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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

PLAINTIFF STEFANEE DAWKINS' MEMORANDUM IN SUPPORT OF MOTION FOR CONDITIONAL CERTIFICATION AGAINST DEFENDANTS NR 1 TRANSPORT, INC. AND NERIJUS ZITKEVICIUS AND AUTHORIZATION OF COURT-APPROVED NOTICE

Plaintiff Stefanee Dawkins files this memorandum in support of her Motion For Conditional Certification against Defendants NR 1 Transport, Inc. and Nerijus Zitkevicius and Authorization of Court-Approved Notice, and states in support as follows.

This is an action brought on behalf of workers to recover unpaid wages, liquidated damages, and other relief pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 216, the Illinois Wage Payment and Collection Act ("IWPCA"), 820 ILCS 115, and the Illinois common law. Plaintiff alleges that Defendants NR 1 Transport, Inc. ("NR 1"), ZBA, Inc. ("ZBA"), and Nerijus Zitkevicius ("Zitkevicius") willfully violated the FLSA by not paying Plaintiff and other workers the required minimum wage—in fact, by not paying them any wages at all—for at least the final week of their employment. ECF No. 1 ¶ ¶ 21-22, 40; *see also* 29 U.S.C. § 206(b). Defendants have not yet responded to Plaintiff's complaint.

Plaintiff's FLSA claim, as set forth in Count I of the Complaint, is brought as a collective action pursuant to 29 U.S.C. § 216(b), which authorizes Plaintiff to proceed on behalf of herself

"and all other employees similarly situated." By this motion, Plaintiff seeks the Court's permission to send notice of this action to "all individuals who worked as company truck drivers for NR 1 between July 10, 2017 and present who received no pay for the last week of work they performed" (hereinafter referred to as "putative class members"). Plaintiff asks the Court to enter an order, pursuant to § 216(b), (1) conditionally certifying Count I of the Complaint as a collective action, (2) authorizing Plaintiff to mail notice of the lawsuit to putative class members, (3) approving the Proposed Notice (attached to Plaintiff's Memorandum as Exhibit A), (4) directing Defendants to produce, in a computer-readable format, within fourteen days, the names, last-known addresses, and e-mail addresses of putative class members, and (5) allowing a two-month opt-in period from the date notice is mailed. *See* Plaintiff's Motion for Conditional Certification and Authorization of Court-Approved Notice ("Motion").

I. Plaintiff and the Potential Opt-In Plaintiffs Were Subjected to Common Unlawful Payroll Practices that Violated the FLSA.

Congress passed the FLSA "to lessen, so far as seemed then practicable, the distribution in commerce of goods produced under subnormal labor conditions." *Rutherford Food Corp. v. McComb*, 331 U.S. 722, 727 (1947). The FLSA's minimum wage and overtime protections were the "method chosen to free commerce from the interferences arising from production of goods under conditions that were detrimental to the health and well-being of workers." *Id.*

In this case, Defendants had a practice or policy of not paying certain company truck drivers, including Plaintiff, any wages for at least their final week of employment with Defendants. Ex. B, at ¶ 8; Ex. C, at ¶ 10; Ex. D, at ¶ 9; Ex. E, at ¶ 9. As a result, for their last workweek, Plaintiff and the putative class received an hourly wage well below the FLSA's minimum of $7.25 per hour.

Though Defendants labeled Plaintiff and other company truck drivers as independent contractors, the drivers were actually employees for purposes of the FLSA. And in any event, an employer's label has no bearing on whether a worker is considered an employer or an independent contractor for purposes of the FLSA.[1] *See Rutherford Food*, 331 U.S. at 729 ("putting on an 'independent contractor' label does not take the worker from the protection of the [FLSA]"); *Sec'y of Labor, U.S. Dep't of Labor v. Lauritzen*, 835 F.2d 1529, 1544-45 (7th Cir. 1987) ("The FLSA is designed to defeat rather than implement contractual arrangements."); *Scantland v. Jeffry Knight, Inc.*, 721 F.3d 1308, 1311 (11th Cir. 2013) ("This inquiry is not governed by the 'label' put on the relationship by the parties or the contract controlling that relationship, but rather focuses on whether 'the work done, in its essence, follows the usual path of an employee.'") (*quoting Rutherford Food*, 331 U.S. at 729); *Brock v. Superior Care*, 840 F.2d 1054, 1059 (2d Cir. 1988) ("employer's self-serving label of workers as independent contractors is not controlling").

What matters, instead, is the economic reality of the parties' relationship. *See Lauritzen*, 835 F.2d at 1534. And here, the evidence will show that Defendants uniformly treated Plaintiff and other company truck drivers as employees. *See* Ex. B, ¶¶ 3–7; Ex. C, ¶¶ 4–7; Ex. D, ¶¶ 4–6; Ex. E, ¶¶ 3–6. Defendants required Plaintiff and the other company truck drivers to work full-time for NR 1. *Id.* Defendants owned the trucks that Plaintiff and the other company drivers used to perform their work. *Id.* Defendants paid for company truck drivers' fuel and paid for the costs of insurance on the trucks and trailers. Defendants required Plaintiff and other company truck drivers to contact the same company dispatcher in Joliet, Illinois, who told company truck

[1] The FLSA's definition of "employ" and "employee" are remarkably broad, covering anyone whom an employer "suffers or permits" to work. 29 U.S.C. § 203. *See Lauritzen*, 835 F.2d at 1534 ("It is well recognized that under the FLSA the statutory definitions regarding employment are broad and comprehensive in order to accomplish the remedial purposes of the Act.").

drivers where and when to drive, allowing them no exercise of discretion about which loads to haul. *See Tobin v. Anthony-Williams Mfg. Co.*, 196 F.2d 547, 550 (8th Cir. 1952) (truck drivers misclassified as independent contractors where drivers had no substantial investment in trucks, could not use trucks for other work, did not incur losses or have significant chance for financial return, and had no discretion in where they would deliver loads); *cf. Spates v. Roadrunner Transporation Sys., Inc.*, No. 15 C 8723, 2016 WL 7426134, at *2 (N.D. Ill. Dec. 23, 2016) (certifying IWPCA class claims under Rule 23 for truck drivers allegedly misclassified as independent contractors).

In short, Plaintiffs and the drivers were in no way in business for themselves. They made no investment and bore no risk of loss because they were paid on a per-mile basis. The only way they made more money was by driving more miles. *See Lauritzen*, 835 F.2d at 1536–37.

II. Plaintiffs Have Satisfied the Conditions for Conditional Certification of an FLSA Opt-In Collective Action.

A collective action under Section 216(b) provides a mechanism to aggregate litigation of FLSA claims, allowing "an action to recover" wages under the FLSA "by any one or more employees for and on behalf of himself or themselves and other employees similarly situated." 29 U.S.C. § 216(b); *Hoffmann-La Roche Inc. v. Sperling*, 493 U.S. 165, 173 (1989).[2]

In contrast to Rule 23 class action cases, collective actions under the FLSA require plaintiffs to opt-in rather than opt-out of the litigation. *See Woods v. New York Life Ins. Co.*, 686 F.2d 578, 580 (7th Cir. 1982). The standard applicable to a request for notice to similarly-situated individuals is "lenient," and Plaintiff is only required to show that similarly-situated

[2] The claims in *Hoffmann-La Roche* were brought under the Age Discrimination in Employment Act, which adopts the FLSA collective action procedure. *See Hoffmann-La Roche*, 493 U.S. at 167-68.

individuals exist. *See Zamudio v. Nick & Howard LLC*, No. 15 C 3917, 2016 WL 740422, at *1 (N.D. Ill. Feb. 23, 2016); *Nehmelman v. Penn Nat'l Gaming, Inc.*, 822 F. Supp. 2d 745, 750 (N.D. Ill. 2011); *Demarco v. Northwestern Mem'l Healthcare*, No. 10 C 397, 2011 WL 3510905, at *1 (N.D. Ill. Aug. 10, 2011); *Betancourt v. Maxim Healthcare Servs., Inc.*, No. 10 C 4763, 2011 WL 1548964, at *4 (N.D. Ill. Apr. 21, 2011).

A. The District Court Is Authorized to Issue Notice to the Potential Opt-In Plaintiffs and Should Do So Promptly.

District courts have broad discretion to allow a party asserting FLSA claims on behalf of others to notify potential plaintiffs that they may choose to "opt-in" to the suit. *See Hoffmann-La Roche*, 493 U.S. at 169-70. Court-authorized notice protects against "misleading communications" by the parties, resolves the parties' disputes regarding the content of any notice, prevents the proliferation of multiple individual lawsuits, assures joinder of additional parties is accomplished properly and efficiently, and expedites resolution of the dispute. *Id.* at 170-172. "The sole consequence of conditional certification is the sending of court-approved written notice to employees, who in turn become parties to a collective action only by filing written consent with the court." *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 75 (2013) (citations omitted).

The standard for collective action notice is a "lenient" one. *See Zamudio*, 2016 WL 740422, at *1-2; *Nehmelman*, 822 F. Supp. 2d at 750; *Demarco*, 2011 WL 3510905, at *1; *Betancourt*, 2011 WL 1548964, at *4; *Witteman v. Wis. Bell, Inc.*, 2009 cv 440, 2010 WL 446033, at *1 (W.D. Wis. Feb. 2, 2010) ("The requirements of conditional certification are lenient because approval simply allows plaintiffs to provide notice to other potential class members so that they may make an informed decision whether to join the case."); *Johnson v. TGF Precision Haircutters, Inc.*, 319 F. Supp. 2d 753, 754-55 (S.D. Tex. 2004) (commenting

that the standard applied is a lenient one, usually resulting in "conditional certification" of a representative class, to whom notice is sent and who receive an opportunity to "opt-in.").

Courts in this and other districts apply a two-step approach to determine whether the plaintiffs are "similarly situated" to potential opt-in plaintiffs. *See Shiner v. Select Comfort Corp.*, No. 09 C 2630, 2009 WL 4884166, at *2 (N.D. Ill. Dec. 9, 2009); *Russell v. Ill. Bell Tel. Co.*, 575 F. Supp. 2d 930, 933 (N.D. Ill. 2008); *Gambo v. Lucent Techs., Inc.*, No. 05-3701, 2005 WL 3542485, at *4 (N.D. Ill. Dec. 22, 2005) ("This two-step method has been used by a number of District Courts in the Northern District of Illinois."); *Persin v. CareerBuilder, LLC*, No. 05 C 2347, 2005 WL 3159684, at *4 (N.D. Ill. Nov. 23, 2005).

In the first step, plaintiffs must "show they are similarly situated to those potential claimants." *Betancourt*, 2011 WL 1548964, at *4 (citing *Russell*, 575 F. Supp. 2d at 933). A plaintiff meets this burden by making "a modest factual showing sufficient to demonstrate that [she] and potential class members were victims of a common policy or plan that violated the law." *Id.* (citing *Witteman*, 2010 WL 446033, at *2). Put differently, "a plaintiff need only demonstrate a factual nexus that binds potential members of a collective action together." *Gambo*, 2005 WL 3542485, at *4. Importantly, the similarly-situated standard, particularly at the first step, is "less stringent than the requirements under Federal Rule of Civil Procedure 23(b)(3)." *Bontempo v. Metro Networks Commc'ns Ltd. P'ship*, No. 01 C 8969, 2002 WL 1925911, at *1 (N.D. Ill. May 3, 2002).

If the Court determines Plaintiff has met this burden, then it may grant conditional certification and authorize Plaintiff to send notice to potential class members, allowing them an opportunity to opt-in. *See Heckler v. DK Funding, LLC*, 502 F. Supp. 2d 777, 779 (N.D. Ill. 2007); *Demarco*, 2011 WL 3510905, at *1. At the second step, "following the completion of the

opt-in process and further discovery, the defendant may ask the Court to 'reevaluate the conditional certification to determine whether there is sufficient similarity between the named and opt-in plaintiffs to allow the matter to proceed to trial on a collective basis.'" *Russell*, 575 F. Supp. 2d at 933 (quoting *Jirak v. Abbott Labs., Inc.*, 566 F. Supp. 2d 845, 847 (N D. Ill. 2008)); *Witteman*, 2010 WL 446033, at *3 ("If, after discovery, defendant shows that any differences among the class members make it too difficult to decide their claims together, defendant may ask to decertify the class or divide the class into subclasses.").

It is well-settled that the conditional certification standard should be generously applied to effectuate the FLSA's remedial purpose and to permit workers to pursue collectively their FLSA claims. *See Cameron-Grant v. Maxim Healthcare Servs., Inc.*, 347 F.3d 1240, 1243 n.2 (11th Cir. 2003); *Jackson v. New York Tel. Co.*, 163 F.R.D. 429, 431 (S.D.N.Y. 1995) (stating that a rigorous inquiry would undermine "the importance of early judicial management to assure the efficient resolution of similar claims"). If the court grants conditional certification, then the plaintiff issues notice to prospective class members, and the case proceeds as a collective action through discovery. *See West v. Lowes Home Centers, Inc.*, No. 6:09-1310, 2010 WL 5582941, at *5 (W.D. La. Dec. 16, 2010).

B. Notice to Potential Opt-In Plaintiffs Is Appropriate in this Case Because They Are Similarly Situated to Class Plaintiffs.

Courts have found that "[a]n affidavit, declaration, or other support beyond allegations is typically sufficient to overcome the modest burden of showing that other similarly situated employees exist." *Lane v. Atlas Roofing Corp.*, No. 4:11-CV-04066-SLD-JAG, 2012 WL 2862462, at *2 (C.D. Ill. July 11, 2012) (internal quotations omitted) (finding affidavits from five employees sufficient to grant conditional certification in unpaid overtime case). *See also, e.g., Ries v. Planesphere, Inc.*, No. 16-CV-3667, 2016 WL 6277466, at *3 (N.D. Ill. Oct. 27,

2016) (conditionally certifying class and holding "Plaintiff's Complaint, affidavits, and attached business records" satisfied the requisite "modest factual showing that they and potential plaintiffs were victims of a common policy or plan that violated the" minimum wage and overtime provisions of the FLSA); *Swartz v. D-J Eng'g, Inc.*, No. 12-CV-1029-JAR, 2013 WL 5348585, at *6 (D. Kan. Sept. 24, 2013) (conditionally certifying a class based on three declarations); *Kelly v. Bluegreen Corp.*, 256 F.R.D. 626, 629-30 (W.D. Wis. 2009) (conditionally certifying a class of hundreds based on five declarations and a complaint); *Roebuck v. Hudson Valley Farms, Inc.*, 239 F. Supp. 2d 234, 239 (N.D.N.Y. 2002) (holding that affidavits by three plaintiffs were "sufficient to constitute a preliminary showing" that farmworkers were similarly situated for collective action purposes).

To be similarly situated, each class member's situation need not be identical, but merely similar. *See Gambo*, 2005 WL 3542485, at *5-7; *Jirak*, 566 F. Supp. 2d at 848–49 ("Plaintiffs do not have to show that the potential class members have identical positions for conditional certification to be granted; plaintiffs can be similarly situated for purposes of the FLSA even though there are distinctions in their job titles, functions, or pay."). A plaintiff meets this threshold under stage one so long as she makes a modest factual showing that she and other potential plaintiffs were victims of a common policy or plan that allegedly violated the FLSA. *See Swales v. KLLM Transp. Servs., LLC*, 410 F. Supp. 3d 786, 793 (S.D. Miss. 2019) (conditionally certifying a class of truck drivers allegedly misclassified as independent contractors); *Martinez v. First Class Interiors of Naples, LLC*, No. 3:18-CV-00583, 2019 WL 4242409, at *7 (M.D. Tenn. Sept. 6, 2019) (conditionally certifying class based on allegations that employer engaged in common practice of withholding employees' final paychecks); *Ortiz v. Metters Indus., Inc.*, No. 617CV1879ORL40DCI, 2019 WL 338942, at *3 (M.D. Fla. Jan. 28,

2019) (same); *Molina v. Ace Homecare LLC*, No. 8:16-CV-2214-T-27TGW, 2017 WL 3605377, at *2 (M.D. Fla. Aug. 21, 2017) (same).

Here, Plaintiff satisfies the lenient standard for conditional certification of her FLSA claim. Plaintiff has produced declarations from four former employees of Defendants attesting that Defendants failed to pay them anything for their last week of work. Ex. B, at ¶ 8; Ex. C, at ¶ 10; Ex. D, at ¶ 9; Ex. E, at ¶ 9. All four drivers were misclassified as independent contractors even though Defendants exercised substantial control over their work and otherwise treated them as employees. Plaintiff and potential opt-in plaintiffs performed the same kind of work—hauling freight loads across the country—for the same joint employer. And they were subjected to the same material payroll practice: after the termination of their employment with Defendants, Defendants refused to turn over their final paycheck. Accordingly, the potential opt-in plaintiffs are similarly situated to the Plaintiff for purposes of her FLSA minimum wage claim in Count I of the Complaint, and this Court should conditionally certify the claim in Count I of the Complaint. *See Martinez*, 2019 WL 4242409, at *7; *Ortiz*, 2019 WL 338942, at *3; *Molina*, 2017 WL 3605377, at *2.

C. The Proposed Notice, Sent Via U.S. Mail, Is Essential to Prevent the Expiration of the Potential Opt-In Plaintiffs' Claims.

Notice is particularly important in FLSA cases because, unlike the procedure under Rule 23, for an FLSA opt-in "class," the statute of limitations continues to run on each individual worker's claim until that worker files a consent with the court, becoming a party plaintiff. *See* 29 U.S.C. § 216(b) ("No employee shall be a party plaintiff to [an FLSA collective] action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought."). Notice to putative class members of a pending FLSA claim must be "timely, accurate, and informative." *Hoffmann-La Roche*, 493 U.S. at 172.

Plaintiff seeks the Court's approval to mail the Proposed Notice, attached as Exhibit A to this Memorandum, to every individual who worked as a company truck driver for NR 1 between July 10, 2017 and the present who did not receive payment for the driver's last week of work performed during that time period.

To facilitate notice to the FLSA class, Plaintiff asks the Court to order Defendants to produce in a computer-readable format within 14 days, the names, last-known addresses, and e-mail addresses for all individuals who worked for them as company truck drivers and who did not receive payment for the driver's last week of work performed for Defendants from July 10, 2017 to the present. *See, e.g., Howard v. Securitas Sec. Servs., USA Inc.*, No. 08 C 2746, 2009 WL 140126, at *9 (N.D. Ill. Jan. 20, 2009) (ordering defendants to turn over a list of names and last-known addresses of the putative class members in a computer-readable format within 10 work days); *Barreda*, 2008 WL 7431262, at *4 (ordering names and last-known addresses to be produced within 17 days). Plaintiff asks the Court to approve a two-month opt-in period following the mailing of the notices.

CONCLUSION

For the reasons set forth above, Plaintiff asks this Court: (1) to conditionally certify Count I under the FLSA as a collective action and permit notice to be mailed to "all individuals who worked for NR 1 as company truck drivers between July 10, 2017 and the present who received no pay for the last week of work they performed for NR 1"; (2) to approve the Proposed Notice (attached to Plaintiff's Memorandum as Exhibit A); (3) to direct Defendants to produce, in a computer-readable format, within fourteen days, the names, social security numbers, and last-known addresses of all putative class members; and (4) to allow a two-month opt-in period from the date of mailing of the notice.

Respectfully submitted,

/s/Christopher J. Wilmes
One of the Attorneys for the Plaintiff

Christopher J. Wilmes
Justin Tresnowski
HUGHES, SOCOL, PIERS, RESNICK & DYM, LTD.
70 W. Madison St., Suite 4000
Chicago, IL 60602
312-580-0100

Exhibit A

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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

IMPORTANT NOTICE OF LAWSUIT TO ALL COMPANY TRUCK DRIVERS WHO WORKED FOR NR 1 TRANSPORT, INC. FROM JULY 10, 2017 TO THE PRESENT AND WHO DID NOT RECEIVE PAYMENT FOR THEIR FINAL WEEK OF WORK

Re: Right to Join Fair Labor Standards Act Lawsuit Seeking to Recover Allegedly Unpaid Minimum Wages

Date: _____, 2020

This notice tells you about a lawsuit brought against NR 1 Transport, Inc. ("NR 1") and Nerijus Zitkevicius by a former NR 1 company truck driver. The lawsuit was filed on July 10, 2020, in the United States District Court for the Northern District of Illinois, which is located in Chicago, Illinois. The former company truck driver who brought the lawsuit is called the "Plaintiff." NR 1 and Zitkevicius are called "Defendants."

What is This Lawsuit About?

In the lawsuit, Plaintiff alleges that Defendants violated a federal law called the Fair Labor Standards Act ("FLSA"). The FLSA requires employers to pay their employees an average rate of at least $7.25 per hour for every hour worked in a workweek. Plaintiff alleges that Defendants failed to pay her any wages for her final week of work as a company truck driver for NR 1. Plaintiff is asking Defendants to pay her unpaid minimum wages for the work she performed for Defendants. The only company truck drivers who are eligible to participate in this lawsuit are individuals who worked for NR 1 during the past three years who did not receive payment for their final week of work for NR 1.

This notice tells you of your rights to join this lawsuit for the minimum wage claim filed against NR1 and Zikevicius under the FLSA. The Court has authorized this notice, but there is no assurance at this time that any person will be awarded back wages or any other payments, and the Court has not taken a position on the merits of Plaintiff's claims or Defendants' defenses.

Your options are explained in this notice. If you decide to participate in this case, you must act before ____, 2020.

WHAT YOU MAY DO:	
FILL OUT AND SEND IN THE CONSENT FORM ENCLOSED IN THIS NOTICE.	By completing and returning the Consent to Join Form, you will become a plaintiff in the minimum wage lawsuit. You will be bound by all of the Court's the decisions in this case, and you have the right to share in a monetary recovery, if any. You also will be designating Plaintiff and the below attorneys to act on your behalf and to represent and make decisions for you in this lawsuit, and you will give up the right to separately sue Defendants for unpaid wages.
DO NOTHING. STAY OUT OF THE CASE.	If you do not fill out and send in the Consent to Join Form, you will *not* become a plaintiff in the minimum wage and overtime lawsuit. You also will not be bound by any of the Court's decisions on the minimum wage and overtime claims, and you will not share in any potential monetary recovery for those claims, if there is any. You will keep any rights that you may have to file a lawsuit or do nothing.

Who is the Plaintiff in this case?

This case was filed by Stefanee Dawkins.

Who are the lawyers?

Christopher Wilmes
Justin Tresnowski
Hughes Socol Piers Resnick & Dym, Ltd.
70 W. Madison Street, Suite 4000
Chicago, IL 60602
Telephone: (312) 604-2636, (312) 604-2780

Am I eligible to join the case?

You can participate in this case if you worked as a company truck driver for NR 1 at any time in the past three years and were not paid at least $7.25 per hour for the last week of work that you performed for NR1.

How do I join this case and what happens if I do?

If you wish to join this case, you must complete the attached Consent to Join Form and return it to the address at the bottom of the form in the envelope included (no additional postage needed if mailed from the U.S.). You may also fax the signed form to (312) 604-2637, or email the signed form to cwilmes@hsplegal.com.

The form must be postmarked no later than ____, 2020.

Joining this case does not guarantee that you will receive any money because there is no guarantee that money will be recovered in this case. If you join this case, then you will be bound by the Court's judgment, whether favorable or unfavorable, and you will forfeit the right to sue NR 1 or Zitkevicius for the same claims made in this case. In addition, if you join the lawsuit, you may be asked to hand over documents relating to the services that you provided for NR 1, answer written questions, or testify in a deposition or at trial.

Does the law protect me from retaliation?

Yes. If you decide to join this case, federal law prohibits Defendants from retaliating against you, which includes threatening, harming, or in any way discriminating against you for participating in the lawsuit. If you believe that you have been threatened, punished, warned, discriminated, or retaliated against for discussing or joining in this lawsuit, you can call the lawyers for the workers who brought this case at 312-604-2636 or 312-604-2780.

If the workers are successful in this unpaid minimum wage case, what money might I receive?

Plaintiff seeks money for herself and other company truck drivers who worked for NR 1 during the past three years and who were not paid for their last week of work. Specifically, she seeks:

(1) unpaid wages;
(2) liquidated monetary damages in addition to unpaid wages;
(3) that Defendants pay Plaintiff's attorneys' fees; and
(4) that Defendants pay Plaintiff's costs of the case and interest accruing on all monetary amounts awarded.

What happens if I don't join this case?

If you choose not to join this lawsuit, then you are free to file your own lawsuit or do nothing. If you decide not to join this case, then you will not be affected by any judgment or settlement of Plaintiff's legal claims under the FLSA. You also may not be allowed to recover money damages, if any are awarded on these claims.

Who will be my lawyer if I join this case?

The attorneys representing the Plaintiff will be your attorneys. You will not have to pay any money to the attorneys unless the servers receive any money in the lawsuit (either through a decision by the Court or through a settlement with the Defendants).

How can I get more information about this case?

To obtain more information about this notice, the deadline for filing a Consent to Join Form, or any other information about this case, please contact Plaintiff's attorneys by calling (312)-604-2636, or write or email them at:

Christopher Wilmes
Justin Tresnowski
Hughes Socol Piers Resnick & Dym Ltd.
70 W. Madison Street, Suite 4000
Chicago, Illinois 60602
cwilmes@hsplegal.com
jtresnowski@hsplegal.com

DO NOT CONTACT THE JUDGE OR THE COURT IN CONNECTION WITH THIS CASE.

CONSENT TO JOIN FORM

Stefanee Dawkins v. NR 1 Transport, Inc., ZBA, Inc., and Nerijus Zitkevicius
United States District Court for the Northern District of Illinois, Case No. 1:20-cv-4063

If you wish to join this case, please complete all of the information on this form, sign it, and return it in the enclosed envelope (additional postage required if mailed from outside the U.S.), or fax it to 312-604-2637, or email it to cwilmes@hsplegal.com on or before ____, 2020.

I worked for NR 1 as a company truck driver at some point after July 10, 2017. I was not paid anything for the last week that I worked for NR 1.

I hereby consent to be part of the collective action lawsuit against NR 1 and Nerijus Zitkevicius alleging minimum wage claims under the Fair Labor Standards Act. I understand that I will be bound by the judgment of the Court or any settlement on the minimum wage and overtime claims in this case.

I agree to have the law firm of Hughes Socol Piers Resnick & Dym, Ltd. represent me before any court or agency on these claims. I understand that if a recovery is obtained, then reasonable litigation costs expended on my behalf will be deducted from any settlement or judgment amount on a pro rata basis among all other plaintiffs. I understand that the attorneys will petition the Court for attorneys' fees from any settlement or judgment in the amount of the greater of: (1) the "lodestar" amount, calculated by multiplying reasonable hourly rates by the number of hours expended on the lawsuit, or (2) 1/3 of the gross settlement or judgment amount. I understand that if I join the lawsuit and I do not prevail in my claims, then I will not owe anything to the attorneys representing me.

I hereby designate my attorneys to make decisions on my behalf concerning this litigation, including the method and manner of conducting this litigation and all other matters concerning this lawsuit.

_____
First and Last Name(s) (printed)

_____
Signature

_____
Date

If you wish to join this case, sign this form and return it in the enclosed self-addressed envelope, or fax it to 312-604-2637, or e-mail it to cwilmes@hsplegal.com, on or before _____, 2020.

CONTACT INFORMATION

Stefanee Dawkins v. NR 1 Transport, Inc., ZBA, Inc., and Nerijus Zitkevicius
United States District Court for the Northern District of Illinois, Case No. 1:20-cv-4063

If you have completed the Consent to Join Form, please complete the following information to allow Plaintiff's lawyers to contact you. This information will be used solely for purposes of this lawsuit.

Name (please print):*
Address:*
Telephone:*
E-Mail:
Date Range When You Performed Work as a Company Truck Driver for NR 1: I worked for NR 1 from approximately _____ to _____.

Signature:*	**Date:***

*** Required field. Information provided will be used solely for purposes of this lawsuit.**

Exhibit B

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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

DECLARATION OF STEFANEE DAWKINS

My name is Stefanee Dawkins, and I declare as follows.

1. This declaration is based on my personal knowledge.

2. I worked for ZBA and NR1 as a company truck driver from September 2018 until January 2019.

3. ZBA and NR1 were one and the same. I reported to the same dispatcher, located in Joliet, Illinois, when I worked for both ZBA and NR 1. The same company dispatcher told me which loads to haul and where to deliver them. The two companies have different names, but they are operated and managed by the same individuals, and the two companies operated out of the same office in Joliet, Illinois.

4. NR 1 and ZBA owned the trucks that I drove for ZBA and NR 1. ZBA and NR 1 paid for the liability insurance for the trucks that I drove for them. NR 1 and ZBA paid for the costs of fuel or maintenance for the trucks I drove for ZBA and NR 1.

5. NR 1 and ZBA prohibited me from driving their trucks for other companies

6. NR 1 and ZBA paid me approximately sixty cents per mile for all miles that I drove for the companies.

7. I invested none of my own money in the work that I performed for NR 1 and ZBA. The companies deducted money from my paycheck each week for "occupational accident insurance" and "office fees."

8. I worked more than thirty hours for NR 1 for the workweek beginning January 7, 2019 and ending January 13, 2019, my final week working for NR 1. NR 1 refused to pay me anything for that final week of work.

9. NR 1 and ZBA deducted wages from my paycheck to be placed into escrow. Neither company returned the funds kept in escrow upon the termination of my employment.

10. I understand that this lawsuit is an effort to recover minimum wages and unlawful deductions for dozens of other workers who worked for ZBA and NR 1.

11. I understand that it is my obligation in this lawsuit to ensure that I represent and stand up for the best interests of all the class members.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my knowledge, information and belief. 28 U.S.C. § 1746.

Executed this 14th day of October, 2020.

Stefanee Dawkins

Stefanee Dawkins

Exhibit C

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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

DECLARATION OF DONALD BROWN

My name is Donald Brown, and I declare as follow.

1. This declaration is based on my personal knowledge.

2. I worked for NR 1 as a company truck driver from the spring of 2018 until the summer of 2019.

3. Throughout that time, although NR 1 labelled me as a 1099 independent contractor, NR 1 treated me as a company truck driver.

4. NR 1 owned and the truck I drove. NR 1 paid for the liability insurance for the truck that I drove for them. NR 1 paid for the costs of fuel or maintenance for the trucks I drove for NR 1.

5. NR 1 prohibited me from driving the truck for any other company.

6. NR 1 told me which loads to haul and where and when to deliver them.

7. I invested no money in the work that I performed for NR 1. The company deducted money from my paycheck each week for “occupational accident insurance” and “office fees.”

8. NR 1 paid me approximately sixty cents per mile for all miles that I drove for the companies.

9. In 2018 and 2019, NR 1 deducted wages from my paycheck to be placed in an escrow account.

10. When NR 1 terminated my employment in summer 2019, NR 1 refused to pay me the wages that had been deducted and held in escrow. NR 1 also refused to pay me for my final two weeks of work for the company. I worked more than thirty hours in each of my final two weeks of work for NR 1.

11. I understand that this lawsuit is an effort to recover minimum wages and unlawful deductions for dozens of other workers who worked for NR 1.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my knowledge, information and belief. 28 U.S.C. § 1746.

Executed this 14th day of October, 2020.

Donald Brown

Exhibit D

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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

DECLARATION OF ERIC WAINWRIGHT

My name is Eric Wainwright, and I declare as follow.

1. This declaration is based on my personal knowledge.

2. I worked for NR 1 and ZBA as a company truck driver from approximately June 2018 until approximately December 2019.

3. ZBA and NR1 were one and the same. I reported to the same dispatcher, located in Joliet, Illinois, when I worked for both ZBA and NR 1. The same company dispatcher told me which loads to haul and where to deliver them. The two companies have different names, but they are operated and managed by the same individuals, and the two companies operated out of the same office in Joliet, Illinois.

4. NR 1 and ZBA owned the trucks I drove for them. NR 1 and ZBA paid for the liability insurance for the trucks I drove for them. NR 1 and ZBA paid for the fuel and maintenance of the trucks I drove for them.

5. NR 1 and ZBA did not permit me to drive their trucks for any other companies.

6. I invested no money in the work that I performed for NR 1 and ZBA. The companies deducted money from my paycheck each week for "occupational accident insurance" and "office fees."

7. When my employment with ZBA was terminated in December 2019, NR 1 refused to pay me work performed in my last week of employment. I worked more than thirty hours for ZBA during that week.

8. NR 1 and ZBA paid me approximately 60 cents per mile for all miles that I drove for the companies.

9. From March 2019 through December 2019, ZBA deducted wages from my paychecks to be held in escrow. When my employment with ZBA was terminated in December 2019, NR 1 refused to allow ZBA to pay me any of the deducted wages that were being held in escrow.

10. I understand that this lawsuit is an effort to recover minimum wages and unlawful deductions for dozens of other workers who worked for NR 1 or ZBA.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my knowledge, information and belief. 28 U.S.C. § 1746.

Executed this 14th day of October, 2020.

Eric Wainwright

Exhibit E

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

STEFANEE DAWKINS, on behalf of herself and others similarly situated,	)	
Plaintiff,	)	**Case No. 20-cv-4063**
v.	)	**Chief Judge Rebecca R. Pallmeyer**
NR 1 TRANSPORT, INC., ZBA, Inc., and NERIJUS ZITKEVICIUS	)	
Defendants.	)	

DECLARATION OF ROBERT RODRIGUEZ

My name is Robert Rodriguez, and I declare as follow.

1. This declaration is based on my personal knowledge.

2. I worked for NR 1 as a company truck driver beginning in approximately August 2018, and I worked for the company for less than one month.

3. NR 1 owned the truck I drove for the company. NR 1 paid for the liability insurance for the truck that I drove for them. NR 1 paid for the costs of fuel or maintenance for the trucks I drove for NR 1. NR 1 prohibited me from driving the truck for any other companies.

4. NR 1 paid for the fuel and maintenance of the truck I drove for NR 1.

5. NR 1 told me which loads to haul and when and where to deliver them.

6. I invested no money in the work that I performed for NR 1. The company deducted money from my paycheck each week for "occupational accident insurance" and "office fees."

7. NR 1 paid me approximately sixty cents per mile for all miles that I drove for the companies.

8. During my employment with NR 1, the company deducted wages from my paycheck to be held in an escrow account. When I terminated my employment with the company, NR 1 refused to pay me the wages that had been deducted and held in escrow.

9. NR 1 also refused to pay me wages for the work I performed in my final week of employment with NR 1. I worked over thirty hours for NR 1 during that week.

10. After I filed a complaint with the Texas Workforce Commission, NR 1 eventually paid me half of the wages I was owed for work I performed during my final week of employment with the company. I received this payment many months after I stopped working for NR 1.

11. I understand that this lawsuit is an effort to recover minimum wages and unlawful deductions for hundreds of other workers who worked for NR 1.

I declare under penalty of perjury under the laws of the United States that the foregoing statements are true and correct to the best of my knowledge, information and belief. 28 U.S.C. § 1746.

Executed this 14th day of October, 2020.

Robert Rodriguez