

personal knowledge as to their own conduct and on information and belief as to the acts of others. Defendants deny any and all liability to Plaintiffs and any other similarly situated individuals under the FLSA or the AMWA, and further deny that Plaintiffs' claims are appropriately brought as a collective action under the FLSA or a class action under the AMWA.

1. Defendants admit that Plaintiffs allege that they and certain other current and former employees of Defendants are entitled to unpaid overtime wages for hours worked above 40 in a workweek and liquidated damages under the FLSA. Defendants deny any and all such liability, and further deny that Plaintiffs' claims are appropriately brought as a collective action under the FLSA. Defendants deny any and all remaining allegations in paragraph 1.

2. Defendants admit that Plaintiff Evans has brought this action under the AMWA pursuant to Rule 23 of the Federal Rules of Civil Procedure ("Rule 23") on behalf of other individuals employed by Defendants in Arkansas whom Plaintiff Evans alleges have been paid by the same compensation method and holding comparable positions but different titles (defined in the Amended Complaint as the "Arkansas Class"). Defendants further admit that Plaintiff Evans alleges that he and these other individuals are entitled to unpaid wages from Defendants for all hours worked by them as well as unpaid overtime wages for hours worked above 40 in a workweek, and are entitled to other damages authorized for willful violations of the AMWA. Defendants deny any and all such liability, and further deny that Plaintiff Evan's claims are appropriately brought as a class action under the AMWA and/or Rule 23. Defendants deny any and all remaining allegations in paragraph 2.

3. The allegation in paragraph 3 states a legal conclusion to which no response is required; nonetheless, Defendants admit the allegation.

4. The allegation in paragraph 4 states a legal conclusion to which no response is required; nonetheless, Defendant denies that Plaintiff Evans' AMWA claims are so related to Plaintiffs' FLSA claims that they form part of the same case or controversy.

5. The allegation in paragraph 5 states a legal conclusion to which no response is required; nonetheless, Defendants admit the allegation.

6. The allegations in paragraph 6 state legal conclusions to which no response is required; nonetheless, Defendants admit that they are headquartered in this district and that their executive functions and certain of their administrative functions take place in this district, but deny any and all remaining allegations.

7. The allegation in paragraph 7 states a legal conclusion to which no response is required; nonetheless, Defendants admit the allegation.

8. Defendants admit that Plaintiff Nelson is an individual. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 8.

9. Defendants admit that Plaintiff Nelson was employed by Sabre Energy approximately from April 2014 to February 2015 in and around Odessa, Texas, and that he was employed as an Operator for most of that employment relationship. Defendants deny all remaining allegations in paragraph 9.

10. The allegation in paragraph 10 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

11. Defendants admit that Plaintiff Evans is an individual. Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations in paragraph 11.

12. Defendants admit that Plaintiff Evans was employed by Sabre Energy approximately from June 2013 to June 2014, and that he was employed as an Operator for most of that employment relationship. Defendants deny all remaining allegations in paragraph 12.

13. The allegation in paragraph 13 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

14. Defendants admit that Sabre Companies' corporate headquarters are located the referenced address, but deny the remainder of the allegation in paragraph 14.

15. Defendants admit that Sabre Energy's corporate headquarters are located the referenced address, but deny the remainder of the allegation in paragraph 15.

16. The allegation in paragraph 16 states a legal conclusion to which no response is required; nonetheless, Defendants admit that each of them is an employer within the meaning of the referenced statutes, but deny that Sabre Companies was Plaintiffs' employer. Defendants expressly reserve all rights and defenses available under 49 U.S.C. Section 31502, 29 U.S.C. Section 213(b), and Ark. Code Sections 11-44-211.

17. The allegation in paragraph 17 states a legal conclusion to which no response is required; nonetheless, Defendants admit that each of them is an enterprise within the meaning of the referenced statute, but deny that they were a joint enterprise with respect to Sabre Energy's employment of Plaintiffs. Defendants expressly reserve all rights and defenses available under 49 U.S.C. Section 31502, 29 U.S.C. Section 213(b), and Ark. Code Sections 11-44-211.

18. The allegation in paragraph 18 states a legal conclusion to which no response is required; nonetheless, Defendants admit that each of them is an enterprise within the meaning of the referenced statute, but deny that they were a joint enterprise with respect to Sabre Energy's

employment of Plaintiffs. Defendants expressly reserve all rights and defenses available under 49 U.S.C. Section 31502, 29 U.S.C. Section 213(b), and Ark. Code Sections 11-44-211.

19. The allegation in paragraph 19 states a legal conclusion to which no response is required; nonetheless, Defendants admit the allegation as it pertains to Plaintiffs, but lack knowledge or information sufficient to form a belief about the truth of the allegation as it pertains to “all similarly situated Operators.” Defendants expressly reserve all rights and defenses available under 49 U.S.C. Section 31502, 29 U.S.C. Section 213(b), and Ark. Code Sections 11-44-211.

20. Defendants deny the allegation in paragraph 20.

21. Defendants deny the allegation in paragraph 21.

22. The allegation in paragraph 22 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

23. Defendants deny the allegation in paragraph 23.

24. Defendants deny the allegation in paragraph 24.

25. Defendants deny the allegation in paragraph 25.

26. Defendants deny the allegation in paragraph 26.

27. The allegation in paragraph 27 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

28. The allegation in the first sentence of paragraph 28 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation. Defendants deny the allegation in the second sentence of paragraph 28.

29. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation in the first sentence of paragraph 29. Defendants deny the allegations in

the second sentence of paragraph 29. Defendants admit the allegation in the third sentence of paragraph 29 as it pertains to Plaintiffs, but lack knowledge or information sufficient to form a belief about the truth of the allegation as it pertains to the purported Class and Collective Action Members.

30. Defendants admit the allegation in paragraph 30 as it pertains to Plaintiffs, but deny the allegation as it pertains to the purported Collective Action Members.

31. Defendants deny the allegation in paragraph 31.

32. Defendants deny the allegations in paragraph 32.

33. Defendants admit that Plaintiffs' job duties included driving and loading vehicles weighing less than 10,000 lbs., including pick-up trucks that did not require hazardous materials placarding, but aver that the amount of time spent performing such duties was *de minimis*. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 33 as it pertains to the purported Collective Action Members.

34. The allegation in paragraph 34 assumes facts not in evidence, lacks foundation, and states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

35. Defendants deny the allegations in paragraph 35.

36. Defendants admit that Plaintiffs have brought this lawsuit pursuant to 29 U.S.C. Section 216(b) as a collective action on behalf of the purported Collective Action Members defined in the Amended Complaint. Defendants deny any and all remaining allegations in paragraph 36, and further deny that Plaintiffs' claims are appropriately brought on behalf of the purported Collective Action Members.

37. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 37.

38. The allegation in the first sentence of paragraph 38 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation. Defendants deny the allegation in the second sentence of paragraph 38.

39. The allegation in paragraph 39 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

40. The allegation in paragraph 40 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

41. Defendants deny the allegations in paragraph 41.

42. Defendants deny the allegations in paragraph 42.

43. Defendants admit that Plaintiff Evans has brought this lawsuit on his own behalf and on behalf of the purported Arkansas Class defined in the Amended Complaint, pursuant to Rule 23(a), (b)(2) and (b)(3). Defendants deny any and all remaining allegations in paragraph 43, and further deny that Plaintiff Evans' claims are appropriately brought on behalf of the purported Arkansas Class.

44. Defendants deny the allegation in paragraph 44.

45. Defendants deny the allegations in the first and second sentences of paragraph 45. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation in the third sentence of paragraph 45.

46. The allegation in paragraph 46 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

47. The allegation in paragraph 47 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

48. The allegation in paragraph 48 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

49. The allegation in paragraph 49 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

50. The allegation in paragraph 50 states a legal conclusion to which no response is required; nonetheless, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation.

51. The allegation in paragraph 51 states a legal conclusion to which no response is required; nonetheless, Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation.

52. The allegations in paragraph 52 state legal conclusions to which no response is required; nonetheless, Defendants deny the allegations.

53. The allegations in paragraph 53 state legal conclusions to which no response is required; nonetheless, Defendants deny the allegations.

54. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegation in paragraph 54.

55. Defendants respond to paragraph 55 by re-stating and incorporating by reference their responses to the preceding paragraphs in the Amended Complaint.

56. The allegation in paragraph 56 states a legal conclusion to which no response is required; nonetheless, Defendants admit that each of them is an employer engaged in interstate commerce within the meaning of the referenced statutory sections, but deny that Sabre

Companies was Plaintiffs' employer. Defendants expressly reserve all rights and defenses available under 49 U.S.C. Section 31502, 29 U.S.C. Section 213(b), and Ark. Code Sections 11-44-211.

57. The allegation in paragraph 57 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

58. The allegation in paragraph 58 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

59. The allegation in paragraph 59 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

60. The allegation in paragraph 60 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

61. The allegations in paragraph 61 state legal conclusions to which no response is required; nonetheless, Defendants deny the allegations.

62. Defendants respond to paragraph 62 by re-stating and incorporating by reference their responses to the preceding paragraphs in the Amended Complaint.

63. The allegation in paragraph 63 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

64. The allegation in paragraph 64 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

65. The allegation in paragraph 65 states a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

66. The allegations in paragraph 66 state a legal conclusion to which no response is required; nonetheless, Defendants deny the allegation.

67. Defendants admit that Plaintiff demands a jury trial.

In response to the unnumbered “WHEREFORE” paragraph, Defendants deny that Plaintiffs and the purported Class and Collective Action Members are entitled to any of the relief requested therein.

AFFIRMATIVE DEFENSES

1. The Amended Complaint fails to state a claim upon which relief can be granted.
2. The Amended Complaint is barred to the extent that Plaintiffs and the purported Class and Collective Action Members seek relief for a claim that did not accrue within the applicable statute of limitations.
3. The Amended Complaint is barred to the extent that Plaintiffs and the purported Class and Collective Action Members were exempt from the FLSA’s or AMWA overtime provisions as they were employed in an administrative, executive, and/or professional capacity, and/or were subject to any other applicable exemptions, throughout their employment, if any, with Defendants.
4. The Amended Complaint is barred in whole or in part by the FLSA motor carrier exemption, 29 U.S.C. Section 213(b).
5. The Amended Complaint is barred in whole or in part as to Sabre Companies because that legal entity was not the employer of Plaintiffs or the purported Class or Collective Action Members.
6. The Amended Complaint is barred in whole or in part by the doctrines of waiver, laches, consent, estoppel, and unclean hands.
7. Defendants’ acts and omissions were in good faith, and Defendants had reasonable grounds for believing that their acts and omissions were in compliance with the FLSA and the AMWA.

8. The Amended Complaint is barred in whole or in part by Plaintiffs and the purported Class and Collective Action Members' failure to mitigate their damages, if any.

9. The Amended Complaint's prayer for punitive damages is barred because punitive damages are not available under the FLSA or the AMWA.

10. The Amended Complaint is barred in whole or in part to the extent it seeks remedies different from or conflicting with those provided under the FLSA and/or the AMWA.

11. Defendants are entitled to offset monies paid to Plaintiffs and the purported Class and Collective Action Members for periods in which they were not engaged to work.

12. Defendants cannot fully anticipate at this time all defenses that may be applicable. Accordingly, Defendants reserve the right to assert additional affirmative defenses if, and to the extent, such affirmative defenses are later discovered and found to be applicable.

WHEREFORE, Defendants pray for judgment as follows:

(a) That judgment be awarded in favor of Defendants and against Plaintiffs and the purported Class and Collective Action Members, and that the Amended Complaint be dismissed in its entirety with prejudice;

(b) That Plaintiffs and the purported Class and Collective Action Members take nothing by way of the Amended Complaint;

(c) That Defendants be awarded their costs and attorneys' fees; and

(d) For such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 27, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2015, I electronically filed the foregoing Answer to Amended Class and Collective Action Complaint with the Clerk of the District Court using the CM/ECF system, which sent notification of such filing to the following:

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