

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

HERBERT BRYANT III, individually, and on  
behalf of all others similarly situated,

Plaintiff,

vs.

ALL WAYS AUTO TRANSPORT, LLC, an  
Illinois Limited Liability Company doing  
business as AW TRANSPORT; and DOES 1  
through 100, inclusive,

Defendants.

Case No.: 1:22-cv-00906

**CLASS ACTION**

**FIRST AMENDED COMPLAINT:**

1. Truth-in-Leasing-Act Truck Equipment  
Lease Violations
2. Breach of Contract

**DEMAND FOR JURY TRIAL**

HERBERT BRYANT III (“Plaintiff” or “Mr. Bryant”) an individual, demanding a jury trial, on behalf of himself and all other persons similarly situated, hereby alleges based upon personal knowledge as to himself and his own actions, and, as to all other matters, upon information and belief and investigation of counsel, as follows:

### **NATURE OF THE ACTION**

1. Deception, abuse, and exploitation of truck drivers is a widely recognized problem that plagues the nation’s trucking industry and leaves some truck drivers in financial ruin, or constrained as the modern-day equivalent of indentured servants.<sup>1</sup> The potential for abuse in truck lease agreements is so widespread that the federal government has regulated it—and other types of leasing—since at least 1968 when it enacted the Truth in Leasing Act, 49 U.S.C. §14704 (“TILA”). Despite the existence of TILA and its controlling regulations, trucking companies continue to prey on truck drivers who merely wish to make an honest living and provide for themselves and their families. As alleged in detail below, Defendants engaged in such abusive practices including, *inter alia*, applying miscellaneous and unknown monthly charges and refusing to return escrow moneys as required by TILA.

2. The financial exploitation of truck drivers has only worsened since partial deregulation of the industry in the 1980s.<sup>2</sup> It is common for truck drivers to work “not to get ‘ahead’ but just to make ends meet.”<sup>3</sup> Many truck drivers struggle just to bring home even a couple hundred dollars for a week of hard work—and it is not unusual for a trucking company to tell a driver at the end of a week that the driver owes the company money. This is among the things that happened to Mr. Bryant, as alleged in detail below.

3. Plaintiff brings this action to remedy Defendants’ violations of TILA and corresponding Truth-in-Leasing regulations, 49 C.F.R. Part 376 (sometimes, “TILR”) and for common law breach of contract during the relevant statutory periods, for which Mr. Bryant, on his own behalf and on behalf of all others similarly situated, seeks damages, restitution, injunctive relief, interest, attorneys’ fees and

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<sup>1</sup> See, e.g., “RIGGED Forced into debt. Worked past exhaustion. Left with nothing.” USA Today, June 17, 2017, <https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/> (last visited Aug. 8, 2021); see also “How Lease Deals Have Truckers Hauling a Load of Debt,” Westword, Mar. 2, 2021, <https://www.westword.com/news/truckers-lease-deal-pathways-lawsuit-highway-supply-chain-11907958> (last visited Aug. 8, 2021).

<sup>2</sup> Belzer, Michael H., “Sweatshops on Wheels,” Oxford University Press (2000), p.ix.

<sup>3</sup> *Id.* at p.vii.

costs, and all other legal and equitable remedies deemed just and proper under United States and applicable state law.

### **THE PARTIES**

4. Plaintiff HERBERT BRYANT III is a former driver for Defendants who worked for Defendants in multiple States including but not limited to the State of Illinois.

5. Plaintiff is informed, believes, and thereon alleges that Plaintiff and other similarly situated truck drivers performed work for Defendants under agreements as described herein that were identical or substantially similar to the agreements between Plaintiff and Defendants and that Plaintiff and others similarly situated performed all, or substantially all, of the obligations imposed on them as a result of those agreements.

6. Plaintiff brings this action on behalf of himself and similarly situated class of individuals as defined herein. A true and correct redlined copy of this First Amended Complaint is attached hereto as **Exhibit C**.

7. Plaintiff reserves the right to name additional class representatives.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant ALL WAYS AUTO TRANSPORT, LLC (“Defendant” or “AWT”) is, and at all times relevant hereto was, an Illinois corporation organized and existing under the laws of the State of Illinois and doing business as AW TRANSPORT.

9. The true names and capacities of DOES 1 through 100, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such Defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated as a DOE is highly responsible in some manner for the events and happenings referred to herein, and legally caused the injuries and damages alleged in this Complaint. Plaintiff will seek leave of the court to amend this Complaint to allege their true names and capacities when ascertained. Defendants, and each of them, were alter egos of each other and/or engaged in an integrated enterprise with each other. Additionally, all of the Defendants were joint employers of Plaintiff.

10. There exists, and at all times herein mentioned existed, a unity of interest and ownership between the named Defendants, including DOES, such that any corporate individuality and separateness

between the named defendants has ceased, and that the named Defendants are alter egos in that the named Defendants effectively operate as a single enterprise, or are mere instrumentalities of one another.

11. At all material times herein, each Defendant was the agent, servant, co-conspirator and/or employer of each of the remaining defendants, acted within the purpose, scope, and course of said agency, service, conspiracy and/or employment and with the express and/or implied knowledge, permission, and consent of the remaining Defendants, and ratified and approved the acts of the other Defendants. However, each of these allegations are deemed alternative theories whenever not doing so would result in a contradiction with the other allegations.

12. Whenever reference is made herein to any act, deed, or conduct of “Defendant” or “Defendants” the allegation means that all Defendants, including DOES 1-100, engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees, or representatives who was actively engaged in the management, direction, control, or transaction of Defendants’ ordinary business and affairs. As to the conduct alleged herein, each act was authorized, ratified or directed by Defendants’ officers, directors, or managing agents.

### **JURISDICTION AND VENUE**

13. This Court has subject matter jurisdiction over Plaintiff’s claims under 28 U.S.C. §§ 1331, 1332(d)(2), and 1337.

14. This Court has personal jurisdiction over Defendants on multiple bases, including that each Defendant: (1) transacted business in the United States and in this District; (2) transacted business with Class Members throughout the United States, including those residing in this District; (3) committed substantial acts in furtherance of an unlawful scheme in the United States, including in this District; and (4) agreed to this Court’s jurisdiction via written contract entered into with Plaintiff.

15. This Court has jurisdiction over all causes of action asserted herein, and the amount in controversy exceeds the jurisdictional minimum of this Court.

16. Venue is proper in this District under 15 U.S.C. §§ 15, 22 and 26, and 28 U.S.C. § 1391(b), (c), and (d), because each Defendant transacted business, was found, had agents, and/or resided in this District; a substantial part of the events giving rise to Plaintiffs’ claims arose in this District; and a substantial portion of the affected interstate trade and commerce described herein has been carried out in



this District.

### **COMMON FACTUAL ALLEGATIONS**

17. Plaintiff is a former truck driver for Defendants who worked for Defendants in multiple States including but not limited to Illinois within four years prior to the filing of this action.

18. Plaintiff learned of an employment opportunity for AWT after coming across an online advertisement that promised truck drivers a \$2,000 down payment on a truck lease followed by driving assignments whereby Defendant would pay 85% of the gross load receipts for each trip.

19. Like all other Class members, as a condition of working for Defendants, Defendants required Plaintiff to enter into a non-negotiable “Equipment Lease Agreement” (the “Agreement”). The Agreement is a take-it-or-leave-it contract of adhesion. Plaintiff entered into the Agreement on or around September 7, 2017. A true and correct copy of the Agreement is attached hereto as **Exhibit A** and incorporated herein by reference.

20. Among other things, the Agreement specified that Plaintiff was to be an “independent contractor” and “owner-operator” of an unidentified truck that was “to be determined,” which Plaintiff was to “lease” to AWT.

21. After signing the Agreement, Plaintiff was instructed by AWT, as a condition of his employment/work relationship, to travel to Houston, Texas in order to pick up a truck from Defendant’s affiliate truck leasing company, BUSH TRUCK LEASING, INC. (“BTL”). Plaintiff is informed and believes that BTL has been, at all relevant times, an agent of AWT.

22. In accordance with AWT’s instructions, and with the paperwork provided by AWT, Plaintiff picked up a 2013 Volvo truck from BTL for use with his work for Defendants. BTL required Plaintiff to enter into a separate written agreement to “lease” the truck for an initial payment of \$2,500 plus weekly payments of no less than \$704.30. The BTL Lease Agreement further provided that Defendant is authorized “to deduct from [Plaintiff’s] settlement account and/or from amounts otherwise payable to [Plaintiff] at each settlement period on behalf of [Plaintiff’s] funds necessary to sufficiently satisfy all [] obligations due Bush Truck Leasing, Inc. or its assignee... and to remit all such amounts to Bush Truck Leasing, Inc. or its assignee.”

23. Due to repeated mechanical failures with the Volvo, Plaintiff was required to submit the

truck at various repair locations for maintenance. In accordance with the Agreements, the repair shops would bill AWT directly, who would, in turn, deduct amounts from Plaintiff's account. Plaintiff made numerous requests for itemized invoices for the repairs and payments purportedly made in connection therewith on Plaintiff's behalf, but Defendants failed to provide such information.

24. After numerous mechanical failures of the Volvo, Defendants provided a different truck to Plaintiff in or around October 2018 and entered into a second Equipment Lease Agreement identical to the Agreement in form but identifying the second 2015 International Conventional Sleeper vehicle that Plaintiff was to drive.<sup>4</sup> A true and correct copy of the second Agreement is attached hereto as **Exhibit B** and incorporated herein by reference.

25. Once Plaintiff began working for Defendants, Defendants deducted lease and other expenses from amounts that they paid to Mr. Bryant. The "other expenses" were often unspecified charges without description that were not set forth in the Agreements. For example, Defendants would regularly deduct a "WEEKLY DEDUCTION" of approximately \$388.05 from Plaintiff's payment in addition to all other deductions, without providing any information as to what the deduction is for. Plaintiff is informed and believes that nothing in the Agreements provided for such deductions.

26. Plaintiff is informed and believes that Defendants took such deductions from all Class members' accounts in violation of the TILA and TILR and the terms of the Agreements.

27. Upon the termination of Plaintiff's employment with Defendant, Defendant further failed to return to Plaintiff the escrow balance due to him. Plaintiff is informed and believes that the failure to return all escrow amounts due was a practice of Defendants common to all Class members.

## **FEDERAL STATUTORY AND REGULATORY FRAMEWORK**

### **TILA**

28. The TILA and TILR protect truckers including so-called "owner-operators" from motor carriers' abusive leasing practices. *See Owner-Operator Indep. Drivers Ass'n, Inc. v. Comerica Bank (In re Arctic Express Inc.)*, 636 F.3d 781, 795 (6th Cir. 2011); *Global Van Lines, Inc. v. ICC*, 627 F.2d 546, 547-48 (D.C. Cir. 1980); Lease and Interchange of Vehicles, 42 Fed. Reg. 59,984 (Nov. 23, 1977). The

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<sup>4</sup> The form of the September 2017 and October 2018 Equipment Lease Agreements, as applicable to all Class members, are collectively referred to as the "Agreements."

TILR applies to “equipment”<sup>5</sup> leases between an “authorized carrier”<sup>6</sup> and “owner”<sup>7</sup>. The objectives of the TILA and TILR are:

... to promote truth-in-leasing—a full disclosure between the carrier and the owner-operator of the elements, obligations, and benefits of leasing contracts signed by both parties; ... to eliminate or reduce opportunities for skimming and other illegal or inequitable practices by motor carriers; and ... to promote the stability and economic welfare of the independent trucker segment of the motor carrier industry.

*In re Arctic Express*, 636 F.3d at 796 (internal quotation marks, alterations omitted); *see also* Lease and Interchange of Vehicles, 43 Fed. Reg. 29,812 (July 11, 1978); *Owner-Operator Indep. Drivers Ass’n v. Swift Transp. Co.*, 367 F.3d 1108, 1110 (9th Cir. 2004) (“A primary goal of this regulatory scheme is to prevent large carriers from taking advantage of individual owner-operators due to their weak bargaining position.”).

29. “[A]uthorized motor carriers” such as 49 C.F.R. § 376.11(a) may perform authorized transportation in equipment that they do not own *only* if the equipment is covered by a written lease meeting the requirements set forth in 49 C.F.R. § 376.12. *See* 49 C.F.R. § 376.11(a). The conduct and business practices of authorized motor carriers must comply with the TILR irrespective of whether their written lease agreements satisfy the requirements of the regulations. 49 C.F.R. § 376.12.

30. To protect truckers including owner-operators from motor carriers’ abusive business practices, the TILR, 49 C.F.R. § 376.11, provides, that an “authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions: [¶] (a) Lease. There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12.” The TILR, 49 C.F.R. § 376.12, provides, in part: “the written lease required under § 376.11(a) shall contain the following provisions[.]” which include, in relevant part, the following:

- a. Parties to Leases. Leases between authorized carriers and truckers including owner-operators<sup>8</sup> “shall be made between the authorized carrier and the owner of the equipment.

<sup>5</sup> *See* 49 C.F.R. § 376.2(c) (defining equipment as: “A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.”)

<sup>6</sup> *See* 49 C.F.R. § 376.2(a) (defining an authorized carrier as: “A person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902.”)

<sup>7</sup> *See* 49 C.F.R. § 376.2(b) (defining an owner as: “A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.”)

<sup>8</sup> Accordingly, the TILR applies to authorized carriers’ conduct and business practices as they may affect and arise out of authorized carriers’ relationships with owner-operators who are employees *or* independent contractors. *See Blair v. TransAm*

The lease shall be signed by these parties or by their authorized representatives.” 49 C.F.R. § 376.12(a). Regardless of whether such lease agreements are in writing, however, “[t]he required lease provisions shall be adhered to and performed by the authorized carrier.” 49 C.F.R. § 376.12.<sup>9</sup>

- b. Copies of Freight Bill or Other Freight Documentation. Leases between authorized carriers and truckers including owner-operators require that “[w]hen a lessor’s revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill . . . .” 49 C.F.R. §376.12(g).
- c. Charge-back items. Leases between authorized carriers and truckers including owner-operators require, in part, that “[t]he lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor’s compensation at the time of payment or settlement, together with a recitation as to how the amount of each item is to be computed.” 49 C.F.R. §376.12(h). Furthermore, authorized carriers must inform truckers including owner-operators of the latter’s entitlements to copies of those documents which are necessary to determine the validity of the charge. *Ibid.*
- d. Prohibition on Required Products, Equipment, or Services. Leases between authorized carriers and truckers including owner-operators “shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor’s compensation for purchase or rental payments.” 49 C.F.R. §376.12(i).
- e. Escrow Fund Responsibilities. Where escrow fund deposits are required, the lease must clearly specify how the money can be used and the money can only be used for actual obligations incurred by truckers and owner-operators. 49 C.F.R. § 376.12(k)(2), (6). The authorized motor carrier must provide periodic accountings to truckers and owner-operators, and, upon termination of the relationship with the authorized motor carrier, a final accounting reporting all transactions involving the escrow fund. 49 C.F.R. § 376.12(k)(3), (4), (6). The authorized motor carrier must also pay interest to truckers and owner-operators on amounts

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*Trucking, Inc.* 309 F. Supp. 3d 977, 1020 (2018) (the TILR “was promulgated to protect ‘individual owner-operators due to their weak bargaining position.’ To show that TIL applies, an owner-operator does not need to prove they are an ‘independent contractor.’ Rather, an owner-operator only must establish that ‘(1) he was an “owner” of the truck and trailer as that term is defined in the regulations; and (2) he “leased” that equipment to defendants.’ As it would be possible to own a truck yet still qualify as an ‘employee,’ the terms ‘independent contractors’ and ‘owner-operators’ are not mutually exclusive.” Internal footnoted citations omitted.)

<sup>9</sup> Accordingly, authorized carriers’ conduct and business practices must comply with the TILA and TILR regardless of whether leases are in writing. *See Bonkowski v. Z Transport, Inc.*, 2004 WL 524723, at \*2-3 (N.D. Ill. Mar. 5, 2004) (“Because the agreement was entirely oral, it violated the regulations.”); *Shimko v. Jeff Wagner Trucking, LLC*, 2014 WL 7366190, at \*4 (W.D.Wis. Dec. 24, 2014) (citing *Bonkowski v. Z Transport, Inc.*, 2004 WL 524723, at \*3 (N.D. Ill. Mar. 5, 2004); *see also Luizzi v. Pro Transport, Inc.*, 2013 WL 3968736, at \*20 (E.D.N.Y., July 31, 2013) (rejecting argument that noncompliance with § 376.12(b) renders lease unenforceable); *Hunt v. Drielick*, 496 Mich. 366, 852 N.W.2d 562, 569 n. 8 (2014) (“Specifically, 49 C.F.R. § 376.11 and 49 C.F.R. § 376.12 require that if a semi-tractor owner leases its equipment to a carrier, a written lease agreement must be executed[;] . . . . However, the fact that no written lease was entered into in this case does not preclude the trial court on remand from concluding that a lease was in fact entered into. *See Wilson v. Riley Whittle, Inc.*, 145 Ariz. 317, 701 P.2d 575 (Ct.App.1984) (explaining that “the absence of a written trip lease is legally irrelevant”)).

deposited in escrow on at least a quarterly basis. 49 C.F.R. § 376.12(k)(5). Finally, following termination of the lease relationship, the authorized motor carrier must return all unused escrow funds to truckers and owner-operators within 45 days from the date of termination. 49 C.F.R. §376.12(k)(6).

- f. Authorized Motor Carrier's Liability Even Through Its Agents. An authorized motor carrier is obligated "to ensure that [owner-operator drivers] receive all of the rights and benefits ... under the leasing regulations..." regardless of whether the lease is between the authorized carrier and the driver or between the authorized carrier and its agent. 49 C.F.R. § 376.12(m).

31. When Congress abolished the ICC, Congress enabled truckers to enforce the TILA and TILR with a private cause of action against carriers for violating those regulations. *See* 49 U.S.C. § 14704(a); *see also Owner-Operator Indep. Drivers Ass'n, Inc. v. Swift Transp. Co.*, 632 F.3d 1111, 1113 (9th Cir. 2011). Specifically, 49 U.S.C. § 14704, entitled "Rights and remedies of persons injured by carriers or brokers," provides:

(a) In General.—

(1) Enforcement of order.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

(2) Damages for violations.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

### **CLASS ACTION ALLEGATIONS**

32. The applicable statute of limitations for the Class is 10 years. Plaintiff alleges that Defendants, in Defendants' capacities as contracting parties under Illinois law, entered into written agreements with Plaintiff and similarly situated truck drivers and then breached those written agreements and/or the implied covenants of good faith and fair dealing by engaging in the acts and omissions described herein, including wrongfully charging or deducting fees or expenses from and withholding monies owed to Plaintiff and others similarly situated from truck drivers' wages earned and due as governed by Illinois common law governing contracts.

33. Accordingly, Plaintiff asserts his contract claims on behalf of the following class ("Class"):

All former and current truck drivers who performed work for Defendants during the ten years prior to the filing of this action.

34. Furthermore, 28 U.S.C. § 1658(a) applies a four-year statute of limitations for civil actions arising under federal statutes enacted after December 1, 1990. Therefore, Plaintiff asserts his claim for violation of TILA and TILR on behalf of the following subclass (“TILA Subclass”):

All former and current truck drivers who performed work for Defendants violations during the four years prior to the filing of this action.

35. Plaintiff alleges that Defendants, in Defendants’ capacities as authorized “motor carrier(s)” (49 U.S.C. §§ 13901 and 13902), among other things, failed to enter into valid trucking equipment leases with Plaintiff and other similarly situated truck drivers or otherwise failed to disclose or comply with mandated terms and conditions under leases with Plaintiff and other similarly situated truck drivers as required under the TILA.

36. In doing so, Plaintiff alleges, Defendants demanded performance under truck lease agreements that were void *ab initio* under TILA or, even if valid, still unlawfully charged or deducted fees or expenses including fuel costs, toll fees, insurance premiums, and dispatch fees, among others from and withheld monies owed to Plaintiff and others similarly situated from truck drivers’ wages earned and due as prohibited by the TILA and the TILR.

37. This action is appropriately suited for a Class Action because:

- a. The potential class is a significant number, estimated at no less than 300 members. Joinder of all current and former employees individually would be impractical.
- b. This action involves common questions of law and fact to the potential class because the action focuses on the Defendants’ systematic course of illegal lease practices, which was applied to Plaintiff and all of Defendants’ truck drivers in violation of, *inter alia*, TILA and applicable Illinois law.
- c. The claims of the Plaintiff are typical of the class because Defendants subjected their drivers to the identical violations of, *inter alia*, TILA and applicable Illinois law while systematically subjecting drivers to the same breaches of their agreements and covenants.

- d. Plaintiff is able to fairly and adequately protect the interests of all members of the class because it is in his best interests to prosecute the claims alleged herein to obtain full compensation due to them for all services rendered and hours worked.

**FIRST CAUSE OF ACTION**

**VIOLATIONS OF THE TRUTH IN LEASING ACT AND TRUTH IN LEASING REGULATIONS  
(Against All Defendants)**

38. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

39. The Agreements provided to Plaintiff and TILA Class Members violate numerous provisions of the TILA and TILR.

40. To help facilitate the interstate and intrastate delivery of freight, Defendants entered into substantively similar and/or identical Agreements with TILA Class Members.

41. Because the agreements are presented as a single agreement to TILA Class Members, they are properly construed as a single agreement for purposes of determining compliance with TILA.

42. The agreements purport to lease, on behalf of Defendants, heavy duty trucks and driving services from TILA Class Members.

43. The Agreements do not conform to the requirements set forth in 49 C.F.R. § 376.12. Among other things, the Agreements:

- a. fail to clearly specify “all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor’s compensation at the time of payment or settlement, together with a recitation as to how the amount of each item is to be computed”;
- b. fail to inform Class members of their entitlements to copies of those documents which are necessary to determine the validity of the charge;
- c. fail to prohibit authorized carriers from requiring truckers including owner-operators to purchase any products, equipment or services from the authorized carrier as a condition of entering into the lease;



- d. fail to specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments;
- e. fail to specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill; and
- f. fail to provide for periodic accountings of escrow to truckers and owner-operators or for final accounting reporting all transactions involving the escrow fund upon termination of the relationship.

44. The conduct and business practices of authorized motor carriers must also comply with the Truth-in-Leasing regulations irrespective of whether or not their written lease agreements satisfy the requirements of the regulations. *See* 49 C.F.R. § 376.12.

45. Defendants' conduct does not conform to the requirements set forth in 49 C.F.R. § 376.12. Among other things, Defendants have:

- a. underpaid Class members all monies due;
- b. taken deductions from Class members' settlements without specifying the basis for such deductions;
- c. Deducted lease payments from Class members' accounts for the purported purpose of making their lease payments, but has failed to make such lease payments;
- d. Provided false accounting to Class members;
- e. failed to provide copies of all receipts, invoices, or other statements in connection with deductions;
- f. required drivers to purchase a lease, equipment, and services from Defendant's agent(s) as a condition of the lease;
- g. failed to give copies of rated freight bills to Class members prior to their trips;
- h. failed to return all escrow funds due;
- i. failed to provide periodic accounting of escrow funds; and
- j. failed to pay required interest on escrow funds.



46. As a result of Defendant's violations of 49 C.F.R. § 376.12, Plaintiff and TILA Class Members were disadvantaged by a lack of transparency, wrongful charges, forced purchases, and conversion of their escrow funds in their contractual relationship with Defendants, resulting in damages.

47. The above violations are mere examples of the written lease violating substantial provisions of the TILA. Moreover, some of the violations stated herein violate multiple sections of the TILA even where only one specific section is cited. On information and belief, discovery is needed to ascertain the full extent of Defendant's violations.

48. As a result of Defendants' conduct, Plaintiff and TILA Class Members have suffered damages.

49. Plaintiff seeks damages and injunctive relief enjoining Defendants from engaging in such wrongful practices.

**SECOND CAUSE OF ACTION**  
**BREACH OF CONTRACT, INCLUDING BREACH OF THE IMPLIED COVENANT OF**  
**GOOD FAITH AND FAIR DEALING**  
**(Against All Defendants)**

50. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

51. Plaintiff and Class members performed work for Defendants pursuant to the written Agreements.

52. Plaintiff is informed and believes and thereon alleges that, as stated in the foregoing paragraphs, Defendants breached the Agreements by overcharging Class members for various fees and expenses and failed to return escrow funds.

53. Plaintiff is further informed and believes that Defendants substantially misconstrued the price of transportation of deliveries made by Class members that included, without limitation, controlling the negotiated price of delivery, unilaterally renegotiating prices so as to underpay Class members, and failed to inform Class members of the true amounts paid by customers in receipt of those deliveries, leading to substantial underpayment for the benefit of Defendants.

54. No agreement or contract provision authorized the aforementioned underpayment.

55. Plaintiff and Class members performed all, or substantially all, of the obligations imposed on them under their agreements and contracts, and any failure or non-performance on the part of Plaintiff and/or Class members was waived and excused.

56. Therefore, Defendants breached the terms of their agreements with Plaintiff and Class members.

57. Defendants also breached their Agreements with Plaintiff and Class members by abusing their contractual discretion in violation of the implied covenant of good faith and fair dealing. Under Illinois law, every contract or agreement contains an implied promise of good faith and fair dealing in performance of the contract. The purpose of this duty is to ensure that each party will not abuse contractual discretion to interfere with the right of any other party to receive the benefits of the contract.

58. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Examples of bad faith include, *inter alia*, evasion of the spirit of the bargain, willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

59. Defendants, through their policies and practices alleged herein, abused their contractual discretion and unfairly took advantage of Plaintiff and Class members in a way not reasonably contemplated at the time the Agreements were entered into. For example, among others, Defendants arbitrarily overcharged Plaintiff and Class members for various fees and expenses and failed to return escrow funds.

60. Defendants also abused their contractual discretion by unilaterally renegotiating prices without informing Plaintiff and Class members, leading to substantial underpayment for the benefit of Defendants. Defendants further failed to comply with requirements implicit in the Agreements with Plaintiff and Class members to comply with all federal law and requirements, including but not limited to requirements of the TILA and TILR.

61. Therefore, Defendants further breached the terms of their Agreements with Plaintiff and Class members by violating the implied covenant of good faith and fair dealing.

62. Plaintiff and Class members have sustained damages as a result of Defendants' breach in an amount to be proven at trial.

63. Plaintiff seeks damages and injunctive relief enjoining Defendants from engaging in such wrongful practices.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly situated, by his attorneys, respectfully prays for relief against Defendants (including DOES 1 through 100), and each of them, as follows:

- A. For compensatory damages in an amount to be ascertained at trial;
- B. For preliminary and permanent injunction enjoining Defendants from violating the relevant provisions of the TILA and TILR and breaching the Agreement;
- C. For prejudgment interest at the maximum legal rate;
- D. For reasonable attorneys' fees and costs;
- E. For declaratory relief;
- F. For an order requiring and certifying the Class;
- G. For an order appointing Plaintiff as class representative, and Plaintiff's counsel as class counsel; and
- H. For such other and further relief that the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

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

DATED: December 30, 2022

/s/ Greg Taylor

Taras Kick (CA State Bar No. 143379) (*pro hac vice* forthcoming)  
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*Lead Counsel for Plaintiff and the Putative Class*

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katrina@lcllp.com

*Local Counsel for Plaintiff and the Putative Class*

**CERTIFICATE OF SERVICE**

I hereby certify that on December 30, 2022, a copy of the *First Amended Complaint and Demand for Jury Trial* was electronically filed via the Court's electronic case management system (CM/ECF), and served upon all attorneys of record registered to receive such notice.

/s/ Greg Taylor

# EXHIBIT B

## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

USDOT # 1958758, IL

dba AW Transport

4354 Di Paolo Center

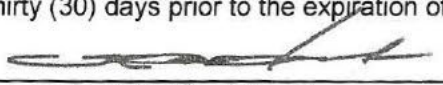
Facsimile: 815-516-0192

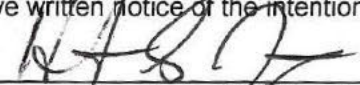
Glenview, Illinois 60025

**EQUIPMENT LEASE AGREEMENT BETWEEN INDEPENDENT  
CONTRACTOR AND ALL WAYS AUTO TRANSPORT LLC  
dba AW TRANSPORT**

**I. AGREEMENT:**

For and in consideration of the compensation set forth in Section V of this Agreement, HERBERT BRYANT, hereinafter called INDEPENDENT CONTRACTOR, agrees to contract to AW TRANSPORT, (MC #694960) hereinafter called CARRIER, the equipment described in Section III hereof together with qualified drivers and CARRIER agrees to contract to loading and transporting freight. In witness whereof CARRIER and INDEPENDENT CONTRACTOR hereby enter into this agreement this 1<sup>ST</sup> day of OCTOBER, 2018, which shall be the effective date hereof, and agree to be bound by all the terms thereof set forth in the attached schedule which is made a part hereof the same as if it were fully set forth herein. The term of the Agreement shall commence on the date set forth above and continue for twelve (12) months from such date. This Agreement shall be automatically renewed for another twelve (12) months, unless either party shall, at least thirty (30) days prior to the expiration of any term, give written notice of the intention not to renew the Agreement.


  
 \_\_\_\_\_  
 AW Transport - Authorized Agent

  
 \_\_\_\_\_  
 Signature of Independent Contractor  
or Authorized Representative
**II. IDENTIFICATION OF INDEPENDENT CONTRACTOR:**Full Name: HERBERT BRYANT Phone: [REDACTED] (Cell ☒ Home ☐ Office ☐)Company Name: TBD

Physical Address: [REDACTED]

F.I.E.N. #☒: [REDACTED]**III IDENTIFICATION OF TRACTOR EQUIPMENT:**Make: INTERNATIONAL Year: 2015 Body Type: CONVENTIONAL SLEEPERVIN #: [REDACTED] State Lic. # [REDACTED] ASSIGNED UNIT #: 2635**IV. RECEIPT OF EQUIPMENT:**

CARRIER hereby acknowledges receipt of the equipment described in this agreement.

DATE: 10/01/2018 TIME: 1:15 AM ☐ PM ☒ BY: \_\_\_\_\_  
AW Transport - Authorized Agent

CARRIER agrees to pay, and INDEPENDENT CONTRACTOR agrees to accept as full and complete compensation for use of said equipment and for performance of obligations accepted by INDEPENDENT CONTRACTOR under this Agreement, compensation as set forth in Section V of this Agreement. CARRIER shall settle with INDEPENDENT CONTRACTOR twenty-four (24) hours after the submission by the INDEPENDENT CONTRACTOR of: 1) ALL load documents including all pages of signed Bill of Lading, signed Proof of Delivery and any other Customer required supporting load documents including, but not limited to, Lumper Receipts and Scale Tickets; 2) Driver log books for the complete trip with copy of fuel receipts attached. Due to Bank processing deadlines, all applicable paperwork must be submitted to CARRIER no later than 12:01pm CST Monday through Friday. If paperwork is incomplete, INDEPENDENT CONTRACTOR will NOT be paid until all required paperwork (BOLs, lumper receipts, scale tickets, driver logbooks, fuel receipts, maintenance reports, DOT roadside inspections) is received by CARRIER. Original BOLs must be mailed in every Monday.



EQUIPMENT LEASE AGREEMENT – PAGE 2 OF 12

UNIT # 2635**V. SCHEDULE OF COMPENSATION:**

INDEPENDENT CONTRACTOR and CARRIER are agreed the Schedule of Compensation will be based on methods illustrated below, depending on the conditions and requirements of the individual loads secured by CARRIER Dispatch for INDEPENDENT CARRIER Equipment and such compensation will be verbally and mutually agreed upon prior to initial dispatch. Regardless of method of calculation, all Payments will be made minus applicable deductions for Escrow, Cargo & Liability Insurance, Advances, Fuel Card Payments, Trailer Rental repairs and any agreed upon damage or other payment.

The basis of Compensation will take the form of any of the following:

**MILEAGE BASED:** All miles, be they Short Haul (under 400 miles), Long Haul (over 400 miles) or Empty Miles (over 50 miles), driven in any direction, North, South, East or West, may be paid on, but not limited to, a flat per mile rate, on a per diem basis or by any other method of compensation mutually agreed upon, prior to initial dispatch, by the INDEPENDENT CONTRACTOR and CARRIER. Mileage rates are based on all dispatched miles from point of initial loading to final unloading point. Stop-off and pick-up rate based upon partial loading or unloading after first stop-off partial loading or unloading per movement.

**LOAD BASED:** CARRIER agrees to pay INDEPENDENT CONTRACTOR 85% of gross receipts of each accepted and properly completed load.

CARRIER does not guarantee, warrant or represent to INDEPENDENT CONTRACTOR that any minimum number of trips will be available to INDEPENDENT CONTRACTOR during the term of this Agreement. However, all good faith effort of the CARRIER will be made to ensure as many trips a possible.

If INDEPENDENT CONTRACTOR chooses CARRIER Fuel Tax (IFTA) Licensing or Accounting Services, CARRIER must be advised immediately and all original fuel receipts must be forwarded to the office with Load Documents and Log Books as noted in Section IV. All calculated quarterly fuel tax charges remain the full responsibility of the INDEPENDENT CONTRACTOR who will be charged for his portion of the tax and a fee for Accounting Services.

Fuel Tax (IFTA) Accounting Services are not available to INDEPENDENT CONTRACTOR unless requested in prior quarter and can be provided for a fee. Otherwise all quarterly fuel tax calculations and payments are the full responsibility of the INDEPENDENT CONTRACTOR.

**VI. ESCROW**

It is agreed that CARRIER requires two thousand (\$2,000.00) dollars from INDEPENDENT CONTRACTOR to hold in an Escrow account at the time of the execution of this Agreement. INDEPENDENT CONTRACTOR authorizes CARRIER to withhold one hundred (\$100.00) dollars from the first twenty (20) settlements and to retain same said Escrow fund to a maximum of two thousand (\$2,000.00) dollars, or the then current insurance deductible, whichever is greater. If for any reason CARRIER does not withhold one hundred (\$100.00) dollars from a certain pay settlement, INDEPENDENT CONTRACTOR authorizes CARRIER to withhold from subsequent pay settlements any additional funds necessary to make up for such deficiency in withholding to date.

If INDEPENDENT CONTRACTOR does not keep his equipment operating for full term of this Agreement, the minimum fee paid any regulating agency to certify such equipment, and/or driver(s) may be deducted from sums held in escrow.

All escrow funds may be held for a period of SIXTY (60) days after termination of this Agreement, to ensure return all IFTA quarterly taxes have been filed and all required equipment and paperwork and to insure payment of INDEPENDENT CONTRACTOR'S obligations, including, but not limited to, fuel taxes, cargo claims, liability claims, advances, equipment check, fuel card advances or any other operating cost which are the sole responsibility of the INDEPENDENT CONTRACTOR. Should any documents or equipment not be returned to CARRIER or any claim of whatever type or nature not be resolved at the end of said sixty (60) days, the CARRIER may in its sole discretion retain the escrow funds until the claim is closed. If CARRIER retains any escrow funds beyond sixty (60) days, the CARRIER shall release any remaining funds within thirty (30) days of the closing of the remaining claim(s).

The CARRIER shall provide the INDEPENDENT CONTRACTOR with an accounting of any transaction involving the escrow account, or any deductions to the escrow account in a separate ledger sheet, and upon written request of the INDEPENDENT CONTRACTOR.

Initials: HSB  
Independent Contractor

Date: 10/01/2018



EQUIPMENT LEASE AGREEMENT – PAGE 3 OF 12

UNIT # **2635****VII ADVANCES**

In any case where the INDEPENDENT CONTRACTOR has secured an advance of any kind from CARRIER, or if there shall be any other amounts due to CARRIER from INDEPENDENT CONTRACTOR, or INDEPENDENT CONTRACTOR's employees or agents, including, but not limited to, such items as fuel, lubricants, pallets, load locks, safety equipment, tires, tractor or trailer parts, fines and penalties, operating authorities, licenses, permits, transfer charges, turnpike tickets, tolls or any insurance deductions authorized by INDEPENDENT CONTRACTOR, CARRIER shall be authorized to deduct the amount of such advance or other amount due to CARRIER, from any trip settlement, escrow settlement, or other moneys due or becoming due to INDEPENDENT CONTRACTOR from CARRIER under this Agreement. If such moneys shall be insufficient to cover the sum due to CARRIER from INDEPENDENT CONTRACTOR, then INDEPENDENT CONTRACTOR will upon demand pay to CARRIER all sums remaining due to CARRIER.

CARRIER shall furnish INDEPENDENT CONTRACTOR with a written explanation and itemization of all such deductions. INDEPENDENT CONTRACTOR is not required to purchase or rent any products, equipment, or services from CARRIER as a condition of entering into this Agreement

**VIII CHARGES TO CARRIER**

It is agreed that INDEPENDENT CONTRACTOR, his employees or agents shall not charge any purchases to CARRIER and if in violation of this paragraph, INDEPENDENT CONTRACTOR or his employee or agent charge any purchases to CARRIER and CARRIER shall be called upon to pay, therefore, the parties agree that in addition to any other remedy available to CARRIER, these shall be treated as advances to INDEPENDENT CONTRACTOR and shall be recovered under the terms of Paragraph VII hereof.

**IX LIABILITY**

It is agreed that CARRIER shall not be liable for any loss of or damage to said equipment for any reason whatsoever.

**X U.S. DEPARTMENT OF TRANSPORTATION COMPLIANCE**

The parties hereto understand CARRIER is subject to regulation enacted by the U.S. Department of Transportation; it is the intent of said parties to comply fully with said regulations. CARRIER shall have exclusive possession, control and use of the equipment, and shall assume complete responsibility for the operation of the equipment for the duration of the lease. It is agreed to by the parties hereto that CARRIER has no right to and will not control the manner, nor prescribe the method of doing that portion of the operation which is contracted for in this Agreement by INDEPENDENT CONTRACTOR, except such control as can be reasonably construed to be required by said regulations, and except INDEPENDENT CONTRACTOR agrees to perform as directed by CARRIER with regard to loading and unloading times and locations as specified by CARRIER.

**XI RELATIONSHIP**

This Agreement is intended by the parties to create the relationship of CARRIER and INDEPENDENT CONTRACTOR and not that of an employer/employee relationship. As such, neither INDEPENDENT CONTRACTOR or INDEPENDENT CONTRACTOR's employees or agents are entitled to Worker's Compensation benefits from CARRIER. Neither INDEPENDENT CONTRACTOR nor his employees are to be considered employees of CARRIER at any time under any circumstances or for any purpose. It is agreed to by the parties hereto that INDEPENDENT CONTRACTOR assumes full and complete responsibility for all employees in the performance of all duties and obligations under this Agreement.

INDEPENDENT CONTRACTOR's agreement to acquire and maintain at his expense such Worker's Compensation Insurance or other insurance required by the provisions of any applicable employer's liability law, on all such employees shall fully protect INDEPENDENT CONTRACTOR and CARRIER from any and all claims under Worker's Compensation Act or Employers' Liability Law. In no event shall CARRIER be held responsible for any liability of INDEPENDENT CONTRACTOR arising under Workers' Compensation Act or Employers' Liability Law. A certificate of such Workers'

Initials: HSB  
Independent Contractor

Date: **10/01/2018**



EQUIPMENT LEASE AGREEMENT – PAGE 4 OF 12

UNIT # 2635**XI RELATIONSHIP (Continued)**

Compensation Insurance or Occupational Accident Insurance shall be furnished by INDEPENDENT CONTRACTOR at the time of execution of this Agreement. The policies of such Workers' Compensation Insurance or Occupational Accident insurance shall include an agreement by the underwriters to give CARRIER thirty (30) days written notice of cancellation or change on such insurance, but any such cancellation or change shall not affect the obligation of INDEPENDENT CONTRACTOR to maintain insurance.

CARRIER will provide a Statement of Earnings to INDEPENDENT CONTRACTOR showing annual compensation and will report same to Internal Revenue Service on IRS 1099 form.

INDEPENDENT CONTRACTOR may temporarily remove leased equipment from operation of CARRIER under this Lease for periods of less than thirty (30) days, subject to notification and approval by CARRIER. During such periods, INDEPENDENT CONTRACTOR shall remove the CARRIER identification placards, cards and fuel permits and shall not operate under the authority of the CARRIER.

The parties further intent that the relationship created by this lease comply in all respects with the regulations of the ICC governing the Lease and interchange of vehicles by authorized carriers.

**XII. DRIVER AS INDEPENDENT CONTRACTOR'S EMPLOYEE**

INDEPENDENT CONTRACTOR shall operate equipment covered by this Agreement or shall furnish sufficient employees to operate said equipment. Any driver furnished by INDEPENDENT CONTRACTOR shall be his employee, shall be hired, directed, paid, controlled and discharged solely by INDEPENDENT CONTRACTOR.

INDEPENDENT CONTRACTOR warrants and represents that any employees/drivers furnished by him to perform services for the CARRIER shall be properly licensed and qualified under all applicable laws and regulations throughout the period of this Lease. INDEPENDENT CONTRACTOR further represents all employees/drivers furnished by him are competent, reliable and physically fit, and are familiar with State and Federal motor carrier safety rules, laws and regulations; that the furnishing of said employees/drivers will not result in violation of any safety laws or regulations; and said employees/drivers will comply with all laws and regulations relating to the operation of all the described motor vehicles and will cooperate with CARRIER in so doing by filling out all log sheets daily at time of duty status change; performing daily vehicle inspections and filling out the reports; immediately advising of any accidents and filling out reports; and all other reports, documents and data required by the provisions of any pertinent State or Federal law regulations. INDEPENDENT CONTRACTOR shall be responsible for withholding and remitting to proper authorities all payroll taxes for his employees, also agrees to withhold, report and pay all payroll taxes to all Federal and State agencies for any employees/drivers he provides for his equipment.

**XIII. DRIVER'S MEDICAL EXAMINATION**

INDEPENDENT CONTRACTOR certifies, represents and warrants that the driver of equipment covered by this Agreement was examined by a duly qualified physician within a period of twenty-four (24) months of the date of this Agreement as required by regulations of the Department of Transportation or any other regulatory body and will furnish a copy of said physician's examination certificate to CARRIER.

**XIV. INDEPENDENT CONTRACTORS' WARRANTY AND REPRESENTATION**

INDEPENDENT CONTRACTOR warrants and represents that it is the owner of this unit of leased equipment and that CARRIER shall have possession of the equipment during the term of the Lease. INDEPENDENT CONTRACTOR further warrants that this unit of leased equipment shall be in safe mechanical, operating condition, free of defects, properly licensed and in full compliance with the Motor Carrier Safety Regulations of the US Department of Transportation (DOT) and all other applicable laws, regulations, and ordinances of Federal, State or Municipal authorities having Jurisdiction as of the date it is delivered to CARRIER and shall be maintained as such throughout the Lease term.

Initials: HSB

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**XV. MAINTENANCE AND MAINTENANCE RECORDS**

INDEPENDENT CONTRACTOR must submit a valid Annual Vehicle Inspection Report prior to completion of the Lease Agreement and provide to CARRIER copies of all subsequent Annual Vehicle Inspections. INDEPENDENT CONTRACTOR agrees to pay the entire cost of operating and maintaining the leased equipment throughout the term of this Agreement.

To enable CARRIER to fulfill its obligation under DOT regulations to monitor the inspection, maintenance and repair of equipment operated under its authority, INDEPENDENT CONTRACTOR agrees to provide CARRIER with quarterly vehicle maintenance reports on this unit of leased equipment provided to CARRIER. The reports shall specify all maintenance and repairs performed on the vehicle and shall be supported by copies of paid receipts. Subsequent maintenance reports must be submitted to CARRIER by the 10<sup>th</sup> of January, April, June and October for the preceding quarter, representing all repairs and including regular maintenance, such as oil change, etc. INDEPENDENT CONTRACTOR who does not submitting the Quarterly Vehicle Inspection Report will be put on a no-load list and be fined one hundred (\$100.00) dollars per month for non-compliance.

**XVI. CARGO**

INDEPENDENT CONTRACTOR agrees cargo, which is loaded on said vehicle, shall be delivered to the consignee with reasonable diligence, speed and care and INDEPENDENT CONTRACTOR shall be responsible for claims resulting from cargo shortages, cargo damage or delays in transporting shipments due to his fault, provided, however, that INDEPENDENT CONTRACTOR's liability shall be limited to one thousand (\$1,000.00) dollars or CARRIER'S Cargo Insurance Deductable, whichever amount is larger, per occurrence, in the event of cargo damage only. CARRIER will provide INDEPENDENT CONTRACTOR with written explanation and itemization of any deduction from cargo loss or damage or delays in transportation made from any compensation or money owed to INDEPENDENT CONTRACTOR.

**XVII. FINANCIAL RESPONSIBILITY**

Except as specifically provided herein, INDEPENDENT CONTRACTOR shall furnish, provide and pay all costs of operation that shall include, but not be limited to, the items listed in sub-paragraph (a) through (p) of this paragraph and if CARRIER is called upon to pay any of these costs, such payment shall be considered an Advance to the INDEPENDENT CONTRACTOR and CARRIER is entitled to reimbursement as provided in Paragraph VII of this Agreement. Carrier shall furnish INDEPENDENT CONTRACTOR written explanation and itemization of such deductions.

(a) All motor fuel, oil and all equipment, accessories, or devices required for the operation of the said equipment, in compliance with the rules and regulations of the Department of Transportation and any other regulatory body having jurisdiction over the operation of said equipment.

(b) All maintenance costs including all repairs and regular maintenance needed for the operation of said equipment to insure operation of equipment in a safe and efficient manner.

(c) All taxes and assessments, premiums and other payments due by the INDEPENDENT CONTRACTOR as a result of wages or other earnings payments to his employees. INDEPENDENT CONTRACTOR shall make such deductions and/or tax withholding from such wages and all reports with respect thereto as may be required.

(d) Fuel and fuel taxes. INDEPENDENT CONTRACTOR shall make the fuel tax use tax filings in those states where he is required to do so and CARRIER shall make the fuel use tax to all other states having such a requirement. CARRIER will assemble the mileage and fuel tax information necessary for all jurisdictional reports and, where required, will supply this information to INDEPENDENT CONTRACTOR for his reporting. INDEPENDENT CONTRACTOR shall furnish CARRIER with bona fide fuel receipts acceptable to the states, evidencing purchase of adequate fuel for the miles traveled in each state having such a requirement.

(e) All fines and penalties resulting from violations, acts or omissions of INDEPENDENT CONTRACTOR or his employee, including Roadside Inspection Violations or Traffic Violations and any moneys paid by CARRIER in the form of penalties to a governmental or regulatory body because of some act or omission on the part of the INDEPENDENT CONTRACTOR or employee, after reasonable notice from CARRIER as to such legal or regulatory requirement, shall be assessed to INDEPENDENT CONTRACTOR.

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**XVII. FINANCIAL RESPONSIBILITY (Continued)**

(f) Bobtail Public Liability Property and Physical Damage Insurance which applies while the equipment is not being operated in the service of CARRIER's direction or control must be provided by INDEPENDENT CONTRACTOR at INDEPENDENT CONTRACTOR's own expense.

(g) Federal Highway Use Tax on the equipment, all highway, ferry, bridge and other tolls and all expenses of acquiring and maintaining current vehicle base plates and licenses of leased equipment, Federal, State and City Income Tax and Self-employment Taxes. CARRIER will provide a Statement of Earnings to INDEPENDENT CONTRACTOR showing annual compensation and will report to the Internal Revenue Service on IRS for 1009.

(h) All sales, use, excise tax or other taxes due to ownership or operation of equipment in the jurisdiction imposing such taxes.

(i) All other expenses necessary for the operation of said equipment, including, but not limited to, expenses incurred to transfer load and/or secure additional equipment to complete delivery in case of breakdown or delay.

(j) CARRIER may from time to time make available to INDEPENDENT CONTRACTOR goods or services at discounted prices or on terms more favorable than the INDEPENDENT CONTRACTOR could get on his own, then the INDEPENDENT CONTRACTOR shall be free to accept or reject the offered goods or services at his sole discretion. If INDEPENDENT CONTRACTOR elects to purchase such goods or services from CARRIER or from sources available by CARRIER, the terms and conditions on which such arrangements are made shall be clearly stated in an addendum which shall be kept with the equipment lease and which shall clearly set forth the goods and or services offered, the cost to the INDEPENDENT CONTRACTOR, who is to be paid for the services, and on what terms. INDEPENDENT CONTRACTOR understands that payments will normally be made from trip settlements. Where CARRIER has paid for or is liable to a third party for the cost of services or goods provided under this paragraph, INDEPENDENT CONTRACTOR shall be legally liable to CARRIER for the cost of the said goods or services together with any interest thereon and all legal expenses incurred by CARRIER to effect collection, which liability shall survive the termination of this contract.

(k) Where CARRIER advances funds to INDEPENDENT CONTRACTOR or his employees or agents, other than advances given at the time of dispatch, INDEPENDENT CONTRACTOR agrees to pay the actual charges made by the wire service where used plus a charge to compensate CARRIER for its costs incurred in making and recovering such advance.

(l) Overweight/over dimension permits. CARRIER shall provide and pay for overweight/over dimension permits where required. INDEPENDENT CONTRACTOR shall have the duty to determine that his load is in compliance with the size and weight laws of the states through which it will travel and to notify CARRIER of the need for overweight/over dimension permits before commencing the haul. INDEPENDENT CONTRACTOR shall reimburse CARRIER for any cost or penalties paid by CARRIER due to INDEPENDENT CONTRACTOR's failure to advise need or to pick up permits made available to him by CARRIER.

(m) Comprehensive Insurance coverage for collision, fire and theft, if INDEPENDENT CONTRACTOR desires such coverage; if INDEPENDENT CONTRACTOR elects to purchase such coverage from or through CARRIER, Paragraph XVII (j) of this Agreement shall apply.

(n) INDEPENDENT CONTRACTOR shall be solely responsible for all expenses incurred in the procurement of background check, physical examination and drug tests in accordance with Department of Transportation Federal Motor Carrier Safety Regulation 391.41.

(o) Any losses or expenses incurred by CARRIER as a result of its inability to collect freight charges earned due to INDEPENDENT CONTRACTOR's failure to properly complete and submit paperwork/documents in a timely manner.

(p) Any losses or damage to property or cargo, or any other losses or expenses which CARRIER may incur or for which it may be held liable as a result of the INDEPENDENT CONTRACTOR's or its employees' conduct. This includes deductible amounts on claims against Liability and Cargo Insurance policies when it is found for each occurrence.

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Independent Contractor

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**XVIII. TRAILERS**

It is agreed in the event INDEPENDENT CONTRACTOR or his employee or agent shall operate the equipment covered by this Agreement and during the operation thereof shall be pulling a trailer which is the property of, interchanged to, or furnished by CARRIER, and during such operation said trailer equipment is damaged or any parts or accessories of said trailer equipment are found to be missing when possession of said equipment is returned to CARRIER, irrespective of the cause of said damage or the cause of the loss of said parts or accessories, INDEPENDENT CONTRACTOR agrees to pay for such damage or loss a sum not to exceed actual cash value. It is further agreed by the parties hereto that in the event INDEPENDENT CONTRACTOR or his employee or agent shall change or substitute any parts or accessories of said trailer, including but not limited to, the tires of said equipment, without written permission of CARRIER, then in that event INDEPENDENT CONTRACTOR agrees to pay CARRIER as penalty for such unauthorized change or substitution a sum not to exceed actual cash value for each such unauthorized change or substitution. INDEPENDENT CONTRACTOR agrees to return CARRIER's trailer in the same good condition as received by INDEPENDENT CONTRACTOR, his employee or agent, reasonable wear and tear expected, along with any and all other CARRIER equipment and/or property immediately upon termination of this Agreement at a time and place designated by CARRIER.

All trailers leased from/through CARRIER must be returned to CARRIER at 4354 Di Paolo Center, Glenview, IL 60025. Authorization to drop trailer elsewhere must be in writing from CARRIER. Failure to deliver trailer to CARRIER may result in transport charges which will be deducted from INDEPENDENT CONTRACTOR's pay or Escrow Account.

In the event trailer is not in such condition, INDEPENDENT CONTRACTOR hereby authorizes CARRIER to restore trailer to proper condition and to deduct or charge INDEPENDENT CONTRACTOR for such repairs or reconditioning. In the event INDEPENDENT CONTRACTOR, for any reason, fails to comply with this provision, INDEPENDENT CONTRACTOR agrees to reimburse CARRIER and be liable for all reasonable expense and cost incurred by CARRIER in obtaining and returning its equipment and/or property as heretofore agreed. INDEPENDENT CONTRACTOR agrees in the event it should be deemed necessary by CARRIER to enter upon private property and/or remove private property in order to obtain possession of and return of its equipment and/or property INDEPENDENT CONTRACTOR does hereby irrevocably grant CARRIER, or its duly authorized agents, permission to do so and further agrees to save and hold harmless CARRIER or its duly authorized agents from any form of liability whatsoever in connection herewith.

**XIX. SUBCONTRACT**

CARRIER may at any time agree to subcontract said equipment with driver and all other necessary employees furnished by INDEPENDENT CONTRACTOR within the regulations of the U.S. Department of Transportation and in the negotiation and execution of any subcontract entered into by CARRIER and any other authorized carrier. During the term of any such subcontract carrier may, remove or cover up all of CARRIER's identification on the equipment and CARRIER shall have no custody control or authority over, use of, or responsibility for, the said equipment and CARRIER shall not be responsible or liable for the operation of the same, nor for the acts of INDEPENDENT CONTRACTOR or any driver or any other employee employed by INDEPENDENT CONTRACTOR during the term of such subcontract.

Upon taking possession of the equipment under any subcontract entered into under the provisions of this paragraph, the authorized company/individual subcontracting the said equipment shall furnish the CARRIER with a written receipt stating date, hour, and location of such possession. When the equipment is returned to CARRIER by the authorized subcontractor, CARRIER shall furnish to the authorized subcontractor a written receipt, stating date, hour and location of the return of the said equipment to CARRIER.

The term of the subcontract as provided for herein shall be defined as that period of time beginning with the date and hour at which receiving authorized company/individual signed for receipt of the equipment and ending at the date and hour at which CARRIER signs for return of the equipment. CARRIER shall have the duty to ascertain what documents the sub-lessee company/individual is required to provide in order to make full disclosure to CARRIER of all advances, claims, permits and other charges which will affect the amount of the net settlement to CARRIER. Carrier shall pay the balance within sixty (60) days of receipt from CARRIER of all documents require by sub-lessee to make settlement.

Initials: HSB  
Independent Contractor

Date: **10/01/2018**



**XX. DAMAGES**

INDEPENDENT CONTRACTOR shall report all accidents, cargo exceptions or damage of any nature to CARRIER immediately. INDEPENDENT CONTRACTOR also agrees to provide written reports, affidavits, or other assistance as may be deemed necessary to investigate, settle or litigate any accident, claim or potential claim against CARRIER.

**XXI. INSURANCE AND INDEMNITY**

The parties hereto understand and agree that under the regulations of U.S. Department of Transportation, CARRIER is required to maintain insurance coverage for the protection of the public pursuant to Commission Regulations under 17 USC 10927. INDEPENDENT CONTRACTOR agrees to indemnify and hold CARRIER harmless from any and all claims, losses, damages, or expenses sustained if its equipment is being used other than for the transportation of freight for CARRIER. CARRIER may withhold payment of any and all sums then or thereafter due to INDEPENDENT CONTRACTOR, to the extent of such claims, losses, damages or expenses until their final determination, which amount shall then be deducted for the satisfaction thereof and if moneys due to INDEPENDENT CONTRACTOR shall be insufficient, INDEPENDENT CONTRACTOR agrees to pay on demand all remaining sum due to CARRIER.

The respective Obligations of the parties concerning the purchase and maintenance of Insurance are as follows:

- (a) CARRIER agrees to procure and maintain in full force Public Liability Insurance for Bodily Injury and Property damage for this leased vehicle, with a limit of one million (\$1,000,000.00) dollars combined single limit for Bodily Injury and Property Damage for each accident. It is further agreed that this Public Liability Insurance shall not cover the operation of any unit of leased equipment while: 1) the unit is used to carry properties in any business other than the business of the CARRIER; 2) the unit is being used in the business of any person or organization other than the CARRIER; or 3) it is being used for personal purposes of the INDEPENDENT CONTRACTOR and/or INDEPENDENT CONTRACTOR's employees or agents.
- (b) CARRIER further agrees to provide Cargo Insurance covering operation of leased equipment when being used to transport cargo under provisions of the Lease, and covering cargo loss or damage resulting from collision or upset equipment. INDEPENDENT CONTRACTOR will be responsible for any deductible amount for claims under the Public Liability and/or Cargo Insurance, when it is found to be the fault of the INDEPENDENT CONTRACTOR or his employee or agent. The limits of coverage and the placement of the Liability and Cargo Insurance shall be left to the sound discretion of the CARRIER, and the CARRIER shall be named as the sole insured. If the INDEPENDENT CONTRACTOR desires any such insurance for his own protection, or is dissatisfied with the type or amount of coverage provided by the CARRIER, INDEPENDENT CONTRACTOR is free to provide other, further or additional insurance at its own expense.
- (c) INDEPENDENT CONTRACTOR shall pay in full any damages caused by INDEPENDENT CONTRACTOR or its employee or agent to any vehicle transported by INDEPENDENT CONTRACTOR, if not exceeding insurance deductible. Such damages will be deducted from INDEPENDENT CONTRACTOR's compensation.
- (d) INDEPENDENT CONTRACTOR and its employee and/or agent shall NOT drive any vehicles transported by INDEPENDENT CONTRACTOR and/or CARRIER, except for loading and unloading, on and off the tractor. Insurance will only cover damages that occurred while vehicle was on the INDEPENDENT CONTRACTOR's tractor/trailer.
- (e) INDEPENDENT CONTRACTOR agrees to procure and pay in full expenses of Physical Damage Insurance on this unit of leased equipment. These insurance policies are also available through CARRIER, if INDEPENDENT CONTRACTOR does not provide evidence of Physical Damage Insurance on this unit bound by this Lease Agreement, and fees will be deducted from INDEPENDENT CONTRACTOR's compensation.
- (f) As required by Illinois State Law, INDEPENDENT CONTRACTOR must provide Proof of Workers Compensation Insurance, within ten (10) days of completion of this Lease Agreement. If Proof of Insurance is not provided with ten (10) days, INDEPENDENT CONTRACTOR must purchase such Policy from a qualified Insurance Agent. If INDEPENDENT CONTRACTOR hires a driver to operate his unit, INDEPENDENT CONTRACTOR must obtain a Workers Compensation Insurance Policy for that driver. CARRIER assumes no liability for Workers Compensation claims under this Lease Agreement.

Initials:

HGB

Independent Contractor

Date: **10/01/2018**



## EQUIPMENT LEASE AGREEMENT – PAGE 9 OF 12

UNIT # **2635****XXII. VEHICLE IDENTIFICATION**

All identification of CARRIER, license plates, cab cards, permits, and fuel decals required by any law or regulation to identification and/or operation for contracted equipment, shall be secured in the name of CARRIER and shall be displayed on said equipment in accordance with all applicable regulations during the period this Agreement remains in term. Any such identification, license and permits shall be removed from said equipment by INDEPENDENT CONTRACTOR and returned to CARRIER upon termination of this Agreement. In the event of termination of this contract by either party before the end of any license plate calendar year, INDEPENDENT CONTRACTOR shall be liable to CARRIER for the cost of unused portion of base plates and permits for that license plate calendar year. CARRIER shall not be obliged to pay any accrued escrow or any other payments or reimbursements owed to the INDEPENDENT CONTRACTOR unless all identification/license and permits, all fuel cards and advance checks, all pre-pass and I-pass, all license plates, original Bills of Lading, log books and all pertaining paperwork have been returned to CARRIER. INDEPENDENT CONTRACTOR shall be responsible to CARRIER for any loss of character suffered by CARRIER due to the INDEPENDENT CONTRACTOR's failure to return such identification and for any loss of income and incurred expenses due to the INDEPENDENT CONTRACTOR's failure to return the above mentioned CARRIER property.

**XXIII. BREACH OF AGREEMENT**

Notwithstanding any other provision of this Agreement, if there is a material breach of this Agreement by either party, the other party shall have the right to cancel this Agreement immediately upon discovery of that breach. Termination or cancellation of this Agreement shall not relieve either party from any of its liabilities or obligations under this Agreement to the extent that those liabilities or obligations may arise from or in connection with the acts or omissions of either party during any term of this Agreement.

**XXIV. ACCIDENT REPORTS AND LITIGATION**

INDEPENDENT CONTRACTOR agrees that INDEPENDENT CONTRACTOR will report to CARRIER by telephone immediately after occurrence of any accidents, injuries, property damage and/or cargo losses of any nature. A Police Report must be submitted to the CARRIER, along with a full, written Accident Report Form covering each occurrence, as required by ICC and US D.O.T. Regulations. INDEPENDENT CONTRACTOR agrees to place his employees, agents, and attorneys at the service and disposal of the CARRIER during the term of this Lease Agreement, and if necessary, after Termination to assist the CARRIER in the defense of claims or suits arising out of any operation or conduct in which INDEPENDENT CONTRACTOR was engaged under the provisions of this Lease Agreement. INDEPENDENT CONTRACTOR also agrees that in all cases where a controversy arises with a shipper or consignee concerning the responsibility for any amount of freight loss or damage, INDEPENDENT CONTRACTOR will accept any and all decisions and settlements made by the CARRIER. The CARRIER agrees to exercise due diligence in making decisions and settlements.

**XXV. TERMINATION**

There are actions which will result in immediate, irrevocable, Termination of Agreement to which CARRIER here specifically calls INDEPENDENT CONTRACTOR's attention. Any of the following actions by INDEPENDENT CONTRACTOR or his employee or agent are cause for termination: Dishonesty of any sort toward the Company and/or any of the Customers to which we provide service; Immoral conduct while on duty; Fighting; Possession of narcotics, or being under the influence of narcotics or alcohol while on duty; Failure to immediately report an accident which results in injury or property damage; Failure to carry out instructions from our Customers; Theft from the Company and/or any of the Customers to which we provide service; and Participating in any activities which interfere with Company Operations or are deemed illegal by federal, state or local laws and regulations.

Upon termination of this Agreement, INDEPENDENT CONTRACTOR shall remove all CARRIER identification from the outside of the Tractor/Unit and return all fuel cards, advance checks, permits decals, license plates, IFTA stickers, pre-pass and i-pass devices and any other CARRIER provided items, along with ALL original paperwork - Bill of Ladings, log books, lumber /fuel/scale receipts to the CARRIER. Upon return of these items, CARRIER will execute a written receipt for the return of the said leased equipment covered by this Agreement to the INDEPENDENT CONTRACTOR. CARRIER shall not be obligated to pay any accrued rental on the said equipment until INDEPENDENT CONTRACTOR's receipt for ANY equipment INDEPENDENT CONTRACTOR has leased from CARRIER. In the event that INDEPENDENT CONTRACTOR does not return all aforementioned items, the CARRIER will not make any due payments to the INDEPENDENT CONTRACTOR and the INDEPENDENT CONTRACTOR will be liable for all expenses, legal and otherwise, incurred by the CARRIER as a result.

Initials: HSB

Independent Contractor

Date: **10/01/2018**



## **XXVI INVALIDATION OF AGREEMENT**

If any sections, or part or parts of sections of the Agreement shall be held to be invalid for any reason whatsoever, the provisions of the Agreement shall be void only as to such sections, or part or parts of sections, and this Agreement shall remain otherwise binding between the parties hereto. Any alterations of the names of the parties or of the provisions shall annul, cancel and invalidate this Agreement insofar as any further obligation thereunder of CARRIER is concerned.

## **XXVII MISCELLANEOUS**

INDEPENDENT CONTRACTOR also hereby agrees that in the event of any accident or type of damage whatsoever, to CARRIER's equipment, which is covered by CARRIER's Insurance policy, INDEPENDENT CONTRACTOR agrees to pay CARRIER the deductible portion of insurance coverage on claims resulting from any damages whatsoever occurring while CARRIER'S equipment is in the possession and utilization of INDEPENDENT CONTRACTOR.

This Agreement shall be interpreted and governed by the laws of the State of Illinois.

Neither party is the agent of the other nor shall neither party have the right to bind the other by contract or otherwise except as herein specifically provided.

This Agreement may not be assigned by the INDEPENDENT CONTRACTOR without the written consent of the CARRIER. Such consent shall not be unreasonably withheld.

The INDEPENDENT CONTRACTOR and the CARRIER specifically agree that this agreement shall be binding upon the INDEPENDENT CONTRACTOR, his heirs, successors, agents, guardians, and personal representatives, and upon the CARRIER, its agents, successors and assigns.

Should any section, sentence, clause or phrase of this Agreement be held to be illegal, such determination shall not affect the validity or binding effect of the remaining portions of this agreement.

This Agreement, incorporated herein by references, constitutes the entire Agreement and understanding of the parties and shall not be modified, altered, changed, or amended in any respect unless in writing and signed by both parties.

This Agreement is being executed in duplicate with each copy being deemed as original. By his signature below and his initialing of all previous pages, INDEPENDENT CONTRACTOR acknowledges receipt of this document and is in agreement with all items included therein. INDEPENDENT CONTRACTOR shall keep one copy of the Lease Agreement in the unit of Leased Equipment during the term of the lease.

IN WITNESS HEREOF, the INDEPENDENT CONTRACTOR and the CARRIER have caused this Lease to be subscribed by their authorized representatives.

## **XXVIII ADDITIONAL TERMS**

(a) This Agreement is subject to the Interstate Commerce Termination Act, the rules and regulations of the United States Department of Transportation, and any other applicable laws and the rules and regulations of any other authority or agency with jurisdiction.

(b) This Agreement and the operations under it shall be subject to any lawful orders of any governmental body affecting the operations of the parties, and to valid and applicable federal, state and local laws and valid and applicable orders, rules, and regulations of any federal, state, or local authority having jurisdiction. However, nothing in this Agreement shall be construed as a waiver of any right to question or contest any such order, law, rule or regulation in any forum having jurisdiction over the subject matter of this Agreement.

Initials: HSB  
Independent Contractor

Date: 10/01/2018



(c) If it becomes necessary for either party to modify its performance under this Agreement to comply with additional valid laws, orders, rules or regulations of any federal, state or local authority having jurisdiction, that compliance shall not be considered a breach of this Agreement, and this Agreement shall continue in full force and effect; provided, however, that the party that is required to comply with any additional orders, laws, rules, or regulations may modify its performance under the terms of this Agreement only to the extent required to comply with those laws, orders, rules or regulations.

(d) If any part of this Agreement is declared invalid, the remainder of this Agreement shall remain in effect.

## **XXIX DRIVER QUALIFICATION STANDARDS; DRIVER SAFETY STANDARDS**

INDEPENDENT CONTRACTOR and each of its employees shall at all times comply with CARRIER's Driver Qualification Standards in Schedule A and with CARRIER's Driver Safety Standards in Schedule B. Those standards may be amended at any time by CARRIER, and INDEPENDENT CONTRACTOR and its drivers shall then comply with the revised standards.

## **XXX SAFE DRIVER PROGRAM**

(a) CARRIER maintains a program that pays for INDEPENDENT CONTRACTOR's public liability. Under this program, CARRIER maintains a certain amount of exposure through load accidents, cargo loss and damage. The success of the program requires that all INDEPENDENT CONTRACTORS and its drivers maintain, without exception, a high standard of care at all times when driving any motor vehicle.

(b) The criteria for safe driving have been developed by CARRIER from its own experience and in consultation with its INDEPENDENT CONTRACTORS. CARRIER will disqualify any INDEPENDENT CONTRACTOR and its driver(s) from participation in the CARRIER's Safe Driving Program if INDEPENDENT CONTRACTOR does NOT comply with the requirements and standards set forth below. However, notwithstanding any provision of the Safe Driving Program, INDEPENDENT CONTRACTOR is not relieved of the obligation to conform to applicable federal, state, local and other laws in the operation of the equipment, as provided for in this Agreement, and breach of that obligation remains a reason for termination of this Agreement. The result of disqualification from the Safe Driver Program would be to require the substitution of insurance coverage for the INDEPENDENT CONTRACTOR and its driver found to be in non-compliance if the INDEPENDENT CONTRACTOR and its driver are to continue to render services for CARRIER. INDEPENDENT CONTRACTOR and its driver eligibility requirements are listed in Schedule A and Schedule B.

## **XXXI WORKMEN'S COMP**

INDEPENDENT CONTRACTOR is not an employee of and is not employed by CARRIER, rather contracted for certain jobs that are not bound by any regular schedules or routes. CARRIER shall not and does not determine schedules, routes and home time of INDEPENDENT CONTRACTOR as long as such schedules are in compliance with Department of Transportation regulations. INDEPENDENT CONTRACTOR agrees not to hold CARRIER liable for any Workmen's Compensation claims as INDEPENDENT CONTRACTOR is not an employee of CARRIER, rather a separate entity that is a corporation or a Limited Liability Company governed by the laws of the state it was incorporated in. INDEPENDENT CONTRACTOR hereby agrees it is their responsibility to cover themselves or any of their employees with a Workman's Compensation Insurance Policy as required by the state laws governing INDEPENDENT CONTRACTOR's corporation or LLC. Any such policy will be solely in INDEPENDENT CONTRACTOR's name and will not cover CARRIER's employees and carrier will not be responsible for any Workmen's Compensation claims by INDEPENDENT CONTRACTOR or its employees.

## **XXXII GOVERNING LAW**

(a) This Agreement shall be governed by the laws of Illinois, without regard to Illinois choice of law provisions.

(b) Any lawsuit between the parties shall be brought in either the United States District Court for the Northern District of Illinois or in the Circuit Court of Cook County, Illinois.

Initials: HSB Date: **10/01/2018**  
Independent Contractor

**XXXIII SCHEDULES AND AMENDMENTS**

Each Schedule to this Agreement may be amended from time to time, by written agreement between the parties and, as so amended, shall be incorporated into and made a part of this Agreement.

The parties witness this Agreement by their signatures below.

\_\_\_\_\_  
("INDEPENDENT CONTRACTOR")  
Signature and title  
HERBERT S. BRYANT  
Printed name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
10/4/18  
Date

ALL WAYS AUTO TRANSPORT, LLC  
DBA AW TRANSPORT  
("CARRIER")

\_\_\_\_\_  
Signature and title  
JORDAN G.  
Printed name  
\_\_\_\_\_  
4354 Di Paolo Center  
Glenview, Illinois 60025  
10/01/18  
Date



## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

USDOT # 1958758, IL

dba AW Transport

4354 Di Paolo Center

Facsimile: 815-516-0192

Glenview, Illinois 60025

### Schedule A- DRIVER QUALIFICATION STANDARDS

UNIT # **2635**

Drivers shall at all times comply with all Department of Transportation regulations concerning commercial motor vehicle drivers. In addition, no driver may at any time drive a vehicle for AW Transport unless that driver meets the following qualifications:

1. No record of conviction for a felony less than 10 years old. All Felonies must be reviewed. Misdemeanors over 10 years old considered upon review. No child endangerment, molestation or stalking charges regardless.
2. A minimum age of 23 years.
3. A minimum of FIVE (5) years experience (within the past ten years) as a driver of commercial motor vehicles similar to the type of equipment to be utilized by the driver (dry van or reefer trailers).
4. Possession of a valid commercial driver's license for the type of vehicle to be operated, issued by the resident state of the driver.
5. Completion of a suitable driver Application.
6. A history of safe commercial driving experience and satisfactory work history.
7. Successful completion of a thorough physical examination confirming physical fitness to operate a commercial motor vehicle. The physical examination must be completed by a qualified physician approved by US DOT with a medical card updated and certified with the DMV.
8. Successfully pass a drug screen administered at such time and place and in such manner as determined by AW Transport.
9. No record of positive results on any drug or alcohol test.
10. No Out-Of-Service orders.
11. No DUY or DWIs.

Initials: HSB

Independent Contractor

Date: **10/01/2018**

## Minor Violations

### 1 Point Violations

- Improper stop on highway
- Lane violation
- Speeding 1-15 Mph over the limit
- Traffic control device
- Unsafe operation of a Motor Vehicle
- 1 at fault accident
- Failure to yield
- Red light
- Stop sign
- Improper u-turn
- Improper backing or turning

### 2 Point Violations

- Speeding 16-20 mph over the limit
- Following too close
- Careless driving

## Major Violations

### A Major Violations (60 months)

- Driving w/Suspended-Revoked License
- DUI/DWI, drug or alcohol possession
- Refusal to submit to a test of intoxication or impairment when requested by a police officer or AW Transport
- Operating a Motor Vehicle which contains alcoholic beverages in open containers contrary to law
- Use of a motor vehicle in the commission of a felony
- False report to department
- Fraudulent use of Driver's License
- Hit and run
- Leaving the scene of an accident
- Homicide with a Motor Vehicle
- Manslaughter with a Motor Vehicle
- Passing a School Bus
- Participating in racing
- Eluding a police officer
- Railroad crossing

Initials: HSB Date: 10/01/2018  
Independent Contractor

B Major Violations (36 months)

- Failure to report an accident
- Failure to stop, aid, or identify
- Reckless driving
- Wrong way on highway
- At fault accident with a fatality
- 2 or more at fault accidents (may be referred \*)
- Allowing a non-licensed operator
- Speeding in excess of 21mph (may be referred \*)

**Non Qualified Drivers:**

1. They have any **A Major** violation in the past 60 months.
2. They have Any **B Major** violation in the past 36 months.
3. They have an accumulation of either:
  - a. 3 or more points in the past 12 months, or
  - b. 5 or more points in the past 36 months

**Note:**

- Violations and/or accidents in commercial or personal vehicles count.
- All accidents on MVRs and PSPs are considered at fault unless otherwise supported by a police report.
- AW Transport reserves the right to determine an acceptable, insurable risk.
- The listed company rules are meant solely as tools by which to determine insurability or acceptability of risks.

\_\_\_\_\_  
("INDEPENDENT CONTRACTOR")  
Signature and title  
HERBERT S. BRYANT  
Printed name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
8/4/18  
Date

ALL WAYS AUTO TRANSPORT, LLC  
DBA AW TRANSPORT  
("CARRIER")

\_\_\_\_\_  
Signature and title  
JORDAN G  
Printed name  
4354 Di Paolo Center  
Glenview, Illinois 60025  
10/01/18  
Date



## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

USDOT # 1958758, IL

dba AW Transport

4354 Di Paolo Center

Facsimile: 815-516-0192

Glenview, Illinois 60025

Schedule B- AW TRANSPORT. - DRIVER SAFETY STANDARDS

UNIT # **2635**

Drivers of INDEPENDENT CONTRACTORS shall at all times comply with all Department of Transportation regulations concerning commercial motor vehicle drivers. In addition, no driver may at any time drive a vehicle for CARRIER unless that driver complies with the following safety standards:

**The following acts or omissions by an IDEPENDANT CONTRACTOR and its driver are prohibited:**

1. Driving while under the influence of alcohol or drugs.
2. Refusing to submit to a drug or alcohol test requested by a law enforcement officer or CARRIER.
3. Operating a motor vehicle which contains alcoholic beverages, or a controlled substance contrary to law.
4. Being charged with homicide resulting from the unlawful or negligent operation of a motor vehicle.
5. Operating a motor vehicle while the drivers license has been suspended, cancelled or has expired.
6. Failing to stop, or remain, at the scene of an accident.
7. Driving a motor vehicle in a speed, exhibition, contest or drag race.
8. Using a motor vehicle in the commission of a felony.
9. Dangerous or careless operation of a commercial motor vehicle (such as speeding at 80mph, or more; or more than one incident of speeding at 15 mph or more over the posted speed limit), whether causing harm to another person or not.
10. Operating a motor-vehicle without the permission of the owner.
11. Fleeing or attempting to flee a police officer.
12. Causing an at-fault traffic accident resulting in a person death, or bodily injury resulting in medical costs or incurred reserves in excess of \$50,000, or property damage in excess of \$25,000.
13. Causing more than a combination of two at-fault accidents and/or moving violations in any vehicle in any 12 consecutive months, or a combination of more than five at-fault accidents and/or moving violations in any vehicle in any 36 consecutive month period. Any accident involving less than \$500 in property damage is exempt from the five accident rule but excessive patterns will be addressed.
14. Negligently or knowingly failing systematically to inspect, repair, maintain and otherwise ensure the leased equipment is at all times in safe operating condition.

Initials: HSB

Independent Contractor

Date: **10/01/2018**

15. Carrying passengers not authorized by CARRIER while on CARRIER's business.
16. Failure to report an accident as soon as possible.
17. Falsifying any safety related report or document such as an annual motor vehicle record report.
18. Violation of any applicable hours of service' policies, rules or regulations.
19. Failure to complete or refusal to undergo a thorough physical examination confirming physical fitness to operate a commercial motor vehicle at least every two years and following any physical or mental impairment from injury or disease. Such physical examination must be completed by a qualified physician approved by CARRIER.
20. Failure to pass or submit to a drug screen administered at such time and place and in such manner as determined by CARRIER.
21. Failure to report promptly any incident resulting in property damage and any incident or accident involving any pedestrian or occupant of any type of vehicle, whether or not the incident or accident appears to have resulted in personal injury, regardless of who appears to be at fault.
22. Failure to forward immediately to CARRIER every demand, notice, summon or other legal process received that involves a claim, suit or other legal process received that involves a claim, suit or other legal proceeding arising from or in any way related to any matter encompassed within the relationship between CARRIER and any INDEPENDENT CONTRACTOR and its drivers.
23. Failure to cooperate fully with CARRIER in the conduct of any legal action, regulatory hearing or other similar process arising from or in any way related to any matter encompassed within the relationship between CARRIER and any INDEPENDANT CONTRACTOR or its drivers. Such cooperation includes, without limitation, attendance at hearings, trials, meetings, the securing of evidence, and obtaining the attendance of witnesses.

NOTE: With respect to any of the acts or omissions above specified that would constitute an offense of law, and which, if the INDEPENDANT CONTRACTOR or its driver were found guilty would result in disqualification, CARRIER in its sole discretion based upon reasonable inquiry, may make a preliminary determination of the probability that the driver is guilty of the offense whether charged or not. In such event, CARRIER may suspend and terminate this contract for up to 365 days pending the filing of charges against such INDEPENDENT CONTRATOR or its drivers. If such charges are filed, such suspension shall continue until a final determination by a court, and will become permanent unless the driver is found not guilty of the offense at issue.

ALL WAYS AUTO TRANSPORT, LLC  
DBA AW TRANSPORT  
("CARRIER")

\_\_\_\_\_  
("INDEPENDENT CONTRACTOR")  
\_\_\_\_\_  
Signature and title  
HERBERT S. BAYNE  
\_\_\_\_\_  
Printed name  
\_\_\_\_\_  
Address  
\_\_\_\_\_  
City, State, Zip  
8/4/18  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature and title  
JORDAN G.  
\_\_\_\_\_  
Printed name  
4354 Di Paolo Center  
Glenview, Illinois 60025  
10/01/18  
\_\_\_\_\_  
Date



## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

USDOT # 1958758, IL

dba AW Transport

4354 Di Paolo Center

Facsimile: 815-516-0192

Glenview, Illinois 60025

Schedule C- AW TRANSPORT - PENALTIES AND REWARDS PROGRAM UNIT # **2635****LOG BOOK VIOLATIONS**

## Auditing Logbooks:

1. Multiple violations on log books- 8 hours of training at CARRIER's office
2. Repeated multiple violations on paper logs- Switching on Computer Software logs or E-Logs (ELDs)
3. Consistent and repeated violations on logs, missing logs, OOS (Out-Of-Service) on logbooks - option of termination of contract or Electronic Logs (ELDs)

Log books must be included for the previous week, along with corresponding fuel receipts, in every package INDEPENDENT CONTRACTOR sends to Accounting along with BOLs. Missing log books will result in suspended pay until such logs are turned in. If missing logs are not turned in within one week of request, driver will not be dispatched and pay will be suspended.

**DOT ROADSIDE INSPECTIONS**

The financial penalties for OOS roadside inspections by DOT are as followed:

Log book OOS violation:	\$500 fine and termination (unless driver agrees to go on electronic logs)
Vehicle OOS violation:	\$250 fine and quarterly annual inspections mandatory
2nd vehicle OOS violation:	\$500 fine and termination of the contract

INDEPENDENT CONTRACTOR must inform Dispatch and Safety immediately after being inspected by DOT. If INDEPENDENT CONTRACTOR disagrees with any violations its driver receives during an inspection, INDEPENDENT CONTRACTOR must call Jordan or the Safety Department immediately before the driver leaves the site of the inspection.

FREE annual DOT inspections are available to all INDEPENDENT CONTRACTORS at CARRIER's Glenview, IL office.

Starting 03-13-2015, DOT roadside inspections with violations which damage CARRIER's safety score will result in the following financial penalties for the driver:

- 1 - 10 points - Warning
- 11 - 20 points - \$5 / point
- 21 - 40 points - \$10 / point
- 41 and over - \$15 / point and review for contract termination.

Example: A driver gets a level 1 inspection and a total of 35 points are assessed on SMS.  
 $35 \times \$10 = \$350$  fine.

Over 50 points in a 12-month period will result in a contract termination.

Initials: HSB Date: **10/01/2018**  
 Independent Contractor



Schedule C- AW TRANSPORT. - PENALTIES AND REWARDS PROGRAM (Continuing)

UNIT # **2635****MOVING VIOLATIONS**

Moving violations will result in the following financial penalties:

Speeding tickets:

1 - 5 mph over - Warning

6 - 15 mph over - \$5 for every mph over;

16 mph and over - \$20 for every mph over, review and possible termination

Other moving violations and accidents will be reviewed on a case-by-case basis. Serious at-fault accidents will lead to immediate termination. Hiding or failing to report moving violations to CARRIER may result in termination.

Hiding an inspection report or an accident from CARRIER and failing to notify the company will result in a \$1,000 fine and termination.

**EQUIPMENT MAINTENANCE**

Pre-trip inspections and post-trip inspections are a must for any INDEPENDENT CONTRACTOR and its drivers. Discovering the issues before they become breakdowns will save INDEPENDENT CONTRACTOR THOUSANDS OF DOLLARS every year! INDEPENDENT CONTRACTOR's driver must complete thorough pre, post and en route inspections on the tractor and trailer.

Equipment maintenance receipts must be submitted to CARRIER's office every two weeks or whenever repairs are made. Failing to submit maintenance receipts for over a month can result in suspended pay and suspended dispatch.

**CUSTOMER SATISFACTION**

Customer satisfaction is critical. Losing customers is not an option. Having unsatisfied customers is not an option. A valid excuse for a missed appointment must be communicated to Dispatch BEFORE the appointment and as soon as possible. A valid excuse might include breakdowns, road conditions, family emergencies, DOT regulations or any circumstances which would prevent the timely pick up or delivery of freight - a valid reason which is out of the driver's control due to unforeseen circumstances. The following penalties will apply to any INDEPENDENT CONTRACTOR missing an appointment without any valid excuse:

Missed appointments **within a three-month period** - which are not due to unforeseen circumstances and are solely the INDEPENDENT CONTRACTOR or its driver's fault - will result in the following penalties:

1<sup>ST</sup> Missed appointment - warning

2<sup>ND</sup> Missed appointment - \$50 fine

3<sup>RD</sup> Missed appointment - \$100 fine

4<sup>TH</sup> Missed appointment - Termination of contract

If more than 5 appointments are missed within a one-year period, a review will be performed and penalties or termination might follow.

Canceling a load INDEPENDENT CONTRACTOR has already agreed to transport, without timely notice and without any valid reason, will result in a \$150 fee. A second such cancellation within a six-month period will result in a review for termination. Every time a load is cancelled hours before the pick-up appointment, CARRIER risks losing a customer.

If more than 6 loads are cancelled within a six-month period due to breakdowns, such excessive cancellation rate is unacceptable and INDEPENDENT CONTRACTOR's and its driver's performance will be reviewed for a possible contract termination.

Initials: ASB

Independent Contractor

Date: **10/01/2018**

Schedule C- AW TRANSPORT - PENALTIES AND REWARDS PROGRAM (Continuing)

UNIT # 2635**SAFETY BONUSES**

INDEPENDENT CONTRACTOR will be rewarded for helping keep America's roads safe and taking pride in its equipment.

No violations roadside inspection Level 3: \$50 for one, \$75 each for second in a row, \$100 each for three or more in a row

No violations roadside inspection Level 2: \$75 for one, \$100 for second in a row, \$125 each for three or more in a row

No violations roadside inspection Level 1: \$125 for one, \$150 for second in a row, \$200 each for three or more in a row

100,000 accident-free miles will get INDEPENDENT CONTRACTOR a \$250 bonus

200,000 - 500,000 accident-free miles will get INDEPENDENT CONTRACTOR a \$500 bonus (for every 100,000 miles)

600,000 - 1,000,000 accident-free miles will get INDEPENDENT CONTRACTOR a \$1,000 bonus (for every 100,000 miles)

\_\_\_\_\_  
 ("INDEPENDENT CONTRACTOR")

Signature and title

Printed name

City, State, Zip

Date

ALL WAYS AUTO TRANSPORT, LLC  
 DBA AW TRANSPORT  
 ("CARRIER")

Signature and title

Printed name

4354 Di Paolo Center  
 Glenview, Illinois 60025

Date



## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

dba AW Transport

Facsimile: 815-516-0192

USDOT # 1958758, IL

4354 Di Paolo Center

Glenview, Illinois 60025

### Schedule D- "ESCROW" ACCOUNT ADJUSTMENT BETWEEN INDEPENDENT CONTRACTOR AND CARRIER

TRACTOR UNIT # 2635

CARRIER hereby agrees to waive the required "escrow" deposit of two thousand (\$2,000.00) dollars from INDEPENDENT CONTRACTOR at the time of signing Lease Agreement.

INDEPENDENT CONTRACTOR therefore authorizes CARRIER to fulfill Escrow requirement by withholding one hundred (\$100.00) dollars from the first twenty (20) consecutive settlements issued to INDEPENDENT CONTRACTOR in order to fulfill its obligation to CARRIER as set forth in Paragraph VI of this Lease Agreement.

If for any reason CARRIER does not withhold one hundred (\$100.00) dollars from a given settlement, INDEPENDENT CONTRACTOR authorizes CARRIER to withhold in subsequent pay settlements any additional funds necessary to make up for the such deficiency in withholding.

In case of termination of contract the INDEPENDENT CONTRACTOR's escrow will be returned after the quarterly IFTA (if using AW Transport IFTA) has been filed or 60 days after the Termination of Lease is signed, whichever comes last and ALL required paperwork has been returned (BOLs, Logbooks, Fuel Receipts, Decal, Plates and other).

\_\_\_\_\_  
("INDEPENDENT CONTRACTOR")

Signature and title

HERBERT S. BRYANT

Printed name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

10/4/18

Date

ALL WAYS AUTO TRANSPORT, LLC  
DBA AW TRANSPORT  
("CARRIER")

\_\_\_\_\_  
Signature and title

JORDAN G.

Printed name

4354 Di Paolo Center  
Glenview, Illinois 60025

10/10/18

Date

## All Ways Auto Transport LLC

Commercial Motor Vehicle Carrier

USDOT # 1958758, IL

dba AW Transport

4354 Di Paolo Center

Facsimile: 815-516-0192

Glenview, Illinois 60025

TRACTOR UNIT # 2635

## Schedule E- ELD EQUIPMENT

AW Transport is contracted with KeepTruckin and they provide the KeepTruckin ELD hardware devices (including ELDs, cables, and other accessories) free of charge as part of the Premium Services. If the independent contractor fails to return any ELDs issued to them as part of the Premium Services, a \$250 fee will be charged to Owner Operator for each ELD that is not returned 15 days after the termination of the Service.

\_\_\_\_\_  
("INDEPENDENT CONTRACTOR")

Signature and title

HERBERT S. BRYANT

Printed name

Address

City, State, Zip

Date

ALL WAYS AUTO TRANSPORT, LLC  
DBA AW TRANSPORT  
("CARRIER")\_\_\_\_\_  
Signature and title

JORDAN G.

Printed name

4354 Di Paolo Center  
Glenview, Illinois 60025

Date

# EXHIBIT C

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

HERBERT BRYANT III, individually, and on  
behalf of all others similarly situated,

Plaintiff,

vs.

ALL WAYS AUTO TRANSPORT, LLC, an  
Illinois Limited Liability Company doing  
business as AW TRANSPORT; and DOES 1  
through 100, inclusive,

Defendants.

Case No.: [1:22-cv-00906](#)

**CLASS ACTION**

**FIRST AMENDED COMPLAINT:**

1. Truth-in-Leasing-Act Truck Equipment  
Lease Violations
2. Breach of Contract
- ~~3. Breach of Covenant of Good Faith and  
Fair Dealing~~

**DEMAND FOR JURY TRIAL**



HERBERT BRYANT III (“Plaintiff” or “Mr. Bryant”) an individual, demanding a jury trial, on behalf of himself and all other persons similarly situated, hereby alleges based upon personal knowledge as to himself and his own actions, and, as to all other matters, upon information and belief and investigation of counsel, as follows:

### **NATURE OF THE ACTION**

1. Deception, abuse, and exploitation of truck drivers is a widely recognized problem that plagues the nation’s trucking industry and leaves some truck drivers in financial ruin, or constrained as the modern-day equivalent of indentured servants.<sup>1</sup> The potential for abuse in truck lease agreements is so widespread that the federal government has regulated it—and other types of leasing—since at least 1968 when it enacted the Truth in Leasing Act, 49 U.S.C. §14704 (“TILA”). Despite the existence of TILA and its controlling regulations, trucking companies continue to prey on truck drivers who merely wish to make an honest living and provide for themselves and their families. As alleged in detail below, Defendants engaged in such abusive practices including, *inter alia*, applying miscellaneous and unknown monthly charges and refusing to return escrow moneys as required by TILA.

2. The financial exploitation of truck drivers has only worsened since partial deregulation of the industry in the 1980s.<sup>2</sup> It is common for truck drivers to work “not to get ‘ahead’ but just to make ends meet.”<sup>3</sup> Many truck drivers struggle just to bring home even a couple hundred dollars for a week of hard work—and it is not unusual for a trucking company to tell a driver at the end of a week that the driver owes the company money. This is among the things that happened to Mr. Bryant, as alleged in detail below.

3. Plaintiff brings this action to remedy Defendants’ violations of TILA and corresponding Truth-in-Leasing regulations, 49 C.F.R. Part 376 (sometimes, “TILR”) and for common law breach of contract during the relevant statutory periods, for which Mr. Bryant, on his own behalf and on behalf of all others similarly situated, seeks damages, restitution, injunctive relief, interest, attorneys’ fees and

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<sup>1</sup> See, e.g., “RIGGED Forced into debt. Worked past exhaustion. Left with nothing.” USA Today, June 17, 2017, <https://www.usatoday.com/pages/interactives/news/rigged-forced-into-debt-worked-past-exhaustion-left-with-nothing/> (last visited Aug. 8, 2021); see also “How Lease Deals Have Truckers Hauling a Load of Debt,” Westword, Mar. 2, 2021, <https://www.westword.com/news/truckers-lease-deal-pathways-lawsuit-highway-supply-chain-11907958> (last visited Aug. 8, 2021).

<sup>2</sup> Belzer, Michael H., “Sweatshops on Wheels,” Oxford University Press (2000), p.ix.

<sup>3</sup> *Id.* at p.vii.

costs, and all other legal and equitable remedies deemed just and proper under United States and applicable state law.

### **THE PARTIES**

4. Plaintiff HERBERT BRYANT III is a former driver for Defendants who worked for Defendants in multiple States including but not limited to the State of Illinois.

5. Plaintiff is informed, believes, and thereon alleges that Plaintiff and other similarly situated truck drivers performed work for Defendants under agreements as described herein that were identical or substantially similar to the agreements between Plaintiff and Defendants and that Plaintiff and others similarly situated performed all, or substantially all, of the obligations imposed on them as a result of those agreements.

6. Plaintiff brings this action on behalf of himself and similarly situated class of individuals as defined herein. A true and correct redlined copy of this First Amended Complaint is attached hereto as Exhibit C.

7. Plaintiff reserves the right to name additional class representatives.

8. Plaintiff is informed and believes, and thereon alleges, that Defendant ALL WAYS AUTO TRANSPORT, LLC (“Defendant” or “AWT”) is, and at all times relevant hereto was, an Illinois corporation organized and existing under the laws of the State of Illinois and doing business as AW TRANSPORT.

9. The true names and capacities of DOES 1 through 100, inclusive, are unknown to Plaintiff at this time, and Plaintiff therefore sues such Defendants under fictitious names. Plaintiff is informed and believes, and thereon alleges, that each Defendant designated as a DOE is highly responsible in some manner for the events and happenings referred to herein, and legally caused the injuries and damages alleged in this Complaint. Plaintiff will seek leave of the court to amend this Complaint to allege their true names and capacities when ascertained. Defendants, and each of them, were alter egos of each other and/or engaged in an integrated enterprise with each other. Additionally, all of the Defendants were joint employers of Plaintiff.

10. There exists, and at all times herein mentioned existed, a unity of interest and ownership between the named Defendants, including DOES, such that any corporate individuality and separateness

between the named defendants has ceased, and that the named Defendants are alter egos in that the named Defendants effectively operate as a single enterprise, or are mere instrumentalities of one another.

11. At all material times herein, each Defendant was the agent, servant, co-conspirator and/or employer of each of the remaining defendants, acted within the purpose, scope, and course of said agency, service, conspiracy and/or employment and with the express and/or implied knowledge, permission, and consent of the remaining Defendants, and ratified and approved the acts of the other Defendants. However, each of these allegations are deemed alternative theories whenever not doing so would result in a contradiction with the other allegations.

12. Whenever reference is made herein to any act, deed, or conduct of “Defendant” or “Defendants” the allegation means that all Defendants, including DOES 1-100, engaged in the act, deed, or conduct by or through one or more of its officers, directors, agents, employees, or representatives who was actively engaged in the management, direction, control, or transaction of Defendants’ ordinary business and affairs. As to the conduct alleged herein, each act was authorized, ratified or directed by Defendants’ officers, directors, or managing agents.

### **JURISDICTION AND VENUE**

13. This Court has subject matter jurisdiction over Plaintiff’s claims under 28 U.S.C. §§ 1331, 1332(d)(2), and 1337.

14. This Court has personal jurisdiction over Defendants on multiple bases, including that each Defendant: (1) transacted business in the United States and in this District; (2) transacted business with Class Members throughout the United States, including those residing in this District; (3) committed substantial acts in furtherance of an unlawful scheme in the United States, including in this District; and (4) agreed to this Court’s jurisdiction via written contract entered into with Plaintiff.

15. This Court has jurisdiction over all causes of action asserted herein, and the amount in controversy exceeds the jurisdictional minimum of this Court.

16. Venue is proper in this District under 15 U.S.C. §§ 15, 22 and 26, and 28 U.S.C. § 1391(b), (c), and (d), because each Defendant transacted business, was found, had agents, and/or resided in this District; a substantial part of the events giving rise to Plaintiffs’ claims arose in this District; and a substantial portion of the affected interstate trade and commerce described herein has been carried out in

this District.

### **COMMON FACTUAL ALLEGATIONS**

17. Plaintiff is a former truck driver for Defendants who worked for Defendants in multiple States including but not limited to Illinois within four years prior to the filing of this action.

18. Plaintiff learned of an employment opportunity for AWT after coming across an online advertisement that promised truck drivers a \$2,000 down payment on a truck lease followed by driving assignments whereby Defendant would pay 85% of the gross load receipts for each trip.

19. Like all other Class members, as a condition of working for Defendants, Defendants required Plaintiff to enter into a non-negotiable “Equipment Lease Agreement” (the “Agreement”). The Agreement is a take-it-or-leave-it contract of adhesion. Plaintiff entered into the Agreement on or around September 7, 2017. A true and correct copy of the Agreement is attached hereto as **Exhibit A** and incorporated herein by reference.

20. Among other things, the Agreement specified that Plaintiff was to be an “independent contractor” and “owner-operator” of an unidentified truck that was “to be determined,” which Plaintiff was to “lease” to AWT.

21. After signing the Agreement, Plaintiff was instructed by AWT, as a condition of his employment/work relationship, to travel to Houston, Texas in order to pick up a truck from Defendant’s affiliate truck leasing company, BUSH TRUCK LEASING, INC. (“BTL”). Plaintiff is informed and believes that BTL has been, at all relevant times, an agent of AWT.

22. In accordance with AWT’s instructions, and with the paperwork provided by AWT, Plaintiff picked up a 2013 Volvo truck from BTL for use with his work for Defendants. BTL required Plaintiff to enter into a separate written agreement to “lease” the truck for an initial payment of \$2,500 plus weekly payments of no less than \$704.30. The BTL Lease Agreement further provided that Defendant is authorized “to deduct from [Plaintiff’s] settlement account and/or from amounts otherwise payable to [Plaintiff] at each settlement period on behalf of [Plaintiff’s] funds necessary to sufficiently satisfy all [] obligations due Bush Truck Leasing, Inc. or its assignee... and to remit all such amounts to Bush Truck Leasing, Inc. or its assignee.”

23. Due to repeated mechanical failures with the Volvo, Plaintiff was required to submit the

truck at various repair locations for maintenance. In accordance with the Agreements, the repair shops would bill AWT directly, who would, in turn, deduct amounts from Plaintiff's account. Plaintiff made numerous requests for itemized invoices for the repairs and payments purportedly made in connection therewith on Plaintiff's behalf, but Defendants failed to provide such information.

24. After numerous mechanical failures of the Volvo, Defendants provided a different truck to Plaintiff in or around October 2018 and entered into a second Equipment Lease Agreement identical to the Agreement in form but identifying the second 2015 International Conventional Sleeper vehicle that Plaintiff was to drive.<sup>4</sup> A true and correct copy of the second Agreement is attached hereto as **Exhibit B** and incorporated herein by reference.

25. Once Plaintiff began working for Defendants, Defendants deducted lease and other expenses from amounts that they paid to Mr. Bryant. The "other expenses" were often unspecified charges without description that were not set forth in the Agreements. For example, Defendants would regularly deduct a "WEEKLY DEDUCTION" of approximately \$388.05 from Plaintiff's payment in addition to all other deductions, without providing any information as to what the deduction is for. Plaintiff is informed and believes that nothing in the Agreements provided for such deductions.

26. Plaintiff is informed and believes that Defendants took such deductions from all Class members' accounts in violation of the TILA and TILR and the terms of the Agreements.

27. Upon the termination of Plaintiff's employment with Defendant, Defendant further failed to return to Plaintiff the escrow balance due to him. Plaintiff is informed and believes that the failure to return all escrow amounts due was a practice of Defendants common to all Class members.

### **FEDERAL STATUTORY AND REGULATORY FRAMEWORK**

#### **TILA**

28. The TILA and TILR protect truckers including so-called "owner-operators" from motor carriers' abusive leasing practices. *See Owner-Operator Indep. Drivers Ass'n, Inc. v. Comerica Bank (In re Arctic Express Inc.)*, 636 F.3d 781, 795 (6th Cir. 2011); *Global Van Lines, Inc. v. ICC*, 627 F.2d 546, 547-48 (D.C. Cir. 1980); Lease and Interchange of Vehicles, 42 Fed. Reg. 59,984 (Nov. 23, 1977). The

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<sup>4</sup> The form of the September 2017 and October 2018 Equipment Lease Agreements, as applicable to all Class members, are collectively referred to as the "Agreements."

TILR applies to “equipment”<sup>5</sup> leases between an “authorized carrier”<sup>6</sup> and “owner”<sup>7</sup>. The objectives of the TILA and TILR are:

... to promote truth-in-leasing—a full disclosure between the carrier and the owner-operator of the elements, obligations, and benefits of leasing contracts signed by both parties; ... to eliminate or reduce opportunities for skimming and other illegal or inequitable practices by motor carriers; and ... to promote the stability and economic welfare of the independent trucker segment of the motor carrier industry.

*In re Arctic Express*, 636 F.3d at 796 (internal quotation marks, alterations omitted); *see also* Lease and Interchange of Vehicles, 43 Fed. Reg. 29,812 (July 11, 1978); *Owner-Operator Indep. Drivers Ass’n v. Swift Transp. Co.*, 367 F.3d 1108, 1110 (9th Cir. 2004) (“A primary goal of this regulatory scheme is to prevent large carriers from taking advantage of individual owner-operators due to their weak bargaining position.”).

29. “[A]uthorized motor carriers” such as 49 C.F.R. § 376.11(a) may perform authorized transportation in equipment that they do not own *only* if the equipment is covered by a written lease meeting the requirements set forth in 49 C.F.R. § 376.12. *See* 49 C.F.R. § 376.11(a). The conduct and business practices of authorized motor carriers must comply with the TILR irrespective of whether their written lease agreements satisfy the requirements of the regulations. 49 C.F.R. § 376.12.

30. To protect truckers including owner-operators from motor carriers’ abusive business practices, the TILR, 49 C.F.R. § 376.11, provides, that an “authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions: [¶] (a) Lease. There shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12.” The TILR, 49 C.F.R. § 376.12, provides, in part: “the written lease required under § 376.11(a) shall contain the following provisions[.]” which include, in relevant part, the following:

- a. Parties to Leases. Leases between authorized carriers and truckers including owner-operators<sup>8</sup> “shall be made between the authorized carrier and the owner of the equipment.

<sup>5</sup> *See* 49 C.F.R. § 376.2(c) (defining equipment as: “A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.”)

<sup>6</sup> *See* 49 C.F.R. § 376.2(a) (defining an authorized carrier as: “A person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902.”)

<sup>7</sup> *See* 49 C.F.R. § 376.2(b) (defining an owner as: “A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.”)

<sup>8</sup> Accordingly, the TILR applies to authorized carriers’ conduct and business practices as they may affect and arise out of authorized carriers’ relationships with owner-operators who are employees *or* independent contractors. *See Blair v. TransAm*



The lease shall be signed by these parties or by their authorized representatives.” 49 C.F.R. § 376.12(a). Regardless of whether such lease agreements are in writing, however, “[t]he required lease provisions shall be adhered to and performed by the authorized carrier.” 49 C.F.R. § 376.12.<sup>9</sup>

- b. Copies of Freight Bill or Other Freight Documentation. Leases between authorized carriers and truckers including owner-operators require that “[w]hen a lessor’s revenue is based on a percentage of the gross revenue for a shipment, the lease must specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill . . . .” 49 C.F.R. §376.12(g).
- c. Charge-back items. Leases between authorized carriers and truckers including owner-operators require, in part, that “[t]he lease shall clearly specify all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor’s compensation at the time of payment or settlement, together with a recitation as to how the amount of each item is to be computed.” 49 C.F.R. §376.12(h). Furthermore, authorized carriers must inform truckers including owner-operators of the latter’s entitlements to copies of those documents which are necessary to determine the validity of the charge. *Ibid.*
- d. Prohibition on Required Products, Equipment, or Services. Leases between authorized carriers and truckers including owner-operators “shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement. The lease shall specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor’s compensation for purchase or rental payments.” 49 C.F.R. §376.12(i).
- e. Escrow Fund Responsibilities. Where escrow fund deposits are required, the lease must clearly specify how the money can be used and the money can only be used for actual obligations incurred by truckers and owner-operators. 49 C.F.R. § 376.12(k)(2), (6). The authorized motor carrier must provide periodic accountings to truckers and owner-operators, and, upon termination of the relationship with the authorized motor carrier, a final accounting reporting all transactions involving the escrow fund. 49 C.F.R. § 376.12(k)(3), (4), (6). The authorized motor carrier must also pay interest to truckers and owner-operators on amounts

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*Trucking, Inc.* 309 F. Supp. 3d 977, 1020 (2018) (the TILR “was promulgated to protect ‘individual owner-operators due to their weak bargaining position.’ To show that TIL applies, an owner-operator does not need to prove they are an ‘independent contractor.’ Rather, an owner-operator only must establish that ‘(1) he was an “owner” of the truck and trailer as that term is defined in the regulations; and (2) he “leased” that equipment to defendants.’ As it would be possible to own a truck yet still qualify as an ‘employee,’ the terms ‘independent contractors’ and ‘owner-operators’ are not mutually exclusive.” Internal footnoted citations omitted.)

<sup>9</sup> Accordingly, authorized carriers’ conduct and business practices must comply with the TILA and TILR regardless of whether leases are in writing. *See Bonkowski v. Z Transport, Inc.*, 2004 WL 524723, at \*2-3 (N.D. Ill. Mar. 5, 2004) (“Because the agreement was entirely oral, it violated the regulations.”); *Shimko v. Jeff Wagner Trucking, LLC*, 2014 WL 7366190, at \*4 (W.D.Wis. Dec. 24, 2014) (citing *Bonkowski v. Z Transport, Inc.*, 2004 WL 524723, at \*3 (N.D. Ill. Mar. 5, 2004); *see also Luizzi v. Pro Transport, Inc.*, 2013 WL 3968736, at \*20 (E.D.N.Y., July 31, 2013) (rejecting argument that noncompliance with § 376.12(b) renders lease unenforceable); *Hunt v. Drielick*, 496 Mich. 366, 852 N.W.2d 562, 569 n. 8 (2014) (“Specifically, 49 C.F.R. § 376.11 and 49 C.F.R. § 376.12 require that if a semi-tractor owner leases its equipment to a carrier, a written lease agreement must be executed[;] . . . . However, the fact that no written lease was entered into in this case does not preclude the trial court on remand from concluding that a lease was in fact entered into. *See Wilson v. Riley Whittle, Inc.*, 145 Ariz. 317, 701 P.2d 575 (Ct.App.1984) (explaining that “the absence of a written trip lease is legally irrelevant”)).

deposited in escrow on at least a quarterly basis. 49 C.F.R. § 376.12(k)(5). Finally, following termination of the lease relationship, the authorized motor carrier must return all unused escrow funds to truckers and owner-operators within 45 days from the date of termination. 49 C.F.R. §376.12(k)(6).

- f. Authorized Motor Carrier's Liability Even Through Its Agents. An authorized motor carrier is obligated "to ensure that [owner-operator drivers] receive all of the rights and benefits ... under the leasing regulations..." regardless of whether the lease is between the authorized carrier and the driver or between the authorized carrier and its agent. 49 C.F.R. § 376.12(m).

31. When Congress abolished the ICC, Congress enabled truckers to enforce the TILA and TILR with a private cause of action against carriers for violating those regulations. *See* 49 U.S.C. § 14704(a); *see also Owner-Operator Indep. Drivers Ass'n, Inc. v. Swift Transp. Co.*, 632 F.3d 1111, 1113 (9th Cir. 2011). Specifically, 49 U.S.C. § 14704, entitled "Rights and remedies of persons injured by carriers or brokers," provides:

(a) In General.—

(1) Enforcement of order.—A person injured because a carrier or broker providing transportation or service subject to jurisdiction under chapter 135 does not obey an order of the Secretary or the Board, as applicable, under this part, except an order for the payment of money, may bring a civil action to enforce that order under this subsection. A person may bring a civil action for injunctive relief for violations of sections 14102 and 14103.

(2) Damages for violations.—A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

### **CLASS ACTION ALLEGATIONS**

32. The applicable statute of limitations for the Class is 10 years. Plaintiff alleges that Defendants, in Defendants' capacities as contracting parties under Illinois law, entered into written agreements with Plaintiff and similarly situated truck drivers and then breached those written agreements and/or the implied covenants of good faith and fair dealing by engaging in the acts and omissions described herein, including wrongfully charging or deducting fees or expenses from and withholding monies owed to Plaintiff and others similarly situated from truck drivers' wages earned and due as governed by Illinois common law governing contracts.

33. Accordingly, Plaintiff asserts his contract claims on behalf of the following class ("Class"):

All former and current truck drivers who performed work for Defendants during the ten years prior to the filing of this action.

34. Furthermore, 28 U.S.C. § 1658(a) applies a four-year statute of limitations for civil actions arising under federal statutes enacted after December 1, 1990. Therefore, Plaintiff asserts his claim for violation of TILA and TILR on behalf of the following subclass (“TILA Subclass”):

All former and current truck drivers who performed work for Defendants violations during the four years prior to the filing of this action.

35. Plaintiff alleges that Defendants, in Defendants’ capacities as authorized “motor carrier(s)” (49 U.S.C. §§ 13901 and 13902), among other things, failed to enter into valid trucking equipment leases with Plaintiff and other similarly situated truck drivers or otherwise failed to disclose or comply with mandated terms and conditions under leases with Plaintiff and other similarly situated truck drivers as required under the TILA.

36. In doing so, Plaintiff alleges, Defendants demanded performance under truck lease agreements that were void *ab initio* under TILA or, even if valid, still unlawfully charged or deducted fees or expenses including fuel costs, toll fees, insurance premiums, and dispatch fees, among others from and withheld monies owed to Plaintiff and others similarly situated from truck drivers’ wages earned and due as prohibited by the TILA and the TILR.

37. This action is appropriately suited for a Class Action because:

- a. The potential class is a significant number, estimated at no less than 300 members. Joinder of all current and former employees individually would be impractical.
- b. This action involves common questions of law and fact to the potential class because the action focuses on the Defendants’ systematic course of illegal lease practices, which was applied to Plaintiff and all of Defendants’ truck drivers in violation of, *inter alia*, TILA and applicable Illinois law.
- c. The claims of the Plaintiff are typical of the class because Defendants subjected their drivers to the identical violations of, *inter alia*, TILA and applicable Illinois law while systematically subjecting drivers to the same breaches of their agreements and covenants.



- d. Plaintiff is able to fairly and adequately protect the interests of all members of the class because it is in his best interests to prosecute the claims alleged herein to obtain full compensation due to them for all services rendered and hours worked.

**FIRST CAUSE OF ACTION**

**VIOLATIONS OF THE TRUTH IN LEASING ACT AND TRUTH IN LEASING REGULATIONS  
(Against All Defendants)**

38. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

39. The Agreements provided to Plaintiff and TILA Class Members violate numerous provisions of the TILA and TILR.

40. To help facilitate the interstate and intrastate delivery of freight, Defendants entered into substantively similar and/or identical Agreements with TILA Class Members.

41. Because the agreements are presented as a single agreement to TILA Class Members, they are properly construed as a single agreement for purposes of determining compliance with TILA.

42. The agreements purport to lease, on behalf of Defendants, heavy duty trucks and driving services from TILA Class Members.

43. The Agreements do not conform to the requirements set forth in 49 C.F.R. § 376.12. Among other things, the Agreements:

- a. fail to clearly specify “all items that may be initially paid for by the authorized carrier, but ultimately deducted from the lessor’s compensation at the time of payment or settlement, together with a recitation as to how the amount of each item is to be computed”;
- b. fail to inform Class members of their entitlements to copies of those documents which are necessary to determine the validity of the charge;
- c. fail to prohibit authorized carriers from requiring truckers including owner-operators to purchase any products, equipment or services from the authorized carrier as a condition of entering into the lease;

- d. fail to specify the terms of any agreement in which the lessor is a party to an equipment purchase or rental contract which gives the authorized carrier the right to make deductions from the lessor's compensation for purchase or rental payments;
- e. fail to specify that the authorized carrier will give the lessor, before or at the time of settlement, a copy of the rated freight bill; and
- f. fail to provide for periodic accountings of escrow to truckers and owner-operators or for final accounting reporting all transactions involving the escrow fund upon termination of the relationship.

44. The conduct and business practices of authorized motor carriers must also comply with the Truth-in-Leasing regulations irrespective of whether or not their written lease agreements satisfy the requirements of the regulations. *See* 49 C.F.R. § 376.12.

45. Defendants' conduct does not conform to the requirements set forth in 49 C.F.R. § 376.12. Among other things, Defendants have:

- a. underpaid Class members all monies due;
- b. taken deductions from Class members' settlements without specifying the basis for such deductions;
- c. Deducted lease payments from Class members' accounts for the purported purpose of making their lease payments, but has failed to make such lease payments;
- d. Provided false accounting to Class members;
- e. failed to provide copies of all receipts, invoices, or other statements in connection with deductions;
- f. required drivers to purchase a lease, equipment, and services from Defendant's agent(s) as a condition of the lease;
- g. failed to give copies of rated freight bills to Class members prior to their trips;
- h. failed to return all escrow funds due;
- i. failed to provide periodic accounting of escrow funds; and
- j. failed to pay required interest on escrow funds.

46. As a result of Defendant's violations of 49 C.F.R. § 376.12, Plaintiff and TILA Class Members were disadvantaged by a lack of transparency, wrongful charges, forced purchases, and conversion of their escrow funds in their contractual relationship with Defendants, resulting in damages.

47. The above violations are mere examples of the written lease violating substantial provisions of the TILA. Moreover, some of the violations stated herein violate multiple sections of the TILA even where only one specific section is cited. On information and belief, discovery is needed to ascertain the full extent of Defendant's violations.

48. As a result of Defendants' conduct, Plaintiff and TILA Class Members have suffered damages.

49. Plaintiff seeks damages and injunctive relief enjoining Defendants from engaging in such wrongful practices.

**SECOND CAUSE OF ACTION**  
**BREACH OF CONTRACT, INCLUDING BREACH OF THE IMPLIED COVENANT OF**  
**GOOD FAITH AND FAIR DEALING**  
**(Against All Defendants)**

50. Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.

51. Plaintiff and Class members performed work for Defendants ~~under~~ pursuant to the written Agreements ~~that were, as set forth in the Agreements.~~

52. Plaintiff is informed and believes and thereon alleges that, as stated in the foregoing paragraphs, Defendants breached the Agreements by overcharging Class members for various fees and expenses and failed to return escrow funds.

53. Plaintiff is further informed and believes that ~~Defendant~~ Defendants substantially misconstrued the price of transportation of deliveries made by Class members that included, without limitation, controlling the negotiated price of delivery, unilaterally renegotiating prices so as to underpay Class members, and failed to inform Class members of the true amounts paid by customers in receipt of those deliveries, leading to substantial underpayment for the benefit of Defendants.

54. No agreement or contract provision authorized the aforementioned underpayment ~~and~~.



~~54.~~55. Plaintiff and ~~Common Law Breach of Contract~~ Class members performed all, or substantially all, of the obligations imposed on them under their agreements and contracts, and any failure or non-performance on the part of Plaintiff and/or Class members was waived and excused.

~~55.~~56. Therefore, Defendants breached the terms of their agreements with Plaintiff and ~~Common Law Breach of Contract~~ Class members.

~~56.~~—Defendants also breached their Agreements with Plaintiff and Class members ~~have sustained damages as a result of Defendants' breach~~ by abusing their contractual discretion in ~~an amount to be proven at trial.~~

~~57.~~—~~Plaintiff seeks damages and injunctive relief enjoining Defendants from engaging in such wrongful practices.~~

### **THIRD CAUSE OF ACTION**

~~Breach~~ violation of the implied covenant of good faith and fair dealing  
(~~Against All Defendants~~)

~~58.~~—~~Plaintiff incorporates herein by specific reference, as though fully set forth, the allegations in the foregoing paragraphs.~~

~~59.~~—~~Plaintiff and Class Members performed work for Defendants under written agreements, including but not limited to the promises by Defendants to pay Plaintiff and Class Members for each mile driven in the completion of their duties.~~

~~60.~~57. . Under Illinois law, ~~in~~ every contract or agreement ~~there is~~ contains an implied promise of good faith and fair dealing in performance of the contract, ~~requiring.~~ The purpose of this duty is to ensure that each party will not ~~unfairly~~ abuse contractual discretion to interfere with the right of any other party to receive the benefits of the contract.

~~61.~~58. Subterfuge and evasion violate the obligation of good faith in performance even when an actor believes their conduct to be justified. Bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty. Examples of bad faith include, *inter alia*, evasion of the spirit of the bargain, willful rendering of imperfect performance, abuse of a power to specify terms, and interference with or failure to cooperate in the other party's performance.

59. Defendants ~~have breached the covenant of good faith and fair dealing in the contract,~~ through their policies and practices alleged herein. ~~Specifically, Defendants substantially misconstrued~~

~~the price of transportation of deliveries made by,~~ abused their contractual discretion and unfairly took advantage of Plaintiff and Class members ~~that included, but was in a way not limited to, controlling the negotiated price of delivery,~~ reasonably contemplated at the time the Agreements were entered into. For example, among others, Defendants arbitrarily overcharged Plaintiff and Class members for various fees and expenses and failed to return escrow funds.

~~62.60. Defendants also abused their contractual discretion by~~ unilaterally renegotiating prices ~~so as to underpay Plaintiff and Class Members, and failing to inform~~ without informing Plaintiff and Class members ~~of the true amount paid by customers in receipt of those deliveries,~~ leading to substantial underpayment for the benefit of Defendants. Defendants further failed to comply with requirements implicit in the Agreements with Plaintiff and Class members to comply with all federal law and requirements, including but not limited to requirements of the TILA and TILR.

~~63. No agreement or contract provision authorized the aforementioned underpayment and Plaintiff and Class Members performed all, or substantially all, of the obligations imposed on them under their agreements and contracts, nor did any agreement or contract provision authorize the aforementioned violations of the Truth in Leasing Act.~~

61. Therefore, Defendants further breached the terms of their Agreements with Plaintiff and Class members by violating the implied covenant of good faith and fair dealing.

~~64.62.~~ Plaintiff and Class members have sustained damages as a result of Defendants' breach in an amount to be proven at trial.

63. Plaintiff seeks damages and injunctive relief enjoining Defendants from engaging in such wrongful practices.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff, individually and on behalf of all other persons similarly situated, by his attorneys, respectfully prays for relief against Defendants (including DOES 1 through 100), and each of them, as follows:

A. For compensatory damages in an amount to be ascertained at trial;

~~B. For restitution of all monies due to Plaintiff, including the value of the unlawfully~~

~~converted tips, as well as disgorged profits from the unfair and unlawful business practices of Defendants;~~

~~C.~~B. For preliminary and permanent injunction enjoining Defendants from violating the relevant provisions of the TILA and TILR and breaching the Agreement;

~~D. — For Actual and/or statutory damages pursuant to the TILA;~~

~~E.~~C. For prejudgment interest at the maximum legal rate;

~~F.~~D. For reasonable attorneys' fees and costs;

~~G.~~E. For declaratory relief;

~~H.~~F. For an order requiring and certifying the Class;

~~I.~~G. For an order appointing Plaintiff as class representative, and Plaintiff's counsel as class counsel; and

~~J.~~H. For such other and further relief that the Court may deem just and proper.



**DEMAND FOR JURY TRIAL**

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

DATED: December 30,  
2022~~February 18, 2022~~

~~/s/ Katrina Carroll~~ Greg Taylor  
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