

THE HONORABLE JOHN C. COUGHENOUR

U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BALAPUWADUGE MENDIS, MICHAEL  
FEOLA, ANDREA ARBAUGH, and  
EDWARD ASH on their own behalf and on  
the behalf of all others similarly situated,

Plaintiffs,

v.

SCHNEIDER NATIONAL CARRIERS, INC.,  
a Nevada Corporation,

Defendant.

CLASS ACTION

NO. 2:15-cv-00144 JCC

PLAINTIFFS' SECOND AMENDED  
CLASS ACTION COMPLAINT FOR  
DAMAGES

**JURY TRIAL REQUESTED**

Plaintiffs Balapuwaduge Mendis, Michael Feola, Andrea Arbaugh, and Edward Ash individually and on behalf of all others similarly situated, by and through their counsel, for their class action complaint against Defendant Schneider National Carriers, Inc. hereby state and allege as follows:

**I. INTRODUCTION**

1. Defendant Schneider National Carriers, Inc. (Schneider) is a truckload company that services customers through 42 regional offices located across the United States. Schneider is in the business of delivering goods for customers by use of trucks and has more than 17,000 employees nationwide. Schneider is the 127th largest private company according to Forbes Magazine. Upon

1 information and belief, Defendant has employed more than 150 driver employees in Washington  
2 State in the last three years operating from a location in Sumner, Washington. Defendant has  
3 engaged in a common scheme of wage and hour violations against its driver employees. This  
4 scheme has included failing to pay driver employees for all hours worked, making unlawful  
5 deductions to the wages of driver employees, failing to furnish driver employees with itemized wage  
6 statements, and failing to pay driver employees for the rest breaks to which they are entitled.  
7 Defendant's deliberate failure to pay driver employees their earned wages violates Washington Law.

8 2. Plaintiffs and Class members are current and former driver employees employed by  
9 Defendant in the State of Washington who have been victimized by the Defendant's unlawful  
10 compensation practices. This lawsuit is brought as a class action under state law to recover unpaid  
11 wages owed to the individual Plaintiffs and all other similarly situated employees.

## 12 II. JURISDICTION AND VENUE

13 3. Venue is proper in King County because Plaintiffs Mendis and Feola worked for  
14 Defendant in King County. Defendant has customers in King County, and many of the violations  
15 alleged herein occurred in King County. In addition, Defendant transacts business in King County  
16 and many of the specific acts, as well as the course of conduct alleged herein, occurred in King  
17 County.

18 4. Defendant is within the jurisdiction of this Court. Defendant does business in the  
19 State of Washington and has operations in King County. Defendant is registered in the State of  
20 Washington. Defendant has obtained the benefits of the laws of the State of Washington and the  
21 Washington retail and labor markets.

## 22 III. PARTIES

23 5. Defendant Schneider is a Nevada corporation, registered in the state of Washington.

24 6. Named Plaintiff Balapuwaduge Mendis is a resident of Seattle, in the County of  
25 King, State of Washington. Plaintiff Mendis has worked as a driver for Defendant since  
26

1 approximately July 2012. He has a commercial driver license issued by the State of Washington, and  
2 he has used Defendant's Sumner, Washington location on a regular basis for the duration of his  
3 employment. Mr. Mendis worked in King County for Defendant on a regular basis.

4 7. Named Plaintiff Michael Feola is a resident of Hansville, in the County of Skagit,  
5 State of Washington. Plaintiff Feola worked as a driver for Defendant from approximately May 2011  
6 to July 2012.

7 8. Named Plaintiff Andrea Arbaugh is a resident of Graham, in the County of Pierce,  
8 State of Washington. Plaintiff Arbaugh worked as a driver for Defendant from approximately May  
9 2013 to May 2015.

10 9. Named Plaintiff Edward Ash is a resident of Auburn, in the County of King, State of  
11 Washington. Plaintiff Ash worked as a driver for Defendant from approximately May 1998 to  
12 December 2015.

#### 13 IV. CLASS ACTION ALLEGATIONS

14 10. Plaintiffs bring this case as a class action pursuant to Rule 23 on behalf of a class  
15 consisting of:

16 All current and former employees of Schneider National Carriers, Inc. who, at any  
17 time from December 30, 2011 through the date of final disposition, worked as  
18 drivers for the company while residing in the state of Washington.

19 Excluded from this Class are Defendant, any entity in which Defendant has a controlling interest or  
20 which has a controlling interest in Defendant, and Defendant's legal representatives, assignees and  
21 successors. Also excluded are the Judge(s) to whom this case is assigned and any member of the  
22 Judge's immediate family.

23 11. Plaintiffs believe there are least 150 current and former driver employees in the Class.

24 12. Plaintiffs' claims are typical of the claims of the members of the Class because they  
25 have been- truck drivers who, like the members of the Class, sustained damages arising out of  
26 Defendant's common course of wage and hour violations.

1           13.     Plaintiffs will fairly and adequately protect the interests of the Class members.  
2 Plaintiffs have retained counsel competent and experienced in complex and class action litigation,  
3 including employment law.

4           14.     Common questions of law and fact exist as to Plaintiffs and all members of the Class  
5 and predominate over any questions solely affecting individual members of the Class. Among the  
6 questions of law and fact common to Plaintiffs and the Class are:

7                   a.     Whether Defendant failed to properly compensate Plaintiffs and the Class for  
8 all time worked, including overtime;

9                   b.     Whether Defendant failed to pay Plaintiffs and the Class for the work  
10 Defendant permitted them to perform;

11                   c.     Whether Defendant made unlawful deductions to the wages of Plaintiff(s) and  
12 Class members;

13                   d.     Whether Defendant failed to keep true and accurate time records for all hours  
14 worked by Plaintiffs and the Class;

15                   e.     Whether Defendant failed to compensate Plaintiffs and Class members for  
16 rest breaks;

17                   f.     Whether Defendant violated RCW 49.12 *et. seq* as to Plaintiffs and the Class;

18                   g.     Whether Defendant violated RCW 49.46.090 as to Plaintiffs and the Class;

19                   h.     Whether Defendant violated RCW 49.52.050 as to Plaintiffs and the Class;

20                   i.     Whether Defendant violated WAC 296-128-010 as to Plaintiffs and the Class;

21                   j.     Whether Defendant violated WAC 296-128-011 as to Plaintiffs and the Class;

22                   k.     Whether Defendant violated WAC 296-126-040 as to Plaintiffs and the Class;

23                   l.     Whether Defendant violated WAC 296-126-028 as to Plaintiffs and the Class;

24                   m.     Whether Defendant violated WAC 296-126-092 as to Plaintiffs and the Class;

25 and  
26

1 n. The nature and extent of class-wide injury and the measure of compensation  
2 for such injury.

3 15. Class action treatment is superior to the alternative for the fair and efficient  
4 adjudication of the controversy alleged herein. Such treatment will permit a large number of  
5 similarly situated persons to prosecute their modest, purely economic, common claims in a single  
6 forum simultaneously, efficiently and without duplication of effort and expense that numerous  
7 individual actions would entail. No difficulties are likely to be encountered in the management of  
8 this class action that would preclude its maintenance as a class action, and no superior alternative  
9 exists for the fair and efficient adjudication of this controversy. The Class is readily identifiable from  
10 Defendant's records.

11 16. Defendant has acted on grounds generally applicable to the entire Class, thereby  
12 making a final injunctive relief or corresponding declaratory relief appropriate with respect to the  
13 Class as a whole. Prosecution of separate actions by individual members of the Class would create a  
14 risk of inconsistent or varying adjudications with respect to individual members of the Class that  
15 would establish incompatible standards of conduct for Defendant.

16 17. A class action is superior to other available methods for the fair and efficient  
17 adjudication of this controversy since joinder of all matters is impractical. Furthermore, the amounts  
18 at stake for many of the class members, while substantial to them, are not great enough to hire an  
19 attorney to prosecute individual suits against Defendant.

20 18. Without a class action, Defendant will likely continue its course of illegal action  
21 which will cause further damage to Plaintiffs and the Class.

## 22 V. SUMMARY OF ALLEGATIONS

23 19. Common Course of Conduct. Beginning at a date currently unknown to Plaintiffs,  
24 but at least as early as December 30, 2011, Defendant committed, and continues to commit, acts of  
25 wage abuse against its employees, specifically drivers.

1 20. On Duty Not Driving. Defendant has failed to pay Plaintiffs and the Class for all  
2 time that they have worked as employees, including but not limited to, forcing or permitting  
3 Plaintiffs and Class members to work and failing to pay Plaintiffs and the Class for work performed  
4 when not driving.

5 21. Overtime. Defendant has failed to pay Plaintiffs and the Class for all time that they  
6 have worked as employees, including wages for overtime worked.

7 22. Rest Breaks. Defendant's common course of wage and hour abuse includes failing to  
8 pay Plaintiffs and Class members for rest breaks, whether received or not.

9 23. Wage Deductions. Defendant has made unlawful deductions from the wages of  
10 Plaintiff(s) and the Class and failed clearly indicate deductions being made on each employee's wage  
11 statements. Such deductions were not expressly authorized in writing and in advance for a lawful  
12 purpose for the benefit of the employee. Moreover, Defendant, or a person acting in the interest of  
13 Defendant, derived a financial benefit from the deductions.

14 24. Wage Statements. Defendant has failed to keep true and accurate time records for all  
15 hours worked by Plaintiffs and the Class, and Defendant has failed to furnish proper payroll  
16 documents to Plaintiffs and Class members.

17 **VI. FIRST CLAIM FOR RELIEF**  
18 **(Payment of Wages Less Than Entitled: RCW 49.46.090)**

19 25. Plaintiffs and the Class reallege and incorporate by reference each and every  
20 allegation set forth in the preceding paragraphs.

21 26. Under RCW 49.46.090, employers must pay employees all wages to which they are  
22 entitled under The Washington Minimum Wage Act. If the employer fails to do so, RCW 49.46.090  
23 requires that the employer pay the employees the full amount of the statutory minimum wage rate  
24 less any amount actually paid to the employees.

1 27. Defendant failed to pay Plaintiffs and Class members for time worked when they  
2 were not driving but were still performing work for Defendant, including but not limited to, driving  
3 inspections, load and unload times, and wait times.

4 28. Defendant also violated the Minimum Wage Act by not allowing and/or paying  
5 Plaintiffs and the Class for break periods.

6 29. By the actions alleged above, Defendant violated the provisions of RCW 49.46.090.

7 30. As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
8 deprived of compensation in amounts to be determined at trial, and pursuant to RCW 49.46.090 and  
9 49.48.030, are entitled to recover those damages, including interest thereon, and attorneys' fees and  
10 costs.

11 **VII. SECOND CLAIM FOR RELIEF**  
12 **(Failure to Pay Overtime Compensation: RCW 49.46.130)**

13 31. Plaintiffs and the Class reallege and incorporate by reference each and every  
14 allegation set forth in the preceding paragraphs.

15 32. RCW 49.46.130 provides that no employer shall employ any employee for a  
16 workweek longer than 40 hours unless the employee receives compensation for his employment in  
17 excess of the hours above specified at a rate not less than one and half times the regular rate at which  
18 he is employed. RCW 49.46.130 (f) excludes an individual employed as a truck or bus driver who is  
19 subject to the provisions of the Federal Motor Carrier Act (49 U.S.C. Sec. 3101 et seq. and 49 U.S.C.  
20 Sec. 10101 et seq.), if the compensation system under which the truck or bus driver is paid includes  
21 overtime pay, reasonably equivalent to that required by this subsection, for working longer than forty  
22 hours per week. Upon information and belief Defendant did not employ a "reasonably equivalent"  
23 method to pay overtime to Plaintiffs and Class members.

24 33. WAC 296-128-012 provides a method for compensating truck drivers for overtime  
25 pay. Defendant did not compensate Plaintiffs and Class members for overtime hours worked.

1 34. By the actions alleged above, Defendant violated RCW 49.46.130

2 35. As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
3 deprived of compensation in amounts to be determined at trial, and pursuant to RCW 49.46.090 and  
4 49.48.030, are entitled to recover those damages, including interest thereon, and attorneys' fees and  
5 costs.

6 **VIII. THIRD CLAIM FOR RELIEF**  
7 **(Failure to Compensate for Rest Breaks: RCW 49.12.020 and WAC 296-126-092)**

8 36. Plaintiffs and the Class reallege and incorporate by reference each and every  
9 allegation set forth in the preceding paragraphs.

10 37. RCW 49.12.010 provides that "[t]he welfare of the state of Washington demands that  
11 all employees be protected from conditions of labor which have a pernicious effect on their health.  
12 The state of Washington, therefore, exercising herein its police and sovereign power declares that  
13 inadequate wages and unsanitary conditions of labor exert such pernicious effect."

14 38. RCW 49.12.020 provides that "[i]t shall be unlawful to employ any person in any  
15 industry or occupation within the state of Washington under conditions of labor detrimental to their  
16 health."

17 39. Pursuant to RCW 49.12.005 and WAC 296-126-002, conditions of labor "means and  
18 includes the conditions of rest . . . periods" for employees.

19 40. WAC 296-126-092 provides that "[e]mployees shall be allowed a rest period of not  
20 less than ten minutes, on the employer's time, for each four hours worked." By actions alleged  
21 above, Defendant violated the provisions of WAC 296-126-092. This, in turn, constitutes a violation  
22 of RCW 49.12.010 and RCW 49.12.020.

23 41. As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
24 deprived of compensation for hours worked during missed rest breaks in amounts to be determined at  
25 trial. Plaintiffs and the Class are entitled to recover such damages, including interest thereon, as well  
26



1 as attorneys' fees and costs pursuant to RCW 49.48.030.

2 **IX. FOURTH CLAIM FOR RELIEF**  
3 **(Unlawful Deductions)**

4 42. Plaintiffs and the Class reallege and incorporate by reference each and every  
5 allegation set forth in the preceding paragraphs.

6 43. Defendant made deductions from Plaintiff(s) and the Class wages, including but not  
7 limited to, for per diem expenses. This was disadvantageous to Plaintiff(s) and the Class. The  
8 employer benefited from the deduction. Further, Plaintiff(s) and the Class' wages were reduced  
9 below the agreed upon rate.

10 44. By the actions alleged above, Defendant violated Washington laws. As a result of the  
11 unlawful acts of Defendant, Plaintiff(s) and the Class have been deprived of compensation in  
12 amounts to be proven at trial. Pursuant to RCW 49.52.060, RCW 49.48.010, RCW 49.46.090 and  
13 WAC 296-126-028, Plaintiff(s) and the Class are entitled to recover those damages, including  
14 interest thereon, and attorneys' fees and costs of suit.

15 **X. FIFTH CLAIM FOR RELIEF**  
16 **(Willful Refusal to Pay Wages: RCW 49.52.050)**

17 45. Plaintiffs and the Class reallege and incorporate by reference each and every  
18 allegation set forth in the preceding paragraphs.

19 46. RCW 49.52.050(2) provides that any employer who "willfully and with intent to  
20 deprive the employee of any part of his wages, pays any employee a lower wage than the wage such  
21 employer is obligated to pay such employee by any statute, ordinance, or contract" is guilty of a  
22 misdemeanor.

23 47. RCW 49.52.070 provides that any employer who violates the foregoing statute shall  
24 be liable in a civil action for twice the amount of wages withheld, together with costs of suit and  
25 reasonable attorney fees.  
26

1 48. The alleged unlawful actions by Defendant against Plaintiffs and the Class, as set  
2 forth above, were committed willfully and with intent to deprive Plaintiffs and the Class of part of  
3 their wages.

4 49. As such, based on the above allegations, Defendant violated the provisions of RCW  
5 49.52.050.

6 50. As a result of the unlawful acts of Defendant, Plaintiffs and the Class have been  
7 deprived of overtime and straight time compensation in amounts to be determined at trial, and  
8 pursuant to RCW 49.52.070 are entitled to recovery of twice such amounts, including interest  
9 thereon, attorneys' fees and costs.

10 **XI. PRAYER FOR RELIEF**

11 Wherefore, Plaintiffs, on their own behalf and on behalf of the members of the Class, pray for  
12 judgment against the Defendant as follows:

13 A. Certification of the proposed Class;

14 B. A declaration that Defendant is financially responsible for notifying all Class  
15 members of its wage and hour violations;

16 C. Appoint Plaintiffs Mendis, Feola, Arbaugh, and Ash as Class representatives;

17 D. Appoint the undersigned counsel as Class counsel;

18 E. Declare that the actions complained of herein violate Washington law and  
19 administrative codes;

20 F. Award Plaintiffs and the Class compensatory and exemplary damages;

21 G. Enjoin Defendant and its officers, agents, successors, employees, representatives, and  
22 any and all persons acting in concert with them, as provided by law, from engaging in each of the  
23 unlawful practices, patterns, and policies set forth herein;

24 H. Award Plaintiffs and the Class attorneys' fees and costs, as allowed by law;

1 I. Award Plaintiffs and the Class pre-judgment and post-judgment interest, as provided  
2 by law; and

3 J. Grant such other and further relief as this Court deems necessary.

4 RESPECTFULLY SUBMITTED AND DATED

5 REKHI & WOLK, P.S.

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