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 AUTO TRANSPORT, INC.

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 10 **UNITED STATES DISTRICT COURT**  
 11 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

12 CHRISTIAN BRINK and DAVID MAIER on  
 behalf of themselves, all others similarly situated,  
 13 and on behalf of the general public,

14  
 15 Plaintiffs,

16 v.

17 CENTRAL VALLEY AUTO TRANSPORT,  
 INC.; and DOES 1-100,

18 Defendants.  
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Case No. 1:19-cv-01213-AWI-SKO

CENTRAL VALLEY AUTO  
 TRANSPORT, INC.'S ANSWER TO  
 SECOND AMENDED COMPLAINT

21 Solely on its own behalf, CENTRAL VALLEY AUTO TRANSPORT, INC. ("Central  
 22 Valley"), responds to the complaint of Plaintiffs CHRISTIAN BRINK and DAVID MAIER  
 23 (collectively referred to as "Plaintiffs") as follows:

24 1. Central Valley admits that Plaintiffs claim to bring an action on behalf of  
 25 themselves individually and other similarly situated employees pursuant to California Code of  
 26 Civil Procedure section 382. Central Valley denies this action meets the requirements for a  
 27 class or representative action and, therefore, denies all other allegations in paragraph 1.

28 2. Central Valley admits that it has its principal place of business is in Tulare

1 County, California and that it conducts business within the United States. Central Valley admits  
2 that it owns and operates trucks and has done so since at least four years prior to the filing of  
3 Plaintiff Brink's Complaint. Otherwise, Central Valley denies the allegations in paragraph 2.

4 3. Central Valley admits it has employed truck drivers within California since at  
5 least four years prior to the filing of Plaintiff Brink's Complaint. Central Valley denies all other  
6 allegations in paragraph 3.

7 4. Paragraph 4 calls for a legal conclusion for which no response is required. To  
8 the extent a response is deemed required, Central Valley denies the allegations in paragraph 4.

9 5. Central Valley denies the allegations in paragraph 5.

10 6. Central Valley denies the allegations in paragraph 6.

11 7. Central Valley denies the allegations in paragraph 7.

12 8. Paragraph 8 calls for a legal conclusion for which no response is required. To  
13 the extent a response is deemed required, Central Valley denies the allegations in paragraph 8.

14 9. Paragraph 9 calls for a legal conclusion for which no response is required. To  
15 the extent a response is deemed required, Central Valley denies the allegations in paragraph 9.

16 10. Paragraph 10 calls for a legal conclusion for which no response is required. To  
17 the extent a response is deemed required, Central Valley denies the allegations in paragraph 10.

18 11. Paragraph 11 calls for a legal conclusion for which no response is required. To  
19 the extent a response is deemed required, Central Valley denies the allegations in paragraph 11.

20 12. Paragraph 12 calls for a legal conclusion for which no response is required. To  
21 the extent a response is deemed required, Central Valley denies the allegations in paragraph 12.

22 13. Paragraph 13 calls for a legal conclusion for which no response is required. To  
23 the extent a response is deemed required, Central Valley denies the allegations in paragraph 13.

24 14. Paragraph 14 calls for a legal conclusion for which no response is required. To  
25 the extent a response is deemed required, Central Valley denies the allegations in paragraph 14.

26 15. Paragraph 15 calls for a legal conclusion for which no response is required. To  
27 the extent a response is deemed required, Central Valley denies the allegations in paragraph 15.

28 16. Paragraph 16 calls for a legal conclusion for which no response is required. To

1 the extent a response is deemed required, Central Valley denies the allegations in paragraph 16.

2 17. Paragraph 17 calls for a legal conclusion for which no response is required. To  
3 the extent a response is deemed required, Central Valley denies the allegations in paragraph 17.

4 18. Paragraph 18 calls for a legal conclusion for which no response is required. To  
5 the extent a response is deemed required, Central Valley denies the allegations in paragraph 18.

6 19. Paragraph 19 calls for a legal conclusion for which no response is required. To  
7 the extent a response is deemed required, Central Valley denies the allegations in paragraph 19.

8 20. Central Valley denies the allegations in paragraph 20.

9 21. Central Valley denies the allegations in paragraph 21.

10 22. Central Valley denies the allegations in paragraph 22.

11 23. Paragraph 23 calls for a legal conclusion for which no response is required. To  
12 the extent that a response is deemed required, Central Valley denies the allegations in  
13 paragraph 23.

14 24. Central Valley admits that Plaintiffs claims to bring an action on behalf of  
15 themselves and other similarly situated employees and seeks the relief set forth in Paragraph  
16 24. Central Valley denies that Plaintiffs or the putative class members are entitled to relief and  
17 that this action meets the requirements for a class action and, therefore, denies all other  
18 allegations set forth in Paragraph 24.

19 25. Central Valley admits that Plaintiffs claims to bring an action on behalf of  
20 themselves and other similarly situated employees and seeks the relief set forth in Paragraph  
21 25. Central Valley denies that Plaintiffs or the putative class members are entitled to relief and  
22 that this action meets the requirements for a class action and, therefore, denies all other  
23 allegations set forth in Paragraph 25.

24 I. VENUE

25 26. Central Valley admits venue is proper in the Eastern District of California.  
26 Central Valley admits that it employs drivers who work within California and other states  
27 within the U.S. Central Valley denies all other allegations in paragraph 26.

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**II. PARTIES**

**A. Plaintiffs.**

27. Central Valley admits that it employed each of the Plaintiffs as truck drivers at some time within the four years preceding the filing of Plaintiff Brink's Complaint on June 6, 2018. Central Valley lacks sufficient knowledge or information to either admit or deny whether Plaintiffs are residents of California and, therefore, denies that allegation. Central Valley denies all other allegations in paragraph 27.

28. Central Valley lacks sufficient knowledge or information to either admit or deny all other allegations contained therein and therefore denies all other allegations in paragraph 28.

29. Central Valley denies the allegations in paragraph 29.

30. Central Valley denies the allegations in paragraph 30.

31. Central Valley denies the allegations in paragraph 31.

32. Central Valley denies the allegations in paragraph 32.

33. Central Valley denies the allegations in paragraph 33.

34. Central Valley denies the allegations in paragraph 34.

35. Central Valley denies the allegations in paragraph 35.

36. Paragraph 36 calls for a legal conclusion for which no response is required. To the extent that a response is deemed required, Central Valley admits that IWC Occupational Wage Order No. 9-2001 has applied to each of the Plaintiffs and its employee drivers while any of them had an employment relationship with Central Valley. Central Valley denies all other allegations in paragraph 36.

**B. Defendants.**

37. Central Valley admits that its principal place of business is in Tulare County, California and that it conducts business within the United States, including within California. Central Valley admits that it has employed truck drivers in California. Central Valley denies all other allegations in paragraph 37.

38. Central Valley admits that it owns and operates industrial trucks and that it transports motor equipment for approved customers or brokers in California and other states.

1 Central Valley denies all other allegations in paragraph 38.

2 39. Paragraph 39 calls for a legal conclusion for which no response is required. To  
3 the extent that a response is deemed required, Central Valley admits it has, at times, contracted  
4 with motor carriers and/or brokers, including Plaintiff Maier, to transport vehicles. Central  
5 Valley denies all other allegations in paragraph 39 and specifically denies that it has, at any  
6 time, misclassified any individuals.

7 40. Central Valley admits it employed Plaintiff Brink from approximately July 2016  
8 to April 2017 and Plaintiff Maier from approximately July 2012 to June 2016 and that, during  
9 those periods, Plaintiffs were employed as truck drivers. Central Valley admits it has employed  
10 other truck drivers within the four-year period preceding the filing of Plaintiff Brink's  
11 Complaint. Central Valley denies all other allegations in paragraph 40.

12 41. The allegations contained in paragraph 41 are conclusions of law to which no  
13 response is required. To the extent a response is deemed required, Central Valley denies the  
14 allegations in paragraph 41.

15 42. Central Valley admits that its principal place of business is in Tulare County,  
16 California. Central Valley denies all other allegations in paragraph 42.

17 43. Central Valley lacks sufficient knowledge or information to either admit or deny  
18 all other allegations contained therein and denies all allegations in paragraph 43 on that basis.

19 44. Central Valley denies the allegations in paragraph 44.

20 **III. CLASS ACTION ALLEGATIONS**

21 45. Central Valley admits that Plaintiffs claim to bring an action on behalf of  
22 themselves and others that Plaintiffs assert to be similarly situated. Central Valley admits that  
23 Plaintiffs claim to bring an action on behalf of a putative class as set forth in paragraph 45,  
24 including "subclasses" of putative class members. Central Valley denies that this action meets  
25 the requirements for a class action and denies all other allegations in paragraph 45 on that basis.

26 46. Paragraph 46 calls for a legal conclusion for which no response is required. To  
27 the extent that a response is deemed required, Central Valley admits Plaintiffs seek the relief set  
28 forth in paragraph 46 and otherwise denies such allegations and that any such relief is

1 warranted.

2 47. Paragraph 46 calls for a legal conclusion for which no response is required. To  
3 the extent that a response is deemed required, Central Valley admits that Plaintiffs claim to  
4 bring an action on behalf of themselves and other similarly situated employees. Central Valley  
5 denies that that this action meets the requirements for a class action and, therefore, denies the  
6 remaining allegations set forth in paragraph 47.

7 **A. Numerosity.**

8 48. Central Valley admits that it has employed over 100 truck drivers since June 6,  
9 2014. Central Valley denies all other allegations in paragraph 48.

10 49. Central Valley denies the allegations in paragraph 49.

11 **B. Commonality.**

12 50. The allegations contained in paragraph 50 are conclusions of law to which no  
13 response is required. To the extent a response is deemed required, Central Valley denies the  
14 allegations in paragraph 50.

15 51. Central Valley denies the allegations in paragraph 51.

16 52. Central Valley denies the allegations in paragraph 52.

17 **C. Typicality.**

18 53. Central Valley denies the allegations in paragraph 53.

19 54. Central Valley denies the allegations in paragraph 54.

20 **D. Adequacy of Representation.**

21 55. Central Valley denies the allegations in paragraph 55.

22 56. Central Valley denies the allegations in paragraph 56.

23 57. Central Valley denies the allegations in paragraph 57.

24 58. Central Valley lacks sufficient knowledge or information to either admit or deny  
25 the allegations contained in paragraph 58 and, therefore, denies all such allegations.

26 59. Central Valley lacks sufficient knowledge or information to either admit or deny  
27 the allegations contained in paragraph 59 and, therefore, denies all such allegations.

28 60. Central Valley lacks sufficient knowledge or information to either admit or deny

1 the allegations contained in paragraph 60 and, therefore, denies all such allegations.

2 61. Central Valley lacks sufficient knowledge or information to either admit or deny  
3 the allegations contained in paragraph 61 and, therefore, denies all such allegations.

4 62. Central Valley lacks sufficient knowledge or information to either admit or deny  
5 the allegations contained in paragraph 62 and, therefore, denies all such allegations.

6 63. Central Valley lacks sufficient knowledge or information to either admit or deny  
7 the allegations contained in paragraph 63 and, therefore, denies all such allegations.

8 64. Central Valley lacks sufficient knowledge or information to either admit or deny  
9 the allegations contained in paragraph 64 and, therefore, denies all such allegations.

10 **E. Superiority of Class Action.**

11 65. Central Valley denies the allegations in paragraph 65.

12 66. Central Valley denies the allegations in paragraph 66.

13 67. Central Valley denies the allegations in paragraph 67.

14 **IV. CAUSES OF ACTION**

15 **FIRST CAUSE OF ACTION**

16 **(Failure to Pay All Straight Time Wages)**

17 68. Central Valley incorporates by reference its responses to the preceding and  
18 foregoing paragraphs.

19 69. Central Valley denies the allegations in paragraph 69.

20 70. The allegations contained in paragraph 70 are conclusions of law to which no  
21 response is required. To the extent a response is deemed required, Central Valley denies the  
22 allegations in paragraph 70.

23 71. Central Valley admits that Plaintiffs were employed by Central Valley from  
24 time to time before the commencement of Plaintiff Brink's action on or about June 6, 2018 and  
25 that it employed other individuals during the same period. Otherwise, the allegations contained  
26 in paragraph 71 are conclusions of law and no response is required. To the extent a response is  
27 deemed required, Central Valley denies all other allegations in paragraph 71 on that basis.

28 72. Central Valley denies the allegations in paragraph 72.





1 90. Central Valley denies the allegations in paragraph 90.

2 91. Central Valley denies the allegations in paragraph 91.

3 92. Central Valley denies the allegations in paragraph 92.

4 93. Central Valley denies the allegations in paragraph 93.

5 94. Central Valley denies the allegations in paragraph 94.

6 95. Central Valley denies the allegations in paragraph 95.

7 96. Central Valley denies the allegations in paragraph 96.

8 97. Central Valley denies the allegations in paragraph 97.

9 98. Central Valley denies the allegations in paragraph 98.

10 99. The allegations contained in paragraph 99 are conclusions of law to which no  
11 response is required. To the extent a response is deemed required, Central Valley denies all  
12 allegations contained in 99.

13 100. Central Valley denies the allegations in paragraph 100.

14 101. Central Valley admits that Plaintiffs request relief as set forth in paragraph 101,  
15 but denies that any such relief is warranted and denies any allegations contained in paragraph  
16 101 on that basis.

17 **THIRD CAUSE OF ACTION**

18 **(Failure to Authorize and Permit Rest Periods)**

19 102. Central Valley incorporates by reference its responses to the preceding and  
20 foregoing paragraphs.

21 103. The allegations contained in paragraph 103 are conclusions of law to which no  
22 response is required. To the extent a response is deemed required, Central Valley denies the  
23 allegations in paragraph 103.

24 104. The allegations contained in paragraph 104 are conclusions of law to which no  
25 response is required. To the extent a response is deemed required, Central Valley denies the  
26 allegations in paragraph 104.

27 105. Central Valley denies the allegations in paragraph 105.

28 106. Central Valley denies the allegations in paragraph 106.

- 1 107. Central Valley denies the allegations in paragraph 107.
- 2 108. Central Valley denies the allegations in paragraph 108.
- 3 109. Central Valley denies the allegations in paragraph 109.
- 4 110. Central Valley denies the allegations in paragraph 110.
- 5 111. Central Valley denies the allegations in paragraph 111.
- 6 112. Central Valley denies the allegations in paragraph 112.
- 7 113. Central Valley denies the allegations in paragraph 113.
- 8 114. Central Valley admits that Plaintiffs request relief as set forth in paragraph 114
- 9 but denies that any such relief is warranted and denies any allegations contained in paragraph
- 10 114 on that basis.

11 **FOURTH CAUSE OF ACTION**

12 **(Knowing and Intentional Failure to Comply with Itemized Wage Statement Provisions)**

- 13 115. Central Valley incorporates by reference its responses to the preceding and
- 14 foregoing paragraphs.
- 15 116. The allegations contained in paragraph 116 are conclusions of law to which no
- 16 response is required. To the extent a response is deemed required, Central Valley denies the
- 17 allegations in paragraph 116.
- 18 117. The allegations contained in paragraph 117 are conclusions of law to which no
- 19 response is required. To the extent a response is deemed required, Central Valley denies the
- 20 allegations in paragraph 117.
- 21 118. Central Valley denies the allegations in paragraph 118.
- 22 119. Central Valley denies the allegations in paragraph 119.
- 23 120. Central Valley denies the allegations in paragraph 120.
- 24 121. Central Valley admits that Plaintiffs request relief as set forth in paragraph 121
- 25 but deny that any such relief is warranted and denies any allegations contained in paragraph
- 26 121 on that basis.

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**FIFTH CAUSE OF ACTION**

**(Failure to Pay All Wages Due at the Time of Termination)**

122. Central Valley incorporates by reference its responses to the preceding and foregoing paragraphs.

123. Central Valley admits that Plaintiffs are no longer employees of Central Valley. Central Valley denies all other allegations in paragraph 123.

124. Central Valley denies the allegations in paragraph 124.

125. Central Valley denies the allegations in paragraph 125.

126. Central Valley denies the allegations in paragraph 126.

127. Central Valley admits that there are individuals that it has employed who are not currently employed by Central Valley, either because they have quit, been discharged, or the employment relationship has otherwise ended. Central Valley denies all other allegations contained in paragraph 127.

128. The allegations contained in paragraph 128 are conclusions of law to which no response is required. To the extent a response is deemed required, Central Valley denies the allegations in paragraph 128.

129. Central Valley denies the allegations in paragraph 129.

130. Central Valley denies the allegations in paragraph 130.

131. Central Valley denies the allegations in paragraph 131.

132. Central Valley denies the allegations in paragraph 132.

133. Central Valley admits that Plaintiffs request relief as set forth in paragraph 133 but denies that any such relief is warranted and denies any allegations contained in paragraph 133 on that basis.

**SIXTH CAUSE OF ACTION**

**(Violation of Unfair Competition Law)**

134. Central Valley incorporates by reference its responses to the preceding and foregoing paragraphs.

135. The allegations contained in paragraph 135 are conclusions of law to which no

1 response is required. To the extent a response is deemed required, Central Valley denies the  
2 allegations in paragraph 135.

3 136. The allegations contained in paragraph 136 are conclusions of law to which no  
4 response is required. To the extent a response is deemed required, Central Valley denies the  
5 allegations in paragraph 136.

6 137. Central Valley admits that Plaintiffs claim to bring their Sixth Cause of Action  
7 on behalf of themselves individually and as representatives of others. Otherwise, Central Valley  
8 denies all allegations in paragraph 137.

9 138. Central Valley denies the allegations in paragraph 138.

10 139. Central Valley denies the allegations in paragraph 139.

11 140. Central Valley denies the allegations in paragraph 140.

12 141. Central Valley denies the allegations in paragraph 141.

13 142. Central Valley admits that Plaintiffs request relief as set forth in paragraph 142  
14 but denies that any such relief is warranted and denies any allegations contained in paragraph  
15 142 on that basis.

16 143. Central Valley admits that Plaintiffs request relief as set forth in paragraph 143  
17 but denies that any such relief is warranted and denies any allegations contained in paragraph  
18 143 on that basis.

19 **SEVENTH CAUSE OF ACTION**

20 **(Reimbursement of Business Expenses)**

21 144. Central Valley incorporates by reference its responses to the preceding and  
22 foregoing paragraphs.

23 145. The allegations contained in paragraph 145 are conclusions of law to which no  
24 response is required. To the extent a response is deemed required, Central Valley denies the  
25 allegations in paragraph 145.

26 146. Central Valley denies the allegations in paragraph 146.

27 147. Central Valley denies the allegations in paragraph 147.

28 148. The allegations contained in paragraph 148 are conclusions of law to which no

1 response is required. To the extent a response is deemed required, Central Valley denies the  
2 allegations in paragraph 148.

3 149. Central Valley denies the allegations in paragraph 149.

4 150. Central Valley admits that Plaintiffs request relief as set forth in paragraph 150,  
5 but denies that any such relief is warranted and denies any allegations contained in paragraph  
6 150 on that basis.

7 **EIGHTH CAUSE OF ACTION**

8 **(Violations of Private Attorney General Act of 2004, "PAGA")**

9 151. Central Valley incorporates by reference its responses to the preceding and  
10 foregoing paragraphs.

11 152. Central Valley admits that Plaintiff Brink was an employee of Central Valley  
12 and that he seeks the relief set forth in paragraph 152. Central Valley admits that Plaintiff Brink  
13 claims to seek such relief in a representative capacity. Central Valley denies that Plaintiffs or  
14 anyone else is entitled to the relief sought and, therefore, denies the remaining allegations set  
15 forth in paragraph 152.

16 153. Central Valley denies the allegations in paragraph 153.

17 154. Central Valley admits that Plaintiff Brink seeks the relief set forth in paragraph  
18 154 and that he claims to seek such relief in a representative capacity. Central Valley denies  
19 that Plaintiffs or anyone else is entitled to the relief sought and, therefore, denies the remaining  
20 allegations set forth in paragraph 154.

21 **RESPONSE TO PLAINTIFFS' PRAYER FOR RELIEF**

22 155. Because Plaintiffs' Prayer for Relief does not state any allegations, no response  
23 by Central Valley is required. To the extent any statement in Plaintiffs' Prayer for Relief is  
24 considered to contain factual allegations that require a response, Central Valley denies  
25 Plaintiffs are entitled to any relief set forth in the Prayer of the complaint.

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1 **AFFIRMATIVE DEFENSES**

2 In further answer to Plaintiffs' Second Amended Complaint, Central Valley alleges the  
3 following affirmative defenses. In asserting these defenses, Central Valley does not assume the  
4 burden of proof as to matters that, pursuant to law, are Plaintiffs' burden to prove.

5 **FIRST AFFIRMATIVE DEFENSE**

6 **(Failure to State a Cause of Action)**

7 The Complaint, and each purported cause of action thereof, fails to state facts sufficient to  
8 constitute a cause of action upon which relief can be granted.

9 **SECOND AFFIRMATIVE DEFENSE**

10 **(Statute of Limitations)**

11 Plaintiffs' claims are barred in whole or in part by the applicable statute of limitations,  
12 including, but not limited to, Code of Civil Procedure section 338(a) (liability created by statute),  
13 340, subsections (a) and (b) (as to allegations of violations of the Labor Code for which penalties  
14 are the only remedy) and Business & Professions Code section 17208 (as to Plaintiffs' UCL cause  
15 of action).

16 **THIRD AFFIRMATIVE DEFENSE**

17 **(Equitable Defenses to UCL Claim)**

18 Plaintiffs' claim brought under Business and Professions Code section 17200 *et seq.* is  
19 barred by equitable principles and defenses, including offset/setoff, failure to mitigate, unclean  
20 hands, waiver, estoppel, laches, and an adequate remedy at law.

21 **FOURTH AFFIRMATIVE DEFENSE**

22 **(Lack of Standing – Injunctive Relief)**

23 Plaintiffs and the putative class members are not entitled to any disgorgement or  
24 restitution because neither Plaintiffs, nor putative class members have suffered any losses as the  
25 result of any unfair business practice on Central Valley's part. Central Valley has not been  
26 unjustly enriched as a result of any action or inaction by Central Valley or its agents.  
27 Consequently, Plaintiffs lack standing to pursue a UCL cause of action or any other causes of  
28 action upon which injunctive relief is sought.

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**FIFTH AFFIRMATIVE DEFENSE**

**(Estoppel)**

Because of the actions and inactions of Plaintiffs and/or the putative class members, Plaintiffs and the putative class members are estopped from asserting the alleged claims set forth in the Complaint against Central Valley. More specifically, on information and belief, Plaintiffs were aware of the facts regarding any applicable rights under the Labor Code and applicable Wage Order and acted so as to make Central Valley believe they were receiving the benefit of those rights.

**SIXTH AFFIRMATIVE DEFENSE**

**(Waiver)**

By reason of conduct, Plaintiffs and/or the putative class members have waived all the alleged causes of action against Central Valley as set forth in the Complaint. Specifically, on information and belief, Plaintiffs were aware of the facts regarding any applicable rights under the Labor Code and applicable Wage Order and relinquished those rights intentionally by acting so as to make Central Valley believe they were receiving the benefit of those rights.

**SEVENTH AFFIRMATIVE DEFENSE**

**(Offset and Setoff)**

To the extent Plaintiffs or the putative class suffered any economic injury, which Central Valley denies, any relief should be offset by any amounts Plaintiffs or any of the putative class members owe Central Valley, payments already made to Plaintiffs or any of the putative class members, or any failure to credit Central Valley in light of overpayments.

**EIGHTH AFFIRMATIVE DEFENSE**

**(Unconstitutional Penalties)**

Plaintiffs' claims are barred under the California Constitution's limitation on excessive penalties and the due process clauses of the federal and state constitutions, including as to any statute that authorizes a "per day" or "per violation" penalty.

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**NINTH AFFIRMATIVE DEFENSE**

**(No Waiting Time Penalties or Liquidated Damages)**

Plaintiffs are not entitled to waiting time penalties or liquidated damages because Central Valley did not fail, much less willfully fail, to pay any wages due, and Central Valley acted in good faith.

**TENTH AFFIRMATIVE DEFENSE**

**(Good Faith Dispute)**

Plaintiffs are not entitled to waiting time penalties or liquidated damages because a good faith dispute exists as to whether wages were/are actually due.

**ELEVENTH AFFIRMATIVE DEFENSE**

**(Good Faith Reliance)**

Plaintiffs' causes of action are barred in whole or in part because any acts or omissions complained of by Plaintiffs that are attributed to Central Valley were in good faith and conformity with, and in reliance on, an administrative regulation, order, ruling, approval and interpretation of applicable state and federal law, and upon external facts upon which it reasonably relied. Thus, Plaintiffs' Complaint is barred because Central Valley acted in good faith at all times relevant to the complaint.

**TWELFTH AFFIRMATIVE DEFENSE**

**(No Waiting Time Penalties for Current Employees)**

To the extent Plaintiffs seek waiting time penalties on behalf of the putative class, if any of the putative class members' wages were improperly calculated, which Central Valley denies, additional damages and penalties as expressed in California Labor Code § 203 are improper as to employees who are still employed by Central Valley.

**THIRTEENTH AFFIRMATIVE DEFENSE**

**(Avoidable Consequences)**

Plaintiffs' claims are barred or should otherwise be denied because any violations of the meal and rest period requirements, if any, could have been avoided by Plaintiffs and the putative class with reasonable effort.



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**FOURTEENTH AFFIRMATIVE DEFENSE**

**(Plaintiffs' Responsibility)**

Any recovery by Plaintiffs is barred because Plaintiffs' damages, if any, were directly caused in whole or in part by Plaintiffs' own conduct for which Central Valley bears no responsibility.

**FIFTEENTH AFFIRMATIVE DEFENSE**

**(De Minimis Meal Break Claims)**

Plaintiffs' claims are barred or should otherwise be denied because, to the extent employees were entitled to take meal breaks pursuant to California law (which Central Valley denies) and took them after the fifth hour of work, any amount of time by which such meal periods were late was negligible and such meal periods were close to the amount of time required to be provided, which Central Valley asserts were provided, even if not taken in full and/or at a specific time. Such de minimis violations, if any, cannot form the basis for liability.

**SIXTEENTH AFFIRMATIVE DEFENSE**

**(No Class Certification)**

This lawsuit may not be properly maintained as a class action because: (1) Plaintiffs have failed to plead, and cannot establish the necessary procedural elements for class treatment; (2) a class action is not an appropriate method for fair and efficient adjudication of the claims described in the complaint; (3) individual issues predominate; (4) Plaintiffs' claims are not representative or typical of the claims of the putative class; (5) Plaintiffs are not a proper class representative; (6) the named Plaintiffs and alleged putative class counsel are not adequate representatives for the alleged putative class; (7) Plaintiffs cannot satisfy any of the requirements for class action treatment, and class action treatment is neither appropriate nor constitutional; (8) there is not a well-defined community of interest in the questions of law or fact affecting Plaintiffs and the members of the alleged putative class; and (9) the alleged putative class is not ascertainable, nor are its members identifiable.

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**SEVENTEENTH AFFIRMATIVE DEFENSE**

**(Lack of Numerosity)**

This action may not be maintained as a class action based on the size of each putative class or subclass because a joinder of all members of the putative class or subclasses is practicable.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

**(Consent and Ratification)**

Plaintiffs' claims are barred because Plaintiffs consented to or ratified whatever actions or inactions, if any, that were taken by Central Valley and on which Plaintiffs base their claims.

**NINETEENTH AFFIRMATIVE DEFENSE**

**(Failure to Comply with PAGA Notice Requirements)**

Plaintiffs failed to comply with the notice requirements provided by Labor Code section 2699.3(a) and therefore this court lacks jurisdiction.

**TWENTIETH AFFIRMATIVE DEFENSE**

**(PAGA – Duplicative Recovery)**

Plaintiffs, and the individuals on whose behalf Plaintiffs seek relief, are not entitled to recovery of penalties under PAGA to the extent that such penalties are sought in addition to penalties for the same claims. Such duplicative recovery is barred.

**TWENTY-FRIST AFFIRMATIVE DEFENSE**

**(Mitigation of Damages)**

Plaintiffs, and the putative class members have failed, refused and/or neglected to mitigate or avoid the damages complained of in the complaint, if any.

**TWENTY-SECOND AFFIRMATIVE DEFENSE**

**(Laches)**

Plaintiffs' claims are barred by the equitable doctrine of laches.

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**TWENTY-THIRD AFFIRMATIVE DEFENSE**

**(Preemption of State Law Claims)**

Plaintiffs’ claims for meal and rest break violations and premiums under California state law are preempted by federal law, including but not limited to preemption as determined by the Federal Motor Carrier Safety Administration (“FMCSA”) under 49 U.S.C. § 31141. Plaintiff Maier’s claims based on the allegation that he and others were misclassified as independent contractors under California state law are preempted by federal law, including but not limited to preemption by the Federal Aviation Administration Authorization Act of 1994 and the Dormant Commerce Clause. Central Valley is engaged in the transportation of property in interstate commerce and subject to the FMCSA hours of service regulations. As such Plaintiffs and the putative class they seek to represent cannot recover under state law.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**

**(Lack of Jurisdiction / Mandatory Arbitration Agreement)**

The Complaint is barred, in whole or in part, to the extent this Court lacks jurisdiction over the Plaintiffs’ or the putative class’ claims that are subject to mandatory, binding arbitration under the agreements some of the putative class members and Plaintiff Maier entered into with Central Valley. Central Valley reserves its right to compel arbitration with Plaintiff Maier and the individual putative class members who agreed to arbitrate disputes and to seek a stay of any non-arbitrable claims, to the extent allowed or required by law, as to those who signed an arbitration agreement, pending arbitration of all claims subject to arbitration.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**

**(Additional Affirmative Defenses)**

Central Valley reserves the right to amend this Answer to incorporate additional affirmative defenses as they become known and available to Central Valley.

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**PRAYER**

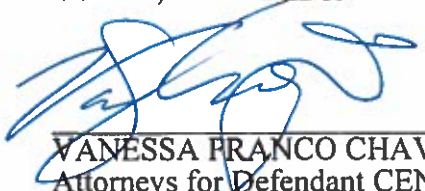
Central Valley prays for relief as follows:

- A. That Plaintiffs take nothing by their complaint;
- B. That Plaintiffs' Complaint and all causes of action stated therein be dismissed with prejudice;
- C. That the Court deny Plaintiffs' request for class certification;
- D. For costs of suit, including reasonable expenses and attorney fees; and
- E. For such other and further relief as the Court deems just and proper.
- F.

Dated: February 28, 2020

KLEIN, DENATALE, GOLDNER  
COOPER, ROSENLIEB & KIMBALL, LLP

By:



VANESSA FRANCO CHAVEZ  
Attorneys for Defendant CENTRAL  
VALLEY AUTO TRANSPORT, INC.

1 Case No. 1:19-cv-01213-AWI-SKO

2 **PROOF OF SERVICE**

3 STATE OF CALIFORNIA, COUNTY OF KERN

4 I am employed in the County of Kern, State of California. I am over the age of eighteen  
5 years and not a party to the within action; my business address is 4550 California Ave., Second  
6 Floor, Bakersfield, CA 93309. My email address is showlett@kleinlaw.com.

7 On February 28, 2020, I served the following document(s) described as

8 **CENTRAL VALLEY AUTO TRANSPORT, INC.'S ANSWER TO SECOND AMENDED**  
9 **COMPLAINT**

10 on the interested parties in this action by placing a copy thereof enclosed in sealed envelopes  
11 addressed as follows:  
12

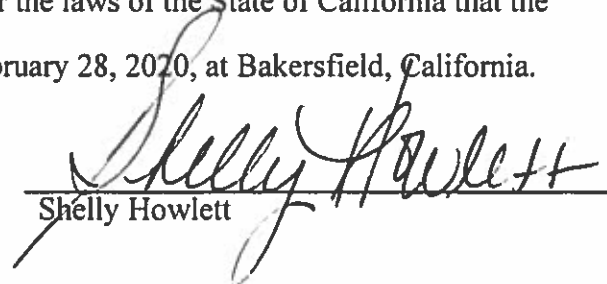
13 **SEE ATTACHED LIST**

14 **BY CM/ECF SERVICE** I hereby certify that the above and foregoing CENTRAL  
15 VALLEY AUTO TRANSPORT, INC.'S ANSWER TO SECOND AMENDED COMPLAINT  
16 was served on February 28, 2020 via the Court's CM/ECF System to all registered participants  
17 as identified on the Notice of Electronic Filing, and paper copies will be sent to those indicated  
18 as non-registered participants.

19 I declare that I am employed in the office of a member of the bar of this court at whose  
20 direction the service was made

21 I declare under penalty of perjury under the laws of the State of California that the  
22 foregoing is true and correct. Executed on February 28, 2020, at Bakersfield, California.

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Shelly Howlett

**SERVICE LIST**

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David Mara  
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2650 Camino Del Rio North, Suite 205  
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Email: [dmara@maralawfirm.com](mailto:dmara@maralawfirm.com)