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IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

GUS ORTIZ and MARK FREDLEY, individually
and on behalf of all others similarly situated;

Plaintiffs,

v.

AMAZON.COM INC.; AMAZON LOGISTICS,
INC.; JUNGLE TRUX, INC., a Washington
corporation; SCOTT AITCHISON, individually
and on behalf of the marital community
composed of SCOTT AND ERIN AITCHISON;
and TIMOTHY O’NEAL, individually and on
behalf of the marital community composed
of TIMOTHY AND KAREN O’NEAL,

Defendants.

NO. 17-2-25002-3 KNT

**FIRST AMENDED CONSOLIDATED CLASS
ACTION COMPLAINT**

Plaintiffs Gus Ortiz and Mark Fredley bring this action on their own behalf and on
behalf of all others similarly situated and allege as follows:

I. INTRODUCTION

1.1 Nature of Action. This is a joint employer wage and hour class action on behalf
of drivers who have delivered packages for Amazon.com Inc. and Amazon Logistics, Inc. (“the
Amazon Defendants”). Plaintiffs Gus Ortiz and Mark Fredley bring this class action against the

1 Amazon Defendants, Jungle Trux, Inc., Scott Aitchison, and Timothy O’Neal (“Defendants”),
2 alleging Defendants have engaged in a common course of failing to provide employees with
3 the rest and meal breaks to which they are entitled; failing to ensure employees receive the
4 rest and meal breaks to which they are entitled; failing to compensate employees for missed
5 rest and meal breaks; failing to compensate employees for all hours worked; and failing to pay
6 all overtime wages owed.

7 **II. JURISDICTION AND VENUE**

8 2.1 Jurisdiction. Defendants are within the jurisdiction of this Court. The Amazon
9 Defendants and Jungle Trux, Inc. are registered to do business in Washington and do conduct
10 business in Washington. Defendants Scott Aitchison and Timothy O’Neal also conduct
11 business in Washington. Thus, Defendants have obtained the benefits of the laws of
12 Washington as well as Washington’s commercial and labor markets. This Court also has
13 jurisdiction over this action under the City of Seattle Wage Theft Ordinance, chapter 14.20
14 SMC, and the City of Seattle Minimum Wage Ordinance, Chapter 14.19 SMC.

15 2.2 Venue. Venue is proper in King County because Defendants operate and
16 transact business in King County, and Plaintiffs performed work for Defendants in King
17 County.

18 2.3 Governing Law. The claims asserted on behalf of Plaintiffs and Class members
19 in this complaint are brought under state and municipal law causes of action and are
20 governed by Washington law and Seattle’s municipal ordinances.

21 2.4 Lack of CAFA Jurisdiction. Federal jurisdiction is inappropriate under the Class
22 Action Fairness Act, 28 U.S.C. § 1332(d)(4)(A), because more than two-thirds of the members
23 of the proposed plaintiff class in the aggregate are citizens of Washington; Defendant Jungle
24 Trux, Inc. and the Amazon Defendants are defendants from whom significant relief is sought
25 by members of the plaintiff class; the alleged conduct of these defendants forms a significant
26 basis for the claims asserted by the proposed plaintiff class; Defendant Jungle Trux, Inc. and

1 the Amazon Defendants are citizens of Washington; the principal injuries resulting from the
2 alleged conduct were incurred in Washington; and during the three-year period preceding the
3 filing of this action, no other class action has been filed asserting same or similar factual
4 allegations against the Defendants on behalf of the same persons. Alternatively, federal
5 jurisdiction is inappropriate under the Class Action Fairness Act, 28 U.S.C. § 1332 (d)(4)(B),
6 because two-thirds or more of the members of all proposed plaintiff classes in the aggregate,
7 and Defendants, are citizens of the state of Washington.

8 III. THE PARTIES

9 3.1 Plaintiff Gus Ortiz. Plaintiff Ortiz is a resident of Washington State. He has
10 been jointly employed by Defendants as a package delivery driver since approximately April
11 2017. He is an employee of Defendants for purposes of the Washington Minimum Wage Act
12 (“MWA”), the Washington Wage Rebate Act, the Washington rest and meal break regulations,
13 the Seattle Minimum Wage Ordinance (“MWO”), and the Seattle Wage Theft Ordinance.
14 Plaintiff Ortiz performs work for Defendants in King County, Washington, including Seattle.

15 3.2 Plaintiff Mark Fredley. Plaintiff Fredley is a resident of Washington State. He
16 was jointly employed by Defendants as a package delivery driver from October 2016 until
17 December 6, 2017. He was an employee of Defendants for purposes of the Washington
18 Minimum Wage Act (“MWA”), the Washington Wage Rebate Act, the Washington rest and
19 meal break regulations, the Seattle Minimum Wage Ordinance (“MWO”), and the Seattle
20 Wage Theft Ordinance. Plaintiff Fredley performs work for Defendants in King County,
21 Washington, including Seattle.

22 3.3 Defendant Amazon.com Inc. Defendant Amazon.com Inc. (“Amazon.com”) is a
23 citizen of Washington with its principal place of business, headquarters, and nerve center in
24 Seattle, King County, Washington. Defendant Amazon.com has jointly employed Plaintiffs and
25 scores of other employees within the geographic boundaries of the City of Seattle and in the
26 state of Washington.

1 3.4 Defendant Amazon Logistics, Inc. Defendant Amazon Logistics, Inc. (“Amazon
2 Logistics”) is a citizen of Washington with its principal place of business, headquarters, and
3 nerve center in Seattle, King County, Washington. Defendant Amazon Logistics has jointly
4 employed Plaintiffs and scores of other employees within the geographic boundaries of the
5 City of Seattle and in the state of Washington.

6 3.5 Defendant Jungle Trux, Inc. Defendant Jungle Trux, Inc. is a Washington
7 corporation doing business in King County, Washington. Defendant Jungle Trux, Inc. has
8 jointly employed Plaintiffs and scores of other employees within the geographic boundaries of
9 the City of Seattle and in the state of Washington.

10 3.6 Defendant Scott Aitchison. Scott Aitchison has at all relevant times been a
11 manager or owner of Jungle Trux, Inc. who is engaged in running the company’s business,
12 managing the company’s finances, determining certain employment practices, maintaining
13 certain employment records, and exercising certain control over how the company’s
14 employees are paid and their working conditions. Mr. Aitchison is a citizen of Washington.
15 Mr. Aitchison has jointly employed scores of delivery drivers within the geographic boundaries
16 of the City of Seattle and in Washington, including Plaintiffs. At all relevant times, Mr.
17 Aitchison has been married to Erin Aitchison and did the acts complained of in pursuit of
18 financial gain or livelihood for himself individually and on behalf of and for the benefit of his
19 marital community.

20 3.7 Defendant Timothy O’Neal. Timothy O’Neal has at all relevant times been a
21 manager or owner of Jungle Trux, Inc. who is engaged in running the company’s business,
22 managing the company’s finances, determining certain employment practices, maintaining
23 certain employment records, and exercising certain control over how the company’s
24 employees are paid and their working conditions. Mr. O’Neal is a citizen of Washington. Mr.
25 O’Neal has jointly employed scores of delivery drivers within the geographic boundaries of the
26 City of Seattle and in Washington, including Plaintiffs. At all relevant times, Mr. O’Neal has

1 been married to Karen O’Neal and did the acts complained of in pursuit of financial gain or
2 livelihood for himself individually and on behalf of and for the benefit of his marital
3 community.

4 IV. CLASS ACTION ALLEGATIONS

5 4.1 Class Definition. Under Civil Rule 23(a) and (b)(3), Plaintiffs bring this case as a
6 class action against the Amazon Defendants on behalf of the class defined as follows (the
7 “Class”):

8 All persons who, between December 20, 2014 and the date of
9 final disposition of this action, have performed services for the
10 Amazon Defendants in Washington as non-managerial and non-
11 supervisory package delivery drivers and have been paid by a
contracted service provider that had an Amazon Delivery Provider
agreement with one or both of the Amazon Defendants.

12 Excluded from this class are:

13 (1) drivers who, during the entire period during which they
14 delivered packages for the Amazon Defendants, were paid on an
15 hourly basis for all hours worked and received compensation
equal to one and one-half times the regular rate for all hours
worked over 40 in a week;

16 (2) drivers who have contracted directly with one or both of the
17 Amazon Defendants to provide package delivery services at any
point since December 20, 2014, including any Amazon Flex
drivers; and

18 (3) drivers who have been owners or corporate officers of any
19 entity that had an Amazon Delivery Provider Agreement with one
of both of the Amazon Defendants since December 20, 2014.

20 Under Civil Rule 23(a) and (b)(3), Plaintiffs also bring this case as a class action against
21 all Defendants on behalf of a subclass defined as follows (the “Subclass”):

22 All non-managerial and non-supervisory employees who have
23 been paid by Defendant Jungle Trux, Inc. to work as Amazon
24 delivery drivers at any time between October 2016 and the date
of final disposition of this action.

25 4.2 Numerosity. Plaintiffs believe that scores of persons have worked as delivery
26 drivers for Defendants in Washington during the proposed class period. The Class and

1 Subclass members are each so numerous that joinder of all such members is impracticable.
2 Moreover, the disposition of the claims of the Class and Subclass in a single action will provide
3 substantial benefits to all parties and the Court.

4 4.3 Commonality. There are numerous questions of law and fact common to
5 Plaintiffs and Class and Subclass members. These questions include, but are not limited to,
6 the following:

7 4.3.1. Whether the Amazon Defendants are joint employers of the Class and
8 Subclass members;

9 4.3.2. Whether Defendants have engaged in a common course of failing to
10 provide Class and Subclass members with a ten-minute rest break for
11 every four hours of work;

12 4.3.3. Whether Defendants have engaged in a common course of requiring
13 Class and Subclass members to work more than three consecutive hours
14 without a rest break;

15 4.3.4. Whether Defendants have engaged in a common course of failing to
16 ensure Class and Subclass members have received the rest breaks to
17 which they are entitled;

18 4.3.5. Whether Defendants have engaged in a common course of failing to pay
19 Class and Subclass members an additional ten minutes of compensation
20 for each missed rest break;

21 4.3.6. Whether Defendants have engaged in a common course of failing to
22 provide Class and Subclass members with a thirty-minute meal break
23 for every five hours of work;

24 4.3.7. Whether Defendants have engaged in a common course of failing to
25 ensure that Class and Subclass members have received the meal breaks
26 to which they are entitled;

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- 4.3.8. Whether Defendants have engaged in a common course of failing to pay Class and Subclass members an additional thirty minutes of compensation for each missed meal break;
- 4.3.9. Whether Defendants have failed to keep true and accurate time records for all hours worked by Class and Subclass members;
- 4.3.10. Whether Defendants have engaged in a common course of failing to pay Subclass members for each hour of work;
- 4.3.11. Whether Defendants have engaged in a common course of failing to pay all overtime wages owed to Class and Subclass members for hours worked in excess of forty per workweek;
- 4.3.12. Whether Defendants' failure to pay all wages owed to Class and Subclass members was willful;
- 4.3.13. Whether Defendants have violated RCW 49.12.020;
- 4.3.14. Whether Defendants have violated WAC 296-126-092;
- 4.3.15. Whether Defendants have violated RCW 49.46.020;
- 4.3.16. Whether Defendants have violated RCW 49.46.090;
- 4.3.17. Whether Defendants have violated RCW 49.46.130;
- 4.3.18. Whether Defendants have violated WAC 296-128-550;
- 4.3.19. Whether Defendants have violated RCW 49.52.050;
- 4.3.20. Whether Defendants have violated WAC 296-128-010;
- 4.3.21. Whether Defendants have violated WAC 296-126-040;
- 4.3.22. Whether Defendants have violated SMC 14.20.020 and SMC 14.19.035;
- 4.3.23. Whether Defendants have violated SMC 14.20.025;
- 4.3.24. Whether Defendants have violated SMC 14.20.030; and
- 4.3.25. The nature and extent of the injury to Class and Subclass

1 4.4 Typicality. Plaintiffs’ claims are typical of the claims of the Class and Subclass.
2 Plaintiffs have performed services for the Amazon Defendants as delivery drivers and have
3 worked directly for an Amazon “Delivery Provider” and thus are members of the Class and
4 Subclass. Plaintiffs’ claims, like the claims of the Class and Subclass, arise out of the same
5 common course of conduct by Defendants and are based on the same legal and remedial
6 theories, including that the Amazon Defendants are joint employers of Plaintiffs and members
7 of the Class and Subclass under both Washington law and Seattle law.

8 4.5 Adequacy. Plaintiffs will fairly and adequately protect the interests of the Class
9 and Subclass. Plaintiffs have retained competent and capable attorneys who have significant
10 experience in complex and class action employment law litigation. Plaintiffs and their counsel
11 are committed to prosecuting this action vigorously on behalf of the Class and Subclass and
12 have the financial resources to do so. Neither Plaintiffs nor their counsel have interests that
13 are contrary to or that conflict with those of the Class and Subclass.

14 4.6 Predominance. Defendants have engaged in a common course of wage and
15 hour abuse toward Plaintiffs and members of the Class and Subclass. The common issues
16 arising from this conduct that affect Plaintiffs and members of the Class and Subclass
17 predominate over any individual issues. Adjudication of these common issues in a single
18 action has important and desirable advantages of judicial economy.

19 4.7 Superiority. Plaintiffs and Class and Subclass members have suffered and will
20 continue to suffer harm and damages as a result of Defendants’ unlawful and wrongful
21 conduct. Absent a class action, however, most Class and Subclass members likely would find
22 the cost of litigating their claims prohibitive. Class treatment is superior to multiple individual
23 suits or piecemeal litigation because it conserves judicial resources, promotes consistency and
24 efficiency of adjudication, provides a forum for small claimants, and deters illegal activities.
25 There will be no significant difficulty in the management of this case as a class action. The
26 Class and Subclass members are readily identifiable from Defendants’ records.

1 **IV. SUMMARY OF FACTUAL ALLEGATIONS**

2 5.1 Common Course of Conduct: Joint Employment. The Amazon Defendants are
3 joint employers of all delivery drivers in Washington who have worked directly for an Amazon
4 Delivery Provider that has a Delivery Provider agreement with Amazon. The following facts,
5 among many others, show that the Amazon Defendants are joint employers of Plaintiffs and
6 members of the Class and Subclass:

7 5.1.1 The Amazon Defendants instruct Plaintiffs and members of the Class
8 and Subclass regarding what packages to deliver, on what days to deliver those packages, and
9 in what order to deliver those packages. The drivers must perform these duties while wearing
10 Amazon uniforms, using Amazon “Rabbit” devices, and acting on the direction of Amazon.
11 Indeed, Plaintiffs and members of the Class and Subclass have been dependent on Amazon for
12 virtually every aspect of their jobs, including the existence of the job itself. Although Plaintiffs
13 and members of the Class and Subclass work for so-called “Delivery Providers” on Amazon
14 routes, the Amazon Defendants have retained control over the manner and means by which
15 Plaintiffs and members of the Class and Subclass perform their jobs.

16 5.1.2 The Amazon Defendants control driver schedules and work hours by,
17 among other things, (1) requiring drivers to arrive at an Amazon distribution center, where
18 they pick up Amazon packages, at or near the beginning of their shifts, (2) requiring drivers to
19 load packages in orange Amazon totes, (3) requiring drivers to scan all packages using the
20 Amazon Rabbit device, (4) requiring drivers to deliver packages within certain time frames, (5)
21 requiring drivers to enter both the starting and ending miles of the delivery vehicle on the
22 Amazon Rabbit device, and (6) requiring drivers to return to the Amazon distribution center at
23 the end of each day to unload orange totes and go through a debriefing with Amazon officials
24 regarding packages not delivered.

25 5.1.3 The Amazon Defendants require drivers to abide by certain delivery
26 rules and procedures.

1 5.1.4 The Amazon Defendants require drivers to inform Amazon officials
2 when they cannot deliver packages by calling Amazon Transportation Operations Center
3 (“TOC”).

4 5.1.5 The Amazon Defendants require drivers to follow all Amazon TOC
5 instructions.

6 5.1.6 The Amazon Defendants provide orientation and training to the drivers
7 on the use of the “Rabbit” device and calling Amazon TOC.

8 5.1.7 The Amazon Defendants maintain detailed records of each driver’s
9 status and package delivery times.

10 5.1.8 The Amazon Defendants direct drivers to take pictures of packages in
11 the position where they have been delivered and to inform Amazon officials when packages
12 are not delivered.

13 5.1.9 The work of drivers is one step—collecting and delivering packages—in
14 the sequence of steps necessary to Amazon’s business model. This job does not require
15 specialized skills or a high degree of judgment.

16 5.1.10 The process for package delivery can pass from one delivery contractor
17 to another without any material changes. Regardless of who acts as the delivery contractor,
18 the work directed by Amazon remains the same.

19 5.1.11 The drivers use the premises and equipment of the Amazon Defendants
20 for their work. Plaintiffs and members of the Class and Subclass regularly start and end their
21 delivery routes at Amazon facilities. They interact with Amazon facility employees when
22 sorting packages and at the beginning and end of their route.

23 5.1.12 The Amazon Defendants require drivers to meet with an Amazon
24 employee near the end of the work day to go over the deliveries for the day and discuss any
25 problems, including undelivered packages (“concessions”).
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1 5.1.13 The Amazon Defendants have made a considerable investment in
2 equipment and materials necessary for the work of Plaintiffs and members of the Class and
3 Subclass. Among other things, Amazon provides Rabbits for drivers to record their work time
4 and deliveries, customer service department employees to handle customer complaints and
5 inquiries, the package delivery infrastructure in which drivers work, and the warehouse
6 necessary for the drivers' work.

7 5.1.14 Plaintiffs and members of the Class and Subclass have no opportunity
8 for profit or loss depending on their managerial skill.

9 5.1.15 The economic reality is that Plaintiffs and members of the Class and
10 Subclass are dependent on Amazon—the entity to which they render package pick-up and
11 delivery services—for virtually every aspect of their jobs.

12 5.1.16 The package pick-up and delivery services of Plaintiffs and members of
13 the Class and Subclass are an integral part of Amazon's business.

14 5.2 Common Course of Conduct: Failure to Provide Proper Rest Breaks.

15 Defendants have engaged in a common course of failing to provide Plaintiffs and members of
16 the Class and Subclass with a paid ten-minute rest break for every four hours of work.

17 5.2.1 Defendants have engaged in a common course of requiring or
18 permitting Plaintiffs and members of the Class and Subclass to work more than three
19 consecutive hours without a rest break.

20 5.2.2 Defendants have engaged in a common course of failing to ensure
21 Plaintiffs and members have taken the rest breaks to which they are entitled.

22 5.2.3 Defendants have engaged in a common course of failing to provide
23 Plaintiffs and members of the Class and Subclass with ten minutes of additional pay for each
24 missed rest break.

25 5.2.4 Defendants' delivery drivers do not have time to take rest breaks
26 because their routes are very busy, often requiring delivery of 150 to 200 packages per day,

1 and Defendants have no system in place to relieve employees during busy periods in order for
2 the employees to take rest breaks.

3 5.2.5 Defendants have had actual or constructive knowledge of the fact that
4 hourly paid employees do not receive ten-minute rest breaks for every four hours of work,
5 must work more than three consecutive hours without a rest break, and do not receive ten
6 minutes of additional pay for each rest break they miss

7 5.3 Common Course of Conduct: Failure to Provide Proper Meal Breaks.

8 Defendants have engaged in, and continue to engage in, a common course of failing to
9 provide their hourly paid employees with an uninterrupted, thirty-minute meal break for
10 every five hours of work and requiring or permitting their hourly paid employees to work
11 more than five consecutive hours without a meal break.

12 5.3.1 Defendants have engaged in a common course of requiring or
13 permitting Plaintiffs and members of the Class and Subclass to work more than five
14 consecutive hours without a meal break.

15 5.3.2 Defendants have engaged in a common course of failing to ensure
16 Plaintiffs and members of the Class and Subclass have taken the meal breaks to which they
17 are entitled.

18 5.3.3 Defendants have engaged in a common course of failing to provide
19 Plaintiffs and members of the Class and Subclass with thirty minutes of additional pay for each
20 missed meal break.

21 5.3.4 Plaintiffs and members of the Class and Subclass regularly are unable to
22 take the full, thirty-minute meal breaks to which they are entitled because of how many
23 packages they must deliver.

24 5.3.5 Plaintiffs and members of the Class and Subclass often eat only while
25 on-the-go to ensure they can complete all their necessary work.

1 5.3.6 Defendants have had actual or constructive knowledge of the fact that
2 hourly paid employees do not receive uninterrupted, thirty-minute meal breaks for every five
3 hours of work and are required or permitted to work more than five consecutive hours
4 without a meal break.

5 5.4 Common Course of Conduct Against Subclass: Failure to Pay for All Hours
6 Worked. Defendants have engaged in a common course of failing to pay Plaintiffs and
7 Subclass members for each hour worked. Defendants have also engaged in a common course
8 of failing to pay Plaintiffs and Subclass members for off-the-clock work that Defendants
9 suffered, permitted, or required the drivers to perform.

10 5.4.1 Before clocking in for every shift, Plaintiffs and members of the Subclass
11 were, until recently, required to arrive at the location where Jungle Trux's delivery vans are
12 parked. Plaintiffs and members of the Subclass are required to conduct a pre-trip inspection
13 of the delivery vans they are assigned. Plaintiffs and members of the Subclass are then
14 required to drive the delivery vans to a separate distribution warehouse location to pick up
15 packages for delivery. Until recently, Plaintiffs and Subclass members were only allowed to
16 clock in for their shift after they arrived at the second location.

17 5.4.2 At the end of every shift, Plaintiffs and members of the Subclass are
18 required to return to the Amazon warehouse with any undelivered packages. Plaintiffs and
19 members of the Subclass were, until recently, required to clock out before they drive the
20 delivery vans back to the location where Jungle Trux stores the vans. Once Plaintiffs and
21 members of the Subclass have arrived at the storage location, they have been required to
22 clean out the delivery vans and conduct a post-trip inspection.

23 5.4.3 As a result of Defendants' common course of suffering, permitting, or
24 requiring Plaintiffs and members of the Subclass to perform off-the-clock work, Defendants
25 have failed to pay Plaintiffs and members of the Subclass for all hours worked.

1 5.4.4 Defendants have had actual or constructive knowledge of the fact that
2 they have not paid Plaintiffs and Subclass members for all hours worked.

3 5.5 Common Course of Conduct: Failure to Pay Overtime Wages. Defendants have
4 engaged in a common course of failing to pay proper overtime wages to Plaintiffs and
5 members of the Class and Subclass.

6 5.5.1 Plaintiffs and members of the Class and Subclass are entitled to one and
7 one-half times the regular rate of pay for all hours worked in excess of forty hours per week.

8 5.5.2 Defendants did not pay overtime compensation to the members of the
9 Subclass for the unpaid hours described in Paragraph 1.23 above.

10 5.5.3 Starting around in mid-July 2017, Defendant Jungle Trux began paying
11 Plaintiffs and Subclass members at a regular rate of \$17.00 per hour. Defendant Jungle Trux
12 characterized this \$17.00 an hour as consisting of two components: \$13.00 per hour and a
13 \$4.00 per hour “bonus.”

14 5.5.4 The \$4.00 per hour “bonus” portion of Plaintiffs’ and Subclass members’
15 pay is a non-discretionary bonus, which must be paid if certain objective standards are met.

16 5.5.5 Starting around July 2017, Defendant Jungle Trux began calculating
17 Plaintiffs’ and Subclass members’ overtime pay based not on their regular rate of pay of
18 \$17.00 per hour, but based on the lower \$13.00 per hour figure. That is, Defendant Jungle
19 Trux excluded the non-discretionary “bonus” from the overtime calculation.

20 5.5.6 Defendants’ failure to properly pay Plaintiffs’ and Subclass members’
21 overtime wages based on their regular rate of pay of \$17.00 per hour has led to failure to
22 properly compensate them for all overtime hours worked.

23 5.5.7 The Amazon Defendants refuse to recognize Plaintiffs and members of
24 the Class and Subclass as employees and thus fails to pay them overtime wages when they
25 work over 40 hours per week.
26

1 employee under this chapter, less any amount actually paid to such employee by the
2 employer, and for costs and such reasonable attorney's fees as may be allowed by the court.”

3 8.3 By the actions alleged above, Defendants have violated the provisions of RCW
4 49.46.090, including by failing to pay wages to Plaintiffs and members of the Class and
5 Subclass for missed rest and meal breaks and by failing to pay wages for all hours worked to
6 Plaintiffs and members of the Subclass.

7 8.4 As a result of the unlawful acts of Defendants, Plaintiffs and members of the
8 Class and Subclass have been deprived of compensation in amounts to be determined at trial,
9 and Plaintiffs and members of the Class and Subclass are entitled to the recovery of such
10 damages, including interest thereon, as well as attorneys’ fees and costs under RCW
11 49.46.090.

12 **IX. FOURTH CLAIM FOR RELIEF**
13 **(Violations of RCW 49.46.130 – Failure to Pay Overtime Wages)**

14 9.1 Plaintiffs reallege and incorporate by reference each and every allegation set
15 forth in the preceding paragraphs.

16 9.2 RCW 49.46.130 provides that “no employer shall employ any of his or her
17 employees for a workweek longer than forty hours unless such employee receives
18 compensation for his or her employment in excess of the hours above specified at a rate not
19 less than one and one-half times the regular rate at which he or she is employed.”

20 9.3 By the actions alleged above, Defendants have violated the provisions of RCW
21 49.46.130 by failing to pay proper overtime wages to Plaintiffs and members of the Class and
22 Subclass, including but not limited to during workweeks in which missed rest and meal break
23 time extended the workweek beyond forty hours.

24 9.4 By the actions alleged above, Defendants have also violated the provisions of
25 RCW 49.46.130 by failing to pay proper overtime wages to Plaintiffs and members of the
26

1 Subclass and during workweeks in which those employees worked over forty hours but were
2 not properly compensated for all hours worked.

3 9.5 As a result of the unlawful acts of Defendants, Plaintiffs and members of the
4 Class and Subclass have been deprived of compensation in amounts to be determined at trial,
5 and Plaintiffs and members of the Class and Subclass are entitled to recovery of such
6 damages, including interest thereon, as well as attorneys' fees and costs under RCW
7 49.46.090.

8 **X. FIFTH CLAIM FOR RELIEF**
9 **(Violations of RCW 49.52.050 — Willful Refusal to Pay Wages)**

10 10.1 Plaintiffs reallege and incorporate by reference each and every allegation set
11 forth in the preceding paragraphs.

12 10.2 RCW 49.52.050 provides that “[a]ny employer or officer, vice principal or agent
13 of any employer . . . who . . . [w]ilfully and with intent to deprive the employee of any part of
14 his or her wages, shall pay any employee a lower wage than the wage such employer is
15 obligated to pay such employee by any statute, ordinance, or contract” shall be guilty of a
16 misdemeanor.

17 10.3 Defendants' violations of RCW 49.12.020, WAC 296-126-092, RCW 49.46.090,
18 RCW 49.46.130, and WAC 296-126-028 were willful and constitute violations of RCW
19 49.52.050.

20 10.4 RCW 49.52.070 provides that any employer who violates the provisions of RCW
21 49.52.050 shall be liable in a civil action for twice the amount of wages withheld, attorneys'
22 fees, and costs.

23 10.5 As a result of the willful, unlawful acts of Defendants, Plaintiffs and members of
24 the Class and Subclass have been deprived of compensation in amounts to be determined at
25 trial and Plaintiffs and members of the Class and Subclass are entitled to recovery of twice
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1 such damages, including interest thereon, as well as attorneys' fees and costs under RCW
2 49.52.070.

3 **XI. SIXTH CLAIM FOR RELIEF**
4 **(Violations of SMC 14.20.020 and SMC 14.19.035 — Failure to Pay All**
5 **Compensation Owed)**
6 ***On Behalf of Plaintiffs and Members of the Subclass***

7 11.1 Plaintiffs reallege and incorporate by reference each and every allegation set
8 forth in the preceding paragraphs.

9 11.2 SMC 14.20.020 provides that “[a]n employer shall pay all compensation owed
10 to an employee by reason of employment on an established regular pay day at no longer than
11 monthly payment intervals.”

12 11.3 SMC 14.20.025 provides that each time compensation is paid, an employer
13 shall give written notice to the employee of all hours worked and all deductions taken by the
14 employer for that pay period.

15 11.4 SMC 14.20.030 provides that the employer must also retain payroll records
16 that document all hours worked by each employee, including straight-time and overtime
17 hours, and records of all deductions taken from the employee’s wages each pay period.

18 11.5 SMC 14.20.045 provides that the failure of an employer to comply with any
19 requirement imposed upon it under Chapter 14.20 (“Wage Theft Ordinance”) constitutes a
20 violation of the ordinance.

21 11.6 SMC 14.20.090(A) provides that “any person or class of persons that suffers
22 financial injury as a result of a violation of [the Wage Theft Ordinance] . . . may be awarded
23 reasonable attorney fees and costs and such legal or equitable relief as may be appropriate to
24 remedy the violation including, without limitation, the payment of any unpaid compensation
25 plus interest due to the person and liquidated damages in an additional amount of up to twice
26 the unpaid compensation”

- 1 G. Award Plaintiffs and members of the Class and Subclass prejudgment and post-
2 judgment interest, as provided by law;
- 3 H. Permit Plaintiffs and members of the Class and Subclass leave to amend the
4 complaint to conform to the evidence presented at trial; and
- 5 I. Grant such other and further relief as the Court deems necessary, just, and
6 proper.

7 RESPECTFULLY SUBMITTED AND DATED this 20th day of December, 2017.

8 TERRELL MARSHALL LAW GROUP PLLC

9 By: /s/ Toby J. Marshall, WSBA #32726

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*Attorneys for Plaintiffs and the Proposed Class and
Subclass*

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

GUS ORTIZ and MARK FREDLEY, individually
and on behalf of all others similarly situated;

Plaintiffs,

v.

AMAZON.COM INC.; AMAZON LOGISTICS,
INC.; JUNGLE TRUX, INC., a Washington
corporation; SCOTT AITCHISON, individually
and on behalf of the marital community
composed of SCOTT AND ERIN AITCHISON;
and TIMOTHY O'NEAL, individually and on
behalf of the marital community composed
of TIMOTHY AND KAREN O'NEAL,

Defendants.

NO. 17-2-25002-3 KNT

DECLARATION OF SERVICE

I, Toby J. Marshall, declare and say as follows:

1. I am a citizen of the United States and resident of the State of Washington,
over the age of 18 years, not a party to the above-entitled action, and am competent to be a
witness herein. My business address is 936 North 34th Street, Suite 300, Seattle, Washington,
98103; telephone (206) 816-6603.

1 2. On December 20, 2017, I caused true and correct copies of the following
2 documents to be delivered to Defendants in the above-captioned matter, by the means
3 indicated below:

- 4 • **First Amended Consolidated Class Action Complaint; and**
- 5 • **[This] Declaration of Service.**

6 Karen P. Kruse, WSBA No. 19857
7 Email: k2@karenkruselaw.com
8 P.O. Box 99556
9 (2445 Perkins Lane W.)
10 Seattle, WA 98139-0556
11 Telephone: (206) 462-4022
12 Facsimile: (206) 462-4066

- U.S. Mail, postage prepaid
- Hand Delivered via Messenger Service
- Overnight Courier
- Facsimile
- Electronic Mail
- Via the King County Electronic Filing Notification System

11 *Attorney for Defendants*
12 Jungle Trux, Inc., Scott Aitchison, and
13 Timothy O'Neal

14 Corporation Service Company
15 300 Deschutes Way SW, Suite 304
16 Tumwater, Washington 98501

17 *Registered Agent for Defendants*
18 *Amazon.com Inc. and*
19 *Amazon Logistics, Inc.*

- Legal Process Service with:
 1. Summons,
 2. First Amended Consolidated Class Action Complaint, and
 3. Order Setting Civil Case Schedule

20 I declare under penalty of perjury under the laws of the State of Washington and the
21 United States that the foregoing is true and correct.

22 DATED this 20th day of December, 2017.

23 TERRELL MARSHALL LAW GROUP PLLC

24 By: /s/ Toby J. Marshall, WSBA #32726
25 Toby J. Marshall, WSBA No. 32726
26 Email: tmarshall@terrellmarshall.com
 Eric R. Nusser, WSBA No. 51513
 Email: eric@terrellmarshall.com

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