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9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF WASHINGTON**

12 DANIEL VALENCIA,)
13 BELARMINO HERNANDEZ,) Case No. 4:18-cv-05034-EFS
14 JUNIOR ARACHIGA,)
15 individually and on behalf of all) **DEFENDANT’S ANSWER AND**
16 others similarly situated,) **AFFIRMATIVE DEFENSES TO**
17) **CLASS ACTION COMPLAINT**
18 Plaintiffs,)
19 v.)
20 HOMEDELIVERYLINK, INC.)
21 Defendant.)

22 Defendant, HOMEDELIVERYLINK, INC. (“HDL”), by its attorney, ADAM
23 C. SMEDSTAD, respectfully submits its Answer and Affirmative Defenses to Class
24 Action Complaint.

25 **I. INTRODUCTION**

1.1 Nature of Action. Plaintiffs Daniel Valencia, Belarmino Hernandez,
and Junior Arachiga bring this class action against HomeDeliveryLink for willfully

1 misclassifying Plaintiffs and the members of the Class as independent contractors
2 rather than employees, in violation of Washington State law. As a result,
3 HomeDeliveryLink has willfully failed to pay Plaintiffs and the members of the
4 Class overtime compensation they are due for hours worked beyond 40 each week,
5 made unlawful deductions from the paychecks of Plaintiffs and the members of the
6 Class, and failed to provide and compensate for meal and rest breaks as required
7 under Washington State law.
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9
10 **ANSWER: HDL admits that Plaintiffs purport to bring this action as a**
11 **class action alleging violations of Washington law, but HDL denies that any**
12 **violations occurred, denies the case is suitable for class action treatment, and**
13 **denies the remaining allegations in Paragraph 1 of the Complaint.**
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15 **II. JURISDICTION AND VENUE**

16
17 2.1 Jurisdiction. This Court has subject matter jurisdiction over all claims
18 asserted in this action pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1367. The matter
19 in controversy for Plaintiffs' claims against HomeDeliveryLink, exclusive of interest
20 and costs, exceeds \$75,000, and Plaintiffs' and Class members' claims against
21 HomeDeliveryLink exceeds, exclusive of interest and costs, the sum of \$5,000,000.
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23
24 **ANSWER: HDL admits that this Court has subject matter jurisdiction**
25 **over Plaintiffs' claims, but HDL denies that any violation of Washington law**

1 **occurred and denies the remaining allegations in Paragraph 2.1 of the**
2 **Complaint.**

3
4 2.2 Venue. Venue in the Eastern District of Washington is proper because
5 HomeDeliveryLink transacts business in this District, and Plaintiffs reside and
6 performed work for HomeDeliveryLink in this District.

7
8 **ANSWER: HDL admits that venue is proper in the Eastern District of**
9 **Washington. HDL lacks knowledge or information sufficient to form a belief**
10 **about the truth of the allegations that Plaintiffs reside in the Eastern District of**
11 **Washington and therefore denies the allegations. HDL denies the remaining**
12 **allegations in Paragraph 2.2 of the Complaint.**

13
14 **III. PARTIES**

15
16 3.1 Plaintiff Daniel Valencia. Plaintiff Daniel Valencia (“Plaintiff
17 Valencia”) resides in Pasco, Washington. He worked as a delivery driver for
18 HomeDeliveryLink from approximately September 2015 until July 2017. During
19 this time, HomeDeliveryLink required Plaintiff Valencia to work five to six days
20 each week, from 6:00 a.m. or 7:00 a.m. each morning until 6:00 p.m. or 7:00 p.m. in
21 the evening (and sometimes as late as midnight), delivering furniture and appliances
22 to HomeDeliveryLink’s customers out of a terminal in Richland, Washington.
23 Plaintiff Valencia was not allowed to take a day off to perform delivery work for any
24 other company besides HomeDeliveryLink, or to carry another company’s furniture
25

1 and appliance deliveries while delivering for HomeDeliveryLink. Each morning, a
2 HomeDeliveryLink supervisor assigned Plaintiff Valencia a full day's worth of
3 deliveries, with precise two-hour time windows in which Plaintiff Valencia was
4 required to perform each delivery, and Plaintiff Valencia was not allowed to reject
5 any assignment. Although Plaintiff Valencia consistently worked sixty-plus hours
6 each week as a delivery driver for HomeDeliveryLink, he never received overtime
7 pay. Instead, HomeDeliveryLink paid him a piece rate for his work—specifically a
8 flat rate for each stop plus approximately \$0.30 or \$0.40 per mile. In addition,
9 HomeDeliveryLink failed to provide Plaintiff Valencia with a paid ten-minute rest
10 break for every four hours of work, required Plaintiff Valencia to work more than
11 three consecutive hours without a rest break, and failed to ensure that Plaintiff
12 Valencia took proper breaks. HomeDeliveryLink also failed to pay Plaintiff
13 Valencia separately for rest breaks, whether he received them or not, at his average
14 hourly rate. HomeDeliveryLink also failed to provide Plaintiff Valencia with a
15 thirty-minute meal break for every five hours worked, failed to provide Plaintiff
16 Valencia a second thirty-minute meal break when he worked more than eleven hours
17 in a day, and failed to ensure that he take all his meal breaks. HomeDeliveryLink
18 failed to provide Plaintiff Valencia with thirty minutes of additional pay for each
19 missed meal break. HomeDeliveryLink made regular deductions from Plaintiff
20 Valencia's bi-weekly paychecks to cover HomeDeliveryLink's own costs of doing
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1 business, including a security deposit to be used for any damaged property,
2 administration and payroll expenses, vehicle maintenance and upkeep, and
3 insurance. Plaintiff Valencia was an employee of HomeDeliveryLink for purposes
4 of the Washington Minimum Wage Act (“MWA”).
5

6 **ANSWER: HDL denies that it employed Plaintiff Valencia. HDL lacks**
7 **knowledge or information sufficient to form a belief about Plaintiff Valencia’s**
8 **residency and therefore denies the allegations. HDL denies the remaining**
9 **allegations in Paragraph 3.1 of the Complaint.**
10

11
12 3.2 Plaintiff Belarmino Hernandez. Plaintiff Belarmino Hernandez
13 (“Plaintiff Hernandez”) resides in Kennewick, Washington. Plaintiff Hernandez
14 performed appliance deliveries for HomeDeliveryLink from approximately 2014 to
15 2015, out of the Sears warehouse in Richland, Washington, where
16 HomeDeliveryLink maintained an office. Plaintiff Hernandez worked full-time, five
17 to six days each week, and typically twelve or more hours each day, performing
18 deliveries for HomeDeliveryLink in the precise order dictated by
19 HomeDeliveryLink and according to HomeDeliveryLink’s strict two-hour time
20 windows. Plaintiff Hernandez was not allowed to refuse any assignment, take a day
21 off to perform deliveries for any other company, or to carry deliveries for any other
22 company while delivering for HomeDeliveryLink. Like the other Plaintiffs and class
23 members, Plaintiff Hernandez never received any overtime pay despite consistently
24
25

1 working sixty-plus hours each week as a delivery driver for HomeDeliveryLink.
2 Instead, HomeDeliveryLink paid him a piece rate for his work—specifically he was
3 paid a flat rate for each stop plus approximately \$0.30 or \$0.40 per mile. In addition,
4 HomeDeliveryLink failed to provide Plaintiff Hernandez with a paid ten-minute rest
5 break for every four hours of work, required Plaintiff Hernandez to work more than
6 three consecutive hours without a rest break, and failed to ensure that Plaintiff
7 Hernandez took proper breaks. HomeDeliveryLink also failed to pay Plaintiff
8 Hernandez separately for rest breaks, whether he received them or not, at his average
9 hourly rate. HomeDeliveryLink also failed to provide Plaintiff Hernandez with a
10 thirty-minute meal break for every five hours worked, failed to provide Plaintiff
11 Hernandez a second thirty-minute meal break when he worked more than eleven
12 hours in a day, and failed to ensure that he take all his breaks. HomeDeliveryLink
13 failed to provide Plaintiff Hernandez with thirty minutes of additional pay for each
14 missed meal break. HomeDeliveryLink made regular deductions from Plaintiff
15 Hernandez’s bi-weekly paychecks to cover HomeDeliveryLink’s own costs of doing
16 business, including a security deposit to be used for any damaged property,
17 administration and payroll expenses, vehicle maintenance and upkeep, and
18 insurance. Plaintiff Hernandez was an employee of HomeDeliveryLink for purposes
19 of the MWA.
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1 **ANSWER: HDL admits Plaintiff Hernandez’s business entities**
2 **contracted with HDL to perform services from approximately 2014 to 2015.**
3 **HDL admits it had an office in Richland, Washington. HDL admits that it paid**
4 **Plaintiff Hernandez’s business entities on a per-stop basis. HDL denies that it**
5 **employed Plaintiff Hernandez. HDL lacks knowledge or information sufficient**
6 **to form a belief about Plaintiff Hernandez’s residency and therefore denies the**
7 **allegations. HDL denies the remaining allegations in Paragraph 3.1 of the**
8 **Complaint.**

9
10
11 3.3 Plaintiff Junior Arachiga. Plaintiff Junior Arachiga (“Plaintiff
12 Arachiga”) resides in Kennewick, Washington. Plaintiff Arachiga performed
13 appliance deliveries for HomeDeliveryLink from June 2016 to November 2016, out
14 of the Sears warehouse in Richland, Washington, where HomeDeliveryLink
15 maintained an office. Plaintiff Arachiga worked full-time, five to six days each
16 week, from 5:30 a.m. until anywhere between 8:00 p.m. and midnight each day,
17 performing deliveries for HomeDeliveryLink in the precise order dictated by
18 HomeDeliveryLink and according to HomeDeliveryLink’s strict two-hour time
19 windows. Plaintiff Arachiga was not allowed to refuse any assignment, take a day
20 off to perform deliveries for any other company, or to carry deliveries for any other
21 company while delivering for HomeDeliveryLink. Like Plaintiff Valencia, Plaintiff
22 Arachiga never received any overtime pay despite consistently working seventy-plus
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1 hours each week as a delivery driver for HomeDeliveryLink. Instead,
2 HomeDeliveryLink paid him a piece rate for this work—specifically, he was paid a
3 flat rate for each stop plus approximately \$0.30 or \$0.40 per mile. In addition,
4 HomeDeliveryLink failed to provide Plaintiff Arachiga with a paid ten-minute rest
5 break for every four hours of work, and required Plaintiff Arachiga to work more
6 than three consecutive hours without a rest break. HomeDeliveryLink also failed to
7 pay Plaintiff Arachiga separately for rest breaks, whether he received them or not,
8 at his average hourly rate. HomeDeliveryLink also failed to provide Plaintiff
9 Arachiga with a thirty-minute meal break for every five hours worked, failed to
10 provide Plaintiff Arachiga a second thirty-minute meal break when he worked more
11 than eleven hours in a day, and failed to ensure that he received all his breaks.
12 HomeDeliveryLink failed to provide Plaintiff Arachiga with thirty minutes of
13 additional pay for each missed meal break. HomeDeliveryLink made regular
14 deductions from Plaintiff Arachiga’s bi-weekly paychecks to cover
15 HomeDeliveryLink’s own costs of doing business, including a security deposit to be
16 used for any damaged property, administration and payroll expenses, vehicle
17 maintenance and upkeep, and insurance. Plaintiff Arachiga was an employee of
18 HomeDeliveryLink for purposes of the MWA.

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25 **ANSWER: HDL denies that it employed Plaintiff Arachiga. HDL lacks
knowledge or information sufficient to form a belief about Plaintiff Arachiga’s**

1 **residency and therefore denies the allegations. HDL denies the remaining**
2 **allegations in Paragraph 3.3 of the Complaint.**

3
4 3.4 Defendant HomeDeliveryLink. HomeDeliveryLink is a California
5 corporation with its headquarters in San Juan Capistrano, California.
6 HomeDeliveryLink is registered to do and does business throughout the State of
7 Washington, including Richland, Seattle, and Spokane, Washington.
8 HomeDeliveryLink relies on Plaintiffs and other Class members to perform
9 deliveries for its customers, which include Sears, Ashley's Furniture, and More.
10 HomeDeliveryLink employs dispatchers, supervisors, and other management staff
11 to supervise and assign work to the Plaintiffs and Class members.
12 HomeDeliveryLink has misclassified the named Plaintiffs and at least 50 similarly
13 situated delivery drivers as independent contractors when they were actually
14 HomeDeliveryLink's employees for purposes of the MWA.
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18 **ANSWER: HDL admits it is a California corporation with its**
19 **headquarters in San Juan Capistrano, California and that it is registered to do**
20 **and does business in Washington. HDL admits it employs dispatchers,**
21 **supervisors, and other staff. HDL denies the remaining allegations in**
22 **Paragraph 3.4 of the Complaint.**
23
24

25 4.1 Class Definition: Pursuant to Civil Rule 23, Plaintiffs bring this case as
a class action against HomeDeliveryLink on behalf of a Class defined as follows:

1 All persons who, from March 1, 2015 and the date of final disposition
2 of this action, have performed services for HomeDeliveryLink in
3 Washington as delivery drivers pursuant to independent contractor
4 agreements.

5 **ANSWER: HDL admits that Plaintiffs purport to bring a class action,**
6 **but denies the case is suitable for class action treatment and denies the**
7 **remaining allegations in Paragraph 4.1 of the Complaint.**

8 4.2 Numerosity. On information and belief there are more than fifty
9 individuals in the Class who have performed services for HomeDeliveryLink during
10 the class period. The members of the Class are so numerous that joinder of all
11 members is impracticable. Moreover, the disposition of the claims of the Class in a
12 single action will provide substantial benefits to all parties and the Court.
13

14 **ANSWER: HDL denies the allegations in Paragraph 4.2 of the**
15 **Complaint.**
16

17 4.3 Commonality. There are numerous questions of law and fact common
18 to Plaintiffs and Class members. These questions include, but are not limited to,
19

20 the following:

- 21 a. Whether HomeDeliveryLink is an employer of Class members;
22 b. Whether HomeDeliveryLink has engaged in a common course of
23 failing to properly compensate Class members for all hours worked, including
24 overtime;
25

1 c. Whether HomeDeliveryLink has engaged in a common course of
2 failing to provide Class members with a ten-minute rest break for every four hours
3 of work;
4

5 d. Whether HomeDeliveryLink has engaged in a common course of
6 failing to ensure that Class members do not work more than three consecutive hours
7 without a rest break;
8

9 e. Whether HomeDeliveryLink has engaged in a common course of
10 failing to separately pay Class members for rest breaks, whether received or not;
11

12 f. Whether HomeDeliveryLink has engaged in a common course of
13 failing to provide Class members with a thirty-minute meal break for every five
14 hours of work;
15

16 g. Whether HomeDeliveryLink has engaged in a common course of
17 failing to provide Class members with a second thirty-minute meal break when they
18 work more than eleven hours in a day;
19

20 h. Whether HomeDeliveryLink has engaged in a common course of
21 failing to ensure that Class members receive their meal breaks;
22

23 i. Whether HomeDeliveryLink has failed to provide Class members with
24 thirty minutes of additional pay for each missed meal break;

25 j. Whether HomeDeliveryLink has failed to keep true and accurate time
records for all hours worked by Class members;

1 k. Whether HomeDeliveryLink has engaged in a common course of
2 improperly taking or threatening to take unlawful deductions from wages owed to
3 Class members;

4
5 l. Whether HomeDeliveryLink's failure to pay all wages owed to Class
6 members was willful;

7
8 m. Whether HomeDeliveryLink has violated RCW 49.46.130;

9 n. Whether HomeDeliveryLink has violated RCW 49.46.090;

10 o. Whether HomeDeliveryLink has violated RCW 49.52.050;

11 p. Whether HomeDeliveryLink has violated RCW 49.12.020;

12 q. Whether HomeDeliveryLink has violated WAC 296-126-092;

13 r. Whether HomeDeliveryLink has violated RCW 49.52.070;

14 s. Whether HomeDeliveryLink has violated RCW 49.52.060;

15 t. Whether HomeDeliveryLink has violated WAC 296-126-028;

16 u. The nature and extent of class-wide injury and the measure of
17 compensation for such injury.
18
19

20
21 **ANSWER: HDL denies the allegations in Paragraph 4.3 of the**
22 **Complaint.**

23
24 4.4 Typicality. Plaintiffs' claims are typical of the claims of the Class.
25 Plaintiffs have performed services for HomeDeliveryLink in Washington, and thus
Plaintiffs are members of the Class. Plaintiffs' claims, like the claims of the Class,

1 arise out of the same common course of conduct by HomeDeliveryLink and are
2 based on the same legal and remedial theories, including that HomeDeliveryLink
3 misclassified the Plaintiffs and all Class members as independent contractors when
4 they were HomeDeliveryLink employees under Washington law; and failed to pay
5 them separately for rest breaks, whether received or not; and as a result Plaintiffs
6 and Class members were denied overtime compensation and other benefits as
7 HomeDeliveryLink employees under the MWA.
8
9

10 **ANSWER: HDL denies the allegations in Paragraph 4.4 of the**
11 **Complaint.**
12

13 4.5 Adequacy. Plaintiffs will fairly and adequately protect the interests of
14 the Class. Plaintiffs have retained competent and capable attorneys who have
15 significant experience in complex and class action litigation, including employment
16 law. Plaintiffs and their counsel are committed to prosecuting this action vigorously
17 on behalf of the Class and have the financial resources to do so. Neither Plaintiffs
18 nor their counsel have interests that are contrary to or that conflict with those of the
19 Class.
20
21

22 **ANSWER: HDL denies the allegations in Paragraph 4.5 of the**
23 **Complaint.**
24

25 4.6 Predominance. HomeDeliveryLink has engaged in a common course
of wage and hour abuse toward Plaintiffs and members of the Class. The common

1 issues arising from this conduct that affect Plaintiffs and members of the Class
2 predominate over any individual issues. Adjudication of these common issues in a
3 single action has important and desirable advantages of judicial economy.
4

5 **ANSWER: HDL denies the allegations in Paragraph 4.6 of the**
6 **Complaint.**

7
8 4.7 Superiority. Plaintiffs and Class members have suffered and will
9 continue to suffer harm and damages as a result of HomeDeliveryLink's unlawful
10 and wrongful conduct. Absent a class action, however, most Class members likely
11 would find the cost of litigating their claims prohibitive. Class treatment is superior
12 to multiple individual suits or piecemeal litigation because it conserves judicial
13 resources, promotes consistency and efficiency of adjudication, provides a forum for
14 small claimants, and deters illegal activities. There will be no significant difficulty
15 in the management of this case as a class action. The Class members are readily
16 identifiable from HomeDeliveryLink's records.
17
18

19
20 **ANSWER: HDL denies the allegations in Paragraph 4.7 of the**
21 **Complaint.**

22 **IV. SUMMARY OF FACTUAL ALLEGATIONS**

23
24 5.1 Common Course of Conduct: Misclassification as Independent
25 Contractors. HomeDeliveryLink is the employer of all individuals who have worked
directly for HomeDeliveryLink as delivery drivers in Washington pursuant to a

1 purported “independent contractor” agreement with HomeDeliveryLink. The
2 following facts, among many others, show that HomeDeliveryLink is the employer
3 of Plaintiffs and Class members:
4

5 **ANSWER: HDL denies the allegations in Paragraph 5.1 of the**
6 **Complaint.**
7

8 5.1.1 HomeDeliveryLink is in the business of performing furniture and
9 appliance deliveries for its retail clients, including Ashley’s Furniture and Sears. The
10 package pick-up and delivery services of Plaintiffs and Class members are an
11 integral part of the HomeDeliveryLink’s business.
12

13 **ANSWER: HDL admits it is a third-party logistics company that**
14 **provides supply-chain management services to customers, including Ashley**
15 **Furniture Industries, Inc. and Sears Holding Corporation, but HDL denies the**
16 **remaining allegations in Paragraph 5.1.1 of the Complaint.**
17

18 5.1.2 HomeDeliveryLink requires Plaintiffs and Class members to work full-
19 time, five or more days each week, performing furniture and appliance deliveries for
20 HomeDeliveryLink’s clients including Sears and Ashley’s Furniture, out of
21 terminals in Richland, Spokane, and Seattle.
22

23 **ANSWER: HDL denies the allegations in Paragraph 5.1.2 of the**
24 **Complaint.**
25

1 5.1.3 Each morning, HomeDeliveryLink requires Plaintiffs and Class
2 members to report to work at a set time early each morning to begin their work day.
3 HomeDeliveryLink typically assigns the Plaintiffs and Class members a full day’s
4 worth of deliveries. Plaintiffs and Class members frequently work from as early as
5 5:30 a.m. or 6:00 a.m. each morning until as late as 10:00 p.m. or 11:00 p.m. (or
6 later) at night. Plaintiffs and Class members are not allowed to take a day off without
7 HomeDeliveryLink’s permission.
8
9

10 **ANSWER: HDL denies the allegations in Paragraph 5.1.3 of the**
11 **Complaint.**
12

13 5.1.4 HomeDeliveryLink requires Plaintiffs and Class members to report to
14 work wearing a mandatory uniform of a specific color that bears the logos of either
15 HomeDeliveryLink or HomeDeliveryLink’s client for whom the Plaintiffs and Class
16 members are delivering that day, and HomeDeliveryLink requires Plaintiffs and
17 Class members to pay HomeDeliveryLink for the mandatory uniform shirts.
18 HomeDeliveryLink also requires Plaintiffs and Class members to wear shoes and
19 pants of a specific color, and to report to work clean shaven.
20
21

22 **ANSWER: HDL denies the allegations in Paragraph 5.1.4 of the**
23 **Complaint.**
24

25 5.1.5 HomeDeliveryLink also requires each Plaintiff and Class member to
sign in to HomeDeliveryLink’s GPS tracking software each morning using a tablet

1 or cell phone so that HomeDeliveryLink can track when the Plaintiffs and Class
2 members have reported to work as well as their whereabouts throughout the day as
3 they make deliveries. Plaintiffs and Class members are required to update
4 HomeDeliveryLink on their tablet or cell phone every time they arrive at a
5 customer's address, and again when finish making a delivery. If a problem arises,
6 such as if a customer is not home to accept the delivery, Plaintiffs and Class members
7 are required to call HomeDeliveryLink or an associated third-party company to
8 obtain instructions on how to proceed; often, Plaintiffs and Class members are
9 instructed to return to the customer's address later that same day, regardless of how
10 many other assignments they have that day.

14 **ANSWER: HDL denies the allegations in Paragraph 5.1.5 of the**
15 **Complaint.**

17 5.1.6 HomeDeliveryLink employs supervisors at each terminal who make
18 sure the Plaintiffs and Class members report to work, are wearing
19 HomeDeliveryLink's mandatory uniforms, and perform their deliveries according to
20 HomeDeliveryLink's procedures.

22 **ANSWER: HDL denies the allegations in Paragraph 5.1.6 of the**
23 **Complaint.**

25 5.1.7 HomeDeliveryLink's supervisors are also responsible for deciding
which Plaintiffs and Class members are assigned which deliveries each day. The

1 HomeDeliveryLink supervisors at each terminal assemble the day's delivery
2 assignments into discrete routes, and the supervisors decide which routes are
3 assigned to which Plaintiffs and Class members. Plaintiffs and Class members are
4 paid on a flat "per stop" basis for their delivery work. Plaintiffs and Class members
5 have had no possibility of promotion or higher pay per stop based on their work
6 performance or efficiency.
7
8

9 **ANSWER: HDL denies the allegations in Paragraph 5.1.7 of the**
10 **Complaint.**

11
12 5.1.8 Plaintiffs and Class members are not allowed to reject any route or any
13 particular delivery assignment on their assigned route. Since HomeDeliveryLink
14 pays its drivers on a "per stop" basis, assignments that are farther away are worth
15 less money to Plaintiffs and Class members. However, HomeDeliveryLink fines and
16 also threatens to fire any Plaintiffs or Class members who refuse to show up to work
17 or who reject any particular assignment given to them by HomeDeliveryLink.
18 HomeDeliveryLink has the right to fire any Plaintiff or Class member at any time,
19 for any reason or for no reason at all.
20
21

22 **ANSWER: HDL denies the allegations in Paragraph 5.1.8 of the**
23 **Complaint.**

24
25 5.1.9 The Plaintiffs and Class members are also not allowed to divide up the
assignments on their routes among themselves as they choose; instead,

1 HomeDeliveryLink requires the Plaintiffs and Class members to perform all of the
2 deliveries on their routes exactly that are assigned.

3
4 **ANSWER: HDL denies the allegations in Paragraph 5.1.9 of the**
5 **Complaint.**

6 5.1.10 HomeDeliveryLink also dictates the specific order in which the
7 Plaintiffs and Class members must perform their daily routes; Plaintiffs and Class
8 members cannot decide for themselves the order in which they perform the deliveries
9 on their routes. In addition, HomeDeliveryLink dictates narrow time windows within
10 which each delivery must be made, and Plaintiffs and Class members cannot deviate
11 from those time windows.

12
13
14 **ANSWER: HDL denies the allegations in Paragraph 5.1.10 of the**
15 **Complaint.**

16
17 5.1.11 When the Plaintiffs and Class members are on the road making
18 deliveries for HomeDeliveryLink, HomeDeliveryLink tracks the Plaintiffs and Class
19 members using GPS to ensure they are following their assigned routes. When
20 Plaintiffs or Class members deviate from their assigned routes, HomeDeliveryLink
21 supervisors and dispatchers call the Plaintiffs and Class members to order them to
22 return to their route.

23
24
25 **ANSWER: HDL denies the allegations in Paragraph 5.1.11 of the**
Complaint.

1 5.1.12 HomeDeliveryLink requires Plaintiffs and Class members, for no
2 additional compensation, to call each customer a specific amount of time before each
3 delivery, and to recite a scripted speech in which the Plaintiff or Class member
4 identifies him or herself as a delivery driver for HomeDeliveryLink’s retail customer
5 (e.g. as a “Sears” delivery driver). HomeDeliveryLink also requires Plaintiffs and
6 Class members to remind customers at the conclusion of each delivery to complete
7 an online customer satisfaction survey, the results of which are sent to the Plaintiffs’
8 or Class members’ supervisor at HomeDeliveryLink for review.
9
10

11 **ANSWER: HDL denies the allegations in Paragraph 5.1.12 of the**
12 **Complaint.**
13

14 5.1.13 HomeDeliveryLink requires Plaintiffs and Class members to attend
15 mandatory meetings at their assigned terminals. At these meetings, a
16 HomeDeliveryLink supervisor reviews the Plaintiffs’ and Class members’
17 performance metrics, including how frequently they met HomeDeliveryLink’s
18 narrow time windows for deliveries, how frequently they performed mandatory pre-
19 delivery calls to customers, and how well Plaintiffs and Class members performed
20 on mandatory customer surveys. At these meetings, the manager frequently tells the
21 Plaintiffs and Class members that they must improve their performance or risk being
22 terminated.
23
24
25

1 **ANSWER: HDL denies the allegations in Paragraph 5.1.13 of the**
2 **Complaint.**

3
4 5.1.14 HomeDeliveryLink prohibits Plaintiffs and Class members from taking
5 rest breaks and meal breaks while making deliveries on their assigned routes, and
6 moreover Plaintiffs and Class members have no time to take rest breaks or meal
7 breaks because HomeDeliveryLink assigns too much work and requires the
8 Plaintiffs and Class members to follow strict time windows for each delivery.
9

10 **ANSWER: HDL denies the allegations in Paragraph 5.1.14 of the**
11 **Complaint.**

12
13 5.1.15 HomeDeliveryLink makes regular deductions from the Plaintiffs' and
14 Class members' bi-weekly paychecks to cover HomeDeliveryLink's own costs of
15 doing business, as set forth below.
16

17 **ANSWER: HDL denies the allegations in Paragraph 5.1.15 of the**
18 **Complaint.**

19
20 5.1.16 The nature of HomeDeliveryLink's furniture and appliance delivery
21 assignments requires the Plaintiffs and Class members to hire helpers to assist with
22 the deliveries. However, HomeDeliveryLink can deny Plaintiffs and Class members
23 the right to hire any helper that HomeDeliveryLink does not approve of, for any
24 reason or for no reason at all. Helpers are also required to wear the same uniforms
25 as the Plaintiffs and Class members, and are subject to the same level of supervision

1 and control by HomeDeliveryLink supervisors and dispatchers. HomeDeliveryLink
2 can, and has, required the Plaintiffs and Class members to terminate any helper, at
3 any time, for any reason or for no reason at all.
4

5 **ANSWER: HDL denies the allegations in Paragraph 5.1.16 of the**
6 **Complaint.**
7

8 5.1.17 The full-time nature of the Plaintiffs' and Class members' work for
9 HomeDeliveryLink, HomeDeliveryLink's requirement that Plaintiffs and Class
10 members work five or more days each week, and HomeDeliveryLink's rule that
11 Plaintiffs and Class members cannot reject assignments without being punished or
12 terminated means that the Plaintiffs and Class members are not able to perform
13 delivery services for anyone other than HomeDeliveryLink.
14

15 **ANSWER: HDL denies the allegations in Paragraph 5.1.17 of the**
16 **Complaint.**
17

18 5.1.18 Plaintiffs and Class members work for HomeDeliveryLink on a piece
19 work basis, with no opportunity to increase their earnings other than by performing
20 more delivery stops. However, because HomeDeliveryLink requires the Plaintiffs
21 and Class members to work full-time, five or six days each week, the Plaintiffs and
22 Class members are not able to take a day off or reject any assignments.
23 HomeDeliveryLink controls how many deliveries the Plaintiffs and Class members
24 perform as well as how far they have to drive to perform them and in what order.
25

1 And because the Plaintiffs and Class members are paid by the stop,
2 HomeDeliveryLink has complete control over how much the Plaintiffs and Class
3 members are able to earn each week.
4

5 **ANSWER: HDL denies the allegations in Paragraph 5.1.18 of the**
6 **Complaint.**
7

8 5.2 Common Course of Conduct: Overtime Violations. As the employer
9 of Plaintiffs and Class members, HomeDeliveryLink has engaged in, and continues
10 to engage in, a common course of wage and hour abuse against its delivery drivers
11 in Washington, including as described below:
12

13 **ANSWER: HDL denies the allegations in Paragraph 5.2 of the**
14 **Complaint.**
15

16 5.2.1 HomeDeliveryLink's common course of wage and hour abuse includes
17 failing and refusing to pay overtime compensation to Plaintiffs and Class
18 members—that is, one and one-half times the regular rate for all hours worked over
19 40 in any workweek. Instead, HomeDeliveryLink pays its drivers a piece rate for
20 their work—specifically, a flat per-stop rate plus a certain amount for each mile
21 driven, regardless of how many hours they worked each week.
22
23

24 **ANSWER: HDL denies the allegations in Paragraph 5.2.1 of the**
25 **Complaint.**

1 5.2.2 Plaintiffs and Class members are entitled to one and one-half times the
2 regular rate of pay for all hours worked in excess of forty hours per week.

3
4 **ANSWER: HDL denies the allegations in Paragraph 5.2.2 of the**
5 **Complaint.**

6 5.2.3 HomeDeliveryLink refuses to recognize Plaintiffs and Class members
7 as employees and thus fails to pay them overtime wages when they work over 40
8 hours per week.

9
10 **ANSWER: HDL denies the allegations in Paragraph 5.2.3 of the**
11 **Complaint.**

12
13 5.2.4 HomeDeliveryRate's piece-rate compensation system fails to pay
14 drivers the reasonable equivalent of overtime pay.

15
16 **ANSWER: HDL denies that it employs Plaintiffs and that it is obligated**
17 **to compensate them as employees and denies the remaining allegations in**
18 **Paragraph 5.2.4 of the Complaint.**

19
20 5.2.5 HomeDeliveryLink has had actual knowledge of the facts set forth in
21 Paragraphs 5.2 and 5.2.1–5.2.5.

22
23 **ANSWER: HDL denies the allegations in Paragraph 5.2.5 of the**
24 **Complaint.**

25 5.3 Common Course of Conduct: Failure to Provide Proper Rest Breaks.
HomeDeliveryLink has engaged in a common course of failing to provide Plaintiffs

1 and Class members with a paid ten-minute rest break for every four hours of work
2 and failing to ensure that Plaintiffs and Class members take their breaks.

3
4 **ANSWER: HDL denies that it employs Plaintiffs and that it is obligated**
5 **to provide them with paid rest breaks and denies the remaining allegations in**
6 **Paragraph 5.3 of the Complaint.**

7
8 5.3.1 HomeDeliveryLink has engaged in a common course of failing to
9 ensure that Plaintiffs and Class members receive a paid ten-minute rest break for
10 every four hours of work.

11
12 **ANSWER: HDL denies the allegations in Paragraph 5.2.4 of the**
13 **Complaint.**

14
15 5.3.2 HomeDeliveryLink has engaged in a common course of failing to
16 separately pay Class members for rest breaks, whether received or not, their average
17 hourly rate.

18
19 **ANSWER: HDL denies the allegations in Paragraph 5.3.2 of the**
20 **Complaint.**

21
22 5.3.3 HomeDeliveryLink has had actual or constructive knowledge of the
23 facts set forth in Paragraphs 5.3 and 5.3.1–5.3.3.

24
25 **ANSWER: HDL denies the allegations in Paragraph 5.3.3 of the**
Complaint.

1 5.4 Common Course of Conduct: Failure to Provide Proper Meal Breaks.

2 HomeDeliveryLink does not provide Plaintiffs and Class members with a thirty-
3 minute meal break for every five hours of work and requires or permits Plaintiffs
4 and Class members to work more than five consecutive hours without a meal break.
5 Moreover, HomeDeliveryLink does not provide Plaintiffs and Class members with
6 a second thirty-minute meal break when they work more than eleven hours in a day.
7 HomeDeliveryLink fails to ensure that Plaintiffs and Class members receive their
8 meal breaks in accordance with Washington law.
9
10

11 **ANSWER: HDL denies that it employs Plaintiffs and that it is obligated**
12 **to provide them with meal rest breaks and denies the remaining allegations in**
13 **Paragraph 5.4 of the Complaint.**
14

15 5.4.1 HomeDeliveryLink requires or permits Plaintiffs and Class members to
16 remain on duty in the interest of HomeDeliveryLink while driving a vehicle bearing
17 the logos of HomeDeliveryLink's client companies and making deliveries for
18 HomeDeliveryLink when Plaintiffs and Class members should be taking their meal
19 breaks.
20
21

22 **ANSWER: HDL denies the allegations in Paragraph 5.4.1 of the**
23 **Complaint.**
24

25 5.4.2 Plaintiffs and Class members regularly are not able to take the thirty-
minute meal breaks to which they are entitled because of the amount of work they

1 must do each day, and because HomeDeliveryLink prohibits them from taking
2 breaks; instead, Plaintiffs and Class members regularly must eat while “on-the-go”
3 and while driving in order to ensure that they can make every delivery
4 HomeDeliveryLink requires them to deliver.
5

6 **ANSWER: HDL denies the allegations in Paragraph 5.4.2 of the**
7 **Complaint.**
8

9 5.4.3 HomeDeliveryLink fails to ensure that Plaintiffs and Class members
10 receive proper meal breaks.
11

12 **ANSWER: HDL denies that it employs Plaintiffs and that it is obligated**
13 **to ensure they receive meal breaks and denies the remaining allegations in**
14 **Paragraph 5.4.3 of the Complaint.**
15

16 5.4.4 HomeDeliveryLink has had actual or constructive knowledge of the
17 facts set forth in Paragraphs 5.4 and 5.4.1–5.4.4
18

19 **ANSWER: HDL denies the allegations in Paragraph 5.4.4 of the**
20 **Complaint.**

21 5.5 Common Course of Conduct: Unlawful Deductions.
22 HomeDeliveryLink makes regular deductions from the Plaintiffs’ and Class
23 members’ bi-weekly paychecks to cover HomeDeliveryLink’s own costs of doing
24 business.
25

1 **ANSWER: HDL denies the allegations in Paragraph 5.5 of the**
2 **Complaint.**

3
4 5.5.1 HomeDeliveryLink takes an approximately \$200 per paycheck
5 “security deposit” deduction from each Plaintiff and Class member, to go toward
6 any property damage or other expenses that HomeDeliveryLink, in its sole
7 discretion, decides is owed by the Plaintiffs and Class members. HomeDeliveryLink
8 also deducts several hundred dollars per paycheck from the Plaintiffs’ and Class
9 members’ pay to cover HomeDeliveryLink’s administrative, and payroll costs.
10

11 **ANSWER: HDL denies the allegations in Paragraph 5.5.1 of the**
12 **Complaint.**

13
14 5.5.2 HomeDeliveryLink requires Plaintiffs and Class members to pay out of
15 pocket for the cost of the vehicles they use to deliver HomeDeliveryLink’s cargo as
16 well as vehicle maintenance and upkeep, and HomeDeliveryLink requires Plaintiffs
17 and Class members to obtain specific levels of cargo and vehicle liability insurance
18 coverage and to have HomeDeliveryLink listed as an “additional insured” party on
19 these insurance policies. When Plaintiffs’ and Class members’ vehicles break down,
20 HomeDeliveryLink fines them if they do not rent a replacement vehicle to continue
21 making deliveries each day until their vehicle is repaired. HomeDeliveryLink often
22 provides rental vehicles to Plaintiffs and Class members and deducts the cost of the
23 rental from the Plaintiffs’ and Class members’ wages. HomeDeliveryLink also has
24
25

1 the right to require the Plaintiffs and Class members to display the logos of
2 HomeDeliveryLink's client companies such as Ashley's Furniture and Sears on their
3 vehicles.
4

5 **ANSWER: HDL denies the allegations in Paragraph 5.5.2 of the**
6 **Complaint.**
7

8 5.5.3 HomeDeliveryLink derives a financial profit or benefit from all of these
9 deductions.
10

11 **ANSWER: HDL denies the allegations in Paragraph 5.5.3 of the**
12 **Complaint.**
13

14 5.5.4 None of these deductions are for a lawful purpose.
15

16 **ANSWER: HDL denies the allegations in Paragraph 5.5.4 of the**
17 **Complaint.**
18

19 5.5.5 All of these deductions are for the benefit of HomeDeliveryLink and its
20 customers, and none of these deductions are for the benefit of the Plaintiffs and Class
21 members.
22

23 **ANSWER: HDL denies the allegations in Paragraph 5.5.5 of the**
24 **Complaint.**
25

26 5.5.6 HomeDeliveryLink has had actual or constructive knowledge of the
27 facts set forth in Paragraphs 5.5.
28

1 compensation for his employment in excess of the hours above specified at a rate
2 not less than one and one-half times the regular rate at which he is employed.”

3
4 **ANSWER: HDL admits that Plaintiffs accurately quote the statute they**
5 **cite, but HDL denies that it violated any Washington law.**

6 6.4 By the actions alleged above, HomeDeliveryLink has violated the
7 provisions of RCW 49.46.130.

8
9 **ANSWER: HDL denies the allegations in Paragraph 6.4 of the**
10 **Complaint.**

11 6.5 As a result of these unlawful acts, Plaintiffs and the Class have been
12 deprived of compensation in amounts to be determined at trial and pursuant to RCW
13 49.46.090, Plaintiffs and the Class are entitled to recovery of such damages,
14 including interest thereon, as well as attorneys’ fees and costs.

15
16 **ANSWER: HDL denies the allegations in Paragraph 6.5 of the**
17 **Complaint.**

18
19
20 **VI. SECOND CLAIM FOR RELIEF**
21 **(Violations of RCW 49.12.020 and WAC 296-126-092 –**
22 **Failure to Provide Rest Periods)**

23 7.1 Plaintiffs reallege and incorporate by reference each and every
24 allegation set forth in the preceding paragraphs.

25 **ANSWER: HDL incorporates by reference its answers to Paragraphs 1.1**
– 6.5 of the Complaint as if fully set forth herein.

1 7.2 HomeDeliveryLink’s wage and hour violations include routinely (1)
2 failing to provide Plaintiffs and Class members with rest breaks as required by law;
3
4 (2) failing to ensure that Plaintiffs and Class members take the breaks to which they
5 are entitled; and (3) failing to provide Plaintiffs and Class members with ten minutes
6 of additional pay for each missed rest break.
7

8 **ANSWER: HDL denies the allegations in Paragraph 7.2 of the**
9 **Complaint.**

10 7.3 RCW 49.12.010 provides that “[t]he welfare of the state of Washington
11 demands that all employees be protected from conditions of labor which have a
12 pernicious effect on their health. The state of Washington, therefore, exercising
13 herein its police and sovereign power declares that inadequate wages and unsanitary
14 conditions of labor exert such pernicious effect.”
15
16

17 **ANSWER: HDL admits that Paragraph 7.3 accurately quotes a portion**
18 **of the statute referenced, but HDL denies that it violated any Washington law.**
19

20 7.4 RCW 49.12.020 provides that “[i]t shall be unlawful to employ any
21 person in any industry or occupation within the state of Washington under conditions
22 of labor detrimental to their health.”
23

24 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
25 **statute referenced, but HDL denies that it violated any Washington law.**

1 7.5 Pursuant to RCW 49.12.005 and WAC 296-126-002, “conditions of
2 labor” “means and includes the conditions of rest and meal periods” for employees.
3

4 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
5 **statute referenced, but HDL denies that it violated any Washington law.**

6 7.6 WAC 296-126-092 provides that employees shall be allowed certain
7 paid rest periods during their shifts.
8

9 **ANSWER: HDL admits that Plaintiffs accurately paraphrase the statute**
10 **referenced, but HDL denies that it violated any Washington law.**

11 7.7 Under Washington law, HomeDeliveryLink has an obligation to
12 provide employees with the rest breaks to which they are entitled.
13

14 **ANSWER: HDL denies the allegations in Paragraph 7.7 of the**
15 **Complaint.**
16

17 7.8 Under Washington law, HomeDeliveryLink has an obligation to ensure
18 that employees take the rest breaks to which they are entitled.
19

20 **ANSWER: HDL denies the allegations in Paragraph 7.8 of the**
21 **Complaint.**

22 7.9 Under Washington law, HomeDeliveryLink has an obligation to pay
23 employees paid a piece rate separately for each missed break, regardless of whether
24 the employees receive those rest breaks.
25

ANSWER: HDL denies the allegations Paragraph 7.9 of the Complaint.

1 7.10 By the actions alleged above, including the failure to provide Plaintiffs
2 and Class members with proper rest periods, HomeDeliveryLink ha violated the
3 provisions of RCW 49.12.020 and WAC 296-126-092.
4

5 **ANSWER: HDL denies the allegations Paragraph 7.10 of the Complaint.**

6 7.11 As a result of these unlawful acts, Plaintiffs and the Class have been
7 deprived of compensation in amounts to be determined at trial, and Plaintiffs and the
8 Class are entitled to the recovery of such damages, including interest thereon, as well
9 as attorneys' fees pursuant to RCW 49.48.030 and costs.
10

11 **ANSWER: HDL denies the allegations Paragraph 7.11 of the Complaint.**

12
13 **VII. THIRD CLAIM FOR RELIEF**
14 **(Violations of RCW 49.12.020 and WAC 296-126-092 –**
15 **Failure to Provide Paid Meal? Periods)**

16 8.1 Plaintiffs reallege and incorporate by reference each and every
17 allegation set forth in the preceding paragraphs.

18 **ANSWER: HDL incorporates by reference its answers to Paragraphs 1.1**
19 **– 7.11 of the Complaint as if fully set forth herein.**
20

21 8.2 RCW 49.12.010 provides that “[t]he welfare of the state of Washington
22 demands that all employees be protected from conditions of labor which have a
23 pernicious effect on their health. The state of Washington, therefore, exercising
24 herein its police and sovereign power declares that inadequate wages and unsanitary
25 conditions of labor exert such pernicious effect.”

1 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
2 **statute referenced, but HDL denies that it violated any Washington law.**

3
4 8.3 RCW 49.12.020 provides that “[i]t shall be unlawful to employ any
5 person in any industry or occupation within the state of Washington under conditions
6 of labor detrimental to their health.”

7
8 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
9 **statute referenced, but HDL denies that it violated any Washington law.**

10 8.4 Under RCW 49.12.005 and WAC 296-126-002, “conditions of labor”
11 “means and includes the conditions of rest and meal periods” for employees.
12

13 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
14 **statute referenced, but HDL denies that it violated any Washington law.**

15 8.5 WAC 296-126-092 provides that employees shall be allowed certain
16 meal periods during their shifts, and the meal periods shall be on the employer’s time
17 when the employee is required by the employer to remain on duty on the premises
18 or at a prescribed work site in the interest of the employer.
19

20 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the**
21 **statute referenced, but HDL denies that it violated any Washington law.**
22

23 8.6 Under Washington law, HomeDeliveryLink has an obligation to
24 provide employees with the meal breaks to which they are entitled.
25

1 **ANSWER: HDL admits that Plaintiffs accurately paraphrase**
2 **Washington law, but HDL denies that it violated any Washington law.**

3
4 8.7 Under Washington law, HomeDeliveryLink has an obligation to ensure
5 that employees take the meal breaks to which they are entitled.

6 **ANSWER: HDL denies the allegations in Paragraph 8.7 of the**
7 **Complaint and that it violated any Washington law.**

8
9 8.8 Under Washington law, HomeDeliveryLink has an obligation to
10 provide employees with thirty minutes of additional pay for each missed meal break.

11
12 **ANSWER: HDL denies the allegations in Paragraph 8.8 of the**
13 **Complaint and that it violated any Washington law.**

14 8.9 By the actions alleged above, HomeDeliveryLink has violated the
15 provisions of RCW 49.12.020 and WAC 296-126-092.

16
17 **ANSWER: HDL denies the allegations in Paragraph 8.9 of the**
18 **Complaint.**

19
20 8.10 As a result of these unlawful acts, Plaintiffs and the Class have been
21 deprived of compensation in amounts to be determined at trial, and Plaintiffs and the
22 Class are entitled to the recovery of such damages, including interest thereon as well
23 as attorneys' fees pursuant to RCW 49.48.030 and costs.

24
25 **ANSWER: HDL denies the allegations in Paragraph 8.10 of the**
Complaint.

1 **VIII. FOURTH CLAIM FOR RELIEF**
2 **(Violation of RCW 49.52.050(1) — Unlawful Rebate of Wages)**

3 9.1 Plaintiffs reallege and incorporate by reference each and every
4 allegation set forth in the preceding paragraphs.
5

6 **ANSWER: HDL incorporates by reference its answers to Paragraphs 1.1**
7 **– 8.10 of the Complaint as if fully set forth herein.**

8 9.2 RCW 49.52.050(1) provides that any employer or agent of any
9 employer who “[s]hall collect or receive from any employee a rebate of any part of
10 wages theretofore paid by such employer to such employee” shall be guilty of a
11 misdemeanor.
12

13 **ANSWER: HDL admits that Plaintiffs accurately quote Washington**
14 **law, but HDL denies that it violated any Washington law.**

15 9.3 HomeDeliveryLink’s requirement that Plaintiffs and Class members
16 pay, as a condition of employment, a portion of their wages back to
17 HomeDeliveryLink in the form of administrative payroll fees, fines, uniform costs,
18 and alleged property damage at HomeDeliveryLink’s discretion, constitutes an
19 unlawful rebate in violation of RCW 49.52.050(1).
20
21

22 **ANSWER: HDL denies the allegations in Paragraph 9.3 of the**
23 **Complaint.**
24
25

1 9.4 Likewise, HomeDeliveryLink's requirement that Plaintiffs and Class
2 members pay, as a condition of employment, a portion of their wages to third parties
3 to pay for HomeDeliveryLink's own business expenses, including for the cost of
4 delivery vehicles, fuel, and insurance, constitutes an unlawful rebate in violation of
5 RCW 49.52.050(1).
6

7
8 **ANSWER: HDL denies the allegations in Paragraph 9.4 of the**
9 **Complaint.**

10 9.5 RCW 49.52.070 provides that any employer who violates the
11 provisions of RCW 49.52.050(1) and (2) shall be liable in a civil action for twice the
12 amount of wages rebated or withheld, together with attorneys' fees and costs.
13

14 **ANSWER: HDL admits that Plaintiffs accurately paraphrase**
15 **Washington law, but HDL denies that it violated any Washington law.**
16

17 9.6 By the actions alleged above, HomeDeliveryLink has violated the
18 provisions of RCW 49.52.050(1). As a result, Plaintiffs and Class members have
19 been deprived of compensation in amounts to be determined at trial and pursuant to
20 RCW 49.52.070, Plaintiffs and the Class are entitled to recovery of twice such
21 damages, including interest thereon, as well as attorneys' fees and costs.
22

23
24 **ANSWER: HDL denies the allegations in Paragraph 9.6 of the**
25 **Complaint.**

1 **IX. FIFTH CLAIM FOR RELIEF**
2 **(Violation of RCW 49.46.090, RCW 49.52.060, and WAC 296-126-028 —**
3 **Unlawful Deductions)**

4 10.1 Plaintiffs reallege and incorporate by reference each and every
5 allegation set forth in the preceding paragraphs.

6 **ANSWER: HDL incorporates by reference its answers to Paragraphs 1.1**
7 **– 9.6 of the Complaint as if fully set forth herein.**

9 10.2 Under RCW 49.52.060 and WAC 296-126-028(2), an employer may
10 not make deductions to the wages of an employee unless the employee has expressly
11 authorized those deductions in writing and in advance.

13 **ANSWER: HDL denies that the allegations in Paragraph 10.2 of the**
14 **Complaint accurately summarize the statutes referenced and denies that it**
15 **violated any Washington law.**

17 10.3 Under RCW 49.52.060 and WAC 296-126-028(2), an employer may
18 not make deductions to the wages of an employee unless those deductions are for a
19 lawful purpose.

21 **ANSWER: HDL denies that the allegations in Paragraph 10.3 of the**
22 **Complaint accurately summarize the statutes referenced and denies that it**
23 **violated any Washington law.**

1 10.4 Under RCW 49.52.060 and WAC 296-126-028(2), an employer may
2 not make deductions to the wages of an employee unless those deductions are for
3 the benefit of the employee.
4

5 **ANSWER: HDL denies that the allegations in Paragraph 10.4 of the**
6 **Complaint accurately summarize the statutes referenced and denies that it**
7 **violated any Washington law.**
8

9 10.5 Under RCW 49.52.060 and WAC 296-126-028(3), neither the
10 employer nor any person acting in the interest of the employer can derive any
11 financial profit or benefit from any deduction to the wages of an employee.
12

13 **ANSWER: HDL denies that the allegations in Paragraph 10.5 of the**
14 **Complaint accurately summarize the statutes referenced and denies that it**
15 **violated any Washington law.**
16

17 10.6 Under RCW 49.52.060 and WAC 296-126-028(5), an employer must
18 identify and record all wage deductions openly and clearly in employee payroll
19 records.
20

21 **ANSWER: HDL denies that the allegations in Paragraph 10.6 of the**
22 **Complaint accurately summarize the statutes referenced and denies that it**
23 **violated any Washington law.**
24

25 10.7 Under Washington law, an employer may not make deductions from an
employee's wages during on-going employment to compensate the employer for

1 damage or loss of the employer's property, even if the damage or loss is a result of
2 the employee's violation of established policies.

3
4 **ANSWER: HDL denies that the allegations in Paragraph 10.7 of the**
5 **Complaint accurately summarize the statutes referenced and denies that it**
6 **violated any Washington law.**

7
8 10.8 By requiring Plaintiffs and Class members to pay, as a condition of
9 employment, a portion of their wages back to HomeDeliveryLink in the form of
10 administrative payroll fees, fines, uniform costs, rental vehicle costs, and alleged
11 property damage at HomeDeliveryLink's discretion without first getting Plaintiffs
12 and Class member's consent to the deductions in writing, HomeDeliveryLink is
13 violating RCW 49.52.060 and WAC 296-126-028.

14
15
16 **ANSWER: HDL denies the allegations in Paragraph 10.8 of the**
17 **Complaint.**

18
19 10.9 By requiring Plaintiffs and Class members to pay, as a condition of
20 employment, a portion of their wages to third parties to pay for HomeDeliveryLink's
21 own business expenses, including for the cost of delivery vehicles, fuel, and
22 insurance, without first getting Plaintiffs and Class member's consent to the
23 deductions in writing, HomeDeliveryLink is violating RCW 49.52.060 and WAC
24 296-126-028.
25

1 **ANSWER: HDL denies the allegations in Paragraph 10.9 of the**
2 **Complaint.**

3
4 10.10 By failing to identify and record all wage deductions openly and clearly
5 in Plaintiffs and Class members' records, HomeDeliveryLink is violating RCW
6 49.52.060 and WAC 296-126-028.

7
8 **ANSWER: HDL denies the allegations in Paragraph 10.10 of the**
9 **Complaint.**

10 10.11 As a result of the unlawful acts of Defendants, Plaintiffs and Class
11 members have been deprived of compensation in amounts to be determined at trial,
12 and Plaintiffs and members of the Class are entitled to the recovery of such damages,
13 including interest thereon, as well as attorneys' fees and costs under RCW 49.46.090
14 RCW 49.52.070, and RCW 49.48.030.

15
16
17 **ANSWER: HDL denies the allegations in Paragraph 10.11 of the**
18 **Complaint.**

19
20 **X. SIXTH CLAIM FOR RELIEF**
21 **(Violation of RCW 49.52.050(2) — Willful Refusal to Pay Wages)**

22 11.1 Plaintiffs reallege and incorporate by reference each and every
23 allegation set forth in the preceding paragraphs.

24 **ANSWER: HDL incorporates by reference its answers to Paragraphs 1.1**
25 **– 10.11 of the Complaint as if fully set forth herein.**

1 11.2 RCW 49.52.050(2) provides that any employer or agent of any
2 employer who, “[w]ilfully and with intent to deprive the employee of any part of his
3 wages, shall pay any employee a lower wage than the wage such employer is
4 obligated to pay such employee by any statute, ordinance, or contract” shall be guilty
5 of a misdemeanor.
6

7
8 **ANSWER: HDL admits that Plaintiffs accurately quote a portion of the
9 statute referenced, but denies that it violated any Washington law.**

10 11.3 HomeDeliveryLink’s violations of RCW 49.46.130, RCW 49.46.090,
11 RCW 49.12.020, WAC 296-126-092, RCW 49.52.050, RCW 49.52.060, and WAC
12 296-126-028 were willful and constitute violations of RCW 49.52.050(1).
13

14 **ANSWER: HDL denies the allegations in Paragraph 11.3 of the
15 Complaint.**
16

17 11.4 RCW 49.52.070 provides that any employer who violates the
18 provisions of RCW 49.52.050 shall be liable in a civil action for twice the amount
19 of wages withheld, attorneys’ fees, and costs.
20

21 **ANSWER: HDL admits that Plaintiffs accurately paraphrase
22 Washington law, but HDL denies that it violated any Washington law.**
23

24 11.5 By the actions alleged above, HomeDeliveryLink has violated the
25 provisions of RCW 49.52.050.

1 conducted discovery in this case, HDL will voluntarily withdraw those of the
2 following defenses that are unsupported by the facts as revealed in discovery and
3 investigation. On the basis of the above, and for further answer by way of affirmative
4 defense, HDL alleges:
5

6 1. Plaintiffs had no employment relationship with HDL.
7

8 2. Plaintiffs' claims for damages are barred, in whole or in part, by
9 Plaintiffs' failure to mitigate their damages.

10 3. Some or all of Plaintiffs' claims are barred by the doctrine of laches.
11

12 4. Some or all of Plaintiffs' claims are barred by the doctrine of unclean
13 hands and/or the doctrine of waiver.

14 5. Some or all of Plaintiffs' claims are barred by the doctrine of estoppel.
15

16 6. Some or all of Plaintiffs claims imposing penalties would be inequitable
17 and unjust and are therefore barred because a good faith dispute exists as to whether
18 additional compensation is due and owing and HDL has not intentionally or willfully
19 failed to pay such additional compensation.
20

21 7. Some or all of Plaintiffs' claims are barred by the applicable statute of
22 limitations.
23

24 8. Some or all of Plaintiffs' recovery, if any, must be reduced by the
25 doctrine of set off.

1 9. HDL has not willfully or intentionally failed to pay any compensation
2 to Plaintiffs so as to justify an award of penalties or fees to Plaintiffs on that basis.
3

4 10. Even assuming for the sake of argument that HDL violated Washington
5 law, any such violation was a result of an act or omission in good faith, and HDL
6 had reasonable grounds for believing such act or omission was not a violation of any
7 law.
8

9 11. Plaintiffs' claims regarding Defendant's alleged failure to reimburse
10 Plaintiffs' business expenses under Washington law are preempted under the
11 Supremacy Clause of the U.S. Constitution, U.S. CONST. art. VI, cl. 2, because (a)
12 they conflict with the Federal Leasing Regulations, 49 C.F.R. Part 376, by
13 prohibiting what is expressly permitted under those regulations; and (b) they relate
14 to Defendant's prices, routes, and services within the meaning of the express
15 preemption provision of the Federal Aviation Administration Authorization Act
16 ("FAAAA"), 49 U.S.C. § 14501.
17
18
19

20 12. Plaintiffs' claims regarding Defendant's alleged misclassification of
21 Plaintiffs and the class they seek to represent under Washington law are preempted
22 under the Supremacy Clause of the U.S. Constitution, U.S. CONST. art. VI, cl. 2,
23 because they relate to Defendant's prices, routes, and services within the meaning
24 of the express preemption provision of the FAAAA.
25

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/s/ Jason M. Whalen
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CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2018, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system, and the parties may access this filing through the Court's system.

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