

YES / NO

EXHIBITS

CASE NO. 2019 CH 9186

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

ZHANAT TLENCHIYEV,)
)
Plaintiff, on behalf of himself and)
others similarly situated)
)
v.)
)
PATRIOT TRANSPORT, INC,)
EXPEDITOR SYSTEMS, INC,)
IVAN ZABOLOTOVSKY, and)
IGOR TERLETSKY,)
)
Defendants.)

6102099

Case No: 2019CH09186

CLASS ACTION COMPLAINT

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Plaintiff Zhanat Tlenchiyev, individually and on behalf of all other similarly situated current and former employees of Patriot Transport Inc. and Expeditor Systems Inc., by his attorney, Julia Bikbova of Bikbova Law Offices, P.C., brings his claims as a class action pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/2-801, The Illinois Wage Payment and Collection Act, (“IWPCA”), 820 ILCS § 115/1, § 115/2, § 115/3, § 115/4, § 115/5, § 115/9, § 115/10, § 115/13 and § 115/14 and Illinois common law against Patriot Transport Inc, Expeditor Systems Inc, Ivan Zabolotovskiy, and Igor Terletsky, (collectively referred to as “Defendants”), and alleges, upon personal belief as to himself and his own acts, and as for all other matters upon information and belief, and based upon the investigation made by his counsel, as follows:

I. NATURE OF THE CASE

1. Plaintiff Zhanat Tlenchiyev worked as a truck driver for Defendant Companies Patriot Transport, Inc. and Expeditor Systems, Inc., two sister companies which are operated by Ivan Zabolotovskiy and Igor Terletsky. Throughout his employment, he was misclassified as an independent contractor, and consistently underpaid. Defendants made deductions from his paychecks, which Plaintiff Tlenchiyev did not consent to and was not alerted to beforehand.
2. By doing so, Defendant Companies- and the Individual Defendants who controlled them and directed their policies of misclassification of drivers and deductions- violated multiple provisions of the Illinois Wage Payment and Collections Act, 820 ILCS § 115/.
3. Similarly, Defendant Companies and Individual Defendants committed several common law violations, namely, fraud in the inducement, fraudulent misrepresentation, fraudulent concealment, and civil conspiracy.
4. Plaintiff also seeks the equitable relief of accounting and restitution pursuant to his unjust

enrichment claim.

5. Plaintiff is bringing this action on a class basis, on behalf of all similarly situated drivers who worked or work at Defendant Companies or any related companies. The violations experienced by Zhanat Tlenchiyev were not discrete occurrences, but constituted a business model for Patriot Transport and Expedito Systems. The vast majority of truck drivers who worked or work for the company were or are misclassified, underpaid, and subjected to illicit deductions.

II. PARTIES

6. Plaintiff Zhanat Tlenchiyev worked as a per driven mile paid non-exempt employee for Defendants in the state of Illinois, during the applicable statute of limitations period, and at all relevant times was a full time “employee” within the meaning of the IWPCA, 820 ILCS § 115/2.
7. Plaintiff brings this case on behalf of himself and others who currently work and who previously worked as drivers for the Defendants in the State of Illinois at any time during the relevant statute of limitations preceding the filing of the original complaint (hereinafter “Violation Period”).
8. At all times relevant hereto, Defendant Patriot Transport, Inc. (“Patriot Transport”), (“Defendant company” or “Corporate Defendant”), has been an Illinois corporation engaged in the transportation and delivery business in Illinois and throughout the United States. Its current principal place of business is 450 Kehoe Blvd, Carol Stream, IL 60188. Defendant Patriot Transport at all relevant times has been an “employer” of Plaintiff and other similarly situated truck drivers-employees of said Defendant within the meaning of the IWPCA, 820 ILCS § 115/2.

9. At all times relevant hereto, Defendant Expedito Systems, Inc. (“Expedito Systems”), (“Defendant company” or “Corporate Defendant”), has been an Illinois corporation engaged in the transportation and delivery business in Illinois and throughout the United States. Its current principal place of business is 450 Kehoe Blvd, Carol Stream, IL 60188. Defendant Expedito Systems at all relevant times has been an “employer” of Plaintiff and other similarly situated truck drivers-employees of Defendant within the meaning of the IWPCA, 820 ILCS § 115/2.
10. Defendant Ivan Zabolotovskiy is a resident of State of Illinois, and on information and belief, is a joint shareholder of both Patriot Transport and Expedito Systems, and has been their incorporator, officer and manager from their inception through to the present day. Defendant Zabolotovskiy was and is one of Patriot Transport’s and Expedito Systems’ key decision makers and actual executives, who has had and exercised key decision powers with respect to payment of compensation to truck drivers working for the Defendant companies, the misclassification of drivers as independent contractors, and deductions made from drivers’ compensation. Defendant Zabolotovskiy caused or otherwise knowingly permitted Patriot Transport and Expedito Systems to violate multiple provisions of IWPCA. As such, at all relevant times Defendant Zabolotovskiy has been an “employer” of Plaintiff within the meaning of the IWPCA, 820 ILCS § 115/13.
11. Defendant Igor Terletskiy is a resident of State of Illinois, and on information and belief, is a joint shareholder of both Patriot Transport and Expedito Systems, and has been their incorporator, founder, registered agent, President and officer from their inception through to the present day. Defendant Terletskiy was and is one of Patriot Transport’s and Expedito Systems’ key decision makers and actual executives, who has had and exercised key

decision powers with respect to payment of compensation to truck drivers working for the defendant companies, the misclassification of drivers as independent contractors, and deductions made from drivers' compensation. Defendant Terletsky caused or otherwise knowingly permitted Patriot Transport and Expeditor Systems to violate multiple provisions of IWPCA. As such, at all relevant times Defendant Terletsky has been an "employer" of Plaintiff within the meaning of the IWPCA, 820 ILCS § 115/13.

12. Defendants Patriot Transport and Expeditor Systems are related entities, which are operated by their executives, Defendants Zabolotovsky and Terletsky. These two companies share the same yard and company trucks, and the drivers, as was the case with the named Plaintiff, were employees of both companies in that they hauled loads interchangeably for both Defendant companies. Some drivers drove trucks belonging to one company but were compensated by the other. Plaintiff drove for both companies interchangeably.

III. JURISDICTION AND VENUE

13. Jurisdiction over this action is conferred onto this Court by Section 735 ILCS 5/2-209 as Defendants have transacted business and committed acts directly relating to the matters complained of herein within the State of Illinois.
14. Jurisdiction over this action is also proper pursuant to Section 820 ILCS 115/1 and Section 820 ILCS 115/2 in that the Plaintiff have performed a significant amount of work in the State of Illinois and the Plaintiff or others similarly situated who currently work for Defendants continue to perform work in the State of Illinois.
15. Venue is proper pursuant to 735 ILCS 5/2-102 as Defendants Patriot Transport and Expeditor Systems are corporations doing business in Cook County, Illinois and

transacting business within the geographical jurisdiction of this Court, and during the relevant period of time within the Violation Period have had principal places of business in Cook County, Illinois. Venue is also proper pursuant to 735 ILCS 5/2-102 as Defendants Ivan Zabolotovskiy and Igor Terletsky are residents of the State of Illinois and at all relevant times have been officers of and key decision makers for Defendant companies, and have acted in such a capacity within the geographical jurisdiction of this Court. Further, venue is proper as some part of the transactions that gave rise to this Complaint arose in Cook County, Illinois.

IV. RELEVANT STATUTES AND REGULATIONS

16. The Illinois Wage Payment and Collections Act ((820 ILCS 115/) protects Illinois workers from misclassification, underpayment of wages and compensation, unauthorized deductions, and untimely payment of earned compensation. Just as other Illinois wage laws, the IWPCA is a public interest law.
17. Under Section 2 of the IWPCA, “For all employees, other than separated employees, "wages" shall be defined as any compensation owed an employee by an employer pursuant to an employment contract or agreement between the 2 parties, whether the amount is determined on a time, task, piece, or any other basis of calculation.” (820 ILCS 115/2).
18. Under Section 3 of the IWPCA, “Every employer shall be required, at least semi-monthly, to pay every employee all wages earned during the semi-monthly pay period.” (820 ILCS 115/3).
19. Under Section 4 of the IWPCA, “All wages earned by any employee during a semi-monthly or bi-weekly pay period shall be paid to such employee not later than 13 days after the end of the pay period in which such wages were earned. All wages earned by any employee

during a weekly pay period shall be paid not later than 7 days after the end of the weekly pay period in which the wages were earned. All wages paid on a daily basis shall be paid insofar as possible on the same day as the wages were earned, or not later in any event than 24 hours after the day on which the wages were earned.” (820 ILCS 115/4).

20. Under Section 5 of the IWPCA, “Every employer shall pay the final compensation of separated employees in full, at the time of separation, if possible, but in no case later than the next regularly scheduled payday for such employee.” (820 ILCS 115/5).
21. Under Section 9 of the IWPCA, “Except as hereinafter provided, deductions by employers from wages or final compensation are prohibited unless such deductions are (1) required by law; (2) to the benefit of the employee; (3) in response to a valid wage assignment or wage deduction order; (4) made with the express written consent of the employee, given freely at the time the deduction is made; (5) made by a municipality with a population of 500,000 or more . . . or (6) made by a housing authority in a municipality with a population of 500,000 or more...” (820 ILCS 115/9).
22. Under Section 10 of the IWPCA, “Employers shall notify employees, at the time of hiring, of the rate of pay and of the time and place of payment. Whenever possible, such notification shall be in writing and shall be acknowledged by both parties. Employers shall also notify employees of any changes in the arrangements, specified above, prior to the time of change.” (820 ILCS 115/10).
23. Under Section 13 of the IWPCA, “In addition to an individual who is deemed to be an employer pursuant to Section 2 of this Act, any officers of a corporation or agents of an employer who knowingly permit such employer to violate the provisions of this Act shall be deemed to be the employers of the employees of the corporation.” (820 ILCS 115/13).

24. Under Section 14(a) of the IWPCA, “Any employee not timely paid wages, final compensation, or wage supplements by his or her employer as required by this Act shall be entitled to recover through a claim filed with the Department of Labor or in a civil action, but not both, the amount of any such underpayments and damages of 2% of the amount of any such underpayments for each month following the date of payment during which such underpayments remain unpaid. In a civil action, such employee shall also recover costs and all reasonable attorney's fees.

V. STATEMENT OF FACTS

Plaintiff Zhanat Tlenchiyev’s employment

25. Zhanat Tlenchiyev worked as a truck driver for Defendants, paid on a per mile basis, from October 2, 2018 until November 29, 2018.
26. Zhanat Tlenchiyev learned about the truck driver position at Defendant companies from a friend who already worked as a driver for Defendant companies, in late September of 2018. He contacted Patriot Transport by calling the listed phone number, and spoke to Defendant Ivan Zabolotovskiy, and was invited for an interview.
27. On or around September 12, 2018, Plaintiff drove to Defendants’ office at 450 Kehoe Blvd, Carol Stream, IL 60188, to meet with Defendant Ivan Zabolotovskiy for an interview. The entire interview lasted about 30 minutes.
28. Defendant Zabolotovskiy told Mr. Tlenchiyev that he would be driving a truck provided by the company. Mr. Tlenchiyev knew that ahead of time before he came for the interview because when he called to inquire about the job, the first question he asked was whether he would need his own equipment. The answer he received was that he would be “driving a company truck”.

29. Defendant Zabolotovskiy also told Mr. Tlenchiyev that he could only work for Defendant Companies and no other trucking company, and that this would be a full-time commitment on his part. Defendant Zabolotovskiy said that after an initial paid training period, he would pay Mr. Tlenchiyev \$0.55 for each mile driven, including “empty miles”, and said that if he agreed, he could have the job.
30. Defendant Zabolotovskiy said to Plaintiff that he always pays his drivers in full, all they are promised, and on time.
31. Mr. Tlenchiyev accepted the offer.
32. Mr. Tlenchiyev was given some papers to sign. Mr. Tlenchiyev began reviewing the papers but, due to his limited English language skills, could not understand most of what was in that paperwork. The stack of papers contained at least twenty pages. He was not given a copy of the paperwork to take with him, despite requesting a copy multiple times.
33. Mr. Tlenchiyev believed that he and Defendant Zabolotovskiy had a mutual understanding that he would drive the truck as a full-time employee of Patriot Transport, hauling loads of Patriot Transport and Expedito Systems, and Patriot Transport and Expedito Systems would pay him for all miles driven. Mr. Tlenchiyev had no reason to expect that Patriot Transport and Expedito Systems would pay for fewer miles than he would actually drive and that Defendant companies would make deductions from his pay on a regular basis for various dubious “charges” or “violations”.
34. Mr. Tlenchiyev drove a company truck at all times while working for Patriot Transport and Expedito Systems. He did not lease the truck from either one of the Defendant companies. Patriot Transport and Expedito Systems provided all work assignments for him and Mr. Tlenchiyev did not have any customers of his own nor was he allowed to have them. Patriot

Transport and Expeditor Systems set the prices charged for all deliveries, billed their customers for work performed and collected the receivables.

35. Defendant companies did not pay for all of the miles which Mr. Tlenchiyev drove.
36. Towards the end of Plaintiff's employment, between November 17 and 29, 2018, Plaintiff was not paid for any of the work he performed. In that period, he drove 4,000 miles, and was not paid any of the \$2,200 owed to him.
37. Furthermore, Defendants made deductions from Plaintiff's pay. Mr. Tlenchiyev was never told of these deductions, orally or in writing, nor did he ever consent to them. Defendants deducted \$57.89 for "repair" and \$12 for "scale" from Plaintiff's pay.
38. Over the course of Mr. Tlenchiyev's employment, which lasted for 2 months, Defendants did not pay approximately \$2,269.89 for work he performed and compensation he earned because of deducting various charges from his pay and paying for fewer miles than he actually drove.
39. Since the time when the statutory 2% interest per IWPCA began to accrue, the interest on the unpaid said compensation to date is at least \$337.50, and this figure continues to rise each month subsequent to the filing of this Complaint. Thus, Plaintiff is owed a total of \$2,607.39 by Defendants, inclusive of statutory interest but excluding attorney's fees and costs.

Defendants' control over Plaintiff's employment

40. Defendant Ivan Zabolotovskiy ("Defendant Zabolotovskiy"), Defendant Igor Terletskiy ("Defendant Terletskiy") and other personnel of Defendant companies managed all of Plaintiff's and others' similarly situated work for Defendant Companies, including the number of hours worked, the distances driven, and the tasks performed by Plaintiff and

others similarly situated, including owner-operators.

41. Defendants Zabolotovskiy and Terletskiy, and other personnel of Defendant companies, exerted full control over Plaintiff's workdays and working conditions. They dictated, controlled and ratified the wages paid, hours worked, tasks set, and all related employee compensation policies and practices, including that of company drivers and owner-operators.
42. Defendants Zabolotovskiy and Terletskiy and other personnel of Defendant companies required Plaintiff and all other similarly situated truck drivers to review and sign company paperwork in complicated legalese English presented to them at the head office and to complete the inspection of the equipment alongside Defendants' officers at the head office, and refused to provide copies of such paperwork to drivers when requested. They also required the Plaintiff and all other similarly situated truck drivers to submit to mandatory drug testing in nearby Illinois facilities in order to commence employment. These were mandatory conditions of employment, which Plaintiff had to fulfill in order to commence and to continue working for Defendant companies.
43. Defendants Zabolotovskiy and Terletskiy required Plaintiff and others similarly situated to use the Defendants' vehicles in performance of their duties, which were registered in Illinois and owned by Illinois-registered companies and displayed "Patriot Transport" and "Expeditor Systems" signs on the vehicle siding. These companies' branding is solely owned and managed by Defendant companies and individual Defendants Terletskiy and Zabolotovskiy. As a result, Plaintiff and similarly situated drivers exclusively drove vehicles with the Defendant companies' branding.
44. At least approximately 10% of the cargo that the Defendants required the Plaintiff and

putative class members to transport was cargo deliveries to and from the Defendant companies' customers located in Illinois. In furtherance of their transport duties and work for the Defendant companies, the Plaintiff and other similarly situated truck drivers spent approximately thirty percent of their time or more commuting through the State of Illinois, regardless of whether Defendant companies' customers were in Illinois or not. All of the instructions that the Plaintiff and putative class members would receive came from Defendant companies' dispatchers in Illinois. On information and belief, approximately 70% of the putative class members permanently reside in the State of Illinois.

45. With respect to the drivers who were "company drivers" driving Defendant companies' trucks and compensated on a per mile basis, as in the case of the named Plaintiff, or the drivers who leased the trucks from one or more of the Defendant companies or any of their affiliates, but hauled loads and worked for one or more of the Defendant companies, and with respect to the owners-operators of their own trucks who worked for Defendant companies, Defendant companies and their executives, Individual Defendants, controlled every aspect of the drivers' work. Such control included, but was not limited to the following:

- a. Defendant companies required Plaintiff and all putative class members to comply with instructions dictated by written and unwritten policies, procedures, and directives regarding Plaintiff and other similarly situated drivers' duties.
- b. Plaintiff, as well as other similarly situated drivers, were required to report to or contact dispatchers employed by the Defendant companies in Illinois, at a pre-set time determined by Defendant companies, at which time the Plaintiff and other similarly situated drivers are provided with delivery assignments.

- c. Plaintiff and other similarly situated drivers were instructed by Defendant companies which loads to pick up, the location of the loads/goods to be delivered, as well as the time the goods will be loaded onto the equipment. Plaintiff and other similarly situated drivers had and have no discretion with respect to which loads they would pick up or deliver or when. Additionally, the Defendant companies dictated and dictate the time by which the delivery must be made.
- d. Defendant companies employed and employ managers who had supervisory responsibility over Plaintiff and other similarly situated drivers, and who could and did assign and direct their work.
- e. Plaintiff and other similarly situated drivers were under a duty to maintain GPS, which allows the Defendant companies' personnel to track where the drivers are throughout the day. Defendant companies' dispatchers and supervisors also communicated with the Plaintiff and similarly situated drivers while they are driving via telephone in order to convey instructions and otherwise oversee the drivers.
- f. In order to be hired as company drivers, including owners-operators, drivers were required to undergo background checks and drug tests.
- g. Defendant companies required Plaintiff and other similarly situated drivers to obtain insurance from an insurer dictated by Defendant companies in specific amounts such as non-trucking liability insurance, occupational accident insurance, property damage and cargo insurance.
- h. If the Plaintiff or other similarly situated drivers wished to take a time off, the Defendant companies required them to give timely advance notice, and the Plaintiff

and other similarly situated drivers would be disciplined or terminated if they failed to provide such notice.

- i. Defendant companies' personnel advised Plaintiff and other similarly situated drivers that their refusal to drive a load that had been assigned to them would result in immediate termination of their employment.

46. As part of their strict control over Plaintiff's work, Defendants Zabolotovskiy and Terletsky, as well as other managers of the Defendant companies, required that the Plaintiff and putative class members submit all bills of lading, logbooks, and other required paperwork to the Defendant Companies' head office in Illinois.

47. At no time during his employment could the Plaintiff or other similarly situated drivers have their own customers. They never had their own customers, could not choose and did not choose their own routes for delivery of cargo, could not and did not receive compensation or otherwise exchanged payment for their delivery other than being compensated by the Defendant companies, and could not and did not negotiate any matters or bargains with any customers or brokers.

48. Plaintiff and other similarly situated truck drivers shared similar job titles, followed the same policies and practices, performed similar duties, and as a result of Defendants' common scheme and unlawful deductions, were similarly subject to exploitation and denied compensation.

49. Defendants engaged in unlawful practices by refusing to withhold payroll and social security taxes or to pay their share of social security tax and unemployment tax for the benefit of Plaintiff, and as to others similarly situated, thus causing Plaintiff and others similarly situated damages in the amount of unpaid FICA and withheld taxes and additional

sums to be paid by the Plaintiff and others similarly situated in place of Defendants.

Liability of individual Defendants Zabolotovsky and Terletsky

50. Defendants Zabolotovsky and Terletsky had knowledge of the mutual assent between the Plaintiff and the Defendant companies to compensate the Plaintiff for all of his work because Defendant Zabolotovsky, with the knowledge of Defendant Terletsky and at Terletsky's direct orders, offered employment to Plaintiff and promised to compensate him in full and on time based on a certain rate.
51. Similarly, Defendants Zabolotovsky and Terletsky knew that the mutual assent between Defendant companies and their other drivers, both those compensated on a per mile basis and on a per load basis, was based upon Defendants' promises to pay in full and on time.
52. Defendants Zabolotovsky and Terletsky had knowledge of all agreements that the putative class members executed with Defendant companies because they had entered into those agreements with the drivers and executed said agreements on behalf of Defendant companies.
53. Defendants Zabolotovsky and Terletsky entered into various agreements with Plaintiff and other similarly situated drivers (putative class members) on behalf of the Defendant Companies, be it oral agreements of employment, "lease agreements", or Independent Contractor Agreements.
54. Defendants Zabolotovsky and Terletsky induced the Plaintiff and other similarly situated drivers to enter into said agreements in order to work for the Defendant companies, as a result of promises by Defendant Zabolotovsky that Defendant companies pay the drivers their promised compensation in full and on time. He told the Plaintiff and similarly situated drivers that Patriot Transport and Expedito Systems paid their drivers, then-existing

employees, in full and on time.

55. Defendants Zabolotovskiy and Terletskiy knowingly permitted or otherwise caused the Defendant companies to wrongfully deny the payment of compensation to Plaintiff and putative class members by directing the Defendant companies' personnel to deny earned and promised compensation, to withhold the earned pay by means of taking deductions from the paychecks and to deny paying the compensation for the last periods of work altogether, and by developing the scheme to misclassify and deny the payment of promised and earned compensation and then directing the personnel of both Defendant companies under the direct supervision and control of Defendants Zabolotovskiy and Terletskiy to implement the said scheme.
56. Defendants Zabolotovskiy and Terletskiy implemented their exploitative scheme in full knowledge that most of the truck drivers they hired would take the job offered, not complain about underpayment of wages, and not seek any recourse in court or otherwise with government authorities. Individual Defendants targeted drivers who were recent immigrants, had low English language proficiency and lacked legal sophistication, so as to ensure a consistent power imbalance, which the individual Defendants used to their advantage and profit.
57. Instead of running an honest business, Defendants Zabolotovskiy and Terletskiy designed the above-described scheme of deductions and wage withholdings to take money from hard-working, vulnerable employees who could not or would not fight back.
58. Defendant companies' practices, as set up and implemented by Individual Defendants, violated multiple provisions of the Illinois Wage Payment and Collection Act.
59. As a result of Defendant companies' unlawful practices, as set up and implemented by

Individual Defendants, the Defendant companies and Individual Defendants profited immensely. They benefited from reduced labor and payroll costs by making illegal deductions and otherwise withholding pay from Plaintiff and similarly situated drivers.

60. As a result of Individual Defendants' improper and willful actions causing the Corporate Defendants to fail to pay Plaintiff and others similarly situated in accordance with the requirements of the IWPCA, Plaintiff and others similarly situated putative class members suffered lost wages and other actual damages.
61. Plaintiff further alleges that in addition to statutory violations, Individual Defendants engaged in a pattern of fraudulent inducement, fraudulent misrepresentation and fraudulent concealment as to him and similarly situated drivers.

VI. CLASS ALLEGATIONS

62. Plaintiff brings these claims for relief on his own and as a class action pursuant to the Illinois Code of Civil Procedure, 735 ILCS §5/2-801 and §5/2-802. The class is defined as:

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and who personally provided freight cargo transportation services pursuant to independent contract agreements entered into individually or on behalf of other entities to Defendant companies and who have not been classified as employees of Defendant companies.” (Count I).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors',

successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and personally provided freight cargo transportation services, to whom the Individual Defendants or Corporate Defendants' personnel made numerous misrepresentations of material facts, and from whom the material facts were withheld, in order to induce them to accept employment offers and conditions to their detriment; and thus, common law fraud in inducement was perpetrated against them.” (Count II).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and personally provided freight cargo transportation services, to whom the Individual Defendants or Corporate Defendants' personnel made numerous misrepresentations of material facts, and from whom the material facts were withheld, and thus, common law fraudulent misrepresentation was perpetrated against them.” (Count III).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and personally provided freight cargo transportation services, from whom the Individual Defendants or Corporate Defendants' personnel concealed material facts; and thus, common law fraudulent concealment was perpetrated against them.” (Count IV).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and personally provided freight cargo transportation services pursuant to

Independent Contractor Agreement, oral or written, for Defendant companies and who have not been classified as employees of Defendant companies”, who are entitled to Order for Accounting by Defendants to determine the basis and yielding rate of compensation that was to be made, original log books pursuant to which the compensation per mile was to be made, and all records of earned compensation, paid or unpaid.” (Count V).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory or common law period, and personally provided freight cargo transportation services, who are entitled to restitution of unpaid wages for all benefits conferred upon the Defendants, corporate and individual, based on the Unjust Enrichment equitable relief basis.” (Count VI).

“All persons who have worked for Defendant companies as truck drivers and truck driver trainees in Illinois or otherwise have driven Defendant companies', their predecessors', successors', subsidiaries' and/or affiliated companies' trucks at any time during the relevant statutory period, and personally provided freight cargo transportation services, against whom the Individual Defendants, on behalf of themselves and Corporate Defendants, committed Civil Conspiracy to violate IWPCA and perpetrate Common Law Fraud (promissory fraud, fraudulent misrepresentation or fraudulent concealment).” (Count VII).

63. This action is properly maintainable as a class action under §2-801 because:

64. The class or subclasses of Plaintiff, estimated to contain 1,000 drivers, is so numerous that joinder of all members is impracticable;

65. There are common questions of law and fact as to whether Defendants improperly

misclassified the drivers as independent contractors and the drivers were and are in fact covered by the IWPCA; whether the drivers are entitled to recover the amounts deducted by the Company from their wages and an unpaid but earned compensation; that each driver has the same potential claim and types of damages, and these common questions of law and fact predominate over any possible questions affecting only individual members;

66. The named Plaintiff and their attorneys will adequately protect the interests of the entire class.
67. Class treatment in this particular case is the only appropriate means for the fair and efficient adjudication of the controversy because of the length of the dispute, the intimidation and retaliation threats and actions by Defendants over the course of many years, the amount of individual damages and the prohibitive costs of individual suits.

Numerosity

68. The total number of members of the proposed class represents approximately 1,000 or more individuals. The exact number of class members may only be determined from Defendants' records. The proposed class is sufficiently numerous to make joinder of all of its members impracticable.
69. The proposed class of approximately 1,000 Defendants' truck drivers, who were denied full wages, just to name a few Plaintiff's contentions, represent a sufficient number of individuals with respect to their complaint against Defendants.
70. The amount of each claim is relatively small if compared to the costs of bringing an individual claim: filing fees, discovery, and the costs of commuting to depositions, appearances in court, hearings and trial.
71. The amount which Plaintiff claims is \$2,269.89 excluding interest that accrued since his

unpaid compensation became due and owing. These amounts are based on what Plaintiff can ascertain based on documentation he currently possesses and could change upon the review of all relevant documentation in possession of Defendants. The amount does not include contributions under FICA, penalties and interest which may only be determined after determining the full compensation that Defendants were required to pay Plaintiff.

72. The putative class members do not have ability to bring the claims on their own behalf because of the prohibitive costs. Even if they had ability to bring a suit on their own behalf, the likelihood of them doing so would be close to zero.
73. The Plaintiff believes that Defendants would intimidate Plaintiff and Plaintiff would not be able to oppose the Defendants if the Plaintiff was to stand up for his rights in court individually. Defendants oppressed him, violated his rights repeatedly and without any remorse, and intimidated him throughout the length of Plaintiff's employment.
74. Defendants are highly likely to continue with the same tactics if Plaintiff were to sue individually or as a joinder. There are at least approximately 1,000 putative class members scattered across Illinois and the United States, who are truck drivers involved in an ongoing commute. It would be impractical and impossible for the Plaintiff to prosecute his claims individually or as a joinder because of geographic constraints.
75. The proposed class is made up of the "smaller guy". The class consists of individual truck drivers, who, for the most part, are newly licensed commercial drivers, most are recent immigrants to this country with its complicated rules and regulations and are not sophisticated or in position to seek legal redress individually.
76. Joinder of all or even a substantial percentage of class members as individual Plaintiffs clearly would be prohibitively expensive and impracticable for the same reason as if

Plaintiff was to bring his claim individually.

Commonality

77. All of Plaintiff and similarly situated drivers' claims have common questions of law because they all arise pursuant to violations of IWPCA and other federal and state regulations as described in this Complaint. There are numerous and substantial questions of law and fact common to members of the state classes including, but not limited to, the following:
78. Whether Defendants unlawfully misclassified putative class members as independent contractors as opposed to employees;
79. Whether Defendants failed to pay "wages" and "final compensation" by making unlawful deductions or withholdings from Plaintiff's paychecks;
80. Whether Defendants failed to make proper payroll contributions and other tax contributions and withholdings on behalf of Plaintiff;
81. Whether Defendants failed to compensate class members for all the work they required according to the rate and wages Defendants promised to pay Plaintiff at hiring and upon forming employment agreement to hire Plaintiff and Plaintiff commencing his performance;
82. Whether Defendants engaged in a pattern, practice or policy of making unlawful deductions from the pay of class members;
83. Whether Defendants willfully failed to comply with state wage laws pursuant to IWPCA;
84. Whether Defendants failed to pay final compensation to members of the proposed class, in part or in full in accordance with IWPCA;
85. Whether Defendants failed to pay the final compensation on time in accordance with the

IWPCA.

86. Whether Defendants failed to compensate the truck drivers-trainees, to whom the Defendants promised compensation and with whom Defendants formed an employment agreement for trainees' training for benefit of Defendants and provision of services to Defendants.
87. Whether Defendants violated Section 3 of IWPCA which requires every employer, at least semi-monthly, pay every employee all wages earned during the semi-monthly pay period. 820 ILCS 115/3.
88. Whether Defendants violated Section 4 of IWPCA which require that all wages earned by employee during semi-monthly or bi-weekly pay period be paid to such employee not later than 13 days after the end of the pay period in which such wages were earned. 820 ILCS 115/4.
89. Whether Defendants violated Section 5 of IWPCA which require every employer to pay final compensation of separated employees in full, at the time of separation, if possible, but in no case later than the next regularly scheduled payday for such employee. 820 ILCS 115/5.
90. Whether Defendants violated Section 9 of IWPCA which dictates that the deductions by employers from wages or final compensation are prohibited unless such deductions are (1) required by law; (2) to the benefit of the employee; (3) in response to a valid wage assignment or wage deduction order; (4) made with the express written consent of the employee, given freely at the time the deduction is made [...]. 820 ILCS 115/9.
91. Whether Defendants violated Section 10 of IWPCA, when they failed to notify employees, at the time of hiring, of the rate of pay and of the time and place of payment; when they

failed to memorialize such notification in writing although it was feasible; when they failed to assure that both parties, Employer and a truck driver about to be hired, acknowledge such notification in writing; when Defendants failed to notify employees of any changes in the arrangements, specified above, prior to the time of change; when Defendants failed to keep records of names and addresses of all employees and of wages paid each payday, and when Defendants failed to furnish each employee with an itemized statement of deductions made from his wages for each pay period. 820 ILCS §115/10.

92. Whether individual Defendants are liable for violations of IWPCA under Section 13 of the Act.
93. Upon information and belief, there are no other class members who have an interest individually controlling the prosecution of his or her individual claims, especially in light of the relatively small value of each claim and the difficulties involved in bringing individual litigation against one's employers. However, if any such class member should become known, he or she can "opt out" of this action.
94. Whether Defendants, corporate and individual, are liable for fraud in the inducement, fraudulent misrepresentation, or fraudulent concealment.
95. Whether Defendants, corporate and individual, are liable for conspiracy to commit IWPCA violations and common law fraud.
96. Whether Plaintiff and class members are entitled to accounting.
97. Whether Plaintiff and class members are entitled to restitution pursuant to their unjust enrichment claims.
98. Plaintiff anticipates that Defendants will raise defenses that are common to the class.

Adequacy

99. The named Plaintiff will fairly and adequately protect the interests of the class.
100. Plaintiff's interests are not and cannot be antagonistic or in conflict with the class as all members of the proposed class would like to seek compensation for the work performed. All named Class Representatives and proposed class members have the common interest of determining whether Defendants are liable for money damages to the proposed class of Defendants' truck drivers for violations of their rights under IWPCA, and other federal and state tax regulations.
101. Plaintiff has retained experienced counsel who is competent in the prosecution of complex litigation with many years of experience in prosecuting Wage and Hour actions in this Court and other Courts, including Class Actions.

Superiority

102. A class action is superior to other available means for the fair and efficient adjudication of this controversy because individual joinder of the parties is impracticable. Class action treatment will allow many similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently and without the unnecessary duplication of effort and expense if these claims were brought individually.
103. As the damages suffered by each class member may be relatively small, the expense and burden of individual litigation would make it difficult for plaintiffs to bring individual claims. The presentation of separate actions by individual class members could create a risk of inconsistent and varying adjudications, establish incompatible standards of conduct for Defendants and/or substantially impair or impede the ability of class members to protect their interests.

VII. COUNT I: VIOLATIONS OF ILLINOIS WAGE PAYMENT AND COLLECTION ACT, 820CS §115/

104. Plaintiff re-alleges and incorporates paragraphs 1 through 103 above as and for paragraph 104 of this Count I.
105. Each corporate Defendant is an “employer” within the meaning of Section 115/2 of IWPCA. Each individual Defendant is an “employer” within the meaning of Section 115/2 of the IWPCA.
106. Corporate Defendants violated Section 115/2 of the IWPCA by misclassifying Plaintiff and those similarly situated.
107. Corporate Defendants violated Section 115/3 and Section 115/4 of the IWPCA by failing to pay Plaintiff and those similarly situated their wages in a timely manner.
108. Corporate Defendants violated Section 115/5 of the IWPCA by failing to pay some Plaintiff their final compensation in full and in a timely manner.
109. Corporate Defendants violated Section 115/9 of the IWPCA by making unauthorized deductions from the paychecks of Plaintiff and those similarly situated. These deductions were not required by law, did not benefit Plaintiff, were not made in response to a valid wage assignment order, and were not made with the express written consent of employees.
110. Corporate Defendants violated Section 115/10 of the IWPCA by failing to notify Plaintiff and those similarly situated of their true rate of pay in writing or orally at any point.
111. The total amount of Mr. Tlenchiyev’s damages is in excess of approximately \$3000 for 2 months of employment with Defendants, with interest accrued to date but excluding attorney’s fees and costs.
112. Individual Defendant Zabolotovsky is personally liable for the corporate Defendants’ violations of the IWPCA, pursuant to Section 115/13 of the IWPCA, because he intentionally or otherwise knowingly permitted both Corporate Defendants to violate

the IWPCA, by directing the personnel of both Defendant companies to take deductions from the Plaintiff's and other similarly situated drivers' pay, to impose dubious "fines" or "violations" as basis for said deductions, to deny the payment of final compensation or compensation for the last period of work after the driver's termination from the job, and by establishing the scheme together with Individual Defendant Terletsky to misclassify the drivers as independent contractors and deny compensation to drivers by means of deductions and nonpayment of final compensation.

113. Individual Defendant Terletsky is personally liable for the corporate Defendants' violations of the IWPCA, pursuant to Section 115/13 of the IWPCA, because he intentionally or otherwise knowingly permitted both Corporate Defendants to violate the IWPCA, by directing the personnel of both Defendant companies to take deductions from the Plaintiff's and other similarly situated drivers' pay, to impose dubious "fines" or "violations" as basis for said deductions, to deny the payment of final compensation or compensation for the last period of work after the driver's termination from the job, and by establishing the scheme together with Individual Defendant Zabolotovskiy to misclassify the drivers as independent contractors and deny compensation to drivers by means of deductions and nonpayment of final compensation.

114. Defendants are liable for all attorney's fees and costs pursuant to Section 115/14 of the IWPCA and statutory interest of 2% compounded monthly.

115. The total amount of damages due to class members is in excess of \$1,500,000.00.

Punitive Damages

116. Defendants knowingly and willfully violated the IWPCA, being employers, who, being able to pay wages, and being under a duty to pay, willfully refused to pay as provided

in the IWPCA, with intent to annoy, harass, oppress, hinder, delay and defraud their drivers; Plaintiff and other similarly situated are thus seeking punitive damages in excess of \$50,000.00 as the trier of fact may decide.

WHEREFORE, Plaintiff respectfully requests that this Court finds all four defendants liable, jointly and severally, for violations of Illinois Wage Payment and Collection Act, awards Plaintiff and putative class members actual damages in excess of \$1,500,000.00, awards all costs and attorney's fees and statutory interest pursuant to Section 14 of IWPCA, and awards punitive damages as decided by the trier of fact.

**VIII. COUNT II: FRAUD IN THE INDUCEMENT - AGAINST
DEFENDANT ZABOLOTOVSKY, PATRIOT TRANSPORT,
AND EXPEDITOR SYSTEMS**

117. Plaintiff re-alleges and incorporates paragraphs 1 through 116 above as and for paragraph 117 of this Count II.
118. Defendant Zabolotovskiy interviewed Plaintiff Zhanat Tlenchiyev on or around September 12, 2018 at his head office for a position driving trucks for Corporate Defendants Patriot Transport and Expeditor Systems.
119. During Plaintiff Zhanat Tlenchiyev's interview, Defendant Zabolotovskiy made the following false statements of material facts orally to Plaintiff:
- j. That he, Defendant Zabolotovskiy, being the head executive of both Defendant companies, would pay Plaintiff for his work at \$0.55 per mile driven;
 - k. That he, Defendant Zabolotovskiy, would pay Plaintiff on time and in full if Plaintiff was to accept employment offer and commence driving for Patriot and Expeditor;
 - l. That Patriot and Expeditor were honest employers, and he- Zabolotovskiy, and his "partner" (presumably – Terletsky) and that Defendants paid all of their currently

working drivers (as of September 2018) in full and on time, as promised upon hiring.

120. Defendant Zabolotovskiy withheld material facts from Plaintiff during his interview, namely, that Zabolotovskiy's companies, one or more Corporate Defendants in this case, were in fact not paying their drivers, who drive on a per mile basis, for all miles they drove for the Defendants. Additionally, deductions which drivers never agreed to were constantly deducted from the drivers' compensation.

121. Defendant Zabolotovskiy made the false statements of material facts to Plaintiff and withheld material facts from Plaintiff on his, Zabolotovskiy's, behalf, and on behalf of both Corporate Defendants, which he effectively ran as both companies' executive, as well as on behalf of Individual Defendant Terletsky, who was and is Zabolotovskiy's partner in owning and operating both Defendant companies, and with whom Zabolotovskiy has developed the scheme to defraud to prospective and current employees and drivers who worked or work for Defendant companies.

122. Defendants Zabolotovskiy, Terletsky, Patriot, and Expeditor consistently and repeatedly underpaid Plaintiff his wages and compensation he earned when driving for Defendant companies, and have yet to pay him the amount owed.

123. Defendant Zabolotovskiy knew that these statements and representations to Plaintiff were false when he made such statements and representations, as well as withheld material information, because Defendant Zabolotovskiy, as well as Corporate Defendants' personnel under his direction and control, had consistently and repeatedly underpaid all of the truck drivers who worked for Defendant companies since Zabolotovskiy and Terletsky founded and began operating Patriot and Expeditor.

124. Defendants Zabolotovskiy and Terletskiy developed a scheme to present false statements to prospective drivers who would come for job interview, as was specifically the case with Mr. Tlenchiyev, while neither one of the Defendants ever intended to comply with those promises. Both Individual Defendants, and Zabolotovskiy in particular as the person who interviewed the Plaintiff on behalf of three other Defendants, knew that Mr. Tlenchiyev would not uncover this fraudulent scheme until after he had been induced to accept an employment offer and commenced working.
125. Defendant Zabolotovskiy clearly and unequivocally intended that his statements of material facts to Mr. Tlenchiyev at hiring and withholding of material facts from him would induce Mr. Tlenchiyev to accept the employment offer and begin working for Defendant companies.
126. Mr. Tlenchiyev did rely on false statements of material facts and withheld material information by individual Defendant Zabolotovskiy when he accepted the job offer with Defendant companies.
127. Mr. Tlenchiyev's damages stem from his reliance on individual Defendant Zabolotovskiy's false statements of material facts and withholding of material facts when he accepted a job offer, commenced work, and continued to work for Defendant companies. His actual damages sustained are in the amount of unpaid wages.
128. That Defendant Zabolotovskiy and Corporate Defendants had no legal basis to defraud Mr. Tlenchiyev and not pay him proper compensation he earned and was promised at hiring.
129. That any and all misrepresentations of material facts or otherwise fraudulent misrepresentations to induce Mr. Tlenchiyev's acceptance of his job offer were made by

Defendant Zabolotovskiy on behalf of and for the benefit of Defendant companies, as well as to his own personal benefit and personal benefit of Defendant Terletsky.

130. That Defendants' refusal to pay Mr. Tlenchiyev the amount due and owed to him is vexatious, harassing, and in bad faith.

131. That the actual damages sustained that by a putative class is in excess of \$1,000,000.00.

Punitive Damages

132. Defendants' refusal to pay Plaintiff the amount owed to him is vexatious, harassing, and in bad faith.

133. That in addition to the amount of wages and/or final compensation the Defendants owe to Plaintiff as a result of their failure to pay their owed wages and final compensation, as well as attorneys' fees and costs incurred as a result of their action, Plaintiff is also entitled to punitive damages in an amount to be determined by the trier of fact because:

134. Defendant Zabolotovskiy knowingly and willfully made false statements of material fact to Plaintiff and withheld from him true statements of material fact, and did so on behalf of and for the benefit of Defendant companies and Defendant Terletsky, with an intent to induce Plaintiff's reliance on individual Defendant's statements. The information individual Defendant Zabolotovskiy withheld did induce Plaintiff to accept his job offer and work for Defendants in reliance on false statements, to Plaintiff's detriment, as he was underpaid. Defendants thus intentionally caused damages to Plaintiff and others similarly situated part of their overall scheme to defraud, for which punitive damages are to be determined by a trier of fact.

WHEREFORE, Plaintiff respectfully requests that this Court finds Defendants Patriot Transport, Expeditor Systems and Zabolotovskiy jointly and severally liable for committing Fraud in

Inducement and award Plaintiff and putative class members actual damages in excess of \$1,000,000.00, awards all costs and attorney's fees and prejudgment interest and awards punitive damages as decided by the trier of fact.

**IX. COUNT III: FRAUDULENT MISREPRESENTATION - AGAINST
DEFENDANT ZABOLOTOVSKY, PATRIOT TRANSPORT, AND
EXPEDITOR SYSTEMS**

135. Plaintiff re-alleges and incorporates paragraphs 1 through 134 above as and for paragraph 135 of this Count III.

136. Plaintiff Tlenchiyev interviewed with Defendant Zabolotovsky on or around September 12, 2018, at Defendant's head offices, for the position of truck driver at Defendant companies.

137. Defendant Zabolotovsky made the following false statements of material fact and promises at individual Plaintiff Tlenchiyev's hiring interview:

- a. That Defendants would pay Mr. Tlenchiyev's compensation in full and on time;
- b. That Defendants were honest employers, and that Defendants paid all of their currently working drivers (as of September 2018) in full and on time.

138. Defendant Zabolotovsky knew these statements were false and that Mr. Tlenchiyev would not uncover this fraudulent scheme until after he had accepted his employment offer and commenced working. Particularly, Defendant Zabolotovsky knew that in September of 2018, he was already underpaying his current drivers, and had no intention of treating Mr. Tlenchiyev any differently.

139. Defendant Zabolotovsky also knew that he was planning to underpay Plaintiff for the duration of his employment, as they had already developed and implemented their unlawful scheme to apply chargebacks and other deductions to drivers' compensation.

140. Defendant Zabolotovsky clearly and unequivocally made misrepresentations of material facts to Plaintiff and withheld material facts from him in order to induce Plaintiff to accept the employment offer and begin working for Defendant companies.
141. Defendant Zabolotovsky intended to induce and did induce Plaintiff to act on his misrepresentations by inducing him to accept a position with Defendant companies. Plaintiff only accepted the position because he had been told that he would be paid in full, on time, with no deductions.
142. Plaintiff reasonably and justifiably relied on Defendant Zabolotovsky's misrepresentations. Defendant's false promises to pay timely and in full for Plaintiff's work performed sounded entirely plausible, as Plaintiff had no reason to believe that Defendants intended to break the law. Defendants' fraudulent scheme to withhold his earned compensation was not information of public record, and therefore Plaintiff could not have reasonably inquired and discovered that Defendant Zabolotovsky was not telling him the truth and was concealing material facts from him. Furthermore, Plaintiff was a first-time truck driver, and had no reason to believe that any trucking company would underpay its employees and not pay what was promised and advertised.
143. Had Plaintiff been aware of the fact that he would not be paid on time and the full compensation as agreed at hiring as Defendant Zabolotovsky falsely affirmed, he would have acted differently and rejected the offer.
144. Had Plaintiff been aware of the fact that Defendants would make improper and unlawful deductions from his earned compensation, he would have acted differently and rejected the offer.
145. The damages of Plaintiff stems from his entirely reasonable reliance on individual

Defendant Zabolotovskyy's false statements of material facts and withholding of material facts when he accepted the job offer, commenced work, and continued to work for Defendant company. Plaintiff sustained actual damages due to his unpaid compensation, including unpaid miles driven, and unpaid loads hauled.

146. Defendant Zabolotovskyy, neither personally nor for the benefit of Corporate Defendants, had no legal basis to defraud Plaintiff and not pay him proper compensation he earned and was promised at hiring.

147. That any and all misrepresentations of material facts or otherwise fraudulent misrepresentations were made by Defendant Zabolotovskyy on behalf of and for the benefit of Patriot Transport and/or Expedito Systems, as well as for his own personal benefit.

Punitive Damages

148. That Defendants' refusal to pay Plaintiff the amount due and owed to him is vexatious, harassing, and in bad faith.

149. That in addition to the amount of wages and/or final compensation the Defendants owe to Plaintiff as a result of their failure to pay their owed wages and final compensation, as well as attorneys' fees and costs incurred as a result of their action, Plaintiff is also entitled to punitive damages in an amount to be determined by the trier of fact because:

150. Defendant Zabolotovskyy knowingly and willfully made false statements of material fact to Plaintiff and withheld from him true statements of material fact, and did so on behalf of and for the benefit of Defendant companies, with an intent to induce Plaintiff's reliance on individual Defendants' statements. The information individual Defendant Zabolotovskyy withheld did induce Plaintiff to accept their job offer and work for Defendants in reliance on false statements, to Plaintiff's detriment, as he was underpaid and misclassified.

Defendants thus caused damages to Plaintiff.

WHEREFORE, Plaintiff respectfully requests that this Court finds Defendants Patriot Transport, Expeditor Systems and Zabolotovskiy jointly and severally liable for committing Fraudulent Misrepresentation, awards Plaintiff and putative class members actual damages in excess of \$1,000,000.00, awards all costs and attorney's fees and prejudgment interest and awards punitive damages as decided by the trier of fact.

**X. COUNT IV: FRAUDULENT CONCEALMENT -- AGAINST
DEFENDANT ZABOLOTOVSKY, PATRIOT TRANSPORT,
AND EXPEDITOR SYSTEMS**

151. Plaintiff re-alleges and incorporates paragraphs 1 through 150 above as and for paragraph 151 of this Count IV.
152. Zhanat Tlenchiyev interviewed with Defendant Zabolotovskiy at Defendants' head office on or around September 12, 2018 for the position of truck driver at Defendant companies.
153. Defendant Zabolotovskiy intentionally concealed and suppressed the following material facts at individual Plaintiff Tlenchiyev 's hiring interview:
 - a. That Defendant companies would unlawfully treat Mr. Tlenchiyev as an independent contractor and not as an employee as Defendant Zabolotovskiy represented at hiring;
 - b. That Defendant companies would not pay Mr. Tlenchiyev in full and on time as Defendant Zabolotovskiy had promised at the time of hiring;
 - c. That Defendant companies would be deducting from Mr. Tlenchiyev's pay various chargebacks, fines, and expenses.
 - d. That Defendant Zabolotovskiy would consistently and repeatedly underpay

Tlenchiyev his wages and compensation;

- e. That at the time of the hiring interview, Defendant companies were already misclassifying and underpaying all of the then-employed truck drivers; that the Defendant companies were already systematically taking deductions from all of the then-employed drivers' compensation by charging back Defendant companies' costs, and imposing fines and penalties on the drivers for dubious violations.
154. Defendant Zabolotovskiy developed a scheme to conceal material facts from Plaintiff concerning the full and timely payment of his compensation contrary to what they would promise him at hiring. Defendant Zabolotovskiy that Plaintiff would not uncover that these facts were concealed until after he had been induced to accept his employment offer and commenced working.
155. Defendants Zabolotovskiy intentionally concealed material facts from Plaintiff at hiring, which equally constitutes a fraudulent concealment of material facts. Defendant Zabolotovskiy clearly and unequivocally concealed statements of material facts from Plaintiff and withheld material facts from him in order to induce Plaintiff to accept his employment offer.
156. Plaintiff could not have discovered the truth, concealed from him by Defendant Zabolotovskiy, through reasonable inquiry. Individual Defendant's fraudulent scheme to withhold Plaintiff's earned compensation was not information of public record, and therefore Plaintiff could not have reasonably inquired and discovered that Defendants were concealing material facts from him.
157. Defendants, including Individual Defendants and Corporate Defendants' personnel at the instruction and direction of Individual Defendants, controlled the flow of information

to Plaintiff regarding Corporate Defendants' employment and compensation policies. Therefore, Plaintiff could not have anticipated the fraudulent scheme devised by Individual Defendant and implemented by them and personnel of Corporate Defendants.

158. Individual and Corporate Defendants had a duty to speak and not conceal material information because a fiduciary relationship arose between Defendants and Plaintiff at the hiring interview and existed throughout Plaintiff's time working as a truck driver for Defendant companies.

159. The Corporate Defendants, and the Individual Defendant, as the officer and executive of said companies, were also in a position of trust and influence vis-à-vis the Plaintiff at the moment he was interviewed, employment terms were communicated to him and a job offer was made.

160. It was reasonable for Plaintiff to trust his interviewer to accurately describe the terms of employment, including pay, deductions, and classification as employees. It was also reasonable for Plaintiff to not expect Defendants to carry out an illegal scheme. Furthermore, Defendants' business expertise and sophistication was much more advanced than that of Plaintiff, and Defendants took advantage of Plaintiff's lack of English fluency, ability to consult an attorney, and inability to discover the fraudulent concealment scheme as he was not yet working for the Defendant companies, to further deceive and take advantage of him.

161. Such a position of trust, which arose at hiring, dictated not only that the Defendant companies and Individual Defendants accurately, truthfully and expeditiously account for and pay Plaintiff all earned compensation, but also imposed onto them a duty to accurately communicate to Plaintiff his true rate of pay, working conditions, employee status, and all

other information relevant to his employment.

162. Accordingly, the Defendant companies and Individual Defendant Zabolotovskiy were in a position of trust with respect to Plaintiff and owed a fiduciary duty to him because Defendants exerted extraordinary control and influence over him as his de-facto and de-jure employers.
163. Plaintiff justifiably relied on false statements of material facts made by the individual Defendants when he accepted Defendant Zabolotovskiy's offer of employment, and because of his lack of knowledge of material facts that Defendant Zabolotovskiy concealed from him when he accepted a job with Defendant companies.
164. Had Plaintiff been aware of the fact that he would not be paid in full, for all miles he would drive, without deductions, chargebacks, fines and penalties, and on time, as Defendant Zabolotovskiy falsely affirmed, Mr. Tlenchiyev would have acted differently and rejected the offer.
165. The damages of Plaintiff stem from his entirely reasonable reliance on individual Defendant Zabolotovskiy's false statements of material facts and due to Defendant Zabolotovskiy's concealment of material facts when he accepted the job offer, commenced work, and continued to work for Defendant companies. Plaintiff's damages were caused by Defendant companies' underpayment of his compensation, illicit deductions, and lack of payment for all miles driven.
166. Defendant Zabolotovskiy had no legal basis to defraud Plaintiff and cause Corporate Defendants to not pay him proper compensation which he earned and was promised at hiring.
167. The fraudulent concealment of material facts was committed by Defendant

Zabolotovskiy on behalf of and for the benefit of Defendant companies, as well as for his own personal benefit.

168. The actual damages that Plaintiff sustained are in the amount of unpaid wages or compensation.

Punitive Damages

167. The fraudulent concealment committed by Individual Defendant on behalf of himself and for the benefit of Corporate Defendants, which resulted in the underpayment of Plaintiff's compensation that is due and owed to him, is vexatious, harassing, and in bad faith.
168. That in addition to the amount of unpaid wages and/or final compensation the Defendants owe to Plaintiff, as well as attorneys' fees and costs incurred as a result of this action, Plaintiff is also entitled to punitive damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff respectfully requests that this Court finds Defendants Patriot Transport, Expeditor Systems and Zabolotovskiy jointly and severally liable for Fraudulent Concealment, awards Plaintiff and putative class members actual damages in excess of \$1,000,000.00, awards all costs and attorney's fees and prejudgment interest and awards punitive damages as decided by the trier of fact.

XI. COUNT V: CIVIL CONSPIRACY

169. Plaintiff re-alleges and incorporates paragraphs 1 through 168 above as and for paragraph 169 of this Count V.
170. At the time when Defendants Zabolotovskiy and Terletsky incorporated and set up Patriot Transport and Expeditor Systems, these two individual Defendants entered into an agreement with each other to defraud the truck drivers they were to hire, misclassify them as independent contractors as opposed to employees as to further violate various

- provisions of the IWPCA by taking unlawful deductions of chargebacks of expenses, fines and penalties.
171. Individual Defendants knew that they would represent false statements of material fact to Plaintiff and others similarly situated and conceal material facts from them in order to induce them to accept employment offers with Defendant companies.
172. Individual Defendants also knew that to implement and further their scheme to defraud and to violate IWPCA, as well as multiple other laws and regulations, both state and federal, they would need to have an agreement to perpetrate the fraud and implement the misclassification and underpayment schemes, and to act in concert to ensure that all Corporate Defendants and their agents and employees comply with their fraudulent intent.
173. Individual Defendants developed a scheme to misclassify the truck drivers as independent contractors, to withhold the compensation from truck drivers, to not pay them in a timely manner, and not pay them final compensation and all wages that they would earn. In short, they conspired to set up a scheme to violate Section 2 of IWPCA by misclassifying their employees-truck drivers as independent contractors and then multiple provisions of the IWPCA.
174. Individual Defendants knew that they had no right under the IWPCA to withhold wages which Plaintiff and others similarly situated drivers earned.
175. By their actions, Defendants caused and continue to cause injury to Plaintiff and others similarly situated by way of unpaid wages, unpaid final compensation, untimely and delayed payment of wages, by not paying payroll tax, unemployment insurance, workers compensation, and other like contributions on behalf of Plaintiff and others

- similarly situated to relevant state and federal agencies.
176. Individual Defendants committed overt acts in furtherance of the common scheme by advertising job positions with Corporate Defendants, interviewing Plaintiff and others similarly situated, making false statements of material facts and withholding true material facts, by offering them jobs and hiring them but then misclassifying them as independent contractors, by not paying them wages earned and final compensation.
177. Individual Defendants committed civil conspiracy against Plaintiff and others similarly situated. Namely, to commit IWPCA violations, and to commit common law fraud in Illinois. The actions of Individual Defendants and the conduct constituting civil conspiracy are imputed to Defendant companies that each individual Defendant respectively owns, controls, directs and operates.
178. Defendants' conspiracy against Plaintiff and others similarly situated is vexatious, harassing, and in bad faith.
179. That in addition to the amount of wages and/or final compensation the Defendants owe Plaintiff and others similarly situated drivers as a result of their conspiracy to defraud them and violate IWPCA, and attorneys' fees and costs incurred as a result of this action, Plaintiff and others similarly situated drivers are also entitled to punitive damages because:
180. Individual Defendants have knowingly and willfully committed conspiracy to defraud Plaintiff and others similarly situated drivers and to violate their rights under IWPCA;
181. The commission of civil conspiracy in Illinois is an intentional tort, and also is a violation of Illinois Wage Payment and Collection Act, whereby a knowingly and willingly committed violation of that Act also constitutes a criminal violation of the

laws of this state (820 ILCS 115/14); and

182. Individual Defendants' civil conspiracy was and is a deliberate attempt to lure Plaintiff and other similarly situated drivers into working for Defendant companies without due compensation for their service, as well as annoy, harass, oppress, and intimate Plaintiff and others similarly situated - who do not have the financial and legal resources that the Defendants have at their disposal - into abandoning a legal right which Plaintiff and others similarly situated properly asserted (i.e. to be paid the compensation by their employer which, by all accounts, they have earned and which is due and owing pursuant to the Illinois Wage Payment and Collection Act).

WHEREFORE, Plaintiff respectfully requests that this Court finds all four Defendants jointly and severally liable for Civil Conspiracy to commit IWPCA violations, Fraud in Inducement/promissory fraud, Fraudulent Misrepresentation, and Fraudulent Concealment, awards Plaintiff and putative class members actual damages in excess of \$450,000.00, awards all costs and attorney's fees and prejudgment interest and awards punitive damages as decided by the trier of fact.

XII. COUNT VI: ACCOUNTING

183. Plaintiff re-alleges and incorporates paragraphs 1 through 182 above, as and for paragraph 183 of this Count VI.
184. Pursuant to the above-described claims and causes of action, the circumstances or relationship between the parties gives rise to a duty on the part of the Defendants to account to Plaintiff and the putative class members.
185. A fiduciary relationship existed between the Defendant companies and Mr. Tlenchiyev, as well as between Defendant companies and putative class members. This fiduciary

relationship continues to exist between Defendant companies and its currently employed drivers because the corporate Defendants, being the employers of their drivers and the Individual Defendant, the officer and executives of corporate Defendants, were and are in a position of trust vis-à-vis their employees. Such a position of trust dictated that the Defendant companies and Individual Defendant accurately, truthfully and expeditiously account for and pay Mr. Tlenchiyev and the class members all earned compensation improperly withheld by Defendants, and account for all documentary records based on which such compensation was paid or was to be paid.

186. The Defendant companies and Individual Defendant were and are in a position of trust with respect to Mr. Tlenchiyev and the class members and owe a fiduciary duty to them because Defendants Zabolotovsky exerted extraordinary control and influence over them, personally and on behalf of respectively owned and managed Corporate Defendants, as their drivers' de-facto and de-jure employers.
187. Special circumstances also exist which establish a fiduciary duty, owed by the Defendants to Mr. Tlenchiyev and the class members, as they, for the most part, lack sophisticated education and experience. Defendants Zabolotovsky and Terletsky knew that Mr. Tlenchiyev and most of the class members lack the requisite English language skills and had otherwise experienced language barriers and bargaining power in communicating with Individual Defendant and Defendant companies' personnel, including when inquiring about compensation for the performance of required tasks.
188. Defendants Zabolotovsky and Terletsky had superior knowledge and understanding that Mr. Tlenchiyev and the class members did not possess, because they lacked and lack

the resources to seek legal advice or hire translators during the hiring process and thereafter as to review and understand the legal paperwork the Defendants forced them to sign. The Plaintiff and putative class members had a great level of deference and trust towards Defendants because of their lack of sophisticated education, experience, and requisite language and communication skills.

189. Mr. Tlenchiyev and the class members provided personal services to the Defendants with the common understanding that they would receive compensation in full.

190. There is a need for discovery through accounting because the actual amount of compensation on a per mile basis, paid and unpaid, cannot be determined without the review of all log books, which are in possession of Defendants only; thus, there is a need for accounting.

191. There is also a need for discovery through accounting because the amount of compensation to which Mr. Tlenchiyev and the class members are entitled and which they have earned cannot be presently known, because all books of accounts and records pertaining to the dispute are in the possession and control of the Corporate and Individual Defendants, and based thereon Mr. Tlenchiyev and the class members need an accounting to ascertain the damages they are entitled to recover.

192. Accordingly, an accounting would permit Mr. Tlenchiyev and the class members (and the Court) to ascertain the amounts due to them.

193. Mr. Tlenchiyev and the class members demanded that the Defendants and their management account for and pay all of their earned compensation and that truthful and not forged freight confirmations are presented to them and the Defendants had refused to present the truthful accounts and freight confirmation and to pay the actually earned compensation.

194. An accounting should be conducted in equity for the following reasons:

195. The need for an accounting has arisen from the above-described fiduciary relationship between the parties;

196. There is a need for accounting supervised by this Court, because it would involve intricate itemizations of earned compensation as damages awards and interest, and

197. There is a need for discovery.

WHEREFORE, Plaintiff respectfully requests that this Court orders Accounting to all four Defendants and orders constructive trust in the amount in excess of \$1,500,000.00 upon all property of corporate and individual defendants until accounting is complete and this action is decided on the merits.

**XVII. COUNT VII: UNJUST ENRICHMENT, pled in an alternative to
Count I**

198. Plaintiff re-alleges and incorporates paragraphs 1 through 197 above, as and for paragraph 198 of this Count VII, except for the paragraphs forming allegations in Count I. Count VII is pled in the alternative to Count I.

199. Defendants received revenue and benefits by and through the efforts of the Plaintiff and the putative class members and improperly withheld the Plaintiff' and the putative class members' earned compensation to their detriment and damage, all in violation of fundamental justice, equity and good conscience.

200. Plaintiff and the putative class members have conferred a benefit on Defendants through their service of driving as interstate truck drivers hauling loads and cargo for Defendants' benefit and to its detriment because of Defendants' practices and policies of misclassifying drivers as independent contractors and not paying earned compensation to current employees or employees that have terminated their

employment with Defendants (voluntarily or not voluntarily), prior to the disbursement of the payment checks, and because of Defendants' failure and refusal to pay Plaintiff and the putative class members their earned compensation; and Defendants have knowledge of this benefit and have accepted and retained the benefits conferred on them.

201. Defendants will be unjustly enriched if they are allowed to retain the compensation they improperly withheld from Plaintiff and the putative class members.
202. Defendants will be unjustly enriched if they are allowed to retain the improperly withheld earned compensation of their current and former employees.
203. Defendants will be unjustly enriched if they are allowed to retain their self-imposed forfeiture of the withheld employees' compensation.
204. Defendants will be unjustly enriched if they are allowed to retain withheld compensation.
205. This Count IX is pleaded in an alternative to Count I.

WHEREFORE, Plaintiff respectfully requests that this Court finds all four Defendants unjustly enriched at the expense, and to the detriment, of Plaintiff and putative class members and orders restitution be paid by all four Defendants to Plaintiff and putative class members in the amount of in excess of 1,500,000.00, with additional sums be ordered to pay to Plaintiff and putative class members for all attorney's fees and costs and prejudgment interest.

XVIII.

XVII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court:

- a. Certifies the class and appoints Plaintiff and Plaintiff's counsel to represent the class;
- b. Finds that the Corporate Defendants violated the Illinois Wage Payment and Collection Act, 820 ILCS § 115/1, § 115/2, § 115/3, § 115/4, § 115/5, § 115/9, § 115/10, and § 115/14 and that Individual Defendants are personally jointly and severally liable for the Corporate Defendants' violations of IWPCA under Section 13 of the IWPCA, finds that corporate Defendants are severally and jointly liable to Plaintiff and putative class members;
- c. Awards damages to Plaintiff and putative class members in excess of \$1,500,000.00 and as may be determined by the trier of fact; and find all four defendants severally and jointly liable for such actual damages;
- d. Finds that Individual and Corporate Defendants committed common law fraud against Plaintiff and others similarly situated such as fraud in the inducement (or promissory fraud), fraudulent misrepresentation and fraudulent concealment;
- e. Finds that the Individual and Corporate Defendants committed Civil Conspiracy to commit IWPCA violations and common law fraud against Plaintiffs and putative class members;
- f. Finds that the Defendants must account for all current and former employees' improperly withheld compensation and for all documentary records based on which the compensation was paid or was to be paid, as alleged herein, that the Defendants should be enjoined from dispersing said funds; and that the said funds should be placed into a constructive trust until further order of Court;
- g. Finds that the Individual and Corporate Defendants have been unjustly enriched by their practices and policies of not paying earned compensation to their drivers and thus retained the benefit conferred upon them by Plaintiff and other similarly situated drivers-

putative class members, and orders Defendants to pay restitution to Plaintiff and putative class members in the amount of unpaid compensation, in the event that this Court denies the claims under Count I;

- h. Finds that the Defendants must pay all earned compensation with interest thereon, including statutory interest under Section 14 of IWPCA, and any other statutory prejudgment interest;
- i. Requires that the Defendants must pay punitive damages for their willful and wanton conduct as alleged herein;
- j. Awards statutory attorneys' fees and costs pursuant to 820 ILCS § 115/14(a) or pursuant to a judgment on Common Law causes of action of fraudulent inducement, fraudulent concealment, and fraudulent misrepresentation, as well as punitive damages, and
- k. Grants such other relief as this Court deems appropriate.

Respectfully submitted,

By: /s/ Julia Bikbova

Julia Bikbova,
Plaintiff's Attorney

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