

01/21/25

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WILLIAM MILLER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

WILLIAM MILLER, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

EXTREME TRANSPORTATION, INC., a
California Corporation; and DOES 1 through
100, Inclusive,

Defendants.

Case No. CIVSB2434236

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 204, 226.2,
1182.12, 1194, 11 94.2, 1197, 1198);**
- (2) MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 512, 1198);**
- (3) REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.2, 226.7, 516,
1198);**
- (4) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*);**
- (5) FAILURE TO REIMBURSE
BUSINESS EXPENSES (LABOR
CODE §§ 2802, 2804);**
- (6) UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200, *et seq.*);**
- (7) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203); and**
- (8) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff William Miller (“Plaintiff”), on behalf of himself and all others similarly situated,
2 brings this First Amended Class and Representative Action Complaint against Extreme
3 Transportation, Inc. and Does 1 through 100, inclusive (collectively, “Defendants”), and on
4 information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class and representative action for recovery of unpaid wages and penalties under California
8 Business and Professions Code section 17200, *et. seq.*; Labor Code sections 201-204, 226, 226.2,
9 226.7, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2804, and 2698 *et seq.*;
10 and Industrial Welfare Commission Wage Order No. 9 (“Wage Order 9”), in addition to seeking
11 declaratory relief and restitution. This class action is brought pursuant to California Code of Civil
12 Procedure section 382. This Court has jurisdiction over Defendants’ violations of the California
13 Labor Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to California Code of Civil
16 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
17 occurred in San Bernardino County. Defendants own, maintain offices, transact business, have an
18 agent or agents within San Bernardino County, and/or otherwise are found within San Bernardino
19 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was, and currently is, a California resident. During the four years immediately preceding
23 the filing of this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by California Labor Code sections
27 201-204, 226, 226.2, 226.7, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802,
28 2804, and 2698 *et seq.*; California Business & Professions Code § 17200, *et seq.* (Unfair

1 Competition), and Wage Order 9, which sets employment standards for employees in the
2 transportation industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
5 business as an auto transportation company, and that they employed Plaintiff and other similarly
6 situated non-exempt employees within San Bernardino County and the State of California.

7 5. Plaintiff does not know the true names or capacities, whether individual, partner,
8 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
9 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
10 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
11 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
12 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
13 and proximately caused Plaintiff and the Classes (as defined in Paragraph 21) to be subject to the
14 unlawful employment practices, wrongs, injuries, and damages complained of herein.

15 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
16 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

17 7. At all times herein mentioned, each of said Defendants participated in the acts
18 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
19 each of them, were the agents, servants, and employees of each of the other Defendants, as well
20 as the agents of all Defendants, and at all times herein mentioned were acting within the course
21 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
22 and/or otherwise ratified each of the acts or omissions alleged herein.

23 8. At all times mentioned herein, Defendants, and each of them, were members of
24 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
25 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
26 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
27 Members (as defined in Paragraph 21).

1 **GENERAL FACTUAL ALLEGATIONS**

2 9. Plaintiff worked for Defendants as a truck driver from in or about February 2024
3 through on or about December 20, 2024.

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

10 11. Throughout Plaintiff's employment with Defendants, Plaintiff and other drivers
11 were required to perform tasks for Defendants besides delivering loads, for which they were not
12 compensated. For example, Plaintiff and other drivers were required to perform pre- and post-trip
13 inspections, and to keep their trucks clean and otherwise maintain their trucks so that they are in
14 good working condition, including by getting oil changes, government inspections, replacing
15 tires, and getting the truck washed. The trucks that Plaintiff and other drivers operate are large
16 auto transport trucks, and therefore, each of these activities takes multiple hours to complete.
17 Plaintiff and other drivers have not received compensation from Defendants for this
18 "nonproductive time," i.e., time spent working that is not directly related to the activity being
19 compensated on a piece-rate basis (i.e., picking up and delivering specified loads). For example,
20 Plaintiff recently spent approximately five and a half hours having a government inspection done
21 and getting an oil change for his assigned truck. However, Plaintiff did not receive any
22 compensation for this nonproductive time.

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

28 13. Defendants have also failed to authorize and permit compliant rest periods to

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

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

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

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

27 17. Defendants have failed to issue complaint wage statements to Plaintiff and other
28 similarly situated employees. Defendants are required under Labor Code § 226 to provide

1 information on each wage statement including, but not limited to, the total hours worked by the
2 employee, the number of piece-rate units earned and any applicable piece rate, and gross and net
3 wages earned. However, Defendants have failed to comply with such obligations. Plaintiff's wage
4 statements generally show only a single line item for the total amount Plaintiff was paid in the
5 pay period, stated cumulatively as just one hour/unit. Nor do Plaintiff's wage statements identify
6 the number of piece-rate units earned by Plaintiff and the applicable piece rate(s), as required
7 under Labor Code § 226(a)(3). Moreover, Plaintiff's and other non-exempt employees' wage
8 statements have been inaccurate, as they have failed to include nonproductive hours worked and
9 wages earned for rest periods as described above, as required by Labor Code § 226.2(a)(2).

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

14 19. As a result of Defendants' failure to pay all earned wages (including but not limited
15 to all owed minimum wages and meal and rest period premium wages), Defendants failed to pay
16 all wages to Plaintiff and other formerly employed non-exempt employees at the separation of
17 their employment.

18 20. Defendants have also failed to reimburse Plaintiff and other aggrieved employees
19 for all business expenses incurred in the course of their employment. Specifically, Defendants
20 have required Plaintiff and other aggrieved employees to use their personal cell phones for work
21 purposes. For example, Plaintiff was required to download multiple apps that he and other
22 aggrieved employees used for various work-related purposes, including the aforementioned app
23 Magnus, as well as Samsara, which was used for e-logs, in which Plaintiff tracked information
24 such as his start and stop times and his pre- and post-inspections of the vehicle. Plaintiff and other
25 non-exempt employees were also required to download other apps onto their personal cell phones,
26 including Super Dispatch, RPM Drive, and the Tesla app, which were also used in connection
27 with work. Defendants also required Plaintiff and other non-exempt employees to communicate
28 using their personal cell phones, and otherwise to use their personal cell phones for work

1 purposes. Despite requiring Plaintiff and other employees to use their personal cell phones for
2 work, Defendants have failed to reimburse them for any portion of their personal cell phone bill,
3 as required under California law, including but not limited to Labor Code § 2802 and *Cochran v.*
4 *Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

5 **CLASS ACTION ALLEGATIONS**

6 21. Class Definitions: Plaintiff brings this action on behalf of himself and the
7 following Classes pursuant to Section 382 of the Code of Civil Procedure:

8 a. The Minimum Wage Class consists of all of the Defendants' current and former
9 non-exempt employees in California who were compensated on a flat-rate and/or piece-
10 rate basis and were not paid separately for rest periods or other nonproductive time, at any
11 time from four years prior to the filing of this action to the present.

12 b. The Rest Period Class consists of all of the Defendants' current and former non-
13 exempt employees in California who were compensated on a flat-rate and/or piece-rate
14 basis and worked at least one shift of 3.5 hours or more, at any time from four years
15 immediately preceding the filing of this action through the present.

16 c. The Meal Period Class consists of all of the Defendants' current and former non-
17 exempt employees in California who worked at least one shift in excess of 5.0 hours, and/or
18 at least one shift in excess of 10.0 hours, during the four years immediately preceding the
19 filing of this action through the present.

20 d. The Wage Statement Class consists of all members of the Minimum Wage Class,
21 Rest Period Class, and/or Meal Period Class who received a wage statement; and/or all
22 employees of Defendants in California who were paid on a flat-rate and/or piece-rate basis,
23 at any time from one year immediately prior to the filing of this action through the present.

24 e. The Waiting Time Class consists of all members of the Minimum Wage Class,
25 Meal Period Class, and/or Rest Period Class, who are no longer employed by Defendants
26 and who last worked for Defendants at any time from three years immediately preceding
27 the filing of this lawsuit through the present.
28

f. The Expense Reimbursement Class consists of all of Defendants' employees 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.

22. **Numerosity/Ascertainability:** The Classes are so numerous that joinder of all members would be impracticable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals each. The identity of such membership is readily ascertainable via Defendants' employment records.

23. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, 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 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.

24. **Predominance of Common Questions:** Common questions predominate over questions that affect only individual Class members. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each Class member, such as Defendants' wage payment, wage statement, rest

period, meal period, final wage policies/practices, and expense reimbursement policies/practices. Thus, common questions predominate over individual questions concerning each Class member.

25. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants as a non-exempt employee in California and was paid on a piece-rate basis during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was deprived of all earned minimum wages, was subject to Defendants' rest period policies/practices, was subject to Defendants' meal period policies/practices, was furnished with inaccurate wage statements, was deprived of all final wages upon his separation of employment from Defendants, and was not reimbursed for all expenses he incurred in carrying out his job duties for Defendants.

26. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted 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 Classes.

27. **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 Plaintiff and members of the Classes 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 unfair advantage, as they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would discourage the assertion of lawful claims by employees who would

1 be disinclined to file an action against their former and/or current employer for real and justifiable
2 fear of retaliation and permanent damages to their careers at subsequent employment. Further, the
3 prosecution of separate actions by individual class members would create a substantial risk of
4 inconsistent or varying verdicts or adjudications with respect to the individual class members
5 against Defendants herein; and which would establish potentially incompatible standards of
6 conduct for Defendants. Further, the claims of individual Class members are not large enough to
7 warrant individual prosecution considering all of the concomitant costs and expenses attending
8 thereto. Thus, the Classes are maintainable under Section 382 of the Code of Civil Procedure.

9 **FIRST CAUSE OF ACTION**

10 **MINIMUM WAGE VIOLATIONS**

11 **(AGAINST ALL DEFENDANTS)**

12 28. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

13 29. Wage Order 9, § 4 and Labor Code §§ 1197 and 1182.12 establish employees'
14 right to be paid minimum wages for all hours worked in amounts set by state law. Labor Code §
15 226.2 provides that rest periods and non-productive time must be paid separately for employees
16 paid on a piece rate. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not
17 been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid
18 balance together with attorneys' fees, costs of suit, liquidated damages in an amount equal to the
19 unpaid wages, and interest.

20 30. At all relevant times, Defendants failed to conform their pay practices to the
21 requirements of the law by failing to pay Plaintiff and the Minimum Wage Class for all hours
22 actually worked including, but not limited to, all hours they were subject to Defendants' control
23 and/or suffered or permitted to work under the Labor Code and Wage Order 9.

24 31. California Labor Code § 1198 makes unlawful the employment of an employee
25 under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide
26 that an employer who has failed to pay its employees the legal minimum wage is liable to pay
27 those employees the balance of the unpaid wages as well as liquidated damages in an amount
28 equal to the wages due and interest thereon.

32. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to, unpaid wages and lost interest in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 9.

33. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and the Minimum Wage Class in a civil action for the unpaid amount of minimum wages, liquidated damages, interest, statutory penalties, and attorneys' fees and costs of suit, per Labor Code §§ 204, 218.6, 226.2, 558, 1194, 1194.2, 1197, 1198, and Code of Civil Procedure § 1021.5.

SECOND CAUSE OF ACTION

MEAL PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

34. Plaintiff re-alleges and incorporate by reference all previous paragraphs.

35. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed in their affirmative obligation to provide all their hourly non-exempt employees, including Plaintiff 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 Plaintiff's and Meal Period Class members' regular rate of compensation as required under Labor Code § 226.7, for the reasons set forth in this Complaint.

36. 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.

THIRD CAUSE OF ACTION

REST PERIOD VIOLATIONS

(AGAINST ALL DEFENDANTS)

37. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

38. 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.

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

40. These violations create an entitlement to recovery by Plaintiff 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.

FOURTH CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

42. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, all hours worked, all hours worked at each rate of pay, all piece rates and piece rate units earned, and all wages earned, in violation of Labor Code § 226.

43. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all their minimum wages, meal and rest period premium wages, and deprived them of the information necessary to identify and reconcile the discrepancies in Defendants' reported data.

44. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

FIFTH CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

45. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

46. 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."

47. 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."

48. 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 Plaintiff and members of the Expense Reimbursement Class, Defendants have violated Labor Code § 2802.

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

50. Plaintiff 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.

51. 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,

1 Plaintiff and members of the Expense Reimbursement Class are entitled to interest, which shall
2 accrue from the date on which they incurred the initial necessary expenditure.

3 **SIXTH CAUSE OF ACTION**

4 **UNFAIR COMPETITION**

5 **(AGAINST ALL DEFENDANTS)**

6 52. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 53. Defendants have engaged, and continue to engage, in unfair and/or unlawful
8 business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to pay
9 Plaintiff and the Classes all wages due, failing to authorize and permit compliant meal and rest
10 periods, failing to furnish accurate itemized wage statements, and failing to pay all wages due at
11 termination.

12 54. Defendants' utilization of these unfair and/or unlawful business practices has
13 deprived Plaintiff and members of the Classes of compensation to which they are legally entitled,
14 constitutes unfair and/or unlawful competition, and provides an unfair advantage over
15 Defendants' competitors who have been and/or are currently employing workers and attempting
16 to do so in honest compliance with applicable wage and hour laws.

17 55. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged
18 herein, Plaintiff, for himself and on behalf of the members of the Classes, seeks full restitution of
19 monies as necessary and according to proof, to restore all monies withheld, acquired, and/or
20 converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

21 56. The acts complained of herein occurred within the four years immediately
22 preceding the filing of this action.

23 57. Plaintiff was compelled to retain the services of counsel to file this court action to
24 protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf
25 of Defendants' current non-exempt employees, and to enforce important rights affecting the
26 public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs,
27 which he is entitled to recover under Code of Civil Procedure § 1021.5.
28

1 **SEVENTH CAUSE OF ACTION**

2 **WAITING TIME PENALTIES**

3 **(AGAINST ALL DEFENDANTS)**

4 58. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 59. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
6 an employer to pay all wages immediately at the time of separation of employment in the event
7 the employer discharges the employee, or the employee provides at least 72 hours of notice of
8 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
9 to quit, said employee's wages become due and payable not later than 72 hours upon said
10 employee's last date of employment.

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

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

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

24 **EIGHTH CAUSE OF ACTION**

25 **PRIVATE ATTORNEYS GENERAL ACT**

26 **(AGAINST ALL DEFENDANTS)**

27 63. Plaintiff re-alleges and incorporates by reference all previous paragraphs.
28 Defendants have committed several Labor Code violations against Plaintiff and other aggrieved

employees. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) 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 \$100.00 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, 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, 226.2, 1182.12, 1194, 1194.2, 1197, and 1198;
- 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.

64. On or about November 13, 2024, Plaintiff 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’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 in paragraph 63 (a)-(e) above. Now that sixty-five days have passed from Plaintiff’s notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

65. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys’ fees and costs, which he is entitled to recover under California Labor Code § 2699(k).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First 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, and 1198;
5. Upon the Second Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 1198;

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

3 7. Upon the Fourth Cause of Action, for statutory penalties pursuant to Labor Code §
4 226, *et seq.*;

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

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

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

12 11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved
13 employees, and the State of California according to proof pursuant to Labor Code § 2699,
14 including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each
15 employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant
16 to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully
17 withheld; (2) \$50.00 for each initial violation and \$100 for each subsequent violation pursuant to
18 Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and \$250.00
19 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay period; (4)
20 \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent
21 violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
22 each initial violation and \$200.00 for each subsequent violation per employee per pay period for
23 those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to
24 Labor Code § 2699(f);

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

28 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.

Date: January 21, 2025

Respectfully submitted,
MARQUEE LAW GROUP, A.P.C.

By:



Tuvia Korobkin
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: January 21, 2025

Respectfully submitted,
MARQUEE LAW GROUP, A.P.C.

By:



Tuvia Korobkin
Attorneys for Plaintiff