

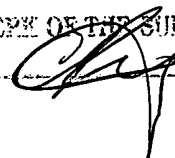


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FILED
ALAMEDA COUNTY

JUL 1 2023

CLERK OF THE SUPERIOR COURT

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ALAMEDA

ABDULLAH ALAGI and ABDUL AZIZ
 ALAJJI, individually and on behalf of all
 others similarly situated,

Plaintiffs,

v.

S-L DISTRIBUTION COMPANY, LLC, A
 Delaware Company, and DOES 1 through 10,
 inclusive,

Defendants.

CASE NO. **RG200664 75**

REPRESENTATIVE ACTION

COMPLAINT FOR:

**CIVIL PENALTIES UNDER THE
 PRIVATE ATTORNEYS GENERAL ACT
 (Labor Code §§ 2698 *et seq.*) FOR:**

- (1) UNLAWFUL WILLFUL
 MISCLASSIFICATION;**
- (2) UNLAWFUL CHARGES TO
 WILFULLY MISCLASSIFIED
 EMPLOYEES;**
- (3) REIMBURSEMENT OF BUSINESS
 EXPENSES;**
- (4) UNLAWFUL DEDUCTIONS FROM
 WAGES;**
- (5) FAILURE TO PROVIDE OFF-DUTY
 MEAL PERIODS;**
- (6) FAILURE TO AUTHORIZE AND
 PERMIT PAID REST PERIODS;**
- (7) FAILURE TO FURNISH ACCURATE
 WAGE STATEMENTS;**
- (8) FAILURE TO PAY OVERTIME
 COMPENSATION; and**
- (9) FAILURE TO PAY EARNED WAGES
 UPON DISCHARGE**



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Attorneys for PLAINTIFFS

1 Plaintiffs Abdullah Alagi and Abdul Aziz Alajji (“Plaintiffs”), individually and in their
2 representative capacity, and on behalf of the California Labor Workforce Development Agency
3 (“LWDA”), pursuant to the Private Attorney General Act, Labor Code §§ 2698 *et seq.* (“PAGA”),
4 seeks civil penalties from Defendant S-L Distribution Company, LLC (“Defendant”) and alleges as
5 follows:

6 I. INTRODUCTION

7 1. Defendant S-L Distribution Company, LLC, is a “wholesale distributor of various
8 snack food products manufactured by subsidiaries and affiliates of Snyder’s Lance, Inc.” and
9 “provides wholesale distribution services to a variety of unrelated snack food companies known as
10 Partner Brands[.]”¹

11 2. Drivers, like Plaintiffs, carry out Defendant’s distribution work – ordering,
12 delivering, stocking, and merchandising Defendant’s subsidiaries’ and partner brands’ products –
13 and are integral to the operations of Defendant’s core business.

14 3. This is an action for civil penalties arising Defendant’s misclassification of
15 Plaintiffs and similarly aggrieved employees as “independent contractors.” By misclassifying
16 drivers as independent contractors, Defendant violated several provisions of the California’s
17 Labor Code and Industrial Welfare Commission (“IWC”) wage orders, including for: unlawful
18 willful misclassification of employees; unlawful charges to willfully misclassified employees;
19 failure to provide reimbursement for business expenses; unlawful deductions from wages; failure
20 to provide off-duty meal periods; failure to authorize and permit paid, off-duty rest periods; failure
21 to furnish accurate wage statements; failure to pay overtime premium pay; and failure to pay
22 earned wages at discharge.

23 II. JURISDICTION AND VENUE

24 4. This Court has jurisdiction over claims for PAGA penalties under Labor Code §§
25 2698 *et seq.*

26 //

27 ¹ S-L Distribution Company, LLC, <https://www.snyderslanceibo.com/> (last visited June 15, 2020).

5. Venue is proper in the County of Alameda, pursuant to Code of Civil Procedure § 395.5. Defendant transacts business, and/or has agents in Alameda County. Plaintiffs have performed work for Defendant in Alameda County. The unlawful acts herein have direct effect on Plaintiffs and other aggrieved employees within the State of California and within the County of Alameda.

III. PARTIES

6. Plaintiff Abdullah Alagai resides in San Pablo, California (Contra Costa County). He has served as a driver for S-L since approximately June of 2019. He works a S-L route covering San Francisco, California (San Francisco County) and works out of S-L's facilities located in Richmond, California (Contra Costa County). Plaintiff Alagai drives a truck and standard passenger vehicle and works approximately 60 hours a week to carry out his duties for Defendant.

7. Plaintiff Abdul Aziz Alajji resides in Oakland, California (Alameda County). He has served as a driver for S-L since approximately August of 2019. He works a S-L route covering Oakland and Berkeley, California (Alameda County) and works out of S-L's facilities located in Richmond, California (Contra Costa County). Plaintiff Alaagi drives a truck and standard passenger vehicle and works approximately 85 hours a week to carry out his duties for Defendant.

8. Defendant S-L Distribution Company, LLC is a Delaware Corporation with its principal place of business in North Carolina.

9. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as DOES 1 through 10, inclusive, are currently unknown to Plaintiffs, who therefore sue defendants by such fictitious names under Cal. Code of Civil Procedure § 474. Plaintiffs are informed and believe, and based thereon allege, that each of the defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as DOES when such identities become known.

1 10. Plaintiffs are informed and believe, and on such information and belief allege, that
2 each defendant acted in all respects pertinent to this action as the agent of the other defendants,
3 carried out a joint scheme, business plan or policy in all respects pertinent hereto, and that the acts
4 of each defendant are legally attributable to the other defendants.

5 IV. FACTUAL BACKGROUND

6 11. Defendant S-L Distribution Company, LLC (“S-L”) is a “snack food wholesale
7 distributor authorized to sell and distribute the Snyder’s of Hanover and Lance brands of products
8 and various other brands of snack products[.]” On its website, S-L describes itself as “a wholesale
9 distributor of various snack food products manufactured by subsidiaries and affiliates of Snyder’s-
10 Lance, Inc.,” and represents that it “provides wholesale distribution services to a variety of
11 unrelated snack food companies known as Partner Brands to assist in a diverse portfolio of
12 products for IDPs to grow their business.”

13 12. S-L relies on drivers such as Plaintiffs to deliver to and stock S-L’s products at
14 retail grocery store outlets. Plaintiffs carry out S-L’s distribution work—ordering, delivering,
15 stocking, and merchandising S-L’s products—and have been integral to the operations of S-L’s
16 core business. The work that Plaintiffs perform is part of the usual course of S-L’s business.

17 13. The distributor agreement (“Agreement”) between Plaintiffs and S-L requires
18 Plaintiffs to meet and comply with “the needs, policies, procedures, requests and requirements of
19 [S-L’s] customers.” The Agreement mandates that Plaintiffs provide S-L’s customers, and S-L,
20 with a “planned schedule for the distribution of sale of Products” to the customers within the
21 territory and “promptly adjust the schedule to meet the needs, policies, procedures and
22 requirements of its customers.” S-L controls the list of authorized products Plaintiffs may sell, the
23 prices of those products, and the percentage of the sales price – i.e., the commission – S-L pays
24 Plaintiffs per product. S-L has the discretion to remove authorized outlets from Plaintiffs’
25 territories, for which they are not entitled to any compensation.

26 14. S-L retains and exercises pervasive control over its distribution operations,
27 including by retaining and exercising such control over Plaintiffs. S-L defines Plaintiffs’
28 territories, obtains the customers in need of service, controls what products are authorized for

1 placement on its customer shelves, and has substantial control over the pricing of the products.
2 Though the Agreement states that S-L will not supervise the distributors' work, S-L district sales
3 managers frequently do in fact supervise Plaintiffs' work. District sales managers instruct
4 Plaintiffs regarding what to order, ask where and when they will be servicing certain stores, and
5 frequently check the customers' shelves. S-L has given Plaintiffs disciplinary warnings based on
6 S-L's service expectations and issued breach letters for "out-of-stock." S-L has threatened to
7 terminate Plaintiffs' Distributor Agreements in the event they do not comply with S-L's service
8 expectations.

9 15. S-L passes on the cost of its business to Plaintiffs. For example, S-L requires
10 Plaintiffs to purchase product and assume ownership over it at the time it is received but does not
11 allow them to return unsold product for a credit. S-L also charges Plaintiffs a Weekly
12 Administrative Service Charge of \$40 for "services, supplies, and lease of computer system."
13 Plaintiffs are also responsible for the cost of operating their routes, including for all operating
14 expenses and losses in using vehicles to service the routes, including fuel, repair, maintenance,
15 insurance, and vehicle depreciation.

16 16. Plaintiffs do not provide distribution services to companies unaffiliated with S-L.
17 They do not solicit distribution work from companies unaffiliated with S-L and are not
18 customarily engaged in independent distribution businesses.

19 17. Plaintiffs regularly work six or seven days per week, and over 60 hours per week
20 for S-L. Because of the nature of their work, they do not have the opportunity to take 30-minute
21 off-duty lunch breaks. Nor are they provided with paid, off-duty rest periods of 10 minutes in
22 length.

23 18. As a direct, foreseeable, and proximate cause of Defendant's conduct, Plaintiffs
24 and similarly aggrieved drivers are owed civil penalties and attorneys' fees and costs pursuant to
25 Labor Code § 2699, the precise amount of which will be proven at trial.

26 19. On March 30, 2020, Plaintiffs duly filed a letter online with the California Labor
27 Workforce & Development Agency ("LWDA"). They provided a copy of the letter to Defendant
28

1 via certified mail. The letter notified the LWDA and Defendant of the violations of the Wage
2 Order and Labor Code alleged herein.

3 20. Plaintiffs have received no response from the LWDA to date. Accordingly,
4 Plaintiff now brings this representative action under PAGA, Labor Code §§ 2698 *et seq.*, solely to
5 seek civil penalties on behalf of himself and others who have works as drivers for Defendant in
6 California from March 30, 2019 through the present ("PAGA Period").

7 **V. CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**
9 **PAGA PENALTIES – UNLAWFUL WILLFUL MISCLASSIFICATION OF**
10 **INDEPENDENT CONTRACTORS**
11 **(CAL. LABOR CODE § 226.8(a)(1))**

12 21. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
13 fully allege herein.

14 22. Labor Code § 226.8(a)(1) states that it shall be unlawful to engage in the "[w]illful
15 misclassification of an individual as an independent contractor."

16 23. Defendant classified Plaintiffs as "independent contractors," a designation that it
17 made voluntarily and knowingly in order to circumvent the requirements of the California Labor
18 Code, in violation of Labor Code § 226.8(a)(1).

19 24. As a result of Defendant's willful misclassification of them, Plaintiffs are
20 "aggrieved employees" under Labor Code § 2699 and thus have standing to file an action for civil
21 penalties on behalf of themselves and other current or former employees to address such
22 violations.

23 25. With respect to violations of Labor Code § 226.8(a)(1), Labor Code § 226.8(b)
24 imposes a penalty of not less than five thousand dollars (\$5,000) and not more than fifteen
25 thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted
26 by law. If Defendant is found to have engaged in a pattern or practice of these violations, Labor
27 Code § 226.8(c) provides that Defendant shall be subject to a civil penalty of not less than ten
28 thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each

1 violation. Plaintiffs hereby seek recovery of these penalties for themselves and all other drivers
2 who served in California during the PAGA Period.

3 **SECOND CAUSE OF ACTION**
4 **PAGA PENALTIES – UNLAWFUL CHARGES TO WILLFULLY**
5 **MISCLASSIFIED EMPLOYEES**
6 **(CAL. LABOR CODE § 226.8(a)(2))**

7 26. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
8 fully allege herein.

9 27. Labor Code § 226.8(a)(2) states that it shall be unlawful to charge “an individual
10 who has willfully misclassified as an independent contractor a fee, or mak[e] any deductions from
11 compensation, for any purpose, including for goods, materials, space rental, services, government
12 licenses, repairs, equipment maintenance, or fines arising from the individual’s employment
13 where any of the acts described in this paragraph would have violated the law if the individual had
14 not been misclassified.”

15 28. Defendant has charged drivers weekly administrative service charges for “services,
16 supplies, and lease of computer system.” Drivers are also responsible for the cost of operating
17 their routes, including for all operating expenses and losses in using vehicles to service the routes,
18 including fuel, repair, maintenance, insurance, and vehicle depreciation, various forms of
19 insurance, cellular telephones, and the costs of unsold product, in violation of Labor Code §
20 226.8(a)(2).

21 29. As a result of the charges and deductions taken, Plaintiffs are “aggrieved
22 employees” under Labor Code § 2699 and thus have standing to file an action for civil penalties
23 on behalf of themselves and other current or former employees to address such violations.

24 30. With respect to violations of Labor Code § 226.8(a)(2), Labor Code § 226.8(b)
25 imposes a penalty of not less than five thousand dollars (\$5,000) and not more than fifteen
26 thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted
27 by law. If Defendant is found to have engaged in a pattern or practice of these violations, Labor
28 Code § 226.8(c) provides that Defendant shall be subject to a civil penalty of not less than ten
thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each

1 violation. Plaintiffs hereby seek recovery of these penalties for themselves and all other drivers
2 who served in California during the PAGA Period.

3 **THIRD CAUSE OF ACTION**
4 **PAGA PENALTIES - REIMBURSEMENT OF BUSINESS EXPENSES**
5 **(CAL. LABOR CODE § 2802)**

6 31. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
7 fully allege herein.

8 32. Labor Code § 2802 states that an “employer shall indemnify his or her employee
9 for all necessary business expenditures or losses incurred by the employee in direct consequence
10 of the discharge of his or her duties[.]”

11 33. While acting on the direct instruction of Defendant and discharging their duties for
12 it, Plaintiffs have incurred work-related expenses. Such expenses include but are not limited to the
13 weekly administrative service charge; fuel, maintenance, and other vehicle operating costs;
14 vehicle depreciation; various forms of insurance; cellular telephones; and the costs of unsold
15 product. Plaintiffs necessarily incurred these substantial expenses and losses as a direct result of
16 performing their job duties for Defendant. Defendant did not indemnify Plaintiffs for those
17 expenses.

18 34. As a result of Defendant’s failure to indemnify Plaintiffs, Plaintiffs are “aggrieved
19 employees” under Labor Code § 2699 and thus have standing to file an action for civil penalties
20 on behalf of themselves and other current or former employees to address such violations.

21 35. With respect to violations of Labor Code § 2802, Labor Code § 2699(f) imposes a
22 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
23 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
24 subsequent violation. Plaintiffs hereby seek recovery of these penalties for themselves and all
25 other drivers who served in California during the PAGA Period.

26 **FOURTH CAUSE OF ACTION**
27 **PAGA PENALTIES - UNLAWFUL DEDUCTIONS FROM WAGES**
28 **(CAL. LABOR CODE §§ 221, 223, 400-410, IWC. WAGE ORDER NO. 1)**

36. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
fully allege herein.

1 37. Labor Code § 221 provides: "It shall be unlawful for any employer to collect or
2 receive from an employee any part of wages theretofore paid by said employer to said employee."

3 38. Labor Code § 223 provides: "Where any statute or contract requires an employer to
4 maintain the designated wage scale, it shall be unlawful to secretly pay a lower wage while
5 purporting to pay the wage designated by statute or by contract."

6 39. Labor Code §§ 400-410 ("Employee Bond Law") provide the limited
7 circumstances under which an employer can exact a cash bond from its employees. These
8 provisions are designed to protect employees against the very real danger of an employer taking or
9 misappropriating employee funds held by the employer in trust.

10 40. IWC wage order No. 1, § 8 provides that the only circumstance under which an
11 employer can make a deduction from an employee's wage due to cash shortage, breakage, or loss
12 of equipment is if the employer can show that the shortage, breakage, or loss was the result of the
13 employee's gross negligence or dishonest or willful act.

14 41. These and related statutes, along with California's fundamental public policy
15 protecting wages and wage scales, prohibit employers from subjecting employees to unanticipated
16 or unpredicted reductions in their wages; making employees the insurers of their employer's
17 business losses; otherwise passing the ordinary business losses of the employer onto the
18 employee; taking deductions from wages for business losses unless the employer can establish that
19 the loss was caused by a dishonest or willful act, or gross negligence of the employee; or taking
20 other unpredictable deductions that may impose a special hardship on employees.

21 42. Defendant has violated Cal. Labor Code §§ 221, 223, and 400-410, and IWC wage
22 order No. 1, § 8 by unlawfully taking deductions from Plaintiffs' compensation to cover certain
23 ordinary business expenses of Defendant, including but not limited to out-of-date snack items
24 pulled from customers' stock, and shrink. Defendant also deducted a weekly service charge for
25 services, supplies, and use and maintenance of the computer system.

26 43. As a result of these unlawful deductions, Plaintiffs are "aggrieved employees"
27 under Labor Code § 2699 and thus have standing to file an action for civil penalties on behalf of
28 themselves and other current or former employees to address such violations.

1 44. With respect to violations of Labor Code §§ 221, 223, and 400-410, Labor Code §
2 2699(f) imposes a penalty of one hundred dollars (\$100) for each aggrieved employee per pay
3 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per
4 pay period for each subsequent violation. Plaintiffs hereby seek recovery of these penalties for
5 themselves and all other drivers who served in California during the PAGA Period.

6 **FIFTH CAUSE OF ACTION**
7 **PAGA PENALTIES - FAILURE TO PROVIDE OFF-DUTY MEAL PERIODS**
8 **(CAL. LABOR CODE §§ 226.7, 512, IWC WAGE ORDER NO. 1)**

9 45. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
10 fully allege herein.

11 46. Plaintiffs have regularly worked in excess of five (5) hours a day without being
12 afforded at least a half-hour meal period in which they were relieved of all duties, as required by
13 Cal. Labor Code §§ 226.7 and 512, and IWC wage order No. 1, § 11(A).

14 47. As a result of Defendant's provide off-duty meal periods, Plaintiffs are "aggrieved
15 employees" under Labor Code § 2699 and thus have standing to file an action for civil penalties
16 on behalf of themselves and other current or former employees to address such violations.

17 48. With respect to violations of Labor Code § 2802, Labor Code § 2699(f) imposes a
18 penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial
19 violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each
20 subsequent violation. Plaintiffs hereby seek recovery of these penalties for themselves and all
21 other drivers who served in California during the PAGA Period.

22 **SIXTH CAUSE OF ACTION**
23 **PAGA PENALTIES - FAILURE TO PAY EMPLOYEES FOR REST BREAKS**
24 **(CAL. LABOR CODE §§226.7, 1194 AND 1194.2, IWC WAGE ORDER NO. 1)**

25 49. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
26 fully allege herein.

27 50. IWC Wage Order No. 1, §12(A), provides in pertinent part as follows: "Every
28 employer shall authorize and permit all employees to take rest periods The authorized rest
period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest

1 time per four (4) hours or major fraction thereof. . . . Authorized rest period time shall be counted
2 as hours worked for which there shall be no deduction from wages.”

3 51. IWC Wage Order No. 1, §12(A), provides in pertinent part as follows: “Every
4 employer shall authorize and permit all employees to take rest periods The authorized rest
5 period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest
6 time per four (4) hours or major fraction thereof. . . . Authorized rest period time shall be counted
7 as hours worked for which there shall be no deduction from wages.”

8 52. Plaintiffs were compensated for delivering snack items based on Defendant’s
9 determination of a commission, and Plaintiffs were not separately compensated for taking duty-
10 free rest periods.

11 53. Plaintiffs were unable to deliver snack items and/or earn a commission while
12 taking duty-free rest periods, and therefore were precluded from earning compensation during any
13 time during which they managed to take a duty-free rest period.

14 54. Defendant failed to authorize and permit Plaintiffs to take a ten-minute paid rest
15 period for each four hours of work or major fraction thereof.

16 55. Thus, Plaintiffs regularly worked in excess of three and a half hours a day without
17 being provided at least one paid 10-minute rest period in which they were relieved of all duties, as
18 required by Labor Code § 226.7, and IWC wage order No. 1, §12(A).

19 56. Thus, Plaintiffs regularly worked in excess of six hours a day without being
20 provided at least two paid 10-minute rest periods in which they were relieved of all duties, as
21 required by Labor Code § 226.7 and IWC wage order No. 1, §12(A).

22 57. As a result, Plaintiffs are “aggrieved employees” under Labor Code § 2699 and
23 thus have standing to file an action for civil penalties on behalf of themselves and other current or
24 former employees to address such violations.

25 58. With respect to violations of Labor Code § 226.7, 1194, and 1194.2, Labor Code §
26 2699(f) imposes a penalty of one hundred dollars (\$100) for each aggrieved employee per pay
27 period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per
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1 pay period for each subsequent violation. Plaintiffs hereby seek recovery of these penalties for
2 themselves and all other drivers who served in California during the PAGA Period.

3 **SEVENTH CAUSE OF ACTION**
4 **PAGA PENALTIES - FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**
5 **(CAL. LABOR CODE §§ 226, 226.3, 1174, 1174.5; IWC WAGE ORDER NO. 1)**

6 59. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
7 fully allege herein.

8 60. Labor Code § 226(a) and IWC wage order No. 1, § 7(B) require employers semi-
9 monthly or at the time of each payment of wages to furnish each employee with a statement
10 itemizing, among other things, the total hours worked by the employee.

11 61. Defendant failed to keep accurate payroll records and failed to furnish those
12 records to drivers, as required by Wage Order No. 1, § 7 and Labor Code §§ 226, 226.3, 1174, and
13 1174.5

14 62. As result of these record keeping deficiencies, Plaintiffs are “aggrieved employees”
15 under Labor Code § 2699 and thus have standing to file an action for civil penalties on behalf of
16 themselves and other current or former employees to address such violations.

17 63. With respect to violations of Labor Code § 226(a), Labor Code § 226.3 imposes a
18 civil penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250)
19 per aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
20 employee for each subsequent violation of Labor Code § 226(a). With respect to violations of
21 Labor Code § 1174, Labor Code § 1174.5 imposes a civil penalty of five hundred dollars (\$500).
22 Plaintiff hereby seeks recovery of these penalties for himself and all other IBOs who served in
23 California during the PAGA statutory period.

24 **EIGHTH CAUSE OF ACTION**
25 **PAGA PENALTIES - FAILURE TO PAY CALIFORNIA OVERTIME**
26 **COMPENSATION**
27 **(LABOR CODE §§ 510, 1194, *ET SEQ.*, IWC WAGE ORDER NO. 1)**

28 64. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
fully allege herein.

1 65. During the applicable statutory period under PAGA, Defendant employed Plaintiffs
2 and other California drivers yet failed to pay them overtime compensation for hours worked over
3 eight (8) in a day and/or forty (40) in a week as required under Wage Order No. 1, and in violation
4 of Labor Code §§ 510, 1194, *et seq.*

5 66. As a result of Defendant's failure to pay overtime compensation, Plaintiffs are
6 "aggrieved employees" under Labor Code § 2699 and thus have standing to file an action for civil
7 penalties on behalf of themselves and other current or former employees to address such
8 violations.

9 67. With respect to violations of Labor Code § 510, 1194 *et seq.*, Labor Code § 558
10 imposes a penalty of fifty dollars (\$50) for each aggrieved employee per pay period for the initial
11 violation and one hundred dollars (\$100) for each aggrieved employee per pay period for each
12 subsequent violation. Plaintiffs hereby seek recovery of these penalties for themselves and all
13 other drivers who served in California during the PAGA Period.

14 **NINTH CAUSE OF ACTION**
15 **PAGA PENALTIES – FAILURE TO PAY EARNED WAGES UPON DISCHARGE**
16 **(LABOR CODE §§ 201-203, IWC WAGE ORDER NO. 1)**

17 68. Plaintiffs re-allege and incorporate by reference all previous paragraphs as though
18 fully allege herein.

19 69. Labor Code § 201 states that an employer is required to provide an employee who
20 is terminated all accrued wages and compensation at the time of termination. Labor Code § 202
21 states that an employer is required to provide an employee who resigns all unpaid wages within 72
22 hours of their resignation, or upon resignation if the employee has provided at least 72 hours'
23 notice. California Labor Code § 203 states that if an employer willfully fails to pay compensation
24 promptly upon discharge, as required by § 201 and § 202, then the employer is liable for waiting
25 time penalties equivalent to the employee's daily wage, for a maximum of 30 days. Upon
26 resignation or termination, employees were not paid all wages due within the statutory time
27 period.
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70. Defendant willfully failed and refused to pay timely compensation and wages for, among other things, unpaid overtime, unpaid meal periods, and unlawful fees, at the time of separation.

71. As a direct and proximate result of Defendant's willful conduct in failing to pay employees for all hours worked, Plaintiffs are "aggrieved employees" under Labor Code § 2699 and thus have standing to file an action for civil penalties on behalf of themselves and other current or former employees to address such violations.

72. With respect to violations of Labor Code § 203, Labor Code § 2699(f) imposes a penalty of one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation. Plaintiffs hereby seek recovery of these penalties for themselves and all other drivers who served in California during the PAGA Period.

VI. PRAYER FOR RELIEF

73. WHEREFORE, pursuant to PAGA, the Wage Order, and other Labor Code provisions listed herein, Plaintiffs, in their representative capacity, request relief as follows:

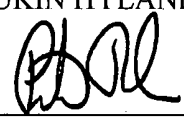
- a. An award of civil penalties for willful misclassification as independent contractors;
- b. An award of civil penalties for unlawful charges to willfully misclassified employees;
- c. An award of civil penalties for failure to reimburse business expenses;
- d. An award of civil penalties for unlawful deductions from wages;
- e. An award of civil penalties for failure to provide off-duty meal periods;
- f. An award of civil penalties for failure to provide paid off-duty rest periods;
- g. An award of civil penalties for failure to furnish accurate wage statements;
- h. An award of civil penalties for failure to pay overtime compensation;
- i. An award of civil penalties for failure to pay earned wages upon discharge;
- j. An award to Plaintiff and aggrieved employees of reasonable attorneys' fees and costs, pursuant Labor Code § 2699(g) and/or other applicable law;

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- k. Pre-judgment and post-judgment interest as provided by law; and
- l. Such other and further relief as this Court deems just and proper.

DATED: June 30, 2020

RUKIN HYLAND & RIGGIN LLP

By: 
PETER RUKIN
Attorneys for PLAINTIFFS