

Larry W. Lee (State Bar No. 228175)
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
04/05/2021 at 04:18:00 PM
Clerk of the Superior Court
By Melinda McClure, Deputy Clerk

William L. Marder, Cal Bar No. 170131
POLARIS LAW GROUP, LLP
501 San Benito Street, Suite 200
Hollister, California 95023
Telephone: 831.531.4214
Facsimile: 831.634.0333
Email: bill@polarislawgroup.com

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

DARREN MORRIS, as an individual and
on behalf of all others similarly situated,

Plaintiffs,

v.

PACIFIC STEEL GROUP, a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO. 37-2020-00021 541-CU-OE-CTL

[Assigned to the Hon. Katherine Bacal, Dept. C-69]

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF LABOR CODE §§ 1194,
1194.2, 1197 AND 1197.1;**

(2) VIOLATION OF LABOR CODE § 226(a);

**(3) VIOLATION OF BUS. & PROF. CODE §
17200, ET SEQ.; AND**

**(4) VIOLATION OF LABOR CODE § 2698,
ET SEQ.**

DEMAND EXCEEDS \$25,000.00

1 Dennis S. Hyun (State Bar No. 224240)
2 HYUN LEGAL, APC
3 515 S. Figueroa St., Suite 1250
4 Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
Email: dhyun@hyunlegal.com

5 Edward W. Choi, Esq. SBN 211334
6 LAW OFFICES OF CHOI & ASSOCIATES
7 515 S. Figueroa St., Suite 1250
8 Los Angeles, CA 90071
9 Telephone: (213) 381-1515
10 Facsimile: (213) 465-4885
11 Email: edward.choi@choiandassociates.com
12
13
14
15
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17
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1 Plaintiff Darren Morris (“Plaintiff”) hereby submits this First Amended Class Action
2 Complaint (“Complaint”) against Defendant Pacific Steel Group (the “Company” or
3 “Defendant”), a California corporation, and DOES 1-50 (hereinafter collectively referred to as
4 “Defendants”), individually and on behalf of the Class of all other similarly situated current and
5 former employees of Defendants for penalties and/or damages for violations of the California
6 Labor Code, including without limitation, failure to provide employees with accurate itemized
7 wage statements and pay minimum wages as follows:

8 **INTRODUCTION**

9 1. This class action is within the Court’s jurisdiction under California Labor Code §§
10 201-203, 226, 1194, 1194.2, 1197, and 1197.1, the Unfair Competition Law (the “UCL”),
11 California Business & Professions Code § 17200, *et seq.*, and the California Industrial Welfare
12 Commission’s (“IWC”) Wage Orders.

13 2. This Complaint challenges systemic illegal employment practices resulting in
14 violations of the California Labor Code against employees of Defendants.

15 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants
16 jointly and severally have acted intentionally and with deliberate indifference and conscious
17 disregard to the rights of all employees by failing to minimum wages for all hours worked and
18 provide accurate itemized wage statements identifying all required information.

19 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
20 engaged in, among other things a system of willful violations of the California Labor Code and
21 applicable IWC Wage Orders by creating and maintaining policies, practices and customs that
22 knowingly deny employees the above stated rights and benefits.

23 **JURISDICTION AND VENUE**

24 5. The Court has jurisdiction over the violations of the California Labor Code §§
25 201-203, 226, 1194, 1194.2, 1197, and 1197.1, the UCL and the Wage Orders.

26 6. Venue is proper in San Diego County because Defendant is headquartered in this
27 County.
28

PARTIES

7. In or around February 2019, Defendant hired Plaintiff to work as a non-exempt iron worker in Wasco, California. On or about May 21, 2020, Defendant terminated Plaintiff's employment.

8. Defendant is a California corporation headquartered in San Diego County and is engaged in steel fabrication and installation/construction throughout the State of California.

9. Plaintiff was and is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived Plaintiff of the rights guaranteed by California Labor Code §§ 201-203, 226, 1194, 1194.2, 1197, and 1197.1, the UCL and the applicable IWC Wage Orders.

10. Plaintiff is informed and believes, and based thereon alleges, that at all times herein mentioned Defendants and DOES 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

11. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the California Labor Code, the UCL and the IWC Wage Orders.

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

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

14. Plaintiff is informed and believes, and based thereon alleges, that at all times

1 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
2 joint venturer of, or working in concert with each of the other co- Defendants and was acting
3 within the course and scope of such agency, employment, joint venture, or concerted activity. To
4 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the
5 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
6 Defendants.

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

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

17 **CLASS ACTION ALLEGATIONS**

18 17. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
19 California Code of Civil Procedure § 382, of the following class:

- 20 a. All current and former non-exempt employees who worked for Defendant
21 in the State of California at any time from April 6, 2016, through the
22 present (the "Class")

23 18. **Numerosity and Ascertainability:** The members of the Class are so numerous
24 that joinder of all members would be impractical, if not impossible. The identity of the members
25 of the Class is readily ascertainable by review of the Company's records, including payroll
26 records.

27 19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
28 necessary steps to represent fairly and adequately the interests of the class defined above.
Plaintiff's attorneys are ready, willing and able to fully and adequately represent the class and the

1 named Plaintiffs. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in
2 the past and currently have a number of wage-and-hour class actions pending in California courts.

3 20. **Common Question of Law and Fact:** There are predominant common questions
4 of law and fact and a community of interest amongst Plaintiffs and the claims of the Class
5 concerning Defendant's: (a) failure to provide accurate itemized wage statements to employees in
6 violation of Labor Code § 226; (b) failure to pay minimum wages for all hours worked in
7 violation of Labor Code §§ 1194, 1194.2, 1197, and 1197.1; and (c) engaging in unfair business
8 practices in violation of the UCL.

9 21. **Typicality:** The claims of the named Plaintiff are typical of the claims of all
10 members of the Class in that Plaintiff has suffered the harm alleged in this Complaint in a similar
11 and typical manner as the Class members. As with all non-exempt construction/installation
12 workers, Plaintiff was not paid minimum wages for all hours worked. Specifically, Plaintiff and
13 Class Members were required to prepare their tools, stretch and attend safety meetings prior to the
14 start of each work shift. However, Defendant did not pay Plaintiff and Class Members any wages,
15 including minimum wages, for such work. Moreover, Defendant failed to provide accurate
16 itemized wage statements to Plaintiff which accurately reflected all hours worked and hourly rates
17 and gross wages, including as a result of Defendant's failure to pay minimum wages for all hours
18 worked. This is a violation of Labor Code § 226(a). Thus, Plaintiff is a member of the Class and
19 has suffered the alleged violations of California Labor Code §§ 201-203, 226, 1194, 1194.2,
20 1197, and 1197.1, and the applicable IWC Wage Orders.

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

27 23. The nature of this action and the format of laws available to Plaintiff and members
28 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

1 individual lawsuit, the corporate Defendant would necessarily gain an unconscionable advantage
2 since it would be able to exploit and overwhelm the limited resources of the individual Plaintiff
3 with Defendants' vastly superior financial and legal resources. Requiring each Class member to
4 pursue an individual remedy would also discourage the assertion of lawful claims by employees
5 who would be disinclined to file an action against their former and/or current employer for real
6 and justifiable fear of retaliation and permanent damage to their careers at subsequent
7 employment.

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

17 25. Such a pattern, practice and uniform administration of corporate policy regarding
18 illegal employee compensation described herein is unlawful and creates an entitlement to
19 recovery by Plaintiffs and the Class identified herein, in a civil action any and all applicable
20 penalties and/or damages, reasonable attorneys' fees, and costs of suit according to the mandate
21 of California Labor Code §§ 218.5, 226, 1194, and 1197.1, the applicable IWC Wage Orders, and
22 Code of Civil Procedure § 1021.5.

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

26 27. The Class is commonly entitled to a specific fund with respect to the compensation
27 illegally and unfairly retained by the Company. The Class is commonly entitled to restitution of
28 those funds being improperly withheld by the Company. This action is brought for the benefit of
the entire class and will result in the creation of a common fund.

FIRST CAUSE OF ACTION

**VIOLATION OF LABOR CODE §§ 1194, 1194.2, 1197 and 1197.1
(AGAINST ALL DEFENDANTS BY PLAINTIFF AND THE CLASS)**

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

29. During the class period, Plaintiff and members of the Class were not paid the legal minimum wage for all time worked. Specifically, Plaintiff and Class Members were required to prepare their tools, stretch and attend safety meetings prior to the start of each work shift. However, Defendant did not pay Plaintiff and Class Members any wages, including minimum wages, for such work.

30. The laws of the State of California require employers to pay the legal minimum wage to all non-exempt employees for all time worked, including without limitation, Labor Code §§ 1194, 1197 and 1197.1. Plaintiff and the Class were not exempt from the right to receive the legal minimum wage for all time worked under California law. Plaintiff and the Class did not, at any time during the relevant time period, qualify under any exemption from the requirement that their employer pay the legal minimum wage for all time worked. Plaintiff and the Class are entitled to be paid the legal minimum wage for all time worked.

31. Defendant failed and refused and continue to fail and refuse to pay the legal minimum wage to Plaintiff and the Class for all time worked as required by California wage and hour laws.

32. As a result of the actions of Defendant failing and refusing to pay the legal minimum wage, Plaintiff and the Class were damaged by not receiving the legal minimum wage which they should have received, but did not receive. Plaintiff and the Class are entitled to compensation for unpaid wages, together with interest, and liquidated damages pursuant to Labor Code §§ 1194.2 and 1197.1.

33. Plaintiff is informed and believes, and based thereon allege, that Defendants' willful failure to pay all minimum wages due and owing them upon separation from employment results in a continued payment of wages up to thirty (30) days from the time the wages were due. Therefore, Plaintiff and other members of the Class who have separated from employment are

1 entitled to compensation pursuant to Labor Code § 203.

2 34. Plaintiff and the Class are entitled to an award of reasonable attorneys' fees and
3 costs pursuant to Labor Code §§ 218.5 and 1194.

4 **SECOND CAUSE OF ACTION**

5 **VIOLATION OF LABOR CODE § 226(a)**

6 **(AGAINST THE COMPANY AND DOES 1-50 BY PLAINTIFF AND THE WAGE**
7 **STATEMENT SUB-CLASS)**

8 35. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 34 as
9 though fully set for herein.

10 36. The Company failed in its affirmative obligation to provide accurate itemized
11 wage statements in violation of Labor Code § 226(a). Specifically, Defendant failed to provide
12 accurate itemized wage statements to Plaintiff which accurately reflected all hours worked and
13 hourly rates and gross wages, including as a result of Defendant's failure to pay minimum wages
14 for all hours worked. This is a violation of Labor Code § 226(a)(1), (2), and (9). Plaintiff asserts
15 that Defendant issued similar defective wage statements to all class members.

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

21 **THIRD CAUSE OF ACTION**

22 **VIOLATION OF BUS. & PROF. CODE § 17200, ET SEQ.**

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

24 38. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 37 as
25 though fully set for herein.

26 39. Defendants, and each of them, have engaged and continue to engage in unfair and
27 unlawful business practices in California by practicing, employing and utilizing the employment
28 practices outlined above, include, to wit, by failing to pay minimum wages for all hours worked

1 in violation of Labor Code §§ 1194, 1194.2, 1197, and 1197.1.

2 40. Defendants' utilization of such unfair and unlawful business practices constitutes
3 unfair, unlawful competition and provides an unfair advantage over Defendants' competitors.

4 41. Plaintiff seeks individually and on behalf of other members of the Class similarly
5 situated, full restitution of monies, as necessary and according to proof, to restore any and all
6 monies withheld, acquired and/or converted by the Defendants by means of the unfair practices
7 complained of herein.

8 42. Plaintiff is informed and believes, and based thereon alleges, that at all times
9 herein mentioned Defendants have engaged in unlawful, deceptive and unfair business practices,
10 as proscribed by California Business and Professions Code § 17200, *et seq.*, including those set
11 forth herein above thereby depriving Plaintiff and other members of the class the minimum
12 working condition standards and conditions due to them under the California laws as specifically
13 described therein.

14 **FOURTH CAUSE OF ACTION**

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

16 **(BY PLAINTIFF AS PROXY FOR STATE OF CALIFORNIA AGAINST ALL 17 DEFENDANTS)**

18 43. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 42 as
19 though fully set for herein.

20 44. Plaintiff brings this cause of action on behalf of the State of California and all
21 similarly aggrieved employees pursuant to the Private Attorneys General Act (the "PAGA"), for
22 violations of Labor Code §§ 201-203, 226, 1194, 1194.2, 1197, and 1197.1, for the time period of
23 April 6, 2019, through the present. As alleged herein, Defendant violated these statutes and,
24 therefore, Plaintiff seeks penalties for all violations on behalf of the State of California and all
25 similarly aggrieved employees.

26 45. On or about June 22, 2020, Plaintiff submitted written notice to the Labor
27 Workforce Development Agency (the "LWDA") and to Defendant via certified mail of the
28 violations of Labor Code §§ 201-203, 226, 1194, 1194.2, 1197, and 1197.1. As of the date of this
filing, the LWDA has not informed Plaintiff whether it intends to investigate the violations.

1 Therefore, Plaintiff may proceed in this action and seek all applicable penalties on behalf of the
2 State and all similarly aggrieved employees pursuant to Labor Code §§ 226.3 and 2699, as well as
3 costs and attorneys' fees.

4 **PRAYER FOR RELIEF**

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

- 7 1. For an order certifying the proposed Class;
- 8 2. For an order appointing Plaintiff as the representative of the Class as described
9 herein;
- 10 3. For an order appointing counsel for Plaintiff as Class counsel;
- 11 4. Upon the First Cause of Action, for actual and/or liquidated damages and/or
12 penalties pursuant to California Labor Code §§ 1194, 1194.2, 1197, and 1197.1, and for costs and
13 attorneys' fees pursuant to Labor Code §§ 218.5 and 1194;
- 14 5. Upon the Second Cause of Action, for damages and/or penalties according to proof
15 pursuant to Labor Code § 226, and for costs and attorneys' fees pursuant to Section 226(e);
- 16 6. Upon the Third Cause of Action, for restitution pursuant to Business &
17 Professions Code § 17204, and for costs;
- 18 7. Upon the Fourth Cause of Action, for civil penalties, costs and attorneys' fees
19 pursuant to Labor Code §§ 226.3 and 2699;
- 20 8. On all causes of action, for attorneys' fees and costs as provided by California
21 Labor Code §§ 218.5, 226, and 1194, and Code of Civil Procedure § 1021.5; and
- 22 9. For such other and further relief as the Court may deem just and proper.

23 DATED: August 26, 2020

DIVERSITY LAW GROUP, LLP

24 By: 

Larry W. Lee

25 Attorneys for PLAINTIFF and the CLASS
26
27
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PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of 18 years and not a party to the within action; my business address is 515 S. Figueroa St. Suite 1250, Los Angeles, California 90071.

On April 5, 2021, I served the foregoing document(s) described as: **FIRST AMENDED COMPLAINT**, on the interested parties in this action by placing a true copy thereof, in a sealed envelope(s) addressed as follows:

Tyler M. Paetkau
Olga Savage
Clint S. Engleson
PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
1117 S. California Ave, Suite 200
Palo Alto, CA 94304
Clint.Engleson@procopio.com
Tyler.Paetkau@procopio.com
Olga.Savage@procopio.com

David A. Perkins
Executive Vice President & General Counsel
Pacific Steel Group
4805 Murphy Canyon Road
San Diego, CA 92123
d.perkins@pacificsteelgroup.com

Dennis S. Hyun
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071

Larry W. Lee
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071

William L. Marder
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023

 X **BY ELECTRONIC SERVICE**

I caused such document to be uploaded to One Legal to be served on the offices of the addressees.

 x **(State)** I declare under penalty of perjury that the foregoing is true and correct.

 (Federal) I declare under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 5, 2021, at Los Angeles, California.



Christine Choo