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IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

CERTIFICATION FROM
THE UNITED STATES
DISTRICT COURT FOR
THE WESTERN DISTRICT
OF WASHINGTON

VALERIE SAMPSON and DAVID RAYMOND, on their own behalf and on behalf of all others similarly situated,

Petitioners/Plaintiffs,

v.

KNIGHT TRANSPORTATION, INC., an Arizona corporation, KNIGHT REFRIGERATED, LLC, an Arizona limited liability company, and KNIGHT PORT SERVICES, LLC, an Arizona limited liability company,

Respondents/Defendants.

PLAINTIFFS' ANSWER TO AMICUS BRIEFS OF DEPARTMENT OF LABOR & INDUSTRIES AND TRUCKING ASSOCIATIONS

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I. INTRODUCTION

Under the Minimum Wage Act (MWA), employers must pay employees no less than the minimum wage for each hour of work. Knight failed to satisfy this obligation when it used workweek averaging to avoid paying drivers for time spent on tasks outside of piece-rate work. Workweek averaging is a concept applicable to piece-rate work but not hourly work. When employees spend time on tasks outside of piece-rate work, they are engaged in hourly work. Accordingly, they are entitled to be paid at least the minimum wage per hour for that work.

This Court made these principles clear in *Carranza v. Dovex Fruit Co.*, 190 Wn.2d 612, 416 P.3d 1205 (2018), and *Hill v. Xerox Bus. Servs., LLC*, 191 Wn.2d 751, 426 P.3d 751 (2018), but it did not apply them to non-agricultural piece-rate workers. Plaintiffs Valerie Sampson and David Raymond are former Knight drivers who respectfully ask the Court to extend the principles to all piece-rate workers. Two amicus briefs have been filed in favor of Plaintiffs' position, one from the Attorney General and one from the Washington Employment Lawyers Association. The Department of Labor and Industries also filed a brief but does not advocate for either side. The trucking industry filed a brief Knight's favor.

Plaintiffs submit this answer to address points and arguments

made by the Department and the Trucking Associations. Because the Court's holdings in *Carranza* and *Hill* are grounded in the plain language of the MWA, the Department never had a valid basis for treating non-agricultural piece-rate workers differently from other workers. The Department is also wrong to assert that *Hill* is in tension with *Carranza* because workweek averaging applies only to piece-rate work.

The Trucking Associations focus their attention on industry practices and labels, but neither override the requirements of the MWA. The Associations also maintain that a ruling in Plaintiffs' favor will destroy incentive-based compensation systems, but this is demonstrably untrue.

Because the MWA is a remedial statute construed in favor of protecting workers, Plaintiffs respectfully ask the Court to answer the certified question in the affirmative and hold that the MWA requires non-agricultural employers to pay piece-rate employees per hour for time spent performing activities outside of piece-rate work.

II. ARGUMENT

A. There is no valid basis for treating non-agricultural piece-rate workers differently under the MWA.

The Department of Labor and Industries agrees that "the plain language of the MWA requires employers to pay [all employees] for each

individual hour worked." Dep't Br. at 1 (citing *Carranza*, 190 Wn.2d at 619). But the Department confesses it has traditionally relieved employers of this obligation with respect to piece-rate workers. *Id*. at 3-4. The Department has allowed employers to pay nothing to these employees for certain work activities so long as the compensation paid for other work activities averages out to the minimum wage when divided by the total weekly hours. *Id*. at 4.[1]

The Department's historical approach for treating piece-rate workers differently is unfounded. Indeed, despite its past practice, the Department tellingly declines to advocate for a ruling that would allow employers to continue requiring, suffering, or permitting piece-rate workers to perform uncompensated tasks outside the scope of piece-rate work. This strongly suggests the Department no longer endorses its previous position. And with good reason.

In explaining why piece-rate workers were treated differently in the past, the Department focuses on WAC 296-126-021. There are

[1] Throughout its brief, the Department refers to the obligations employers have under the MWA with respect to "non-agricultural piece-rate workers." Dep't Br. at 1, 2, 3, 7, 8. But the Department is silent as to how it handled those same obligations with respect to agricultural piece-rate workers before the Court's opinion in *Carranza*. Ultimately, there is nothing to indicate the Department differentiated among piece-rate workers based on whether they were employed for agricultural or non-agricultural purposes.

several problems with the agency's reliance on this regulation. First, WAC 296-126-021 was promulgated under the Industrial Welfare Act (IWA), chapter 49.12 RCW. *See* Dep't Br. at 3. Plaintiffs' claims, however, arise under the MWA—specifically, Plaintiffs seek to be paid the applicable minimum wage rate for time spent performing on-duty-not-driving work. Dkt. 38 ¶¶ 30-31. Because WAC 296-126-021 implements the IWA, it has no effect on Plaintiffs' MWA claims—regardless of how interpreted.

Second, the Department acknowledges that WAC 296-126-021 "applies to workers covered under the Industrial Welfare Act" and that "agricultural workers" are excluded from this group. Dep't Br. at 5; *see also* WAC 296-126-001(2)(c). At the same time, though, the Department says it has utilized WAC 296-126-021 to determine whether piece-rate employers have met their "obligation under the MWA" to pay for all hours worked. Dep't Br. at 4; *see also* DLI Admin. Policy ES.A.3 at 1 (July 15, 2014). With limited exceptions not relevant here, the MWA covers agricultural piece-rate workers. *See* RCW 49.46.010(3). Thus, the Department's take on WAC 296-126-021 is illogical. The regulation cannot be used to enforce both the IWA, which has no application to agricultural workers, and the MWA, which applies to agricultural workers.

Third, the Department admits that under its interpretation of WAC 296-126-021, the Department "has not required employers to compensate employees separately for hours employees might be engaged in non-piece-rate [work]." Dep't Br. at 4. This approach is contrary to the plain language of the MWA, which "create[s] a right to compensation for each individual hour worked . . . ." *Carranza*, 190 Wn.2d at 614. "[T]ime spent on job duties that are not otherwise compensated must be compensated on a per hour basis." *Id*. at 620. Accordingly, the Department's historical interpretation and application of WAC 296-126-021 cannot stand. *See Dep't of Labor & Indus. v. Granger*, 159 Wn.2d 752, 764, 153 P.3d 839 (2007) (holding "an agency's interpretation [of its own regulations] is not binding on us, and deference to an agency is inappropriate where the agency's interpretation conflicts with a statutory mandate"); *Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 712-15, 153 P.3d 846 (2007) (Washington courts defer to Department interpretations only when those interpretations are consistent with the plain language, remedial purpose, and liberal construction of the MWA) .

In addition to WAC 296-126-021, the Department references WAC 296-128-550 and related administrative policies, but the latter regulation does not address the issue presented here. Rather, it merely provides

that for purposes of determining overtime pay, the regular rate is calculated as "the amount of compensation received per week [divided] by the total number of hours worked during that week." WAC 296-128-550. This calculation is used in several contexts, including when employees are paid a mix of hourly and piece-rate compensation or paid on an hourly basis at two or more rates. *See* DLI Admin. Policy ES.A.8.1 at 2 (July 15, 2014) (for employees "paid other than at a single hourly rate," including employees paid a "piece rate . . . combined with an hourly rate," the regular rate "is determined by dividing the total weekly compensation received by the total number of hours the employee worked"); DLI Admin. Policy ES.A.8.2 at 1-2 (July 15, 2014) (same calculation applies "[w]here an employee in a single workweek works at two or more different types of work for which different rates of pay (of not less than the applicable minimum wage) have been established").[2] And nothing in WAC 296-128-550 relieves employers of the obligation "to

[2] The regulation provides that for employees who are paid a single hourly rate, "[t]he regular rate shall be the hourly rate at which the employee is being paid, but may not be less than the established minimum wage rate." WAC 296-128-550. Of course, the same result is reached for these workers when "the amount of compensation received per week [is divided] by the total number of hours worked during that week." *Id*. Take, for example, an employee who earns an hourly rate of $20 and is paid $800 for 40 hours of work. When the $800 in total compensation for the week is divided by the 40 hours worked, the result is a regular rate of pay of $20 per hour.

pay their adult workers 'at a rate of not less than [the applicable minimum wage] *per hour*.'" *Carranza*, 190 Wn.2d at 614-15 (quoting RCW 49.46.020(1)-(3) (emphasis in original)). Thus, there is no need for the Court to interpret WAC 296-128-550 in relation to this case.

As the Washington Attorney General correctly notes: "the distinction between agricultural and non-agricultural [piece-rate] workers is immaterial" because both "enjoy the same statutory right to separate, hourly compensation for non-piecework time." Atty. Gen. Br. at 5. This Court should therefore "extend *Carranza* to non-agricultural pieceworkers and hold that the MWA requires non-agricultural employers to pay their employees a separate, minimum, hourly wage for time spent performing activities outside of piece-rate work." *Id*. at 4. The Court should also make clear that "WAC 296-126-021 is inconsistent with the MWA to the extent it provides otherwise." *Id*. at 7.

B. *Hill* and *Carranza* are not in tension because workweek averaging applies only to piece-rate work.

According to the Department, "the *Hill* Court suggested it was still permissible to workweek average for non-agricultural workers." Dep't Br. at 7. On this basis, the Department maintains *Hill* is "in [t]ension" with *Carranza*. *Id*. But the Department's understanding of the two cases is

flawed. When carefully examined, *Hill* and *Carranza* provide a uniform approach to minimum wage compliance for piece-rate workers.

It starts with four fundamental principles enunciated in *Hill* and *Carranza*. The first, and most important, is that employers have an obligation under the MWA to pay their employees no less than the minimum wage for each hour of work. *See Carranza*, 190 Wn.2d at 619 ("The legislature's choice of the words 'per hour' evinces an intent to create a right to compensation for each individual hour worked . . . ."); *Hill*, 191 Wn.2d at 762 (workers are entitled "to be paid a minimum wage for each hour worked"). The second principle is that workweek averaging is "a concept applicable to piece rate work, but <u>not</u> to hourly work." *Hill*, 191 Wn.2d at 756 ("Washington's MWA does <u>not</u> permit such averaging for hourly workers") (emphasis added). The third principle is "that time spent on work outside the scope of piece-rate [activities] is work and, pursuant to the MWA, is hourly work." *Carranza*, 190 Wn.2d at 623. And the fourth principle, which loops back to the first, is that employees have "a right to hourly compensation for hourly work." *Id*. at 625; *see also Hill*, 191 Wn.2d at 752 ("hourly workers must receive their contractual rate of pay or minimum wage, whichever is higher, for each hour worked").

Together, these principles demonstrate that *Hill* and *Carranza* are in accord. Workweek averaging may be used to establish an employer's compliance with the MWA only as it relates to the time an employee spends engaged in piece-rate work. If, for example, an employee performs nothing but piece-rate tasks for forty hours in a week, the employer's compliance with the MWA is determined by dividing the employee's piece-rate pay for the week by the forty hours of piece-rate work to ensure the employee received at least the minimum wage on average for each hour of piece-rate work. *See Hill*, 191 Wn.2d at 752 ("a higher production hour might subsidize a lower production hour").

But if an employee performs thirty hours of piece-rate tasks and ten hours of non-piece-rate tasks in a week, the employer's compliance is measured in two ways. First, the employee's piece-rate compensation is divided by the thirty hours of piece-rate work to ensure the employee received at least the minimum wage on average for each hour of piece-rate work. Second, a check is done to confirm the employer separately paid an hourly rate of at least the minimum wage for each of the ten hours of non-piece-rate work. *See Hill*, 191 Wn.2d at 756 & n.6 (under MWA, workweek averaging is allowed for piece-rate work but separate hourly compensation is required for non-piece-rate work).

When employees perform a mix of piece-rate and non-piece-rate work, they are both piece-rate and hourly workers. Accordingly, a bifurcated approach to MWA compliance is necessary to ensure the principles outlined above are satisfied: (1) the employee is paid for each hour of work; (2) workweek averaging is applied only to the employee's piece-rate work; (3) the time the employee spends on non-piece-rate tasks is treated as hourly work; and (4) the employee is paid at least the minimum wage on an hourly basis for that non-piece-rate work.

The Washington Attorney General agrees, asserting that "workweek averaging" is authorized "for the piecework component," whereas any time spent engaged in "non-piecework activities . . . must be compensated through a separate, minimum, hourly wage." Atty. Gen. Br. at 6. Otherwise, it becomes "possible to conceal the fact that [the] employer is not compensating its employees for all hours worked because payment for *some* hours of piece-rate picking work is spread across *all* hours worked." *Carranza*, 190 Wn.2d at 622 (emphasis in original); *see also Hill*, 191 Wn.2d at 762 (rejecting employer's effort to apply workweek averaging to hourly work by classifying portions of the employees' work time as piece rate units" because averaging is a "limited

exception" and cannot be used "to swallow up the general rule barring workweek averaging for hourly employees").[3]

Administering two compliance measurements will not prove difficult for Knight. The company knows the precise number of hours employees spend engaged in piece-rate work each week because the employees record that work as "driving" time. *See* 49 C.F.R. § 395.2. The company also knows the precise number of hours spent engaged in non-piece-rate work because the employees record that work as "on-duty-

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[3] Plaintiffs acknowledge that their position here regarding workweek averaging is slightly advanced as compared to the position set forth in Plaintiffs' opening and reply briefs. In this brief, Plaintiffs maintain workweek averaging may be used to establish an employer's compliance with the MWA <u>only</u> as it relates to the time an employee spends engaged in piece-rate work. In previous briefs, Plaintiffs argued that to the extent WAC 296-126-021 is used to measure MWA compliance, workweek averaging should be performed on <u>all</u> hours in the week once an employee is paid at an hourly rate that is no less than the minimum wage for time spent performing non-piece-rate tasks. *See* Opening Br. at 27-28. But this latter approach may prove illegal if the employee is paid more than the applicable minimum wage for non-piece-rate work. This is because the employer may use the hourly pay over and above the minimum wage rate to offset compensation owed under the MWA for the piece-rate work.

Assume, for example, that an employee is paid a piece-rate of $10 per widget and an hourly rate of $20 for non-piece-rate tasks. Assume further that the employee makes 32 widgets in 30 hours and then works an additional 10 hours on non-piece rate tasks. Finally, assume the applicable minimum wage rate is $12/hour. Under the MWA, the employee is entitled to be paid no less than $360 for the piece-rate work (30 hours multiplied by $12/hour) and no less than $120 for the non-piece-rate work (10 hours multiplied by $12/hour). In this example, the employee receives $320 for the piece-rate work and $200 for the non-piece rate work. Because the employee did not make at least the minimum wage on average for the piece-rate hours, he would be entitled to an additional $40 in pay ($360 earned at the minimum wage minus $320 already paid). But if workweek averaging were applied to all hours for the week, the employee would receive no additional compensation because the $80 in pay above the minimum wages owed for the non-piece-rate or hourly work would be used to offset the $40 in minimum wages owed for the piece-rate work.

not-driving" time. *See id*. To ensure MWA compliance for the driving work, Knight needs only to divide the piece-rate pay by the number of driving hours for the week and confirm the average for each such hour equals or exceeds the minimum wage rate. As for the time spent engaged in on-duty-not-driving work, Knight simply needs to pay a separate, minimum wage rate for each hour (or partial hour) spent on that work.

C. Industry practices and labels do not override the requirements of the MWA.

The American and Washington Trucking Associations offer two main arguments in favor of allowing employers to avoid paying non-agricultural piece-rate workers for time spent performing activities outside of piece-rate work. The first focuses on trucking industry practices and labels. The Associations maintain that "[w]hile carriers and drivers commonly speak of 'mileage pay' or 'pay by the mile,'" those terms do not mean the drivers "are being paid only 'for the activity of driving.'" Trucking Assn's Br. at 7. Instead, "mileage pay" is "industry parlance for a lump-sum payment for making a delivery *and completing all associated tasks* . . . ." *Id*. (emphasis in original). In other words, the Trucking Associations assert that drivers do not "perform non-driving tasks without compensation . . . ." *Id*. at 8-9.

This assertion is factually wrong. The record demonstrates that with very few exceptions, Knight pays drivers only for the activity of driving from one location to another. Dkt. 53-7 at 30:17–31:20; Dkt. 53-15 at 37:13–41:13; Dkt. 53-17 at 29:21–30:13, 46:23–47:2, 55:6-9. Consequently, drivers earn nothing when engaged in on-duty-not-driving work activities. *See, e.g.*, Dkt. 55 ¶ 8; Dkt. 56 ¶ 6; Dkt. 57 ¶ 6; Dkt. 58 ¶ 6. The primary and secondary authorities on which the Trucking Associations rely show that such pay systems are not unique to the industry. *See, e.g.*, *Ortega v. J.B. Hunt Transp. Inc.*, No. CV 07-08336 BRO (SHx), 2014 WL 2884560 (C.D. Cal. June 4, 2014) (noting Defendant pays drivers "a certain amount for every mile they drive" and "drivers are not directly compensated for certain job-related activities, including loading and unloading freight"), *rev'd*, 694 Fed. Appx. 589 (9th Cir. 2017); James C. Hardman, *Motor Carrier Service and Federal and State Overtime Wage Coverage*, 35 Transp. L. J. 1, 22-23 (2008) ("most drivers . . . are paid on a 'per mile' basis" and can "increase [their] 'pay' by driving more miles").

Even if the assertion were true, this Court has long rejected industry practices and labels as defenses to wage-and-hour violations. In *Davies v. City of Seattle*, for example, teamsters sued several cities for requiring them to work more than eight hours a day when the law

provided that day labor "shall be performed in work days of not more than eight hours each, except in cases of extraordinary emergency." 67 Wash. 532, 533-34, 121 P. 987 (1912) (quoting RCW 49.28.040). The cities defended themselves by arguing that "a custom ha[d] obtained" whereby the employees were "required to go to the barn each morning where their respective teams are kept, grease their wagons when necessary, harness and hitch their teams, collect their tools, and be at the place of work or, as the witnesses put it, 'on the job,' at 8 o'clock a.m." *Id*. "[A]fter working eight hours 'on the job,'" the employees had "to return the teams to the barn and unhitch and unharness them." *Id*. at 533.

These morning and afternoon activities "would ordinarily consume about one hour each day" and result in nine-hour shifts. *Id*. at 533-34. The cities maintained "that the excess time put in . . . [was] not work, but, as they variously termed it, 'choring' or 'preparing for the day's work.'" *Id*. at 534. The Washington Supreme Court roundly rejected this characterization as "a palpable evasion of the law." *Id*. The Court also rejected the notion that industry norms could override an employer's obligation to comply with the law. *Id*. at 534-35.

Try as they might, employers cannot contract around the basic wage-and-hour rights of employees, including the right to be paid at least

the minimum wage for each individual hour worked. Such rights are "substantive" and "nonnegotiable." *Hisle v. Todd Pac. Shipyards Corp.*, 113 Wn. App. 401, 419-20, 54 P.3d 687 (2002), *aff'd*, 151 Wn.2d 853 (2004); *see also Lundborg v. Keystone Shipping Co.*, 138 Wn.2d 658, 670, 981 P.2d 854 (1999) ("Washington state laws governing the rights of workers . . . invalidate contracts that would waive such statutory rights."); RCW 49.46.090(1) ("Any agreement . . . allowing [an] employee to receive less than what is due under [the MWA] shall be no defense" to a wage claim.). Even if truck drivers were happy with the status quo—numerous lawsuits against carriers show they are not—this would be of no moment when it comes to MWA compliance. A pay system that fails to compensate for each individual hour worked is illegal. Period.

Finally, Washington law does not permit the type of all-inclusive piece-rate system that the Trucking Associations argue is "widespread" and "[u]biquitous" in the industry. Trucking Ass'ns Br. at 2. *See Lopez Demetrio v. Sakuma Bros. Farms, Inc.*, 183 Wn.2d 649, 652, 355 P.3d 258 (2015). This is because "[a] piece rate is tied to the employee's output . . . and is earned only when the employee is actively producing." *Id*. For a truck driver paid on a per-mile or per-load basis, active production occurs only when driving. As explained in one of the secondary authorities cited

by the Trucking Associations: drivers are "most concerned about the number of miles they can cover in a given time period and dislike . . . loading and unloading freight and other procedures [that] hinder their output and thus their income." Brenda Lantz, *Piecework: Theory and Applications to the Motor Carrier Industry* (Upper Great Plains Transp. Inst. Oct. 1992) (punctuation altered).[4] As the drivers know all too well, no income is earned when performing on-duty-not-driving tasks.

Regardless of whether Knight's piece-rate pay system is "normal" in the industry and "intended" to cover all tasks, the system violates the MWA because it fails to compensate drivers for each individual hour spent engaged in on-duty-not-driving work.

D. Plaintiffs are not attacking piece-rate systems, and a ruling in their favor will not prohibit incentive-based pay.

The second argument that the Trucking Associations make is that "a no-averaging rule would deprive the trucking industry in Washington of a powerful productivity incentive . . . while at the same time exerting *downward* pressure . . . on driver earnings." Trucking Ass'ns Br. at 3-4 (emphasis in original). This is untrue, as can be easily demonstrated with one of the Trucking Associations' own examples.

[4] Available at https://www.ugpti.org/resources/reports/downloads/sp-107.pdf.

The Trucking Associations ask the Court to consider a driver who is paid a total of $200 in piece-rate pay—presumably on a per-mile basis—to move a load from point A to point B. *Id*. at 9. The worker spends nine hours driving and one hour performing on-duty-not-driving tasks. *Id*. For that driving time, the worker earns an average of $22.22 per hour ($200 divided by 9 hours).[5]

Plaintiffs claim the worker is entitled under the MWA to receive at least the minimum wage (currently $12/hour) for the one-hour of non-piece-rate work. Despite their protestations about how this would upend the industry, the Trucking Associations acknowledge that such a ruling "would not require carriers to pay drivers any more than they currently do—it would just require them to pay drivers *differently*." *Id*. (emphasis in original). Indeed, the Trucking Associations state that in response to rulings in California requiring carriers to pay no less than the minimum wage for each hour of non-piece-rate work, "most carriers developed pay systems that ensure drivers are compensated on an hourly basis for non-driving time, while at the same time resulting in the same total

[5] Of course, the Trucking Associations maintain the worker earns $20 per hour across all ten hours, but this requires the use of workweek averaging to shift some of that piece-rate pay over to the hour of non-piece-rate work. *Id*. at 9-10.

compensation outcomes the driver would have experienced under a simple piece-rate regime that permitted averaging." *Id*. at 11.

There are two important takeaways from this admission (aside from the fact that a ruling in favor of drivers will have negligible impact, if any, on the bottom line of carriers). First, it is not administratively difficult for the trucking industry to pay Washington drivers on a per-hour basis for time spent performing activities outside of piece-rate work. As previously noted, drivers record their work hours in the categories of "driving" and "on-duty-not-driving." Carriers can easily pay the minimum wage for each hour (or partial hour) spent engaged in on-duty-not-driving tasks while also paying per-mile and per-load rates for driving work.

Second, drivers will still have strong incentives to be "productive." Returning to the example offered by the Trucking Associations, one can see that if the current minimum wage rate of $12 were paid for the one hour of on-duty-not-driving work and the total pay remained at $200 over the ten hours, the driver's piece-rate compensation would amount to $188 ($200 minus $12). Averaged out over the nine hours spent driving, the driver would receive $20.89 per hour ($188 divided by 9 hours) for that work. It is not difficult for a driver to recognize that she

can increase her average hourly pay by nearly 75 percent (or $8.89) if she is driving instead of performing other work.

Perhaps more importantly, if carriers comply with the MWA and pay no less than the minimum wage rate for each hour of on-duty-not-driving work, they themselves will be incentivized to find ways to limit such non-production work and increase the amount of time drivers spend on the road. That makes sense, as carriers are much better positioned to create industry-wide solutions. This again is corroborated by one of the secondary authorities on which the Trucking Associations rely.

In a study of the impact from "excessive loading and unloading wait times," also known as "detention time," the United States Government Accountability Office surveyed drivers and found 80 percent of those detained "reported that [the] detention reduced their available driving time" and, correspondingly, their income. GAO, Report to the Ranking Member, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, House of Representatives, GAO-11-198 at 15-16 (Jan. 2011) (capitalization altered). The report also found that "[c]arrier companies have some ability to mitigate the economic effects of detention time through a variety of means, such as charging detention fees to shippers, developing relationships with customers,

using efficient loading and unloading operations, and no longer providing service to customers with persistent detention time." *Id*. at 16-17. For example, carriers could employ "the 'drop and hook' method," which "prevent[s] the driver from having to wait for a trailer to be loaded or unloaded at the shipper's facility." *Id*. at 17.

Incentivizing carriers to limit non-production time is a true win-win. Drivers can earn higher wages by spending more time on the road, and carriers can earn more income by increasing the efficiency of deliveries. "A 2009 Department of Transportation (DOT) study identified detention time as a major loss of productivity in the industry and estimated that addressing this issue [alone] could result in a potential gain to carriers of about $4 billion annually." *Id*. at 1 (emphasis added).

III. CONCLUSION

The truck drivers in this case are no different from agricultural piece-rate workers, hourly workers, or any other employees covered by the Washington Minimum Wage Act. All are entitled to be compensated at no less than the minimum wage rate for each individual hour worked. Accordingly, the Court should hold that Knight must pay drivers per hour for time spent performing activities outside of piece-rate work.

RESPECTFULLY SUBMITTED AND DATED this 30th day of April, 2019.

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