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ROBERT ASARO-ANGELO, Commissioner
of the New Jersey Department of Labor and
Workforce Development,

Plaintiff,

v.

JERSEY TRACTOR TRAILER TRAINING,
INC.

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

DOCKET NO. _____

CIVIL ACTION

COMPLAINT

Robert Asaro-Angelo, Commissioner of the New Jersey Department of Labor and Workforce Development (“Commissioner”), alleges the following by way of this Complaint against Defendant Jersey Tractor Trailer Training, Inc. (“JTTT”):

INTRODUCTION

1. This action against Defendant Jersey Tractor Trailer Training, Inc., a New Jersey company that hires instructors to teach commercial driver’s license (“CDL”) courses to prospective truck drivers, seeks to redress the company’s misclassification of employee-instructors as independent contractors. Defendant has misclassified at least 30 of the instructors (“Instructors”), depriving them of their rightful wages and essential labor rights and protections.

2. Misclassification is the practice of illegally classifying workers as independent contractors, rather than employees. This growing problem harms New Jersey workers, law-abiding businesses, and the State itself. Misclassification deprives workers of legal rights guaranteed to employees, including the right to earn overtime pay; unemployment benefits, and earned sick leave; to take job-protected family leave and to receive family leave benefits; to receive health and safety protections, and protections afforded by state and federal anti-discrimination law; and to organize under the National Labor Relations Act.

3. Defendant exerted significant control over the Instructors, including, but not limited to, setting their hours and work schedules, requiring them to work on Saturdays, requiring use of specific lesson plans or manuals for CDL instruction, and having the right to hire and fire workers.

4. Defendant's continuous misclassification of the Instructors has not only deprived the Instructors of their rights as employees, it has also deprived the Unemployment Compensation Fund and State Disability Benefits Fund of a significant amount of money in unpaid contributions. Further, such misclassification has given Defendant an unfair competitive advantage over employers who have followed all of the relevant laws, and have accordingly provided all mandated benefits to their employees and contributions to the State.

5. Defendant's systematic misclassification of employees as independent contractors has given rise to numerous violations of New Jersey State law (herein collectively referred to as the "Relevant Labor and Benefits Laws"), specifically:

- a) Failing to pay the Instructors overtime, in violation of New Jersey's Wage and Hour Law ("WHL"), N.J.S.A. 34:11-56a4;
- b) Failing to maintain records of hours worked and wages paid to the Instructors, and failing to produce the same to the New Jersey Department of Labor and Workforce

Development, Division of Wage and Hour Compliance (“NJDOLE”), in violation of the WHL, N.J.S.A. 34:11-56a20;

- c) Failing to make available and pay earned sick leave to the Instructors, maintain records of earned sick leave, and post notice of earned sick leave, in violation of New Jersey’s Earned Sick Leave Law (“ESLL”), N.J.S.A 34:11D-5 to -7;
- d) Failing to timely pay the full amount of wages due to Instructors, in violation of New Jersey’s Wage Payment Law (“WPL”), N.J.S.A. 34:11-4.2;
- e) Failing to make required contributions to the Unemployment Compensation Fund and State Disability Benefits Fund, in violation of New Jersey’s Unemployment Compensation Law (“UCL”), N.J.S.A. 43:21-7, leaving the Instructors at risk of being found ineligible for unemployment, disability, and family leave insurance and depriving the State funds of a significant amount of money; and
- f) Failing to make required contributions to the Workforce Development Partnership Fund and Supplemental Workforce Fund for Basic Skills, in violation of the Employment and Workforce Development Act (“EWDA”), N.J.S.A. 34:15D-1 to -34, thus depriving their employees of the ability to benefit from training and other workforce development programs.

6. Upon information and belief, some or all of JTTT’s unlawful conduct is ongoing.

7. The Commissioner now brings this action pursuant to N.J.S.A. 34:1A-1.12(h) to halt and redress Defendant’s violations. The Commissioner seeks to enjoin Defendant’s ongoing unlawful misclassification and associated violations of the Relevant Labor and Benefits Laws. The Commissioner also seeks to impose statutorily-authorized fines and penalties, recover reasonable

costs of enforcement, including attorney's fees, and obtain wages that have been improperly withheld from the Instructors.

JURISDICTION, VENUE, AND PARTIES

8. The Commissioner is charged with investigating and pursuing violations of "State wage, benefits, and tax laws," as defined by N.J.S.A. 34:1A-1.11, pursuant to N.J.S.A. 34:1A-1.12. These laws include, but are not limited to: the WPL, N.J.S.A. 34:11-4.1 to -4.14; the WHL, N.J.S.A. 34:11-56a1 to -56a38; the ESSL, N.J.S.A. 34:11D-1 to -13; the UCL, N.J.S.A. 43:21-1 to -71; and the EWDA, N.J.S.A. 34:15D-1 to -34.

9. Jurisdiction in the Superior Court is proper pursuant to N.J.S.A. 34:1A-1.12(h)-(j). The Commissioner seeks declaratory, injunctive, and monetary relief for the violations alleged herein pursuant to his enforcement authority under N.J.S.A. 34:1A-1.12(h)-(j).

10. JTTT is a privately held New Jersey company headquartered in Hasbrouck Heights, New Jersey that provides CDL course instruction.

11. JTTT employs the Instructors and has a business address at 411 Route 17 South, Suite 120, Hasbrouck Heights, New Jersey 07604.

12. Venue is proper in Bergen County pursuant to R. 4:3-2, because it is the county in which the cause of action arose and in which the Defendants have maintained a business address and otherwise conducted business.

FACTUAL ALLEGATIONS

13. This case concerns the unlawful misclassification of Instructors employed by JTTT.

14. At all relevant times, JTTT provided CDL course instruction.

15. JTTT hired and remunerated the Instructors to provide CDL course instruction.

16. JTTT classified the Instructors as independent contractors instead of employees.

17. Instructors reported to JTTT's headquarters where CDL course instruction began and finished.

18. Students waited for Instructors at headquarters in order to commence CDL course instruction.

19. JTTT required Instructors to provide CDL course instruction to students for three different tests.

20. JTTT obtained business leads and scheduled students for CDL course instruction.

21. JTTT managed all billing associated with CDL course instruction.

22. JTTT set the work hours and work schedules of Instructors in advance and directed Instructors where, when, and how to perform services.

23. JTTT posted work schedules of Instructors at its headquarters during the week.

24. JTTT required that Instructors work on Saturdays.

25. JTTT exercised the right to hire and fire Instructors.

26. JTTT set the rates of payment for the Instructors.

27. JTTT provided materials and lesson plans to Instructors to teach the CDL courses.

28. JTTT required Instructors to provide instruction in the classroom and on the road.

29. JTTT required Instructors use vehicles owned and maintained by JTTT, with JTTT's logo and branding, to perform the driving portion of CDL instruction. These vehicles were also marked "student driver" by JTTT.

30. JTTT provided Instructors with uniforms.

31. Most of the Instructors' only employment was providing CDL instruction services for JTTT.

32. Most of the Instructors had no significant investment in equipment related to

services they provided for JTTT.

33. Most or all of the Instructors had no federal tax ID number.

34. Most or all of the Instructors had no individual business liability insurance.

35. Most or all of the Instructors did not have a business office separate from JTTT.

36. JTTT failed to pay Instructors overtime pay for all hours worked in excess of forty hours in a given week.

37. JTTT failed to provide earned sick leave to Instructors.

38. JTTT failed to post notice of Instructors' right to earned sick leave.

39. JTTT failed to maintain records of accumulated or used earned sick leave.

40. JTTT failed to contribute to the Unemployment Compensation Fund and State Disability Benefits Fund for all workers from 2018 to 2022.

41. JTTT failed to contribute to the Workforce Development Partnership Fund and Supplemental Workforce Fund for Basic Skills for all workers from 2018 to 2022.

42. On or about February 24, 2021, NJDOL commenced an investigation of JTTT's employment practices.

43. On or about August 23, 2022, NJDOL issued an administrative assessment to JTTT concerning state labor law violations based on the findings of NJDOL's investigation.

44. On or about September 6, 2022, JTTT contested NJDOL's assessment.

45. In and around December 2023, NJDOL referred the matter to the New Jersey Office of the Attorney General for representation.

46. On or about September 9, 2024, NJDOL withdrew the pending administrative assessment.

COUNT ONE

Misclassification

47. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

48. N.J.S.A. 34:1A-1.18 provides for penalties for violations of the Relevant Labor and Benefits Laws occurring “in connection with failing to properly classify employees.”

49. The Instructors are properly classified as employees, not independent contractors, for the following reasons:

- a. The Instructors provided services to JTTT in exchange for remuneration.
- b. JTTT exercised substantial control over the Instructors, set the work hours and schedules of the Instructors, exercised the right to hire and fire the Instructors, set the rates of payment for the Instructors, provided materials and lesson plans to the Instructors, required the Instructors provide instruction in the classroom and on the road, required the Instructors use JTTT’s vehicles with JTTT’s logo and branding, and required the Instructors wear its uniforms.
- c. The CDL instruction performed by the Instructors was within JTTT’s usual course of business.
- d. The Instructors performed CDL instruction and completed other assigned work at JTTT’s place of business.
- e. The Instructors were not engaged in independently established businesses and relied on JTTT for work.

50. For these reasons, the Instructors were JTTT’s employees as defined by the Relevant Labor and Benefits Laws, and JTTT misclassified them as independent contractors.

51. JTTT violated the Relevant Labor and Benefits Laws, as alleged in Counts Two through Seven, which are incorporated by reference herein, as a result of misclassifying the Instructors as independent contractors.

52. Accordingly, JTTT is subject to penalties under N.J.S.A. 34:1A-1.18.

COUNT TWO

Failure to Pay Overtime

53. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

54. N.J.S.A. 34:11-56a4 requires each employer to pay to each of its employees not less than one and a half times such employee's regular hourly rate for each hour of work in excess of forty hours in a given week.

55. JTTT was an employer that employed the Instructors as employees, as defined by N.J.S.A. 34:11-56a1.

56. JTTT failed to pay Instructors the statutorily prescribed overtime rate for all hours worked in excess of forty hours in a given week.

COUNT THREE

Failure to Maintain and Produce Records of Hours and Wages

57. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

58. N.J.S.A. 34:11-56a20 requires that every employer keep a true and accurate record of hours worked by, and wages paid to, each of its employees.

59. N.J.S.A. 34:11-56a20 requires employers to furnish such records of hours worked by, and wages paid to, each of their employees to the Commissioner upon his demand.

60. JTTT was an employer that employed the Instructors as employees, as defined by N.J.S.A. 34:11-56a1.

61. JTTT failed to maintain records of hours worked by, and wages paid to, the Instructors in violation of N.J.S.A. 34:11-56a20.

62. JTTT failed to furnish to the Commissioner records of the hours worked by, and wages paid to, the Instructors in violation of N.J.S.A. 34:11-56a20.

COUNT FOUR

Failure to Make Available and Pay Earned Sick Leave

63. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

64. N.J.S.A. 34:11D-2 requires an employer to provide to its employees one hour of earned sick leave per thirty hours worked.

65. JTTT was an employer that employed the Instructors as employees, as defined by N.J.S.A. 34:11D-1.

66. JTTT failed to make available or pay earned sick leave to the Instructors per their hours worked in violation of N.J.S.A. 34:11D-2.

COUNT FIVE

Failure to Provide Notice and Keep Records of Earned Sick Leave

67. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

68. N.J.S.A. 34:11D-6 requires an employer to retain records documenting hours worked, and earned sick leave taken, by its employees.

69. N.J.S.A. 34:11D-7 requires an employer to post notice to its employees of their statutory right to earned sick leave under N.J.S.A. 34:11D-1 to -13.

70. JTTT was an employer that employed the Instructors as employees, as defined by N.J.S.A. 34:11D-1.

71. JTTT failed to maintain records of hours worked, and earned sick leave taken, by the Instructors in violation of N.J.S.A 34:11D-6.

72. JTTT failed to post notice to the Instructors of their entitlement to earned sick leave in violation of N.J.S.A. 34:11D-7.

COUNT SIX

Failure to Pay Wages

73. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

74. N.J.S.A. 34:11-4.2 requires an employer to pay the full amount of wages due to employees at least twice during each calendar month, on regular pay days designated in advance by the employer.

75. JTTT was an employer that employed Instructors as defined by N.J.S.A. 34:11-4.1.

76. JTTT failed to timely pay the Instructors one and a half times such employee's regular hourly rate for all hours of work in excess of forty hours in a given week.

COUNT SEVEN

Failure to Make Required Contributions to the New Jersey Unemployment Compensation Fund, Disability Benefits Fund, and Workforce Development Funds

77. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

78. N.J.S.A. 43:21-7 requires an employer to contribute funds for each of its employees to the Unemployment Compensation Fund and State Disability Benefits Fund.

79. N.J.S.A. 34:15D-13 requires an employer to contribute funds to the Workforce Development Partnership Fund.

80. N.J.S.A. 34:15D-22 requires an employer to contribute funds to the Supplemental Workforce Fund for Basic Skills.

81. JTTT was an employer that employed the Instructors as employees, as defined by N.J.S.A. 43:21-19.

82. JTTT failed to make statutorily required contributions as an employer of the Instructors to the Unemployment Compensation Fund and State Disability Benefits Fund in violation of the N.J.S.A. 43:21-7, the Workforce Development Partnership Fund in violation of N.J.S.A. 34:15D-13, and the Supplemental Workforce Fund for Basic Skills in violation of N.J.S.A. 34:15D-22.

DEMAND FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Plaintiff respectfully requests:

- a) A declaratory judgment that the Instructors were and are Defendant's employees under the Relevant Labor and Benefits Laws.
- b) An order enjoining Defendant from continuing to misclassify the Instructors as independent contractors, and mandating that they be classified as employees under the Relevant Labor and Benefits Laws.
- c) An order enjoining Defendant from continuing all practices alleged in this Complaint that violate the Relevant Labor and Benefits Laws.
- d) An award of any and all unpaid overtime wages owed to the Instructors, in an amount to be proven at trial.
- e) An award of damages constituting any and all wages owed to the Instructors, in an amount to be proven at trial.

- f) An award of any and all contributions owed to the Unemployment Compensation Fund, Disability Benefits Fund, Workforce Development Partnership Fund, and Supplemental Workforce Fund for Basic Skills, in an amount to be proven at trial.
- g) Applicable penalties for Defendant's violations, including, but not limited to penalties:
 - 1) for Defendant's misclassification of Instructors, pursuant to N.J.S.A. 34:1A-1.18;
 - 2) under the WPL pursuant to N.J.S.A. 34:11-4.10(b);
 - 3) under the WHL pursuant to N.J.S.A. 34:11-56a22;
 - 4) under the ESLL pursuant to N.J.S.A. 34:11D-5;
 - 5) under the UCL pursuant to N.J.S.A. 43:21-14; and
 - 6) under the EWDA pursuant to N.J.S.A. 34:15D-16 and -19.
- h) An award of any and all liquidated damages for Defendant's unlawful conduct alleged in this Complaint, including, but not limited to, liquidated damages pursuant to the WPL, N.J.S.A. 34:11-4.10(c), and the ESLL, N.J.S.A. 34:11D-5.
- i) An award of any and all appropriate administrative fees including, but not limited to, administrative fees pursuant to the WHL, N.J.S.A. 34:11-56a23, the WPL, N.J.S.A. 34:11-4.9(e), and the ESLL, N.J.S.A. 34:11D-5.
- j) An award of Plaintiff's attorneys' fees, expenses, and costs pursuant to N.J.S.A. 34:1A-1.12(i).
- k) An award of any and all appropriate prejudgment interest.
- l) Any additional relief that this Court may deem just and equitable.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff

By: _____

Nadya A. Comas (#159842017)
Eve E. Weissman (#093902013)
Deputy Attorneys General

Mayur P. Saxena (#036502006)
Assistant Attorney General

Dated: September 10, 2024
Newark, New Jersey

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiff


By: 
Nadya A. Comas
Deputy Attorney General

Dated: September 10, 2024
Newark, New Jersey

RULE 4:5-1(b)(2) CERTIFICATION

I certify that Plaintiff is not aware of any other action pending in any court or any pending arbitration proceeding in which the matter in controversy here is the subject. I further certify that no other action or arbitration proceeding is contemplated by Plaintiff concerning the matter in controversy here. I further certify that Plaintiff is not aware of any other party who should be joined in this action at the current time.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY


By: 
Nadya A. Comas
Deputy Attorney General

Dated: September 10, 2024
Newark, New Jersey

DESIGNATION OF TRIAL COUNSEL

Pursuant to Rule 4:25-4, Deputy Attorneys General Nadya A. Comas and Eve E. Weissman are hereby designated as trial counsel for the Plaintiff in this action.

MATTHEW J. PLATKIN
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs

By: 
Nadya A. Comas
Deputy Attorney General

Dated: September 10, 2024
Newark, New Jersey