

Larry W. Lee (State Bar No. 228175)  
Kristen M. Agnew (State Bar No. 247656)  
Nicholas Rosenthal (State Bar No. 268297)  
**DIVERSITY LAW GROUP, P.C.**  
515 S. Figueroa Street, Suite 1250  
Los Angeles, CA 90071  
(213) 488-6555  
(213) 488-6554 facsimile

William L. Marder, Esq. (State Bar No. 170131)  
**Polaris Law Group LLP**  
501 San Benito Street, Suite 200  
Hollister, CA 95023  
Tel: (831) 531-4214  
Fax: (831) 634-0333

Attorneys for Plaintiff and the Class

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE**

RICHARD TOBIN, as an individual and  
on behalf of all others similarly situated,

Plaintiff,

vs.

RYDER TRUCK RENTAL, INC., a  
Florida corporation; and DOES 1 through  
50, inclusive,

Defendants.

Case No.: **RIC2002000**

**CLASS AND REPRESENTATIVE ACTION  
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF CAL. LABOR CODE §  
226(a);  
(2) VIOLATION OF CAL. LABOR CODE §  
2698, *ET SEQ.*

**DEMAND OVER \$25,000.00**

1 Plaintiff Richard Tobin (“Plaintiff”) hereby submits this Class and Representative Action  
2 Complaint (“Complaint”) against Defendant Ryder Truck Rental, Inc. (“Defendant”) and Does 1  
3 through 50 (hereinafter collectively referred to as “Defendants”), on behalf of himself and a class  
4 of all other similarly situated current and former employees of Defendant for civil and statutory  
5 penalties under the California Labor Code as follows:

### 6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under  
8 California Labor Code sections 226 and 2698 *et seq.*

9 2. This Complaint challenges systemic illegal employment practices resulting in  
10 violations of the California Labor Code against individuals who worked for Defendant.

11 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,  
12 jointly and severally, have acted intentionally and with deliberate indifference and conscious  
13 disregard to the rights of all employees in Defendant’s failure to provide accurate itemized wage  
14 statements Plaintiff and Class Members.

15 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants  
16 have engaged in, among other things a system of willful violations of the California Labor Code  
17 by creating and maintaining policies, practices and customs that knowingly deny employees the  
18 above stated rights and benefits.

### 19 **JURISDICTION AND VENUE**

20 5. The Court has jurisdiction over the violations of California Labor Code sections  
21 226 and 2698 *et seq.*

22 6. Venue is proper in Riverside County because Defendant maintains business  
23 locations in Riverside County, and Plaintiff is employed by Defendant in Riverside County.

### 24 **PARTIES**

25 7. Plaintiff has been employed by Defendant as a non-exempt, hourly employee  
26 since in or around May 2013.

27 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant  
28 complained of in this action in ways that have deprived him of the rights guaranteed by

1 California Labor Code sections 226 and 2698 *et seq.*

2 9. Plaintiff is informed and believes, and based thereon alleges, that Ryder Truck  
3 Rental, Inc. is a Florida corporation that maintains operations in the State of California, including  
4 in Riverside County, California.

5 10. Plaintiff is informed and believes, and based thereon alleges, that at all times  
6 herein mentioned Defendants are and were business entities, individuals, and partnerships,  
7 licensed to do business and actually doing business in the State of California. As such, and based  
8 upon all the facts and circumstances incident to Defendants' business, Defendants are subject to  
9 the California Labor Code.

10 11. Plaintiff does not know the true names or capacities, whether individual, partner  
11 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,  
12 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this  
13 complaint when the true names and capacities are known. Plaintiff is informed and believes and  
14 based thereon alleges that each of said fictitious defendants was responsible in some way for the  
15 matters alleged herein and proximately caused Plaintiff and members of the general public and  
16 class to be subject to the illegal employment practices, wrongs and injuries complained of herein.

17 12. At all times herein mentioned, each of said Defendants participated in the doing  
18 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the  
19 Defendants, and each of them, were the agents, servants and employees of each of the other  
20 Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were  
21 acting within the course and scope of said agency and employment.

22 13. Plaintiff is informed and believes, and based thereon alleges, that at all times  
23 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or  
24 joint venturer of, or working in concert with each of the other co-Defendants and was acting  
25 within the course and scope of such agency, employment, joint venture, or concerted activity. To  
26 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the  
27 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting  
28 Defendants.

1           14.     At all times herein mentioned, Defendants, and each of them, were members of,  
2 and engaged in, a joint venture, partnership and common enterprise, and acting within the course  
3 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

4           15.     At all times herein mentioned, the acts and omissions of various Defendants, and  
5 each of them, concurred and contributed to the various acts and omissions of each and all of the  
6 other Defendants in proximately causing the injuries and damages as herein alleged. At all times  
7 herein mentioned, Defendants, and each of them, ratified each and every act or omission  
8 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and  
9 abetted the acts and omissions of each and all of the other Defendants in proximately causing the  
10 damages as herein alleged.

#### 11                               **CLASS ACTION ALLEGATIONS**

12           16.     **Definition:** The named individual Plaintiff seeks class certification, pursuant to  
13 California Code of Civil Procedure section 382. Plaintiff proposes the following class: all current  
14 and former non-exempt employees of Defendant in the State of California who were paid  
15 “Premium” and/or “ONCALPAY” wages at any time between April 6, 2019, through the present  
16 (the “Class” or “Class Members”).

17           17.     **Numerosity:** The members of the Class are so numerous that joinder of all  
18 members would be impractical, if not impossible. The identity of the members of the Class is  
19 readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is  
20 informed and believes, and based thereon alleges, that Defendant failed to provide accurate  
21 itemized wage statements to employees in violation of Labor Code section 226.

22           18.     **Adequacy of Representation:** The named Plaintiff is fully prepared to take all  
23 necessary steps to represent fairly and adequately the interests of the Class defined above.  
24 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and  
25 the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class  
26 actions in the past and currently have a number of wage-and-hour class actions pending in  
27 California state and federal courts.

28           19.     Defendant uniformly administered a corporate policy, practice of failing to

1 provide accurate itemized wage statements to Plaintiff and the Class in violation of Labor Code  
2 section 226.

3       20.     **Common Question of Law and Fact:** There are predominant common questions  
4 of law and fact and a community of interest amongst Plaintiff and the claims of the Class  
5 concerning Defendant’s policy and practice of failing to provide proper wage statements to  
6 Plaintiff and the Class in violation of Labor Code section 226.

7       21.     **Typicality:** The claims of Plaintiff are typical of the claims of all members of the  
8 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner  
9 as the Class Members. As with other California non-exempt employees, Plaintiff was not  
10 provided proper and accurate itemized wage statements, in violation of Labor Code section  
11 226(a). Specifically, when “Premium” and/or “ONCALPAY” wages were paid, the  
12 corresponding wage statements failed to identify the applicable hourly rates and corresponding  
13 number of hours worked as to such wages. Instead, the wage statements only identified the gross  
14 amounts of the “Premium” and/or “ONCALPAY” wages. Accordingly, Plaintiff is a victim of  
15 Defendant’s violation of California Labor Code section 226.

16       22.     The California Labor Code section upon which Plaintiff bases these claims is  
17 broadly remedial in nature. These laws and labor standards serve an important public interest in  
18 establishing minimum working conditions and standards in California. These laws and labor  
19 standards protect the average working employee from exploitation by employers who may seek  
20 to take advantage of superior economic and bargaining power in setting onerous terms and  
21 conditions of employment.

22       23.     The nature of this action and the format of laws available to Plaintiff and  
23 members of the Class identified herein make the class action format a particularly efficient and  
24 appropriate procedure to redress the wrongs alleged herein. If each employee were required to  
25 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable  
26 advantage since it would be able to exploit and overwhelm the limited resources of each  
27 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class  
28 Member to pursue an individual remedy would also discourage the assertion of lawful claims by

employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damage to their careers at subsequent employment.

24. The prosecution of separate actions by the individual Class Members, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual Class Members against the Defendants and which would establish potentially incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to individual Class Members which would, as a practical matter, be dispositive of the interest of the other Class Members not parties to the adjudications or which would substantially impair or impede the ability of the Class Members to protect their interests. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

25. Such a pattern, practice and uniform administration of corporate policy regarding illegal payroll practices described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable attorneys' fees, and costs of suit according to the mandate of California Labor Code section 226 and Code of Civil Procedure section 1021.5.

26. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is representative of, will establish the right of each of the members of the Plaintiff Class to recovery on the causes of action alleged herein.

### **FIRST CAUSE OF ACTION**

#### **VIOLATION OF LABOR CODE § 226**

#### **(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)**

27. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 26 as though fully set forth herein.

28. Defendant failed in its affirmative obligation to provide accurate itemized wage statements, in violation of Labor Code section 226(a).

29. Plaintiff and Class Members were paid on an hourly basis. As such, the wage

1 statements provided to these employees should have reflected all applicable hourly rates in effect  
2 during the pay period and the corresponding number of hours worked at each hourly rate. The  
3 wage statements provided to Plaintiff and the Class failed to accurately identify such  
4 information.

5 30. More specifically, when “Premium” and/or “ONCALPAY” wages were paid, the  
6 corresponding wage statements failed to identify the applicable hourly rates and corresponding  
7 number of hours worked as to such wages. Instead, the wage statements only identified the gross  
8 amounts of the “Premium” and/or “ONCALPAY” wages.

9 31. Such a pattern, practice and uniform administration of corporate policy as  
10 described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class  
11 identified herein, in a civil action, for all penalties pursuant to Labor Code section 226, including  
12 interest thereon, attorneys’ fees, and costs of suit according to the mandate of California Labor  
13 Code section 226.

14 **SECOND CAUSE OF ACTION**

15 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

16 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**  
17 **AGAINST ALL DEFENDANTS)**

18 32. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 31 as  
19 though fully set forth herein.

20 33. Plaintiff brings this cause of action on behalf of the State of California and seeks  
21 penalties on behalf of all Aggrieved Employees from March 30, 2019, through the present, for  
22 Defendant’s violations of Labor Code section 226.

23 34. Labor Code section 226(a)(9) requires that wage statements set forth all  
24 applicable hourly rates in effect during the pay period and the corresponding number of hours  
25 worked at each hourly rate. However, when Defendant paid “Premium” and/or “ONCALPAY”  
26 wages to Plaintiff and other Aggrieved Employees, the corresponding wage statements failed to  
27 identify the applicable hourly rates and corresponding number of hours worked as to such wages.  
28 Instead, the wage statements only identified the gross amounts of the “Premium” and/or

1 “ONCALPAY” wages.

2 35. On or about March 30, 2020, Plaintiff sent written notice to the California Labor  
3 & Workforce Development Agency (“LWDA”) of Defendant’s violations of Labor Code section  
4 226(a), pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act  
5 (“PAGA”). To date, the LWDA has not responded to Plaintiff’s written notice.

6 36. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any  
7 and all applicable civil penalties for Defendant’s violation of Labor Code section 226(a) for the  
8 time period described above, on behalf of himself and other Aggrieved Employees.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf  
11 this suit is brought against Defendants, jointly and severally, as follows:

- 12 1. For an order certifying the proposed Class;  
13 2. For an order appointing Plaintiff as the representative of the Class as described  
14 herein;  
15 3. For an order appointing counsel for Plaintiff as Class counsel;  
16 4. Upon the First Cause of Action, for penalties pursuant to California Labor Code  
17 section 226, and for costs and attorneys’ fees;  
18 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant  
19 to Labor Code section 2698, *et seq.*, and for costs and attorneys’ fees;  
20 6. On all causes of action for attorneys’ fees and costs as provided by California  
21 Labor Code sections 226 and 2699, and Code of Civil Procedure section 1021.5; and  
22 7. For such other and further relief the Court may deem just and proper.

23 DATED: April 21, 2020

DIVERSITY LAW GROUP, P.C.

24  
25 By: 

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and the Class  
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