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County of San Diego

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Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

MARQUISE WOODSON, as a private attorney
general,

Plaintiff,

vs.

EMPLOYERS LEASING COMPANY, INC., a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 37-2021-00003436-CU-OE-CTL

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE LABOR CODE PRIVATE
ATTORNEYS GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

1 Plaintiff, Marquise Woodson, as a proxy for the State of California, submits this Complaint
2 against Defendant, Employers Leasing Company, Inc., and Does 1 through 50 (collectively,
3 “Defendants”).

4 INTRODUCTION

5 1. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code section
6 2698 et seq. (“PAGA”), this representative action Complaint challenges systemic employment practices
7 resulting in violations of the California Labor Code against individuals who worked for Defendants.
8 The Complaint seeks penalties and other relief pursuant to, among other provisions, Labor Code
9 sections 226, 226.3, 226.7, 512, 558, 2802, and 2698 et seq.¹

10 2. Plaintiff is informed and believes that Defendants jointly and severally have acted
11 intentionally and with deliberate indifference and conscious disregard to the rights of employees by
12 failing to provide duty-free meal periods, pay all premium wages for such missed meal periods,
13 reimburse necessary and reasonable business expenses, and provide accurate itemized wage statements.

14 3. On shifts exceeding five hours of work, Defendants routinely fail to provide Plaintiff and
15 other non-exempt employees with a duty-free 30-minute meal period within the first five hours of work.
16 Specifically, because job requirements required Plaintiff and other non-exempt employees to complete
17 jobs until completion and timely meet customers for appointments, Plaintiff and other non-exempt
18 employees routinely were not provided an opportunity to take meal breaks. Defendants routinely fail to
19 pay Plaintiff and other non-exempt employees the requisite meal period premium pay of an additional
20 hour of wages.

21 4. Defendants also routinely fail to provide accurate itemized wage statements to Plaintiff
22 and other non-exempt employees. First, whenever overtime wages are paid to Plaintiff and other non-
23 exempt employees, Defendants issue wage statements that do not itemize and show the overtime rate as
24 1.5 times the regular rate of pay. Rather than show all applicable hourly rates in effect during the pay
25 period, the overtime rates appear to be one-half of the hourly rate of pay. Second, whenever overtime
26 wages are paid to Plaintiff and other non-exempt employees, Defendants issue wage statements that fail
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¹ Except as otherwise noted, all “Section” references are to the Labor Code.

1 to accurately itemize and show total hours worked. Moreover, when the hours shown on the wage
2 statements are added up, the sum also does not equal the total hours worked.

3 5. Defendants also routinely fail to reimburse Plaintiff and other employees for necessary
4 business expenses incurred in performing their work for Defendants. Specifically, Defendants require
5 Plaintiff and other employees to purchase and provide their own tools to perform their jobs, including
6 for example drills and wrenches. Likewise, Defendants require Plaintiff and other employees to use
7 their cell phones for work-related purposes. Although Plaintiff and other employees are expected to
8 supply tools and use their cell phones, they are not reimbursed for their related expenses.

9 6. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
10 in establishing minimum working conditions and requirements in California. These labor standards
11 protect employees from onerous terms and conditions of employment or exploitation by employers who
12 have superior economic and bargaining power. Plaintiff is informed and believes that Defendants have
13 engaged in, among other things, a system of willful violations of the Labor Code by creating and
14 maintaining policies, practices, and customs that knowingly deny its employees the above stated rights
15 and benefits.

16 7. Defendants' pattern, practice, and uniform administration of corporate policy in violation
17 of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the
18 rights of Plaintiff and aggrieved employees under Sections 226, 226.3, 226.7, 512, 558, 2802, and 2698
19 et seq., applicable IWC Wage Orders, and Code of Civil Procedure section 1021.5, among other
20 provisions, to recover applicable penalties, reasonable attorneys' fees, and costs of suit.

21 **JURISDICTION AND VENUE**

22 8. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
23 Defendants' violations of Sections 226, 226.3, 226.7, 512, 558, and 2802.

24 9. Venue is proper in the County of San Diego. Plaintiff worked for Defendants in Poway,
25 California.

26 **PARTIES**

27 10. In or about June of 2008 Plaintiff began working for Defendants as a mover. Until his
28 employment ended in or about March of 2020, Plaintiff was paid on an hourly basis as a non-exempt

1 employee. Plaintiff regularly was required to use his own tools and cell phone to perform his job duties
2 for Defendants. Plaintiff, however, was not reimbursed for his related expenses. Plaintiff regularly
3 worked more than five hours in a workday but routinely was not provided duty-free 30-minute meal
4 periods. On those occasions, Plaintiff was not paid premium pay of an additional hour of wages for
5 missed meal periods. Plaintiff also was not provided with accurate itemized wage statements. Plaintiff
6 thus is a victim of the policies, practices, and customs of Defendants complained of in this action in
7 ways that have deprived him of the rights guaranteed by the Labor Code.

8 11. Plaintiff is informed and believes that Defendant, Employers Leasing Company, Inc.,
9 was and is a California corporation. Plaintiff is informed and believes that at all times herein mentioned
10 named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or
11 partnerships that are and were licensed to do business and actually doing business in the State of
12 California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are
13 subject to Sections 226, 226.3, 226.7, 512, 558, 2802, and 2698 et seq.

14 12. Plaintiff does not know the true names or capacities of the defendants sued herein as
15 Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are
16 sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names
17 and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was
18 responsible in some way for the matters alleged herein and proximately caused the illegal employment
19 practices, wrongs, and injuries complained of herein.

20 13. At all times herein mentioned, each of said Defendants participated in the doing of the
21 acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of
22 the other Defendants, as well as the agents of all Defendants, and were acting within the course and
23 scope of said agency and employment.

24 14. Plaintiff is informed and believes that at all times material hereto, each of said
25 Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with,
26 each of the other Defendants and was acting within the course and scope of such agency, employment,
27 joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by
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1 certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or
2 omissions of the acting Defendants.

3 15. Plaintiff is informed and believes that at all times material hereto each of the Defendants
4 (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the
5 alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in
6 pursuance of, a joint venture, partnership, or common enterprise.

7 8 **PAGA ALLEGATIONS**

9 16. Pursuant to PAGA, Plaintiff sues as a proxy for the State of California. Plaintiff seeks
10 penalties for Defendants' Labor Code violations committed against all aggrieved employees since July
11 29, 2019, pursuant to Sections 226, 226.3, 226.7, 512, 558, 2802, and 2698 et seq. As stated herein,
12 Defendants fail to provide duty-free meal periods, pay all premium wages for such missed meal periods,
13 reimburse necessary and reasonable business expenses, and provide accurate itemized wage statements.
14 Under Section 2699(c), Plaintiff is an "aggrieved employee," as one or more of the alleged violations
15 was committed against Plaintiff as an employee of Defendants.

16 17. On or about January 5, 2021, Plaintiff sent written notice to the Labor & Workforce
17 Development Agency ("LWDA") of specific facts and theories for Defendants' Labor Code violations
18 under Sections 226, 226.3, 226.7, 512, 558, 2802, and 2698 et seq. Plaintiff simultaneously sent written
19 notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has
20 neither responded nor indicated that it intends to investigate the allegations in the written notice.

21 18. As such, pursuant to Section 2699(a) and (f), Plaintiff seeks recovery of all applicable
22 penalties for Defendants' violations against all aggrieved employees for the period described above.

23 **FIRST CAUSE OF ACTION**

24 **Violation of Labor Code §§ 2698 et seq.**

25 **(By Plaintiff on Behalf of All Aggrieved Employees Against All Defendants)**

26 19. The preceding paragraphs are re-alleged and incorporated by this reference.

27 20. For Plaintiff and non-exempt employees, Defendants are required to comply with
28 Sections 226.7 and 512 and the applicable IWC Wage Order. Section 512(a) generally prohibits

1 employment of an individual for a work period of more than five hours per day without providing the
2 employee with an uninterrupted, duty-free meal period of at least 30 minutes. Section 226.7(b) provides
3 that an employer shall not require an employee to work during a meal period. Section 226.7(c) states
4 that “the employer shall pay the employee one additional hour of pay at the employee’s regular rate of
5 compensation for each workday that the meal or rest or recovery period is not provided.”

6 21. As a matter of policy and practice on shifts exceeding five hours of work, Defendants
7 fail to provide Plaintiffs and aggrieved non-exempt employees with a duty-free 30-minute meal period
8 within the first five hours of work. As a matter of policy and practice, Defendants also do not pay an
9 additional hour of pay at the regular rate of compensation for each meal period missed by Plaintiff and
10 aggrieved non-exempt employees.

11 22. Defendants thus violate the Labor Code by failing to provide meal periods and failing to
12 pay meal period premium pay for meal periods Defendants failed to provide.

13 23. Section 226(a) requires an employer to furnish to its employees itemized wage
14 statements that show accurate information, including without limitation, all applicable rates of pay in
15 effect during the pay period and the corresponding number of hours worked and the total hours worked.

16 24. As a matter of policy and practice, Defendants also routinely fail to provide accurate
17 itemized wage statements to Plaintiff and aggrieved non-exempt employees. Specifically, whenever
18 overtime wages are paid to Plaintiff and other non-exempt employees, Defendants also routinely fail to
19 provide accurate itemized wage statements that itemize and show the overtime rate as 1.5 times the
20 regular rate of pay or the total hours worked. Rather than show all applicable hourly rates in effect
21 during the pay period, the overtime rates appear to be one-half of the hourly rate of pay. Defendants also
22 issue wage statements that fail to accurately itemize and show total hours worked. Moreover, when the
23 hours shown on the wage statements are added up, the sum also does not equal the total hours worked.

24 25. Defendants thus violate the Labor Code by failing to provide accurate itemized wage
25 statements to Plaintiff and other aggrieved non-exempt employees.

26 26. Section 2802 requires that an employer must reimburse employees for all necessary
27 expenditures and losses incurred in the performance of their jobs. Section 2802 is intended to prevent
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1 employers from placing their operating expenses and cost of doing business on employees. *Cochran v.*
2 *Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

3 27. As a matter of policy and practice, Defendants fail to reimburse Plaintiff and other
4 aggrieved employees for necessary business expenses incurred in performing their work for Defendants.
5 As a matter of policy and practice, Plaintiff and other aggrieved employees are required to purchase and
6 provide their own tools to perform their jobs, including for example drills and wrenches. As a matter of
7 policy and practice, Plaintiff and other aggrieved employees were also are required to use their cell
8 phones for work-related purposes. Although Plaintiff and other aggrieved employees were expected to
9 supply tools and use their cell phones, they are not reimbursed for their related expenses.

10 28. Defendants thus violate the Labor Code by failing to reimburse Plaintiff and other
11 aggrieved employees for necessary business expenses.

12 **PRAYER FOR RELIEF**

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

15 1. Upon the First Cause of Action for penalties according to proof pursuant to Section
16 2699, and for costs and attorneys' fees;

17 2. Upon each cause of action for attorneys' fees and costs as provided by Section 2699,
18 Code of Civil Procedure section 1021.5, and any other applicable laws; and

19 3. For such other and further relief that the Court may deem just and proper.

20 DATED: January 25, 2021

DIVERSITY LAW GROUP, P.C.

21 By: 

22 Larry W. Lee
23 Simon L. Yang
24 Attorneys for Plaintiff
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