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DISTRICT OF UTAH
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

OWNER-OPERATOR INDEPENDENT
DRIVERS ASSOCIATION, INC., and
THOMAS SHUTT, WILLIAM PIPER,
DON SULLIVAN, SR., JAMES MURPHY, and
WALTER WILLIAMS individually, and on behalf
of all others similarly situated.

Plaintiffs,

vs.

C.R. ENGLAND, INC.

Defendants.

**AMENDED CLASS ACTION
COMPLAINT FOR DECLARATORY
AND CLASS ACTION RELIEF,
DAMAGES, AND RESTITUTION**

(Jury Trial Demanded)
CASE NO. 2:02 cv 950 TS

Honorable Ted Stewart

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The Owner-Operator Independent Drivers Association, Inc. (“OOIDA”), and Thomas Shutt, William Piper, Don Sullivan, Sr., James Murphy, and Walter Williams (collectively “Plaintiffs,” or for all but the association, “Contracting Plaintiffs”), bring this action seeking declaratory, injunctive and monetary relief on behalf of themselves and all others similarly situated against Defendant C. R. England, Inc., its agents, affiliates, or successors in interest (“C. R. England” or “Defendant”) and allege as follows:

NATURE OF THE ACTION

1. Defendant is a regulated motor carrier that provides transportation of property in interstate commerce under authority issued by the U. S. Department of Transportation (“DOT”). C. R. England transports property in equipment leased from independent truckers (known as “owner-operators”) including the Contracting Plaintiffs Thomas Shutt, William Piper, Don Sullivan, Sr., James Murphy, Walter Williams and others similarly situated. Under federal law and regulations, *authorized motor carriers like C. R. England may perform authorized transportation in equipment 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 (Part 376). See 49 C.F.R. § 376.11 (a); see also 49 U.S.C. § 14102. A person injured by an authorized carrier’s failure to comply with the federal leasing regulations may bring an action seeking injunctive relief and damages pursuant to 49 U.S.C. § 14704(a)(1) and (2), and may recover attorneys’ fees and costs under 49 U.S.C. § 14704(e).*

2. Plaintiffs have been injured by Defendant’s execution of agreements with Contracting Plaintiff owner-operators, which contain material provisions that do not meet the requirements of Section 376.12. Numerous terms required by Section 376.12 are missing from the

Standard Lease Agreement. Other terms in the Standard Lease Agreement conflict with provisions of Section 376.12. Further, Defendant has engaged in a pattern and practice of conduct violating its obligations under Part 376 to Contracting Plaintiffs and others similarly situated.

JURISDICTION AND VENUE

3. This action arises under 49 U.S.C. §§ 14102 and 14704 *et seq.*, and 49 C.F.R. Part 376, *et seq.*, governing the terms and conditions pursuant to which truck owner-operators lease equipment to authorized motor carriers for the transport of property.

4. Jurisdiction of this matter is granted to this court by 28 U.S.C. §§ 1331 (federal question jurisdiction) and 1337 (proceedings arising under an act of Congress regulating commerce). The causes of action alleged herein arise under the laws of the United States regulating commerce and the activities of motor carriers engaged in the transportation of property in interstate commerce, including 49 U.S.C. §§ 13501, 14102 and 14704(a)(1) and (2), and 49 C.F.R. § 376 *et seq.*

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) in that Defendant is incorporated in and maintains a place of business in the State of Utah and in that a substantial part of the events giving rise to the claims raised herein occurred in this district or state.

PARTIES

6. Plaintiff Owner-Operator Independent Drivers Association (“OOIDA”) is a business association of persons and entities who own and operate motor vehicles, commonly known as “owner-operators.” Owner-operators are traditionally small business truckers who own and operate a truck tractor (of a tractor-trailer combination). They lease their tractor and driving services, and often their own trailer, to motor carriers (such as Defendant), agreeing to move items for the motor

carrier in interstate commerce in exchange for specified compensation. OOIDA is a not-for-profit corporation incorporated in the State of Missouri, with its headquarters located at 1 NW OOIDA Drive, Grain Valley, Missouri 64029. OOIDA was founded in 1973 and now has approximately 118,000 members residing in all fifty (50) states and in Canada. OOIDA brings this action in a representative capacity and seeks declaratory and injunctive relief on behalf of all owner-operator members.

7. Contracting Plaintiff Thomas Shutt, a citizen of the state of Iowa, is an owner-operator who has leased motor vehicle equipment, with drivers, to C. R. England within the purview of 49 U.S.C. § 14102. Plaintiff Thomas Shutt is an OOIDA member.

8. Contracting Plaintiff William Piper, a citizen of the state of Nevada, is an owner-operator who has leased motor vehicle equipment, with drivers, to C. R. England within the purview of 49 U.S.C. § 14102. Plaintiff William Piper is an OOIDA member.

9. Contracting Plaintiff Don Sullivan, Sr., a citizen of the state of California, is an owner-operator who has leased motor vehicle equipment, with drivers, to C. R. England within the purview of 49 U.S.C. § 14102. Plaintiff Don Sullivan, Sr. is an OOIDA member.

10. Contracting Plaintiff James Murphy, a citizen of the state of Florida, is an owner-operator who is currently leasing motor vehicle equipment, with drivers, to C. R. England within the purview of 49 U.S.C. § 14102. Plaintiff James Murphy is an OOIDA member.

11. Contracting Plaintiff Walter Williams, a citizen of the state of New York, is an owner-operator who has leased motor vehicle equipment, with drivers, to C. R. England within the purview of 49 U.S.C. § 14102. Plaintiff Walter Williams is an OOIDA member.

12. C. R. England is a Utah corporation doing business in all or substantially all of the lower 48 states. C. R. England is a regulated motor carrier, primarily engaged in the enterprise of providing transportation services to the shipping public under authority granted by DOT and formerly the ICC. During all times material to this case, Defendant is and has been an “authorized carrier” within the meaning of 49 C.F.R. § 376.2(a). Defendant is a “lessee” within the meaning of 49 C.F.R. § 376.2(g).

CLASS ACTION ALLEGATIONS

13. **Class Description.** Plaintiffs represent a class (hereinafter “Class”) consisting of all owner-operators in the United States who have entered federally regulated leases with C. R. England, or its authorized agents or business affiliates (“Lessors”).

14. **Impracticability of Joinder.** On information and belief, there are over one thousand (1,000) individual owner-operators who are members of this Class: Lessors. These individual owner-operators are residents of various states and travel continuously, and are, therefore widely dispersed geographically. Thus, joinder of all potential Class Members would be impracticable.

15. **Commonality.** Each potential class member is party to a standard lease agreement which is substantively identical to the agreements alleged in this Complaint to be in violation of the federal leasing regulations. C. R. England has acted towards these Class Members in a way that affects all members of the Class—Lessors—similarly and, accordingly, questions of fact and law are common to the Class, as are questions of the liability of C. R. England, or the appropriate nature of injunctive relief.

16. **Typicality.** The claims of the Plaintiffs are typical of the claims of the potential Class as a whole in that all claims arise from materially identical standard lease agreements alleged to be in violation of the federal leasing regulations.

17. **Fair and Adequate Representation.** Plaintiffs are capable of fairly and adequately protecting the interests of the Class. Additionally, OOIDA has previously participated as class representative on behalf of owner-operators in several cases, and counsel for Plaintiffs (The Cullen Law Firm, PLLC) has been involved in numerous class actions around the country on behalf of owner-operators. There is no evidence that any of the interests of the class members are adverse.

18. **Class Certification Appropriate Under Rule 23(b)(2).** Defendant has acted or failed to act on grounds generally applicable to the potential class as a whole, as alleged in this Complaint. Thus, injunctive and declaratory relief is appropriate with respect to the potential class as a whole, making class certification appropriate under Fed. R. Civ. P. 23(b)(2).

19. **Class Certification Appropriate Under Rule 23(b)(3).** The questions of law enumerated in the counts below are common to all potential class members, as described in paragraph 18, *supra*, and predominate over any questions affecting only individual members which are essentially limited to the amounts due each member. Therefore, a class action is superior to other available methods for the fair and efficient adjudication of the claims alleged in this Complaint.

20. **Additional Factors Favoring Class Certification.** Other factors favoring the certification of this suit as a class action include:

- (a) the amounts in controversy for individual owner-operators are relatively small, so that individual members of the Class would not find it cost-effective to bring individual claims;
- (b) requiring individuals to prosecute separate actions would substantially impair or impede the individual members' ability to protect their interests;
- (c) on information and belief, there is no litigation already commenced by Class Members concerning the causes of action raised in the Complaint;
- (d) no substantial difficulties are likely to be encountered in managing this class action;
- (e) on information and belief, Defendant has utilized essentially the same standard lease agreement for many years and the conduct at issue arises from this agreement; and
- (f) Plaintiffs are represented by The Cullen Law Firm, PLLC, which has the experience of representing their clients in numerous class actions involving owner-operators and other small business truckers nationwide.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

21. The Contracting Plaintiffs entered into federally-regulated lease agreements (the "Lease Agreements") with Defendant. A copy of the Lease Agreements entered into between Defendant and Plaintiffs Walter Williams and James Murphy are attached as Exhibits "A" and "B," respectively. These Lease Agreements are the same form of Agreement entered into with all other

Contracting Plaintiffs. On information and belief, this Lease Agreement is substantively identical in all material respects to Lease Agreements entered into with the entire potential class.

22. These Lease Agreements and the leases between C. R. England and Class members constitute leases as defined in 49 C.F.R. § 376.2(e).

23. Opportunity Leasing is a corporation incorporated under the laws of the State of Utah, authorized to do business in Utah, and having its principal place of business at the same location as C.R. England in Salt Lake City, Utah. Opportunity Leasing engages in the business of leasing truck tractor units to independent truck owner-operators.

24. Opportunity Leasing and C.R. England are under common ownership and have common officers and directors and are thus “affiliated” entities and subject to the federal regulations described in this Amended Complaint.

25. Opportunity Leasing entered into equipment lease agreements (“Equipment Leases”) with Contracting Plaintiffs Piper, Shutt, Sullivan and Williams and other members of the putative class. On information and belief, these Equipment Leases are substantively identical in all material respects to the Equipment Leases entered into with the entire potential class.

26. The vehicles Contracting Plaintiffs, and other similarly situated owner-operators, provided to C. R. England for use are “equipment” within the meaning of 49 C.F.R. § 376.2(b).

27. Plaintiff Shutt was leased to and operated for C. R. England from May 2001 to October 2001.

28. Plaintiff Piper was leased to and operated for C. R. England from April 1999 to July 2001.

29. Plaintiff Sullivan was leased to and operated for C. R. England from May 1998 to May 1999.

30. Plaintiff Murphy was leased to and operated for C. R. England from July 2001 to August 2002.

31. Plaintiff Williams was leased to and operated for C. R. England from January 2001 to May 2001.

32. Beginning in July 2002, *C.R. England* required owner-operators, including Plaintiff James Murphy, to enter into a new lease agreement (“New Lease Agreement”) with the motor carrier. C.R. England, in its New Lease Agreement, sought to remedy many of the deficiencies in its Lease Agreement. The New Lease Agreement, however, continues to contain terms that violate the Truth-in-Leasing regulations, including, but not limited to, terms allowing the continued misuse of owner-operator escrow funds.

COUNT I

Unlawful Provision of Transportation Services by C. R. England

33. Plaintiffs re-allege and incorporate the allegations of paragraphs 1 through 32.

34. Under federal law, an “authorized carrier may perform authorized transportation in equipment it does not own only under the following conditions: . . . [t]here shall be a written lease granting the use of the equipment and meeting the requirements contained in § 376.12.” Defendant C. R. England is engaged in the unlawful provision of transportation services in equipment it does not own because the leases governing its use of such equipment fail to conform to 49 C.F.R. Part 376.

a. Defendant's Lease Agreements with Contracting Plaintiffs do not contain certain provisions required by 49 C.F.R. § 376.12. By way of illustration and not limitation:

(1) Defendant C. R. England's Lease Agreements do not recite an unqualified obligation to provide drivers with documentation to substantiate chargebacks as required by 49 C.F.R. § 376.12(h).

(2) Defendant C. R. England's Lease Agreements do not specify that it will provide the driver with certificates of insurance for each policy the driver purchases through it as required by C.F.R. § 376.12 (j)(2).

(3) Defendant C. R. England's Lease Agreements do not specify that, upon a driver's request, it will provide the driver with a copy of each insurance policy as required by C.F.R. § 376.12 (j)(2).

(4) Defendant C. R. England's Lease Agreements do not specify that when deductions for cargo or property damage are made from a driver's compensation, a written explanation and itemization of those deductions will be given to the driver before the deductions are made as required by 49 C.F.R. § 376.12 (j)(3).

b. Defendant C. R. England's Lease Agreements contain provisions that conflict with 49 C.F.R. § 376.12. By way of illustration and not limitation,

(1) Defendant C. R. England's Lease Agreements provide that it can deduct from the driver's compensation *any* amount the driver owes it, notwithstanding its

obligation to specify all chargebacks in advance as required by 49 C.F.R. § 376.12 (h);

(2) Defendant C. R. England's Lease Agreements provide that *all* indebtedness may be deducted from a driver's escrow notwithstanding its obligation to specify with particularity the items for which the escrow can be used as required by 49 C.F.R. § 376.12 (k);

(3) At least one version of Defendant C. R. England's Lease Agreements requires the driver to purchase insurance from the carrier which constitutes the forced purchase of a product in conflict with 49 C.F.R. §376.12(i);

(4) Defendant C. R. England's Lease Agreements require drivers to allow the motor carrier to install a satellite communications device in their trucks and require the drivers to pay a \$15.00 per week usage charge for the device and for the cost of insuring the device which constitutes the forced purchase of a product/service in violation of 49 C.F.R. §376.12(i);

(5) Defendant C. R. England's Lease Agreements require drivers to authorize the deduction of a settlement administrative fee from their compensation which constitutes the forced purchase of a service in conflict with 49 C.F.R. §376.12(i);

(6) Defendant C. R. England's Lease Agreements require drivers to authorize the deduction of an insurance administrative fee from their compensation which constitutes the forced purchase of a service in conflict with 49 C.F.R. §376.12(i);

(7) Defendant C. R. England's Lease Agreements give the motor carrier sole discretion to determine when withdrawals can be made from the maintenance escrow and to what use the funds can be applied in violation of the specificity requirement of 49 C.F.R. §376.12(k).

35. As a direct and proximate result of this violation of federal law, the rights of Plaintiffs have been violated and Plaintiffs have suffered financial injury.

36. Plaintiffs' rights will continue to be violated and Plaintiffs will suffer additional future injury unless Defendant C. R. England is enjoined from providing transportation in equipment they do not own until they execute conforming lease agreements with owner-operators.

COUNT II
Unlawful Administration of Escrow Monies
(in violation of 49 C.F.R. § 376.12(k))

37. Plaintiffs re-allege and incorporate the allegations of paragraphs 1 through 36.

38. The "Agency Agreement" attached to the Equipment Lease (Schedule C) required contracting Plaintiffs Piper, Shutt, Sullivan, and Williams to establish an "Opportunity Maintenance Account" for the purpose of major repair expenses. This account is an escrow fund under 49 C.F.R. § 376.2(l).

39. Defendant deducted \$ 0.05 per mile from the compensation of Plaintiffs Piper, Shutt, Sullivan and Williams and contributed such amounts, on a weekly basis, to the "Opportunity Maintenance Account."

40. Paragraph 9 of the Agency Agreement to the Equipment Lease provides that, following termination of the Equipment Lease, Opportunity Leasing may apply all escrow funds

“against any debt YOU may owe us and/or the motor carrier to which YOU are contracted if such carrier gives US reasonable evidence of such debt.” This provision unlawfully purports to give Opportunity Leasing and/or C.R. England an unqualified and unrestricted right to retain escrow monies in violation of 49 C.F.R. § 376.12(k)(2) and (6).

41. Pursuant to C.R. England’s Lease Agreement, Defendant also deducted \$ 0.05 per mile from the compensation of all Contracting Plaintiffs, up to \$ 500.00, for a Security Deposit. This account is an escrow fund under 49 C.F.R. § 376.2(l).

42. The Lease Agreement states that, upon termination of the lease, Defendant will repay the balance of the escrow fund “less any appropriate offsets.” This provision unlawfully purports to give C.R. England an unqualified and unrestricted right to retain escrow monies in violation of 49 C.F.R. § 376.12(k)(2) and (6).

43. When Contracting Plaintiffs terminated their leases, C.R. England and/or Opportunity Leasing applied contracting Plaintiffs’ escrow monies and interest to purported “indebtedness” for items for which the escrows were not originally collected.

44. C.R. England and/or Opportunity Leasing failed to provide Contracting Plaintiffs with sufficient documentation necessary for Plaintiffs to determine the accuracy and validity of the alleged indebtedness.

45. Upon information and belief, C.R. England routinely overcharged Plaintiffs and putative class members for repairs made to Plaintiffs’ tractors in the “England Service Center” in Salt Lake City. These inflated repair costs were then claimed as debts owed to C.R. England by

Plaintiffs and putative class members. These alleged debts were then satisfied through the confiscation of Plaintiffs' and putative class members' escrow funds.

46. When Contracting Plaintiffs Piper and Sullivan terminated their leases, Opportunity Leasing and/or C.R. England failed to provide an accounting of the escrow fund within 45 days after lease termination, as required under 49 C.F.R. § 376.12(k)(6).

47. C.R. England failed to return escrow funds to Contracting Plaintiffs within 45 days after lease termination, as required under 49 C.F.R. § 376.12(k)(6).

48. As a direct and proximate result of Defendant's violations of 49 C.F.R. § 376.12(k), Defendant has been unjustly enriched by the amount of the sums rightfully belonging to Plaintiffs.

49. As a direct and proximate result of Defendant's acts and omissions, Plaintiffs, and all others similarly situated, have been deprived of their rights under 49 C.F.R. § 376.12(k), and are entitled to damages and restitution.

COUNT III
Undisclosed, Undocumented and Excessive
Chargebacks Against Compensation
(in violation of 49 C.F.R. § 376.12(h))

50. Plaintiffs re-allege and incorporate the allegations of paragraphs 1 through 49.

51. 49 C.F.R. § 376.12(h) requires the Lease Agreement to "clearly specify" all charge-back items deducted from owner-operators compensation, together with a recitation as to how the amount of each item is to be computed. Additionally, the regulation mandates that the owner-operator "shall be afforded copies of those documents which are necessary to determine the validity of the charge." 49 C.F.R. § 376.12(h).

52. Comdata, Inc is a Tennessee corporation that provides certain electronic credit and banking facilities to motor carriers. Drivers use the Comdata cards to obtain electronic transfer of funds from the motor carrier and to acquire fuel and other items and services while on the road. Comdata imposes transaction charges on motor carriers for the use of its cards.

53. Defendant has entered into an arrangement with Comdata, Inc., which, among other things, is intended to facilitate the acquisition of fuel by Contracting Plaintiffs and other owner-operators from various truck stops throughout the nation. Pursuant to Defendant's arrangement with Comdata, Inc., Contracting Plaintiffs and other owner-operators procure fuel at various truck stops using credits made available to them on a Comdata Card issued to them by C.R. England (C.R. England Fuel Card). Comdata, Inc. notifies Defendant of fuel acquired by Contracting Plaintiffs and other owner-operators using the C.R. England Fuel Card.

54. Defendant pays for the fuel acquired by the Contracting Plaintiffs and other owner-operators by making payments either to Comdata, Inc. or directly to the truck stop chain that dispensed the fuel to owner-operators. Defendant then charges back an amount for such fuel against the compensation due Contracting Plaintiffs and other owner operators who use the C.R. England Fuel Card.

55. Through negotiations with either the truckstop or Comdata, C.R. England obtains discounts or rebates from the price shown on the pump at the time fuel is dispensed to an owner-operator. C.R. England passes on only a portion of these discounts or rebates to owner-operators under lease to its operating companies.

56. The sums charged back by Defendant to the Contracting Plaintiffs and other owner-operators for such fuel after the deduction of the discount or rebate are substantially greater than the amounts actually paid by the Defendant to Comdata or to individual truck stops for such fuel providing Defendant with a substantial undisclosed profit on the transaction.

57. Comdata charges C.R. England a fee each time Contracting Plaintiffs and other owner-operators use its services. On information and belief, C.R. England imposes a charge-back against the compensation of the Contracting Plaintiffs and other owner-operators that exceeds the fee charged to C.R. England by Comdata for each transaction.

58. The lease does not disclose the amount by which the charge-backs by Defendant against Contracting Plaintiffs' compensation for fuel exceed the amount initially paid by Defendant for such fuel in violation of 49 C.F.R. § 376.12(h). Defendant failed to afford Plaintiffs copies of those documents which are necessary to determine the validity of the charge-backs by Defendant against Contracting Plaintiffs' compensation for fuel in excess of amounts initially paid by Defendant for such fuel in violation of 49 C.F.R. § 376.12(h). Defendant illegally profited from charge-backs related to the purchase of fuel in violation of 49 C.F.R. § 376.12(h).

59. The lease does not disclose the amount by which the charge-backs by Defendant against Contracting Plaintiffs' compensation for Comdata fees exceed the amount initially paid by Defendant for such fees in violation of 49 C.F.R. § 376.12(h). Defendant failed to afford Plaintiffs copies of those documents which are necessary to determine the validity of the charge-backs by Defendant against Contracting Plaintiffs' compensation for Comdata fees in excess of amounts

initially paid by Defendant for such fees, in violation of 49 C.F.R. § 376.12(h). Defendant illegally profited from charge-backs related to use of Comdata cards.

60. C.R. England unilaterally increased the amount Plaintiffs were charged-back against compensation to pay for insurance products purchased through C.R. England, in violation of 49 C.F.R. § 376.12(h).

61. C.R. England charged-back against Contracting Plaintiffs' compensation amounts for repairs and maintenance to the tractor.

62. Upon information and belief, C.R. England charged-back against Contracting Plaintiffs, and other owner-operators similarly situated, "mark-ups" for parts or "shop overhead," and administrative fees for repairs and maintenance performed at Defendant's repair facilities.

63. Defendant failed to disclose, in its Lease Agreement, that it would charge-back against owner-operator compensation amounts for mark-ups for parts or administrative fees related to repairs.

64. C.R. England failed to provide, in its Lease Agreement or addenda, a recitation as to the method by which the amount of the charge-backs for repairs and maintenance was computed. C. R. England failed to provide Contracting Plaintiffs copies of those documents which are necessary to determine the validity of certain chargebacks, including those for repairs and maintenance, thereby facilitating the imposition of unreasonable, excessive chargebacks against compensation.

65. C.R. England's Lease Agreement required Contracting Plaintiffs, and other owner-operators, to have charged-back against compensation on a weekly basis, monies for "mileage based

taxes” including fuel taxes. Under the terms of the Lease Agreement, Defendant keeps all refunds and credits.

66. Upon information and belief, the sums charged back by Defendant to the Contracting Plaintiffs and other owner-operators for such fuel taxes are greater than the amounts actually paid by the Defendant to state fuel taxing authorities.

67. C. R. England failed to provide Contracting Plaintiffs copies of those documents which are necessary to determine the validity of chargebacks for fuel taxes, thereby facilitating the imposition of unreasonable, excessive chargebacks against compensation.

68. C.R. England makes additional charge-backs to owner-operators’ compensation -- including charge-backs for insurance products, insurance “administrative” services, communications devices, settlement “administrative” services, and termination-related “administrative” expenses, without a recitation in a mutually executed lease or addendum as to the method by which the amount of the deductions was computed and for items that were not clearly specified in the Lease Agreement. C. R. England failed to provide Contracting Plaintiffs copies of those documents which are necessary to determine the validity of those chargebacks, thereby facilitating the imposition of unreasonable, excessive chargebacks against compensation.

69. As a direct and proximate result of Defendant’s acts and omissions, Plaintiffs, and all others similarly situated, have been deprived of their rights under 49 C.F.R. § 376.12(h), and are entitled to damages and restitution.

COUNT IV
Unlawfully Requiring Plaintiffs to Purchase or Lease
Products and Services
(in violation of 49 C.F.R. § 376.12(i))

70. Plaintiffs re-allege and incorporate the allegations of paragraphs 1 through 69.

71. 49 C.F.R. § 376.12(i) prohibits carriers from requiring owner-operators to purchase or rent products, services, or equipment from the carrier as a condition to entering into a lease agreement.

72. C. R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase insurance products, including bobtail or non-trucking use liability insurance, physical damage insurance, Workers' Compensation or occupational accident insurance, passenger insurance and cargo insurance from it as a condition of entering into the Lease Agreement.

73. C.R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase insurance "administrative" services as a condition of entering into the Lease Agreement.

74. C.R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase settlement "administrative" services as a condition of entering into the Lease Agreement.

75. C.R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase satellite communications services as a condition of entering into the Lease Agreement.

76. C.R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase C.R. England's "Cargo Claims Program" services as a condition of entering into the Lease Agreement.

77. C.R. England required Contracting Plaintiffs, and other similarly situated owner-operators, to purchase C.R. England's fuel tax reporting and filing services as a condition of entering into the Lease Agreement.

78. As a direct and proximate result of Defendant's violations of 49 C.F.R. § 376.12(i), Defendant has unlawfully forced Plaintiffs to purchase Defendant's products and services as a condition to entering into the Lease Agreement and has been unjustly enriched by the amount of the sums rightfully belonging to Plaintiffs.

79. As a direct and proximate result of Defendant's acts and omissions, Plaintiffs, and all others similarly situated, have been deprived of their rights under 49 C.F.R. § 376.12(i), and are entitled to damages and restitution.

COUNT V

**Unlawful Deduction from Compensation for Equipment Lease Payments
(in violation of 49 C.F.R. §§ 376.12(i))**

80. Plaintiffs re-allege and incorporate herein the allegations set forth in paragraphs 1 through 79 above.

81. 49 C.F.R. § 376.12(i) requires the lease to specify the terms of any agreement in which an owner-operator purchases or rents equipment which gives the carrier the right to make deductions from compensation for the purchase or rental payments.

82. Defendant's Lease Agreement contains an Addendum which identifies a weekly "Tractor Lease Payment" to Opportunity Leasing. The Lease Agreement does not specify the terms of the Equipment Lease, and does not state that C.R. England may deduct from owner-operator compensation or escrow funds lease payments allegedly due Opportunity Leasing for remaining lease payments where the Equipment Lease was terminated early.

83. As a direct and proximate result of Defendant's acts and omissions, Plaintiffs, and all others similarly situated, have been deprived of their rights under 49 C.F.R. § 376.12(i), and are entitled to damages and restitution.

COUNT VI
Insurance Violations (49 C.F.R. § 376.12 (j))

84. Plaintiffs re-allege and incorporate the allegations of paragraphs 1 through 83 above.

85. C.R. England unilaterally increased the amount Plaintiffs were charged-back against compensation to pay for insurance products purchased through C.R. England in violation of 49 C.F.R. § 376.12(j).

86. C. R. England failed to provide Plaintiffs with certificates of insurance that contain all the information required by C.F.R. § 376.12 (j), thereby facilitating the sale of insurance at unreasonable and excessive premiums.

87. C. R. England failed to provide Plaintiffs with copies of insurance policies upon request in violation of C.F.R. § 376.12 (j), thereby preventing Plaintiffs from evaluating the scope and value of the insurance coverage provided.

88. Upon information and belief, similarly situated owner-operators have requested insurance information, specifically, complete policies and certificates of insurance, for insurance policies purchased from or through the authorized carrier and for which deductions were made to or taken from their compensation.

89. As a direct and proximate result of these violations of federal law, the rights of Contracting Plaintiffs, and other similarly situated owner-operators, have been violated.

90. As a direct and proximate result of Defendant's acts and omissions, Plaintiffs, and all others similarly situated, have been deprived of their rights under 49 C.F.R. § 376.12(j), and are entitled to damages and restitution.

PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs, OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC., THOMAS SHUTT, WILLIAM PIPER, DON SULLIVAN, SR., JAMES MURPHY, WALTER WILLIAMS individually and for all others similarly situated, respectfully request that this Court:

1. Enter declaratory judgment that the leases Defendant entered with the Class violate 49 C.F.R. § 376.12 in that they fail to contain provisions required by law;
2. Enter declaratory judgment that the leases Defendant entered with the Class contain provisions that are inconsistent with the requirements and responsibilities imposed upon authorized carriers under 49 C.F.R. § 376.12;
3. Enter an injunction pursuant to 49 C.F.R. § 376.11(a) and 49 U.S.C. § 14704(a)(1) enjoining and restraining Defendant from performing authorized transportation in equipment it does

not own until it enters into written lease agreements meeting the requirements contained in 49 C.F.R. § 376.12;

4. Certify a class comprised of lessors of motor vehicle equipment who have leased, are leasing, or will lease during the pendency of this proceeding, such equipment to Defendant for the transport of property in interstate commerce;

5. Enter an Order requiring Defendant to deliver to Contracting Plaintiffs and all members of the Class all insurance information and documentation for the Class as required by 49 C.F.R. § 376.12(h) and (j);

6. Enter an Order that Defendant provide Class Members an accounting of all transactions involving their compensation in any respect, including deductions from income, debits and credits to escrow funds, fuel tax credits and debits, and requiring Defendant to recite how each charge to income or escrow was calculated while providing all documentation necessary to confirm the validity of the same transactions pursuant to 49 C.F.R. § 376.12(h), (j) and (k);

7. Enjoin Defendant from future violations of 49 C.F.R. § 376;

8. Enjoin Defendant from any acts of retaliation, harassment, or intimidation against class members and others who may assist and/or participate in this actions;

9. Enter judgment against Defendant in favor of individual class members for all actual damages for violation of 49 C.F.R. § 376.12 (h), (i), (j), and (k) pursuant to 49 U.S.C. § 14704(a)(2), *including pre and post-judgment interest, as allowed by law*;

10. Order Defendant to disgorge into a common fund for the benefit of the Contracting Plaintiffs and the class they seek to represent all of the sums by which Defendant has been unjustly

enriched at the expense of Contracting Plaintiffs and the class from the use in interstate commerce of motor vehicle equipment leased under leases that did not comport with the Truth-in-Leasing regulations;

11. Enter an order imposing a statutory trust for the benefit of the class upon all of the tangible assets of Defendant;

12. Enter an order establishing the formula and or restitution grid by which the sums by which Defendant has been unjustly enriched are to be distributed to the Class Members;

13. Enter judgment against Defendant in favor of individual class members for costs of this action, reasonable attorneys' fees, and other costs reasonably related to collections for unlawfully deducting, withholding or otherwise reducing Lessors compensation, such as for forced purchase of insurance and communication devices, escrow fund charges, as well as pre- and post-judgment interest, as allowed by law;

14. Create a common fund made up of all damages owed by Defendant to individual Class Members;

15. Award class counsel reasonable attorneys' fees and expenses incurred in the prosecution of this action to be paid out of the common fund;

16. Award class counsel reasonable attorneys' fees and expenses pursuant to 49 U.S.C. § 14704(e); and

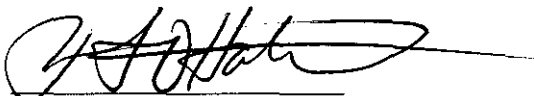
17. Award such other relief as this Court may deem be just and proper.

DEMAND FOR A JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs demand a trial by jury on all issues triable as of right by jury.

DATED this 14th day of January, 2005

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brent O. Hatch", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that copy of the foregoing Amended Class Action Complaint for Declaratory and Class Action Relief, Damages, and Restitution was served, by First-Class U.S. Mail, postage prepaid, this 21st day of March, 2005 on:

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