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## FOR IMMEDIATE RELEASE

For further information, contact Allisson Inserro, [OAGpress@njoag.gov](mailto:OAGpress@njoag.gov)

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**TRENTON** – Attorney General Matthew J. Platkin and New Jersey Department of Labor and Workforce Development (NJDOL) Commissioner Robert Asaro-Angelo announced today that they have [filed the first lawsuit](#) under a 2021 law that permits the State to file suit in New Jersey Superior Court against employers who have misclassified workers as independent contractors when they are, in fact, employees.

The State's [complaint](#), filed in Superior Court against shipping and logistics companies STG Logistics, Inc., and STG Drayage, LLC, seeks to halt the companies' alleged practice of misclassifying drivers as independent contractors, and to recover up to millions of dollars in back wages, penalties and fines, and back wages for more than 300 truck drivers. It also seeks damages for the companies' alleged improper deductions from drivers' pay. These practices not only resulted in the company at times paying truck drivers less than New Jersey's effective minimum wage, but also, the deductions were sometimes greater than a driver's entire gross pay, resulting in a negative net pay during some pay periods.

Workers are presumed to be employees under most of New Jersey's labor laws unless a company can satisfy what is commonly referred to as the "ABC test," which requires companies to prove all of the following:

1. The individual is largely free from control or direction over the performance of their work;
2. The type of work performed is outside the company's usual course of business, or the work is performed outside of the company's place (or places) of business; and
3. The individual has their own independent trade, job, profession, or business.

Many workers in New Jersey meet state law standards for being properly classified as an independent contractor – for instance, a plumber who operates their own business and works in people's homes, negotiates the terms of their services and payment with their many different clients, and has complete discretion over the details of how they perform their work under most circumstances would be an independent contractor.

Misclassification—illegally classifying and treating employees as independent contractors – deprives workers of rights and benefits afforded to employees, including minimum wage, overtime, workers' compensation, unemployment, temporary disability, earned sick leave, job-protected family leave, and equal pay, and leaves workers unprotected against discrimination. Misclassification also hurts the vast majority of employers who play by the rules, putting them at a competitive disadvantage against those who flout the law. See [NJDOL's website](#) for more information about misclassification.

"When employers unlawfully and callously toss their workers into the 'independent contractor' category they are not only depriving them of a steady paycheck, they are also stripping them of earned sick leave, workers compensation, minimum wage, and more," said Attorney General Platkin. "These are national, profitable corporations with deep pockets who are padding their profits with illegal labor schemes, and they seem to have no plans to stop this kind of behavior."

"Companies illegally profiting through corrosive business models at the expense of hard-working employees have been put on notice. We are proud to have the strongest worker protection laws in the country, which also safeguard employers who play by the rules. Misclassifying employees will not be profitable, nor overlooked," said Labor Commissioner Asaro-Angelo.

In 2020 and 2021, Governor Murphy signed legislation to further enhance State power to curtail the type of misclassification exemplified in this lawsuit. This includes the power to bring actions directly in Superior Court, as is being done with this lawsuit, along with increased penalties for misclassification and enhanced authority to issue stop-work orders.

NJDOL began the investigation leading to this lawsuit in 2019. At that time, the facility of primary concern in this matter, located at 283 Wilson Avenue, Newark, was operated by XPO, Inc., a publicly-traded Fortune 500 company, and its subsidiary XPO Logistics Drayage, LLC. In 2021, [XPO reported](#) total revenue of \$12.8 billion for the full year, up from \$10.2 billion in 2020.

During the investigation, XPO Logistics Drayage was purchased by Defendant STG Logistics, which has been [owned by the private equity investment firm Wind Point Partners](#) since 2016. As part of the purchase, STG assumed the liability for the seller's past employment practices. Defendant STG Drayage, LLC, now operates the 238 Wilson Avenue facility. Its drivers deliver containers and goods over short to moderate distances, known as drayage trucking.

NJDOL's investigation revealed that defendants failed to meet any of the requirements under New Jersey law for classifying their workers as independent contractors. As detailed in the State's Complaint, although the companies have required drivers to purchase and maintain their trucks in the drivers' names, defendants have exercised significant control over drivers, their work, and their trucks by, among other things:

- Requiring that the company's name appear on the trucks;
- Requiring the drivers to lease their trucks to the company for its exclusive possession, control, and use;
- Prohibiting drivers from using the trucks for other work without the company's written consent;
- Requiring that drivers sign non-negotiable "independent contractor agreements" drafted by the company;
- Requiring the installation of an electronic GPS tracking device in the drivers' trucks, which collected drivers' location, vehicle motion status, miles driven, and engine hours;
- Assigning all routes, tightly monitoring the status of deliveries, and setting rates of pay; and
- Mandating drug and alcohol testing, completion of a defensive driving course, acquisition of certain types of insurance, disclosure of monthly maintenance records, and immediate accident reporting.

As a result, the lawsuit alleges, defendants' misclassification of drivers has violated a host of New Jersey labor laws:

- Defendants deducted, diverted, and withheld millions of dollars from drivers' pay for things like fuel, tolls, parking, liability insurance, fees, and truck maintenance and repairs in violation of the Wage Payment Law;
- Defendants at times failed to pay the minimum wage, failed to comply with recordkeeping requirements, and unlawfully hindered the investigation in violation of the Wage and Hour Law;
- Defendants also failed to make sick time available in violation of the Earned Sick Leave Law; and Defendants failed to provide workers' compensation insurance under the Workers' Compensation Law, make required contributions to the Unemployment Compensation and State Disability Benefits Funds under the Unemployment Compensation Law; and make required contributions to the Workforce Development Partnership Fund and the Supplemental Workforce Fund for Basic Skills under the Employment and Workforce Development Act.

In August 2020, XPO paid the State \$893,671.28 to resolve a prior NJDOL audit finding it failed to make required contributions to the Unemployment Compensation and Disability Benefits Funds from 2015 through 2018. Nonetheless, defendants have continued to misclassify drivers and fail to make requisite payments to the funds.

NJDOL is represented in this matter by the Office of the Attorney General's Division of Law, including Deputy Attorneys General Jeffrey Olshansky, Nadya Comas, Olivia Mendes, and Marc D. Peralta, under the supervision of Labor Enforcement Section Chief Eve E. Weissman, Assistant Attorney General Mayur P. Saxena, and Deputy Director Jason W. Rockwell.

Misclassified workers are not at fault and can find information about their rights and protections here: [myworkrights.nj.gov](https://myworkrights.nj.gov).

Businesses can learn about legal requirements and services provided to them at: [nj.gov/labor](https://nj.gov/labor).

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Department of Labor  
1 John Fitch Plz,  
Trenton, NJ 08611