

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CENTERLINE DRIVERS, LLC, a limited liability company; and
DOES 1 through 50, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

JAMES MICKLOS, individually, and on behalf of all other aggrieved employees,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 16 2020

BY Guadalupe Vasquez
Guadalupe Vasquez DEPUTY

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):
SAN BERNARDINO - CIVIL DIVISION
247 WEST THIRD STREET
SAN BERNARDINO, CALIFORNIA 92415

CASE NUMBER (Número del Caso):

CIV DS 2017056

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
SCOTT ERNEST WHEELER, ESQ.
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711
LAW OFFICES OF SCOTT ERNEST WHEELER
(909) 621-4988

DATE:

AUG 18 2020

Clerk, by

(Secretario)

Guadalupe Vasquez

Deputy

(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under:

- ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other (specify):

- ☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (authorized person)

4. ☐ by personal delivery on (date):

[SEAL]



By Fax

FOR COURT USE ONLY

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 16 2020

BY Guadalupe Valquez
Guadalupe Valquez DEPUTY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

SCOTT ERNEST WHEELER, ESQ. SBN 187998
LAW OFFICES OF SCOTT ERNEST WHEELER
250 WEST FIRST STREET, SUITE 216
CLAREMONT, CALIFORNIA 91711

TELEPHONE NO.: (909) 621-4988

FAX NO.: (909) 621-4622

ATTORNEY FOR (Name): PLAINTIFF, JAMES MICKLOS

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

STREET ADDRESS: 247 WEST THIRD STREET

MAILING ADDRESS:

CITY AND ZIP CODE: SAN BERNARDINO, CALIFORNIA 92415

BRANCH NAME: SAN BERNARDINO DISTRICT - CIVIL DIVISION

CASE NAME: JAMES MICKLOS V. CENTERLINE DRIVERS, LLC

CIVIL CASE COVER SHEET

☒ Unlimited (Amount demanded exceeds \$25,000) ☐ Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

☐ Counter ☐ JoinderFiled with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER

CIV DS 2017056

JUDGE:

DEPT.:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

☐ Auto (22)
☐ Uninsured motorist (46)

Other PIPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PIPD/WD (23)

Non-PIPD/WD (Other) Tort

☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PIPD/WD tort (35)

Employment

☐ Wrongful termination (36)
☒ Other employment (15)

Contract

☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)

Real Property

☐ Eminent domain/inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)

Unlawful Detainer

☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)

Judicial Review

☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39)Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint

☐ RICO (27)
☐ Other complaint (not specified above) (42)

Miscellaneous Civil Petition

☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43)

By Fax

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:a. ☐ Large number of separately represented parties
b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolved. ☒ Large number of witnessese. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal courtc. ☒ Substantial amount of documentary evidencef. ☐ Substantial postjudgment judicial supervision3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive

4. Number of causes of action (specify): ONE (PAGA CAUSE OF ACTION ONLY)

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 17, 2020

Scott Ernest Wheeler, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)-Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability *(not asbestos or toxic/environmental)* (24)
Medical Malpractice (45)
Medical Malpractice-Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice *(not medical or legal)*
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
Contract/Warranty Breach-Seller Plaintiff *(not fraud or negligence)*
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case-Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage *(not provisionally complex)* (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ-Administrative Mandamus
Writ-Mandamus on Limited Court Case Matter
Writ-Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal-Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400-3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment *(non-domestic relations)*
Sister State Judgment
Administrative Agency Award *(not unpaid taxes)*
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint *(not specified above)* (42)
Declaratory Relief Only
Injunctive Relief Only *(non-harassment)*
Mechanics Lien
Other Commercial Complaint Case *(non-tort/non-complex)*
Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition *(not specified above)* (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief from Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

JAMES MICKLOS, individually and on behalf
of all other aggrieved employees,

CASE NO.: **CIV DS 2017056**

vs.

CENTERLINE DRIVERS, LLC, a limited liability
company; and DOES 1 through 50, inclusive,

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the **SAN BERNARDINO DISTRICT - CIVIL DIVISION** District of the Superior Court under Rule 404 of this court for the checked reason:

☒ General

☐ Collection

Nature of Action

Ground

- | | |
|---|--|
| ☐ 1. Adoption | Petitioner resides within the district. |
| ☐ 2. Conservator | Petitioner or conservatee resides within the district. |
| ☐ 3. Contract | Performance in the district is expressly provided for. |
| ☐ 4. Equity | The cause of action arose within the district. |
| ☐ 5. Eminent Domain | The property is located within the district. |
| ☐ 6. Family Law | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 7. Guardianship | Petitioner or ward resides within the district or has property within the district. |
| ☐ 8. Harassment | Plaintiff, defendant, petitioner or respondent resides within the district. |
| ☐ 9. Mandate | The defendant functions wholly within the district. |
| ☐ 10. Name Change | The petitioner resides within the district. |
| ☐ 11. Personal Injury | The injury occurred within the district. |
| ☐ 12. Personal Property | The property is located within the district. |
| ☐ 13. Probate | Decedent resided or resides within the district or had property within the district. |
| ☐ 14. Prohibition | The defendant functions wholly within the district. |
| ☐ 15. Review | The defendant functions wholly within the district. |
| ☐ 16. Title to Real Property | The property is located within the district. |
| ☐ 17. Transferred Action | The lower court is located within the district. |
| ☐ 18. Unlawful Detainer | The property is located within the district. |
| ☐ 19. Domestic Violence | The petitioner, defendant, plaintiff or respondent resides within the district. |
| ☒ 20. Other Employment | The cause of action arose within the district. |
| ☐ 21. THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT. | |

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

Centerline Drivers, LLC

685 E Carnegie Dr Suite 230

NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

ADDRESS

San Bernardino

California

92408

CITY

STATE

ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed

on August 17, 2020

at Claremont

, California



Signature of Attorney/Party

LAW OFFICE OF SCOTT E. WHEELER

Scott Ernest Wheeler (SBN 187998)

250 West First Street, Suite 216

Claremont, California 91711

Telephone: (909) 621-4988

Facsimile: (909) 621-4622

Email: sew@scottwheelerlawoffice.com

THE WAND LAW FIRM, P.C.

Aubry Wand (SBN 281207)

400 Corporate Pointe, Suite 300

Culver City, California 90230

Telephone: (310) 590-4503

Facsimile: (310) 590-4596

E-mail: awand@thewandlawfirm.com

Attorneys for Plaintiff

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO**

JAMES MICKLOS, individually, and on
behalf of all other aggrieved employees,

Plaintiff,

v.

CENTERLINE DRIVERS, LLC, a limited
liability company; and DOES 1 through 50,
inclusive,

Defendants.

CASE NO.: CIV DS 2017056

**COMPLAINT FOR VIOLATION OF THE
PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

[California Labor Code § 2698 *et seq.*]

435.00 200824-0271
1000.00 200824-0272 GV

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 18 2020

BY Guadalupe Vasquez
Guadalupe Vasquez DEPUTY

By Fax

1 This is a representative action brought by James Micklos, individually and on behalf of all other
2 aggrieved employees ("Plaintiff"), alleging systematic violations of California wage and hour laws
3 committed by his former employer Centerline Drivers, LLC ("Defendant"). Plaintiff makes the
4 following allegations on information and belief, except as to allegations pertaining to Plaintiff
5 individually, which are based on his personal knowledge.

6 **INTRODUCTION**

7 1. At all relevant times herein, Defendant has implemented policies and practices that have
8 resulted in systematic violations of California's wage and hour laws. Defendant engages in these
9 unlawful practices to maximize profits.

10 2. Defendant maximizes profits at the expense of its employees by cutting labor costs
11 through understaffing, denying meal and rest breaks, cheating non-exempt employees out of wages and
12 premiums, and related violations of California wage and hour laws.

13 3. For example, Defendant has implemented unlawful policies with respect to meal and
14 rest breaks. Defendant requires its non-exempt employees to routinely work through meal and rest
15 breaks while failing to pay them the legally-required premium pay for these missed and non-compliant
16 meal and rest breaks.

17 **JURISDICTION AND VENUE**

18 4. The Superior Court of the State of California has jurisdiction in this matter because
19 Plaintiff is a resident of the State of California, and Defendant regularly conducts business in the State
20 of California. No federal question is at issue because Plaintiff's claims are based solely on California
21 law.

22 5. Venue is proper in this judicial district and the County of San Bernardino because
23 Defendant maintains a corporate office in San Bernardino, California, and because Defendant's
24 unlawful actions and omissions, at least in part and as alleged herein, occurred in the County of San
25 Bernardino.

26 **THE PARTIES**

27 6. Plaintiff is a resident of the State of California and a former employee of Defendant.
28 Plaintiff was employed by Defendant as a truck driver, a non-exempt position, during the time period

1 of 2018 to 2020.

2 7. Plaintiff, on behalf of himself and all other aggrieved employees, brings this
3 representative action to recover civil penalties for among other things, Defendant's failure to provide
4 legally compliant meal periods and rest breaks and failure to provide proper compensation for missed
5 and otherwise unlawful meal periods and rest breaks, unpaid and illegally calculated regular and
6 overtime compensation, including the failure to pay double time wages, Defendant's failure to pay all
7 wages due to discharged or quitting non-exempt employees, Defendant's failure to reimburse
8 employees for necessary business expenses, and Defendant's failure to maintain required records and
9 failure to provide accurate itemized wage statements, among other violations of California wage and
10 hour laws as alleged herein.

11 8. Defendant, which does business as Centerline Drivers, is a limited liability company
12 that specializes in recruiting, screening, hiring and deploying experienced drivers in providing
13 transportations services to customers throughout the State of California.

14 9. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
15 Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is
16 informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner
17 highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees'
18 injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE
19 defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and
20 capacities of such DOE defendants when ascertained.

21 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

22 10. Pursuant to the Private Attorneys General Act of 2004 ("PAGA"), California Labor
23 Code §§ 2698-2699.5, Plaintiff brings this action on behalf of himself and all other aggrieved
24 employees – i.e., all current and former non-exempt employees who worked for Defendant in the State
25 of California at any time during the statute of limitations period.

26 11. On June 10, 2020, Plaintiff gave written notice by certified mail, pursuant to California
27 Labor Code § 2699.3, to the California Labor and Workforce Development Agency ("LWDA") and
28 Defendant, of the specific provisions of the California Labor Code and IWC Wage Order alleged to

1 have been violated, including the facts and theories to support the alleged violations. As of the date of
2 this filing, Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than
3 sixty-five (65) days from the postmark date of his written notice before filing this action, Plaintiff has
4 complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a
5 representative action under PAGA.

6 **FACTUAL ALLEGATIONS**

7 **Failure to Provide Required Meal Periods**

8 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 9-2001, § 11]**

9 12. During the statute of limitations period, Defendant has required, permitted or otherwise
10 suffered Plaintiff and aggrieved employees to perform work during their meal periods, to completely
11 skip their meal periods, to take late and short meal periods, and Defendant has otherwise failed to
12 provide the required meal periods to Plaintiff and aggrieved employees as required under California
13 Labor Code §§ 226.7, 512, and § 11 of the applicable IWC Order.

14 13. Defendant has implemented several policies and practices that have caused Plaintiff and
15 aggrieved employees to systematically miss and otherwise take non-compliant meal periods.
16 Defendant required Plaintiff and the other aggrieved employees to drive routes while under time
17 constraints and Plaintiff and aggrieved employees are given so much work to complete that they
18 regularly miss or take non-compliant first (1st) and/or second (2nd) meal periods. For example,
19 Defendant employs truck drivers, like Plaintiff, who are sent on their own out into the field to transport
20 goods from destination to destination.

21 14. Further, Defendant's policies and practices, combined with an unreasonable workload,
22 results in systematic late meal periods taken by Plaintiff and aggrieved employees.

23 15. At all times herein set forth, California Labor Code § 512(a) provided that an employer
24 may not require, cause or permit an employee to work for a period of more than five (5) hours per day
25 without providing the employee with a meal period of not less than thirty (30) minutes, except that if
26 the total work period per day of the employee is not more than six (6) hours, the meal period may be
27 waived by mutual consent of both the employer and the employee.

28 16. At all times herein set forth, California Labor Code § 512(a) further provided that an

1 employer may not require, cause or permit an employee to work for a period of more than ten (10)
2 hours per day without providing the employee with a second meal period of not less than thirty (30)
3 minutes, except that if the total of hours worked is no more than twelve (12) hours, the second meal
4 period may be waived by mutual consent of the employer and the employee only if the first meal period
5 was not waived.

6 17. During the relevant time period, Plaintiff and the other aggrieved employees who were
7 scheduled to work for a period of time no longer than six (6) hours, and who did not waive their legally-
8 mandated meal periods by mutual consent, were required to work for periods longer than five (5) hours
9 without a meal period of not less than thirty (30) minutes.

10 18. During the relevant time period, Plaintiff and the other aggrieved employees who were
11 scheduled to work for a period of time in excess of six (6) hours were required to work for periods
12 longer than five (5) hours without receiving a meal period of not less than thirty (30) minutes.

13 19. During the relevant time period, Plaintiff and the other aggrieved employees who were
14 scheduled to work in excess of ten (10) hours but not longer than twelve (12) hours, and who did not
15 waive their legally-mandated meal periods by mutual consent were required to work in excess of ten
16 (10) hours without receiving a second meal period of not less than thirty (30) minutes.

17 20. During the relevant time period, Plaintiff and the other aggrieved employees who were
18 scheduled to work for a period of time in excess of twelve (12) hours were required to work for periods
19 longer than ten (10) hours without receiving a meal period of not less than thirty (30) minutes

20 21. As a direct consequence of these policies and practices, Plaintiff and aggrieved
21 employees have so much work to complete within their scheduled shifts that they are forced to skip
22 their meal periods altogether, to take them after working longer than five (5) hours, to perform work
23 during their meal periods, or return to work after taking less than a thirty (30) minute meal period, or
24 to skip their first (1st) and/or second (2nd) meal periods after working longer than twelve (12) hour
25 shifts.

26 22. Despite work conditions that systematically result in missed and non-compliant meal
27 periods, and in order to keep labor costs down, Defendant has implemented a policy and practice of
28 not paying meal period premium payments that are owed and due. This policy is in direct contravention

1 of California law, which requires Defendant to pay one hour at the employee's regular rate of pay for
2 a missed or interrupted meal period.

3 23. In sum, Defendant has violated California Labor Code §§ 226.7, § 11 of the applicable
4 IWC Wage Order, by failing to compensate Plaintiff and aggrieved employees who were not authorized
5 and permitted to take a complete, timely, uninterrupted meal period, one additional hour of
6 compensation at the proper regular rate of pay for each workday that such a meal period was not
7 authorized or permitted. Defendant further violated California Labor Code Sections 226.7, 510, 1194,
8 1197, and § 11 of the applicable IWC Wage Order by failing to compensate Plaintiff and the aggrieved
9 employees for all hours worked during their meal periods.

10 **Failure to Provide Required Rest Breaks**

11 **[Cal. Lab. Code §§ 226.7, 512; IWC Wage Order No. 9-2001, § 12]**

12 24. During the statute of limitations period, Defendant has failed to authorize and permit
13 Plaintiff and other aggrieved employees to take rest breaks as required under California Labor Code §§
14 226.7 and 512, and IWC Wage Order No. 9-2001, § 12.

15 25. As with meal periods, Defendant's policies and practices caused Plaintiff and other
16 aggrieved employees to miss or otherwise take non-compliant rest periods by, among other things,
17 giving them unreasonable amounts of work that had to be completed within their shift, and relatedly,
18 engaging in gross understaffing and setting unrealistic driving assignments, such that rest periods as a
19 practical matter could not be taken. For example, Plaintiff would be so busy driving from one location
20 to another, he could not complete within the time deadlines set by Defendant without skipping his rest
21 breaks.

22 26. Defendant also failed to implement a rest period policy which provides for a ten (10)
23 minute rest period or a "major fraction thereof" which also caused Plaintiff and other aggrieved
24 employees to miss rest periods

25 27. Defendant further violated California Labor Code § 226.7, IWC Wage Order No. 9-
26 2001, § 12, by failing to pay Plaintiff and other aggrieved employees who were not provided with a
27 rest break, in accordance with the applicable wage order, one additional hour of compensation at the
28 proper regular rate of pay for each workday that a rest break was not provided.

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1 Defendant is required to pay its non-exempt employees between the 1st and 10th day of the following
2 calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in
3 excess of the normal work period shall be paid no later than the payday of the next regular payroll
4 period.

5 32. During the statute of limitations period, Defendant has knowingly and willfully failed
6 to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next
7 regular payroll period as required by California Labor Code § 204.

8 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

9 **[Cal. Lab. Code §§ 201, 202, 203]**

10 33. Pursuant to California Labor Code § 201, 202 and 203, Defendant is required to pay all
11 earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates
12 that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
13 discharge are due and payable immediately.

14 34. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay all
15 accrued wages due to an employee no later than 72 hours after the employee quits his or her
16 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
17 which case the employee is entitled to his or wages at the time of quitting.

18 35. California Labor Code § 203 provides that if an employer willfully fails to pay, in
19 accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who
20 quits, the employer is liable for waiting time penalties in the form of continued compensation to the
21 employee at the same rate for up to 30 workdays.

22 36. During the statute of limitations period, Defendant has willfully failed to pay accrued
23 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
24 California Labor Code §§ 201 and 202. Because Defendant has failed and continues to fail to properly
25 compensate Plaintiff and other aggrieved employees for all hours worked when due, overtime and
26 wages, and compensation for non-compliant meal periods and rest breaks, Defendant has also willfully
27 failed and continues to fail to pay accrued wages and other compensation to Plaintiff and other
28 aggrieved employees in accordance with California Labor Code §§ 201 and 202.

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1 to provide timely and accurate itemized wage statements because it prevented them from discovering
2 the scope and extent of Defendant's violations of California wage and hour laws, prevented them from
3 being able to determine the gross wages earned, the total hours worked, all deductions made, the net
4 wages earned, all applicable hourly rates in effect during each pay period and the corresponding number
5 of hours worked at each hourly rate, or even the name of the legal entity that employed them.

6 **Failure to Indemnify Employees for Necessary Expenditures Incurred in Discharge of Duties**

7 **[Cal. Lab. Code § 2802]**

8 41. California Labor Code § 2802(a) requires an employer to indemnify an employee for all
9 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
10 their duties, or their obedience to the directions of the employer.

11 42. Plaintiff and other aggrieved employees are required to utilize their personal cellular
12 phones for work. For example, Plaintiff's supervisors regularly called Plaintiff on his personal cellular
13 phone for work purposes while he was out in the field. The same is true for aggrieved employees.
14 Despite this practice, Defendant does not compensate Plaintiff and other aggrieved employees for their
15 cellular phone usage .

16 **Failure to Provide Notice of Employer-Related Information**

17 **[Cal. Lab. Code § 2810.5]**

18 43. Cal. Lab. Code § 2810.5 requires an employer in California to provide written notice at
19 the time of hiring of certain employment-related information, as follows:

- 20 "(A) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week,
21 salary, piece, commission, or otherwise, including any rates for overtime, as applicable.
22 (B) Allowances, if any, claimed as part of the minimum wage, including meal or lodging
23 allowances.
24 (C) The regular payday designated by the employer in accordance with the requirements of this
25 code.
26 (D) The name of the employer, including any "doing business as" names used by the employer.
27 (E) The physical address of the employer's main office or principal place of business, and a
28 mailing address, if different.
(F) The telephone number of the employer.
(G) The name, address, and telephone number of the employer's workers' compensation
insurance carrier.
(H) That an employee: may accrue and use sick leave; has a right to request and use accrued
paid sick leave; may not be terminated or retaliated against for using or requesting the use of
accrued paid sick leave; and has the right to file a complaint against an employer who retaliates.

1 (I) Any other information the Labor Commissioner deems material and necessary.”

2 44. Defendant has failed to comply with Cal. Lab. Code § 2810.5 because it did not provide
3 Plaintiff and other aggrieved employees with notice of the requirements set forth above. More
4 specifically, the notice forms provided to Plaintiff and other aggrieved employees contained none of
5 the required information, such as the legal name of the hiring employer, rate of pay, etc.

6 **FIRST CAUSE OF ACTION**

7 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

8 **[Cal. Lab. Code § 2698 *et seq.*]**

9 ***(On Behalf of Plaintiff and Aggrieved Employees against all Defendants)***

10 45. Plaintiff incorporates herein by specific reference, as though fully set forth, the
11 allegations in paragraphs 1 through 46.

12 46. Plaintiff is an “aggrieved employee” within the meaning of California Labor Code §
13 2699(c), and a proper representative to bring a civil action on behalf of himself and other aggrieved
14 employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff
15 was employed by Defendant and one or more of the alleged California Labor Code violations was
16 committed against Plaintiff during the statute of limitations period.

17 47. Plaintiff seeks to recover civil penalties through a representative action permitted by
18 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class
19 certification is not required.

20 48. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
21 penalties from Defendant in a representative action for the violations set forth above.

22 49. California Labor Code § 2699(f) provides that for all California Labor Code violations
23 for which a civil penalty is not specifically provided, the following civil penalties are established: one
24 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
25 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

26 50. Plaintiff seeks to recover penalties pursuant to California Labor Code § 2699 for
27 Defendant’s violations of the California Labor Code provisions for which a civil penalty is not
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specifically provided, including but not limited to, California Labor Code §§201, 202, 203, 226.7, 1198 and 2802. All penalties sought and recovered under this action will be allocated as follows: 75 percent to the state of California and 25 percent to aggrieved employees.

51. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g)(1), California Code of Civil Procedure § 1021.5, and any other applicable laws, rules, or doctrines.

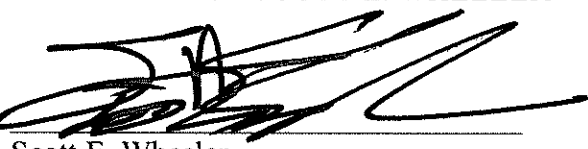
PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays for relief against Defendant as follows:

1. For civil penalties according to proof;
2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g), California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for attorneys' fees and costs; and
3. For such further relief that the Court may deem just and proper.

DATED: August 17, 2020

LAW OFFICE OF SCOTT E. WHEELER

By 

Scott E. Wheeler

THE WAND LAW FIRM, P.C.
Aubry Wand

Attorneys for Plaintiff