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8 Attorneys for Plaintiff, BENNIE HAMILTON, And the Proposed Class

9 **UNITED STATES DISTRICT COURT**  
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 BENNIE HAMILTON on behalf of  
12 himself and all similarly situated persons,  
13 and the general public,

14 Plaintiffs,

15 vs.

16 KOLD TRANS, LLC; KNIGHT  
17 TRANSPORTATION INC. dba Arizona  
18 Knight Transportation Inc.; KNIGHT  
19 REFRIGERATED, LLC; KNIGHT-  
20 SWIFT TRANSPORTATION  
21 HOLDINGS INC.; and DOES 1 through  
22 25, inclusive,

23 Defendants.

Case No.:

CLASS ACTION

**CLASS ACTION COMPLAINT**

1  
2 COMES NOW PLAINTIFF BENNIE HAMILTON AND HEREBY ALLEGES THE  
3 FOLLOWING:

4 1. The allegations in this complaint, stated on information and belief, have  
5 evidentiary support or are likely to have evidentiary support after a reasonable  
6 opportunity for further investigation and discovery.

7 **NATURE OF THE ACTION**

8 2. This putative class action is brought by Plaintiff BENNIE HAMILTON  
9 (“Plaintiff” or “Mr. Hamilton”) against Defendants KOLD TRANS, LLC; (“Kold  
10 Trans”); KNIGHT TRANSPORTATION INC. dba Arizona Knight Transportation Inc.  
11 (“Knight Transportation”); KNIGHT REFRIGERATED, LLC (“Knight Refrigerated”);  
12 and KNIGHT-SWIFT TRANSPORTATION HOLDINGS INC. (“Knight-Swift”)  
13 (collectively known as “KNIGHT”) and DOES 1 through 25, inclusive (hereinafter  
14 “KNIGHT” or “Defendants”), and each of them for damages sustained by Plaintiff,  
15 based on the Defendants’ wrongful actions and include the following causes of action:  
16 (1) Improper Meal Periods; (2) Improper Rest Periods; (3) Unlawful Wage Deduction;  
17 (4) Reimbursement of Expenses; (5) Improper Wage Statements; and (6) Unfair  
18 Business Practices.

19 **THE PARTIES**

20 3. Plaintiff, BENNIE HAMILTON is a citizen of the State of California.

21 4. Whenever in this complaint, reference is made to “Plaintiff,” such reference  
22 shall refer collectively to Plaintiff Bennie Hamilton.

23 5. Defendant KOLD TRANS, LLC (“Kold Trans”) is an Arizona limited  
24 liability company with its principal place of business located in Phoenix, Arizona;  
25 KNIGHT TRANSPORTATION INC. dba Arizona Knight Transportation Inc. (“Knight  
26 Transportation”) is an Arizona corporation with its principal place of business located in  
27 Phoenix, Arizona. KNIGHT REFRIGERATED, LLC (“Knight Refrigerated”) is an  
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1 Arizona limited liability company with its principal place of business located in Phoenix,  
2 Arizona; KNIGHT-SWIFT TRANSPORTATION HOLDINGS INC. (“Knight-Swift”)  
3 is a Delaware corporation with its principal place of business located in Phoenix,  
4 Arizona and DOES 1 through 25 (hereinafter “KNIGHT” or “Defendants”), and, at all  
5 times mentioned herein, whose employees that are the subject of this class action were  
6 and are employed in the State of California. On information and belief, KNIGHT is a  
7 publicly traded entity that employs thousands of employees throughout the United  
8 States. During the class period, on information and belief, Knight Transportation has  
9 conducted business under the trade names (i.e. doing business as) Arizona Knight  
10 Transportation Inc. That the true names and capacities, whether individual, corporate,  
11 associate or otherwise of each of the Defendants designated herein as a DOE are  
12 unknown to Plaintiff at this time, who therefore, sue said Defendants by fictitious names,  
13 and will ask leave of this Court for permission to amend this Complaint to show their  
14 names and capacities when the same have been ascertained. Plaintiff is informed and  
15 believes and thereon alleges that each of the Defendants designated as a DOE is legally  
16 responsible in some manner for the events and happenings herein referred to, and caused  
17 injuries and damages thereby to these Plaintiff as alleged herein.

18 6. Plaintiff is informed and believes, and thereon alleges, that each of said  
19 Defendants is in some manner intentionally, negligently, or otherwise responsible for the  
20 acts, omissions, occurrences, and transactions alleged herein.

### 21 JURISDICTION AND VENUE

22 7. This Court has personal jurisdiction over Defendants. Defendants employ  
23 non-exempt Drivers within the State of California.

24 8. This Court has original subject-matter jurisdiction over this proposed class  
25 action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class Action  
26 Fairness Act (“CAFA”), explicitly provides for the original jurisdiction of the federal  
27 courts in any class action in which at least 100 members are in the proposed plaintiff  
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1 class, any member of the plaintiff class is a citizen of a State different from any  
2 defendant, and the matter in controversy exceeds the sum of \$5,000,000.00, exclusive of  
3 interest and costs. Plaintiff alleges that the total claims of individual members of the  
4 proposed Class (as defined herein) are well in excess of \$5,000,000.00 in the aggregate,  
5 exclusive of interest and costs.

6 9. Venue is proper in this District under 28 U.S.C. § 1391(a). Substantial acts  
7 in furtherance of the alleged improper conduct, including Defendants' violations of the  
8 California Labor Code, occurred within this District.

9 **PRIVATE ATTORNEYS GENERAL ALLEGATIONS**

10 10. In addition, to asserting class claims, Plaintiff asserts claims on behalf of all  
11 other Class Members, pursuant to Business and Professions Code section 17200, et seq.  
12 The purpose of such claims is to require the Defendants to disgorge and restore all  
13 monies wrongfully obtained by the Defendants through their unlawful, unfair and  
14 deceptive business practices, which emanated in California, as alleged herein. A private  
15 attorneys general action is necessary and appropriate because the Defendants have  
16 engaged in wrongful acts described herein as a general business practice.

17 **INTRODUCTION**

18 11. Defendants hired and employed Plaintiff Bennie Hamilton as a non-exempt  
19 employee Driver. At the time of filing this action, Plaintiff remains employed by  
20 Defendants as a Driver.

21 12. Plaintiff, upon information and belief and based upon such basis, alleges  
22 that Defendants have employed hundreds of individuals, who are classified as non-  
23 exempt Drivers of KNIGHT such as Plaintiff Bennie Hamilton, during the class period,  
24 in an effort to operate its business. The Drivers that are the subject of this lawsuit have  
25 driving routes restricted within the State of California.

26 13. Plaintiff, upon information and belief and based upon such basis, alleges  
27 that Defendants' Drivers were not afforded proper meal/rest breaks or not provided the  
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1 correct premium payment for such a meal/rest break, were not reimbursed for all  
2 expenses incurred, had wages illegally deducted, did not receive accurate wage  
3 statements, waiting time penalties for such deductions, and were subjected to unlawful  
4 and unfair business practices. Upon information and belief, to date, the Defendants'  
5 illegal practices set forth herein this complaint are present and continuing.

6 **FACTUAL ALLEGATIONS**

7 14. Plaintiff was hired in August 2021 and employed by Defendants as a  
8 Driver.

9 15. Defendants employed Plaintiff and all other similarly situated persons as  
10 non-exempt Drivers whose routes are restricted within the State of California.

11 16. During the relevant time frame, Defendants compensated Plaintiff and  
12 Class Members based upon an hourly rate and/or commission/bonus payments for short  
13 haul pay, stop haul, etc.

14 17. Plaintiff and Class Members were paid on a weekly basis. Defendants pay  
15 its Drivers through the Knight Transportation Credit Card. KNIGHT places the Drivers'  
16 wages for any given workweek on the Knight Transportation Credit Card. Drivers are  
17 then able to transfer their wages from the Knight Transportation Credit Card through  
18 KNIGHT'S Pay Portal, which is an online portal that allow Drivers to direct their wages  
19 from the Knight Transportation Credit Card to their personal bank account. If the Driver  
20 elects to transfer funds to his personal bank account from the Knight Transportation  
21 Credit Card, KNIGHT forces the Driver to maintain a 1% balance on the Knight  
22 Transportation Credit Card. Drivers are only allowed to transfer 99% of their earned  
23 wages to their personal bank account. The 1% of the Drivers' wages remaining on the  
24 Knight Transportation Credit Card is only available to the Drivers by way of  
25 withdrawal, which requires the Drivers to withdrawal their funds and pay a fee to obtain  
26 the remaining 1% of wages. In the event the Driver fails to withdrawal the 1%  
27 remaining on the Knight Transportation Credit Card, the 1% comprised of Class  
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1 Members wages continues to accrue week by week. The fee is a typical bank charge fee  
2 for withdrawing funds which ranges from \$3.00-7.00.

3 18. Plaintiff and Class Members' activity while performing their duties to  
4 Defendants as non-exempt Drivers is tracked and recorded through the Zonar system.  
5 Zonar records Driver's activity and creates a Driver Log. The Zonar system also tracks  
6 and records whether Drivers took meal and/or rest breaks as mandated by California  
7 law.

8 19. As a result of KNIGHT'S requirements and demands in performing their  
9 job duties, Plaintiff and Class Members are required to have their meal and rest breaks  
10 missed/shortened/interrupted.

11 20. Plaintiff and Class Members were not compensated at all or only received a  
12 portion of wages owed to them for missed/shortened/interrupted meal and/or rest  
13 breaks.

14 21. Despite the above-mentioned meal/rest period violations, Defendants never  
15 compensated Plaintiff and Class Members premium wages at the regular rate as required  
16 by California law for each day on which meal and/or rest periods were not authorized or  
17 permitted.

18 22. Defendants failed to pay when due and on time, Plaintiff and Class  
19 Members the legal wages they earned or that were due, failed to provide all authorized  
20 meal and rest periods owed to Plaintiff and all other similarly situated employees, and  
21 failed to pay one (1) hour premium wages in lieu of Defendants' failure to provide a  
22 meal and/or rest period. In those instances wherein Defendants paid Plaintiff and Class  
23 Members for a missed/shortened/interrupted meal and/or rest breaks, Defendant  
24 miscalculated the payment owed to Plaintiff and Class Members.

25 23. While performing their duties to Defendants, Plaintiff and Class Members  
26 were unable to properly use the computer system to communicate with dispatch for  
27 Defendants. The computer systems used to communicate with dispatch are not in  
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1 working order, have not been repaired, or cause delays that would otherwise negatively  
2 impact Plaintiff and Class Members ability to carry out their duties to Defendants. In  
3 order to prevent being late for deliveries and stops, from negatively impacting Plaintiff  
4 and Class Members' jobs with Defendants, and Defendants' business, Plaintiff and Class  
5 Members are forced to repeatedly use their cell phones in order to communicate with  
6 Defendants. Plaintiff and Class Members have incurred expenses in discharging their  
7 duties to Defendants and have not been reimbursed by Defendants.

8 24. Defendants' miscalculation for their failure to make payment of premium  
9 wages or a portion thereof for missed/shortened/interrupted meal and/or rest breaks  
10 were captured in wage statements issued to Plaintiff and Class Members that are  
11 inaccurate and false.

12 25. Defendants have made it difficult to account with precision for the  
13 unlawfully withheld wages owed to Plaintiff and Class Members without an examination  
14 of all records during the liability period and failed to implement and to preserve a lawful  
15 record-keeping method as required for non-exempt employees including Drivers by  
16 California Labor Code section 226 and applicable California Wage Orders.

17 26. Such actions and policies, as described above and further herein, were  
18 and continue to be in violation of the California Business and Professions Code section  
19 17200, et seq. (predicate statutes, Cal. Labor Code).

20 **CLASS ACTION ALLEGATIONS**

21 27. Plaintiff brings this action on his own behalf, as well as on behalf of each  
22 and all other persons similarly situated, and thus, seeks class certification.

23 28. All claims alleged herein for the California Classes arise under California  
24 law for which Plaintiff seeks relief authorized by California law.

25 29. Plaintiff proposes the following Classes be created:

26 a) All former and current non-exempt Drivers employed by KNIGHT within the  
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1 State of California, at any time within four years prior to the filing of this lawsuit until  
2 the present date.

3 (hereinafter referred to as “Non-exempt Drivers Class”).

4 b) All former and current non-exempt Drivers employed by KNIGHT, who  
5 were/are not engaged in interstate travel and whose gross vehicle weight is under 26,000  
6 lbs., within the State of California, at any time within four years prior to the filing of this  
7 lawsuit until the present date.

8 (hereinafter referred to as “Intrastate Driver Class”)

9 (collectively hereinafter referred to as “Class” or “Class Members”).

10 Excluded from the Class are the Defendants in this action, any entity in which the  
11 Defendants have a controlling interest, any officers, directors, and shareholders of the  
12 Defendants, and any legal representatives, heirs, successors, and assigns of the  
13 Defendants.

14 30. There is a well-defined community of interest in this litigation and the Class  
15 is easily ascertainable:

16 a. Numerosity: The Class Members are so numerous that joinder of all  
17 members would be unfeasible and impractical. The Class Members  
18 are unknown to Plaintiff at this time. However, the Class is estimated  
19 to be greater than a hundred (100) individuals and the identity of such  
20 membership is readily ascertainable by inspection of Defendants’  
21 employment records.

22 b. Typicality: Plaintiff is qualified to and will fairly and adequately  
23 protect the interests of each Class Members with whom they have a  
24 well-defined community of interest, and Plaintiff’s claims (or  
25 defenses, if any), are typical of all Class Members as demonstrated  
26 herein.



1 c. Adequacy: Plaintiff is qualified to, and will fairly and adequately  
2 protect the interests of each Class Members with whom they have a  
3 well-defined community of interest and typicality of claims, as alleged  
4 herein. Plaintiff acknowledges that they have an obligation to the  
5 Court to make known any relationship, conflict, or differences with  
6 any Class Member. Plaintiff's attorneys and proposed Class counsel  
7 are well versed in the rules governing class action discovery,  
8 certification, and settlement. Plaintiff has incurred, and, throughout  
9 the duration of this action, will continue to incur costs and attorneys'  
10 fees that have been, are, and will be necessarily expended for the  
11 prosecution of this action for the substantial benefit of each Class  
12 Members.

13 d. Superiority: The nature of this action makes the use of class action  
14 adjudication superior to other methods. Class action will achieve  
15 economies of time, effort, and expense as compared with separate  
16 lawsuits, and will avoid inconsistent outcomes because the same  
17 issues can be adjudicated in the same manner and at the same time for  
18 the entire class.

19 31. There are common questions of law and fact as to the Class that  
20 predominate over questions affecting only individual members, including but not limited  
21 to:

- 22 a. Whether Defendants complied with wage reporting as required by the  
23 California Labor Code; including but not limited to Section 226;
- 24 b. Whether Defendants had a policy or practice of paying Class  
25 Members a premium payment for missed/shortened/interrupted rest  
26 periods;

- c. Whether Defendants reimbursed Class Members for expenses incurred in discharging duties;
- d. Whether Class Members had their wages wrongfully deducted;
- e. Whether Class Members are entitled to penalties as a result of violations;
- f. Whether Defendants engaged in unlawful or unfair business practices in violation of Business and Professions Code section 17200, et seq. by failing to provide meal and rest break or compensation in lieu thereof; and
- g. The appropriate amount of damages, restitution, or monetary penalties resulting from Defendants' violations of California law.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF REST BREAK LAWS**  
(Against Defendants)

32. Plaintiff incorporates by reference and re-alleges, as if fully stated herein, the material allegations set forth in paragraphs 1 through 31 of this Complaint.

33. At all times herein, Labor Code section 218 authorizes employees to sue directly for any wages or penalty due to them under this article of the California Labor Code. Labor Code section 226.7(a) provides that no employer shall require an employee to work during any rest period mandated by an applicable order of the IWC.

34. IWC Order No. 4-2001 § 12, which covers rest periods, provides “[e]very employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which

1 there shall be no deduction from wages.” Plaintiff alleges that Defendants did not  
2 provide Plaintiff and Class Members proper premium wages for  
3 missed/shortened/interrupted rest breaks. Upon information and belief, during the  
4 relevant time frame, Defendants maintained and enforced a schedule and policies that do  
5 not pay the proper premium wages for missed/shortened/interrupted rest breaks. Wage  
6 orders required that Plaintiff and Class Members be compensated for the rest periods for  
7 which Defendants required Plaintiff and Class Members to work. Defendants did not  
8 provide Plaintiff and Class Members with a rest break(s) during each workweek  
9 throughout the course of employment with Defendants. Defendants failed to compensate  
10 Plaintiff and the Class Members with premium wages for these rest periods worked on  
11 any given day or in any given workweek.

12 35. “[A]ll hours must be paid at the statutory or agreed rate and no part of this  
13 rate may be used as a credit against a minimum wage obligation.” (*Armenta v. Osmose,*  
14 *Inc.* (2005) 135 Cal.App.4th 314, 324.) “Under the California minimum wage law,  
15 employees must be compensated for each hour worked at either the legal minimum wage  
16 or the contractual hourly rate, and *compliance cannot be determined by averaging*  
17 *hourly compensation.*” (*Bluford v. Safeway Stores, Inc.* (2013) 216 Cal.App.4th 864,  
18 872 (emphasis added); *see also Sheppard v. North Orange County Regional*  
19 *Occupational Program* (2010) 191 Cal.App.4th 289, 297 n.5 (“Compliance with the  
20 minimum wage law is determined by analyzing the compensation paid for each hour  
21 worked; *averaging hourly compensation is not permitted under California law.*”)  
22 (emphasis added).) “[A]ny employee receiving less than the legal minimum wage ... is  
23 entitled to recover in a civil action the unpaid balance of the full amount of this  
24 minimum wage ....” (*Cal. Lab. Code* § 1194(a).) “[A]ll hours must be paid at the  
25 statutory or agreed rate and no part of this rate may be used as a credit against a  
26 minimum wage obligation.” (*Armenta v. Osmose, Inc.* (2005) 135 Cal.App.4th 314,  
27 324.) “An employer is required to authorize and permit the amount of rest break time  
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1 called for under the wage order for its industry.” (*Brinker*, 53 Cal.4th at 1033; *see also*  
2 *Faulkinbury v. Boyd & Associates, Inc.* (2013) 216 Cal.App.4th 220, 236 (“An employer  
3 has a duty to authorize and permit rest breaks.”).) “No employer shall require any  
4 employee to work during any ... rest period mandated by an applicable order of the  
5 Industrial Welfare Commission.” (*Cal. Labor Code* § 226.7(a).) “Under Industrial  
6 Welfare Commission wage orders, employers are required to ‘authorize and permit all  
7 employees to take rest periods’ at the rate of at least 10 minutes for every four hours  
8 worked.” (*Bluford*, 216 Cal.App.4th at 871 (*quoting* 8 C.C.R. § 11070, § 12); *see also*  
9 *Murphy v. Kenneth Cole Productions, Inc.* (2007) 40 Cal.4th 1094, 1104 (Employees are  
10 entitled to “a paid 10–minute rest period per four hours of work.”).) “Rest periods are  
11 considered hours worked and must be compensated.” (*Id.* at 872.). Also *see*, *Vaquero v.*  
12 *Stoneledge Furniture LLC* (2017) 9 Cal.App.5th 98; also *see*, LC 226.7.

13 36. The California Supreme Court in *Ferra v. Loews Hollywood Hotel, LLC, et*  
14 *al. unanimously* held that employers must pay premium payments to employees for  
15 missed meal, rest, and recovery breaks at the employee’s “regular rate of pay” instead of  
16 their base hourly rate. “The court also identified several policy reasons to apply the  
17 regular rate of pay to premium payments, including that “when [employees] are forced  
18 to work through break periods, [there are] ‘greater risks of work-related accidents and  
19 increased stress,’” and “denials of ‘time free from employer control that is often needed  
20 to be able to accomplish important personal tasks.” *Ferra v. Loews Hollywood Hotel,*  
21 *LLC S259172* (Cal. Sup. Ct., July 15, 2021).

22 37. Defendants’ conduct, as alleged herein, violates Labor Code section  
23 226.7(a), which authorizes that no employer shall require any employee to work during  
24 any meal or rest period mandated by an applicable order of the IWC.

25 38. Pursuant to Labor Code section 226.7(b) and Code of Civil Procedure  
26 section 338, Plaintiff and the other Class Members are entitled to recover from  
27 Defendants one (1) additional hour of pay at the employee's regular rate of compensation  
28

1 for each workday that a rest period was not provided/shortened/interrupted, for a three-  
2 year statutory period dating back from the date of the commencement of this action.

3 39. Plaintiff and Class Members were systematically not paid or underpaid  
4 premium wages for rest break violations. Plaintiff and Class Members were not  
5 compensated with one hour of premium wages for every day in which a rest period was  
6 missed or untimely as a result of Defendants' policies, practices, or work demands.

7 40. By failing to authorize and permit a ten-minute rest period for every four  
8 (4) hours or major fraction thereof worked per day by Class Members, and by failing to  
9 provide proper compensation for such non-provided or shortened rest periods, as alleged  
10 above, Defendants willfully violated the provisions of Labor Code sections 226.7, 512  
11 and IWC Wage Order No. 4-2001.

12 **SECOND CAUSE OF ACTION**  
13 **IMPROPER MEAL PERIODS**  
14 (Against Defendants)

15 41. Plaintiff incorporates by reference and re-alleges, as if fully stated herein,  
16 the material allegations set forth in paragraphs 1 through 40 of this Complaint.

17 42. At all times herein, Labor Code section 218 authorizes employees to sue  
18 directly for any wages or penalty due to them under this article of the California Labor  
19 Code.  
20

21 43. At all times herein, Labor Code section 226.7(a) provides that no employer  
22 shall require an employee to work during any meal period mandated by an applicable  
23 order of the IWC.

24 44. At all times herein, Labor Code section 512(a) provides that an employer  
25 may not employ an employee for a work period of more than five (5) hours per day  
26 without providing the employee with a meal period of not less than thirty (30) minutes,  
27 except that if the total work period per day of the employee is not more than six (6)  
28

1 hours, the meal period may be waived by mutual consent of both the employer and the  
2 employee.

3 45. The language of IWC Order No. 4-2001 § 11(B) relating to meal periods  
4 tracks the language of the California Labor Code.

5 46. During the relevant time period, Plaintiff and Class Members, who were  
6 scheduled to work in excess of five (5) hours, but not longer than six (6) hours, and who  
7 did not waive their legally-mandated meal periods by mutual consent, were required to  
8 work in excess of five (5) hours without receiving a meal period of not less than thirty  
9 (30) minutes.

10 47. During the relevant time period, Plaintiff and Class Members, who were  
11 scheduled to work for a period of time in excess of six (6) hours, were required to work  
12 in excess of five (5) hours, without receiving a meal period of not less than thirty (30)  
13 minutes. An employer may not employ an employee for a work period of more than ten  
14 (10) hours per day without providing the employee with a second meal period of not less  
15 than thirty (30) minutes, except that if the total hours worked is no more than twelve (12)  
16 hours, the second meal period may be waived by mutual consent of the employer and the  
17 employee only if the first meal period was not waived.

18 48. Upon information and belief, during the relevant time frame, Defendants  
19 maintained and enforced an aggressive set of demands for these non-exempt Driver  
20 employees with respect to the goals, thereby requiring Plaintiff and Class Members to  
21 have their meal breaks missed/shortened/interrupted. Plaintiff and Class Members were  
22 forced to work in excess of five (5) hours per day on a regular basis without being  
23 provided a daily thirty (30) minute restrictive-free meal period.

24 49. Upon information and belief, during the relevant time frame, Plaintiff and  
25 Class Members did not receive uninterrupted meal periods; in addition, Defendant's  
26 work demands and pressure from Defendant's management, with specific knowledge  
27 and/or at the instruction of Defendant, as a result of an implemented policy, regularly  
28

1 required Plaintiff and Class Members work through meal periods without receiving a  
2 premium payment.

3 50. Upon information and belief, during the relevant time frame, Plaintiff and  
4 Class Members often worked shifts in excess of then (10) hours, yet were never  
5 provided a second, uninterrupted meal period of thirty (30) minutes for those shifts.  
6 Defendant failed to compensate Plaintiff and Class Members for these meal periods  
7 worked on any given day or during any given workweek.

8 51. Pursuant to Labor Code section 226.7(b) and Industrial Welfare  
9 Commission Wage Order 4-2001, section 11(B), Plaintiff and all other similarly situated  
10 employees are entitled to recover from Defendant one (1) additional hour of pay at the  
11 employee's regular rate of compensation for each work day that a meal period was not  
12 provided, for a three-year statutory period dating back from the date of the  
13 commencement of this action.

14 **THIRD CAUSE OF ACTION**  
15 **REIMBURSEMENT OF ALL EXPENSES AND LOSSES**  
16 **(Against Defendants)**

17 52. Plaintiff incorporates by reference and re-alleges, as if fully stated herein,  
18 the material allegations set forth in paragraphs 1 through 51 of this Complaint.

19 53. “An employer shall in all cases indemnify his employee for losses caused  
20 by the employer’s want of ordinary care.” (Cal. Labor Code § 2800.)

21 54. “An employer shall indemnify his or her employee for all necessary  
22 expenditures or losses incurred by the employee in direct consequence of the discharge  
23 of his or her duties, or of his or her obedience to the directions of the employer, even  
24 though unlawful, unless the employee, at the time of obeying the directions, believed  
25 them to be unlawful.” (Cal. Labor Code § 2802(a).)

26 55. “All awards made by a court or by the Division of Labor Standards  
27 Enforcement for reimbursement of necessary expenditures under this section shall carry  
28 interest at the same rate as judgments in civil actions. Interest shall accrue from the date

1 on which the employee incurred the necessary expenditure or loss.” (Cal. Labor Code §  
2 2802(b).)

3 56. California Labor Code section 2802(c) provides: “For purposes of this  
4 section, the term “necessary expenditures or losses” shall include all reasonable costs,  
5 including, but not limited to, attorney’s fees incurred by the employee enforcing the  
6 rights granted by this section.”

7 57. Defendants owe a duty to Plaintiff and Class Members to indemnify them  
8 for all necessary expenditures, losses, and damages suffered and incurred in direct  
9 consequence of the discharge of their duties, or of their obedience to the directions of  
10 their employer. Defendants continue to refuse to reimburse and indemnify Plaintiff and  
11 Class Members for all necessary expenditures and losses incurred by them, including but  
12 not limited to, cell phone charges/expenses.

13 58. Plaintiff and Class Members have incurred, and are continuing to incur,  
14 necessary expenditures and losses in direct consequence of the discharge of duties, or of  
15 obedience to Defendants’ directions as an employer, which at the time of obeying the  
16 directions, Plaintiff and Class Members believed to be lawful.

17 59. The acts and omissions herein violated California Labor Code section  
18 2802(a), and further violates California Labor Code sections 221 through 224. Plaintiff  
19 and Class Members are entitled to attorney’s fees under to California Labor Code section  
20 2802(c).

21 60. Plaintiff seeks reimbursement and indemnification for himself, and Class  
22 Members similarly situated for all necessary expenditures or losses incurred by them in  
23 direct consequence of the discharge of their duties, or obedience to the directions of the  
24 defendants as an employer.

25 61. During the relevant time period, Defendants intentionally and improperly  
26 failed to reimburse necessary expenditures Plaintiff and Class Members incurred.

27 62. Under the California Labor Code sections cited herein, Plaintiff and Class  
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1 Members are entitled to recover the necessary expenditures they incurred for the four  
2 years preceding the filing of their complaint, plus reasonable attorney's fees and costs  
3 under California Labor Code section 2802.

4 63. By virtue of Defendants' unlawful failure to reimburse necessary  
5 expenditures Plaintiff and Class Members incurred, Plaintiff and Class Members have  
6 incurred damages in amounts presently unknown to Plaintiff and Class Members.

7 64. Plaintiff is informed and believes, and based upon that information and  
8 belief alleges, that Defendants, and each of them, knew or should have known Plaintiff  
9 and Class Members were not being reimbursed for all necessary business expenditures  
10 they incurred.

11 65. As a direct and legal (proximate) result of Defendants' violation of the  
12 California Labor Code, Plaintiff and Class Members have been damaged. Under  
13 California Labor Code section 2802, Plaintiff and Class Members are entitled to, and  
14 request reimbursement of all necessary expenditures they incurred, interest, penalties,  
15 reasonable attorney's fees, and costs, incurred in this action in an amount to be proven at  
16 or following trial of this matter.

17  
18 **FOURTH CAUSE OF ACTION**  
19 **UNLAWFUL WAGE DEDUCTIONS**  
20 (Against Defendants)

21 66. Plaintiff incorporates by reference and re-alleges, as if fully stated herein,  
22 the material allegations set forth in paragraphs 1 through 65 of this Complaint.

23 67. It shall be unlawful for any employer to collect or receive from an  
24 employee any part of wages theretofore paid by said employer to said employee.  
25 Defendants unlawfully deducted wages from Plaintiff and Class Members. Defendants  
26 created a system whereby Plaintiff and Class Members are only able to transfer 99% of  
27 their earned wages from the Knight Transportation Credit Card through KNIGHT'S Pay  
28 Portal to their bank account and are unable to transfer the remaining 1% of their earned

1 wages from the Knight Transportation Credit Card to their bank account, thereby forcing  
2 Drivers to either maintain the remaining 1% of their wages on the Knight Transportation  
3 Credit Card, or alternatively, withdraw the remaining 1% of wages and pay a fee to  
4 obtain the remaining 1% of wages. The fee is a typical bank charge fee for withdrawing  
5 funds which ranges from \$3.00-\$7.00. Thus, KNIGHT has deducted wages from  
6 Plaintiff and Class Members.

7 68. Under California law, an employer can lawfully withhold amounts from an  
8 employee's wages only in the following circumstances:

- 9 a) When required or empowered to do so by state or federal law;  
10 b) When a deduction is expressly authorized in writing by the employee to cover  
11 insurance premiums, benefit plan contributions or other deductions not amounting  
12 to a rebate on the employee's wages; and  
13 c) When a deduction to cover health, welfare or pension contributions is expressly  
14 authorized by a wage or collective bargaining agreement (Labor Code Sections  
15 221 and 224).

16 69. None of the exceptions and outlined by the Labor Code apply to Plaintiff  
17 and Class Members and therefore deducting wages by forcing non-exempt Driver  
18 employees to maintain a certain amount or percentage of their earned wages on the  
19 Knight Transportation Credit Card, or in the alternative, withdrawal their funds and pay  
20 a bank fee, which ranges from \$3.00-\$7.00, to obtain the remaining 1% wages, are  
21 deemed illegal.

22 70. Plaintiff and Class Members are entitled to the wages deducted by  
23 Defendants, civil penalties pursuant to Labor Code section 225.5, and waiting time  
24 penalties associated with the deductions.

25 //

26 //

27

28

1  
2 **FIFTH CAUSE OF ACTION**  
3 **IMPROPER WAGE STATEMENTS**  
4 (Against Defendants)

5 71. Plaintiff incorporates by reference and re-alleges, as if fully stated herein,  
6 the material allegations set forth in paragraphs 1 through 70 of this Complaint.

7 72. Labor Code section 226(a) mandates that employers provide their  
8 employees, along with the employees' paychecks, "an accurate itemized statement in  
9 writing showing (1) gross wages earned, (2) total hours worked by the employee, except  
10 for any employee whose compensation is solely based on a salary and who is exempt  
11 from payment of overtime under subdivision (a) of Section 515 or any applicable order  
12 of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any  
13 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,  
14 provided that all deductions made on written orders of the employee may be aggregated  
15 and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for  
16 which the employee is paid, (7) the name of the employee and his or her social security  
17 number, except that by January 1, 2008, only the last four digits of his or her social  
18 security number or an employee identification number other than a social security  
19 number may be shown on the itemized statement, (8) the name and address of the legal  
20 entity that is the employer, and (9) all applicable hourly rates in effect during the pay  
21 period and the corresponding number of hours worked at each hourly rate by the  
22 employee."

23 73. Plaintiff, on information and belief and based upon such basis, alleges that  
24 Plaintiff and Class Members were intentionally not provided accurate wage statements,  
25 pursuant to Labor Code section 226(a) by Defendants, because it was Defendants' intent  
26 to avoid paying Plaintiff and Class Members, the correct wages that Plaintiff and Class  
27 Members were legally entitled to in order for Defendants to generate greater profits at  
28 the expenses of Plaintiff and Class Members.

1           74. Defendants also violated California Labor Code section 226, which requires  
2 wage statements to list “all applicable hourly rates in effect during the pay period and the  
3 corresponding number of hours worked at each hourly rate by the employee.”  
4 Defendants have knowingly and intentionally failed to comply with Labor Code § 226(a)  
5 on wage statements which should have been properly provided to Plaintiff and Class  
6 Members, and such violations flow from Defendants’ improper policies and practices,  
7 their implementation and enforcement by Defendants, and the violations alleged in the  
8 preceding causes of action and herein. More specifically, the miscalculation of the  
9 premium wages for meal and/or rest break violations, failure to reimburse expenses,  
10 unlawful wage deductions, and premium wage payments that should have been itemized  
11 on the wage statements issued by Defendants to Plaintiff and Class Members an  
12 constitutes a violation of California Labor Code section 226. Defendants’ intentional  
13 conduct by failing to provide Plaintiff and Class Members with accurate wage  
14 statements have caused Plaintiff and Class Members to suffer injury in fact by depriving  
15 them of their wage records. In order to determine if they had been paid the correct  
16 amount and rate for all hours worked, Plaintiff and Class Members have been, would  
17 have been, and are compelled to discover for accuracy, the required information missing  
18 from their wage statements and to perform calculations in light of the inaccuracies and  
19 incompleteness of the wage statements Defendants provided to them. Given the  
20 violations addressed above and the resulting inaccuracies in the wage statements  
21 provided by Defendants to Plaintiff and Class Members, Defendants have made it very  
22 difficult, to determine from the wage statements themselves such important items of  
23 information as the appropriate pay rate to apply to their hours worked.

24           75. Plaintiff and Class Members are also entitled to injunctive relief under  
25 California Labor Code §226(h), compelling Defendants s to comply with California  
26 Labor Code §226. Plaintiff, on information and belief and based upon such basis,  
27 alleges that Plaintiff and Class Members are entitled to recover from Defendants the  
28

1 greater of their actual damages caused by Defendants' failure to comply with Labor  
2 Code Section 226(a) or fifty dollars (\$50.00) for the initial pay period in which the  
3 violation occurred and one hundred dollars (\$100.00) per employee for each violation in  
4 subsequent pay periods or an aggregate penalty not exceeding \$4,000, and an award of  
5 costs and reasonable attorneys' fees pursuant to Labor Code Section 226(e).

6  
7 **SIXTH CAUSE OF ACTION**  
8 **VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200, ET**  
9 **SEQ.**  
10 (Against Defendants)

11 76. Plaintiff incorporates by reference and re-alleges, as if fully stated herein,  
12 the material allegations set forth in paragraphs 1 through 75.

13 77. Defendants' conduct, as alleged herein, including not paying Plaintiff and  
14 Class Members for premium wages for missed meal and/or rest periods, not reimbursing  
15 expenses, illegally deducting wages, inaccurate wage statements has been, and continues  
16 to be unlawful and unfair, and harmful to Plaintiff and Class Members, and the general  
17 public.

18 78. Defendants' activities as alleged herein are in violation of California law,  
19 and constitute unlawful and unfair business practices in violation of Business and  
20 Professions Code section 17200, et seq., which justify the issuance of an injunction,  
21 restitution, and other equitable relief pursuant to California Business and Professions  
22 Code §17203.

23 79. Plaintiff and Class Members have been personally aggrieved by  
24 Defendants' unlawful and unfair business practices as alleged herein, including, but not  
25 necessarily limited to, the loss of money or property.

26 80. Defendants have failed and refused to provide Plaintiff and Class Members  
27 with meal and/or rest breaks in violation of the California Labor Code §§226.7(a).  
28 Defendants have failed to reimburse expenses, not to deduct wages, provide Plaintiff and

1 Class Members with accurate wage statements pursuant to California Labor Code  
2 section 226. Defendants violated California Business and Professions Code §17200, et  
3 seq. as a result of violating these statutory provisions, where Plaintiff and Class  
4 Members suffered an economic hardship in order for Defendants to pursue monetary  
5 gain.

6 81. Plaintiff and Class Members seek restitution for Defendants' knowingly and  
7 willfully (or should have known) that Plaintiff and Class Members, but refused to pay  
8 Plaintiff and Class Members in order for Defendants to financially benefit from its  
9 illegal and unfair practices at the expense and work of Plaintiff and Class Members.

10 82. Defendants' actions, practices, decisions, and policies have violated the  
11 California Labor Code, IWC Wage Orders, and state law, including, but not limited to:  
12 (1) failing to pay premium wages for meal/rest breaks, (2) failing to reimburse expenses,  
13 (3) unlawfully deducting wages, and (4) failing to provide Plaintiff and Class Members  
14 with accurate itemized wage statements in violation of Labor Code §226.

15 83. Pursuant to Business and Professions Code section 17200, et seq., Plaintiff  
16 and Class Members are entitled to disgorgement and restitution of the reimbursement of  
17 expenses, meal and rest breaks premium wages; and deduction of wages serves as a  
18 declaration that the above business practices are unlawful and unfair; a permanent  
19 injunction requiring Defendants to pay all outstanding premium wages and  
20 reimbursement of expenses due to Plaintiff and Class Members and stop all illegal  
21 conduct alleged in this complaint. Plaintiff, individually, on behalf of Class Members  
22 and on behalf of the general public through their respective attorneys are serving to  
23 enforce an important right of the prompt payment of wages due to employees that affects  
24 the affecting a significant public interest.

25 84. Plaintiff through this action is conferring a substantial benefit on the general  
26 public by ensuring the prompt payment of wages due to employees and a large class of  
27 persons (at this time believed to exceed 100 class members), there exists a necessity  
28

1 (Defendants have maintained this illegal practice for at least four years) and financial  
2 burden of private enforcement makes an award of attorney's fees appropriate pursuant to  
3 California Code of Civil Procedure §1021.5, which should not in the interest of justice  
4 be taken out of any award since any disgorgement or restitution to Plaintiff and class  
5 members are owed to them as wages for time worked while employed by Defendants.

6  
7 **REQUEST FOR JURY TRIAL**

8 Plaintiff hereby requests a trial by jury for all issues so triable.

9 **PRAYER FOR RELIEF**

10 Plaintiff, on behalf of himself and all other Class Members, pray for relief and  
11 judgment against Defendants, as follows:

- 12 1. That this action be certified as a class action;
  - 13 2. That Plaintiff be appointed as the representative of the Class;
  - 14 3. That counsel for Plaintiff be appointed as Class Counsel;
  - 15 4. For general unpaid or underpaid premium wages for missed/shortened/  
16 interrupted rest and meal breaks, and such general and special damages as  
17 may be appropriate;
  - 18 5. For restitution and disgorgement for reimbursement of expenses and  
19 unlawful deductions;
  - 20 6. For pre-judgment interest on any unpaid from the date such amounts were  
21 due pursuant to Labor Code sections;
  - 22 7. For payments pursuant to Labor Code section 226.7(b);
  - 23 8. For costs of suit incurred herein;
  - 24 9. For such other and further relief as the Court may deem equitable and  
25 appropriate;
  - 26 10. For statutory penalties pursuant to Labor Code section 226(e);
- 27  
28

- 1 11. For reasonable attorneys' fees and costs pursuant to Code, Labor Code,  
2 including all laws;
- 3 12. For statutory penalties pursuant to Labor Code section 225.5;
- 4 13. Waiting time penalties pursuant to Labor Code section 203;
- 5 14. For the disgorgement of any and all “unpaid wages” and incidental losses,  
6 according to proof;
- 7 15. For restitution of "unpaid wages" to Plaintiff and all other Class Members  
8 and pre-judgment interest from the day such amounts were due and  
9 payable;
- 10 16. For the appointment of a receiver to receive, manage, and distribute any and  
11 all funds disgorged from Defendants and determined to have been  
12 wrongfully acquired by Defendants as a result of violations of Business and  
13 Professions Code section 17200 et seq.;
- 14 17. Enter a declaratory judgment declaring that the Defendants have willfully  
15 and wrongfully violated their statutory and legal obligations and deprived  
16 Plaintiff and all others who are similarly situated of their rights, privileges,  
17 protections, compensation, benefits and entitlements under the law, as  
18 alleged herein;
- 19 18. Order a complete and accurate accounting of all the compensation to which  
20 the Plaintiff and all others who are similarly situated are entitled;
- 21 19. For compensatory damages against Defendants to be paid to the Class  
22 Members, including all wages and overtime pay, and statutory damages for  
23 violation of California Labor Code owed to the California class under  
24 California law;
- 25 20. For “waiting time penalties,” pursuant to Section 203 of the California Labor  
26 Code, against Defendants to be paid to members of the California class who  
27 were not timely paid all wages due and owing to them;
- 28



21. For an order requiring Defendants to pay restitution for its unlawful conduct in the State of California;
22. For injunctive relief including, but not limited to, an Order enjoining Defendants from continuing to engage in the State of California in the unlawful business practices alleged herein;
23. For general and special damages;
24. Restitution and disgorgement;
25. Statutory damages, civil penalties, and PAGA penalties;
26. Pre-judgment interest;
27. For reasonable attorneys' fees and costs; and
28. For such other and further relief as the Court deems proper.

DATED: November 1, 2021

**NATHAN & ASSOCIATES, APC**

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