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

SEP 25 2020

BY 
BRIAN GUTIERREZ, DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF SAN BERNARDINO**

12 GIM YAPABANDARA, as an individual
13 and on behalf of all others similarly
14 situated,

15 Plaintiffs,

16 vs.

17 RYDER INTEGRATED LOGISTICS,
18 INC., a Delaware corporation; and DOES
19 1 through 50, inclusive,

20 Defendants.

Case No.: **CIV DS 2019890**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES FOR:**

- (1) VIOLATION OF CAL. LABOR CODE §
2802;
(2) VIOLATION OF CAL. LABOR CODE §§
2698, *ET SEQ.*

DEMAND OVER \$25,000.00

1 Plaintiff Gim Yapabandara (“Plaintiff”) hereby submits this Class and Representative
2 Action Complaint (“Complaint”) against Defendant Ryder Integrated Logistics, Inc.
3 (“Defendant”) and Does 1 through 50 (hereinafter collectively referred to as “Defendants”), on
4 behalf of himself and a class of all other similarly situated current and former employees of
5 Defendants for penalties and/or damages under the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This class and representative action is within the Court’s jurisdiction under
8 California Labor Code §§ 2802 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 by Defendants’ failure to reimburse business expenses.

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 California Labor Code §§ 2802
20 and 2698 *et seq.*

21 6. Venue is proper in San Bernardino County because Defendant maintains business
22 locations in San Bernardino County, and Plaintiff was employed by Defendant in San Bernardino
23 County.

24 **PARTIES**

25 7. Plaintiff was employed by Defendant as a driver from approximately September
26 2019 until about March 2020. Plaintiff was a non-exempt, hourly employee throughout his
27 employment with Defendant.

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

Defendants complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code §§ 2802 and 2698 *et seq.*

9. Plaintiff is informed and believes, and based thereon alleges, that Ryder Integrated Logistics, Inc. was and is a Delaware corporation that does business in the State of California, and the County of San Bernardino.

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

11. 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.

12. 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.

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

1 Defendants.

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

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

12 **CLASS ACTION ALLEGATIONS**

13 16. **Definition:** The named individual Plaintiff seeks class certification, pursuant to
14 California Code of Civil Procedure § 382. Plaintiff proposes the following class of all current
15 and former employees of Defendants in the State of California who performed work for
16 Defendant at any time between April 6, 2016, through the present (the “Class”).

17 17. **Numerosity:** The members of the Class are so numerous that joinder of all
18 members would be impractical, if not impossible. The identity of the members of the Class is
19 readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is
20 informed and believes, and based thereon alleges, that Defendants failed to properly reimburse
21 employees for all work-related expenses and charges incurred pursuant to Labor Code § 2802.

22 18. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all
23 necessary steps to represent fairly and adequately the interests of the Class defined above.
24 Plaintiff’s attorneys are ready, willing, and able to fully and adequately represent the Class and
25 the individual Plaintiff. Plaintiff’s attorneys have prosecuted and settled wage-and-hour class
26 actions in the past and currently have a number of wage-and-hour class actions pending in
27 California state and federal courts.

28 19. **Common Question of Law and Fact:** There are predominant common questions

1 of law and fact and a community of interest amongst Plaintiff and the claims of the Class
2 concerning Defendants' policy and practice of failing to reimburse all work-related expenses.

3 20. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
4 Class in that Plaintiff suffered the harm alleged in this Complaint in a similar and typical manner
5 as the Class Members. As with other California employees, Plaintiff was not reimbursed for all
6 expenses and charges incurred from the use of his personal cell phone for work-related purposes.
7 Plaintiff and other employees were required to use their own cell phones in order to use a
8 company app called Electronic Log Document, as well as to navigate and conduct other business.
9 Accordingly, Plaintiff is a victim of Defendants' violation of California Labor Code § 2802, as
10 are the putative Class Members.

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

17 22. The nature of this action and the format of laws available to Plaintiff and
18 members of the Class identified herein make the class action format a particularly efficient and
19 appropriate procedure to redress the wrongs alleged herein. If each employee were required to
20 file an individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
21 advantage since it would be able to exploit and overwhelm the limited resources of each
22 individual plaintiff with their vastly superior financial and legal resources. Requiring each Class
23 Member to pursue an individual remedy would also discourage the assertion of lawful claims by
24 employees who would be disinclined to file an action against their former and/or current
25 employer for real and justifiable fear of retaliation and permanent damage to their careers at
26 subsequent employment.

27 23. The prosecution of separate actions by the individual Class Members, even if
28 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect

1 to individual Class Members against the Defendants and which would establish potentially
2 incompatible standards of conduct for the Defendants, and/or (b) adjudications with respect to
3 individual Class Members which would, as a practical matter, be dispositive of the interest of the
4 other Class Members not parties to the adjudications or which would substantially impair or
5 impede the ability of the Class Members to protect their interests. Further, the claims of the
6 individual members of the Class are not sufficiently large to warrant vigorous individual
7 prosecution considering all of the concomitant costs and expenses.

8 24. Such a pattern, practice and uniform administration of corporate policy regarding
9 illegal payroll practices described herein is unlawful and creates an entitlement to recovery by
10 Plaintiff and the Class identified herein, in a civil action, for applicable penalties, reasonable
11 attorneys' fees, and costs of suit according to Code of Civil Procedure § 1021.5.

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

15 **FIRST CAUSE OF ACTION**

16 **VIOLATION OF LABOR CODE § 2802**

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

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

20 27. Pursuant to Labor Code § 2802, an employer shall indemnify his or her employee
21 for all necessary expenditures or losses incurred by the employee in direct consequence of his or
22 her duties.

23 28. Defendants violated Labor Code § 2802 by failing to reimburse Plaintiff and other
24 members of the Class for expenses incurred in the performance of their duties, including
25 expenses associated with using their personal cell phones, which Plaintiff and other members of
26 the Class were required to do in performance of their duties.

27 29. As a direct and proximate result of Defendants' failure to reimburse Plaintiff and
28 other members of the Class for work related expenses, Plaintiff and Class members are entitled

1 to recover their out of pocket expenses, including interest, and attorneys' fees and costs pursuant
2 to Labor Code § 2802 in an amount to be determined at trial.

3 **SECOND CAUSE OF ACTION**

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

5 **(BY PLAINTIFF, ON BEHALF OF THE STATE AND AGGRIEVED EMPLOYEES,**
6 **AGAINST ALL DEFENDANTS)**

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

9 31. Plaintiff brings this cause of action as a proxy for the State of California and in
10 this capacity, seeks penalties on behalf of all Aggrieved Employees from June 5, 2019, through
11 the present, for Defendant's policy and practice of failing to reimburse employees for business
12 expenses as defined in Labor Code § 2802.

13 32. On or about June 5, 2020, Plaintiff sent written notice to the California Labor &
14 Workforce Development Agency ("LWDA") of Defendants' violations of Labor Code § 2802,
15 pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). To date,
16 the LWDA has not responded to Plaintiff's written notice.

17 33. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
18 applicable civil penalties for Defendants' violation of Labor Code § 2802 for the time period
19 described above, on behalf of himself and other Aggrieved Employees.

20 **PRAYER FOR RELIEF**

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

- 23 1. For an order certifying the proposed Class;
- 24 2. For an order appointing Plaintiff as the representative of the Class as described
25 herein;
- 26 3. For an order appointing Counsel for Plaintiff as Class counsel;
- 27 4. Upon the First Cause of Action, for damages and/or penalties pursuant to
28 California Labor Code § 2802, and for costs and attorneys' fees;

1 5. Upon the Second Cause of Action, for civil penalties according to proof pursuant
2 to Labor Code §§ 2698, *et seq.*, and for costs and attorneys' fees;

3 6. On all causes of action for attorneys' fees and costs as provided by Code of Civil
4 Procedure § 1021.5; and

5 7. For such other and further relief the Court may deem just and proper.

6
7 DATED: September 24, 2020

DIVERSITY LAW GROUP, P.C.

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9 By: 

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Nicholas Rosenthal

Attorneys for Plaintiff and the Class
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