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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

LUIS CORTEZ, ANTONIO RODRIGUEZ, and WILLIAM MILLER as individuals and on behalf of all others similarly situated,

Plaintiffs,

vs.

EXTREME TRANSPORTATION, INC., a California corporation; and DOES 1 through 100, inclusive,

Defendants.

Case No.: 37-2024-00012130-CU-OE-CTL

SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT:

(1) FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS (LABOR CODE § 226 *et seq.*)
(2) FAILURE TO PAY ALL WAGES OWED (LABOR CODE §§204, 218, 218.5, 218.6, 222, 223, 224, 226.2, 510, 1182.12, 1194, 1194.2, 1197, 1198, 1199);
(3) MEAL PERIOD VIOLATIONS (LABOR CODE §§ 226.7, 512, 1198);
(4) REST PERIOD VIOLATIONS (LABOR CODE §§ 226.2, 226.7, 516, 1198);
(5) FAILURE TO REIMBURSE BUSINESS EXPENSES (LABOR CODE §§ 2802, 2804)
(6) WAITING TIME PENALTIES (LABOR CODE §§ 201-203);
(7) UNFAIR COMPETITION (BUS. & PROF. CODE § 17200, *et. Seq.)*;
(8) CIVIL PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 *et seq.)*

DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE

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Attorneys for Plaintiffs

Plaintiffs Luis Cortez, Antonio Rodriguez, and William Miller (collectively, "Plaintiffs"), on behalf of themselves and all others similarly situated, hereby bring this Second Amended Class and Representative Action Complaint ("SAC") against Extreme Transportation, Inc. and DOES 1 through 100, inclusive, (collectively "Defendants"), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiffs, on behalf of themselves and all others similarly situated, hereby bring this class and representative action for violations of and recovery of unpaid wages and penalties under California Business and Professions Code section 17200, *et. seq*.; Labor Code sections 201-204, 218, 218.5, 218.6, 222, 223, 224, 226, 226.2, 226.3, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2804, and 2698 *et seq.*; California Code of Regulations, Title 8, section 11090, and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"), in addition to seeking declaratory relief and restitution. This class action is brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction over Defendants' violations of the California Labor Code because the amount in controversy exceeds this Court's jurisdictional minimum.

VENUE

2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the County of San Diego. Defendants own, maintain offices, transact business, have agent(s) within the County of San Diego, and/or otherwise are found within the County of San Diego, and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

3. Plaintiffs are individuals over the age of eighteen (18). At all relevant times herein, Plaintiffs were and currently are, California residents. During the four years immediately preceding the filing of the lawsuit in this action and within the statute of limitations periods applicable to each cause of action pled herein, Plaintiffs were employed by Defendants as non-exempt employees. Plaintiffs were, and are, victims of Defendants' policies and/or practices

complained of herein and has been deprived of the rights guaranteed by California Labor Code sections 201-204, 218, 218.5, 218.6, 222, 223, 224, 226, 226.2, 226.3, 226.7, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 2804, and 2698 *et seq.*; California Business & Professions Code § 17200, *et seq.* (Unfair Competition), California Code of Regulations, Title 8, section 11090, and Wage Order 9, which sets employment standards for employees in the transportation industry

4. Plaintiffs are informed and believe, and based thereon allege, that during the four year preceding the filing of this lawsuit and continuing to the present, Defendants did (and continue to do) business by providing, among others services, delivery transportation services in California. Defendants employed Plaintiffs and other, similarly-situated non-exempt employees within, among other counties, San Diego County and the state of California and, therefore, were (and are) doing business in San Diego County and the State of California.

5. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this SAC when such true names and capacities are discovered. Plaintiffs are informed, and believe, and based thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiffs and the Classes (as defined in Paragraph 21) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiffs are informed, and believe, and thereon allege, that at all times mentioned herein, Defendants were and are the employers of Plaintiffs and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each

of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiffs alleges that all Defendants were joint employers for all purposes of Plaintiffs and all members of the Classes.

GENERAL FACTUAL ALLEGATIONS

9. Defendants did (and continue to do) business by providing, among other services, transportation services, in California. Plaintiffs were employed by Defendants as company drivers during the time period relevant to this action. Plaintiff Luis Cortez was hired in or around November 2022, and his employment was separated on or about February 28, 2024. Plaintiff Antonio Rodriguez was hired on or about November 22, 2023, and his employment was separated on or about August 13, 2024. Plaintiff William Miller was hired in or about February 2024 and his employment was separated on or about December 20, 2024.

10. Plaintiffs and many other drivers have been paid on a flat-rate and/or piece rate basis, paid per each load that they pick up from Defendants' various yards in Southern California (including in Port Hueneme, San Bernardino, and Mira Loma) and deliver to their destinations. Plaintiffs' and other drivers' workweeks have been generally comprised of delivery routes that they are assigned by Defendants. For example, Plaintiffs typically received notification of a delivery route they were assigned through the phone application Magnus.

11. Throughout Plaintiff's employment with Defendants, Plaintiffs and other drivers were required to perform tasks for Defendants besides delivering loads, for which they were not compensated. For example, Plaintiff and other drivers were required to perform pre- and post-trip inspections, and to keep their trucks clean and otherwise maintain their trucks so that they are in good working condition, including by getting oil changes, government inspections, replacing tires, and getting the truck washed. The trucks that Plaintiffs and other drivers operate are large auto transport trucks, and therefore, each of these activities takes multiple hours to complete.

Plaintiffs and other drivers have not received compensation from Defendants for this "nonproductive time," i.e., time spent working that is not directly related to the activity being compensated on a piece-rate basis (i.e., picking up and delivering specified loads). For example, Plaintiff Miller recently spent approximately five and a half hours having a government inspection done and getting an oil change for his assigned truck. However, Plaintiff Miller did not receive any compensation for this nonproductive time.

12. Despite requiring Plaintiffs and other employees to perform nonproductive tasks such as the examples set forth above, Defendants have failed to pay Plaintiff and other employees separately for performing these tasks as required by Labor Code section 226.2. As a result of the failure to pay for nonproductive time, Defendants have failed to pay all wages due to Plaintiff and other employees, including minimum wages.

13. Defendants have also failed to authorize and permit compliant rest periods to Plaintiffs and other non-exempt employees. Specifically, Defendants failed to provide Plaintiffs and other piece rate employees with separately paid rest periods as required. (*See Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864 (holding that drivers compensated on a piece rate basis must be separately compensated for rest periods). Despite failing to authorize and permit legally compliant paid rest periods to Plaintiffs and other non-exempt employees, Defendants have failed to pay the rest period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants have maintained no payroll code or other mechanism for paying rest period premiums when Defendants failed to authorize and permit a legally compliant rest period.

14. Defendants also failed to provide their non-exempt employees, including Plaintiffs, with thirty-minute meal periods before the end of their fifth hour of work. In fact, Defendants instructed Plaintiffs and other drivers that a thirty-minute meal period should be taken at some time before the end of their <u>eighth</u> hour of work. Indeed, it was often impracticable to take a 30-minute meal period before the end of the fifth hour of work, and Defendants did not provide the opportunity to take timely meal periods since, as noted above, Defendants' policy was only to provide a meal period at some point during the first eight hours.

15. In addition to failing to provide timely meal periods, Defendants also failed to provide their non-exempt employees, including Plaintiffs, with uninterrupted, off-duty thirty-minute meal periods. Plaintiffs and other similarly situated employees were encouraged to perform work duties while taking their thirty-minute meal periods. For example, Defendants instructed Plaintiffs that their meal periods could be taken while Plaintiffs were fueling or unloading their trucks.

16. Despite failing to provide Plaintiffs and other non-exempt employees with legally compliant meal periods, Defendants have failed to pay the meal period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the putative class period, Defendants have maintained no payroll code or other mechanism for paying meal period premiums when Defendants failed to provide a legally compliant meal period

17. Throughout Plaintiffs' employment, Defendants failed to provide Plaintiffs and other drivers with accurate, itemized wage statements, in violation of Labor Code section 226. Specifically, the wage statements Defendants provided to their truck drivers failed to include total hours worked during the pay period, the number of piece-rate units earned and any applicable piece rate, and gross and net wages earned in violation of California law. Plaintiffs' wage statements also generally show only a single line item for the total amount Plaintiffs were paid in the pay period, stated cumulatively as just one hour/unit. Nor do Plaintiffs' wage statements identify the number of piece-rate units earned by Plaintiffs and the applicable piece rate(s), as required under Labor Code § 226(a)(3). Moreover, Plaintiffs' and other non-exempt employees' wage statements have been inaccurate, as they have failed to include nonproductive hours worked and wages earned for rest periods as described above, as required by Labor Code § 226.2(a)(2).

18. Defendants' failure to pay all owed minimum wages, as well as failure to pay meal and rest period premium wages, has further resulted in Defendants' maintaining inaccurate payroll records and issuing inaccurate wage statements to Plaintiffs and other non-exempt employees.

19. As a result of Defendants' failure to pay all earned wages (including but not limited to all owed minimum wages and meal and rest period premium wages), Defendants failed to pay

all wages to Plaintiffs and other formerly employed non-exempt employees at the separation of their employment.

20. Defendants have also failed to reimburse Plaintiffs and other aggrieved employees for all business expenses incurred in the course of their employment. Specifically, Defendants have required Plaintiffs and other aggrieved employees to use their personal cell phones for work purposes. For example, Plaintiffs were required to download multiple apps that they and other aggrieved employees used for various work-related purposes, including the aforementioned app Magnus, as well as Samsara, which was used for e-logs, in which Plaintiffs tracked information such as his start and stop times and his pre- and post-inspections of the vehicle. Plaintiffs and other non-exempt employees were also required to download other apps onto their personal cell phones, including Super Dispatch, RPM Drive, and the Tesla app, which were also used in connection with work. Defendants also required Plaintiffs and other non-exempt employees to communicate using their personal cell phones, and otherwise to use their personal cell phones for work purposes. Despite requiring Plaintiffs and other employees to use their personal cell phones for work, Defendants have failed to reimburse them for any portion of their personal cell phone bill, as required under California law, including but not limited to Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

CLASS ACTION ALLEGATIONS

21. **Class Definitions**: Plaintiffs bring this action on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure:

a. The Minimum Wage Class consists of all of the Defendants' current and former non-exempt employees who worked for Extreme Transportation, Inc. as Auto Transport Specialists (i.e. drivers) in California who were compensated on a flat-rate and/or piece-rate basis and were not paid separately for rest periods or other nonproductive time, at any time from four years prior to the filing of this action to the present.

b. The Rest Period Class consists of all of the Defendants' current and former non-exempt employees who worked for Extreme Transportation, Inc. as Auto

Transport Specialists (i.e. drivers) in California who were compensated on a flat-rate and/or piece-rate basis and worked at least one shift of 3.5 hours or more, at any time from four years immediately preceding the filing of this action through the present.

c. The Meal Period Class consists of all of the Defendants' current and former non-exempt employees who worked for Extreme Transportation, Inc. as Auto Transport Specialists (i.e. drivers) in California who worked at least one shift in excess of 5.0 hours, and/or at least one shift in excess of 10.0 hours, during the four years immediately preceding the filing of this action through the present.

d. The Wage Statement Class consists of all members of the Minimum Wage Class, Rest Period Class, and/or Meal Period Class who received a wage statement; and/or all non-exempt employees who worked for Extreme Transportation, Inc. as Auto Transport Specialists (i.e. drivers) in California who were paid on a flat-rate and/or piece-rate basis, at any time from one year immediately prior to the filing of this action through the present.

e. The Waiting Time Class consists of all members of the Minimum Wage Class, Meal Period Class, and/or Rest Period Class, who are no longer employed by Defendants and who last worked for Defendants at any time from three years immediately preceding the filing of this lawsuit through the present.

f. The Expense Reimbursement Class consists of all of Defendants' non-exempt employees who worked for Extreme Transportation, Inc. as Auto Transport Specialists (i.e. drivers) in California who were required to use their personal property, including but not limited to personal cellular phones, for work-related purposes, at any time from four years prior to the filing of this action through the present.

g. The UCL Class consists of members of the: (i) Minimum Wage Class; (ii) Meal Period Class; (iii) Rest Period Class; (iv)Wage Statement Class; (v)

Waiting Time Class; and (vi) Expense Reimbursement Class, during the four years immediately preceding the filing of the lawsuit through the present

22. Plaintiffs reserve the right under Rule 3.765(b) of the California Rules of Court, to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

23. **Numerosity/Ascertainability**: The members of the Class are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Class is unknown to Plaintiffs at this time; however, it is estimated that the members of the Class number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

24. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest**: There are common questions of law and fact as to Plaintiffs and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

i. Whether Defendants paid at least the legal minimum wage for all hours worked by the members of the Minimum Wage Class;

ii. Whether Defendants authorized and permitted legally compliant, paid rest periods to members of the Rest Period Class;

iii. Whether Defendants provided legally compliant meal periods to members of the Meal Period Class;

iv. Whether Defendants furnished legally compliant wage statements, including showing all hours worked and a break-down of the piece-rate compensation, to members of the Wage Statement Class pursuant to Labor Code § 226;

v. Whether Defendants paid all wages due to members of the Waiting Time Class at the time of separation of employment; and

vi. Whether Defendants properly reimbursed expenses incurred by members of the Expense Reimbursement Class.

25. **Predominance of Common Questions**: Common questions of law and fact predominate over questions that affect only individual members of the Class. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' wage payment practices, meal and rest period practices, wage statement policies/practices and reimbursement practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to their eligibility for recovery or as to the amount of their damages.

26. **Typicality**: The claims of Plaintiffs are typical of the claims of the Class because Plaintiffs were employed by Defendants as non-exempt employees in California during the statute(s) of limitations period applicable to each cause of action pled in the lawsuit. As alleged herein, Plaintiffs, like the members of the Class, were not paid all wages owed, were not provided with all required meal periods, were not authorized and permitted to take all required rest periods, were not reimbursed for all necessarily incurred business expenses, and not provided with accurate, itemized wage statements.

27. **Adequacy of Representation**: Plaintiffs are fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Class. Moreover, Plaintiffs' attorneys are ready, willing and able to fully and adequately represent the members of the Class and Plaintiffs. Plaintiffs' attorneys have prosecuted and defended numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Class.

28. **Superiority**: The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiffs and members of the Class make the class action format a particularly efficient and appropriate

procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual Plaintiffs with their vastly superior financial and legal resources. Moreover, requiring each member of the Class to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 21 are maintainable as a Class under § 382 of the Code of Civil Procedure.

<u>FIRST CAUSE OF ACTION</u>

FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS

(AGAINST ALL DEFENDANTS)

29. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

30. Plaintiffs are informed and believe, and based thereon allege, that Defendants knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Plaintiffs and the Wage Statement Class Members with accurate and complete, itemized wage statements that included among other requirements, all hours worked, all hours worked at each rate of pay, and all piece rates and piece rate units earned by the employee in violation of Labor Code § 226 *et seq*.

31. Defendants' failure to furnish Plaintiffs and the members of the Wage Statement Class with complete and accurate, itemized wage statements resulted in actual injury and deprived them of the information necessary to identify discrepancies in Defendants' reported data, among other things.

32. Defendants' failures created an entitlement to Plaintiffs and members of the Wage Statement Class in a civil action for damages and/or penalties pursuant to Labor Code §§ 226, 226.3, including statutory penalties civil penalties, reasonable attorneys' fees, and costs according to suit pursuant to Labor Code § 226 *et seq*.

<u>**SECOND CAUSE OF ACTION**</u>

FAILURE TO PAY ALL WAGES OWED

(AGAINST ALL DEFENDANTS)

33. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

34. Defendant and/or DOES have had a continuous policy of not paying Plaintiffs and those similarly situated for all hours worked.

35. It is fundamental that an employer must pay its employees for all time worked, including non-productive time for piece-rate compensation, in accordance with the California Labor Code, California Code of Regulations, Title 8, section 11090, and Industrial Welfare Commission Wage Order No. 9. California Labor Code sections 218 and 218.5 provides a right of action for nonpayment of wages. California Labor Code section 218.6 provides for prejudgment interest on all due and unpaid wages and other damages. California Labor Code section 222 prohibits the withholding of part of a wage. California Labor Code section 223 prohibits the payment of less than a statutory or contractual wage scale. California Labor Code section 226.2 requires separate compensation for non-productive time and rest and recovery periods when utilizing a piece rate compensation plan. California Labor Code section 510 provides for civil penalties for failing to pay overtime and double time wages owed. California Labor Code section 1197 prohibits the payment of less than the minimum wage. California Labor Code section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. California Labor Code section

1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. California Labor Code section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

36. EXTREME TRANSPORTATION and/or DOES have not paid for all the time Plaintiffs and the Class Members work. EXTREME TRANSPORTATION and/or DOES compensate Plaintiffs and the Class Members on a flat rate of pay that is twenty eight percent (28%) of the transport revenue received. Flat rate pay, which, like a salary, does not change based on the amount of hours required to complete the days' work. Thus, like a salary in California for a non-exempt employee, the flat rate cannot be construed to compensate Plaintiffs and the Class Members for any hours worked in excess of eight daily hours or forty weekly hours. Despite the fact that Plaintiffs and the Class Members would be otherwise exempt from overtime premium pay, they are not exempt from being paid the state's minimum hourly wage. Thus, as the flat rate does not compensate anything, much less minimum wage, for hours in excess of eight daily and forty weekly, EXTREME TRANSPORTATION and/or DOES do not pay minimum wages for all hours worked.

37. EXTREME TRANSPORTATION and/or DOES fail to compensate Plaintiffs and the Class Members for all hours worked. EXTREME TRANSPORTATION and/or DOES fail to pay employees for deadhead time that is less than four (4) hours. When deadhead time is greater than four (4) hours, EXTREME TRANSPORTATION and/or DOES pay drivers a flat sum regardless of how many hours are worked. This led to Plaintiffs and the Class Members working hours for which they are not paid.

38. EXTREME TRANSPORTATION and/or DOES have not paid Plaintiffs and the Class Members for non-driving time, including, but not limited to conducting pre- and post-trip inspections, fueling, going through scales, completing paperwork, detention time, maintenance

time, waiting at a customer's location, cleaning the inside of the truck, rest period time, and/or having to stop and wait at CHP inspections.

39. EXTREME TRANSPORTATION and/or DOES have had a continuous policy of not paying Plaintiffs and the Class Members for all hours worked in that EXTREME TRANSPORTATION and/or DOES continuously and consistently clocked Plaintiffs and the Class Members out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Plaintiffs and the Class Members work through their meal periods, were unable to take meal periods, and/or were not free of all work duties and employer controls during meal periods. Thus, EXTREME TRANSPORTATION and/or DOES shave/steal earned wages from Plaintiffs and the Class Members every day they work without a meal period and have time deducted.

40. EXTREME TRANSPORTATION and/or DOES breached the legal duty to pay full wages to Plaintiffs and the Class Members by deducting a portion of the wages earned by Plaintiffs and the Class Members when they worked through their meal periods and/or when EXTREME TRANSPORTATION recorded a meal period for Plaintiffs and the Class Members when no meal period were taken. Specifically, Plaintiffs and the Class Members worked through their meal periods to satisfy their demanding work duties imposed by EXTREME TRANSPORTATION and/or DOES, thereby denying them the right to be completely free from employer control under California law.

41. Plaintiffs and the Class Members are informed and believe and thereon allege that as a direct result of Defendant's and/or DOES' uniform policies and/or practices, Plaintiffs and the Class Members have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses and attorneys' fees in seeking to compel EXTREME TRANSPORTATION and/or DOES to fully perform their obligations under state law, all to their respective damage in amounts, according to proof at trial.

42. As a direct result of EXTREME TRANSPORTATION's and/or DOES' policy of illegal wage theft, Plaintiffs and those similarly situated have been damaged in an amount to be proven at trial.

43. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described below.

THIRD CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

(AGAINST ALL DEFENDANTS)

44. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

45. Plaintiffs are informed and believe, and based thereon allege, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including Plaintiffs and members of the Meal Period Class, with all required meal periods in accordance with the mandates of the California Labor Code and Wage Order 9, and have failed to pay meal period premiums at Plaintiffs' and Meal Period Class members' regular rate of compensation as required under Labor Code § 226.7, for the reasons set forth in this Complaint.

46. As a result, Defendants owe premium compensation for meal period violations, including interest thereon, statutory penalties, and costs of suit, pursuant to Wage Order 9, Labor Code §§ 226.7 and 512, Civil Code § 3287, and Art. XV, § 1 of the California Constitution.

FOURTH CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

47. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

48. Labor Code §§ 226.7 and 516, and Wage Order 9, § 12 establish the right of employees to be authorized and permitted a rest period of at least ten (10) minutes for each four (4) hour period worked, or major fraction thereof, and that the authorized rest time shall count as hours worked for which there shall be no deduction from wages. Moreover, Labor Code § 226.2 provides that employees paid on a piece-rate basis must be paid separately for rest periods.

49. As alleged herein, Defendants have failed to authorize and permit Plaintiffs and Rest Period Class members to take their legally entitled rest periods, because, *inter alia*, Defendants failed to authorize and provide Plaintiffs and Rest Period Class members to take paid rest breaks. Defendants have also failed to compensate Plaintiffs and Rest Period Class members

with a rest period premium for each workday they were not authorized and permitted all paid rest periods to which they were entitled.

50. These violations create an entitlement to recovery by Plaintiffs and the Rest Period Class in a civil action for the unpaid amount of rest period premiums, interest thereon, statutory penalties, civil penalties, and costs of suit under Labor Code §§ 226.2, 226.7, 516, 558; Code of Civil Procedure § 1021.5; Civil Code § 3287; and Art. XV, § 1 of the California Constitution.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES.

(AGAINST ALL DEFENDANTS)

51. Plaintiffs re-allege and incorporates by reference all previous paragraphs.

52. At all relevant times, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees 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."

53. At all relevant times, Defendants were subject to Labor Code § 2804, which states, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

54. Due to Defendants' unlawful policy and practice of requiring employees to use their personal property, including but not limited to personal cell phones, for work purposes, and their failure to reimburse Plaintiffs and members of the Expense Reimbursement Class, Defendants have violated Labor Code § 2802.

55. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiffs and members of the Expense Reimbursement Class have suffered damages in sums, which will be shown according to proof.

56. Plaintiffs and members of the Expense Reimbursement Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

57. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiffs and members of the Expense Reimbursement Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

SIXTH CAUSE OF ACTION

WAITING TIME PENALTIES (Lab. Code §§ 201-203)

(AGAINST ALL DEFENDANTS)

58. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

59. If an employer discharges and employee, or an employee provides 72 hours or more notice of his intent to quit, the wages earned and unpaid at the time of discharge or quitting are due and payable immediately. If an employee quits his or her employment without providing 72 hours, his or her wages shall become due and payable not later than 72 hours thereafter.

60. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to timely pay Plaintiff and members of the Waiting Time Class all final wages due to them at their separation from employment, including but not limited to unpaid minimum wages, and unpaid meal and rest period premium wages.

61. Further, Plaintiff is informed and believes, and based thereon alleges, that as a matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members of the Waiting Time Class all earned wages at the end of employment in a timely manner pursuant to the requirements of Labor Code §§ 201-203..

62. Defendant's failure to pay all final wages was willful within the meaning of Labor Code § 203. Defendant's willful failure to timely pay Plaintiff and Waiting Time Class members their earned wages upon separation from employment results in a continued payment of daily wages up to thirty days from when the wages were due. Plaintiff and Waiting Time Class members are entitled to compensation per Labor Code § 203, plus reasonable attorneys' fees and costs.

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<u>SEVENTH CAUSE OF ACTION</u>

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

63. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

64. EXTREME TRANSPORTATION and/or DOES failure to pay all straight time wages earned, failure to provide compliant meal and/or rest breaks and/or compensation in lieu thereof, failure to itemize and keep accurate records, failure to pay all wages due at time of termination, as alleged herein, constitutes unlawful activity prohibited by California Business and Professions Code section 17200, et seq.

65. The actions of EXTREME TRANSPORTATION and/or DOES in failing to pay Plaintiffs and members of the proposed Class in a lawful manner, as alleged herein, constitutes false, unfair, fraudulent and deceptive business practices, within the meaning of California Business and Professions Code section 17200, et seq.

66. Plaintiffs are entitled to an injunction and other equitable relief against such unlawful practices in order to prevent future damage, for which there is no adequate remedy at law, and to avoid a multiplicity of lawsuits. Plaintiffs bring this cause individually and as members of the general public actually harmed and as a representative of all others subject to EXTREME TRANSPORTATION and/or DOES unlawful acts and practices.

67. As a result of their unlawful acts, EXTREME TRANSPORTATION and/or DOES have reaped and continue to reap unfair benefits at the expense of Plaintiffs and the proposed Class he seeks to represent. EXTREME TRANSPORTATION and/or DOES should be enjoined from this activity and made to disgorge these ill-gotten gains and restore Plaintiffs and the members of the proposed Class pursuant to Business and Professions Code section 17203. Plaintiffs are informed and believe, and thereon allege, that Defendants and/or DOES are unjustly enriched through their policy of not all wages owed to Plaintiffs and members of the proposed Class.

68. Plaintiffs are informed and believe, and thereon allege, that Plaintiffs and members of the proposed class are prejudiced EXTREME TRANSPORTATION and/or DOES unfair trade practices.

69. As a direct and proximate result of the unfair business practices of EXTREME TRANSPORTATION and/or DOES, and each of them, Plaintiffs, individually and on behalf of all employees similarly situated, are entitled to equitable and injunctive relief, including full restitution and/or disgorgement of all wages and premium pay which have been unlawfully withheld from Plaintiffs and members of the proposed Class as a result of the business acts and practices described herein and enjoining EXTREME TRANSPORTATION and/or DOES from engaging in the practices described herein.

70. The illegal conduct alleged herein is continuing, and there is no indication that EXTREME TRANSPORTATION and/or DOES will cease and desist from such activity in the future. Plaintiffs alleges that if EXTREME TRANSPORTATION and/or DOES are not enjoined from the conduct set forth in this Complaint, they will continue the unlawful activity discussed herein.

71. WHEREFORE, Plaintiffs and the Class they seek to represent request relief as described below.

<u>EIGHTH CAUSE OF ACTION</u>

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

72. Plaintiffs re-alleges and incorporates by reference all previous paragraphs.

73. Defendants have committed several Labor Code violations against Plaintiffs and other Aggrieved Employees. Plaintiffs, an "Aggrieved Employee" within the meaning of Labor Code § 2698 et seq., acting on behalf of themselves and other Aggrieved Employees, bring this representative action against Defendants to recover the civil penalties due to Plaintiffs, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a) and (f) including, but not limited to: (1) $100.00 for each initial violation and $200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

a) Failing to pay Plaintiff and other aggrieved employees at least the applicable minimum wage for all hours worked, in violation of Labor Code §§ 204, 218, 218.5, 218.6, 222, 223, 224, 226.2, 226.3, 510, 1182.12, 1194, 1194.2, 1197, 1198 and 1199;

b) Failing to provide all legally required meal periods and failing to pay meal period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 512, 558, and 1198;

c) Failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at the employees' respective regular rates of compensation, in violation of Labor Code §§ 226.7, 516, 558, and 1198;

d) Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code §§ 226 and 1198; and

e) Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, 2804, and 1198.

f) Failing to pay Plaintiff and other aggrieved employees earned wages upon separation from employment, in violation of Labor Code §§ 201-203.

74. On March 12, 2024, Plaintiff Cortez notified Defendants via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via e-mail, of Defendants' violations of the California Labor Code and Plaintiff Cortez's intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to violation of the California Labor Code 226. Attached hereto as **Exhibit 1** is a true and correct copy of the March 12, 2024, correspondence. Now that sixty-five days have passed from Plaintiff Cortez notifying Defendants of these violations, Plaintiff Cortez has exhausted his administrative requirements for bringing a claim under the Labor Code Private Attorneys General Act with respect to these violations.

75. On or about December 5, 2024, Plaintiff Rodriguez notified Defendant, via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and of Plaintiff Rodriguez's

intent to bring a claim for civil penalties under the California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified herein above. Attached hereto as **Exhibit 2** is a true and correct copy of the December 5, 2024, correspondence.

76. On or about November 13, 2024 and December 30, 2024, Plaintiff Miller notified Defendant Extreme Transportation, Inc., via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff Miller's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified herein above. Attached hereto as **Exhibit 3** are true and correct copies of Miller's November 13, 2024 and December 30, 2024 correspondence.

77. Now that sixty-five days have passed from Plaintiffs notifying Defendants and the LWDA of these violations, Plaintiffs have exhausted their administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

78. Plaintiffs were compelled to retain the services of counsel to file this court action to protect their interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiffs have thereby incurred attorneys' fees and costs, which they are entitled to recover under California Labor Code § 2699(k)

PRAYER

WHEREFORE, Plaintiffs pray for judgment for themselves and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiffs as representative of the Class;
3. For an order appointing Counsel for Plaintiffs as Counsel for the Class;
4. Upon the First Cause of Action, for penalties pursuant to Labor §§ 226, 226.3;
5. Upon the Second Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 226.2, 1182.12, 1194, 1194.2, 1197, 1198, and 1199;

6. Upon the Third Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;

7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.2, 226.7, 516, and 1198;

8. Upon the Fifth Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;

9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code §§ 201-203;

10. Upon the Seventh Cause of Action, for restitution to Plaintiffs and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Bus. & Prof. Code § 17200, *et seq.*;

11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiffs, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) $100.00 for each initial violation for each failure to pay each employee and $200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) $50.00 for each initial violation and $100 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3) $100.00 for each initial violation and $250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4) $250.00 for each initial violation of Labor Code § 226 and $1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) $100.00 for each initial violation and $200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f)

12. Prejudgment interest on all due and unpaid wages and other damages pursuant to Cal. Labor Code §§ 218.6, 1194(a); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 1194 *et seq.*, 2699(k), 2802(c), and Code of Civil Procedure § 1021.5, and all other relevant statutes; and

14. For such other and further relief the Court may deem just and proper.

Respectfully submitted,

Dated: May 11, 2026 LIDMAN LAW, APC

By: Scott M. Lidman
Scott M. Lidman
Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial with respect to all issues triable by jury.

Respectfully submitted,

Dated: May 11, 2026 LIDMAN LAW, APC

By: Scott M. Lidman
Scott M. Lidman
Attorneys for Plaintiffs

EXHIBIT 1

EXHIBIT 1

LIDMAN LAW
2155 Campus Drive, Suite 150, El Segundo, CA 90245
Office: (424) 322-4772
Fax: (424) 322-4775

March 12, 2024

VIA LWDA WEBSITE
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Extreme Transportation, Inc.
c/o Yu Kwak
3131 Camino Del Rio N.
Suite # 1150
San Diego, CA 92108

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED
Extreme Transportation, Inc.
3131 Camino Del Rio N.
Suite #1150
San Diego, CA 92108

Re: *Luis Cortez v. Extreme Transportation, Inc.*

To Whom It May Concern:

Please be advised that this law firm represents Luis Cortez in claims arising from his employment with Extreme Transportation, Inc. ("Defendant"). Mr. Cortez is an "aggrieved employee" as defined by Labor Code sections 2699, *et seq*. due to Defendant's violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, an "aggrieved employee" should be considered to include all current and former drivers employed by Defendant and whom received a wage statement from Defendant during the one year preceding the date of this letter through the date of an eventual judgment or settlement.

Defendant did (and continues to do) business by providing, among others services, transportation services. Mr. Cortez was employed by Defendant as a company driver within the one year preceding the submission of this letter, including up to February 28, 2024 when his employment was separated.

Throughout Mr. Cortez's employment, Defendant failed to provide Mr. Cortez and other drivers with accurate, itemized wage statements, in violation of Labor Code section 226. Specifically, the wage statements Defendant provided to their employees failed to include the total hours worked during the applicable pay period, in violation of Labor Code section 226.

As described above, Defendant committed the following violations of the Labor Code:

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Cortez and other aggrieved employees with accurate and complete, itemized wage statements that included the total hours worked in violation of Labor Code § 226 *et seq*. Defendant's failure to furnish Mr. Cortez and other aggrieved employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures deprived them of the information necessary to identify potential discrepancies in Defendant's reported data.

As an "aggrieved employee," Mr. Cortez will initiate a civil action on behalf of himself and other aggrieved employees to recover damages, statutory penalties, and civil penalties resulting from the wage statement violations alleged herein. Based on Mr. Cortez's own investigation, and on information and belief, Defendant committed the following Labor Code violations:

a) Defendant violated Labor Code § 226 by failing to furnish Mr. Cortez and other aggrieved employees with accurate and compliant itemized wage statements.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,
LIDMAN LAW, APC

Scott M. Lidman

EXHIBIT 2

EXHIBIT 2

David Mara
Jill Vecchi
Grace Campbell
Taylor Hanks
Joann B. Gerrity
Matthew Crawford

MARA LAW FIRM PC

2650 Camino Del Rio North
Suite 302, San Diego, CA 92108
Phone: (619) 234-2833
Fax: (619) 234-4048

MaraLawFirm.com

September 30, 2024

Via Upload to the LWDA Website and U.S. Certified Mail

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE SECTION 2699.3

TO: California Labor and Workforce Development Agency; Extreme Transportation, Inc.

Antonio Rodriguez, on behalf of himself, others similarly situated, and the general public v. Extreme Transportation, Inc.

Factual Statement and Theories of Labor Code Violations

Antonio Rodriguez was formerly employed by Extreme Transportation, Inc. ("EXTREME TRANSPORTATION") as a non-exempt driver in California. Mr. Rodriguez worked for EXTREME TRANSPORTATION as a driver until his employment with EXTREME TRANSPORTATION ended on or about August 13, 2024.

Mr. Rodriguez gives notice of his intent to file a lawsuit for violations of the Private Attorneys General Act of 2004 ("PAGA") for EXTREME TRANSPORTATION's failure to comply with California's wage and hour requirements on behalf of himself and all non-exempt drivers who worked for EXTREME TRANSPORTATION in the State of California.

EXTREME TRANSPORTATION is an vehicle transportation company. To conduct its business, EXTREME TRANSPORTATION employs non-exempt drivers, such as Mr. Rodriguez, in California.

I. EXTREME TRANSPORTATION Fails to Pay All Wages Owed

It is fundamental that an employer must pay its employees for all time worked. *California Labor Code* sections 218 and 218.5 provide a right of action for nonpayment of wages. *California Labor Code* section 222 prohibits the withholding of part of a wage. *California Labor Code* section 223 prohibits the payment of less than a statutory or contractual wage scale. *California Labor Code* section 1197 prohibits the payment of less than the minimum wage. *California Labor Code* section 1194 states that an employee receiving less than the legal minimum wage is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage. *California Labor Code* section 1194.2 states that an employee receiving less than the legal minimum wage is entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon. *California Labor Code* section 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not have the effect of reducing the agreed upon wage.

EXTREME TRANSPORTATION has a continuous policy of not paying Mr. Rodriguez and similarly aggrieved employees for all hours worked in that EXTREME TRANSPORTATION has not paid for all the time Mr. Rodriguez and similarly aggrieved employees work. EXTREME TRANSPORTATION compensates Mr. Rodriguez and similarly aggrieved employees on a flat rate of pay that is twenty eight percent (28%) of the transport revenue received. Flat rate pay, which, like a salary, does not change based on the amount of hours required to complete the days' work. Thus, like a salary in California for a non-exempt employee, the flat rate cannot be construed to compensate Mr. Rodriguez and the similarly situated aggrieved employees for any hours worked in excess of eight daily hours or forty weekly hours. Despite the fact that Mr. Rodriguez and similarly situated aggrieved employees would be otherwise exempt from overtime premium pay, they are not exempt from being paid the state's minimum hourly wage. Thus, as the flat rate does not compensate anything, much less minimum wage, for hours in excess of eight daily and forty weekly, EXTREME TRANSPORTATION does not pay minimum wages for all hours worked.

Moreover, EXTREME TRANSPORTATION fails to compensate Mr. Rodriguez and similarly aggrieved employees for all hours worked. EXTREME TRANSPORTATION fails to pay employees for deadhead time that is less than four (4) hours. When deadhead time is greater than four (4) hours, EXTREME TRANSPORTATION pays drivers a flat sum regardless of how many hours are worked. This lead to Mr. Rodriguez and the aggrieved employees working hours for which they are not paid.

Further, EXTREME TRANSPORTATION has not paid Mr. Rodriguez and similarly aggrieved employees for non-driving time, including, but not limited to conducting pre- and post-trip inspections, fueling, going through scales, completing paperwork, detention time, maintenance time, waiting at a customer's location, cleaning the inside of the truck, rest period time, and/or having to stop and wait at CHP inspections.

Additionally, EXTREME TRANSPORTATION has had a continuous policy of not paying Mr. Rodriguez and the aggrieved employees for all hours worked in that EXTREME TRANSPORTATION continuously and consistently clocked Mr. Rodriguez and the aggrieved employees out for a thirty (30) minute meal period and/or otherwise recorded a meal period, even though Mr. Rodriguez and the aggrieved employees work through their meal periods, were unable to take meal periods, and/or were not free of all work duties and employer controls during meal periods. Thus, EXTREME TRANSPORTATION shaves/steals earned wages from Mr. Rodriguez and the aggrieved employees every day they work without a meal period and have time deducted.

Likewise, Mr. Rodriguez and the aggrieved employees are informed and believe and thereon allege that EXTREME TRANSPORTATION breached the legal duty to pay full wages to Mr. Rodriguez by deducting a portion of the wages earned by Mr. Rodriguez and the aggrieved employees when they worked through their meal periods and/or when EXTREME TRANSPORTATION recorded a meal period for Mr. Rodriguez and the aggrieved employees when no meal period was taken. Specifically, Mr. Rodriguez and the aggrieved employees worked through their meal periods to satisfy their demanding work duties imposed by EXTREME TRANSPORTATION, thereby denying them the right to be completely free from employer control under California law.

EXTREME TRANSPORTATION committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Mr. Rodriguez and the aggrieved employees. EXTREME TRANSPORTATION acted with malice or in conscious disregard of Mr. Rodriguez's and the aggrieved employees' rights.

These claims are on behalf of Mr. Rodriguez and all non-exempt drivers who worked for EXTREME TRANSPORTATION in the State of California.

Mr. Rodriguez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement (DLSE). This includes each of the following, as set forth in *California Labor Code* section 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 221, 222, 224, 1194, and 1197.

II. <u>EXTREME TRANSPORTATION Failed to Pay All Wages Due at Termination and During Employment</u>

EXTREME TRANSPORTATION willfully failed to pay, in a timely manner, wages owed to the aggrieved employees who left EXTREME TRANSPORTATION'S employ or who were terminated. Mr. Rodriguez and aggrieved employees who ended their employment with EXTREME TRANSPORTATION during the last year were entitled to be promptly paid all lawful compensation, and other premiums, as required by *California Labor Code* sections 201 through 203.

At all relevant times, *California Labor Code* sections 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours' notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

EXTREME TRANSPORTATION has a continuous policy of not providing final wages to employees who are fired at the time of termination or who quit within seventy-two (72) hours of their leaving EXTREME TRANSPORTATION's employ. During the relevant time period, EXTREME TRANSPORTATION intentionally and willfully failed to pay the aggrieved employees who are no longer employed by EXTREME TRANSPORTATION their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving EXTREME TRANSPORTATION's employ.

As discussed above, EXTREME TRANSPORTATION has a continuous policy of not paying Mr. Rodriguez and similarly aggrieved employees for all hours worked. As outlined above, EXTREME TRANSPORTATION compensates Mr. Rodriguez and similarly aggrieved employees on a flat rate of pay, which, like a salary, does not change based on the amount of hours required to complete the days' work. Thus, like a salary in California for a non-exempt employee, the flat rate cannot be construed to compensate Mr. Rodriguez and the similarly situated aggrieved employees for any hours worked in excess of eight daily hours or forty weekly hours. The flat rate pay does not compensate Mr. Rodriguez and the aggrieved employees for hours worked in excess of eight daily and forty weekly. Moreover, EXTREME TRANSPORTATION fails to compensate Mr. Rodriguez and similarly aggrieved for deadhead time that is less than four (4) hours. When deadhead time is greater than four (4) hours, EXTREME TRANSPORTATION pays drivers a flat sum regardless of how many hours are worked. This leads to Mr. Rodriguez and the aggrieved employees working hours for which they are not paid. Further, EXTREME TRANSPORTATION has not paid Mr. Rodriguez and similarly aggrieved employees for non-driving time, including, but not limited to conducting pre- and post-trip inspections, fueling, going through scales, completing paperwork, detention time, maintenance time, waiting at a customer's location, cleaning the inside of the truck, rest period time, and/or having to stop and wait at CHP inspections. EXTREME TRANSPORTATION also does not pay Mr. Rodriguez and the aggrieved employees for meal period time during which they are not relieved of all duties and employer control.

EXTREME TRANSPORTATION's failure to pay the aggrieved employees who are no longer employed by EXTREME TRANSPORTATION their wages, that were earned and unpaid, at the time of termination or within seventy-two hours of their leaving EXTREME TRANSPORTATION's employ, is in violation of *California Labor Code* sections 201 and 202.

California Labor Code section 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until and action is commenced; but the wages shall not continue for more than thirty (30) days.

These claims are on behalf of Mr. Rodriguez and all non-exempt drivers who worked for EXTREME TRANSPORTATION in the State of California.

Mr. Rodriguez, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This includes each of the following, as set forth in *Labor Code* section 2699.5 for violations of sections 201 through 203.

III. Conclusion

If after 65 days from the date of this letter, the LWDA does not take action or declines to intervene, Mr. Rodriguez will file a complaint alleging PAGA violations, as described above.

Respectfully submitted,
MARA LAW FIRM, PC

David Mara, Esq.

Attn: PAGA Administrator
California Labor and Workforce Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102
Via Web Submission

Yu Kwak
3131 Camino Del Rio N., Suite 1150
San Diego, CA 92108
Agent for Service of Process for Defendant Extreme Transportation, Inc.
Via Certified Mail

EXHIBIT 3

EXHIBIT 3

MARQUEE LAW GROUP
A PROFESSIONAL CORPORATION

9100 Wilshire Boulevard
Suite 445 East Tower
Beverly Hills, CA 90212
T: (310) 275-1844
F: (310) 275-1801

December 30, 2024

VIA LWDA WEBSITE
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

VIA CERTIFIED MAIL
Extreme Transportation, Inc.
c/o Yu Kwak, Agent
3131 Camino Del Rio N., Suite 1150
San Diego, CA 92108

Re: *William Miller v. Extreme Transportation, Inc., et al*

To Whom It May Concern:

This letter supplements the PAGA notice letter submitted by William Miller ("Mr. Miller") on November 13, 2024 ("Original PAGA Notice"). The Original PAGA Notice is attached hereto as **Exhibit A**, and is incorporated herein by reference.

For purposes of this letter, "aggrieved employees" are all current and former non-exempt employees of Extreme Transportation, Inc. and Does 1 through 100 (collectively, "Extreme Transport") who have worked for Extreme Transport in California at any time from one year immediately preceding the date of the Original PAGA Notice through the date that judgment is entered in Mr. Miller's contemplated PAGA action or any alternative date agreed upon by the parties and/or approved by the court.

In addition to the violations described in the Original PAGA Notice, Extreme Transport failed to pay all wages to Mr. Miller and other formerly employed aggrieved employees at the separation of their employment. This violation is due to Extreme Transport's failure to pay all minimum wages, as well as its failure to pay meal and rest period premium wages, as described in the Original PAGA Notice. Mr. Miller's employment with Extreme Transport ended on or about December 23, 2024.

As described above, Extreme Transport committed, and continues to commit, the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"), in addition to those alleged in the Original PAGA Notice:

<u>Failure to Pay All Wages Owed at Termination</u>

As alleged herein, Extreme Transport has failed to pay Mr. Miller and other aggrieved former employees all wages owed to them at the time of termination of employment, including but not limited to all minimum wages, and meal and rest period premium wages owed. This violates Labor Code §§ 201-202, which require prompt payment of all wages due at the end of employment when an employee is terminated or quits.

***

Mr. Miller is informed and believes, and based thereon alleges, that the violations alleged herein are continuing to the present and are ongoing. As an "aggrieved employee," Mr. Miller will initiate a civil action on behalf of himself, the State of California, and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein, in addition to those described in the Original PAGA Notice. Based on Mr. Miller's own investigation, and on information and belief, Extreme Transport has committed the following Labor Code violations, in addition to those alleged in the Original PAGA Notice:

a. Extreme Transport has violated Labor Code §§ 201-203 by failing to pay all wages owed to Mr. Miller and other aggrieved former employees at their separation of employment.

Pursuant to Labor Code section 2699.3, please notify our office and Extreme Transport if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Sincerely,

Tuvia Korobkin
MARQUEE LAW GROUP, APC
tuvia@marqueelaw.com

EXHIBIT A

MARQUEE LAW GROUP
A PROFESSIONAL CORPORATION

9100 Wilshire Boulevard
Suite 445 East Tower
Beverly Hills, CA 90212
T: (310) 275-1844
F: (310) 275-1801

November 13, 2024

<u>VIA LWDA WEBSITE</u>
Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, CA 94612

<u>VIA CERTIFIED MAIL</u>
Extreme Transportation, Inc.
c/o Yu Kwak, Agent
3131 Camino Del Rio N., Suite 1150
San Diego, CA 92108

Re: *William Miller v. Extreme Transportation, Inc., et al*

To Whom It May Concern:

Please be advised that this law firm represents William Miller in claims arising from his employment with Extreme Transportation, Inc. and Does 1 through 100 (collectively, "Extreme Transport"). Mr. Miller is an "aggrieved employee" as defined by Labor Code section 2698, *et seq*., due to Extreme Transport's violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency ("LWDA") of the specific provisions of the Labor Code allegedly violated.

For purposes of this letter, "aggrieved employees" are all current and former truck drivers and all other non-exempt employees of Extreme Transport who have worked for Extreme Transport in California at any time from one year immediately preceding the date of this letter through the date that judgment is entered in Mr. Miller's contemplated PAGA action or any alternative date agreed upon by the parties and/or approved by the court.

Mr. Miller has worked for Extreme Transport as a non-exempt truck driver from in or about February 2024 through the present.

During Mr. Miller's employment with Extreme Transport, Extreme Transport has paid Mr. Miller and many other drivers on a flat-rate and/or piece rate basis, paid per each load that they pick up from Extreme Transport's various yards in Southern California (including in Port Hueneme, San Bernardino, and Mira Loma) and deliver to their destinations. Mr. Miller's and other drivers' workweeks are generally comprised of delivery routes that they are assigned by Extreme Transport. For example, Mr. Miller typically receives notification of a delivery route he is assigned through the phone application Magnus.

Mr. Miller and other drivers are required to perform tasks for Extreme Transport besides delivering loads, for which they are not compensated. For example, Mr. Miller and other drivers are required to perform pre- and post-trip inspections, and to keep their trucks clean and otherwise maintain their trucks so that they are in good working condition, including by getting oil changes, government inspections, replacing tires, and getting the truck washed. The trucks that Mr. Miller and other drivers operate are large trucks (including auto transport trucks), and therefore, each of these activities takes multiple hours to complete. Mr. Miller and other drivers do not receive compensation from Extreme Transport for this "nonproductive time," i.e., time spent working that is not directly related to the activity being compensated on a piece-rate basis (i.e., picking up and delivering specified loads). For example, Mr. Miller recently spent approximately five and a half hours having a government inspection done and getting an oil change for his assigned truck. However, Mr. Miller did not receive any compensation for this nonproductive time.

Despite requiring Mr. Miller and other employees to perform nonproductive tasks such as the examples set forth above, Extreme Transport has failed to pay Mr. Miller and other employees separately for performing these tasks as required by Labor Code section 226.2. As a result of the failure to pay for nonproductive time, Extreme Transport has failed to pay all wages due to Mr. Miller and other employees, including minimum wages.

Extreme Transport has also failed to authorize and permit compliant rest periods to Mr. Miller and other aggrieved employees. Specifically, Extreme Transport has failed to provide Mr. Miller and other flat-rate/piece rate employees with separately paid rest periods as required. (*See Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864 (holding that drivers compensated on a piece rate basis must be separately compensated for rest periods). Despite failing to authorize and permit legally compliant paid rest periods to Mr. Miller and other aggrieved employees, Extreme Transport has failed to pay the rest period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Extreme Transport has maintained no payroll code or other mechanism for paying rest period premiums when it failed to authorize and permit a legally compliant rest period. This failure to separately compensate rest periods has also resulted in a failure to pay all minimum wages due.

Extreme Transport has also failed to provide aggrieved employees, including Mr. Miller, with thirty-minute meal periods before the end of their fifth hour of work. In fact, Extreme Transport instructed Mr. Miller and other aggrieved employees that a thirty-minute meal period should be taken at some time before the end of their <u>eighth</u> hour of work. Indeed, it was often impracticable to take a 30-minute meal period before the end of the fifth hour of work, and Extreme Transport did not provide the opportunity to take timely meal periods since, as noted above, Extreme Transport's policy was only to provide a meal period at some point during the first eight hours.

In addition to failing to provide timely meal periods, Extreme Transport also failed to provide aggrieved employees, including Mr. Miller, with uninterrupted, off-duty thirty-minute meal periods. Mr. Miller and other aggrieved employees were encouraged to perform work duties while taking their thirty-minute meal periods. For example, Extreme Transport instructed Mr. Miller that his meal periods could be taken while he was fueling or unloading his truck.

Despite failing to provide Mr. Miller and other non-exempt employees with legally compliant meal periods, Extreme Transport has failed to pay the meal period premiums required by Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time period, Extreme Transport has maintained no payroll code or other mechanism for paying meal period premiums when it failed to provide a legally compliant meal period.

Extreme Transport has failed to issue complaint wage statements to Mr. Miller and other aggrieved employees. Extreme Transport is required under Labor Code § 226 to provide information on each wage statement including, but not limited to, the total hours worked by the employee, the number of piece-rate units earned and any applicable piece rate, and gross and net wages earned. However, Extreme Transport has failed to comply with such obligations. Mr. Miller's wage statements generally show only a single line item for the total amount Mr. Miller is paid in the pay period, stated cumulatively as just one hour/unit, without specifying the actual hours worked. Nor do Mr. Miller's wage statements identify the number of piece-rate units earned by Mr. Miller and the applicable piece rate(s), as required under Labor Code § 226(a)(3). Moreover, Mr. Miller's and other aggrieved employees' wage statements have been inaccurate, as they have failed to include nonproductive hours worked and wages earned for rest periods as described above, as required by Labor Code § 226.2(a)(2).

Extreme Transport's failure to pay all owed minimum wages, as well as failure to pay meal and rest period premium wages, has further resulted in Extreme Transport's maintaining inaccurate payroll records and issuing inaccurate wage statements to Mr. Miller and other aggrieved employees.

Extreme Transport has also failed to reimburse Mr. Miller and other aggrieved employees for all business expenses incurred in the course of their employment. Specifically, Extreme Transport has required Mr. Miller and other aggrieved employees to use their personal cell phones for work purposes. For example, Mr. Miller was required to download multiple apps that he and other aggrieved employees used for various work-related purposes, including the aforementioned Magnus app, as well as Samsara, which was used for e-logs, in which Mr. Miller tracked information such as his start and stop times and his pre- and post-inspections of the vehicle. Mr. Miller and other aggrieved employees were also required to download other apps onto their personal cell phones, including Super Dispatch, RPM Drive, and the Tesla app, which were also used in connection with work. Extreme Transport also required Mr. Miller and other aggrieved employees to communicate using their personal cell phones, and otherwise to use their personal cell phones for work purposes. Despite requiring Mr. Miller and other aggrieved employees to use their personal cell phones for work, Extreme Transport has failed to reimburse them for any portion of their personal cell phone bill, as required under California law, including but not limited to Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

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As described above, Extreme Transport committed, and continues to commit, the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"):

Minimum Wage Violations

Extreme Transport is required to compensate employees, including Mr. Miller and other aggrieved employees, with at least the minimum wage for all hours worked pursuant to Labor Code §§ 226.2, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198 and Wage Order 9. Section 2(H) of Wage Order 9 defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so." As alleged herein, Extreme Transport has failed to pay at least the minimum wage for all hours worked to Mr. Miller and other aggrieved employees.

Meal Period Violations

As alleged herein, Extreme Transport has failed in its affirmative obligation to provide its employees in California, including Mr. Miller and other aggrieved employees, with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 9. Despite Extreme Transport's violations, Extreme Transport has not paid an additional hour of pay to Mr. Miller and other aggrieved employees at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, 512, and 1198, for all such meal period violations.

Rest Period Violations

As alleged herein, Extreme Transport has failed in its affirmative obligation to authorize and permit its employees in California, including Mr. Miller and other aggrieved employees, all legally compliant rest periods in accordance with the mandates of the California Labor Code and Wage Order 9. Despite Extreme Transport's violations, Extreme Transport has not paid an additional hour of pay to Mr. Miller and other aggrieved employees at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.2, 226.7, 516, and 1198.

Wage Statement Violations

As alleged above, Extreme Transport has, as a matter of uniform policy and practice, failed to furnish Mr. Miller and other aggrieved employees with complete and accurate wage statements with respect to, *inter alia*, total hours worked, total hours worked at each rate of pay, all applicable piece rates, total rest period time, gross wages earned, and net wages earned, in violation of Labor Code § 226(a) and 226.2(a)(2).

Failure to Reimburse Business Expenses

As alleged above, Mr. Miller and other aggrieved employees have been required to use their personal cell phones, and/or other personal items for work purposes. Although Mr. Miller and other aggrieved employees incurred these expenses in direct discharge of their job duties and/or as a result of directives from Extreme Transport, Extreme Transport has not reimbursed them for their necessary work expenditures during the relevant time period. Extreme Transport's policy of not providing reimbursement for necessary work expenditures violates Labor Code §§

2802 and 2804 ("An employer shall indemnify his or her employees 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 obedience to the directions of the employer.") Mr. Miller and other aggrieved employees are therefore entitled to reimbursement of such unpaid work expenses.

Mr. Miller is informed and believes, and based thereon alleges, that the violations alleged herein are continuing to the present and are ongoing. As an "aggrieved employee," Mr. Miller will initiate a civil action on behalf of himself, the State of California, and other aggrieved employees to recover civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Miller's own investigation, and on information and belief, Extreme Transport has committed the following Labor Code violations:

a. Extreme Transport has violated Labor Code §§ 204, 226.2, 1182.12, 1194, 1194.2, 1197, and 1198 by failing to pay Mr. Miller and other aggrieved employees at least the applicable minimum wage for all hours worked;

b. Extreme Transport has violated Labor Code §§ 226.7, 512, 516, 558, and 1198 by failing to provide all legally required meal periods and by failing to pay meal period premiums to Mr. Miller and other aggrieved employees at the employees' respective regular rates of compensation for meal period violations;

c. Extreme Transport has violated Labor Code §§ 226.2, 226.7, 516, 558, and 1198 by failing to authorize and permit all legally required rest periods and failing to pay rest period premiums to Mr. Miller and other aggrieved employees at the employees' respective regular rates of compensation;

d. Extreme Transport has violated Labor Code §§ 226 and 1198 by failing to furnish Mr. Miller and other aggrieved employees with accurate and complete itemized wage statements;

e. Extreme Transport has violated Labor Code §§ 2802, 2804, and 1198 by failing to reimburse Mr. Miller and other aggrieved employees for all work-related expenses; and

f. Extreme Transport has violation Labor Code §§ 1174 and 1198 by failing to maintain accurate records on behalf of Mr. Miller and other aggrieved employees.

Pursuant to Labor Code section 2699.3, please notify our office and Extreme Transport if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Sincerely,

Tuvia Korobkin
MARQUEE LAW GROUP, APC
tuvia@marqueelaw.com

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On May 11, 2026, I served the foregoing document(s) described as:

SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Marie DiSante (SBN 138267) mdisante@cdflaborlaw.com Erin Owen, State Bar No. 185371 eowen@cdflaborlaw.com Christian Amos, State Bar No. 353197 camos@cdflaborlaw.com Osaama Saifi (SBN 309172) osaifi@cdflaborlaw.com Leigh Ann White (SBN 167477) lwhite@cdflaborlaw.com **CDF LABOR LAW, LLP** 18300 Von Karman Ave, Ste 800, Irvine, CA 92612-1037 Phone: 949-622-1661 Fax: Not Available	Attorneys for Defendant EXTREME TRANSPORTATION, INC.
Tuvia Korobkin (SBN 268066) tuvia@marqueelaw.com F. Shawn Azizollahi (SBN 268116) shawn@marqueelaw.com Gary S. Brotman (SBN 287726) gary@marqueelaw.com Alex Purcell (SBN 347862) alex@marqueelaw.com **MARQUEE LAW GROUP, APC** 9100 Wilshire Boulevard, Suite 445, East Tower Beverly Hills, California 90212 (310) 275-1844 telephone (310) 275-1801 fax	Attorneys for Plaintiff WILLIAM MILLER
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[X] (BY E-MAIL OR ELECTRONIC TRANSMISSION) I caused the above-listed documents to be served upon the persons listed via e-mail or electronic transmission to their respective e-mail addresses. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on May 11, 2026, at El Segundo, California.

Marlyn Ajanel