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Attorneys for Plaintiff TYRUS HARDSON,  
on behalf of the general public as private attorney general

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

TYRUS HARDSON, on behalf of the general  
public as private attorney general,

Plaintiffs,

v.

GARDNER TRUCKING INC., dba CRST  
TRUCKING, a California Corporation; 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 TYRUS HARDSON (“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 Defendants GARDNER TRUCKING INC., dba CRST TRUCKING.; and DOES 1-50, inclusive (collectively “Defendants”) 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, Defendants violated various provisions of the California Labor Code. As set forth below, Defendants implemented policies and practices which led to Defendants’: (a) failing to provide accurate itemized wage statements; and (b) failing to reimburse necessary business expenses. As a result 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 Defendants 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. Defendants are doing business throughout California, including but not limited to San Joaquin 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. Defendants employ numerous  
3 aggrieved employees in in the State of California.

4 6. On information and belief, Defendants have 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. During the statutory liability period and continuing to the present, Defendants have  
14 failed to provide Plaintiff and aggrieved employees accurate itemized wage statements.

15 9. During the statutory liability period and continuing to the present, Defendants have  
16 failed to provide reimburse business expenses incurred by Plaintiff and Aggrieved Employees.

17 10. Plaintiff on behalf of the general public as private attorney general and all other  
18 aggrieved employees bring this action pursuant to Labor Code 2698, et. seq. for violations  
19 enumerated under 2699.5 as follows: sections 226, 226.3, 1174, 1174.5, 1175, 2802, and seeking  
20 penalties, interest, attorneys' fees and costs.

### 21 **III. PARTIES**

#### 22 **A. Plaintiff**

23 11. Plaintiff, TYRUS HARDSON, was at all times relevant to this action, a resident of  
24 California. Plaintiff was employed by Defendants in approximately July 2020 as a Non-Exempt  
25 Employee and worked during the liability period for Defendants' as a driver, until Plaintiff's  
26 separation from Defendants' employ in approximately October 2020.

27 12. As Defendants' employee, Plaintiff, and all other aggrieved employees were  
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1 regularly required to and subsequently suffered:

2 a) not reimbursed for expenses; and

3 b) not provided accurate itemized wage statements.

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

6 **B. Defendants**

7 14. Defendants GARDNER TRUCKING INC., dba CRST TRUCKING provides  
8 trucking and logistics services to various businesses in California. Plaintiff estimates there are in  
9 excess of 100 Non-Exempt Employees who work or have worked for Defendants over the last  
10 year.

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

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

24 **IV. GENERAL ALLEGATIONS**

25 17. At all times set forth herein, Defendants employed Plaintiff and other persons in  
26 the capacity of non-exempt positions, however titled, throughout the state of California.

27 18. Plaintiff is informed and believes Aggrieved Employees have at all times pertinent  
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1 hereto been Non-Exempt within the meaning of the California Labor Code and the implementing  
2 rules and regulations of the IWC California Wage Orders.

3 19. Plaintiff is informed and believes that all Aggrieved Employees are citizens of the  
4 state of California.

5 20. Defendants continue to employ Non-Exempt Employees, however titled, in  
6 California and implement a uniform set of policies and practices to all non-exempt employees, as  
7 they were all engaged in the generic job duties related to Defendants trucking and logistics  
8 business.

9 21. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were  
10 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of  
11 the requirements of California's wage and employment laws.

12 22. During the relevant time frame, Defendants compensated Plaintiff and Aggrieved  
13 Employees based upon an hourly rate.

14 23. During the relevant time frame, Defendants failed to provide accurate, lawful  
15 itemized wage statements to Plaintiff and the Aggrieved Employees. On information and belief,  
16 Defendants have failed to record all or some of the items delineated in Industrial Wage Orders and  
17 Labor Code §226 including Labor Code § 2699 (a)(9) by failing to list the applicable rates and  
18 hours with respect to Plaintiff's overtime pay on wage statements issued to Plaintiff and Aggrieved  
19 Employees. Rather, whenever overtime wages were paid to the employee, the pay stubs only shows  
20 a flat amount without any applicable rate and hours to show how the overtime pay amount was  
21 calculated.

22 24. During the relevant time frame, Defendants failed to adequately reimburse Plaintiff  
23 and Aggrieved Employees for business expenditures incurred for the use of personal cellphones  
24 as Plaintiff and Aggrieved Employees used their personal cellphones to stay in contact with  
25 Defendants management to get updates on their delivery routes and to call Defendants' various  
26 customers in order to confirm delivery information. Such business expenditures incurred were  
27 incurred in direct consequence of Plaintiff's and Aggrieved Employees' duties pursuant to Labor  
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Code § 2802.

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

- (a) failing to provide accurate itemized wage statements;
- (b) failing to reimburse necessary business expenses; and
- (c) failing to maintain accurate records

26. In addition to the violations above, and on information and belief, Defendants knew they had a duty to compensate Plaintiff and aggrieved employees for the allegations asserted herein, and that Defendants had the financial ability to pay such compensation, but willfully, knowingly, recklessly, and/or intentionally failed to do so.

#### V. REPRESENTATIVE CLAIMS

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

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

28. On January 21, 2021 Plaintiff complied with notice requirements pursuant to Labor Code section 2699.3. A copy of the letter sent to the LWDA is attached hereto as **Exhibit A**, indicating that the LWDA and Defendants were put on notice of the claims alleged here and that the notice requirement has been satisfied. Sixty five days have passed and the LWDA has not indicated intent to investigate the claims. Therefore, Plaintiff may proceed with this action in a representative capacity. The substance and violations set forth in this Complaint of which the LWDA was provided timely notice, Plaintiff has also sent a copy of this PAGA Representative Action Complaint to the LWDA.

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

30. Pursuant to Labor Code section 2699(a) Plaintiff seek to recover civil penalties for which Defendants are liable due to numerous Labor Code violations as set forth in this Complaint,

1 including without limitation Labor Code section 226, 226.3, 1174, 1174.5, 1175, 2802, and, 2698  
2 *et seq.*, applicable IWC Wage Orders and California Code of Regulations, Title 8, section 11000  
3 *et. seq.*

4 31. California Labor Code section 226(a) sets forth the following “An employer,  
5 semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either  
6 as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if  
7 wages are paid by personal check or cash, an accurate itemized statement in writing showing (1)  
8 gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j),  
9 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on  
10 a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the  
11 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates  
12 of the period for which the employee is paid, (7) the name of the employee and only the last four  
13 digits of his or her social security number or an employee identification number other than a social  
14 security number, (8) the name and address of the legal entity that is the employer and, if the  
15 employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and  
16 address of the legal entity that secured the services of the employer, and (9) all applicable hourly  
17 rates in effect during the pay period and the corresponding number of hours worked at each hourly  
18 rate by the employee.”

19  
20 32. On information and belief, Defendants have failed to record all or some of the items  
21 delineated in Industrial Wage Orders and Labor Code §226, including Labor Code § 226 (a)(9) by  
22 failing to list the applicable rates and hours with respect to Plaintiff’s overtime pay on wage  
23 statements issued to Plaintiff and Aggrieved Employees. Rather, whenever overtime wages were  
24 paid to the employee, the pay stubs only shows a flat amount without any applicable rate and hours  
25 to show how the overtime pay amount was calculated.

26 33. Plaintiff and the Aggrieved Employees have been injured as they were unable to  
27 determine whether they had been paid correctly for all hours worked per pay period among other  
28 things.

34. Pursuant to Labor Code section 226.3, any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226.

35. Labor Code § 2802 requires Defendants to indemnify Plaintiff and Aggrieved Employees for necessary expenditures incurred in direct consequences of the discharge of his or her duties. As a necessary part of employment, Plaintiff and on information and belief Aggrieved Employees, were not adequately reimbursed by Defendants for expenses related to all expenses incurred as results of personal cell phone usage, which was incurred as a direct consequence of the discharge of duties by Plaintiff and Aggrieved Employees. Despite these realities of the job, Defendants failed to provide reimbursements for the use of personal cell phones necessary to carry out their job duties

36. Additionally, Defendants have no accurate records relating to aggrieved employees' work periods, total daily hours worked, total hours worked per payroll period and applicable pay rates, in violation of Wage Order. Similarly, Defendants failed to maintain accurate records relating to hours worked daily in violation of Labor Code sections 1174(d), 1174.5.

37. As a result of Defendants' unlawful conduct, Plaintiff and Aggrieved employees are entitled to penalties to the extent they were not paid at the prevailing wage rate for all hours worked.

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

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

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

1 Dated: January 21, 2021

**JAMES R. HAWKINS, APLC**

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4 James R. Hawkins, Esq.  
5 Gregory E. Mauro, Esq.  
6 Michael Calvo, Esq.

7 Attorneys for Plaintiff, and the general public  
8 as private attorneys general  
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