

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ERRIOR HAYDEN and THOMAS PLEASANT,)	
individually and on behalf of all)	
others similarly situated,)	
)	
Plaintiffs,)	No. 1:12-cv-1583
)	
)	
v.)	Judge Robert Gettleman
)	
FRESH EXPRESS INCORPORATED,)	Magistrate Judge Nan Nolan
)	
)	
Defendant.)	

STIPULATION

Plaintiffs, Errior Hayden and Thomas Pleasant, and Defendant Fresh Express Incorporated, hereby stipulate as follows:

1. In light of the Seventh Circuit’s decision in *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011), Plaintiffs have filed a motion for class certification together with their complaint to protect against individual settlement offers that potentially could moot their claim for class-wide relief.
2. To prevent Plaintiffs’ motion from remaining pending for an extended period of time, and at the Court’s request, the parties hereby agree as follows.
3. Upon execution and filing of this stipulation, the Court shall dismiss without prejudice, the “Plaintiffs’ Amended Motion For Class Certification” [Doc. No. 14].
4. From the time that the Court dismisses Plaintiffs’ Amended Motion For Class Certification until the time that the Plaintiffs file a renewed motion for class certification,

Defendant agrees not to make any individual settlement offer to Plaintiff Thomas Pleasant or Plaintiff Errorr Hayden (or both) without Mr. Pleasant's or Mr. Hayden's prior consent.

Respectfully submitted,

s/ Christopher J. Wilmes
One of the Attorneys for Plaintiffs

Matthew J. Piers (IL Bar # 2206161)
Christopher J. Wilmes (IL Bar # 6287688)
HUGHES SOCOL PIERS RESNICK & DYM, LTD.
Three First National Plaza
70 West Madison Street, Suite 4000
Chicago, Illinois 60602
(312) 580-0100

s/ James A. McKenna
One of the Attorneys for Defendant

James A. McKenna
Paul Patten
JACKSON LEWIS LLP
150 N. Michigan Ave. Suite 2500
Chicago, IL 60601

Dated: April 9, 2012