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Superior Court of California
County of Los Angeles

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

NICOLA ROMANO, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

vs.

SSA TERMINALS, LLC, a Delaware
limited liability company; and DOES 1
through 50, inclusive,

Defendants.

Case No.: **20STCV29048**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

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

DEMAND OVER \$25,000.00

1 Plaintiff Nicola Romano (“Plaintiff”) hereby submits this Class and Representative
2 Action Complaint (“Complaint”) against Defendant SSA Terminals, LLC (“Defendant”) and
3 Does 1 through 50 (collectively, “Defendants”) on behalf of himself and all other similarly
4 situated current and former employees of Defendants, for penalties and/or damages for failure to
5 provide complete and accurate itemized wage statements in violation of the California Labor
6 Code as follows:

7 **INTRODUCTION**

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

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

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
13 jointly and severally, have acted intentionally and with deliberate indifference and conscious
14 disregard to the rights of all employees by failing to provide complete and accurate itemized
15 wage statements to Plaintiff and Class Members.

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

20 5. The policies, practices and customs of defendants described above and below
21 have resulted in unjust enrichment of Defendants and an unfair business advantage over
22 businesses that routinely adhere to the strictures of the California Labor Code.

23 **JURISDICTION AND VENUE**

24 6. The Court has jurisdiction over the violations of California Labor Code §§ 226
25 and 2698, *et seq.*

26 7. Venue is proper because Defendants are located in Long Beach, California.

27 **PARTIES**

28 8. Plaintiff was employed by Defendants as a Crane Mechanic from about August

1 2018 until on or about March 14, 2020. Plaintiff worked as an hourly, non-exempt employee.

2 9. Plaintiff was and is the victim of the policies, practices, and customs of
3 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
4 by California Labor Code §§ 226 and 2698, *et seq.*

5 10. Plaintiff is informed and believes, and based thereon alleges, that SSA Terminals,
6 LLC was and is a Delaware limited liability company doing business in the State of California,
7 and is engaged in the business of stevedoring.

8 11. Plaintiff is informed and believes and thereon alleges that at all times herein
9 mentioned Defendant and Does 1 through 50, are and were corporations, business entities,
10 individuals, and partnerships, licensed to do business and actually doing business in the State of
11 California. As such, and based upon all the facts and circumstances incident to Defendants'
12 business, Defendants are subject to California Labor Code §§ 226 and 2698, *et seq.*

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

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

26 14. Plaintiff is informed and believes, and based thereon alleges, that at all times
27 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
28 joint venturer of, or working in concert with each of the other co-Defendants and was acting

1 within the course and scope of such agency, employment, joint venture, or concerted activity.

2 To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of
3 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
4 Defendants.

5 15. At all times herein mentioned, Defendants, and each of them, were members of,
6 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
7 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

8 16. At all times herein mentioned, the acts and omissions of various Defendants, and
9 each of them, concurred and contributed to the various acts and omissions of each and all of the
10 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
11 herein mentioned, Defendants, and each of them, ratified each and every act or omission
12 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
13 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
14 damages as herein alleged.

15 **CLASS ACTION ALLEGATIONS**

16 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
17 California Code of Civil Procedure § 382. Plaintiff proposes the following Class: all current and
18 former employees of Defendants in the State of California who worked at any time from April 6,
19 2019, through the present (the “Class”).

20 18. Plaintiff further reserves the right to amend such Class definition based upon
21 further discovery.

22 19. **Numerosity and Ascertainability:** The members of the Class are so numerous
23 that joinder of all members would be impractical, if not impossible. The identities of the
24 members of the Class are readily ascertainable by review of Defendants’ records, including
25 payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants
26 failed to provide accurate itemized wage statements to its employees that identified the total
27 hours worked, in violation of Labor Code § 226(a).

28 20. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all

1 necessary steps to represent fairly and adequately the interests of the Class defined above.
2 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the Class and
3 the individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class
4 actions in the past and currently have a number of wage-and-hour class actions pending in
5 California state and federal courts.

6 21. Defendants uniformly administered a corporate policy and practice of failing to
7 provide accurate itemized wage statements to Plaintiff and the Class that identified the total
8 hours worked, in violation of Labor Code § 226(a).

9 22. Plaintiff is informed and believes, and based thereon alleges, that this corporate
10 conduct is accomplished with the advance knowledge and designed intent to willfully and
11 intentionally fail to accurately record the total number of hours worked.

12 23. Plaintiff is informed and believes, and based thereon alleges, that Defendants had
13 a consistent and uniform policy, practice, and procedure of willfully failing to comply with
14 Labor Code § 226(a).

15 24. **Common Question of Law and Fact:** There are predominant common questions
16 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
17 concerning Defendants' policy and practice of failing to provide accurate itemized wage
18 statements to Plaintiff and the Class that identified the total hours worked, in violation of Labor
19 Code § 226(a).

20 25. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
21 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
22 as the Class Members. As with other California employees, Plaintiff was paid on an hourly
23 basis. The wage statements provided to Plaintiff, however, did not accurately identify the total
24 hours worked. Rather, Plaintiff's wage statements identified a total that was less than the actual
25 total number of hours worked by Plaintiff during the pay period, in violation of Labor Code §
26 226(a)(2). Therefore, Plaintiff is a member of the Class and has suffered the alleged violations
27 of California Labor Code § 226(a).

28 26. The California Labor Code upon which Plaintiff bases these claims are broadly

remedial in nature. These laws and labor standards serve an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment.

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

28. 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 Class Members are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

29. Such a pattern, practice and uniform administration of corporate policy regarding illegal employee compensation 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

§ 226 and Code of Civil Procedure § 1021.5.

30. Proof of a common business practice or factual pattern, which the named Plaintiff experienced and is a 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(a)

(BY PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS)

31. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

32. Labor Code § 226(a) requires employers to provide itemized wage statements to its employees that identify accurate information, including without limitation, the total number of hours worked during the pay period. Defendants failed in their affirmative obligation to provide accurate itemized wage statements to Plaintiff and the Class in violation of Labor Code § 226(a).

33. Plaintiff and the Class were paid hourly. As such, the wage statements should have reflected the total hours worked during the pay period. The wage statements provided to Plaintiff, however, identified a total that was less than the actual total number of hours worked by Plaintiff during the pay period. This policy and practice is a direct violation of Labor Code § 226(a)(2).

34. Such a pattern, practice and uniform administration of corporate policy as described herein is unlawful and creates an entitlement to recovery by Plaintiff and the Class identified herein, in a civil action, for all damages or penalties pursuant to Labor Code § 226, including interest thereon, attorneys' fees, and costs of suit according to the mandate of California Labor Code § 226.

SECOND CAUSE OF ACTION

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

(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)

35. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

36. Plaintiff brings this cause of action as a proxy for the State of California and in this capacity, seeks penalties on behalf of all Aggrieved Employees from June 24, 2019, through the present, for Defendants' violation of Labor Code § 226(a) as alleged above. Specifically, Defendants violated Labor Code § 226(a) by failing to provide accurate itemized wage statements to Plaintiff and other Aggrieved Employees that identified the total number of hours worked during the pay period.

37. Plaintiff is an “aggrieved employee” pursuant to Labor Code § 2699, as Plaintiff has suffered the violations of Labor Code § 226(a) alleged above.

38. On or about June 24, 2020, Plaintiff sent written notice to the California Labor & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code § 226(a), pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act (“PAGA”). As of the date of the filing of this Complaint, the LWDA has not responded to Plaintiff’s written notice nor indicated whether it intends to investigate the Labor Code violations provided for in the written notice. Pursuant to Labor Code § 2699.3, Plaintiff also sent written notice of Defendants’ violations of the Labor Code to Defendants via certified mail.

39. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all applicable civil penalties for Defendants' violations of Labor Code § 226(a) for the time period described above, on behalf of himself and other Aggrieved Employees.

PRAYER FOR RELIEF

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

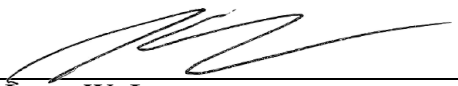
1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action, for penalties and/or damages pursuant to Labor Code § 226, and for costs and attorneys' fees;
5. Upon the Second Cause of Action, for civil penalties according to proof pursuant to Labor Code §§ 226.3 and 2698, *et seq.*, and for costs and attorneys' fees;

1 6. On all causes of action for attorneys' fees and costs as provided by California
2 Labor Code §§ 226, and 2699, and Code of Civil Procedure § 1021.5; and

3 7. For such other and further relief that the Court may deem just and proper.
4

5 DATED: July 30, 2020

DIVERSITY LAW GROUP, P.C.

6 By: 
7

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

8 Attorneys for Plaintiff, the Class, and Aggrieved
9 Employees
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