Low-Use Vehicle is driven more than 1000 miles in any twelve month period, then Operator shall Retrofit or Replace that School Bus within one-hundred and twenty (120) days of exceeding the 1000 miles per year threshold.
- (c) Operator agrees to pursue funds from the California Air Resources Board, local Air Quality Management District(s) and/or Air Pollution Control District(s), and/or other available sources, to Retrofit 100% of its Existing Fleet over 14,000 lbs GVWR (including 2003 model year and newer diesel school buses, but not including buses of model year 2007 or newer), if such funds become available.
- (d) Operator agrees to apply for any public and private funding to Retrofit or Replace diesel-fueled School Buses in its fleet that are at or under 14,000 lbs GVWR within a commercially reasonable time after becoming aware of such funding either on its own or as a result of communications with Plaintiffs or their counsel, and if awarded any such funding, will use said funds to Retrofit or Replace School Buses in its Existing Fleet at or under 14,000 lbs GVWR.
- **4. Retrofit subsidies**: Operator may use public or private Retrofit subsidies towards meeting its Fleet Modernization obligations in Section 3.

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signed documents set forth herein, ELF, OCE and CBE, on behalf of themselves and in the

public interest, hereby release and discharge Operator and its respective parents, subsidiaries,

officers, employees, directors, shareholders and affiliates from any and all claims asserted, or that could have been asserted, in this litigation arising from Operators' alleged failure to provide Proposition 65 warnings regarding the exposure of individuals to diesel engine exhaust and its constituents.

13. No Admission of Liability. This Stipulated Judgment is entered into in compromise of disputed claims, the existence of any liability for which is expressly denied. The Parties agree that this Stipulated Judgment shall not be deemed or construed for any purpose as an admission of liability or responsibility for or participation in any unlawful or wrongful act at any time by any Party hereto or any other person or entity.

14. Force Majeure:

- (a) If performance of any covenant or obligation by a Party is prevented or delayed by one or more events of *Force Majeure*, the time for the performance of such covenant or obligation will be extended for the period that such performance is delayed or prevented by such event(s) of *Force Majeure*.
- (b) A Party seeking an extension of time pursuant to the provisions of this Section shall give written notice to the other Party describing with reasonable particularity (to the extent known) the facts and circumstances constituting a *Force Majeure* event within 14 days after determining that such *Force Majeure* cause shall affect or hinder the Party's performance under this Stipulated Judgment. The written notification shall describe the factual basis for the *Force Majeure*, and the measures the Party is taking to mitigate the delay, and the expected length of the delay, to the extent reasonably possible. The Party seeking an extension of time for performance pursuant to this Section shall have an affirmative duty to diligently pursue resolution of the *Force Majeure* event(s) to the extent such resolution is possible, but in no event beyond the term of this Stipulated Judgment.
- (c) As used herein, "Force Majeure" shall mean:

transferred to any other person or entity.

1	21. Construction. This Stipulated Judgment is the product of negotiation and preparation by
2	and among each Party hereto and their respective attorneys. Accordingly, the Stipulated
3	Judgment shall not be construed against the Party preparing it. The section headings are
4	included for convenience only and are not intended to be operative as part of this Stipulated
5	Judgment.
6	22. Execution of Documents . The Parties agree to execute this Stipulated Judgment and all
7	such other documents as are reasonably necessary to effect the terms and conditions of this
8	Stipulated Judgment. The Stipulated Judgment may be executed in counterparts, each of which
9	shall be considered an original.
10	23. Retention of Jurisdiction . This Court shall retain jurisdiction to enforce the terms of
11	this Stipulated Judgment.
12	APPROVED AS TO SUBSTANCE:
13	
14	Dated: Michael's Transportation Service, Inc.
15	Dated:
16	Environmental Law Foundation
17	Dated:
18	Our Children's Earth Foundation
19	Dated: Communities for a Better Environment
20	
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1	this Stipulated Judgment.
4	APPROVED AS TO SUBSTANCE:
]	Dated: 2-20-09 Wichael's Transportation Service, Inc.
	Dated: Environmental Law Foundation
1	Dated:Our Children's Earth Foundation
	Oll Children's Editor Contractor
I	Dated: Communities for a Better Environment
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L	TIPULATED JUDGMENT: MICHAEL'S

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10	23. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
11	this Stipulated Judgment.
12	APPROVED AS TO SUBSTANCE:
13	
14	Dated: Michael's Transportation Service, Inc.
15	Dated: 2/24/09 Synuer 308/22
16	Environmental Law Foundation
17	Dated:Our Children's Earth Foundation
18	Our Children's Earth Foundation
19	Dated: Communities for a Better Environment
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10	23. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
11	this Stipulated Judgment.
12 13	APPROVED AS TO SUBSTANCE:
14	Dated:
15	Michael's Transportation Service, Inc.
16	Dated: Environmental Law Foundation
17	Dated: 2/24/09
18	Our Children's Earth Foundation
19	Dated:
20	Communities for a Better Environment
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10	23. Retention of Jurisdiction. This Court shall retain jurisdiction to enforce the terms of
11	this Stipulated Judgment.
12	APPROVED AS TO SUBSTANCE:
13	Dated:
14	Michael's Transportation Service, Inc.
15	Dated:
16	Environmental Law Foundation
17	Dated: Our Children's Earth Foundation
18 19	Dated: 3/24/09 Bill Galleyn
20	Communities for a Better Environment
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STIPULATED JUDGMENT: MICHAEL'S TRANSPORTATION

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2	APPROVED AS TO FORM:	
3	Dated: LOZEAU/D	
4	DAKON & I	BUDD, P.C.
5	_	
6	By:	d Drury
7	Attorn	eys for Plaintiffs
8	MOROZUM	MI & SIMMONS, LLP
9	Dated.	
10		
11		s Simmons, Attorneys for el's Transportation Service, Inc.
12		or a riumsportuniam service, mer
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15	Dated:	
16	Hon. C	Carl J. West of the Superior Court
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2	APPROVED AS TO FORM:	
3	Dated:	
4		BARON & BUDD, P.C.
5		
6		By:
7		Attorneys for Plaintiffs
8	Dated: Feb. 20, 2009	MOROZUMI & SIMMONS, LLP
9		
10		By: Dennis Simmons Attack
11		Dennis Simmons, Attorneys for Michael's Transportation Service, In
12	APPROVED AND ORDERED:	Minimal 3 Transportation Service, in
13	The state of the s	
14		
15	Dated:	
16		Hon. Carl J. West Judge of the Superior Court
17		suage of the superior Court
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-	STIPLILATED HIDGMENT: MICHAEL'S	12

STIPULATED JUDGMENT: MICHAEL'S TRANSPORTATION

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2	APPROVED AS TO FORM:	
3	Dated: 2/25/09	LOZEAU/DRURY LLP BARON & BUDD, P.C.
4		$Q \cap \bigcirc$
5		By:
6		Richard Drury Attorneys for Plaintiffs
7		
8	Dated:	MOROZUMI & SIMMONS, LLP
9		
10	•	By:
11		Michael's Transportation Service, Inc.
12	APPROVED AND ORDERED:	
13		
14		
15	Dated:	Hon. Carl J. West
16		Judge of the Superior Court
17		
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24		Table 1
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STIPULATED JUDGMENT: MICHAEL'S TRANSPORTATION

EXHIBIT A

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Michaels-Transportation

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	BUS #	MAKE	YEAR	GVW	TYPE BUS	RETROFITTED	LEVEL OF POLUTION CONTROL
-	1	FORD	1994	9600	SCHOOL	Q	LEVEL 1
7	3	FORD	1984	9600	SCHOOL	NO	LEVEL 1
6	18	GILIG	1986	25500 @	SCHOOL	Q	LEVEL 1
4	101	THOMAS	2001	34200	SCHOOL	Q V	LEVEL 1
40	201	THOMAS	1995	33200	SCHOOL	Q	LEVEL 1
•	5010	INTL	2007	36220	SCHOOL	Q.	LEVEL 1
-	5011	INTL	2007	36220	SCHOOL	9	LEVEL 1
•	5012	INTL	2007	36220	SCHOOL	Q.	LEVEL 1
•	5013	INTL	2007	36220	SCHOOL	NO.	LEVEL 1
-0	5707	VANHOOL	2007	50700	TOUR BUSISPAB NO	NO	LEVEL 1
F	6171	INTE	2007	36220	SCHOOL	₩O	LEVEL 1
12	6172	INTL	2002	36220	SCHOOL-COMM	Q.	LEVEL 1
13	6173	INTL	2002	36220	SCHOOL-COMM	NO	LEVEL 1
7	6174	INTL	2002	36220	SCHOOL	NO.	LEVEL 1
16	6201	THOMAS	2006	36200	SCHOOL	ON ON	LEVEL 1
9	6202	THOMAS	2006	36200	SCHOOL	Q.	LEVEL 1
-	6203	THOMAS	2006	36200	SCHOOL	0	LEVEL 1
20	6233	88	2007	36200	SCHOOL	Q.	LEVEL 1
<u>\$</u>	6234	88	2007	36200	SCHOOL	Q	LEVEL 1
8	6375	INTL	2008	36220	SCHOOL	ON	LEVEL 1
75	6376	INTL	2008	36220	SCHOOL	NO	LEVEL 1

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	BUS #	MAKE	YEAR	GVW	TYPE BUS	RETROFITTED	LEVEL OF POLUTION CONTROL
ង	8157	VANHOOL	2001	50700	TOUR BUS/SPAB	NO	LEVEL 1
ន	8422	88	2001	33700	SCHOOL	ON	LEVEL 1
7	8423	88	2002	33700	SCHOOL	NO	LEVEL 1
- 1 2	8424	88	2001	33700	SCHOOL	NO	LEVEL 1
92	8425	88	2001	33700	SCHOOL	NO	LEVEL 1
22	8426	99	2001	33700	SCHOOL	NO	LEVEL 1
8	8427	BB	1999	36200	SCHOOL	NO	LEVEL 1
<u> </u>	8428	88	1998	36200	SCHOOL	NO	LEVEL 1
8	8428	88	2005	36200	SCHOOL-CONIN	₩O	LEVEL 1
5	8430	88	2005	36200	SCHOOL-COMM	NO.	LEVEL 1
25	8431	88	2005	36200	SCHOOL	NO	LEVEL 1
8	8432	88	2005	36200	SCHOOL-COMM	NO	LEVEL 1
ੜ	8443	THOMAS	1999	34200	SCHOOL	NO	LEVEL 1
8	8445	THOMAS	1999	34200	SCHOOL.	NO	LEVEL 1
8	8446	THOMAS	1988	34200	SCHOOL	NO	LEVEL 1
3	8447	INTL	1999	36220	SCHOOL	ON	LEVEL 1
89	8450	INTL	2002	36220	SCHOOL-COMM	NO	LEVEL 1
86	8451	INTL	2002	36220	SCHOOL-COMM	NO	LEVEL 1
흑	8454	INTL	2002	36220	SCHOOL-COMM	NO	LEVEL 1
뒥	8455	INTL	2002	36220	SCHOOL	NO	LEVEL 1
7	8456	INTL	2003	36220	SCHOOL	NO.	LEVEL 1
\$	8457	INTL	2003	36220	SCHOOL	NO	LEVEL 1
1	8458	JTNI	2003	36220	SCHOOL-COMM	O _X	LEVEL 1

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	BUS #	MAKE	YEAR	GVW	TYPE BUS	RETROFITTED	LEVEL OF POLUTION CONTROL
45	8459	INTL	1999	36220	SCHOOL-COMM	ON ON	LEVEL 1
\$	8468	INTL	2005	36220	SCHOOL-COMM	NO	LEVEL 1
	8469	INTL	2004	36220	SCHOOL	Q.	LEVEL 1
\$	6470	INTL	2004	36220	SCHOOL	NO	LEVEL 1
8	చ	GMC	2004	19500	SPAB	NO	LEVEL 1
25	ප	GMC	2005	19500	SPAB	%	LEVEL 1
52	>	FORD	2007	14050	SCHOOL	NO	LEVEL 1
23		INT.	5005	36220	SCHOOL	YES	LEVEL 3
2	7902	INT	2009	36220	SCHOOL	YES	LEVEL 3
3		IN I	2009	36220	SCHOOL	YES	LEVEL 3
26		INTL	2009	36220	SCHOOL	YES	LEVEL 3
29	7905	JLINI	2009	36220	SCHOOL	YES	LEVEL 3