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ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUL 30 2020

Sherril R. Carter, Executive Officer/Clerk of Court
By: Kristina Vargas, Deputy

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

MICHAEL IBARRA, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TOYOTA LOGISTICS SERVICES, INC., a
California Corporation; and DOES 1 through
100,

Defendants.

Case No.: **20STCV29023**

CLASS ACTION COMPLAINT:

- (1) **MINIMUM WAGE VIOLATIONS**
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197, 1198);
- (2) **MEAL PERIOD VIOLATIONS**
(LABOR CODE §§ 226.7, 512, 558);
- (3) **WAGE STATEMENT VIOLATIONS**
(LABOR CODE § 226, *et seq.*);
- (4) **UNFAIR COMPETITION (BUS. &
PROF. CODE § 17200 *et seq.*).**

DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE

1 Plaintiff Michael Ibarra (hereinafter “Plaintiff”), on behalf of himself and all others
2 similarly situated, hereby brings this Class Action Complaint (“Complaint”) against Defendant
3 Toyota Logistics Services, Inc., a California Corporation; and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief allege as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 Complaint for recovery of unpaid wages and penalties under California Business & Professions
8 Code § 17200 *et. seq.*, Labor Code §§ 204, 226, 226.7, 512, 558, 1182.12, 1194, 1194.2, 1197,
9 1198, and Industrial Welfare Commission Wage Order 7 (“Wage Order 7”), in addition to seeking
10 declaratory relief and restitution. This Complaint is brought pursuant to California Code of Civil
11 Procedure § 382. This Court has jurisdiction over Defendants’ violations of the California Labor
12 Code because the amount in controversy exceeds this Court’s jurisdictional minimum.

13 **VENUE**

14 2. Venue is proper in this judicial district pursuant to California Code of Civil
15 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
16 occurred in the Los Angeles County. Defendants own, maintain offices, transact business, have
17 an agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
18 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

19 **PARTIES**

20 3. Plaintiff is over the age of eighteen (18). At all relevant times, Plaintiff was, and
21 is, a California resident. Within the statute of limitations periods applicable to each cause of action
22 pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff is a victim
23 of Defendants’ policies and/or practices complained of herein, lost money and/or property, and
24 have been deprived of the rights guaranteed by Labor Code §§ 204, 226, 226.7, 512, 558, 1182.12,
25 1194, 1194.2, 1197, 1198, and Business & Professions Code § 17200 *et seq.* (“Unfair Competition
26 Law”), and Wage Order 7, which sets employment standards for the mercantile industry, which
27 includes any “industry, business, or establishment operated for the purpose of purchasing, selling
28 or distributing goods or commodities at wholesale or retail.”

1 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
2 years preceding the filing of the Complaint and continuing to the present, Defendants did (and
3 continue to do) business by processing, distributing, and installing parts on vehicles, and
4 employed Plaintiff and other, similarly-situated non-exempt employees within Los Angeles
5 County and the state of California and, therefore, were (and are) doing business in Los Angeles
6 County and the State of California.

7 5. Plaintiff does not know the true names or capacities, whether individual, partner,
8 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
9 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
10 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed,
11 and believes, and based thereon alleges, that each of said fictitious defendants, whether individual,
12 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
13 and proximately caused Plaintiff and the Classes (as defined in Paragraph 14) to be subject to the
14 unlawful employment practices, wrongs, injuries and damages complained of herein.

15 6. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
16 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

17 7. At all times herein mentioned, each of said Defendants participated in the doing
18 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
19 Defendants, and each of them, were the agents, servants, and employees of each and every one of
20 the other Defendants, and at all times herein mentioned were acting within the course and scope
21 of said agency and employment. Defendants, and each of them, approved of, condoned, and/or
22 otherwise ratified each and every one of the acts or omissions complained of herein.

23 8. At all times mentioned herein, Defendants, and each of them, were members of
24 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
25 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
26 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
27 members of the Classes.

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GENERAL FACTUAL ALLEGATIONS

9. Defendants are in the business of processing, distributing, and installing car parts on vehicles. Plaintiff has worked for Defendants as a non-exempt employee from approximately July 1996 through the present. Plaintiff's primary job duties consist of installing car parts on vehicles.

10. During Plaintiff's employment with Defendants, Defendants utilized a timekeeping system which resulted in Plaintiff and other non-exempt employees not being compensated for all hours actually worked, whether by rounding, time-shaving, or otherwise. Specifically, Plaintiff clocked in and out for his shifts by swiping his ID badge; however, Defendants only paid Plaintiff and other non-exempt employees in increments of a half of an hour, so that over a period of time they have been deprived of all earned minimum wages. Due to Defendants' timekeeping practices that failed to compensate for all hours worked, Plaintiff was not compensated for all required wages earned.

11. Plaintiff was not provided with all required meal periods due to Defendants' meal period policies/practices, which fail to provide a timely meal period of at least 30-minutes in duration, commencing before the conclusion of the fifth hour of work. Upon information and belief, during at least a portion of the relevant time period, Defendants' daily practice was to ring a bell signaling the start of Plaintiff and other non-exempt employees' meal period at 11:30 a.m. and to ring a bell at 12:00 p.m. signaling the end of their meal periods. During the time period in which Defendants implemented a bell schedule, Plaintiff and other non-exempt employees were not allowed to leave their work stations until 11:30 a.m. when the bell rang, and were required to be back at their assigned work stations when the final bell rang at 12:00 p.m. As a result of Defendants' bell system, Plaintiff and other non-exempt employees were forced to take "short" meal periods in order to be back at their work stations by 12:00 p.m., as Plaintiff and other non-exempt employees' meal periods were often less than a full 30 minutes. Upon information and belief, during at least a portion of the putative class period, Defendants maintained no payroll code for paying rest period premiums under Labor Code § 226.7.

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12. Defendants have also issued inaccurate wage statements to Plaintiff and other non-exempt employees because, among other things, the wage statements issued do not include all wages earned, fail to accurately include all applicable hourly rates of pay, the corresponding number of hours worked at each rate, total hours worked, and fail to reflect meal period premium pay for all meal period violations. Defendants have also issued facially deficient wage statements that failed to include the address of the legal entity that is the employer, in violation of Labor Code § 226(a)(8).

13. Pursuant to California Judicial Council Emergency Rule 9, statutes of limitations of more than 180 days are suspended from April 6, 2020 through October 1, 2020. Accordingly, the relevant time period for each cause of action pled herein have been calculated based on a filing date of April 6, 2020.

CLASS ACTION ALLEGATIONS

14. **Class Definitions:** Plaintiff bring this action on behalf of themselves and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping policies/practices, during the period of April 6, 2016 through the present.
- b. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 5.0 hours, during the period of April 6, 2016 through the present.
- c. The Wage Statement Class consists of all members of the Minimum Wage Class and/or Meal Period Class who received a wage statement during the period of April 6, 2019 through the present.

15. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes are unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

1 16. **Common Questions of Law and Fact Predominate/Well Defined Community**
2 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
3 situated employees, which predominate over questions affecting only individual members,
4 including, without limitation:

- 5 i. Whether Defendants' timekeeping policies and/or practices resulted in the failure
6 to properly compensate members of the Minimum Wage Classes for all hours
7 actually worked;
- 8 ii. Whether Defendants provided all legally compliant meal periods to members of
9 the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- 10 iii. Whether Defendants provided meal period premium payments for missed or non-
11 compliant meal periods; and
- 12 iv. Whether Defendants furnished legally compliant wage statements to members of
13 the Class pursuant to Labor Code § 226;

14 17. **Predominance of Common Questions:** Common questions of law and fact
15 predominate over questions that affect only individual members of the Classes. The common
16 questions of law set forth above are numerous and substantial and stem from Defendants' policies
17 and/or practices applicable to each individual class member, such as Defendants' uniform
18 timekeeping and meal period policies/practices. As such, the common questions predominate over
19 individual questions concerning each individual class member's showing as to their eligibility for
20 recovery or as to the amount of their damages.

21 18. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
22 Plaintiff was employed by Defendants as non-exempt employee in California during the statute(s)
23 of limitations period applicable to each cause of action pled in the Complaint. As alleged herein,
24 Plaintiff, like the members of the Classes, was deprived of all earned minimum wages, was not
25 provided all required meal periods.

26 19. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
27 to represent fairly and adequately the interests of the members of the Classes. Moreover,
28 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of

1 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
2 and-hour class actions in state and federal courts in the past and are committed to vigorously
3 prosecuting this action on behalf of the members of the Classes.

4 20. **Superiority:** The California Labor Code is broadly remedial in nature and serves
5 an important public interest in establishing minimum working conditions and standards in
6 California. These laws and labor standards protect the average working employee from
7 exploitation by employers who have the responsibility to follow the laws and who may seek to
8 take advantage of superior economic and bargaining power in setting onerous terms and
9 conditions of employment. The nature of this action and the format of laws available to Plaintiff
10 and members of the Classes make the class action format a particularly efficient and appropriate
11 procedure to redress the violations alleged herein. If each employee were required to file an
12 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
13 would be able to exploit and overwhelm the limited resources of each individual plaintiff with
14 their vastly superior financial and legal resources. Moreover, requiring each member of the
15 Class(es) to pursue an individual remedy would also discourage the assertion of lawful claims by
16 employees who would be disinclined to file an action against their former and/or current employer
17 for real and justifiable fear of retaliation and permanent damages to their careers at subsequent
18 employment. Further, the prosecution of separate actions by the individual class members, even
19 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
20 with respect to the individual class members against Defendants herein; and which would
21 establish potentially incompatible standards of conduct for Defendants; and/or legal
22 determinations with respect to individual class members which would, as a practical matter, be
23 dispositive of the interest of the other class members not parties to adjudications or which would
24 substantially impair or impede the ability of the class members to protect their interests. Further,
25 the claims of the individual members of the Classes are not sufficiently large to warrant vigorous
26 individual prosecution considering all of the concomitant costs and expenses attending thereto.
27 As such, the Classes identified in Paragraph 14 are maintainable as a Class under § 382 of the
28 Code of Civil Procedure.

FIRST CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

21. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22. Wage Order 7, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon. At all relevant times herein, Defendants failed to conform its pay practices to the requirements of the law by failing to pay Plaintiff and members of the Minimum Wage Class for all hours worked, including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 7.

23. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

24. As a consequence of Defendants' non-payment of minimum wages, Plaintiff and members of the Minimum Wage Class seek unpaid all minimum wages; penalties pursuant to Wage Order 7 § 20(A) and California Labor Code § 1199; interest pursuant to California Labor Code §§ 218.6 and 1194 and Civil Code §§ 3287 and 3289; liquidated damages pursuant to California Labor Code § 1194.2; attorneys' fees and costs of suit pursuant to California Labor Code § 1194 *et seq.*; and damages and/or penalties pursuant to California Labor Code § 558(a).

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(AGAINST ALL DEFENDANTS)

26. Plaintiff is informed and believes, and based thereon alleges, that Defendants in their affirmative obligation to provide all of their non-exempt employees in California, including Plaintiff and members of the Meal Period Class, with all legally-compliant meal periods in accordance with the mandates of the California Labor Code and Wage Order 7, § 11. Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members of the Meal Period Class at their respective regular rates of compensation, in accordance with California Labor Code §§ 204, 210, 226.7, and 512.

27. As a result, Defendants are responsible for paying premium compensation for meal period violations pursuant to Labor Code §§ 226.7, 512, 558, and 1198, and Wage Order 7, including interest thereon, statutory penalties, civil penalties, and costs of suit.

(AGAINST ALL DEFENDANTS)

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff members of the Class with complete and accurate wage statements with respect to their actual hours worked, total gross wages earned, all rates of pay, and total net wages earned, in violation of Labor Code § 226 *et seq.*

30. Defendants' failures in furnishing Plaintiff and members of the Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, the non-payment of all wages and meal period premiums, and deprived them of the information necessary to identify the discrepancies in Defendants' reported data, as well as the failure to identify the address of the legal entity that is the employer.

31. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and costs of suit according to California Labor Code § 226 *et seq.*

FOURTH CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

33. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by failing to properly pay all wages, provide all required meal periods, and pay premium payments for missed or non-compliant meal periods.

34. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

35. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff, for himself and on behalf of the members of the Classes, seek full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

36. The acts complained of herein occurred within the last four years immediately preceding April 6, 2020, the date on which Judicial Council Emergency Rule 9 suspended the statute of limitations for civil causes of action that exceed 180 days.

37. Plaintiff was compelled to retain counsel to file this action to protect his and the Classes' interests, to obtain restitution and injunctive relief on behalf of the Classes, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

1 **PRAYER**

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

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for payment of minimum wages, liquidated
8 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2,
9 1197, and 1198;
- 10 5. Upon the Second Cause of Action, for compensatory, consequential, general and
11 special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
- 12 6. Upon the Third Cause of Action, for statutory penalties pursuant to Labor Code §
13 226;
- 14 7. Upon the Fourth Cause of Action, for restitution to Plaintiff and members of the
15 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
16 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
17 *seq.*;
- 18 8. Prejudgment interest on all due and unpaid wages pursuant to California Labor
19 Code § 218.6 and Civil Code §§ 3287 and 3289;
- 20 9. On all causes of action, for attorneys' fees and costs as provided by Labor Code
21 §§ 226, 1194 *et seq.*, and Code of Civil Procedure § 1021.5; and
- 22 10. For such other and further relief the Court may deem just and proper.

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24 Dated: July 30, 2020

Respectfully submitted,
HAINES LAW GROUP, APC

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27 By:



Paul K. Haines
Attorneys for Plaintiff

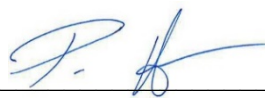
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2 **DEMAND FOR JURY TRIAL**

3 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

4
5 Dated: July 30, 2020

Respectfully submitted,
HAINES LAW GROUP, APC

6
7 By:



Paul K. Haines
Attorneys for Plaintiff