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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

IGNACIO VALVERDE, as an individual
 and on behalf of all others similarly
 situated,

Plaintiffs,

vs.

WESTROCK SERVICES, LLC, a
 Georgia limited liability company; and
 DOES 1 through 50, inclusive,

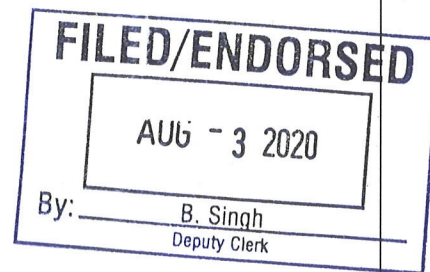
Defendants.

Case No.: CU-18-00074

**CLASS ACTION COMPLAINT FOR
 DAMAGES FOR:**

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

DEMAND OVER \$25,000.00



1 Plaintiff Ignacio Valverde (“Plaintiff”) hereby submits this Class Action Complaint
2 (“Complaint”) against Defendant Westrock Services, LLC (“WestRock”), and Does 1 through 50
3 (hereinafter collectively referred to as “Defendants”) on behalf of himself and a class of all other
4 similarly situated current and former employees of Defendants for penalties for failure to provide
5 accurate itemized wage statements under the California Labor Code, as follows:

6 **INTRODUCTION**

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

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

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

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

18 **JURISDICTION AND VENUE**

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

21 6. Venue is proper in Sacramento County because Defendant Westrock Services
22 LLC is an out-of-state entity that has listed an address in Sacramento County as its principal
23 place of business on its “Statement of Information” form filed with the California Secretary of
24 State.

25 **PARTIES**

26 7. Plaintiff worked for Defendants as a non-exempt, hourly employee from about
27 April 2019 until on or about April 17, 2020. Plaintiff worked as a feeder operator.

28 8. Plaintiff was and is the victim of the policies, practices, and customs of

1 Defendants complained of in this action in ways that have deprived him of the rights guaranteed
2 by California Labor Code sections 226 and 2698 *et seq.*

3 9. Plaintiff is informed and believes, and based thereon alleges, that WestRock
4 Services, LLC was and is a Georgia limited liability company, that operates paper and packaging
5 facilities throughout the United States, including locations in the State of California.

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

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

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

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

Defendants.

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

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

CLASS ACTION ALLEGATIONS

16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to California Code of Civil Procedure section 382. Plaintiff proposes the following class: all current and former non-exempt employees of Defendants in the State of California who received shift differential pay at any time from April 6, 2019, through the present (the "Class").

17. Plaintiff further reserves the right to amend such Class definition based upon further discovery.

18. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendants' records, including payroll records. Plaintiff is informed and believes, and based thereon alleges, that Defendants failed to provide proper payroll records in violation of Labor Code section 226.

19. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all 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 individual Plaintiff. Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently have a number of wage-and-hour class actions pending in

California state and federal courts.

20. Defendants uniformly administered a corporate policy, practice of failing to provide proper payroll records in violation of Labor Code section 226.

21. Plaintiff is informed and believes, and based thereon alleges, that Defendants had a consistent and uniform policy, practice and procedure of willfully failing to comply with Labor Code section 226.

22. **Common Question of Law and Fact:** There are predominant common questions of law and fact and a community of interest amongst Plaintiff and the claims of the Class concerning Defendants' policy and practice of failing to provide proper payroll records in violation of Labor Code section 226.

23. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the class in that Plaintiff has suffered the harms alleged in this Complaint in a similar and typical manner as the class members. As with all other non-exempt employees in the State of California, Plaintiff regularly earned shift differential wages. Whenever Plaintiff was paid shift differential wages, the wage statements issued to Plaintiff consistently failed to identify the correct total hours worked during the pay period, in violation of Labor Code section 226. Specifically, when the hours shown on the wage statements are added up, they do not equal the actual total hours worked. Therefore, Plaintiff is a member of the Class and has suffered the alleged violations of California Labor Code section 226.

24. 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.

25. 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

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

8 26. 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 Defendants and which would establish potentially
11 incompatible standards of conduct for the Defendants, 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 27. 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 Plaintiff and the Class identified herein, in a civil action, for overtime wages,
20 inaccurate wage statements, applicable penalties, reasonable attorneys' fees, and costs of suit
21 according to the mandate of California Labor Code section 226 and Code of Civil Procedure
22 section 1021.5.

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

26 29. The Plaintiff Class is commonly entitled to a specific fund with respect to the
27 compensation illegally and unfairly retained by Defendants. The Plaintiff Class is commonly
28 entitled to restitution of those funds being improperly withheld by Defendants. This action is

1 brought for the benefit of the entire class and will result in the creation of a common fund.

2 **FIRST CAUSE OF ACTION**

3 **VIOLATION OF LABOR CODE § 226**

4 **(BY PLAINTIFF AND THE CLASS AGAINST DEFENDANTS)**

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

7 31. Defendants failed in their affirmative obligation to provide accurate itemized
8 wage statements. Defendants, as a matter of policy and practice, did not provide accurate records
9 in violation of Labor Code section 226 by failing as a matter of policy and practice to provide
10 accurate payroll records for Plaintiff and the Class.

11 32. Plaintiff and the Class were paid hourly. As such, the wage statements should
12 have reflected the accurate total hours worked during the pay period. During pay periods when
13 shift differential wages were paid, however, the wage statements provided to Plaintiff and the
14 Class failed to identify the correct total hours worked.

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

20 **SECOND CAUSE OF ACTION**

21 **VIOLATIONS OF LABOR CODE § 2698 *ET SEQ.***

22 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST DEFENDANTS)**

23 34. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
24 though fully set for herein.

25 35. Plaintiff brings this cause of action as a proxy for the State of California and in
26 this capacity, seeks penalties on behalf of all Aggrieved Employees from June 22, 2019, through
27 the present, for Defendants' violations of Labor Code section 226(a) arising from Defendants'
28 failure to provide proper payroll records.

1 36. On or about June 22, 2020, Plaintiff sent written notice to the California Labor &
2 Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code section
3 226(a), pursuant to Labor Code section 2698, *et seq.*, the Private Attorneys General Act
4 (“PAGA”).

5 37. To date, the LWDA has not responded to either Plaintiff’s written notice.

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

9 **PRAYER FOR RELIEF**

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

- 12 1. For an order certifying the proposed Class;
- 13 2. For an order appointing Plaintiff as the representative of the Class as described
14 herein;
- 15 3. For an order appointing Counsel for Plaintiff as class counsel;
- 16 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
17 California Labor Code section 226, and for costs and attorneys’ fees;
- 18 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
19 to Labor Code sections 226.3 and 2698, *et seq.*;
- 20 6. On all causes of action for attorneys’ fees and costs as provided by California
21 Labor Code sections 226 and 2698 *et seq.*, and Code of Civil Procedure section 1021.5; and
- 22 7. For such other and further relief the Court may deem just and proper.

23

24 DATED: August 3, 2020

25 DIVERSITY LAW GROUP, P.C.

26 By: _____

27 Larry W. Lee

28 Kristen M. Agnew

 Nicholas Rosenthal

 Attorneys for Plaintiff and the Class