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ROBERT ASARO-ANGELO, Commissioner  
of the New Jersey Department of Labor and  
Workforce Development,

*Plaintiff,*

v.

TRANSCARE LLC, and Dennis Young Jr.

*Defendants.*

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION –  
CAMDEN COUNTY

DOCKET NO. \_\_\_\_\_

CIVIL ACTION

**COMPLAINT**

Robert Asaro-Angelo, Commissioner of the New Jersey Department of Labor and Workforce Development (“Commissioner”), alleges the following by way of this Complaint against Defendant TransCare, LLC (“TransCare”):

### **INTRODUCTION**

1. This action against Defendants TransCare, a New Jersey company that provides non-emergency medical transportation, and individual business owner, Dennis Young Jr., seeks to redress the company’s misclassification of employee-drivers as independent contractors.

Defendants have misclassified at least fifty-two employee-drivers (“Drivers”), depriving them of their rightful wages and essential labor rights and protections.

2. Misclassification is the practice of illegally classifying workers as independent contractors, rather than employees. This growing problem harms New Jersey workers, law-abiding businesses, and the State itself. Misclassification deprives workers of legal rights guaranteed to employees, including the right to earn overtime pay; to receive workers’ compensation, unemployment benefits, and earned sick leave; to take job-protected family leave and to receive family leave benefits; to receive health and safety protections, and protections afforded by state and federal anti-discrimination law; and to organize under the National Labor Relations Act.

3. Defendants have engaged in misclassification by unlawfully characterizing the Drivers as independent contractors. Defendants exercised significant control over the Drivers, including, but not limited to, assigning Drivers passengers and routes, requiring Drivers to report to TransCare’s parking lot and use its vehicles in the performance of their services, and requiring Drivers to use a mobile application to receive instructions and assignments for transporting patients.

4. Defendants’ misclassification of the Drivers has not only deprived the Drivers of their rights as employees, it has also deprived the Unemployment Compensation Fund and State Disability Benefits Fund of unpaid contributions. Such misclassification has also given Defendants an unfair competitive advantage over employers who have followed the relevant laws, and accordingly provided all mandated benefits to their employees and contributions to the State.

5. Defendants’ systematic misclassification of employees as independent contractors has violated the following State laws (collectively, “the Relevant Labor and Benefits Laws”) by:

- a) Failing to pay the Drivers the minimum wage, in violation of the New Jersey Wage and Hour Law (“WHL”), N.J.S.A. 34:11-56a4;

- b) Failing to pay the Drivers the overtime premium rate for hours worked in excess of forty hours in a given week, in violation of the WHL, N.J.S.A. 34:11-56a4;
- c) Failing to timely pay the Drivers the full amount of wages due in violation of the New Jersey Wage Payment Law (“WPL”), N.J.S.A. 34:11-4.2;
- d) Failing to maintain records of hours worked and wages paid to the Drivers, and failing to produce the same to the Department of Labor and Workforce Development’s Division of Wage & Hour Compliance (“NJDOL”), in violation of the WHL, N.J.S.A. 34:11-56a20;
- e) Failing to make available and pay earned sick leave to the Drivers, maintain records of earned sick leave, and post notice of earned sick leave, in violation of the New Jersey Earned Sick Leave Law (“ESLL”), N.J.S.A 34:11D-5 to -7;
- f) Failing to make required contributions to the Unemployment Compensation Fund and State Disability Benefits Fund, in violation of the New Jersey Unemployment Compensation Law (“UCL”), N.J.S.A. 43:21-7, leaving the Drivers at risk of being found ineligible for unemployment, disability, and family leave insurance and depriving the State funds of funds; and
- g) Failing to make required contributions to the Workforce Development Partnership Fund and Supplemental Workforce Fund for Basic Skills, in violation of the New Jersey Employment and Workforce Development Act (“EWDA”), N.J.S.A. 34:15D-1 to -34, thus depriving the Drivers of the ability to benefit from training and other workforce development programs.

6. The Commissioner now brings this action pursuant to N.J.S.A. 34:1A-1.12(h) to halt and redress Defendants’ violations. The Commissioner seeks to enjoin Defendants’ unlawful

misclassification and associated violations of the Relevant Labor and Benefits Laws. The Commissioner also seeks to impose statutorily authorized fines and penalties, recover reasonable costs of enforcement, including attorney's fees, and obtain wages that have been improperly withheld from the Drivers.

### **JURISDICTION, VENUE, AND PARTIES**

7. The Commissioner is charged with investigating and pursuing violations of "State wage, benefits, and tax laws," as defined by N.J.S.A. 34:1A-1.11, pursuant to N.J.S.A. 34:1A-1.12. These laws include, but are not limited to: the WPL, N.J.S.A. 34:11-4.1 to -4.14; the WHL, N.J.S.A. 34:11-56a1 to -56a38; the ESLL, N.J.S.A. 34:11D-1 to -13; the UCL, N.J.S.A. 43:21-1 to -71; and the EWDA, N.J.S.A. 34:15D-1 to -34.

8. Jurisdiction in the Superior Court of New Jersey is proper pursuant to N.J.S.A. 34:1A-1.12(h)-(j). The Commissioner seeks declaratory, injunctive, and monetary relief for the violations alleged herein pursuant to his enforcement authority under N.J.S.A. 34:1A-1.12(h)-(j).

9. TransCare is a privately held company headquartered in Berlin, New Jersey that provides non-emergency medical transportation services.

10. Dennis Young, Jr., is a single member of TransCare company with the address of 33 Norcross, Berlin, NJ 08009.

11. Defendants employ the Drivers and have a business address at PO Box 194, Cedarbrook, NJ 08018.

12. Venue is proper in Camden County pursuant to Rule 4:3-2 because it is the county in which the cause of action arose and in which one or both Defendants have maintained a business address and otherwise conducted business.

### **FACTUAL ALLEGATIONS**

13. This matter concerns the unlawful misclassification of Drivers employed by Defendants.

14. At all relevant times, Defendants provided non-emergency medical transportation services in New Jersey.

15. Defendants hired and remunerated the Drivers to perform non-emergency medical transportation services.

16. Defendants classified the Drivers as independent contractors instead of employees.

17. Defendants did not issue Internal Revenue Service W-2 employee tax forms to the Drivers.

18. Defendants assigned work to the Drivers, including by assigning the Drivers passengers and routes.

19. The Drivers did not receive assignments directly from Defendants' clients.

20. Defendants required the Drivers to report to TransCare's parking lot to begin work.

21. The Drivers also obtained the keys needed to operate TransCare's vehicles, deposited their timesheets, and received their paychecks from TransCare's parking lot.

22. Defendants required the Drivers to use vehicles provided by TransCare while displaying TransCare's logo to perform their services.

23. Defendants provided the Drivers with accounts in order for the Drivers to access and use a mobile application called ModivCare WellRyde.

24. Defendants required the Drivers to use ModivCare WellRyde to receive instructions and assignments.

25. Defendants required the Drivers to undergo training provided by TransCare, some of which was unpaid.

26. Defendants set the rates of payment for the Drivers.
27. Drivers provided non-emergency medical transportation services, which is within the usual course of business of TransCare.
28. Drivers reported for work at one of TransCare's parking lots, where the company conducted its business.
29. At all times, Drivers did not maintain their separate business telephone numbers, stationary, or business office locations.
30. At all times, Drivers did not have significant investment in equipment related to work.
31. Some or all of the Drivers did not operate independent businesses.
32. Some or all of the Drivers were dependent on Defendants as their primary or sole source of income.
33. Upon information and belief, Drivers did not maintain their own business liability insurance.
34. Upon information and belief, Drivers did not file any IRS tax forms required for businesses or independent contractors.
35. Defendants failed to pay Drivers the minimum wage rate for all hours worked.
36. Defendants failed to pay Drivers the overtime premium rate for all hours worked in excess of forty hours in a given week.
37. Defendants did not provide earned sick leave to the Drivers.
38. Defendants did not post notice of the Drivers' right to earned sick leave.
39. Defendants did not maintain records of accumulated or used earned sick leave.

40. Defendants did not maintain records of all hours worked by and all wages paid to the Drivers.

41. Defendants failed to contribute to the Unemployment Compensation Fund, Disability Benefits Fund, Workforce Development Partnership Fund, and Supplemental Workforce Fund for Basic Skills.

42. In or around 2021, NJDOL received complaints from two individuals who alleged that Defendants had failed to pay them all of their wages.

43. On or about June 10, 2021, NJDOL commenced an investigation of Defendants' employment practices and sought, among other items, records to support hours worked and payments made to all Drivers.

44. Based on records reviewed and interviews conducted by NJDOL, Defendants engaged in a pattern and practice of misclassifying all Drivers as independent contractors and thereby deprived them of the wages, benefits, and rights to which they are entitled under all relevant laws.

45. Many of the time records that Defendants furnished to NJDOL were incomplete. For example, many timesheets did not show total daily hours, weekly hours, or clock-in/out times.

46. Many of the payroll records that Defendants furnished to NJDOL were also incomplete. For example, many payroll records did not show hours worked, rates of pay, or itemized deductions.

47. On or about June 2, 2022, NJDOL issued an administrative assessment to Defendants concerning State labor law violations based on the findings of NJDOL's investigation.

48. On or about June 23, 2022, Defendants contested NJDOL's assessment.

49. On or about October 29, 2024, the Commissioner withdrew the June 2022 administrative assessment that it had issued to TransCare, electing to pursue his claims through litigation in Superior Court pursuant N.J.S.A. 34:1A-1.12.

### **COUNT ONE**

#### **Misclassification**

50. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

51. N.J.S.A. 34:1A-1.18 provides for penalties for violations of the Relevant Labor and Benefits Laws occurring “in connection with failing to properly classify employees.”

52. The Drivers are properly classified as employees, not independent contractors, for the following reasons:

- a. The Drivers provided services to Defendants in exchange for remuneration.
- b. Defendants exercised substantial control over the Drivers, assigned work to the Drivers, required the Drivers to report to TransCare’s parking lot to begin work, required the Drivers to use TransCare’s vehicles to perform services, required the Drivers to use a mobile application to receive instructions and assignments, required the Drivers to undergo specific training, and set the rates of payment for the Drivers.
- c. The non-emergency transportation services performed by the Drivers were within TransCare’s usual course of business.
- d. The Drivers reported to TransCare’s parking lot to begin work, obtain the keys for TransCare’s vehicles, deposit their timesheets, and receive their paychecks.
- e. Defendants provided no evidence that the Drivers were engaged in independently-established businesses. Defendants provided no evidence to refute that the Drivers relied on Defendants as their primary source of work.



f. The Drivers were only permitted to use TransCare's vehicles to provide services on behalf of Defendants and did not hire other individuals to assist in the completion of transportation services.

53. For these reasons, the Drivers were Defendants' employees as defined by the Relevant Labor and Benefits Laws, and Defendants misclassified them as independent contractors.

54. TransCare and Dennis Young Jr. violated the Relevant Labor and Benefits Laws, as alleged in Counts Two through Eight, which are incorporated by reference herein, as a result of misclassifying the Drivers as independent contractors.

55. Accordingly, Defendants are subject to penalties under N.J.S.A. 34:1A-1.18.

## **COUNT TWO**

### **Failure to Pay Minimum Wage**

56. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

57. N.J.S.A. 34:11-56a4 requires each employer to pay to each of its employees a minimum wage not less than the statutorily prescribed wage rate.

58. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11-56a1.

59. Defendants failed to compensate the Drivers at the statutorily prescribed wage rate in violation of N.J.S.A. 34:11-56a4.

## **COUNT THREE**

### **Failure to Pay Overtime**

60. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

61. N.J.S.A. 34:11-56a4 requires an employer to pay each employee not less than one and a half times the employee's regular hourly rate for each hour worked in excess of forty hours in a given week.

62. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11-56a1.

63. Defendants failed to compensate the Drivers at a rate of at least one and a half times their regular hourly rate for all hours worked in excess of forty hours in a given week, in violation of N.J.S.A. 34:11-56a4.

#### **COUNT FOUR**

##### **Failure to Pay Wages**

64. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

65. N.J.S.A. 34:11-4.2 requires an employer to pay the full amount of wages due to employees at least twice during each calendar month, on regular pay days designated in advance by the employer.

66. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11-4.1.

67. Defendants failed to timely pay Drivers all wages due, including wages for mandated training, minimum wage, and the legally mandated overtime rate, in violation of N.J.S.A. 34:11-4.2.

#### **COUNT FIVE**

##### **Failure to Maintain and Produce Records of Hours and Wages**

68. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

69. N.J.S.A. 34:11-56a20 requires that every employer keep a true and accurate record of hours worked by, and wages paid to, each of its employees.

70. N.J.S.A. 34:11-56a20 requires employers to furnish such records of hours worked by, and wages paid to, each of their employees to the Commissioner upon his demand.

71. Defendants are employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11-56a1.

72. Defendants furnished time records to NJDOL that lacked total daily hours, weekly hours, and clock-in/out times.

73. Defendants furnished payroll records to NJDOL that lacked hours worked, rate of pay, and itemized deductions.

74. Defendants failed to furnish to NJDOL a true and accurate record of the hours worked by each Driver and the wages paid to each Driver.

75. Defendants failed to maintain records of hours worked by, and wages paid to, the Drivers in violation of N.J.S.A. 34:11-56a20.

76. Defendants failed to furnish to the Commissioner records of the hours worked by, and wages paid to, the Drivers in violation of N.J.S.A. 34:11-56a20.

### **COUNT SIX**

#### **Failure to Make Available and Pay Earned Sick Leave**

77. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

78. N.J.S.A. 34:11D-2 requires an employer to provide to its employees one hour of earned sick leave per thirty hours worked.

79. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11D-1.

80. Defendants failed to make available or pay earned sick leave to the Drivers per their hours worked in violation of N.J.S.A 34:11D-2.

### **COUNT SEVEN**

#### **Failure to Provide Notice and Keep Records of Earned Sick Leave**

81. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

82. N.J.S.A. 34:11D-6 requires an employer to retain records documenting hours worked, and earned sick leave taken, by its employees.

83. N.J.S.A. 34:11D-7 requires an employer to post notice to its employees of their statutory right to earned sick leave under N.J.S.A. 34:11D-1 to -13.

84. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 34:11D-1.

85. Defendants failed to maintain records of hours worked, and earned sick leave taken, by the Drivers in violation of N.J.S.A 34:11D-6.

86. Defendants failed to post notice to the Drivers of their entitlement to earned sick leave in violation of N.J.S.A. 34:11D-7.

### **COUNT EIGHT**

#### **Failure to Make Required Contributions to the New Jersey Unemployment Compensation Fund, Disability Benefits Fund, and Workforce Development Fund**

87. Plaintiff repeats and incorporates all of the foregoing paragraphs as if fully set forth herein.

88. N.J.S.A. 43:21-7 requires an employer to contribute funds for each of its employees to the Unemployment Compensation Fund and State Disability Benefits Fund.

89. N.J.S.A. 34:15D-13 requires an employer to contribute funds to the Workforce Development Partnership Fund.

90. N.J.S.A. 34:15D-22 requires an employer to contribute funds to the Supplemental Workforce Fund for Basic Skills.

91. Defendants were employers that employed the Drivers as employees, as defined by N.J.S.A. 43:21-19.

92. Defendants failed to make statutorily required contributions as an employer of the Drivers to the Unemployment Compensation Fund and State Disability Benefits Fund in violation of the N.J.S.A. 43:21-7, the Workforce Development Partnership Fund in violation of N.J.S.A. 34:15D-13, and the Supplemental Workforce Fund for Basic Skills in violation of N.J.S.A. 34:15D-22.

### **DEMAND FOR RELIEF**

**WHEREFORE**, based upon the foregoing allegations, Plaintiff respectfully requests:

- a) A declaratory judgment that the Drivers were and are Defendants' employees under the Relevant Labor and Benefits Laws.
- b) An order enjoining Defendants from continuing to misclassify the Drivers as independent contractors, and mandating that they be classified as employees under the Relevant Labor and Benefits Laws.
- c) An order enjoining Defendants from continuing all practices alleged in this Complaint that violate the Relevant Labor and Benefits Laws.
- d) An award of any and all unpaid minimum wages owed to the Drivers, in an amount to be proven at trial.
- e) An award of any and all unpaid overtime wages owed to the Drivers, in an amount to be proven at trial.

- f) An award of any and all unpaid wages owed to the Drivers, in an amount to be proven at trial.
- g) An award of damages constituting any and all wages owed to the Drivers, in an amount to be proven at trial.
- h) An award of any and all contributions owed to the Unemployment Compensation Fund, Disability Benefits Fund, Workforce Development Partnership Fund, and Supplemental Workforce Fund for Basic Skills, in an amount to be proven at trial.
- i) Applicable penalties for Defendants' violations, including, but not limited to penalties:
  - 1) for Defendants' misclassification of Drivers, pursuant to N.J.S.A. 34:1A-1.18;
  - 2) under the WPL pursuant to N.J.S.A. 34:11-4.10(b);
  - 3) under the WHL pursuant to N.J.S.A. 34:11-56a22;
  - 4) under the ESLL pursuant to N.J.S.A. 34:11D-5;
  - 5) under the UCL pursuant to N.J.S.A. 43:21-14; and
  - 6) under the EWDA pursuant to N.J.S.A. 34:15D-16 and -19.
- j) An award of any and all liquidated damages for Defendants' unlawful conduct alleged in this Complaint, including, but not limited to, liquidated damages pursuant to the WPL, N.J.S.A. 34:11-4.10(c), and the ESLL, N.J.S.A. 34:11D-5.
- k) An award of any and all appropriate administrative fees including, but not limited to, administrative fees pursuant to the WHL, N.J.S.A. 34:11-56a23, the WPL, N.J.S.A. 34:11-4.9(e), and the ESLL, N.J.S.A. 34:11D-5.
- l) An award of Plaintiff's attorneys' fees, expenses, and costs pursuant to N.J.S.A. 34:1A-1.12(i).
- m) An award of any and all appropriate prejudgment interest.

n) Any additional relief that this Court may deem just and equitable.

MATTHEW J. PLATKIN  
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*Attorney for Plaintiff*

By:



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Marcus Mitchell (#404482022)  
Eve E. Weissman (#093902013)  
*Deputy Attorneys General*

Mayur P. Saxena (#036502006)  
*Assistant Attorney General*

Dated: October 30, 2024  
Newark, New Jersey

**RULE 4:5-1(b)(2) CERTIFICATION**

I certify that Plaintiff is not aware of any other action pending in any court or any pending arbitration proceeding in which the matter in controversy here is the subject. I further certify that no other action or arbitration proceeding is contemplated by Plaintiff concerning the matter in controversy here. I further certify that Plaintiff is not aware of any other party who should be joined in this action at the current time.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
*Attorney for Plaintiff*

By: \_\_\_\_\_  
Egle Dykhne  
*Deputy Attorney General*

Dated: October 30, 2024  
Newark, New Jersey



**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, Deputy Attorneys General Marcus Mitchell, Egle Dykhne, and Eve Weissman are hereby designated as trial counsels for the Plaintiff in this action.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
*Attorney for Plaintiff*

By:   
\_\_\_\_\_  
Egle Dykhne  
*Deputy Attorney General*

Dated: October 30, 2024  
Newark, New Jersey