

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS**

DAVID BROWNE, <i>et al.</i> , Plaintiffs, v. P.A.M. TRANSPORT, INC., <i>et al.</i> Defendants.	No.: 5:16-cv-05366-TLB
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MOTION FOR CLASS CERTIFICATION PURSUANT TO F.R.C.P. 23

Named Plaintiffs David Browne, Antonio Caldwell, and Lucretia Hall (“Named Plaintiffs”) by and through undersigned counsel, hereby move this Court to certify the instant action as a class action pursuant to Fed. R. Civ. P. 23(b)(3) as to Plaintiffs’ Arkansas state law claims. In support hereof, Plaintiffs aver as follows:

1. Named Plaintiffs seek to represent a class of individuals who were employed by Defendants as over-the-road truck drivers, whether employed as a solo or team driver, from December 9, 2013 to the present.
2. Subsumed in this definition are two subclasses:
 - a. All individuals who were paid wages and/or advances by Defendants via COMDATA from December 9, 2013 to the present.
 - b. All individuals who were discharged from employment from December 9, 2013 to the present.
3. Named Plaintiffs show that Defendants had uniform pay policies and practices that resulted in Defendants’ failure to pay them all owed wages in accordance with Arkansas state

law, caused Defendants to breach their contracts with Named Plaintiffs and the putative class, or in the alternative permitted Defendants to unjustly enrich themselves at the expense of Named Plaintiffs and the putative class.

4. Named Plaintiffs show that a conflicts of law analysis supports class certification because Arkansas law will apply to the employment relationship between putative class members and Defendants.

5. Named Plaintiffs' claims rest on common evidence and common policies applicable to the entire putative class;

6. Named Plaintiffs' and the putative class' claims are based on common questions of law and fact and Named Plaintiffs' claims are typical and common amongst the putative class.

7. With respect to Named Plaintiffs' and putative class' claims, common questions of law and fact predominate over individual issues.

8. Numerosity is established because Defendants have conceded that the putative class involves more than 10,000 truck drivers.

9. Named Plaintiffs will adequately represent the interests of the members of the putative class.

10. A class action is superior to other methods of adjudication.

11. For the aforementioned reasons, and the reasons described in more detail in Named Plaintiff's Brief in Support of this Motion, Named Plaintiffs respectfully request that the Honorable Court grant the instant motion and certify the instant matter as a class action pursuant to Rule 23(b)(3) on behalf of all current and former over-the-road drivers of Defendants who were employed by Defendants as over-the-road truck drivers since December 9, 2013 (3 years preceding the filing date of the instant matter).

12. Additionally, for the reasons set forth in detail in Named Plaintiffs' Brief in Support of this Motion, Named Plaintiffs further respectfully request that Swartz Swidler LLC, Justin Swidler, Richard Swartz, Joshua Boyette and Travis Martindale-Jarvis be appointed class counsel for Plaintiffs pursuant to Rule 23(g) and request that Plaintiffs David Browne, Antonio Caldwell and Lucretia Hall be appointed as class representatives.

Respectfully submitted,

/s/ Justin Swidler

Justin L. Swidler, Esq.

Joshua S. Boyette, Esq.

Travis B. Martindale-Jarvis, Esq.

SWARTZ SWIDLER, LLC

1101 Kings Highway N, Ste. 402

Cherry Hill, NJ 08034

Telephone: (856) 685-7420

Facsimile: (856) 685-7417

E-mail: jswidler@swartz-legal.com

Attorneys for Plaintiffs

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