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Superior Court of California
County of Los Angeles

JUN 05 2020

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

RICHARD RAMIREZ, on behalf of himself
and others similarly situated and aggrieved,

Plaintiff,

vs.

GENESIS LOGISTICS, INC., a Delaware
corporation; SCOTT SUREDDIN, an
individual; and DOES 1 to 100, inclusive,

Defendants.

Case No.:

20STCV22055

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT**

JURY TRIAL DEMANDED

1
2
3 **GENERAL ALLEGATIONS**

4 1. Plaintiff RICHARD RAMIREZ is an individual residing in California.

5 2. Defendant GENESIS LOGISTICS, INC., is a Delaware corporation duly authorized
6 to conduct business in California.

7 3. The true names and capacities of the DOE Defendants sued herein as DOES 1
8 through 100, inclusive, are currently unknown to Plaintiff, who therefore sues each such Defendant
9 by said fictitious names. Each of the Defendants designated herein as a DOE is legally responsible
10 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend this Complaint to
11 reflect the true names and capacities of the Doe Defendants when such identities become known.

12 4. On information and belief, Defendant SCOTT SUREDDIN is a natural person
13 residing in the State of California and is, and at all relevant times has been, the owner, director,
14 officer, employee, and/or managing agent of Defendant GENESIS LOGISTICS, INC., and had
15 direct control and power over the working conditions and the violations at issue in this Complaint
16 and at all relevant times was acting on behalf of Defendant GENESIS LOGISTICS, INC.. On
17 information and belief, SCOTT SUREDDIN devised and implemented the policies at issue in this
18 complaint and “caused” these violations to occur and, under Labor Code §§ 558.1 and 1197.1,
19 SCOTT SUREDDIN may be held liable as the employer for such violations.

20 5. Plaintiff is informed and believes, and thereupon alleges that at all times herein,
21 Defendants, and each of them, were agents, servants, joint employers, employees, employers,
22 partners, and/or joint venturers of each other Defendant, and were, as such, acting within the scope,
23 course, and authority of said relationship. Each of the acts and/or omissions complained of herein
24 were alleged and made known to, and ratified by, each of the other Defendants.

25 6. This court possesses original subject matter jurisdiction over this matter. Venue is
26 proper in this judicial district since Defendants have not designated a principal place of business
27 in California, and because some of the complained of conduct occurred in this judicial district.

28 **CLASS ALLEGATIONS**

1 7. Plaintiff worked for Defendants as a non-exempt delivery driver. Plaintiff brings this
2 action as a class action under Code of Civil Procedure section 382 on behalf of himself and all others
3 similarly situated. The class Plaintiff seeks to represent is defined as follows: “All individuals who
4 worked for Defendant in any non-exempt position, however titled, in California at any time within
5 the four years prior to the filing of the initial complaint.”

6 8. Numerosity. While the exact number of class members is unknown to plaintiff at this
7 time, the class is so numerous that the individual joinder of all members is impractical under the
8 circumstances of this case.

9 9. Common Questions of Law and Fact. This lawsuit is suitable for class treatment
10 because common questions of law and fact predominate over individual issues. Common questions
11 include, but are not limited to, the following (1) whether Defendants properly calculated and paid
12 all amounts due to the class members for wages earned, including overtime wages, under California
13 law; (2) whether Defendants violated the California Labor Code and/or IWC Wage Orders by
14 withholding wages, including overtime and minimum wages, from the class members; (3) whether
15 Defendants provided Plaintiff and the class members with all required meal and rest breaks, or
16 compensation in lieu thereof, under California law; (4) whether Defendants provided the class
17 members with proper, itemized wage statements; (5) whether Defendants timely paid the class
18 members all wages due upon termination of employment; (6) whether Defendants’ failure to timely
19 pay all wages due upon termination of employment was willful; and (7) whether Defendants violated
20 California Business and Professions Code sections 17200, et seq.

21 10. Ascertainable Class. The proposed class is ascertainable as its members can be
22 identified and located using information in Defendants’ business, payroll and personnel records.

23 11. Typicality. Plaintiff’s claims are typical of the claims of the class members. Plaintiff
24 suffered a similar injury as the other class members as a result of Defendants’ common practices
25 regarding, inter alia, calculation and payment of wages, including overtime wages, failure to provide
26 meal and rest breaks, provision of wage statements, and payment of wages due upon termination.
27 In addition, Plaintiff will fairly and adequately protect the interests of the class members. Plaintiff
28 has no interests adverse to the interests of the other class members.

12. Superiority. A class action is superior to other available means for the fair and efficient adjudication of this controversy since individual joinder of all members of the class is impractical. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Furthermore, as the damages suffered by each individual member of the class may be relatively small, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. The cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation would also present the potential for inconsistent or contradictory judgments. Finally, the alternative of filing a claim with the California Labor Commissioner is not superior, given the lack of discovery in such proceedings, the fact that there are fewer available remedies, and the losing party has the right to a trial de novo in the Superior Court.

FIRST CAUSE OF ACTION

(Recovery of Unpaid Minimum Wages and Liquidated Damages -
Labor Code §§ 1194 and 1194.2)

13. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

14. California law provides employees in California must be paid for all hours worked, up to 40 per week or 8 per day, at a regular time rate no less than the mandated minimum wage. Defendants instructed Plaintiff and similarly aggrieved employees to perform pre-shift and post-shift “off the clock” work; specifically, Defendants instructed Plaintiff and the class members not to clock in until after they had finished loading their trucks at the beginning of their shifts and similarly instructed them to clock out prior to unloading their trucks at the end of their shifts. This failure to compensate Plaintiff and the class members for all hours worked violates California minimum wage laws.

15. Under Labor Code sections 1194 and 1194.2, Plaintiff and the class members are entitled to recover all unpaid minimum wages and liquidated damages, plus attorney's fees and costs, in an amount to be proved at trial.

SECOND CAUSE OF ACTION

(Recovery of Unpaid Overtime – Labor Code § 1194)

16. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

17. California law provides employees in California must be paid overtime, equal to 1.5 times the employee's regular rate of pay, for all hours worked in excess of 40 per week or 8 per day, and must be paid double wages for all hours worked in excess of 12 per day, unless they are exempt. As alleged herein, Plaintiff and the class members, all of whom were non-exempt employees, regularly worked more than 8 hours per day, but were not paid all overtime wages due and owing under California law. Defendants have violated California's overtime laws by, among other things, failing to correctly calculate, or record at all, the total number of hours worked by Plaintiff and the class members and not paying proper overtime rates for all overtime worked. For example, Defendants failed to incorporate all non-discretionary remuneration, including but not limited to, piece-rate pay, into Plaintiff and the class members' regular pay rates for purposes of calculating the owed overtime rates. Moreover, Complainant and similarly aggrieved employees would typically work shifts consisting of between ten (10) and twelve (12) and Defendants instructed Plaintiff and the class members not to clock in until after they had finished loading their trucks at the beginning of their shifts and similarly instructed them to clock out prior to unloading their trucks at the end of their shifts. Based on their regular work schedules, this resulted in a significant amount of denied overtime pay for Plaintiff and the class members. Plaintiff and the class members often worked more than 8 hours in a day and/or 40 hours in a week for which they were not properly compensated with the correct overtime rate.

18. Under Labor Code section 1194, Plaintiff and the class members are entitled to recover all unpaid overtime wages, plus attorney's fees and costs, in an amount to be proved at trial.

THIRD CAUSE OF ACTION

1 (Failure to Provide Meal Periods or Compensation in Lieu Thereof --

2 Labor Code § 226.7)

3 19. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

4 20. Under the Labor Code and IWC Wage Orders, Defendants were required to provide
5 Plaintiff and the class members with one 30-minute meal break free from all duties for all shifts
6 longer than 5 hours, and a second 30-minute meal break free from all duties for all shifts longer than
7 10 hours. Meal periods can be waived, but only under the following circumstances: (1) if an
8 employee's total work period in a day is over five (5) hours but no more than six (6) hours, the
9 required meal period may be waived by mutual consent of the employer and employee, and (2) if
10 an employee's total work period in a day is over ten (10) hours but no more than twelve (12) hours,
11 the required second meal period may be waived by mutual consent of the employer and employee,
12 but only if the first meal period was not waived. Employers covered by the Wage Orders have an
13 obligation to both (1) relieve their employees for at least one meal period for shifts over five hours
14 (see above), and (2) to record having done so. If the employer fails to properly record a valid meal
15 period, it is presumed no meal period was provided.

16 21. Plaintiff and the class members regularly worked periods of more than five hours in
17 a workday without being provided a mandatory thirty-minute, duty-free meal period. Defendant
18 purported to allow a first meal period but said meal periods were often interrupted, untimely, and/or
19 cut short. Furthermore, Defendants never provided or allowed for second meal periods despite
20 Plaintiff and the class members being so entitled given their shifts typically lasted more than ten
21 (10) hours. Plaintiff and the class members were consistently unable to take timely, thirty-minute
22 uninterrupted meal periods. They were unable to avail themselves of such breaks for various
23 reasons, including, the pressures from their workloads and from management to take shorter meal
24 breaks than they were entitled to, or no breaks at all. Per Defendants' illegal meal period
25 policy/practice, Plaintiff and the class members were not always relieved of their duties for purposes
26 of taking meal periods. Defendants also failed to pay Plaintiff and the class members an additional
27 hour of wages at their regular rates of compensation for each workday a meal period was not
28 provided.

22. Defendants failed to provide Plaintiff and the class members with all required meal periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff and the class members are entitled to one additional hour's pay at the regular rate of compensation for each day a meal period was missed, late or interrupted, all in an amount to be proved at trial.

FOURTH CAUSE OF ACTION

(Failure to Provide Rest Periods or Compensation in Lieu Thereof --

Labor Code § 226.7)

23. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

24. California law requires an employer to authorize or permit an employee to take a rest period of ten net minutes for every four hours worked, or major fraction thereof, and such rest periods must be in the middle of the four-hour period insofar as practicable. If the employer fails to provide any required rest periods, or fails to provide a fully compliant rest break for a net 10 minutes wherein the employee is fully relieved of all duties and all employer control, the employer must pay the employee one hour of pay at the employee's regular rate of compensation for each workday the employer did not provide a legally required and/or fully compliant rest period.

25. Defendants employed policies and procedures that ensured Plaintiff and the class members would not receive all legally required rest periods, as Defendants did not authorize and permit all required rest periods in strict accordance to, and in compliance with, the timing requirements of all applicable Wage Orders. Plaintiff and the class members typically worked shifts entitling them to at least two (2) rest periods per shift and often to three (3) per shift. However, it was Defendants policy and practice not to provide rest periods at all. Defendants further employed policies and procedures ensuring Plaintiff and class members did not receive premium wages to compensate them for workdays they did not receive all legally required and fully compliant rest periods.

26. Defendants failed to provide Plaintiff and the class members with all required rest periods, or with compensation in lieu thereof. As a result, under Labor Code section 226.7, Plaintiff and the class members are entitled to one additional hour's pay at the regular rate of compensation for each day a rest break was missed, late or interrupted, all in an amount to be proved at trial.

1 FIFTH CAUSE OF ACTION

2 (Failure to Provide Accurate Wage Statements – Labor Code § 226)

3 27. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

4 28. The California Labor Code provides that, at the time of each payment of wages, the
5 employer must provide each employee with an itemized statement showing, inter alia, gross wages
6 earned, total hours worked, all deductions taken, net wages earned, the inclusive dates for which the
7 employee is being paid, the employee's name and last four digits of their social security number,
8 the name and address of the legal entity that it is the employer, and all applicable hourly rates in
9 effect during the pay period and all hours worked at each rate.

10 29. Defendants knowingly and intentionally failed to provide Plaintiff and the clas
11 members with proper, itemized wage statements as the wage statements provided by Defendants do
12 not accurately reflect, inter alia, gross wages earned, total hours worked, net wages earned, and all
13 applicable hourly rates in effect during each pay period and all hours worked at each applicable
14 hourly rate, for all the reasons herein mentioned. Further, upon information and belief, the wage
15 statements provided by Defendants failed to include all applicable rates of pay in violation of Labor
16 Code section 226(a). To this end, there are multiple items on Defendants' wage statements showing
17 inexplicably random rates (that notably, do not appear incorporated into the regular rate for purposes
18 of calculating owed overtime).

19 30. Defendants knowingly and intentionally failed to provide Plaintiff and the class
20 members with proper, itemized wage statements. Accordingly, under Labor Code section 226,
21 Plaintiff and the class members each are entitled to penalties in the amount of \$50.00 for the initial
22 pay period in which a violation occurred, and \$100.00 for each subsequent pay period in which a
23 violation occurred, up to an aggregate penalty of \$4,000.00 per employee, plus attorney's fees and
24 costs, all in an amount to be proved at trial.

25 SIXTH CAUSE OF ACTION

26 (Waiting Time Penalties – Labor Code §§ 201, et seq.)

27 31. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.
28

32. The California Labor Code provides that, at the time of termination of employment, the employer must pay an employee all wages due and owing within the time frames set forth in Labor Code sections 201, et seq. Defendants willfully failed to pay Plaintiff and the class members who no longer are employed with Defendants all wages due and owing within the deadlines set forth in Labor Code sections 201, et seq.

33. Under Labor Code section 203, Plaintiff and the class members who no longer are employed with Defendants are entitled to recover waiting time penalties of up to 30 days' pay, plus attorney's fees and costs, in an amount to be proved at trial.

SEVENTH CAUSE OF ACTION

(Violation of Unfair Competition Law – Bus. & Prof. Code §§ 17200, et seq.)

34. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

35. Defendants' failure, inter alia, to pay all wages earned, failure to provide all required minimum and overtime wages, failure to provide all meal and rest breaks or compensation in lieu thereof, all in violation of the Labor Code and Wage Orders, constitutes an unlawful, unfair or fraudulent business act or practice, in violation of Business & Professions Code sections 17200, et seq.

36. Under Business & Professions Code section 17203, Plaintiff and the class members are entitled to restitution of all unpaid wages, unreimbursed expenses, and other sums owed, plus attorney's fees and costs, in an amount to be proved at trial.

EIGHTH CAUSE OF ACTION

(Violation of Private Attorneys General Act – Labor Code §§ 2698, et seq.)

37. Plaintiff incorporates all preceding paragraphs as if fully alleged herein.

38. Plaintiff gave timely written notice by certified mail to Defendants, on or about March 20, 2020, of the violations of various provisions of the California Labor Code as alleged in this complaint and filed notice of the violations online with the Labor and Workforce Development Agency (“LWDA”) on or about March 20, 2020.

39. The LWDA did not provide notice of its intention to investigate Defendants' violations after expiration of the 65-day waiting time period, or at any time. Defendants also failed

1 to cure within the time allotted by PAGA and Labor Code section 2810.3. Accordingly, Plaintiff
2 has satisfied all administrative prerequisites to filing suit.

3 40. Plaintiff is an “Aggrieved Employee” under PAGA, as he was employed by
4 Defendants during the applicable statutory limitations period and suffered one or more of the Labor
5 Code violations set forth herein. Accordingly, Plaintiff seeks to recover, on behalf of himself and
6 all other current and former Aggrieved Employees, the civil penalties provided by PAGA, plus
7 reasonable attorney's fees and costs.

8 41. Plaintiff seeks to recover the PAGA civil penalties through a representative action
9 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th
10 969. Therefore, class certification of the PAGA claims is not required.

11 42. Under the provisions of PAGA and Labor Code sections 201, 202, 203, 204, 210,
12 216, 221, 222, 223, 225.5, 226, 226.3, 226.7, 226.8, 256, 510, 512, 558, 558.1, 1174, 1174.5, 1194,
13 1197, 1197.1, 1198, 1199, 2699, and all applicable Wage Orders as well as all interpretations of
14 these laws by California Courts and administrative bodies, as well as any other law that is
15 enforceable through PAGA, Defendants are liable for the following civil penalties:

- 16 (i) All statutorily-specified civil penalties recoverable under PAGA as enumerated in
17 the relevant California Labor Code provisions listed herein only if permitted by
18 PAGA; and
19 (ii) Default PAGA civil penalties for any violation of the enumerated list of Labor Code
20 violations without a civil penalty recoverable under the PAGA, all in the default
21 amounts provided by Labor Code section 2699(f).

22 43. The proper measure of penalties under PAGA is the number of violations, whether
23 those violations were committed as against Plaintiff or any Aggrieved Employee, whether a party
24 to this action or not.

25 44. Under Labor Code section 2699(g), and/or any and all other applicable laws, Plaintiff
26 is entitled to recover reasonable attorney’s fees and costs of suit.

27 **PRAYER FOR RELIEF**
28

1 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as
2 follows:

- 3 1. For compensatory damages according to proof;
- 4 2. For restitution of all amounts wrongfully withheld from Plaintiff and the class;
- 5 3. For pre-judgment interest as permitted by law;
- 6 4. For civil penalties according to proof;
- 7 5. For reasonable attorney's fees and costs of suit; and
- 8 6. For such other and further relief that the Court deems just and proper.

9
10 Dated: June 4, 2020

CROSNER LEGAL, P.C.

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12 By: 
13 Michael Crosner
14 Zachary Crosner
15 Blake Jones
16 Attorneys for Plaintiff
17 RICHARD RAMIREZ
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DEMAND FOR JURY TRIAL

PLAINTIFF RICHARD RAMIREZ demands a trial by jury on all claims so triable.

Dated: June 4, 2020

CROSNER LEGAL, P.C.



Michael Crosner
Zachary Crosner
Blake Jones
Attorneys for Plaintiff
RICHARD RAMIREZ