


EXHIBIT “A”

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): J.D. Henderson, 235767 Law Offices of J.D. Henderson 215 North Marengo Avenue, Suite 322 Pasadena, CA 91101 TELEPHONE NO.: (626) 529-5891 ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO MAY 15 2018 BY:  DEPUTY Kirk Warner
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, San Bernardino County 247 West 3rd St San Bernardino, CA 92401	CASE NUMBER: CIVDS1811712
PLAINTIFF/PETITIONER: Jacinto Castillo, et al. DEFENDANT/RESPONDENT: FFE Transportation Services, Inc., et al.	Ref. No. or File No.: Castillo
PROOF OF SERVICE OF SUMMONS	

FILED
 BY FAX

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action. **BY FAX**
2. I served copies of: Summons, Civil Case Cover Sheet, Complaint, Notice of Case Assignment, Certificate of Assignment, ADR Packet
3. a. Party served: FFE TRANSPORTATION SERVICES, INC., a Delaware corporation
 b. Person Served: Albert Demonte-CT Corporation System - Person Authorized to Accept Service of Process
4. Address where the party was served: 818 West Seventh Street, Suite 930
 Los Angeles, CA 90017
5. I served the party
 a. by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive service of process for the party (1) on (date): 05/14/2018 (2) at (time): 3:00PM
6. The "Notice to the Person Served" (on the summons) was completed as follows:

 d. on behalf of:

FFE TRANSPORTATION SERVICES, INC., a Delaware corporation
 under: CCP 416.10 (corporation)
7. Person who served papers
 a. Name: Jimmy Lizama
 b. Address: One Legal - 194-Marin
 504 Redwood Blvd #223
 Novato, CA 94947

 c. Telephone number: 415-491-0606
 d. The fee for service was: \$ 40.00
 e I am:
 (3) registered California process server.
 (i) Employee or independent contractor.
 (ii) Registration No.: 4553
 (iii) County: Los Angeles
8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.
 Date: 05/15/2018

Jimmy Lizama
 (NAME OF PERSON WHO SERVED PAPERS)


 (SIGNATURE)

Code of Civil Procedure, § 417.10

5/14/18 @ 3P

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

FFE TRANSPORTATION SERVICES, INC., a Delaware corporation; and DOES 1-10,

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

JACINTO CASTILLO, an individual; on behalf of all others similarly situated and the general public,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 14 2018

BY Paula Rogers
PAULA ROGERS, DEPUTY

NOTICE: You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee-waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. (AVISO: La fianca demandada. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.)

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto y el caso que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desochar el caso.

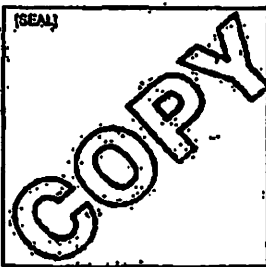
The name and address of the court is San Bernardino County Superior Court
(El nombre y dirección de la corte es) San Bernardino Justice Center
247 W. 3rd St., San Bernardino, CA 92415-0210

CASE NUMBER:
(Número del caso) CIVDS 1811712

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)
J.D. Henderson, 215 N. Marengo Pasadena, CA 91101
(626) 523-5891

DATE: May 11, 2018 Clerk by: Paula Rogers Deputy
(Fecha) MAY 14 2018 (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
 - as the person sued under the fictitious name of (specify):
 - on behalf of (specify): FFE TRANSPORTATION SERVICES, INC., a Delaware corporation
under: CCP 416.10 (corporation) CCP 416.60 (partner)
 CCP 416.20 (defunct corporation) CCP 416.70 (partner private)
 CCP 416.40 (association or partnership) CCP 416.60 (authorized person)
 other (specify):
 - by personal delivery on (date):

1 J.D. Henderson - SBN 235767
2 Law Offices of J.D. Henderson
3 215 North Marengo Avenue, Suite 322
4 Pasadena, CA 91101
5 Email: JD.LAW@charter.net
6 Tel: (626) 529-5891

7 Ziad Elrawashdeh - SBN 237166
8 Rawa Law Group APC
9 5843 Pine Avenue
10 Chino Hills, CA 91709
11 Tel: 909-393-0660
12 Fax: 888-250-8844

13 Attorneys for Plaintiff JACINTO CASTILLO,
14 individually, on behalf of all others similarly
15 situated, and the general public

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 14 2018

BY Paula Rogers
PAULA ROGERS, DEPUTY

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF SAN BERNARDINO

18 JACINTO CASTILLO, an individual; on)
19 behalf of all others similarly situated and the)
20 general public,)

21 PLAINTIFF,

22 vs.

23 EFE TRANSPORTATION SERVICES,)
24 INC., a Delaware corporation; and DOES 1-)
25 10,)

26 DEFENDANTS.

Case No. CIVDS 1811712

[CLASS ACTION]

COMPLAINT FOR:

- (1) Failure to Indemnify for Necessary Expenditures (Labor Code § 2802);
- (2) Failure to Provide Meal and Rest Periods (Labor Code §§ 226.7, 512);
- (3) Failure to Provide Accurate Wage Statements (Labor Code § 226); and
- (4) Unfair Business Practices (Bus. & Prof. Code §§ 17200, et seq.).

DEMAND FOR JURY TRIAL

BY FAX

COMPLAINT

1 Plaintiff JACINTO CASTILLO ("PLAINTIFF"), on behalf of himself, all others similarly
2 situated, and the general public, alleges the following against Defendants FFE
3 TRANSPORTATION SERVICES, INC., a Delaware Corporation; and DOES 1-10; inclusive,
4 (collectively, "DEFENDANTS"):

5
6 **INTRODUCTION**

7 1. This is a proposed wage and hour class action alleging violations of the California Labor
8 Code. This action arises out of DEFENDANTS' unlawful practice of failing to reimburse business
9 expenses, failure to provide meal and rest periods, and failing to provide legally-compliant wage
10 statements.

11
12 **JURISDICTION AND VENUE**

13 2. This Court has subject matter jurisdiction over all causes of action asserted herein
14 pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure §
15 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of
16 interest, exceeds \$25,000, and because each cause of action asserted arises under California law or is
17 subject to adjudication in California courts. No part of this complaint is preempted by federal law or
18 challenges conduct within any federal agency's exclusive domain, and adjudication thereof has not
19 been statutorily assigned to any other court or jurisdiction.

20 3. This Court has personal jurisdiction over DEFENDANTS because DEFENDANTS have
21 caused injuries in the County of San Bernardino and the State of California through their acts, and
22 by their violation of the California Labor Code, California state common law, and California
23 Business & Professions Code § 17200, et seq.

24 4. Venue as to DEFENDANTS is proper in this judicial district, pursuant to Code of Civil
25 Procedure § 395(a). DEFENDANTS either reside, maintain offices, transact business, and/or have
26 agents in San Bernardino County and DEFENDANTS are otherwise within this Court's jurisdiction
27 for purposes of service of process. The unlawful acts alleged herein have a direct effect on
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1 PLAINTIFF, all those similarly situated, and the general public throughout the State of California,
2 including San Bernardino County.

3
4 **THE PARTIES**

5 5. PLAINTIFF JACINTO CASTILLO was employed by DEFENDANTS as a truck driver.

6 6. DEFENDANT FFE TRANSPORTATION SERVICES, INC. (henceforth, "FFE"), a
7 Delaware corporation headquartered in Texas, is the primary operating subsidiary of Frozen Food
8 Express Services, Inc. FFE provides temperature-controlled transportation services for over-the-road
9 transportation. FFE employed PLAINTIFF in Ontario, a city in San Bernardino County.

10 7. The true names and capacities, whether individual, corporate, associate, or otherwise, of
11 DEFENDANTS sued herein as Does 1 through 10, inclusive, are currently unknown to
12 PLAINTIFF, who therefore sue those DEFENDANTS by such fictitious names under Code of Civil
13 Procedure § 474. PLAINTIFF is informed and believes, and based thereon alleges, that each of the
14 DEFENDANTS designated herein as a Doe is legally responsible in some manner for the unlawful
15 acts referred to herein. PLAINTIFF will seek leave of Court to amend this Complaint to reflect the
16 true names and capacities of the DEFENDANTS designated hereinafter as Does when such
17 identities become known.

18 8. PLAINTIFF is informed and believes, and based thereon alleges, that each of the
19 DEFENDANTS acted in all respects pertinent to this action as the agent of the other
20 DEFENDANTS, carried out a joint scheme, business plan or policy in all respects pertinent hereto,
21 and the acts of each defendant are legally attributable to the other DEFENDANTS.

22 9. PLAINTIFF is informed and believes, and based thereon alleges, that each and all of the acts
23 and omissions alleged herein were performed by, and/or attributable to, all DEFENDANTS, each
24 acting as agents and/or employees, and/or under the direction and control of each of the other
25 DEFENDANTS, and that said acts and failures to act were within the course and scope of said
26 agency, employment and/or direction and control. PLAINTIFF is informed and believes, and based
27 thereon alleges, that at all times material hereto DEFENDANTS were and are the agents of each
28 other.

FACTS COMMON TO ALL CAUSES OF ACTION

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- 2 10. PLAINTIFF was a non-exempt employee.
- 3 11. DEFENDANTS failed to reimburse PLAINTIFF for necessary business expenses. In
4 particular, DEFENDANTS required PLAINTIFF to use his cell phone (mobile phone) so that
5 DEFENDANTS could communicate with him while he was on the road (DEFENDANTS used
6 phone calls for dispatching services rather than a two-way radio or some other method).
7 DEFENDANTS never reimbursed PLAINTIFF for his cell phone expenses. PLAINTIFF believes
8 that all truck drivers employed by DEFENDANTS in California were similarly required to provide
9 their own cell phones for DEFENDANTS' dispatching calls and were not reimbursed.
- 10 12. DEFENDANTS routinely failed to make available to PLAINTIFF meal and rest periods as
11 mandated by California law by never relieving him of duty during his shifts. DEFENDANTS did
12 not compensate PLAINTIFF for missed meal and rest periods despite their knowledge that he was
13 routinely required to work through meal and rest periods.
- 14 13. PLAINTIFF and CLASS MEMBERS (defined below) are truck drivers.

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16 **CLASS ACTION ALLEGATIONS**

- 17 14. Pursuant to Code of Civil Procedure § 382, PLAINTIFF, individually and on behalf of all
18 employees (both current and former) similarly situated, seeks class-wide relief because of the
19 unlawful conduct of DEFENDANTS.
- 20 15. PLAINTIFF bring this action on behalf of himself individually and all others similarly
21 situated pursuant to Code of Civil Procedure § 382, on behalf of the class (herein referred to as the
22 "CLASS" and its putative members as the "CLASS MEMBERS") composed of and defined as
23 follows:
- 24 All persons currently or formerly employed by DEFENDANTS in California as truck
25 drivers (regardless of actual job title) at any time during the CLASS PERIOD.
- 26 16. The CLASS PERIOD is defined as the time from four years prior to the filing of this
27 Complaint to the present.
- 28

1 17. The persons in the CLASS are so numerous that joinder of all such persons is impracticable,
2 and the disposition of their claims as a class will benefit the parties and the court.

3 18. This action has been brought and may properly be maintained as a class action under Code
4 of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and
5 the proposed CLASS is easily ascertainable:

6 a) Numerosity: The potential members of the CLASS as defined are so numerous that joinder
7 of all the members of the CLASS is impracticable. While the precise number of CLASS
8 MEMBER has not yet been determined, PLAINTIFF are informed and believe that
9 DEFENDANTS employ(ed) at least 40 CLASS MEMBERS during the CLASS PERIOD.

10 b) Commonality: There are questions of law and fact common to PLAINTIFF and the CLASS
11 that predominate over any questions affecting only individual members of the CLASS.

12 These common questions of law and fact include without limitation:

13 i) Whether DEFENDANTS violated Labor Code § 2802 by failing to reimburse for
14 necessary expenditures;

15 ii) Whether DEFENDANTS failed to provide meal periods;

16 iii) Whether DEFENDANTS failed to provide rest periods;

17 iv) Whether DEFENDANTS failed to provide accurate itemized pay statements; and

18 v) Whether DEFENDANTS violated the Unfair Competition Law ("UCL") (Bus. & Prof.
19 Code §§ 17200, et seq.) by violating the Labor Code as alleged herein.

20 c) Typicality: PLAINTIFF' claims are typical of the claims of the CLASS. PLAINTIFF and
21 CLASS MEMBERS were subject to DEFENDANTS' common course of conduct in
22 violation of law as alleged herein.

23 d) Adequacy of Representation: PLAINTIFF is qualified to, and will fairly and adequately
24 protect the interests of each CLASS MEMBER, with whom he has a well-defined
25 community of interest and typicality of claims. PLAINTIFF have no interest that is adverse
26 to the interests of the CLASS. PLAINTIFF acknowledges he has an obligation to make
27 known to the Court any relationship, conflicts or differences with any member of the
28 CLASS. PLAINTIFF's attorneys and proposed class counsel are well versed in the rules

1 governing class action discovery, certification, and settlement, and have been repeatedly
2 certified as class counsel in both state and federal courts. PLAINTIFF has incurred, and
3 during the pendency of this action, will continue to incur, costs and attorney fees, that have
4 been, are and will be necessarily expended for the prosecution of this action for the
5 substantial benefit of each member of the CLASS.

6 e) Superiority of Class Action: A class action is superior to other available means for the fair
7 and efficient adjudication of this controversy. Individual joinder of all members of the
8 CLASS is not practicable, and common questions of law and fact affecting the CLASS
9 predominate over any questions affecting only individual members of the CLASS. Class
10 treatment is the most efficient and economical method of litigation for the parties and the
11 judicial system.

12 f) Public Policy Consideration: Employers such as DEFENDANTS violate laws every day.
13 Current employees are often afraid to assert their rights under the Labor Code out of fear of
14 direct or indirect retaliation. Former employees are fearful of bringing actions because they
15 believe their former employers can damage their future endeavors through negative
16 references and other means. California has a stated public policy in favor of class actions in
17 this context for the enforcement of the Labor Code.

18 19. There is a well-defined commonality of interest in questions of law and fact involving the
19 same unlawful policies and practices. The claims of PLAINTIFF alleged herein are typical of those
20 claims which could be alleged by any member of the CLASS, and the relief sought is typical of the
21 relief which would be sought by each of the members of the CLASS in separate actions. All
22 members of the CLASS have been similarly harmed by being denied meal and rest periods and
23 expense reimbursement.

24 20. The prosecution of separate actions by individual members of the CLASS would create a
25 risk of inconsistent adjudications with respect to individual members of the CLASS, establish
26 incompatible standards of conduct for DEFENDANTS, and impair the rights of members of the
27 CLASS and the disposition of their interests through actions to which they were not parties.

28 ///

FIRST CAUSE OF ACTION

FAILURE TO INDEMNIFY FOR NECESSARY BUSINESS EXPENDITURES

(LABOR CODE § 2802)

INDIVIDUALLY AND ON BEHALF OF ALL THOSE SIMILARLY SITUATED

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5 21. As a separate and distinct cause of action, PLAINTIFF realleges and incorporates by
6 reference, as though fully set forth herein, all the allegations contained in the preceding paragraphs
7 of this Complaint, excepting those allegations which are inconsistent with this cause of action.

8 22. DEFENDANTS failed to provide PLAINTIFF, and members of the CLASS, with the tools
9 and equipment required for them to perform their job functions during their employment by
10 DEFENDANTS. Instead, PLAINTIFF, and members of the CLASS, were required to provide these
11 tools and equipment. DEFENDANTS did not reimburse PLAINTIFF, or members of the CLASS.
12 These tools and equipment were not "hand" tools or equipment.

13 23. PLAINTIFF, and members of the CLASS, are entitled by Labor Code § 2802(c) to recover
14 all reasonable costs, including attorneys' fees, incurred in enforcing their rights.

15 24. WHEREFORE, PLAINTIFF requests relief as hereafter provided.

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SECOND CAUSE OF ACTION

FAILURE TO PROVIDE MEAL AND REST PERIODS

(LABOR CODE §§ 226.7, 512)

INDIVIDUALLY AND ON BEHALF OF ALL THOSE SIMILARLY SITUATED

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5 25. As a separate and distinct cause of action, PLAINTIFF realleges and incorporates by
6 reference, as though fully set forth herein, all the allegations contained in the preceding paragraphs
7 of this Complaint, excepting those allegations which are inconsistent with this cause of action.

8 26. DEFENDANTS failed to provide PLAINTIFF, and members of the CLASS, legally-
9 compliant meal and rest periods, or compensation in lieu thereof, during their employment by
10 DEFENDANTS.

11 27. WHEREFORE, PLAINTIFF requests relief as hereafter provided.

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THIRD CAUSE OF ACTION

FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(LABOR CODE § 226)

INDIVIDUALLY AND ON BEHALF OF ALL THOSE SIMILARLY SITUATED

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5 28. As a separate and distinct cause of action, PLAINTIFF realleges and incorporates by
6 reference, as though fully set forth herein, all the allegations contained in the preceding paragraphs
7 of this Complaint, excepting those allegations which are inconsistent with this cause of action.

8 29. Labor Code § 226 requires all employers to provide accurate itemized wage statements to
9 each employee for wages earned during that pay period.

10 30. DEFENDANTS failed to provide PLAINTIFF, and members of the CLASS, with accurate
11 itemized wage statements as required by Labor Code § 226.

12 31. PLAINTIFF, and members of the CLASS, are entitled to recover the greater of all actual
13 damages or fifty dollars (\$50) each for the initial pay period in which a violation occurs and one
14 hundred dollars (\$100) for each violation in a subsequent pay period, not exceeding an aggregate
15 penalty of four thousand dollars (\$4,000) each and are also entitled to an award of costs and
16 reasonable attorneys' fees.

17 32. WHEREFORE, PLAINTIFF requests relief as hereafter provided.

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PRAYER FOR RELIEF


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WHEREFORE, PLAINTIFF prays for relief and judgment against all DEFENDANTS, jointly and severally, as follows:

1. For an order certifying this action as a class action under Code of Civil § 382;
2. For an order appointing PLAINTIFF as the representative of the CLASS;
3. For an order appointing PLAINTIFF' counsel as class counsel for the CLASS;
4. For general and compensatory damages according to proof;
5. For restitution of all monies due PLAINTIFF and members of the CLASS;
6. For interest accrued to date;
7. For costs of the suit incurred;
8. For disgorgement of all profits garnered as a result of DEFENDANTS' unlawful practices;
9. For all penalties allowed by law;
10. For attorneys' fees and costs pursuant to statute and all other applicable law; and
11. For such other and further relief as this Court may deem appropriate.

Dated: May 11, 2018

Respectfully submitted,

By: 
J.D. Anderson
Attorney for PLAINTIFF JACINTO
CASTILLO, on behalf of himself, all others
similarly situated, and the general public


DEMAND FOR JURY TRIAL

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PLAINTIFF hereby demand a trial by jury on all issues so triable.

Dated: May 11, 2018

Respectfully submitted,

By: 
J.D. Anderson
Attorneys for PLAINTIFF JACINTO
CASTILLO, on behalf of himself, all others
similarly situated, and the general public

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): J.D. Henderson, SBN 235767 Law Office of J.D. Henderson 215 N. Marengo, Pasadena, CA 91101 TELEPHONE NO.: 626.529.5891 FAX NO.: ATTORNEY FOR (Name): Jacinto Castillo	FOR COURT USE ONLY FILED SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN BERNARDINO SAN BERNARDINO DISTRICT MAY 14 2018 BY <u>Paula Rogers</u> PAULA ROGERS, DEPUTY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 247 W. 3rd St. MAILING ADDRESS: CITY AND ZIP CODE: San Bernardino 92415-0210 BRANCH NAME: San Bernardino Justice Center	CASE NAME: -Castillo v. PPS Transportation Services, Inc., et al.
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
CASE NUMBER: CIVDS 18-11712	JUDGE: Hon. David Cohn DEPT: S-26

Items 1-6 below must be completed (see instructions on page 2).

39 FAX

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PIP/D/W (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIP/D/W (23) Non-PIP/D/W (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (18) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/D/W tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input checked="" type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 applications (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (29) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|---|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties. | d. <input checked="" type="checkbox"/> Large number of witnesses |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries; or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | f. <input checked="" type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): four (4)
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: May 11, 2018
 J.D. Henderson
 (TYPE OR PRINT NAME)

J.D. Henderson
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rules.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SAN BERNARDINO JUSTICE CENTER
247 W. 3RD ST
SAN BERNARDINO, CA 92415-0210

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

MAY 14 2018 CASE NO: CIVDS1811712

<http://www.sb-court.org>

----- APPEARANCE IS MANDATORY Paula Rogers is Finalized -----

PAULA ROGERS, DEPUTY

Appearance Date: 07/27/18 Time: 8:30 Dept: S26

IN RE: **COMPLEX**CASTILLO -V- PFE TRANSPORTATION SVCS, IN

NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
NOTICE OF CASE MANAGEMENT CONFERENCE

PLEASE TAKE NOTICE, that the above-entitled case has been set for a Case Management Conference on 07/27/18 at 8:30 in Department S26. You must appear at this hearing or your case may be dismissed and monetary penalties may be imposed.

THIS CASE HAS BEEN ASSIGNED TO JUDGE DAVID COHN IN DEPARTMENT S26 FOR ALL PURPOSES.

Your Joint Statement must be filed, directly in the Complex Litigation Department, five (5) calendar days prior to the hearing.

TO THE PARTY SERVED: The setting of this date DOES NOT increase the time you have to respond to the petition. The time for response is clearly stated on the Summons.

Please see the Guidelines for the Complex Litigation Program for further information. The guidelines may be found at the Court Website: <http://www.sb-court.org>

A COPY OF THIS NOTICE MUST BE SERVED ON THE RESPONDENT

Nancy CS Eberhardt, Court Executive Officer

Date: 05/14/18

By: PAULA ROGERS

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice by:

() Enclosed in an envelope mailed to the interested party addressed above, for collection and mailing this date, following ordinary business practice.

() Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.

() A copy of this notice was given to the filing party at the counter.

() A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

DATE OF MAILING: 05/14/18

I declare under penalty of perjury that the foregoing is true and correct. Executed on 05/14/18 at San Bernardino, CA By: PAULA ROGERS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Jacinto Castillo

CIVDS 1811712
CASE NO.:

vs.

CERTIFICATE OF ASSIGNMENT

FFE Transportation Services, Inc., et

37 FAX

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the Complex Litigation Department District of the Superior Court under Rule 404 of this court for the checked reason:

- General
Collection

- Nature of Action Ground
1. Adoption Petitioner resides within the district
2. Conservator Petitioner or conservatee resides within the district.
3. Contract Performance in the district is expressly provided for.
4. Equity The cause of action arose within the district.
5. Eminent Domain The property is located within the district.
6. Family Law Plaintiff, defendant, petitioner or respondent resides within the district.
7. Guardianship Petitioner or ward resides within the district or has property within the district.
8. Harassment Plaintiff, defendant, petitioner or respondent resides within the district.
9. Mandate The defendant functions wholly within the district.
10. Name Change The petitioner resides within the district.
11. Personal Injury The injury occurred within the district.
12. Personal Property The property is located within the district.
13. Probate Decedent resided or resides within the district or had property within the district.
14. Prohibition The defendant functions wholly within the district.
15. Review The defendant functions wholly within the district.
16. Title to Real Property The property is located within the district.
17. Transferred Action The lower court is located within the district.
18. Unlawful Detainer The property is located within the district.
19. Domestic Violence The petitioner, defendant, plaintiff or respondent resides within the district.
20. Other
21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT

This address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

Local Rule 412 (class actions are assigned to Department S-26)

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR ADDRESS
CITY STATE ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on May 11, 2018, at Pasadena, California

J. D. [Signature]
Signature of Attorney/Party

CERTIFICATE OF ASSIGNMENT

What is Alternative Dispute Resolution?
There are different processes available to settle lawsuits that do not require a trial. In Alternative Dispute Resolutions (ADR) a trained, impartial person decides disputes or helps the parties reach resolutions of their disputes for themselves. These persons are *neutrals*, who are normally chosen by the disputing parties of the court.

Advantages of ADR

- Often faster than going to trial.
- Often less expensive, saving the litigants court costs, attorney's fees and expert fees.
- May permit more participation, allowing the parties to have more control over the outcome.
- Allows for flexibility in choice of ADR processes and resolution of the dispute.
- Fosters cooperation by allowing parties to work together with the neutral to resolve the dispute and mutually agree to a remedy.
- ADR can be used, even after a lawsuit, if the result is appealed.
- Disadvantages of ADR - ADR may not be suitable for every dispute.
- If ADR is binding, the parties normally give up most court protections, including a decision by a judge or jury under formal rules of evidence and procedure, and review for legal error by an appellate court.
- ADR may not be effective if it takes place before the parties have sufficient information to resolve the dispute.
- The neutral may charge a fee for his or her services.
- If the dispute is not resolved through ADR, the parties may then have to face the usual and traditional costs of trial, such as attorney's fees and expert fees.

The Most Common Types of ADR: Mediation and Arbitration

Mediation

In mediation, the mediator (*a neutral*) assists the parties in reaching a mutually acceptable resolution of their dispute. Unlike lawsuits or other types of ADR, the parties, rather than the mediator, decide how the dispute is to be resolved.

• ADR is a cooperative process in which the parties work together toward a resolution that tries to meet everyone's interests, instead of working against each other.

• ADR can be particularly effective when parties have a continuing relationship, such as neighbors or businesses.

• ADR can be also very effective where personal feelings are getting in the way of a resolution.

Arbitration

In arbitration, the arbitrator (*a neutral*) reviews evidence, hears arguments, and makes a decision (*award*) to resolve the dispute. This is very different from mediation whereby the mediator helps the parties reach their own resolution. Arbitration may be more informal, quicker, and less expensive than a trial.

Superior Court of California-County of San Bernardino

ALTERNATIVE DISPUTE RESOLUTION



There are two types of arbitration in California:

- Private arbitration by agreement of the parties involved in the dispute. This type takes place outside of the court and normally is binding. In most cases "binding" means that the arbitrator's decision (award) is final and there will not be a trial or an opportunity to appeal the decision.
- Judicial arbitration ordered by the court. The arbitrator's decision is not binding unless the parties agree to be bound. A party who does not like the award may file a request for trial with the court within a specified time. However, if that party does not receive a more favorable award at trial, the party may have to pay a penalty.

More Information

There are several other types of ADR. Some of these include conciliation, settlement conference, fact finding, mini-trial, Victim Offender Reconciliation Program, and summary trial jury. Sometimes parties will try a combination of ADR types. The important thing is to try to find the type of ADR that is most likely to resolve your particular dispute.

The selection of a neutral is also an important decision. There is no legal requirement that the neutral be licensed or hold any particular certificate. However, some programs have established qualification requirements for neutrals.

Agreements reached through ADR normally are put into writing and, if the parties wish, may become binding contracts that can be enforced by the court.

ADR can be used to resolve disputes instead of filing a lawsuit. Even after a lawsuit has been filed, the court can refer the dispute to a neutral. ADR has also been used to resolve disputes even after trial, when the result is appealed.

You may wish to seek the advice of an attorney as to your legal rights and matters relating to the dispute before pursuing ADR.

To locate a dispute resolution program or neutral in your community:

- Contact the California Department of Consumer Affairs (www.dca.ca.gov) Consumer Information Center toll free at 800-952-5210, or;
- Contact the local bar association, or;
- Look in a phone directory under mediation or arbitration services.

The following alternate dispute resolution service providers are under contract with the County of San Bernardino to provide services for the listed types of matters under referral by the Court at no or low cost. The contractors may also provide additional mediation services outside of their contracts with the County.

Civil, family law (except custody and support)
Landlord-tenant, unlawful detainers, small claims
Program Director: Lynne Anderson, Executive Director
City Center Building
Inland Fair Housing & Mediation Board
10681 Foothill Boulevard, Suite 101
Rancho Cucamonga, CA 91730
909-984-2254 or 800-321-0911
Fax: 909-460-6274
www.humsdh.com

3027

1 THARPE & HOWELL, LLP
2 15250 Ventura Boulevard, Ninth Floor
3 Sherman Oaks, California 91403
4 (818) 205-9955; (818) 205-9944 fax

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

JUN 13 2018

5 DAVID S. BINDER, ESQ.; STATE BAR NO.: 209876
6 MELISSA HUGHES, ESQ.; STATE BAR NO.: 315727

BY 
VERONICA GONZALEZ, DEPUTY

7 Attorneys for Defendant, FFE TRANSPORTATION SERVICES, INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN BERNARDINO, CENTRAL DISTRICT

10
11 JACINTO CASTILLO, an individual; on
12 behalf of all others similarly situated and the
13 general public,

Case No. CIVDS 1811712

Complaint Filed: 05/14/18
Civil Unlimited Jurisdiction
[Assigned to the Honorable David Cohn,
Dept. S26]

14 PLAINTIFF,

v.

15 FFE TRANSPORTATION SERVICES,
16 INC., a Delaware Corporation; and DOES 1-
17 10,

DEFENDANT, FFE TRANSPORTATION
SERVICES, INC.'S ANSWER TO
UNVERIFIED COMPLAINT AND
AFFIRMATIVE DEFENSES

18 DEFENDANTS.

19 Defendant, FFE TRANSPORTATION SERVICES, INC. ("Defendant" or "FFE") hereby
20 submits its Answer for itself and no one else in response to Plaintiff, JACINTO CASTILLO's
21 ("Plaintiff" or "CASTILLO") unverified Complaint, as an individual and on behalf of all other
22 similarly situated and the general public, filed on or about May 14, 2018 ("Complaint"), as follows:

23 **GENERAL DENIAL**

24 Pursuant to the provisions of *Code of Civil Procedure* § 431.30, Defendant denies generally
25 each and every allegation contained in the Complaint, including that this action may be maintained
26 as a class and/or representative action on behalf of others similarly situated, and further denies that
27 Plaintiff, or anyone else on whose behalf the Complaint is brought, are entitled to damages, civil
28 penalties, attorney's fees, prejudgment interest, costs of suit, or any other relief of any kind

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whatsoever. Defendant further denies that Plaintiff, or anyone else on whose behalf the Complaint is brought, have sustained, or will sustain, any losses in the manner or amount alleged, or otherwise, by reason of any act or omission, or any other conduct or absence thereof on the part of Defendant.

AFFIRMATIVE DEFENSES

Defendant asserts the following affirmative and other defenses, which it designates, collectively, as “affirmative defenses.” Defendant’s designation of its defenses as “affirmative” is not intended in any way to alter Plaintiff’s burden of proof with regard to any element of his causes of action. Defendant also expressly denies the existence of any alleged group of persons, class, or “aggrieved employees” that Plaintiff purports to represent in this lawsuit. Defendant incorporates (as if fully set forth therein) this express denial each and every time it references “Plaintiff” herein.

FIRST DEFENSE

(FAILURE TO STATE A CLAIM)

1. The Complaint, and each and every cause of action and/or claim for relief alleged therein, fails to state facts sufficient to constitute a cause of action upon which relief can be granted.

SECOND DEFENSE

(STATUTE OF LIMITATIONS)

2. Any claims and/or causes of action purportedly asserted in Plaintiff’s Complaint are barred by the provisions of all applicable statutes of limitations, including without limitation *Code of Civil Procedure* §§338(a), 340(a), 340(b), *Business and Professions Code* §17208 to the extent they seek relief for conduct occurring outside of the relevant statute of limitations period.

THIRD DEFENSE

(STANDING)

3. Defendant alleges that Plaintiff(s), and/or any of them, lack standing to sue on behalf of themselves and/or the purported class of others similarly situated and/or the alleged aggrieved employees with respect to the claimed injuries, or otherwise.

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FOURTH DEFENSE

(IMPROPER CLASS REPRESENTATIVE)

4. Defendant alleges that Plaintiff's claims will not support class treatment because Plaintiff, and/or any of them, are not adequate or proper representatives of the putative class.

FIFTH DEFENSE

(NO CLASS EXISTS)

5. Defendant alleges that the Complaint and the purported causes of action set forth therein do not state facts sufficient to certify a class pursuant to *California Code of Civil Procedure* § 382 in that common questions of fact and law do not predominate and this action is not otherwise appropriate for treatment as a class action.

SIXTH DEFENSE

(NO CLASS-WIDE INJURY)

6. Defendant alleges that there has been no class-wide injury as alleged by the named Plaintiff. The injuries for which recovery is sought by the named Plaintiff on behalf of the alleged class cannot be recovered without proof by each alleged class member as to the specific facts underlying the violations alleged by each class member and the losses allegedly suffered as a direct and proximate result of each such alleged violation.

SEVENTH DEFENSE

(CLAIMS NOT TYPICAL OF PUTATIVE CLASS)

7. Defendant alleges that Plaintiff's claims will not support class treatment because they are not typical of the claims of the putative class.

EIGHTH DEFENSE

(CLASS ACTION – VIOLATION OF DUE PROCESS)

8. Defendant alleges that certification of a class, as applied to the facts and circumstances of this case, would constitute a denial of Defendant's due process rights, both substantive and procedural, in violation of the Fourteenth Amendment to the United States Constitution and the California Constitution.

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NINTH DEFENSE

(GOOD FAITH BELIEF OF COMPLIANCE WITH OBLIGATIONS AND/OR GOOD FAITH DISPUTE)

9. Defendant alleges that it acted with a reasonable and good faith belief that it complied with its obligations, if any, under the California *Labor Code*, specifically including but not limited to §§ 226, 226.7, 512 and 2802 thereof, as to Plaintiff and all alleged putative class members and/or aggrieved employees; and/or at all relevant times, there exists and/or existed a bona fide good faith factual and/or legal dispute as to the existence and/or extent of Defendant’s obligations to Plaintiff and/or the alleged putative class members and/or aggrieved employees under any applicable Labor Code provision.

TENTH DEFENSE

(OBLIGATIONS SATISFIED)

10. Defendant is informed and believes that further investigation and discovery will reveal, and on that basis alleges, that any monies owed to Plaintiff, or any of the alleged putative class members and/or aggrieved employees, has been paid in full, and any obligations it may have owed to any of them have been paid or otherwise satisfied in full.

ELEVENTH DEFENSE

(BUS. & PROF. CODE § 17200 – COMPLIANCE WITH OBLIGATIONS)

11. Defendant alleges that Plaintiff’s claims are barred, in whole or in part, because of Defendant’s compliance with all applicable laws, statutes, and regulations, said compliance affording Defendant a safe harbor to any claim under *Business and Professions Code* sections 17200, *et seq.*

TWELFTH DEFENSE

(BUS. & PROF. CODE § 17200 – NO IMPACT ON GENERAL PUBLIC)

12. Defendant alleges that Plaintiff’s claims are barred in whole or in part due to Plaintiff’s, or any of their, failure to meet the burden of demonstrating a nexus between Defendant’s alleged acts, conduct or statements and any impact on the general public that Plaintiff purport to represent.

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THIRTEENTH DEFENSE

(BUS. & PROF. CODE § 17200 – VIOLATES DUE PROCESS)

13. Defendant alleges that the prosecution of a representative action on behalf of the general public under California *Business and Professions Code* §17200 *et seq.*, as applied to the facts and circumstances of this case, would constitute a denial of Defendant’s due process rights, both substantive and procedural, in violation of the California Constitution and the Fourteenth Amendment to the United States Constitution.

FOURTEENTH DEFENSE

(BUS. & PROF. CODE § 17200 – RESTITUTION PENALTIES BARRED)

14. Defendant alleges that Plaintiff’s prayer for restitution pursuant to *Business and Professions Code* §17200 *et seq.* is barred with respect to penalties of any nature.

FIFTEENTH DEFENSE

(ESTOPPEL)

15. Plaintiff, and any alleged putative class members and/or aggrieved employees, may not seek relief from this Court as Plaintiff’s claims, or any of them, are subject to the doctrine of estoppel.

SIXTEENTH DEFENSE

(PROXIMATE CAUSE)

16. Plaintiff, and any alleged putative class members and/or aggrieved employees they seek to represent, by their own acts and conduct, proximately caused the damages complained of, and, therefore, Defendant has no liability for the purported damages suffered by Plaintiff and/or any alleged putative class members and/or aggrieved employees.

SEVENTEENTH DEFENSE

(COMPARATIVE FAULT)

17. Plaintiff, and any alleged putative class members and/or aggrieved employees, by their own acts and conduct, contributed to the damages complained of, and the liability of Defendant, if any, for the purported damages suffered by Plaintiff, and any alleged putative class members and/or aggrieved employees, must be reduced by an amount proportionate to their comparative fault.

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EIGHTEENTH DEFENSE

(FAILURE TO PERFORM OBLIGATIONS)

18. Plaintiff, and any alleged putative class members and/or aggrieved employees, have failed to perform all obligations as required by the terms of the alleged employment arrangement, and that performance and/or failure to perform on their part was a condition precedent to the performance of Defendant's obligations.

NINETEENTH DEFENSE

(WAIVER)

19. The Complaint and each purported cause of action therein is barred, in whole or in part, because Plaintiff has waived any and all claims he had or may have had against Defendant by virtue of his own acts or omissions relating to the subject matter of this action.

TWENTIETH DEFENSE

(LACHES)

20. The Complaint, and each count set forth therein, is barred by the doctrine of laches.

TWENTY-FIRST DEFENSE

(UNCLEAN HANDS)

21. Plaintiff, and any alleged putative class members and/or aggrieved employees, may not seek relief from this Court in that they come before this Court with unclean hands.

TWENTY-SECOND DEFENSE

(DE MINIMIS)

22. The Complaint, and each cause of action therein, or some of them, are barred pursuant to the *de minimis* doctrine.

TWENTY-THIRD DEFENSE

(FAILURE TO MITIGATE)

23. Defendant denies any liability, whatsoever, to Plaintiff or that Plaintiff has suffered any damage; but if Defendant is held by a court to have liability to Plaintiff or if it is held that Plaintiff has been damaged in any sum or sums whatsoever, such liability or damages should be reduced by that sum to which Plaintiff could reasonably have mitigated his damages.

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TWENTY-FOURTH DEFENSE

(SET-OFF)

24. Defendant alleges that, assuming Plaintiff, the putative class members, and/or alleged aggrieved employees are entitled to any unpaid wages, Defendant is entitled to a credit for or set off, which shall include, but is not limited to, amounts erroneously overpaid to any of them. The claims of Plaintiff, the putative class members, and/or alleged aggrieved employees are barred because they would be unjustly enriched if they prevailed on any of said claims.

TWENTY-FIFTH DEFENSE

(UNJUST ENRICHMENT)

25. The Complaint and each purported cause of action therein is barred, in whole or in part, on the ground that Plaintiff would be unjustly enriched if he were allowed to recover certain claimed damages in the Complaint.

TWENTY-SIXTH DEFENSE

(REPLICATING PENALTIES – DUE PROCESS)

26. The imposition of replicating penalties, as applied to the alleged facts and circumstances of this case, would violate Defendant’s due process rights under the Fourteenth Amendment of the United States Constitution and under the Constitution and laws of the State of California.

TWENTY-SEVEN DEFENSE

(CONSENT)

27. The Complaint, and each purported cause of action alleged therein, is barred because Plaintiff, through express or implied agreement, consented to the conduct of which he now complains.

TWENTY-EIGHTH DEFENSE

(ADDITIONAL AFFIRMATIVE DEFENSES)

28. Defendant is informed and believes, and thereon alleges, that certain additional affirmative defenses are available to Defendant. Said affirmative defenses will require further discovery and/or investigation before they can be properly alleged. Defendant will move to amend the answer to allege such affirmative defenses once they have been fully ascertained and can be

1 properly alleged.

2 **WHEREFORE**, Defendant prays for judgment dismissing the Complaint with prejudice,
3 that Plaintiff, and any of the alleged putative class members and/or aggrieved employees, take
4 nothing, and that judgment be entered for Defendant for its attorneys' fees and costs of suit herein,
5 and for such other and further relief as the Court determines is proper.

6
7 Dated: June 13, 2018

THARPE & HOWELL, LLP

8
9 By: 

10 DAVID S. BINDER
11 MELISSA HUGHES
12 Attorneys for Defendant
13 FFE TRANSPORTATION
14 SERVICES, INC.

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Sherman Oaks, California 91403-3221

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 Sherman Oaks, California 91403-3221

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

1. At the time of service, I was at least 18 years of age and **not a party to this legal action.**
2. My business address is 15250 Ventura Boulevard, Ninth Floor, Sherman Oaks, CA 91403.
3. I served copies of the following documents:

DEFENDANT, FFE TRANSPORTATION SERVICES, INC.'S ANSWER TO UNVERIFIED COMPLAINT AND AFFIRMATIVE DEFENSES

4. I served the documents listed above in item 3 on the following persons at the addresses listed:

J.D. Henderson LAW OFFICES OF J.D. HENDERSON 215 North Marengo Avenue, Suite 322 Pasadena, CA 91101	Attorney for all Plaintiff
Ziad Elrawashdeh RAWA LAW GROUP, APG 5843 Pine Avenue Chino Hills, CA 91709	Attorney for all Plaintiff

5. a. **By personal service.** I personally delivered the documents on the date shown below to the persons at the addresses listed above in item 4. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party delivery was made to the party or by leaving the documents at the party's residence between the hours of eight in the morning and six in the evening with some person not less than 18 years of age.
- b. **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 4 and (*specify one*):
 - (1) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid on the date shown below, or
 - (2) placed the envelope for collection and mailing on the date shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at Sherman Oaks, California.
- c. **By overnight delivery.** I enclosed the documents on the date shown below in an envelope or package provided by an overnight delivery carrier and addressed to the person at the addresses in item 4. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

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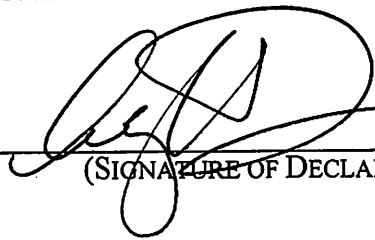
- d. **By messenger service.** I served the documents on the date shown below by placing them in an envelope or package addressed to the person on the addresses listed in item 4 and providing them to a professional messenger service for service.
- e. **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents on the date shown below to the fax numbers of the persons listed in item 4. No error was reported by the fax machine that I used. A copy of the fax transmission, which I printed out, is attached to my file copy.
- f. **By e-mail or electronic transmission.** Based on an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent on the date shown below to the e-mail addresses of the persons listed in item 4. I did not receive within a reasonable time after the transmission any electronic message or other indication that the transmission was unsuccessful.

6. I served the documents by the means described in item 5 on (date): *SEE BELOW*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

June 13, 2018
DATE

AGLAIA DAKIS
(TYPE OR PRINT
NAME)


(SIGNATURE OF DECLARANT)

I:\29000-000\29834\Pleadings\Answer.R.docx

THARPE & HOWELL, LLP
15250 Ventura Boulevard, Ninth Floor
Sherman Oaks, California 91403-3221

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [FFE Transportation Services Failed to Reimburse Drivers for Cell Phone Use, Lawsuit Claims](#)
