

COPY

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

JAN 21 2021

Sherri R. Carter, Executive Officer/Clerk of Court

By: Tanya Herrera, Deputy

1 Alan Harris (SBN 146079)
2 David Garrett (SBN 160274)
3 Lin Zhan (SBN 317087)
4 HARRIS & RUBLE
5 655 North Central Avenue 17th Floor
6 Glendale California 91203
7 Tel: 323.962.3777
8 Fax: 323.962.3004
9 harrisa@harrisandruble.com
10 dgarrett@harrisandruble.com
11 lzhan@harrisandruble.com

12 Attorneys for Plaintiff
13 Larry Greenlee

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

14 LARRY GREENLEE, individually and on behalf
15 of all others similarly situated,

16 Plaintiff,

17 v.

18 THE J. V. LAND CLEARING COMPANY, INC.,
19 a California Corporation, CYRIL MANUS, an
20 individual, and DOE 1 through and including
21 DOE 10,

22 Defendants.

Case No:

21STCV02607

COMPLAINT

[PAGA Representative Action; Class Action]

1. Section 203 of the California Labor Code, Continuing Wages
2. Cal. Lab. Code Sections 226.7, 512 and Wage Order 9, Failure to Provide Meal Breaks
3. Cal. Lab. Code Section 226.7 and Wage Order 9, Failure to Provide Rest Breaks
4. Section 226(a) of the California Labor Code, Failure to Provide Pay Stubs
5. Sections 510 and 1194 of the California Labor Code, Failure to Pay Minimum Wage and Overtime
6. Cal. Lab. Code Section 2802, Failure to Reimburse Necessary Expenses
7. Cal. Bus & Prof. Code Section 17200 et seq. – Restitution
8. Cal. Lab. Code § 226(b), Failure to Provide Employment Records

JURY TRIAL DEMANDED

BY FAX

1 Plaintiff Larry Greenlee (“Plaintiff”), by and through his undersigned attorneys, alleges as
2 follows:

3 **PARTIES, JURISDICTION AND VENUE**

4 1. Plaintiff Larry Greenlee is an individual, who, during the time periods relevant to this
5 Complaint, was and is a resident of the County of Los Angeles, State of California.

6 2. Defendant The J. V. Landclearing Company, Inc. (“JVLC”) is a corporation, which at all
7 times relevant herein, conducted business within the County of Los Angeles of the State of California.

8 3. Defendants Doe One through and including Doe Ten are sued herein under the provisions
9 of section 474 of the California Code of Civil Procedure. Plaintiff is unaware of the true names,
10 identities or capacities, whether corporate, individual or otherwise, of said fictitiously name defendants,
11 but leave of Court will be prayed to amend this pleading to insert the same herein when finally
12 ascertained. Plaintiff is informed, believes and thereupon alleges that each of the fictitiously named
13 Defendants is an entity, which during the relevant time period maintained a place of business in the
14 County of Los Angeles of the State of California.

15 4. Plaintiff is informed and believes and thereon alleges that, at all times herein mentioned,
16 Defendants, and each of them, were the agents, servants, employees, and/or joint ventures of their co-
17 Defendants as aforesaid, when acting as a principal, were negligent and reckless in the selection and
18 hiring of each and every other Defendants as an agent, servant, employee, corporate officer, and/or joint
19 venture, and that each and every Defendant ratified the acts of the co-Defendants. _Venue as to
20 Defendants is proper in this judicial district, pursuant to California Business & Professions Code section
21 17203 and California Code of Civil Procedure sections 395(a) and 395.5. Defendants maintain an
22 office, transact business, have an agent, or are found in the County of Los Angeles. Emergency Rule 9
23 as promulgated by the Judicial Council of California on insert date, provides: “Notwithstanding any
24 other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled
25 from April 6, 2020, until October 1, 2020.” The Advisory Committee Comment notes
26 that: “Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a
27 pleading in court asserting a civil cause of action. The term “civil causes of action” includes special
28 proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of the Time of

Commencing Civil Actions), is construed “as including a special proceeding of a civil nature”). . . . The rule also applies to statutes of limitations on filing of causes of action in court found in codes other than the Code of Civil Procedure.”

GENERAL ALLEGATIONS

5. This is a class action and will be a PAGA civil action seeking unpaid wages, continuing wages, damages, and attorneys’ fees and costs, including such reasonable reimbursement of fees and costs as may be required by Section 218.5 of the California Labor Code. Further, Plaintiff suffered wrongful termination for his resistance to the illegal payroll and discriminatory activities of his employers, as well as for an accident which was not his fault.

6. Plaintiff was employed by Defendants as a truck driver from October 2, 2013 until on or around June 11, 2020. Throughout that time, Plaintiff has been assigned to, and works out of, Defendants’ facility in San Dimas, California.

7. At all relevant times mentioned herein, Wage Order 9 of the California Industrial Welfare Commission applied to Plaintiff and others.

8. In part, Wage Order 9 reflects employer obligations regarding hours and days of work, reporting time pay, records, meal periods and rest periods (obligations which the employer, here, failed to fulfill, both with respect to Plaintiff and others). The Wage Order provides, in relevant part:

3. Hours and Days of Work.

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1/2) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 1 / 2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and
(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.
(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

...

7. Records.

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

(2) Birth date, if under 18 years, and designation as a minor.

(3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods during which operations cease and authorized rest periods need not be recorded.

(4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the employee.

(5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.

(6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate Production record shall be maintained by the employer.

(B) Every employer shall semimonthly or at the time of each payment of wages furnish each employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately, an itemized statement in writing showing: (1) all

deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the name of the employee or the employee's social security number; and (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item.

(C) All required records shall be in the English language and in ink or other indelible form, properly dated, showing month, day and year, and shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California. An employee's records shall be available for inspection by the employee upon reasonable request.

...

11. Meal Periods.

(A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee.

(B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal period shall be considered an —on duty meal period and counted as time worked. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.

(D) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of

1 pay at the employee's regular rate of compensation for each workday that the meal period
2 is not provided.

3 (E) In all places of employment where employees are required to eat on the premises, a
4 suitable place for that purpose shall be designated.

5 (F) The section shall not apply to any public transit bus driver covered by a valid
6 collective bargaining agreement if the agreement expressly provides for meal periods for
7 those employees, final and binding arbitration of disputes concerning application of its
8 meal period provisions, premium wage rates for all overtime hours worked, and regular
9 hourly rate of pay of not less than 30 percent more than the State minimum wage rate.

10 **12. Rest Periods.**

11 (A) Every employer shall authorize and permit all employees to take rest periods, which
12 insofar as practicable shall be in the middle of each work period. The authorized rest
13 period time shall be based on the total hours worked daily at the rate of ten (10) minutes
14 net rest time per four (4) hours or major fraction thereof. However, a rest period need not
15 be authorized for employees whose total daily work time is less than three and one-half
16 (3.5) hours. Authorized rest period time shall be counted as hours worked for which there
17 shall be no deduction from wages.

18 (B) If an employer fails to provide an employee a rest period in accordance with the
19 applicable provisions of this Order, the employer shall pay the employee one (1) hour of
20 pay at the employee's regular rate of compensation for each work day that the rest period
21 is not provided.

22 (C) This section shall not apply to any public transit bus driver covered by a valid
23 collective bargaining agreement if the agreement expressly provides for rest periods for
24 those employees, final and binding arbitration of disputes concerning application of its
25 rest period provisions, premium wage rates for all overtime hours worked, and regular
26 hourly rate of pay of not less than 30 percent more than the State minimum wage rate.

27 9. At all relevant times mentioned herein, section 201 of the California Labor Code
28 provided that "wages earned and unpaid at the time of discharge are due and payable immediately."

1 Cal. Lab. Code § 201. Similarly, section 202 of the California Labor Code provided:

2 If an employee not having a written contract for a definite period quits his or her
3 employment, his or her wages shall become due and payable not later than 72 hours
4 thereafter, unless the employee has given 72 hours previous notice of his or her intention
5 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

6 Id. § 202(a).

7 10. Defendants did not compensate Plaintiff and others as required by sections 201 and/or
8 202 of the California Labor Code, as the “final” paycheck Plaintiff received did not fully compensate
9 Plaintiff, as Defendants failed to pay all wages due to Plaintiff for hours worked. For example, On
10 January 11, 2017, the time for the “Driver Vehicle Inspection Report (DVIR)” was 5:20 a.m., however,
11 the start time on Plaintiff’s timecard was 5:30 a.m. Plaintiff was not compensated for the time of
12 inspection for his truck.

13 11. On June 11, 2020, Plaintiff was asked to turn in his truck keys and company phone and to
14 clean up his truck. However, he was not called in until the following date to pick up his final check.

15 12. At all times relevant herein, section 204 of the California Labor Code provided in part:
16 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
17 by any person in any employment are due and payable twice during each calendar month,
18 on days designated in advance by the employer as the regular paydays. Labor performed
19 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
20 the 16th and the 26th day of the month during which the labor was performed, and labor
21 performed between the 16th and the last day, inclusive, of any calendar month, shall be
22 paid for between the 1st and 10th day of the following month.

23 Cal. Lab. Code § 204.

24 13. In no event should Plaintiff or others have been paid later than the time periods
25 established by sections 201 or 204 of the California Labor Code, but certain payments to Plaintiff and
26 others were tardy, which leads to penalties under section 203 of the California Labor Code. Further, the
27 Defendants’ policy has been to devote insufficient manpower and other resources to the payroll
28 accounting function, with the inevitable result that drivers are routinely paid in tardy fashion, in

1 violation of sections 203 and 204 of the California Labor Code.

2 14. At all relevant times mentioned herein, section 203 of the California Labor Code
3 provided:

4 If an employer willfully fails to pay, without abatement or reduction, in accordance with
5 Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who
6 quits, the wages of the employee shall continue as a penalty from the due date thereof at
7 the same rate until paid or until action therefore is commence; but the wages shall not
8 continue for more than 30 days.

9 Cal. Lab. Code § 203.

10 15. By failing to pay Plaintiff and others all wages when due at termination, Plaintiff and
11 others are entitled to continuing wages pursuant to section 203 of the California Labor Code.

12 16. At all times relevant herein, section 210 of the California Labor Code provided:
13 In addition to, and entirely independent and apart from, any other penalty provided in this
14 article, every person who fails to pay the wages of each employee as provided in Sections
15 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
16 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
17 each employee; (b) For each subsequent violation, or any willful or intentional violation,
18 two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the
19 amount unlawfully withheld.

20 Cal. Lab. Code § 210.

21 17. At all relevant times mentioned herein, section 558.1 of the California Labor Code
22 provided:

23 (a) Any employer or other person acting on behalf of an employer, who violates, or
24 causes to be violated, any provision regulating minimum wages or hours and days of
25 work in any order of the Industrial Welfare Commission, or violates, or causes to be
26 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the
27 employer for such violation.

28 (b) For purposes of this section, the term “other person acting on behalf of an employer”

1 is limited to a natural person who is an owner, director, officer, or managing agent of the
2 employer, and the term “managing agent” has the same meaning as in subdivision (b) of
3 Section 3294 of the Civil Code.

4 (c) Nothing in this section shall be construed to limit the definition of employer under existing
5 law.

6 Code § 558.1. Defendants are the joint employers or other persons acting on behalf of an employer who
7 violated, or caused to be violated the relevant sections of the Code referenced herein.

8 18. At all relevant times mentioned herein, section 558 of the California Labor Code
9 provided:

10 Any employer or other person acting on behalf of an employer who violates, or causes to
11 be violated, a section of this chapter or any provision regulating hours and days of work
12 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
13 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
14 each pay period for which the employee was underpaid in addition to an amount
15 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
16 dollars (\$100) for each underpaid employee for each pay period for which the employee
17 was underpaid in addition to an amount sufficient to recover underpaid wages. (3)

18 Wages recovered pursuant to this section shall be paid to the affected employee.

19 Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer
20 who violated, or caused to be violated the relevant sections of the California Labor Code referenced
21 herein.

22 19. At all relevant times mentioned herein, section 512 provided:

23 An employer may not employ an employee for a work period of more than five hours per
24 day without providing the employee with a meal period of not less than 30 minutes,
25 except that if the total work period per day of the employee is no more than six hours, the
26 meal period may be waived by mutual consent of both the employer and employee. An
27 employer may not employ an employee for a work period of more than 10 hours per day
28 without providing the employee with a second meal period of not less than 30 minutes,

1 except that if the total hours worked is no more than 12 hours, the second meal period
2 may be waived by mutual consent of the employer and the employee only if the first meal
3 period was not waived.

4 Cal. Lab. Code § 512(a).

5 20. At all relevant times mentioned herein, section 226.7 provided:

6 If an employer fails to provide an employee a meal period or rest period in accordance
7 with an applicable order of the Industrial Welfare Commission, the employer shall pay
8 the employee one additional hour of pay at the employee's regular rate of compensation
9 for each work day that the meal or rest period is not provided.

10 Cal. Lab. Code § 226.7(b).

11 21. During their employment with Defendants, Plaintiff and others were not provided ten-
12 minute rest breaks and thirty-minute meal breaks. Neither Plaintiff nor others were provided the
13 required rest and meal breaks. For example, on January 12, 2018, Plaintiff started at 4:30 a.m., but he
14 did not take his first meal break until 10 a.m., five hours and a half later. On October 7, 2019, Plaintiff
15 worked from 7:00 a.m. to 12:30 p.m., but he did not have time to take his meal break at all.

16 22. At all relevant times mentioned herein, section 226 of the Code provided:

17 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
18 each of their or her employees, either as a detachable part of the check, draft, or voucher
19 paying the employee's wages, or separately when wages are paid by personal check or
20 cash, an itemized statement in writing showing (1) gross wages earned, (2) total hours
21 worked by the employee, except for any employee whose compensation is solely based
22 on a salary and who is exempt from payment of overtime under subdivision (a) of Section
23 515 or any applicable order of the Industrial Welfare Commission, (3) the number of
24 piece rate units earned and any applicable piece rate if the employee is paid on a piece-
25 rate basis, (4) all deductions, provided, that all deductions made on written orders of the
26 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
27 inclusive dates of the period for which the employee is paid, (7) the name of the
28 employee and their or her social security number, except that by January 1, 2008, only

the last four digits of their or her social security number or an employee identification number other than a social security number may be shown on the itemized statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. The deductions made from payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement or a record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

....

(e) An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

....

(g) An employee may also bring an action for injunctive relief to ensure compliance with this section, and is entitled to an award of costs and reasonable attorney's fees.

Code § 226. Defendants employed Plaintiff and others as truck drivers, but, in all cases, Defendants failed to provide them with the data required by section 226(a) of the Code. For example, JVLC did not specifically identify itself as the employer. Instead, it was listed as "Customer" without the full legal name and address. All of the foregoing was intentional misconduct of Defendants that injured Plaintiff and others insofar as they were subjected to confusion and deprived of information to which they were legally entitled.

23. At all relevant times mentioned herein, section 510 of the California Labor Code provided:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one

workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of at least one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work. The requirements of this section do not apply to the payment of overtime compensation to an employee working pursuant to any of the following: (1) An alternative workweek schedule adopted pursuant to Section 511. (2) An alternative workweek schedule adopted pursuant to a collective bargaining agreement pursuant to Section 514.

Id. § 510(a).

24. In regard to the employment of Plaintiff, the provisions of subparagraphs (1) and (2) of section 510 of the California Labor Code were inapplicable in that no alternative workweek schedule had been adopted pursuant to section 511 and Plaintiff's employment was not governed by any collective bargaining agreement.

25. At all relevant times mentioned herein, section 1194 of the California Labor Code provided:

Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this . . . overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

Id. § 1194.

26. At all relevant times mentioned herein, section 1194.2 of the California Labor Code provided that, "[i]n any action under . . . Section 1194 to recover wages because of the payment of a

1 wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall
2 be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and
3 interest thereon.” Id. § 1194.2.

4 27. Section 1197.1 (a) of the California Labor Code provides:

5 Any employer or other person acting either individually or as an officer, agent, or
6 employee of another person, who pays or causes to be paid to any employee a wage less
7 than the minimum fixed by an order of the commission shall be subject to a civil penalty
8 as follows:

9 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
10 for each underpaid employee for each pay period for which the employee is underpaid.

11 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
12 (\$250) for each underpaid employee for each pay period for which the employee is
13 underpaid regardless of whether the initial violation is intentionally committed.

14 Cal. Lab. Code § 1197.1.

15 28. At all relevant times herein, California Labor Code section 2802 provided, in relevant
16 part:

17 (a) An employer shall indemnify his or her employee for all necessary expenditures or
18 losses incurred by the employee in direct consequence of the discharge of his or duties . .
19 . .

20 (b) All awards made by a court . . . for reimbursement of necessary expenditures under
21 this section shall carry interest at the same rate as judgments in civil actions. Interest
22 shall accrue from the date on which the employee incurred the necessary expenditure or
23 loss.

24 (c) For purposes of this section, the term “necessary expenditures or losses” shall include
25 all reasonable costs, including, but not limited to, attorney’s fees incurred by the
26 employee enforcing rights granted by this section.

27 Cal. Lab. Code § 2802.

CLASS-ACTION ALLEGATIONS

29. Plaintiff brings this action on behalf of himself and all others similarly situated as a class action pursuant to section 382 of the Code of Civil Procedure. Plaintiff seeks to represent a “203 Class” composed of and defined as follows:

For the period from four years and 180 days prior to the filing hereof to the date of decision on a Motion for Class Certification herein, all persons paid wages on account of services provided for Defendants (such persons are referred to hereafter as “203 Class Members,” and such period is referred to hereafter as the “203 Class Period”) which wages were paid de hors the time requirements of sections 201, 203, and/or 204 of the California Labor Code.

Plaintiff seeks to represent a “226 Class” composed of and defined as follows:

For the period from one year and 180 days to the date of decision on a Motion for Class Certification herein, all persons who were issued a wage statement on account of services provided for Defendants (such persons are referred to hereafter as “226 Class Members,” and such period is referred to hereafter as the “226 Class Period”).

Plaintiff seeks to represent a “Meal Break Class” composed of and defined as follows:

For the period from four years and 180 days to the date of decision on a Motion for Class Certification herein, all persons employed by Defendants in hourly or non-exempt positions in California who worked in a shift in excess of five hours (such persons are referred to hereafter as “Meal Break Class Members,” and such period is referred to hereafter as the “Meal Break Class Period”).

Plaintiff seeks to represent a “Rest Break Class” composed of and defined as follows:

For the period from four years and 180 days to the date of decision on a Motion for Class Certification herein, all persons employed by Defendants in hourly or non-exempt positions in California who worked a shift at least three and one-half (3.5) hours (such persons are referred to hereafter as “Rest Break Class Members,” and such period is referred to hereafter as the “Rest Break Class Period”).

A. Numerosity

30. The potential members of each Class as defined are so numerous that joinder of all the

1 members of either Class is impracticable. The number of Class Members is great, but not so great as to
2 make the class unmanageable. It therefore is impractical to join each Class Member as a named
3 plaintiff. Accordingly, utilization of a class action is the most economically feasible means of
4 determining the merits of this litigation.

5 31. Despite the size of the proposed Classes, the Class Members are readily ascertainable
6 through an examination of the records that Defendants are required by law to keep. Likewise, the dollar
7 amount owed to each Class Member is readily ascertainable by an examination of those same records.

8 **B. Commonality**

9 32. There are questions of law and fact common to each Class that predominate over any
10 questions affecting only individual Class Members. These common questions of law and fact include,
11 without limitation:

- 12 a. Whether Defendants failed to pay all wages in a timely fashion in violation of sections
13 201, 203 and/or 204 of the Code.
- 14 b. Whether Defendants' failure to provide accurate itemized wage statements to each and
15 every employee violates section 226.
- 16 c. Whether Defendants failed to compensate class members when they have not been
17 provided with required meal breaks in violation of sections 226.7, and 512 of the Code.
- 18 d. Whether Defendants failed to compensate class members when they have not been
19 provided with required rest breaks in violation of section 226.7 of the Code.

20 **C. Typicality**

21 33. There is a well-defined community of interest in the questions of law and fact common to
22 the Class Members.

23 34. The claims of the named Plaintiff is typical of the claims of each Class, which claims all
24 arise from the same general operative facts, namely, Defendants did not compensate its employees as
25 required by the Code and applicable Wage Order. Plaintiff and all members of the Classes sustained
26 injuries and damages arising out of and caused by Defendants in violation of laws, regulations that have
27 the force and effect of law, and statutes as alleged herein. Plaintiff has no conflict of interest with the
28 other Class Members and are able to represent the Class Members' interests fairly and adequately.

1 **D. Adequacy of Representation**

2 35. Plaintiff will fairly and adequately represent and protect the interests of the members of
3 each Class. Counsel who represent Plaintiff is competent and experienced in litigation large employment
4 class actions. Neither Plaintiff nor his counsel have any conflict with either Class.

5 **E. Superiority of Class Action**

6 36. A class action is superior to other available means for the fair and efficient adjudication
7 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and
8 fact common to the Class predominate over any questions affecting only individual members of the
9 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
10 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
11 provide Class Members rest and meal periods without legal compensation. Class action treatment will
12 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
13 economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely
14 to be construed in the management of this action that would preclude its maintenance as a class action.
15 The disposition of all claims of the members of the Class in a class action, rather than in individual
16 actions, benefits the parties and the Court. The interest of the Class Members in controlling the
17 prosecution of separate claims against Defendants is small when compared with the efficiency of a class
18 action.

19 **FIRST CAUSE OF ACTION**

20 (Continuing Wages, California Labor Code § 201, 203, 204
21 On Behalf of Plaintiff and 203 Class Against All Defendants)

22 37. Plaintiff realleges and incorporate herein by reference the allegations contained in this
23 Complaint as though fully set forth herein.

24 38. Defendants employed Plaintiff as a truck driver, but neither Plaintiff nor others were
25 compensated properly for their services.

26 39. Defendants' failure to compensate Plaintiff or other class members within the time for
27 which provision is made by section 201 or 204 of the California Labor Code, despite their knowledge of
28 their obligation to do so, was and is "willful" as the word is used in section 203.

 40. Pursuant to section 203 of the California Labor code, Plaintiff is entitled to continuing

1 wages from Defendants in an amount according to proof, no less than \$50,000. Plaintiff is also entitled
2 to recover costs and reasonable attorneys' fees under section 218.5 of the California Labor Code.

3 **SECOND CAUSE OF ACTION**

4 (Failure to Provide Meal Breaks, Cal. Lab. Code §§ 226.7 and 512 and Wage Order
5 On Behalf of Plaintiff and Meal Break Class Against Defendants)

6 41. Plaintiff incorporate by reference each and every allegation set forth in this Complaint as
7 though fully set forth herein.

8 42. At all times herein relevant, sections 226.7 and 512 of the California Labor Code and
9 IWC Wage Order 9 provided that that employees must receive meal periods of not less than thirty
10 minutes if an employee works for a period of more than five hours and a second thirty minute meal
11 period after no less than six hours after the termination of the preceding meal period. By its failure to
12 provide minimum statutory meal periods to Plaintiff and class members, Defendant willfully violated the
13 provisions of Labor Code sections 226.7 and 512, and IWC Wage Order 9.

14 43. Because Defendants failed to properly provide the proper meal periods, it is liable to
15 Plaintiff for one hour of additional pay at the regular rate of compensation for each workday that the
16 proper meal periods were not provided.

17 44. As a result of the unlawful acts of Defendant, Plaintiff and class members have been
18 deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
19 entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and costs. Plaintiff is entitled
20 to at least \$6,700, not including interest thereon, reasonable attorneys' fees and cost of suit.

21 **THIRD CAUSE OF ACTION**

22 (Failure to Provide Rest Breaks, Cal. Lab. Code § 226.7 and IWC Wage Order)
23 On Behalf of Plaintiff and Rest Break Class Against Defendants)

24 45. Plaintiff incorporate by reference each and every allegation set forth in this Complaint as
25 though fully set forth herein.

26 46. At all times herein relevant, sections 226.7 of the California Labor Code and IWC Wage
27 Order 9 provided that employees must receive rest periods of at the rate of ten (10) minutes net rest time
28 per four (4) hours or major fraction thereof.

47. By its failure to provide required breaks to Plaintiff and class members, Defendant
willfully violated the provisions of Labor Code sections 226.7 and IWC Wage Order 9.

1 48. Because Defendant failed to properly provide the proper rest breaks, it is liable to
2 Plaintiff and class members for one hour of additional pay at the regular rate of compensation for each
3 workday that the proper rest breaks were not provided, pursuant to Labor Code section 226.7 and IWC
4 Wage Order 9.

5 49. As a result of the unlawful acts of Defendant, Plaintiff and class members have been
6 deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
7 entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and costs. Plaintiff is entitled
8 to at least \$13,400, not including interest thereon, reasonable attorneys' fees and cost of suit.

9 **FOURTH CAUSE OF ACTION**

10 (Failure to Provide Information on Pay Stubs, California Labor Code § 226(a)
11 On Behalf of Plaintiff and 226 Class Against All Defendants)

12 50. Plaintiff realleges and incorporate herein by reference the allegations contained in this
13 Complaint as though fully set forth herein.

14 51. Defendants failed to timely provide Plaintiff and other class members with wage
15 statements conforming to the requirements of section 226(a) of the California Labor Code. Defendants
16 employed Plaintiff and others as truck drivers, but, in all cases, Defendants failed to provide them with
17 the data required by section 226(a) of the Code. For example, JVLC did not specifically identify itself
18 as the employer or provide all the proper hourly rates. Instead, it was listed as "Customer" without the
19 full legal name and address. All of the foregoing was intentional misconduct of Defendants that injured
20 Plaintiff and others insofar as they were subjected to confusion and deprived of information to which
21 they were legally entitled.

22 52. Accordingly, Plaintiff and members of the 226 Class are entitled to damages in an
23 amount according to proof and costs and reasonable attorney's fees in accordance with the provisions of
24 California Labor Code section 226(e), all in an amount of at least \$50, in total at least \$125,000.

25 **FIFTH CAUSE OF ACTION**

26 (Damages for Unpaid Minimum Wages and Overtime Compensation,
27 California Labor Code §§ 510 and 1194
28 On Behalf of Plaintiff Against All Defendants)

53. Plaintiff realleges and incorporate herein by reference the allegations contained in this
Complaint as though fully set forth herein.

1 54. During their employment by Defendants, Plaintiff, as well as other employees, worked
2 many hours, including overtime, without compensation for work performed, as required by law.

3 55. Plaintiff and other employees are entitled to recover liquidated damages under section
4 1194.2 of the California Labor Code in an amount according to proof. Plaintiff is also entitled to
5 recover costs and reasonable attorneys' fees under section 1194 of the California Labor Code, damages
6 in excess of \$1,000.

7 **SIXTH CAUSE OF ACTION**

8 (Failure to Reimburse Necessary Expenses, Cal. Lab. Code §2802
9 On Behalf of Plaintiff Against Defendants)

10 56. Plaintiff realleges and incorporate herein by reference the allegations contained in this
11 Complaint as though fully set forth herein.

12 57. Plaintiff was required to be reimbursed for necessary expenses, and the failure of
13 Defendant to indemnify Plaintiff for necessary expenditures violates section 2802 of the California
14 Labor Code.

15 58. Accordingly, Plaintiff is entitled to damages in an amount according to proof and costs
16 and reasonable attorney's fees in accordance California Labor Code section 2802(c). Plaintiff is entitled
17 to at least \$1,400, not including interest thereon, reasonable attorneys' fees and cost of suit.

18 **SEVENTH CAUSE OF ACTION**

19 (Unfair Business Practices On Behalf of Plaintiff Against All Defendants)

20 59. Plaintiff realleges and incorporate herein by reference the allegations contained in this
21 Complaint as though fully set forth herein.

22 60. Business and Professions Code section 17200 et seq. prohibits acts of unfair competition,
23 including any "unlawful, unfair, or fraudulent business act or practice." Cal. Bus. & Prof. Code
24 § 17200. Plaintiff allege that Defendants have engaged in unfair business practices in California by the
25 above-described failure to pay all accrued minimum wages and overtime in timely fashion to Plaintiff
26 and other employees.

27 61. Defendants' violations of the California wage and hour laws constitute a business
28 practice because Defendants' aforementioned acts and omissions were done repeatedly over a significant
period of time, and in a systematic manner, to the detriment of Plaintiff and other employees.

62. Defendants have avoided payment of wages and overtime wages required by the California Labor Code, the California Code of Regulations, and the applicable IWC Wage Order.

63. As a result of Defendants' unfair and unlawful business practices, under which Defendants operated with insufficient budgets for the payroll accounting function, Defendants have reaped unfair and illegal profits during the relevant time period herein at the expense of Plaintiff and others and members of the public. Defendants should be made to disgorge their ill-gotten gains and to restore them to Plaintiff and other persons.

64. Defendants' actions entitle Plaintiff to seek the remedies available under section 17200 et seq. Plaintiff seeks full restitution of said amounts from Defendants, as necessary and according to proof, to restore any and all amounts—including interest—withheld, acquired, or converted by Defendants by means of the unfair practices complained of herein. Plaintiff, on behalf of himself, as well as on behalf of the general public, further seeks attorney's fees and costs pursuant to sections 218.5 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiff seeks the appointment of a receiver as necessary.

EIGHTH CAUSE OF ACTION

(Failure to Provide Employment Records Upon Request Cal. Lab. Code §226(b)
On Behalf of Plaintiff Only Against Defendants)

65. Plaintiff realleges and incorporate herein by reference the allegations contained in this Complaint as though fully set forth herein.

66. Pursuant to Labor Code section 226(b), an employer shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer.

67. On or about November 5, 2019, Plaintiff requested that Defendant permit inspection or copying of their employment records pursuant to Labor Code section 226(b). Defendant has failed to provide Plaintiff with an opportunity to inspect or copy their employment records within 21 days of their requests.

68. Pursuant to Labor Code Section 226(f) and (6), each Plaintiff is entitled, and hereby seeks to recover from Defendant a seven-hundred-fifty dollar (\$750) penalty for each violation, reasonable

1 attorney's fees, and the costs of bringing this cause of action.

2 **WHEREFORE**, Plaintiff pray judgment as follows:

3 1. That, under the First Cause of Action, it be adjudged that the failure of Defendants to
4 make timely payments of wages owing to Plaintiff and class members was in violation of sections 201,
5 203 and/or 204 of the Code, and was "willful" as that word is used in section 203 of the Code, and that
6 the Court enter judgment against Defendants in favor of Plaintiff and class members; that judgment be
7 entered in favor of Plaintiff and class members in an amount of at least \$50,000, along with
8 reimbursement of costs and reasonable attorneys' fees in accordance with the provisions of California
9 Labor Code section 218.5.

10 2. That, under the Second Cause of Action, this Court enter judgment in favor of Plaintiff
11 and class members against Defendants. That judgment be entered in favor of Plaintiff and class
12 members of at least \$6,700, not including interest thereon, reasonable attorneys' fees and cost of suit.

13 3. That, under the Third Cause of Action, this Court enter judgment in favor of Plaintiff and
14 class members of at least \$13,400, not including interest thereon, reasonable attorneys' fees and cost of
15 suit.

16 4. That, under the Fourth Cause of Action, the Court enter judgment in favor of Plaintiff and
17 class members and against Defendants; that judgment be entered in favor of Plaintiff and class members
18 in an amount of at least \$125,000, along with reimbursement of costs and reasonable attorneys' fees in
19 accordance with the provisions of California Labor Code section 226(e).

20 5. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiff of at
21 least \$1,658, and of an amount to be established by proof for unpaid liquidated damages, interest
22 thereon, reasonable attorneys' fees and cost of suit pursuant to sections 218.5, 1194, 1194.2, and 1197.1
23 of the Code.

24 6. That, under the Sixth Cause of Action, this Court enter judgment in favor of Plaintiff
25 against Defendant in the amount of damages according to proof of at least \$1,400, interest thereon,
26 reasonable attorneys' fees and cost of suit pursuant to section 2802(c).

27 7. That, with respect to the Seventh Cause of Action, it be adjudged that Defendant's
28 violations of the applicable Wage Order and sections of the California Labor Code, including sections

1 204, 210, 226, 226.7, 512, and 1194 violated section 17200 et seq. of the California Business and
2 Professions Code. Accordingly, Plaintiff request that the Court order Defendant to pay restitution with
3 interest. Finally, Plaintiff request that the Court award Plaintiff reasonable attorneys' fees and costs,
4 pursuant to section 218.5 of the Labor Code and section 1021.5 of the California Code of Civil
5 Procedure.

6 8. That, under the Eighth Cause of Action, the Court enter judgment in favor of Plaintiff and
7 against Defendant. That judgment be entered in favor of Plaintiff for \$750 each and reasonable
8 attorneys' fees.

9 9. For such further relief as the Court may order, including attorney's fees, costs, and
10 interest pursuant to Labor Code sections 218.5 and 218.6, and Code of Civil Procedure section 1021.5,
11 in an amount according to proof.

12
13 DATED: January 19, 2020

HARRIS & RUBLE

Alan Harris

Alan Harris
Attorney for Plaintiff