

JAMES HAWKINS APLC

James R. Hawkins, Esq. (#192925)

Gregory Mauro, Esq. (#222239)

Michael Calvo, Esq. (#314986)

9880 Research Drive, Suite 200

Irvine, CA 92618

Tel.: (949) 387-7200

Fax: (949) 387-6676

Email: James@jameshawkinsaplc.com

Email: Greg@jameshawkinsaplc.com

Email: Michael@jameshawkinsaplc.com

Attorneys for Plaintiff WILLIAM NALER

On behalf of the general public as private attorney general

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE**

WILLIAM NALER, On behalf of the general
public as private attorney general,

Plaintiff,

v.

SCHNEIDER NATIONAL CARRIERS, INC.,
and DOES 1-50, inclusive,

Defendants.

Case No.

ASSIGNED FOR ALL PURPOSES TO:

JUDGE:

DEPT:

**PAGA REPRESENTATIVE ACTION
COMPLAINT PURSUANT TO THE
PRIVATE ATTORNEYS GENERAL ACT
(Labor Code §§ 2698 *et seq*).**

COMES NOW Plaintiff WILLIAM NALER (“Plaintiff”), on behalf the general public and all non-exempt aggrieved employees, acting on behalf of the California Attorney General as private attorney general, asserts claims against Defendant SCHNEIDER NATIONAL CARRIERS, INC; and DOES 1-50, inclusive (collectively “Defendant”) as follows:

I. INTRODUCTION

1. This is a representative action for recovery of penalties under the Private Attorneys General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698 *et seq.* PAGA permits “aggrieved employees” to bring a lawsuit as a representative action on behalf of the general public as private attorney general and all other current and former aggrieved employees, to recover civil penalties and address an employer’s violations of the California Labor Code.

2. In this case, Defendant violated various provisions of the California Labor Code. As set forth below, Defendant implemented policies and practices which led to unpaid wages resulting from Defendant’s failure: (a) failing to provide accurate itemized wage statements. Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

II. JURISDICTION AND VENUE

3. The California Superior Court has jurisdiction over this action pursuant to California Constitution Article VI, Section 10, which grants the Superior Court “original jurisdiction in all cases except those given by statute to other trial courts.” The statutes under which this action is brought do not give jurisdiction to any other court.

4. This Court has jurisdiction over Defendant because, upon information and belief, each Defendant either has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California Courts consistent with traditional notions of fair play and substantial justice.

5. Venue as to each Defendant is proper in this judicial district pursuant to Code of Civil Procedure section 395. Defendant is doing business throughout California, including but not limited to San Francisco, County, and each Defendant is within the jurisdiction of this Court for

1 service of process purposes. The unlawful acts alleged herein have a direct effect on Plaintiff and
2 all other aggrieved employees within the State of California. Defendant employs numerous
3 aggrieved employees in in the State of California.

4 6. On information and belief, Defendant has conducted business within the State of
5 California during the purported liability period and continue to conduct business throughout the
6 State of California. The unlawful acts alleged herein have had a direct effect on Plaintiff, and the
7 similarly situated non-exempt aggrieved employees within California.

8 7. The California Superior Court also has jurisdiction in this matter because on
9 information and belief there are no federal questions at issue, as the issues herein are based solely
10 on California statutes and law, including the California Labor Code, the IWC Wage Orders, the
11 California Code of Civil Procedure, the California Civil Code, and the California Business and
12 Professions Code.

13 8. On information and belief, during the statutory liability period and continuing to
14 the present ("liability period"), Defendant consistently maintained and enforced against
15 Defendant's Non-Exempt Aggrieved Employees, among others, the following unlawful practices
16 and policies, in violation of California state wage and hour laws: (a) failing to provide accurate
17 itemized wage statements.

18 9. On information and belief, during the statutory liability period and continuing to
19 the present, Defendant has failed to provide Plaintiff and aggrieved employees accurate itemized
20 wage statements.

21 10. Plaintiff on behalf of the general public as private attorney general and all other
22 aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations
23 enumerated under 2699.5 as follows: sections 226 and 266.3, , and seeking penalties, interest,
24 attorneys' fees and costs.

25 **III. PARTIES**

26 **A. Plaintiff**

27 11. Plaintiff William Naler, was at all times relevant to this action, a resident of Orange
28

County, California. Plaintiff was employed by Defendant as a non-exempt driver in approximately February 2014 until his separation from Defendant's employ in approximately February 2020.

12. As Defendant's employee, Plaintiff, and all other aggrieved employees were regularly required to and subsequently suffered:

a) inaccurate itemized wage statements.

13. Plaintiff seeks penalties under Labor Code 2698, *et. seq.* on behalf of the general public as private attorney general and all other aggrieved employees.

B. Defendant

14. SCHNEIDER NATIONAL CARRIERS, INC., owns and operates as a national freight transportation, cargo, truckload, and logistics services.). Plaintiff estimates there are in excess of 100 Non-Exempt employees (i.e. Aggrieved Employees) who work or have worked for Defendants over the last year.

15. Other than identified herein, Plaintiff is unaware of the true names, capacities, relationships and extent of participation in the conduct alleged herein, of the defendants sued as DOES 1 through 50, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend this complaint when their true names and capabilities are ascertained.

16. Plaintiff is informed and believes and thereon alleges that each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and other members of the Representative Group , and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that each defendant acted in all respects pertinent to this action as the agent of the other defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are legally attributable to the other defendants.

IV. GENERAL ALLEGATIONS

17. At all times set forth herein, Defendant employed Plaintiff and other persons in the

1 capacity of non-exempt positions, however titled, throughout the state of California.

2 18. Plaintiff is informed and believe, and thereon alleges, that Defendant are and were
3 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of
4 the requirements of California's wage and employment laws.

5 19. Defendant failed to provide accurate, lawful itemized wage statements to Plaintiff
6 and the Aggrieved Employees pursuant to Labor Code section 226(a)(8) as Defendant only
7 provides a P.O. Box address.

8 20. Upon information and belief, Defendant knew and or should have known that it is
9 improper to implement policies and commit unlawful acts such as:

10 (a) failing to provide accurate itemized wage statements.

11 **V. REPRESENTATIVE CLAIMS**

12 **THE PRIVATE ATTORNEYS GENERAL ACT- LABOR CODE §§ 2698 et seq.**

13 21. Plaintiff incorporates by reference and re-alleges each and every allegation
14 contained above, as though fully set forth herein.

15 22. On August 31, 2020 Plaintiff complied with notice requirements pursuant to Labor
16 Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**,
17 indicating that the LWDA and Defendant was put on notice of the claims alleged here and that the
18 notice requirement has been satisfied. Sixty five days have passed and the LWDA has not
19 indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a
20 representative capacity. The substance and violations set forth in this Complaint of which the
21 LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative
22 Action Complaint to the LWDA.

23 23. Plaintiff is an aggrieved employee as defined in Labor Code Section 2699(a).
24 Plaintiff brings this cause of action on behalf of all current and former California Non-Exempt
25 Employees of Defendant.

26 24. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for
27 which Defendant is liable due to numerous Labor Code violations as set forth in this Complaint,
28

1 including without limitation Labor Code section 226, 266.3, and, 2698 *et seq.*, applicable IWC
2 Wage Orders and California Code of Regulations, Title 8, section 11000 *et. seq.*

3 25. On information and belief, Defendant failed to provide accurate itemized wage
4 statements which failed to include the legal address of Defendant's business pursuant to labor code
5 226(a)(8) as Defendant has only provided a P.O. Box address on its wage statements.

6 26. Pursuant to Labor Code section 266.3, any employer who violates subdivision (a)
7 of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250)
8 per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee
9 for each violation in a subsequent citation, for which the employer fails to provide the employee a
10 wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

11 27. Plaintiff and the Representative Aggrieved Employees are entitled to recover
12 Penalties and attorneys' fees and costs sunder Labor Code section 2698, *et. seq.*

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment against Defendant, as follows:

- 15 1. For penalties according to proof, pursuant to Labor Code §§ 2698 *et seq.*;
16 2. For reasonable attorneys' fees and costs; and
17 3. For such other and further relief as the Court deems proper.
18

19
20 Dated: August 31, 2020

Respectfully Submitted,

21
22 By: 
23 James Hawkins
Gregory Mauro
Michael Calvo
24

25 Attorneys for Plaintiff, and the general public
26 as private attorneys general
27
28