

Assigned for all purposes to: Stanley Mosk Courthouse, Judicial Officer: Mark Mooney

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Attorneys for Plaintiff MICHAEL FIELDS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

MICHAEL FIELDS,	)	CASE NO.: 21STCV32191
	)	
Plaintiff,	)	COMPLAINT FOR DAMAGES FOR:
	)	
vs.	)	1) PRIVATE ATTORNEYS GENERAL
	)	ACT ("PAGA");
	)	
COURIER VAULT SERVICES;	)	
FERNANDO ADAM REY; and DOES 1 to	)	
25, inclusive,	)	
	)	
Defendants.	)	
	)	
	)	
	)	
	)	

COMES NOW Plaintiff, MICHAEL FIELDS (hereinafter "Plaintiff"), and alleges as follows:

PARTIES, JURISDICTION, VENUE

1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the County of Los Angeles in this judicial district because Defendants COURIER VAULT SERVICES; FERNANDO ADAM REY; and DOES 1 to 25, inclusive, do business in the County of Los Angeles and because Defendants' obligations and liabilities arise therein, and

1 because the work that was performed by Plaintiff in the County of Los Angeles is the subject
2 of this action. Moreover, Plaintiff's damages sought herein exceed \$25,000.

3 2. Plaintiff is a male resident of the County of Los Angeles, State of California.

4 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
5 COURIER VAULT SERVICES is and was a California corporation, doing business in Los
6 Angeles County, California, and which employed Plaintiff.

7 4. Plaintiff is informed and believes that all times mentioned herein, Defendant
8 FERNANDO ADAM REY is and was a male resident of the County of Los Angeles, State of
9 California and the owner, director, and/or managing agent of COURIER VAULT SERVICES.
10 Plaintiff is including Defendant FERNANDO ADAM REY in this complaint pursuant to Labor
11 Code Section 558.1 in that FERNANDO ADAM REY personally controlled the wages, hours,
12 and working conditions of Plaintiff and other similarly situated aggrieved employees.
13 COURIER VAULT SERVICES and FERNANDO ADAM REY are collectively referred to
14 herein as "COURIER VAULT" or "Defendant(s)".

15 5. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or
16 associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues
17 them by these fictitious names. Plaintiff is informed and believes that each of the DOE
18 defendants, numbers 1 to 25, reside in the State of California and are in some manner
19 responsible for the conduct alleged herein. Upon discovering the true names and capacities of
20 these fictitiously named defendants, Plaintiff will amend this complaint to show the true names
21 and capacities of these fictitiously named defendants.

22 6. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of
23 that information and belief, alleges that at all times herein mentioned, each of the remaining
24 codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and
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1 under the authority of their agency, employment, or representative capacity, with the consent
2 of his/her codefendants.

3 **GENERAL ALLEGATIONS**

4 7. Plaintiff started working for COURIER VAULT as a third-party delivery driver for
5 Amazon on or around mid-2020. Plaintiff's employment ended on or around early January
6 2021. Plaintiff was classified as an hourly, non-exempt employee and earned approximately
7 \$16.50 per hour. Throughout his employment tenure, Plaintiff consistently worked 10+ hour
8 days and did work 5 to 6 days per week. Plaintiff and others clocked in and out on an
9 application that they were required to download on their personal cell phones called "Pay
10 Comp".

11 8. It is Plaintiff's position that COURIER VAULT has violated the following Labor Code
12 Sections against Plaintiff and other similarly situated aggrieved employees, who include all
13 non-exempt, hourly employees who worked for COURIER VAULT in the State of California
14 during the relevant PAGA period.

15 9. COURIER VAULT violated Labor Code § 1194, 1194.2, 1197, and 1197.1 because it
16 failed to pay Plaintiff and other similarly situated aggrieved employees for all hours worked,
17 including the statutory minimum wage for all hours worked and for "off the clock" work. This
18 is so because Plaintiff and other drivers would have to engage in preparation work before being
19 able to work and conduct deliveries. In other words, the drivers would show up to the hub and
20 would then have to gather all the equipment and tools necessary to deliver the products. For
21 instance, there are aggrieved employees who would have to conduct pre-trip inspections that
22 were "off the clock". COURIER VAULT unequivocally knew that drivers were conducting pre-
23 trip inspections and other preparation work "off the clock" and did not compensate employees
24 for that time, resulting in clear minimum wage violations. In addition, COURIER VAULT had
25 a company policy wherein they would disproportionately round down the number of hours
26 worked by Plaintiff and other aggrieved employees, resulting in "time shaving" and further
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1 resulting in aggrieved employees not being paid for all hours worked. Furthermore, COURIER
2 VAULT had an agreement with Plaintiff and other drivers wherein 10 hours of pay was promised
3 for each day worked, regardless of whether the drivers worked less than 10 hours. That
4 agreement and contract was also violated by COURIER VAULT. Also, COURIER VAULT
5 represented to Plaintiff and other employees that they would get a bonus and a dollar raise for
6 CDL certification, but the company did not keep their end of the bargain once aggrieved
7 employees achieved that certification.

8 10. Due to the above "off the clock" violations, COURIER VAULT also violated Labor Code
9 §510 because it failed to pay Plaintiff and other aggrieved employees overtime compensation,
10 even though they worked more than 8 hours per day, 12 hours per day, and/or 40 hours per week
11 throughout their employment. Plaintiff and other aggrieved employees' actual work hours
12 entitled them to overtime compensation, however, COURIER VAULT did not compensate its
13 hourly, non-exempt employees with the correct amount of overtime. Furthermore, COURIER
14 VAULT failed to include bonuses, including "incremental incentives" or "step van incentives"
15 and other bonuses in calculating Plaintiff and other employees' regular rate of pay for use in
16 deciphering the correct overtime rate of pay.

17 11. COURIER VAULT also violated Labor Code § 226.7 and the appropriate Industrial
18 Welfare Commission Wage Order no. 4/9 because it failed to provide Plaintiff and other
19 similarly situated aggrieved employees with 10-minute rest periods for every four hours of work,
20 or majority portion thereof, throughout their employment. COURIER VAULT did not
21 completely relieve Plaintiff and others of all duty during said rest periods. COURIER VAULT
22 did not pay to Plaintiff and others one additional hour of pay at Plaintiff's regular rate of
23 compensation for each workday that one or more statutory rest periods was not provided. It was
24 not part of the company policy for employees such as Plaintiff to take rest breaks. The concept
25 of rest breaks was never discussed with employees nor was it ever implemented as it was not
26 company policy. Moreover, it would not have been possible for employees such as Plaintiff to
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1 take such rest breaks due to having to make consistent deliveries. There was no mechanism on
2 the phone application to dictate when Plaintiff and others would be able to take uninterrupted
3 rest breaks wherein they were relieved of all work duties. As such, the culture as well as the
4 policies and procedures of COURIER VAULT did not lend itself to the employees receiving
5 statutory rest breaks wherein they were relieved of all work duties. The environment at
6 COURIER VAULT was not conducive to receiving statutory rest breaks under California law
7 and timely, statutory rest breaks were not authorized or enforced.

8 12. COURIER VAULT violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
9 Commission Wage Order no. 4/9 because it failed to provide hourly, non-exempt employees,
10 including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five
11 (5) hours of work throughout their employment. COURIER VAULT did not completely relieve
12 Plaintiff and other employees of all duty during said meal periods. COURIER VAULT did not
13 pay to Plaintiff and its hourly, non-exempt employees one additional hour of pay at their regular
14 rate of compensation for each workday that one or more statutory meal periods was not provided.
15 The hourly, non-exempt employees would often not be able to receive their meal periods before
16 the 5th hour worked due to the nature of their work in having to make deliveries in a time crunch.
17 Like the rest breaks, receiving a thirty-minute uninterrupted and timely meal break was not part
18 of the company culture and was not enforced by COURIER VAULT. Furthermore, any argument
19 by COURIER VAULT that the employees signed an "On Duty Meal Period Agreement" would
20 not hold water since the nature of their job did not prevent them from being relieved of all work
21 duties. In other words, COURIER VAULT could have hired additional drivers to act as
22 "breakers" to allow employees such as Plaintiff to receive uninterrupted statutory meal periods.
23 Additionally, there was no mechanism on the phone application to dictate when Plaintiff and
24 others would be able to take uninterrupted meal breaks wherein they were relieved of all work
25 duties. Consequently, it was the normal practice and custom of COURIER VAULT not to
26 authorize, permit, and enforce timely statutory meal periods. In fact, COURIER VAULT had
27 created a culture wherein the company was trying to incentivize employees to skip meal breaks
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altogether by giving those employee extra days to work. The bottom line was that statutory, timely, uninterrupted meal periods were not enforced by COURIER VAULT and were in fact seen as a hindrance to making deliveries as soon as possible. Any argument by COURIER VAULT that the drivers themselves voluntarily chose not to take a meal period does not hold water.

13. Furthermore, during the relevant time period and based on the above, COURIER VAULT failed to pay Plaintiff and others all wages due to them within any time period specified by California Labor Code section 204.

14. COURIER VAULT was also in violation of California Labor Code section 226(a), by failing to include pertinent information on the wage statements, including but not limited to, the full and correct name of the legal employer, along with the employer's correct legal address, all hours worked (including "off the clock" hours and overtime), all applicable hourly rates in effect, the correct identifying information for each employee, gross wages earned, net wages earned, premium pay for the missed meal and rest breaks, the correct start and end of the pay period, and all deductions, among others. As such, COURIER VAULT did not provide Plaintiff and other similarly situated aggrieved employees with complete, accurate itemized wage statements.

15. During the relevant time period, COURIER VAULT also failed to keep accurate and complete payroll records showing the actual hours worked per day and the wages paid to Plaintiff and others pursuant to California Labor Code sections 1174(d).

16. COURIER VAULT also violated Labor Code § 203 because it willfully failed to pay Plaintiff and other similarly situated aggrieved employees earned and due wages upon separation of employment, either immediately upon involuntary termination, or within 72 hours of resignation. These earned but unpaid wages include compensation for all hours worked, including minimum wages, overtime compensation, and premium pay for missed meal and rest breaks.

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1 17. During the relevant time period, Plaintiff and other aggrieved employees incurred
2 necessary, business-related expenses and costs that were not reimbursed by COURIER VAULT.
3 These costs include, but are not limited to, use of personal phones for business-related purposes
4 as described above. Accordingly, COURIER VAULT was in violation of California Labor Code
5 sections 2800 and 2802.

6 18. Moreover, COURIER VAULT failed to provide sick pay pursuant to Labor Code section
7 246 and also failed to provide Worker's Compensation coverage for Plaintiff and other
8 aggrieved employees in violation of Labor Code Section 3700.5.

9 **FIRST CAUSE OF ACTION**

10 **PRIVATE ATTORNEYS GENERAL ACT**

11 **Individual and Representative Claim for PAGA penalties under California Labor Code**
12 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 226.7, 232, 246, 510, 512, 558,**
1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5 and the applicable Industrial Welfare
Commission Wage Order Nos. 4-2001 or 9-2001

13 **(Plaintiff Against All Named Defendants and all DOE Defendants)**

14 19. Plaintiff re-alleges and incorporates by reference each and every allegation in
15 paragraphs 1 through 18, inclusive, of this Complaint as though fully set forth herein.

16 20. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
17 Defendants of the specific violations of the California Labor Code that Defendants
18 and DOE defendants have violated and continue to violate.

19 21. Pursuant to California Labor code section 2699.3, no response was received from the
20 LWDA within 65 days of the postmark date of the above-alleged letter.

21 22. Plaintiff therefore has exhausted all administrative remedies required of him under
22 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
23 cause of action and pursue penalties in a representative action for Defendants' violations of the
24 Labor Code.
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26 23. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
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1 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
2 departments, divisions, commissions, boards, agencies, or employees for violation of the code
3 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
4 on behalf of himself or herself and other current or former employees pursuant to the
5 procedures specified in California Labor Code section 2699.3.

6 24. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
7 violator and had one or more of the alleged violations committed against him, and therefore is
8 properly suited to represent the interests of other current and former hourly, non-exempt
9 employees who worked for COURIER VAULT in the State of California at any and all
10 locations during the PAGA period.

11 25. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
12 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
13 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

14 26. Plaintiff therefore has exhausted all administrative remedies required of him under
15 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
16 cause of action and pursue penalties in a representative action for Defendants’ violations of the
17 Labor Code.

18 27. California Labor Code section 2699 et seq. imposes penalties upon culpable
19 Defendants for violating the Labor Code.

20 28. California Labor Code section 558 establishes a civil penalty as follows: Any
21 employer or other person action on behalf of an employer who violates, or causes to be
22 violated, a section of this chapter or any provision regulating hours and days of work in any
23 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
24 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
25 dollars (\$50) for each underpaid employee for each pay period for which the employee was
26 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
27 employee for each pay period for which the employee was underpaid ...;

1 29. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
2 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
3 seeking individual/victim specific relief or underpaid wages under this particular cause of
4 action.

5 30. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
6 the following:

7 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210,
8 226, 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, and
9 3700.5 via 2698 and 2699 any other Labor Codes and Wage Orders (including no. 4 or 9)
10 violated on the facts alleged in this Complaint.

11 31. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
12 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
13 employees as alleged herein in an amount to be shown according to proof at trial and within the
14 jurisdictional limits of this Court.

15 WHEREFORE, Plaintiff prays for Judgment against Defendants and each of them, as
16 follows:

- 17 1. For the imposition of civil penalties;
- 18 2. For maximum civil penalties available under Labor Code Section 2699
19 against Defendants in a manner and amount authorized by that statute, as described
20 more particularly in the Complaint and representative PAGA claims;
- 21 3. For all costs and disbursements incurred in this suit;
- 22 4. Reasonable attorney's fees where available by law, including but not limited to,
23 pursuant to the California Labor Code, including section 2698 et seq., and/or other
24 applicable laws; and

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1 5. For such other and further relief as this Court may deem proper.
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3 DATED: August 31, 2021
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MESSRELIAN LAW INC.

5 By  _____
6 Harout Messrelian, Esq.
7 Attorneys for Plaintiff Michael Fields
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