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individually, and on behalf of all others
similarly situated and aggrieved

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

JIMMY MANNING, an individual, on behalf
of himself and all others similarly situated and
aggrieved,

Plaintiff,

vs.

LINCOLN TRANSPORTATION SERVICES
INC., a California Corporation; and DOES 1 to
10, inclusive,

Defendants.

Case No.: **24STCV00846**

**CLASS ACTION & PAGA REPRESENTATIVE
ACTION COMPLAINT**

- (1) FAILURE TO PAY MINIMUM WAGES;**
- (2) FAILURE TO PAY ALL WAGES OWED
EVERY PAY PERIOD;**
- (3) FAILURE TO PAY ALL WAGES UPON
SEPARATION;**
- (4) FAILURE TO MAINTAIN RECORDS;**
- (5) FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- (6) FAILURE TO REIMBURSE NECESSARY,
BUSINESS-RELATED EXPENSES;**
- (7) UNLAWFUL DEDUCTIONS FROM
WAGES;**
- (8) VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), BUS. &
PROF. CODE §§ 17200; *et seq.*; and**
- (9) CIVIL PENALTIES FOR VIOLATIONS OF
LABOR CODE, PURSUANT TO
CALIFORNIA'S PRIVATE ATTORNEYS'
GENERAL ACT ("PAGA"), §§ 2698, *ET
SEQ.***

DEMAND FOR JURY TRIAL

CLASS ACTION AND PAGA COMPLAINT

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1 **CLASS ACTION AND PAGA REPRESENTATIVE ACTION COMPLAINT**

2 Plaintiff JIMMY MANNING (“MANNING”), on behalf of himself and all others similarly situated
3 and aggrieved, by and through his undersigned attorneys, files this Class Action and Private Attorneys
4 General Act of 2004 (“PAGA”) Representative Action Complaint against Defendant LINCOLN
5 TRANSPORTATION SERVICES INC. (“LINCOLN”), a California Corporation; and DOES 1 through
6 10 inclusive (“Doe Defendants”) (collectively with LINCOLN, “Defendants”), respectfully alleges as
7 follows:

8 **I. NATURE OF THE ACTION**

9 1. This is a Class Action and Private Attorneys General Act of 2004 (“PAGA”)
10 Representative Action Complaint for Labor Code violations arising out of, among other things,
11 Defendants’ misclassification of employee truck drivers as independent contractors.

12 2. As more fully set forth herein, Defendants intentionally misclassified employees as
13 independent contractors; failed to pay minimum wages, including but not limited to all nonproductive
14 time for rest breaks and pre- and post-trip inspections; failed to pay all wages owed upon separation,
15 specifically wages including, but not limited to, minimum wages; failed to pay all wages owed every
16 pay period; failed to maintain required records; failed to issue timely and accurate wage statements to
17 their drivers; failed to reimburse all necessary business-related expenses; unlawfully deducted amounts
18 from drivers’ wages; and violated California’s Unfair Competition Law, Business and Professions
19 Code, sections 17200; *et seq.*

20 3. Plaintiff seeks to represent the following Class¹:

21 All current and former drivers residing in California who
22 worked for Defendant LINCOLN TRANSPORTATION
23 SERVICES INC. whom Defendant TRANSPORTATION
24 SERVICES INC. classified as independent contractors at any
25 time beginning four (4) years prior to the filing of the
26 Complaint through the present (the “Class Period”).

27
28

¹ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class
description with greater particularity or further division into subclasses or limitation to particular issues.

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over the entire action by virtue of the fact that this is a civil action wherein the matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum of the Court. The acts and omissions complained of in this action took place in the State of California, and at least one Defendant resides in the state of California. Venue is proper pursuant to California Code of Civil Procedure section 395.5, because this is a class action, the acts and/or omissions complained of took place, in whole or in part within the venue of this Court, and/or one or more Defendants reside within the venue of this court.

5. A substantial amount of Plaintiff JIMMY MANNING'S work for Defendants took place within Los Angeles County for several of Defendants' clients. All of this work that took place within Los Angeles County that Plaintiff JIMMY MANNING performed involved the acts and/or omissions complained of in this Complaint, including, but not limited to, Defendants' failure to pay for all hours worked. *See Owens v. Paraco, Inc.* (1958) 160 Cal.App.2d 824, 825–826 (holding that venue in a wage and hour case was proper in the county where the plaintiff performed the work even though the defendant's principal place of business was elsewhere).

6. Plaintiff alleges that more than two-thirds of all members of the proposed Class in the aggregate are citizens of California, so federal jurisdiction under the Class Action Fairness Act does not exist. Further, Plaintiff alleges that the proposed Class is estimated to be 100% California residents, as that is how the Class is defined.

III. PARTIES

7. Plaintiff JIMMY MANNING ("MANNING") was, at all relevant times, a citizen of the State of California. MANNING worked for Defendants as a driver, but Defendants misclassified MANNING as an independent contractor instead of an employee from 2016 through approximately July 6, 2023, which is during the Class Period as alleged herein.

8. Defendant LINCOLN TRANSPORTATION SERVICES INC. ("LINCOLN") is a California Corporation licensed to do and doing business in the State of California. At all times relevant during the Class Period, Defendant had and has a registered agent for service of process at 250 West Manville Street, Compton, California 90220. Defendant LINCOLN is and has been at various

1 relevant times a California Corporation engaged in the transportation industry. LINCOLN maintains
2 two yards in Compton, California and two yards in Gardena, California and has conducted and
3 transacted business at all times relevant to this lawsuit in, among other places, the County of Los
4 Angeles in the State of California.

5 9. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation
6 in the conduct alleged herein, of the Defendants sued as Does 1-10, inclusive, but is informed and
7 believes that said Defendants are legally responsible for the conduct alleged herein and therefore sues
8 these Defendants by such fictitious names. Plaintiff will seek leave to amend this Complaint to allege
9 both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and
10 believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe
11 Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint
12 venturers of their co-Defendants and were, as such, acting within the course and scope of said agency,
13 employment, partnership, joint venture, conspiracy, or enterprise, and with the express and/or implied
14 permission, knowledge, consent, authorization and ratification of their co-defendants; however, each of
15 these allegations are deemed “alternative” theories whenever not doing so would result in a
16 contradiction with other allegations. Plaintiff is informed and believes that each Defendant acted in all
17 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business
18 plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally
19 attributable to each of the other Defendant.

20 **IV. FACTS COMMON TO ALL CAUSES OF ACTION**

21 10. Defendants are a drayage trucking company delivering cargo from ports to customers
22 interstate and throughout California.

23 11. According to LINCOLN’S website, LINCOLN maintains its corporate operations
24 headquarters in Compton, California. Upon information and belief, Defendant LINCOLN maintains a
25 single, centralized Human Resources (“HR”) department at its operations headquarters in Compton,
26 California, which is responsible for conducting LINCOLN’S recruiting and hiring of new direct-hire
27 employees and independent contractors, as well as communicating and implementing LINCOLN’S
28 company-wide policies, including timekeeping policies, to employees throughout California. In

1 particular, Plaintiff and Class Members, on information and belief, received the same standardized
2 documents and/or written policies upon hire. Upon information and belief, the use of standardized
3 documents and/or written policies, including new hire documents, indicate that Defendants dictated
4 policies at the corporate-level and implemented them company-wide, regardless of Class Members'
5 assigned locations or positions. On information and belief, all transactions regarding hiring,
6 terminations, promotions, pay increases, and employee transfers, etc., relating to Defendants' California
7 employees were submitted to and processed by Defendant LINCOLN'S HR department in Compton,
8 California.

9 12. Upon information and belief, LINCOLN'S corporate records, business records, data, and
10 other information related to LINCOLN, including, in particular, HR records pertaining to LINCOLN'S
11 California employees, are also maintained at its operations headquarters in Compton, California.

12 13. At all times during the Class Period, Defendants employed Plaintiff and Class Members as
13 truck drivers in providing Defendants' services.

14 14. At all times during the Class Period, Defendants employed Plaintiff and the Class as
15 "independent contractors," even though the work performed and conditions of employment were that of
16 an "employee." The conditions and requirements of employment with Defendants, include but are not
17 limited to:

- 18 i. Defendants provide Plaintiff and other Class Members with accident kits and
19 cameras, orange triangles, 5% fuel surcharge, and e-logs for long-haul drivers;
- 20 ii. Defendants require Plaintiff and other Class Members to maintain their trucks and
21 other equipment in good, safe operating condition and appearance;
- 22 iii. Defendants restricted Plaintiff and other Class Members from hiring "improperly
23 licensed, unlicensed, or disqualified employees" to perform services for Defendants;
- 24 iv. Defendants required drivers to provide Defendants the names of any persons
25 Plaintiff and other Class Members hired to perform services for Defendants;
- 26 v. Defendants impose and imposed specific criteria and eligibility requirements on
27 Plaintiff and other Class Members with respect to their eligibility to work for
28 Defendants;

- 1 vi. Defendants direct and control the way the drivers perform their work, including
2 controlling their schedule, when and where they deliver cargo, and how they
3 perform their work;
- 4 vii. Plaintiff and other Class Members incurred business related expenses that
5 Defendants did not reimburse fuel expenses; cell phone service costs; safety vests;
6 permits; truck lease, rental, and maintenance costs; and additional insurance
7 premiums, including workers' compensation, occupational accident insurance, cargo
8 insurance, trailer insurance, and truck insurance
- 9 viii. Defendants deducted business expenses from Plaintiff and other Class Members'
10 wages for insurance, occupational insurance, diesel/maintenance, plates/road tax,
11 truck loan, and other business-related expenses;
- 12 ix. The services Plaintiff and other drivers perform were and are a regular part of
13 LINCOLN TRANSPORTATION SERVICES INC.'S business;
- 14 x. Plaintiff and other drivers did not and do not incur a profit or loss *per se* on the
15 deliveries;
- 16 xi. Plaintiff and other drivers had and have no significant opportunity for profit or loss
17 other than working more hours;
- 18 xii. Plaintiff and other drivers are not skilled workers with substantial control over
19 operational details;
- 20 xiii. Plaintiff and other drivers took and take all necessary instructions from Defendants,
21 given the nature of the trucking business;
- 22 xiv. Plaintiff and other drivers did not and do not have their own customers;
- 23 xv. Plaintiff did not have the mandatory U.S. Department of Transportation (DOT)
24 operating authority or other necessary permits and/or licenses to independently
25 engage in the transport of cargo;
- 26 xvi. Defendants require and required Plaintiff to maintain the cleanliness of the truck and
27 to conduct to pre- and post-trip inspections;
- 28 xvii. Plaintiff and other drivers were subject to discipline by Defendants for incurring

1 traffic violations; and

2 xviii. Defendants can discipline and terminate Plaintiff and other drivers without cause at
3 any time.

4 15. Defendants exercised that same dominion and control over every driver that Defendants
5 employed during the Class Period.

6 16. At all times during the Class Period, Defendants failed to pay Class Members for all hours
7 worked. Thus, Defendants did not and do not pay Plaintiff and Class Members minimum wage in
8 accordance with California law.

9 17. At all times during the Class Period, Plaintiff and Class Members were assigned to and
10 required and permitted to work without pay for their nonproductive time, while performing tasks
11 including, but not limited to: 10-minute rest breaks, pre- and post-trip inspections, fueling, wait-time,
12 and other truck maintenance-related tasks. Plaintiff and Class Members were not compensated for this
13 work.

14 18. At all times during the Class Period, Defendants failed to reimburse Plaintiff and Class
15 Members for the business expenses they incurred, such as fuel expenses; cell phone service costs;
16 safety vests; permits; truck lease, rental, and maintenance costs; and additional insurance premiums,
17 including workers' compensation, occupational accident insurance, cargo insurance, trailer insurance,
18 and truck insurance.

19 19. At all times during the Class Period, Defendants unlawfully deducted amounts from
20 Plaintiff's and Class Members' wages for costs Defendants were legally obligated to pay, such as
21 insurance, occupational accident insurance, fuel, maintenance, plates, and loan return.

22 20. Defendants' conduct, as alleged herein, has caused Plaintiff and Class Members damages
23 including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the
24 Class for failing to pay minimum wages for nonproductive time, failing to pay all wages owed every
25 pay period and upon separation, failing to reimburse all necessary business-related expenses,
26 unlawfully deducting wages from earnings, failing to provide timely and accurate wage statements, and
27 unfair competition.

28 21. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated

employees who all have been exposed to, have suffered, and/or were permitted to work under, Defendants' unlawful employment practices as alleged herein.

V. CLASS DEFINITIONS AND CLASS ALLEGATIONS

22. Plaintiff brings this action on behalf of himself and all others similarly situated and as Class Members defined as follows:

All current and former drivers residing in California who worked for LINCOLN TRANSPORTATION SERVICES INC. whom LINCOLN TRANSPORTATION SERVICES INC. classified as independent contractors at any time beginning four (4) years prior to the filing of the Complaint through the present (the "Class Period").

23. Plaintiff reserves the right to amend or otherwise alter the Class definition presented to the Court at the appropriate time, or to propose or eliminate subclasses, in response to facts learned through discovery, legal arguments advanced by Defendants, or otherwise.

24. This action has been brought and may be properly maintained as a class action pursuant to the provisions of California Code of Civil Procedure section 382 (hereinafter "section 382") and other applicable law.

25. **Numerosity of the Class:** Pursuant to section 382, Class Members are so numerous that their individual joinder is impracticable. Plaintiff estimates, on information and believes, that there are at least 100 current and former similarly situated employee Class Members of Defendants employed as drivers in California during the Class Period. The precise number of Class Members and their addresses are known to Plaintiff or will be known to Plaintiff through discovery. Class Members may be notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

26. **Existence of Predominance of Common Questions of Fact and Law:** Pursuant to section 382, common questions of law and fact exist as to all Class Members. These questions predominate over any questions affecting only individual Class Members. These common legal and factual questions include:

- a. Whether Defendants willfully misclassified employee drivers as "independent contractors," in violation of California Labor Code section 226.8(a)(1);
- b. Whether Plaintiff and each Class Member were not paid minimum wage for each

1 hour worked or part thereof during which they were required to perform acts at the
2 direction and for the benefit of Defendants;

3 c. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff
4 and Class Members who worked as drivers in California for the total hours worked during
5 the Class Period;

6 d. Whether Defendants maintained accurate time records of all hours worked,
7 including all nonproductive time during the Class Period in accordance with IWC Wage
8 Order No. 9-2001(7);

9 e. Whether Defendants violated California Labor Code section 226(a) by failing to
10 issue wage statements entirely or else issuing inaccurate itemized wage statements to
11 Plaintiff and Class Members that failed to include all hours worked among wages earned
12 throughout the Class Period;

13 f. Whether Defendants violated California Labor Code section 226 by failing to
14 issuing timely, accurate itemized wage statements to Plaintiff and Class Members that
15 accurately state the total hours worked, to the detriment of Plaintiff and the Class;

16 g. Whether Defendants violated California Labor Code sections 218.5, 204, 1197,
17 and 1198 by failing to compensate Plaintiff and Class Members for those acts Defendants
18 required Plaintiff and Class Members to perform for the benefit of Defendants;

19 h. Whether Defendants violated California Labor Code section 2802 by failing to
20 reimburse Plaintiff and Class Members for all necessary business-related expenses they
21 incurred;

22 i. Whether Defendants engaged in unfair practices and violated California Business
23 and Professions Code, sections 17200; *et seq.* by failing to reimburse Plaintiff and Class
24 Members with all necessary, business-related expenses;

25 j. Whether Defendants violated California Labor Code section 221 by unlawfully
26 deducting amounts from Plaintiff and Class Members' earnings for business-related
27 expenses Plaintiff and Class Members' incurred to do their jobs, including but not limited
28 to, insurance Defendants are legally obligated to cover on behalf of their employees;

k. Whether Defendants violated California Labor Code section 221 by unlawfully deducting amounts from Plaintiff and Class Members' wages; and

l. The nature and extent of classwide injury and measure of damages for the injury.

27. **Typicality**: Plaintiff's claims are typical of the claims of the members of the Class he seeks to represent because Plaintiff, as a driver of Defendants, was exposed and subjected to the same unlawful business practices as other drivers employed or engaged by Defendants during the Class Period. Plaintiff and the members of the Class he seeks to represent sustained the same types of damages and losses.

28. **Adequacy**: Plaintiff is an adequate representative of the Class he seeks to represent because his interests do not conflict with the interests of the members of the Class Plaintiff seeks to represent. Plaintiff has retained counsel competent and experienced in complex class action litigation and Plaintiff intends to prosecute this action vigorously. The interests of Class Members will be fairly and adequately protected by Plaintiff and their counsel.

29. **Superiority and Substantial Benefit**: The class action is superior to other available means for the fair and efficient adjudication of Plaintiff's and Class Members' claims. The damages suffered by each individual Class Member may be limited. Damages of such magnitude are small given the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for Class Members to redress the wrongs done to them on an individual basis. Even if Class Members themselves could afford such individual litigation, the court system could not. Individualized litigation increases the delay and expense to all parties and the court system, due to the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

30. The Class should also be certified because:

a. The prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications for individual Class Members, which would establish incompatible standards of conduct for Defendants;

b. The prosecution of separate actions by individual Class Members would create a

1 risk of adjudication with respect to them, which would, as a practical matter, be dispositive
2 of the interests of the other Class Members not parties to the adjudications, or substantially
3 impair or impede their ability to protect their interests; and

4 c. Defendants have acted or refused to act on grounds generally applicable to the
5 Class, and/or the general public, thereby making appropriate final and injunctive relief with
6 respect to the Class as a whole.

7 **VI. FIRST CAUSE OF ACTION**

8 **Failure to Pay Minimum Wages**

9 **Violation of California Labor Code §§ 510, 1194, 1194.2, and 1197; Wage Order No. 9-2001, § 4** 10 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

11 31. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

12 32. California Labor Code section 510 provides in pertinent part, “Eight hours of labor
13 constitutes a day’s work.”

14 33. California Labor Code section 1197 provides in pertinent part that “The minimum wage for
15 employees fixed by the commission or by any applicable state or local law, is the minimum wage to be
16 paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

17 34. California Labor Code section 1194(a) provides, “Notwithstanding any agreement to work
18 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
19 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of
20 the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable
21 attorney’s fees, and costs of suit.”

22 35. California Labor Code section 1194.2 provides in pertinent part, “In any action under
23 Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the
24 minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to
25 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

26 36. Pursuant to IWC Wage Order No. 9-2001, “hours worked” includes “the time during which
27 an employee is subject to the control of an employer, and includes all the time the employee is suffered
28 or permitted to work, whether or not required to do so.”

1 37. Pursuant to California Labor Code section 1182.12(b)(1) and IWC Wage Order No. 9-
2 2001(4), Plaintiff and Class Members who worked for an employer who employs at least 26 employees,
3 were entitled to receive not less than twelve dollars (\$12) per hour through December 31, 2019, then
4 thirteen dollars (\$13) per hour through December 31, 2020, fourteen dollars (\$14) per hour through
5 December 31, 2021, then fifteen dollars (\$15.00) per hour through December 31, 2022, and then
6 regardless of employer size, fifteen dollars and fifty cents (\$15.50) per hour beginning January 1, 2023
7 and thereafter.

8 38. At all times relevant during the Class Period, under the provisions of Wage Order No. 9-
9 2001, Plaintiff and each Class Member should have received not less than the minimum wage in a sum
10 according to proof for the time worked, but were not compensated.

11 39. For all hours that Plaintiff and Class Members worked, they are entitled to not less than the
12 California minimum wage and, pursuant to California Labor Code section 1194.2(a) liquidated
13 damages in an amount equal to the unpaid minimum wages and interest thereon. Pursuant to California
14 Labor Code section 1194, Plaintiff and Class Members are also entitled to their attorneys' fees, costs,
15 and interest according to proof.

16 40. At all times relevant during the Class Period, Defendants willfully failed and refused, and
17 continues to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

18 41. Defendants' unlawful conduct alleged herein occurred in the course of employment of
19 Plaintiff and all other similarly situated drivers, and Defendants have done so continuously throughout
20 the filing of this Complaint.

21 42. As a direct and proximate result of Defendants' violation of California Labor Code sections
22 510 and 1197, Plaintiff and Class Members have suffered irreparable harm and money damages
23 entitling them to damages, injunctive relief, or restitution. Plaintiff, on behalf of himself and all others
24 similarly situated, seeks damages and all other relief allowable including all wages due while working
25 as Defendants' drivers, attorneys' fees, liquidated damages, prejudgment interest, and as to those
26 employees no longer employed by Defendants, waiting time penalties pursuant to California Labor
27 Code section 200, *et seq.*

28 43. Plaintiff and Class Members are entitled to back pay, pre-judgment interest, liquidated

1 damages, statutory penalties, and attorneys' fees and costs. Plaintiff and former Class Members are
2 entitled to waiting time penalties pursuant to California Labor Code section 1194.

3 **VII. SECOND CAUSE OF ACTION**

4 **Failure to Pay All Wages Owed Every Pay Period**

5 **in Violation of Cal. Labor Code § 204**

6 **(Brought by Plaintiff on Behalf of All Aggrieved Persons Against All Defendants)**

7 44. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as
8 if fully set forth herein.

9 45. California Labor Code section 204 establishes the fundamental right of all employees in the
10 State of California to be paid wages in a timely fashion for their work. At all times relevant during the
11 liability period, Defendant failed to pay Plaintiff and the Class the full amount of all owed wages when
12 due as required by California Labor Code section 204. At all relevant times herein, Labor Code section
13 204 provides that all wages earned by any person in any employment between the 1st and the 15th days,
14 inclusive, of any calendar month, other than those wages due upon termination of an employee, are due
15 and payable between the 16th and the 26th day of the month during which the labor was performed.
16 Labor Code section 204 further provides that all wages earned by any person in any employment
17 between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon
18 termination of an employee, are due and payable between the 1st and the 10th day of the following
19 month.

20 46. At all relevant times herein, Labor Code section 204 provides that all wages earned for
21 labor in excess of the normal work period shall be paid no later than the payday for the next regular
22 payroll period. Alternatively, at all relevant times herein, Labor Code section 204 provides that the
23 requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or
24 semimonthly payroll if the wages are paid not more than seven (7) calendar days following the close of
25 the payroll period.

26 47. During the relevant time period, Defendants willfully failed to pay Plaintiff and other
27 similarly situated employees all wages earned each pay period. For example, Plaintiff is informed,
28 believes, and thereon alleges, that at all times relevant during the liability period, Defendant maintained

1 a policy or practice of not paying Plaintiff and other similarly situated employees: (i) minimum wages
2 for all hours worked; (ii) overtime wages for all overtime hours worked; and (iii) premium wages for all
3 missed meal periods and rest breaks.

4 48. As a result of Defendant's unlawful conduct, Plaintiff and members of the Class have
5 suffered damages in an amount, subject to proof, to the extent they were not paid all wages each pay
6 period. The precise amount of unpaid wages is not presently known to Plaintiff but can be determined
7 directly from Defendant's records or indirectly based on information from Defendant's records.

8 **VIII. THIRD CAUSE OF ACTION**

9 **Failure to Pay All Wages Due at Separation**

10 **in Violation of California Labor Code §§ 201–203**

11 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

12 49. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

13 50. California Labor Code sections 201 and 202 require Defendants to pay all compensation
14 due and owing to former drivers at or around the time employment is terminated. Section 203 of the
15 California Labor Code provides that if an employer willfully fails to pay compensation promptly upon
16 discharge or resignation, as required by sections 201 and 202, then the employer is liable for penalties
17 in the form of continued compensation of up to thirty (30) work days.

18 51. At all times relevant during the Class Period, Plaintiff and Class Members were employees
19 of Defendants covered by California Labor Code section 203.

20 52. Plaintiff and Class Members were not paid for all of their work time, primarily for
21 nonproductive time.

22 53. Defendants willfully failed to pay Plaintiff and former Class Members for their
23 uncompensated hours upon their termination or separation from employment with Defendants as
24 required by California Labor Code sections 201 and 202. As a result, Defendants are liable to Plaintiff
25 and other former Class Members for waiting time penalties amounting to thirty (30) days' wages for
26 Plaintiff and each such Class Member pursuant to California Labor Code section 203.

27 ///

28 ///

1 **IX. FOURTH CAUSE OF ACTION**

2 **Failure to Maintain Records**

3 **in Violation of Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 9-2001, § 7**

4 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

5 54. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as
6 if fully set forth herein.

7 55. During the Class Period, as part of Defendants' illegal payroll policies and practices to
8 deprive Plaintiff and Class Members of all wages earned and due, Defendants knowingly and
9 intentionally failed to maintain records as required under California Labor Code sections 226 and 1174,
10 and IWC Wage Order No. 9-2001, section 7, including but not limited to the following records: total
11 daily hours worked by each employee; applicable rates of pay; all deductions; meal periods; time
12 records showing when each employee begins and ends each work period; and accurate itemized
13 statements.

14 56. As a proximate result of Defendants' unlawful actions and omissions, Plaintiffs and Class
15 Members have been damaged in an amount according to proof at trial, and are entitled to all wages
16 earned and due, plus interest thereon. Additionally, Plaintiffs and Class Members are entitled to all
17 available civil and statutory penalties and an award of costs, expenses, and reasonable attorneys' fees,
18 including but not limited to those provided in California Labor Code section 226(e), as well as other
19 available remedies.

20 **X. FIFTH CAUSE OF ACTION**

21 **Failure to Furnish Timely and Accurate Wage Statements**

22 **in Violation of California Labor Code §§ 226 and 226.3**

23 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

24 57. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

25 58. California Labor Code section 226(a) provides in pertinent part, "An employer,
26 semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a
27 detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are
28 paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages

1 earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of
2 piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all
3 deductions, provided that all deductions made on written orders of the employee may be aggregated and
4 shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is
5 paid, (7) the name of the employee and only the last four digits of his or her social security number or
6 an employee identification number other than a social security number, (8) the name and address of the
7 legal entity that is the employer and, if the employer is a farm labor contractor, as defined in
8 subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the
9 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
10 number of hours worked at each hourly rate by the employee”

11 59. California Labor Code section 226(e) provides that an employee is entitled to recover fifty
12 dollars (\$50) for the initial pay period in which a violation of section 226 occurs and one hundred
13 dollars (\$100) for each subsequent pay period, as well as an award of costs and reasonable attorneys’
14 fees, for all pay periods in which the employer knowingly and intentionally failed to provide accurate
15 itemized statements to the employee causing the employee to suffer injury.

16 60. Plaintiff is informed, believes, and thereon alleges that at all times relevant, Defendants
17 knowingly and intentionally failed to furnish and continues to knowingly and intentionally fail to
18 furnish Plaintiff and each Class Member with timely and accurate itemized statements showing the
19 gross wages earned by each of them, as required by California Labor Code section 226(a), in that the
20 payments owed to Plaintiff and Class Members for unpaid minimum wages, including in the form of
21 rest breaks in drivers’ nonproductive time, were not included in gross wages earned by Plaintiff and the
22 Class. Defendants provide and have provided Plaintiff and other Class Members with noncompliant
23 settlement histories that are missing several items that must appear on wage statements.

24 61. Defendants’ failure to provide Plaintiff and Class Members with accurate itemized wage
25 statements during the Class Period has caused Plaintiff and Class Members to incur economic damages
26 in that they were not aware that they were owed and not paid compensation for all nonproductive time
27 including 10-minute rest breaks, wait-time for empty trailers to become available and for pre- and post-
28 trip inspections, fueling, and other truck maintenance-related tasks. Plaintiff and Class Members were

1 not compensated for this work, and for all other hours worked without pay. In addition, Defendants did
2 not record all hours worked and all nonproductive time of Plaintiff and other Class Members, which
3 masked their underpayment of wages to Plaintiff and the Class.

4 62. As a result of Defendants' failure to issue accurate itemized wage statements to Plaintiff
5 and Class Members in violation of California Labor Code section 226(a), Plaintiff and Class Members
6 are each entitled to recover penalties pursuant to section 226(e) of the California Labor Code.

7 **XI. SIXTH CAUSE OF ACTION**

8 **Failure to Reimburse All Necessary Business-Related Expenses**

9 **in Violation of California Labor Code § 2802**

10 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

11 63. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth fully herein.

12 64. California Labor Code section 2802 provides that "An employer shall indemnify his or her
13 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the
14 discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
15 unlawful unless the employee, at the time of obeying the directions, believed them to be unlawful."

16 65. During the applicable statutory period, Plaintiff and Class Members incurred necessary
17 expenditures and losses in direct consequence of the discharge of their employment duties and their
18 obedience to the directions of Defendants, Defendants did not reimburse Plaintiff and Class Members
19 for these expenditures or losses. Such expenses include, but are not limited to, fuel expenses; cell
20 phone service costs; safety vests; permits; truck lease, rental, and maintenance costs; and additional
21 insurance premiums, including workers' compensation, occupational accident insurance, cargo
22 insurance, trailer insurance, and truck insurance.

23 66. Defendants have failed to fully reimburse Plaintiff and Class Members for necessary
24 business-related expenses and losses.

25 67. Plaintiff and Class Members are entitled to recover their necessary unreimbursed business-
26 related expenses and losses incurred during the course and scope of their employment, plus interest
27 accrued from the date on which the employee incurred the necessary expenditures at the same rate as
28 judgments in civil actions in the State of California, pursuant to California Labor Code section 2802.

1 **XII. SEVENTH CAUSE OF ACTION**

2 **Unlawful Deduction From Wages**

3 **in Violation of California Labor Code § 221**

4 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

5 68. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

6 69. California Labor Code section 221 provides that “It shall be unlawful for any employer to
7 collect or receive from an employee any part of wages theretofore paid by said employer to said
8 employee.”

9 70. Defendants collected or received from Plaintiff and Class Members part of their wages
10 Defendants owed them, including deductions for the costs for insurance, diesel/maintenance,
11 plates/road tax, loan return, occupational insurance. Plaintiff is informed, believes, and thereon alleges,
12 that at all times relevant during the Class Period, Defendants maintained a policy or practice of
13 collecting and receiving wages Defendants paid to Plaintiff and other similarly situated employees.

14 71. As a result of Defendants’ unlawful conduct, Plaintiff and Class Members have suffered
15 damages in an amount, subject to proof, to the extent that Defendants unlawfully deducted amounts
16 from Plaintiff’s and Class Members’ wages.

17 **XIII. EIGHTH CAUSE OF ACTION**

18 **Violation of California’s Unfair Competition Law, Bus. & Prof. Code §§ 17200; *et seq.***

19 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

20 72. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

21 73. Section 17200 of the California Business and Professions Code (the “UCL”) prohibits any
22 unlawful, unfair, or fraudulent business practices.

23 74. Through their action alleged herein, Defendants have engaged in unfair competition within
24 the meaning of the UCL. Defendants’ conduct, as alleged herein, constitutes unlawful, unfair, and/or
25 fraudulent business practices under the UCL.

26 75. Defendants’ unlawful conduct under the UCL includes, but is not limited to, violating the
27 statutes alleged herein. Defendants’ unfair conduct under the UCL includes, but is not limited to,
28 failure to pay Class Members wages and compensation they earned through labor provided, and failing

1 to otherwise compensate or reimburse Class Members, as alleged herein. Defendants' fraudulent
2 conduct includes, but is not limited to, issuing wage statements—in the form of settlement histories—
3 containing false and/or misleading information about the time Class Members worked and the amount
4 of wages or compensation due and failing to pay Class Members for all unreimbursed business
5 expenses and all minimum wages owed.

6 76. Plaintiff has standing to assert this claim because he has suffered injury in fact and has lost
7 money as a result of Defendants' conduct.

8 77. Plaintiff and the Class seek restitutionary disgorgement from Defendants, and an
9 injunction prohibiting them from engaging in the unlawful, unfair, and/or fraudulent conduct alleged
10 herein.

11 **XIV. NINTH CAUSE OF ACTION**

12 **For Civil Penalties Pursuant to California's Private Attorneys General Act of 2004 ("PAGA"),**

13 **§§ 2698, *et seq.*, for Violations of California Labor Code Sections**

14 **(Brought by Plaintiff on Behalf of Himself and the General Public Against All Defendants)**

15 78. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as
16 if fully set forth herein.

17 79. PAGA provides that any provision of law under the Labor Code and applicable IWC Wage
18 Order(s) that provides for a civil penalty to be assessed and collected by California's Labor and
19 Workforce Development Agency ("LWDA") for violations of the California Labor Code and applicable
20 IWC Wage Order(s) may, as an alternative, be recovered by aggrieved employees in a civil action
21 brought on behalf of himself and other current or former employees pursuant to procedures outlined in
22 California Labor Code section 2699.3.

23 80. PAGA defines an "aggrieved employee" in Labor Code section 2699(c) as "any person who
24 was employed by the alleged violator and against whom one or more of the alleged violations was
25 committed."

26 81. Plaintiff and other current and former employees of Defendants are "aggrieved employees"
27 as defined by Labor Code section 2699(c) in that they are all Defendants' current or former employees
28 and one or more of the alleged violations were committed against them.

1 82. Pursuant to Labor Code sections 2699.3 and 2699.5, aggrieved employees, including
2 Plaintiff, may pursue a civil action arising under PAGA, alleging violations of any provision listed in
3 section 2699.5, after the following requirements have been met:

- 4 a. The aggrieved employee shall give written notice (“Employee’s Notice”) by online filing
5 to the LWDA and by certified mail to the employer of the specific provisions of the
6 California Labor Code alleged to have been violated, including the facts and theories to
7 support the alleged violations;
- 8 b. The Employee’s Notice filed with the LWDA is accompanied by a seventy-five-dollar
9 (\$75) filing fee; and
- 10 c. The LWDA shall provide notice (“LWDA Notice”) to the employer and the aggrieved
11 employees by certified mail that it does not intend to investigate the alleged violation
12 within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon
13 receipt of the LWDA Notice, or if the LWDA Notice is not provided within sixty-five
14 (65) calendar days of the postmark date of the Employee’s Notice, the aggrieved
15 employees may commence a civil action pursuant to California Labor Code section 2699
16 to recover civil penalties in addition to any other penalties to which the employees may
17 be entitled.

18 83. Pursuant to California Labor Code sections 2699.3(c), aggrieved employees, including
19 Plaintiff, may pursue a civil action arising under PAGA for violations of any provision other than those
20 listed in section 2699.5 after the following requirements have been met:

- 21 a. The aggrieved employees shall give written notice by online filing (“Employee’s Notice”)
22 to the LWDA and by certified mail to the employer of the specific provisions of the
23 California Labor Code alleged to have been violated, including the facts and theories to
24 support the alleged violations;
- 25 b. The Employee’s Notice filed with the LWDA is accompanied by a seventy-five-dollar
26 (\$75) filing fee; and
- 27 c. The employer may cure the alleged violation within thirty-three (33) calendar days of the
28 postmark date of the Employee’s Notice. The employer shall give written notice by

certified mail within that period of time to the aggrieved employees or representatives and the agency if the alleged violation is cured, including a description of actions taken, and no civil action pursuant to Section 2699 may commence. If the alleged violation is not cured within the 33-day period, the employees may commence a civil action pursuant to Section 2699.

84. On August 2, 2023, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of the specific provisions of the California Labor Code alleged to have been violated, including facts and theories to support the alleged violations, in accordance with California Labor Code section 2699.3. Plaintiff's notice to the LWDA was accompanied by the \$75 filing fee. A true and correct copy of Plaintiff's written notice to the LWDA and Defendants dated August 2, 2023 is attached hereto as "**Exhibit 1.**"

85. As of the filing date of the initial complaint, over sixty-five (65) days have passed since Plaintiff sent the LWDA Notice described above, and the LWDA has not responded that it intends to investigate Plaintiff's claims. Defendants have not given notice that it has cured the alleged violations set forth in this Complaint. Thus, Plaintiff has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) and (c) to recover civil penalties against all Defendants, in addition to other remedies, for violations of California Labor Code sections 201, 202, 203, 204, 221, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and 2810.5.

86. Labor Code section 558(a) provides that "[a]ny employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages." Labor Code section 558(c) provides that "[t]he civil penalties provided for in this section are in addition to any other civil or criminal penalty provided by law."

1 87. Defendants, at all times relevant herein, were employers or persons acting on behalf of an
2 employer(s) who violated Plaintiff's and other non-party aggrieved employees' rights by violating
3 various sections of the California Labor Code as set forth above.

4 88. As set forth below, Defendants have violated numerous provisions of both the Labor Code
5 sections regulating hours and days of work as well as the applicable IWC Wage Order(s), including:

- 6 a. Violations of Labor Code sections 510, 1198, and the applicable IWC Wage Order(s) for
7 Defendants' failure to compensate Plaintiff and other Class Members with overtime wages
8 for all hours worked in excess of eight (8) in one day or forty (40) in one week and double
9 time for all hours worked in excess of twelve (12) hours, as set forth above;
- 10 b. Violations of Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198, and the applicable
11 IWC Wage Order(s) for Defendants' failure to compensate Plaintiff and other Class
12 Members with at least minimum wages for all hours worked as set forth above;
- 13 c. Violations of Labor Code sections 226.7, 512(a), 1198, and the applicable IWC Wage
14 Order(s) for Defendants' failure to provide Plaintiff and other Class Members with meal
15 periods and/or rest breaks, as set forth above;
- 16 d. Violations of Labor Code sections 226(a), 1198, and the applicable IWC Wage Order(s)
17 for failure to provide accurate and complete wage statements to Plaintiff and other Class
18 Members as set forth above;
- 19 e. Violations of Labor Code sections 1174(d), 1198, and the applicable IWC Wage Order(s)
20 for failure to maintain payroll records. California Labor Code section 1198 provides that
21 the maximum hours of work and the standard conditions of labor shall be those fixed by
22 the Labor Commissioner and as set forth in the applicable IWC Wage Order(s). Section
23 1198 further provides that "[t]he employment of any employees for longer hours than
24 those fixed by the order or under conditions of labor prohibited by the order is unlawful."
25 Pursuant to the applicable IWC Wage Order(s), employers are required to keep accurate
26 time records showing when the employee begins and ends each work period and meal
27 period. During the relevant time period, Defendants failed, on a companywide basis, to
28 keep records of meal period start and stop times for Plaintiff and other non-party aggrieved

employees in violation of section 1198. California Labor Code section 1174(d) provides that “[e]very person employing labor in this state shall . . . [k]eep a record showing the names and addresses of all employees employed and the ages of all minors” and “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments” During the relevant time period, and in violation of Labor Code section 1174(d), Defendants willfully failed to maintain accurate payroll records for Plaintiff and other non-party aggrieved employees showing the daily hours they actually worked and the wages paid thereto as a result of failing to record the off-the-clock hours that they worked;

- f. Violations of Labor Code sections 201, 202, and 203 for failure to pay all earned wages upon termination as set forth above;
- g. Violations of Labor Code sections 221 and 2802 for unlawful deductions from wages and failure to reimburse all necessary, business-related expenses incurred during employment as set forth above;
- h. Violations of Labor Code section 204 for failure to pay all earned wages during employment as set forth above;
- i. Violations of Labor Code section 2810.5 for failure to provide notice of all material terms of employment at the time of hire as set forth above;
- j. Plaintiff and other non-party aggrieved employees are therefore entitled to recover penalties, attorneys’ fees, costs, and interest thereupon, pursuant to Labor Code section 2699(f)-(g); and
- k. Any and all additional applicable civil penalties and sums as provided by the California Labor Code and/or other relevant statutes.

89. Pursuant to California Labor Code sections 2699(a), 2699.3, 2699.5, and section 558, Plaintiff, acting in the public interest as a private attorney general, seeks assessment and collection of civil penalties for himself, all other non-party aggrieved employees, and the State of California Against

1 All Defendants, in addition to other remedies, for violations of California Labor Code sections 201,
2 202, 203, 204, 221, 226(a), 226.7, 510, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, 2802, and
3 2810.5.

4 90. In addition, Plaintiff seeks and are entitled to seventy-five percent (75%) of all penalties
5 obtained under California Labor Code section 2699 to be allocated to the LWDA, for education of
6 employers and employees about their rights and responsibilities under the California Labor Code, and
7 twenty-five percent (25%) to all aggrieved employees.

8 91. Further, Plaintiff is entitled to recover reasonable attorneys' fees and costs pursuant to
9 California Labor Code sections 2699(g)(1), 218.5, 1194(a) and any other applicable statute.

10 **XV. PRAYER**

11 92. WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on
12 behalf of the general public, pray for judgment against Defendants as follows:

- 13 a. An order that this action may proceed and be maintained as a class action;
- 14 b. For all unpaid minimum wages and liquidated damages due to Plaintiff and each Class
15 Member on their minimum wage claim;
- 16 c. For continuation wages under California Labor Code section 203;
- 17 d. For statutory penalties under California Labor Code section 226(e);
- 18 e. An order requiring Defendants to comply with California Labor Code section 226(a) with
19 respect to all currently employed Class Members;
- 20 f. For reimbursement of unlawful deductions of wages under California Labor Code section
21 221;
- 22 g. For reimbursement of business expenses under California Labor Code section 2802;
- 23 h. For all available civil penalties pursuant to California Labor Code sections 210, 225.5,
24 226.3, 558, 1174.5, 1197.1 and for violations of California Labor Code sections 201, 202,
25 203, 204, 221, 226, 510, 1194, 1197, 1198, and 2802;
- 26 i. For restitutionary disgorgement pursuant to the UCL;
- 27 j. An order enjoining Defendants from further unfair and unlawful business practices in
28 violation of Business & Professions Code sections 17200; *et seq.*;

- 1 k. Prejudgment interest at the maximum legal rate;
2 l. Reasonable attorneys' fees;
3 m. General, special and consequential damages, to the extent allowed by law;
4 n. Costs of suit; and
5 o. Such other relief as the Court may deem just and proper.
6

7 Dated: January 11, 2024

SHEGERIAN & ASSOCIATES, INC.

8
9 By:



Carney R. Shegerian
Anthony Nguyen
Cheryl A. Kenner

Attorneys for Plaintiff JIMMY MANNING,
individually, and on behalf of all others
similarly situated and aggrieved

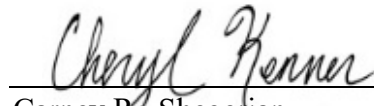
14 **XVI. DEMAND FOR JURY TRIAL**

15 Plaintiff demands a trial by jury for himself and Class Members on all claims so triable.
16

17 Dated: January 11, 2024

SHEGERIAN & ASSOCIATES, INC.

18
19 By:



Carney R. Shegerian
Anthony Nguyen
Cheryl A. Kenner

Attorneys for Plaintiff JIMMY MANNING,
individually, and on behalf of all others
similarly situated and aggrieved

EXHIBIT 1

August 2, 2023

VIA ONLINE SUBMISSION

Stewart Knox, Secretary
California Labor & Workforce
Development Agency
800 Capitol Mall, Suite 5000 (MIC-55)
Sacramento, CA 95814

VIA CERTIFIED MAIL

Lincoln Transportation Services Inc.
Attn: Legal Department
250 West Manville Street
Compton, CA 90220

Lincoln Transportation Services Inc.
Attn: Human Resources
370 West Redondo Beach Boulevard
Gardena, CA 90248

Lincoln Transportation Services Inc.
Attn: Human Resources
200 East Gardena Boulevard
Gardena, CA 90248

Lincoln Transportation Services Inc.
Attn: Human Resources
19500 South Santa Fe Avenue
Compton, CA 90221

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CALIFORNIA LABOR
CODE SECTION 2698, ET SEQ.**

To: California Labor and Workforce Development Agency; Lincoln Transportation Services Inc.

From: Jimmy Manning, on behalf of himself and all other current and former drivers for violations of the California Labor Code

To Whom It May Concern:

Shegerian & Associates, Inc. has been retained by driver Jimmy Manning (“Mr. Manning”) to seek compensation and all other available relief, including civil penalties on his own behalf and on behalf of all those similarly aggrieved (collectively, with Mr. Manning, “Claimants”) who have been injured by Lincoln Transportation Services Inc.’s (“Lincoln”) violations of the California Labor Code. Mr. Manning, on behalf of himself and all other similarly aggrieved current and former drivers—whether classified as employees or misclassified as independent contractors—of

145 S Spring Street, Suite 400
Los Angeles, California 90012

11520 San Vicente Boulevard
Los Angeles, California 90049

6205 Lusk Boulevard, Suite 200
San Diego, California 92121

650 California Street, Suite 4-137
San Francisco, California 94108

90 Broad Street, Suite 804
New York, New York 10004

3764 Elizabeth Street
Riverside, California 92506

Lincoln, intend to seek civil penalties, attorneys' fees, costs, and other available relief for violations of the California Labor Code, which are recoverable under sections 2698, *et seq.* of the Labor Code Private Attorneys General Act of 2004 ("PAGA").

Factual Statement:

Claimant is Mr. Manning, on behalf of himself and all other similarly situated current and former drivers of Lincoln—whether classified as an employee driver or independent contractor driver—who are or were engaged in providing transportation-related driving services to Lincoln. Lincoln is a drayage trucking company delivering cargo from ports to customers interstate and throughout California. As part of their employment with Lincoln, Claimants were assigned to and required to suffer and permitted to work without pay, while performing tasks including, but not limited to: picking up loads from the ports (Los Angeles and Long Beach) and delivering them to customers located in Ontario or Arizona; waiting during live-unloads at customer's locations or else dropping off drop-and-hook loads; returning with empty trailers to the port or the company's yard; bobtailing back to the yard following drop-and-hook loads. Drivers drive both short and long-haul routes.

During his employment, Lincoln intentionally misclassified employees as independent contractors, including Mr. Manning, in violation of Labor Code section 226.8(a)(1). Lincoln failed to provide Mr. Manning and those similarly situated with meal periods and rest breaks or premium pay in lieu thereof. As a consequence, Lincoln has failed to comply with Labor Code sections 226.7 and 512, and section 11 of Industrial Welfare Commission ("IWC") Wage Order Nos. 9-2001, and any other applicable IWC Wage Orders. In addition, Lincoln failed to pay all minimum and overtime wages to Mr. Manning for all hours worked and other drivers in violation of Labor Code sections 1194 and 1197, and section 4 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders, and also failed to provide accurate, timely itemized pay statement accounting records to Mr. Manning and other drivers in violation of Labor Code section 226(a). With regard to those no longer employed by Lincoln, including Mr. Manning, Lincoln violated Labor Code sections 201–203 by failing to pay all wages due upon separation. Mr. Manning is informed and believes that such violations are ongoing, systematic, and continuous. He intends to bring an action against Lincoln under the Private Attorneys General Act ("PAGA") to recover wages and penalties as provided by California law.¹

¹ Without limitation, Mr. Manning, if permitted, will seek any and all penalties otherwise capable of being collected by the Commission. This includes each provision as set forth in Labor Code section 2699.5 as follows:

The provisions of subdivision (a) of Section 2699.3 apply to any alleged violation of the following provisions: subdivision (k) of Section 96, Sections 98.6, 201, 201.3, 201.5, 201.7, 202, 203, 203.1, 203.5, 204, 204a, 204b, 204.1, 204.2, 205, 205.5, 206, 206.5, 208, 209, and 212, subdivision (d) of Section 213, Sections 221, 222, 222.5, 223, and 224, subdivision (a) of Section 226, Sections 226.7, 227, 227.3, 230, 230.1, 230.2, 230.3, 230A, 230.7, 230.8, and 231, subdivision (c) of Section 232, subdivision (c) of Section 232.5, Sections 233, 234, 351, 353, and 403, subdivision (b) of Section 404, Sections 432.2, 432.5, 432.7, 435, 450, 510, 511, 512, 513, 551, 552, 601,

Theories of Labor Code Violations and Remedies:

Although Lincoln misclassified Claimant Mr. Manning as an independent contractor, he should have been classified as an employee/company driver of Lincoln. Mr. Manning worked for Lincoln from approximately 2016 through approximately July 6, 2023 as an independent contractor driver earning a pre-set, fixed rate per job.

Here, the position of driver, whether employee or independent contractor, essentially requires drivers to perform tasks including, but not limited to: picking up loads from the ports (Los Angeles and Long Beach) and delivering them to customers located in Ontario or Arizona; waiting during live-unloads at customer's locations or else dropping off drop-and-hook loads; returning with empty trailers to the port or the company's yard; bobtailing back to the yard following drop-and-hook loads. Drivers drive both short and long-haul routes. For a period of at least four (4) years prior to August 2023, but for our purposes here, one (1) year, Lincoln has misclassified drivers as independent contractors instead of nonexempt employees and, as such, has violated a multitude of Labor Codes as a result. Additionally, Lincoln has failed and continues to fail to pay drivers all overtime wages owed, yet regularly requires and has required drivers to work in excess of eight (8) hours per workday and/or forty (40) hours per workweek without adequate pay under Labor Code section 1194.

It is unlawful for any person or employer to willfully misclassify an individual as an independent contractor. (Cal. Lab. Code § 226.8(a)(1).) . . . “‘Willful misclassification’ means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.” (Cal. Lab. Code § 226.8(i)(4).) Accordingly, by willfully misclassifying its drivers as independent contractors, past and present, including Mr. Manning, Lincoln has violated Labor Code section 226.8.

If a person or employer willfully misclassifies an individual as an independent contractor, the person or employer shall be subject to a civil penalty of not less than \$5,000 and not more than \$15,000 for each violation, in addition to any other penalties or fines permitted by law. (Cal. Lab. Code section 226.8(b).)

At all times relevant herein, Claimants were entitled to the payment of overtime. That is, pursuant to Labor Code sections 510, 1194, 1197, and 1182.12, Lincoln was required to

602, 603, 604, 750, 751.8, 800, 850, 851, 851.5, 852, 921, 922, 923, 970, 973, 976, 1021, 1021.5, 1025, 1026, 1101, 1102, 1102.5, and 1153, subdivisions (c) and (d) of Section 1174, Sections 1194, 1197, 1197.1, 1197.5, and 1198, subdivision (b) of Section 1198.3, Sections 1199, 1199.5, 1290, 1292, 1293, 1293.1, 1294, 1294.1, 1294.5, 1296, 1297, 1298, 1301, 1308, 1308.1, 1308.7, 1309, 1309.5, 1391, 1391.1, 1391.2, 1392, 1683, and 1695, subdivision (a) of Section 1695.5, Sections 1695.55, 1695.6, 1695.7, 1695.8, 1695.9, 1696, 1696.5, 1696.6, 1697.1, 1700.25, 1700.26, 1700.31, 1700.32, 1700.40, and 1700.47, paragraphs (1), (2), and (3) of subdivision (a) of, and subdivision (e) of, Section 1701.4, subdivision (a) of Section 1701.5, Sections 1701.8, 1701.10, 1701.12, 1735, 1771, 1774, 1776, 1777.5, 1811, 1815, 2651., and 2673, subdivision (a) of Section 2673.1, Sections 2695.2, 2800, 2801, 2802, 2806, and 2810, subdivision (b) of Section 2929, and Sections 3095, 6310, 6311, and 6399.7.

compensate Claimants at a rate of 1.5 times their regular rate for all hours worked over eight (8) hours per workday and the first eight (8) hours worked on the seventh day of a workweek and at two (2) times their regular rate for hours worked over twelve (12) hours per workday and eight (8) hours on the seventh day of a workweek. Lincoln has failed to and continues to fail to pay Claimants overtime wages owed for off-the-clock time worked that would have been eligible for overtime, yet regularly required them to work these overtime hours without premium pay under Labor Code section 1194. In short, during the entire course of their employment, Lincoln failed to provide Mr. Manning and continues to fail to provide all others similarly situated with all overtime pay in violation of 226.7, 510, and 512 and all applicable IWC Wage Orders, including but not limited to IWC Wage Order 9-2001, section 3.

Pursuant to IWC Wage Order No. 9-2001, employers are required to keep accurate time records showing when employees begin and end each work period and meal period. During the relevant time period, Lincoln had a company-wide policy and engaged in a company-wide practice of failing to record actual hours worked, thereby failing to keep accurate records of work period and meal period start and stop times for Claimants, in violation of section 1198. Because Lincoln failed to provide the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on Claimants' wage statements, Claimants have been prevented from verifying—solely from information on the wage statements themselves—that they were paid correctly and in full. Instead, Claimants have had to refer to other sources beyond their wage statements and reconstruct time records to determine whether in fact they were paid correctly and the extent to which they were underpaid, thereby causing them injury. Accordingly, Claimants are entitled to recover civil penalties, attorney's fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)–(g).

Claimants Mr. Manning and the class and group of aggrieved persons he seeks to represent, were at all times entitled to timely, uninterrupted, off-duty, unpaid meal periods or premium pay in lieu thereof. Lincoln treated its drivers as independent contractors, so it did not have a meal period policy, written or verbal, that authorized and permitted Claimants to take compliant rest breaks. Lincoln failed to authorize and permit any meal periods at all for Mr. Manning and all others similarly situated as required by Labor Code sections 512 and 226.7 and section 11 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. Claimants did not clock out to take a meal period. Lincoln failed to compensate its drivers with premium pay for these noncompliant meal periods as required by Labor Code section 226.7. Furthermore, since Lincoln required Mr. Manning and others similarly situated to work during their meal periods in violation of Labor Code section 512, Claimants seek wages of one additional hour of pay as required by Labor Code section 226.7(b) as well as all available penalties as set forth in section 20 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders, and Labor Code sections 558 and 2699(a) or (f).

Claimants were at all times entitled to take uninterrupted, off-duty, paid rest breaks. Lincoln misclassified its drivers as independent contractors, so it did not have a rest break policy, written

or verbal, authorizing and permitting Claimants to take rest breaks. Thus, Lincoln failed to authorize and permit Claimants to take rest breaks as required by Labor Code section 226.7 and section 12 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. Further, Lincoln failed to compensate its drivers with premium pay for these noncompliant rest breaks as required by Labor Code section 226.7. As a result, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 226.7, 558, and section 20 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. Furthermore, since Lincoln required its employees to work during rest periods in violation of Labor Code section 226.7(b), Claimants seek as all available penalties set forth in Labor Code section 2699(a) or (f). As to the independent contractor drivers, they are also owed minimum wage for that non-productive time spent working during their rest breaks—which was not separately paid—so Lincoln also owes them minimum wages for those rest breaks, whether or not drivers received compliant rest breaks.

Also, Claimants were at all times entitled to payment of minimum wages. Lincoln has failed to pay Claimants minimum wages for all hours worked as required by Labor Code sections 1194 and 1194.2 and section 4 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders. For instance, due to demanding delivery timeframes and heavy workloads, Claimants were not permitted to take off-duty meal periods and rest breaks. Claimants did not clock out to take a meal period or otherwise record them. Claimants were too busy and not authorized to take rest periods. These policies and practices caused Claimants to remain on duty during meal periods and rest breaks, and therefore, constitute a failure on Lincoln's part to provide compliant meal periods and rest breaks. With that, Lincoln's corresponding failure to provide premium pay in lieu of compliant meal periods and rest breaks constitutes Lincoln's failure to pay minimum wages and all hours worked every pay period and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 1182.12, 1194, and 1197. Lincoln's failure to pay Claimants' meal period and rest break premiums for noncompliant meal periods and rest breaks, as explained in further detail above, also constitutes a failure to pay minimum wages to Claimants. Next, Claimants worked a substantial amount of non-productive time for which he was not compensated. Claimants spent a significant amount of compensable time working and performing tasks such as pre- and post-trip inspections, fueling, wait-time, and other truck maintenance-related tasks. Claimants' non-productive time was never recorded, not subsequently added, and, therefore, not compensated. Accordingly, Claimants are entitled to recover wages and/or penalties as provided by Labor Code section 1197.1 and section 20 of IWC Wage Order No. 9-2001, and any other applicable IWC Wage Orders.

By failing to pay all minimum wages and premium pay for noncompliant meal periods and rest breaks, Lincoln has correspondingly failed and continues to fail to pay all wages owed every pay period in violation of Labor Code section 204 and upon separation in violation of Labor Code sections 201–203. Lincoln didn't rectify each of its failings every pay period when Mr. Manning separated from Lincoln by paying Mr. Manning all of his unpaid wages. In short, Lincoln's uniform failure to provide premium pay in lieu of compliant meal periods and rest breaks constitutes Lincoln failure to pay Claimants minimum wages and all wages owed every pay period

and upon separation in violation of Labor Code sections 201, 202, 203, 204, 226(a), 1182.12, 1194, and 1197.

Lincoln's uniform failure to pay Mr. Manning and other drivers minimum wages and uniform failure to authorize and permit them to take meal periods and rest breaks were not rectified by paying them an additional one-hour's wage per day at their regular rate of pay, or alternatively, premium compensation, if applicable, pursuant to Labor Code section 1194. Lincoln's failure to provide such compensation in lieu of compliant meal periods and rest breaks constitutes two ways, among others, in which Lincoln failed to pay Claimants minimum wages, all wages owed every pay period, all wages owed upon separation, which violates Labor Code sections 201–203, 204, and 204(b), and as such, entitles Claimants to recover penalties as set forth in Labor Code section 210 and/or section 1194, *et seq.*

Pursuant to IWC Wage Order No. 9-2001, employers are required to keep accurate time records showing when employees begin and end each work period. During the relevant time period, Lincoln had a company-wide policy and engaged in a companywide practice of failing to record actual hours worked, thereby failing to keep accurate records of work period start and stop times and non-productive time for Claimants, in violation of section 1198. Because Lincoln failed to provide the correct hours worked and, therefore, the correct net and gross wages earned, applicable rates of pay, and number of total hours worked on Claimants' wage statements, Claimants have been prevented from verifying—solely from information on the wage statements themselves—that they were paid correctly and in full. Instead, Claimants have had to refer to other sources beyond their wage statements and reconstruct time records to determine whether in fact they were paid correctly and the extent to which they were underpaid, thereby causing them injury. Lincoln's decision to fail to record this time was knowing and intentional because it was in the sole position to set forth and implement and enforce these companywide practices. Accordingly, Claimants are entitled to recover civil penalties, attorneys' fees, costs, and interest thereon pursuant to Labor Code sections 226.3, 1174.5, and/or 2699(a), (f)–(g).

Claimants were at all times entitled to receive timely and accurate wage statements from Lincoln pursuant to Labor Code section 226. Lincoln never issued Claimants—including Mr. Manning—misclassified as independent contractors any wage statements or even at least satisfactory, compliant settlement histories/statements. As for the wage statements Lincoln issued to employee drivers, the wage statements were inaccurate and noncompliant for multiple reasons including, but not limited to: (1) failing to pay Claimants their meal period and rest break premiums for all noncompliant meal periods and rest breaks; (2) failing to pay Claimants all minimum and overtime and premium wages owed; (3) failing to reflect the correct number of total hours worked every pay period to account for Claimants' non-productive time, which, as a consequence, resulted in (4) failing to reflect the accurate amount of gross wages owed. Since these wage statements were inaccurate and remain as such, they are also untimely. Accordingly, Claimants seek all available penalties as set forth in Labor Code sections 226(e) and 2699.

California Labor Code section 221 provides that, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." Lincoln has deducted amounts from Mr. Manning and other drivers' compensation for costs associated with insurance, occupational accident insurance, fuel, maintenance, plates, and loan return, each of which Lincoln required for use on the job. Therefore, Claimants are entitled to recover amounts Lincoln deducted from their wages pursuant to Labor Code section 221.

Finally, Claimants were entitled to be reimbursed by Lincoln for all necessary, business-related expenses they incurred in executing their duties for Lincoln. California Labor Code section 2802 provides that "An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful." Lincoln has failed to fully reimburse all necessary, business-related expenses and losses Mr. Manning and other drivers incurred, including but not limited to fuel expenses; monthly cell phone service costs; safety vests; permits; truck lease, rental, and maintenance costs; and additional insurance premiums, including workers' compensation, occupational accident insurance, cargo insurance, trailer insurance, and truck insurance, each of which was required for Claimants to perform their job. Claimants are entitled to recover their unreimbursed expenditures and losses pursuant to Labor Code section 2802 for these and any other losses or unreimbursed necessary, business-related expenses.

Lincoln's uniform failure to pay overtime and minimum wages, failure to authorize and permit off-duty rest breaks or pay Claimants premium compensation in lieu thereof, and failure to furnish timely and accurate wage statements violate Labor Code sections 201, 202, 203, 204, 221, 226(a), 226.7, 510, 512, 1182.12, 1194, and 1197, and as such, penalties are recoverable as set forth in Labor Code sections 210, 1194, et seq., and 2699.

Claimants are entitled to recover unpaid wages, with interest, and are entitled to an award of attorneys' fees as permitted by Labor Code section 1194, other penalties as permitted by Labor Code sections 210 and 2699, and waiting time penalties for former employees pursuant to Labor Code section 203.

Accordingly, Mr. Manning seeks the remedies set forth in the above-referenced Labor Code sections for himself, the State of California, and all other aggrieved employees. Specifically, pursuant to PAGA, and in particular California Labor Code sections 2699(a), 2699.3(a), 2699.3(c), and 2699.5, Mr. Manning, acting in the public interest as private attorneys general, seeks assessment and collection of civil penalties for himself, all other aggrieved employees, and the State of California against Lincoln for violations of California Labor Code sections 201, 202, 203, 204, 221, 226(a), 226.7, 512(a), 1174(d), 1182.12, 1194, 1197, 1197.1, 1198, and 2802.

Should you require any additional information, please feel free to contact me.

LABOR AND WORKFORCE DEVELOPMENT AGENCY
LINCOLN TRANSPORTATION SERVICES INC.
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Sincerely,

SHEGERIAN & ASSOCIATES, INC.

A handwritten signature in black ink that reads "Cheryl Kenner". The script is fluid and cursive, with the first name "Cheryl" and last name "Kenner" clearly distinguishable.

Cheryl A. Kenner