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Superior Court of California
County of Los Angeles

APR 16 2021

Sherri B. Carter, Executive Office/Clerk
By: *Maisha Pryor*, Deputy
Maisha Pryor

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

LUIS MONTANEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

MEI RIGGING & CRATING, LLC, a Texas
Limited Liability Company; DUNKEL BROS.
MACHINERY MOVING, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No.: **21STCV04062**

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **FAILURE TO PAY ALL
OVERTIME WAGES (LABOR
CODE §§ 204, 510, 558, 1194, 1198);**
- (2) **MINIMUM WAGE VIOLATIONS
(LABOR CODE §§ 1182.12, 1194,
1194.2, 1197);**
- (3) **MEAL PERIOD VIOLATIONS
(LABOR CODE §§ 204, 210, 226.7,
512, 558);**
- (4) **REST PERIOD VIOLATIONS
(LABOR CODE §§ 226.7, 516, 558);**
- (5) **WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226 *et seq.*);**
- (6) **UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*); and**
- (7) **CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE §§ 2698, *et
seq.*).**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

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1 Plaintiff Luis Montanez (hereinafter “Plaintiff”) on behalf of himself and all others
2 similarly situated, hereby brings this First Amended Class and Representative Action Complaint
3 against MEI Rigging & Crafting, LLC, a Texas Limited Liability Company; Dunkel Bros.
4 Machinery Moving, Inc., a California Corporation; and DOES 1 to 100, inclusive (collectively
5 “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
8 action for recovery of unpaid wages and penalties under California Business and Professions
9 Code § 17200 *et. seq.*, Labor Code §§ 204, 210, 226 *et seq.*, 510, 512, 516, 558, 1182.12, 1194,
10 1194.2, 1197, 1198, and 2698, *et seq.*, and Industrial Welfare Commission Wage Order 9 (“Wage
11 Order 9”), in addition to seeking declaratory relief and restitution. This action is brought pursuant
12 to California Code of Civil Procedure § 382. This Court has jurisdiction over Defendants’
13 violations of the California Labor Code because the amount in controversy exceeds this Court's
14 jurisdictional minimum.

15 **VENUE**

16 2. Venue is proper in this judicial district pursuant to California Code of Civil
17 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
18 occurred in Los Angeles County. Defendants own, maintain offices, transact business, have an
19 agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
20 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

21 **PARTIES**

22 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
23 Plaintiff was and currently is, a California resident. During the four years immediately preceding
24 the filing of this action and within the statute of limitations periods applicable to each cause of
25 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
26 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
27 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 204, 210, 226
28 *et seq.*, 510, 512, 516, 558, 1182.12, 1194, 1194.2, 1197, 1198, and 2698 *et seq.*, and California

1 Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law”), and Wage Order 9,
2 which sets employment standards for the transportation industry.

3 4. Plaintiff is informed and believes, and based thereon alleges, that during the four
4 years preceding the filing of this action and continuing to the present, Defendants did (and
5 continue to do) business by providing machinery moving and warehousing services, and
6 employed Plaintiff and other, similarly-situated non-exempt employees within Los Angeles
7 County and the State of California and, therefore, were (and are) doing business in Los Angeles
8 County and the State of California.

9 5. Plaintiff does not know the true names or capacities, whether individual, partner,
10 or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said
11 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
12 further amend this action when such true names and capacities are discovered. Plaintiff is
13 informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether
14 individual, partners, or corporate, were responsible in some manner for the acts and omissions
15 alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 17) to
16 be subject to the unlawful employment practices, wrongs, injuries and damages complained of
17 herein.

18 6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned
19 herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

20 7. At all times herein mentioned, each of said Defendants participated in the doing
21 of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the
22 Defendants, and each of them, were the agents, servants, and employees of each and every one of
23 the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned
24 were acting within the course and scope of said agency and employment. Defendants, and each
25 of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or
26 omissions complained of herein.

27 8. At all times mentioned herein, Defendants, and each of them, were members of
28 and engaged in a joint venture, partnership, and common enterprise, and acting within the course

1 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
2 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
3 members of the Classes.

4 **GENERAL FACTUAL ALLEGATIONS**

5 9. Plaintiff has worked for Defendants from approximately August 1999 until the
6 present, and has been on a medical leave since September 2020. During his employment, Plaintiff
7 worked as a non-exempt truck driver and warehouse supervisor. Plaintiff estimates that he spent
8 roughly 85% of his work time performing warehouse duties and roughly 15% of his work time
9 performing driving duties. Plaintiff usually performed both warehouse and driving duties in the
10 same workday. Some of Plaintiff's warehouse duties consisted of managing shipment and receipt
11 of products, materials and supplies, loading and unloading trucks, general truck maintenance
12 including washing and fueling trucks, and rigging and maintaining equipment (such as forklifts)
13 on various job sites and in Defendants' La Mirada warehouse. Plaintiff's driving duties consisted
14 of in-state machinery moving to California jobsites including, but not limited to, Los Angeles,
15 Riverside, San Diego and San Pedro. Unless otherwise specified, all allegations contained herein
16 occurred during Plaintiff's employment with Defendants.

17 10. Plaintiff and other non-exempt employees were regularly required to work shifts
18 in excess of 10.0 hours, and typically worked from Monday through Saturday. Additionally,
19 Defendants required Plaintiff and other non-exempt employees to be on-call when not on-duty.
20 While on-call, employees were expected to answer all work-related phone calls and text
21 messages, and be available to show up to work at any given time. Despite requiring Plaintiff and
22 other non-exempt employees to be on-call, Defendants failed to compensate the employees for
23 that time, thereby failing to pay Plaintiff and other non-exempt employees for all earned overtime
24 and minimum wages.

25 11. Plaintiff clocked in and out of work using a fingerprint scanner located at
26 Defendants' warehouse or by using a manual "timeclock exception form" when away from the
27 warehouse. On some occasions, Defendants required Plaintiff and other non-exempt employees
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2 to continue working after they had already clocked out, without giving them an opportunity to
3 clock back in. As a result, Defendants failed to pay Plaintiff and other non-exempt employees for
4 all earned overtime and minimum wages.

5 12. Plaintiff was not provided all required meal periods due to Defendants' meal
6 period policies/practices which fail to provide a timely 30-minute meal period (commencing
7 before the end of the fifth hour of work) as well as a second meal period for shifts in excess of
8 10.0 hours. Specifically, although Defendants purportedly had a policy of providing one meal
9 period per shift, Defendants failed to schedule or otherwise provide opportunities to take the meal
10 period throughout the workday. This policy/practice resulted in Plaintiff and other non-exempt
11 employees not being provided all the meal periods to which they were entitled, including a
12 complete and total failure to provide second meal periods for shifts in excess of 10.0 hours.
13 Despite Defendants' failure to provide meal periods, upon information and belief Defendants
14 manually adjusted Plaintiff and other non-exempt employees' time records without the
15 employees' authorization to account for meal periods that were not in fact taken. On those
16 occasions when Plaintiff was not provided with all legally-compliant meal periods to which he
17 was entitled, Defendants failed to compensate Plaintiff with the required meal period premium
18 for each workday where there was a meal period violation as mandated by Labor Code § 226.7.
19 Upon information and belief, Defendants maintained no mechanism for the payment of meal
20 period premium payments as required by Labor Code § 226.7, in the event that a lawful meal
21 period was not provided.

22 13. Plaintiff was not authorized and permitted to take all required rest periods due to
23 Defendants' rest period policies/practices, which upon information and belief, failed to authorize
24 and permit non-exempt employees to take rest periods for every four hours worked, or major
25 fraction thereof. Specifically, although Defendants purportedly had a policy of authorizing two
26 rest periods per shift, Defendants failed to schedule any rest periods throughout the workday,
27 Plaintiff and non-exempt employees were actively discouraged from taking rest periods, and were
28 not actually authorized and permitted to take 10-minute rest periods in practice. Moreover,

Defendants did not maintain any policy which permitted non-exempt employees to take a third rest period when working in excess of 10.0 hours. On those occasions when Plaintiff was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff with the required rest period premium(s) for each workday where there was a rest period violation as mandated by Labor Code § 226.7. Upon information and belief, Defendants maintained no mechanism for the payment of rest period premium payments as required by Labor Code § 226.7, in the event that Defendants failed to authorize and permit all lawful rest periods to be taken.

14. As a result of Defendants' failure to pay all minimum wages, overtime wages, and meal and rest period premium wages, Defendants also maintained inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other non-exempt employees.

CLASS ACTION ALLEGATIONS

15. **Class Definitions:** Plaintiff brings this action on behalf of himself and the following Classes pursuant to § 382 of the Code of Civil Procedure:

- a. The Overtime Class consists of all Defendants' current and former non-exempt employees in California who worked more than 8.0 hours per day and/or 40.0 hours per workweek and were subject to Defendants' timekeeping practices, during the four years immediately preceding the filing of this action through the present
- b. The Minimum Wage Class consists of all of Defendants' current and former non-exempt employees in California who were subject to Defendants' timekeeping practices, during the four years immediately preceding the filing of this action through the present.
- c. The Meal Period Class consists of all Defendants' current and former non-exempt employees in California who: (i) worked at least one shift in excess of 5.0 hours without a recorded 30-minute meal period commencing before the end of the fifth hour of work; and/or (ii) worked at least one shift in excess of 10.0 hours without

a recorded meal period of at least 30-minutes commencing before the end of the tenth hour of work, during the four years immediately preceding the filing of this action through the present.

d. The Rest Period Class consists of all Defendants' current and former non-exempt employees in California who worked at least one shift in excess of 3.5 hours, during the four years immediately preceding the filing of this action through the present.

e. The Wage Statement Class consists of all members of the Overtime Class, Minimum Wage Class, Meal Period Class, and/or Rest Period Class who received a wage statement from Defendants during the one year immediately preceding the filing of this action through the present.

16. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership as to each of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

17. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated non-exempt employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants lawfully paid premium wages for all overtime hours worked to members of the Overtime Class pursuant to Labor Code §§ 204, 510, 558, 1194 and 1198;

ii. Whether Defendants lawfully paid all minimum wages for all hours worked to members of the Minimum Wage Class pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;

iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;

- 1 iv. Whether Defendants authorized and permitted all legally compliant rest periods to
2 members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
3 v. Whether Defendants provided meal or rest period premium payments for non-
4 compliant meal and/or rest periods pursuant to Labor Code § 226.7; and
5 vi. Whether Defendants furnished legally compliant wage statements to members of
6 the Wage Statement Class pursuant to Labor Code § 226.

7 18. **Predominance of Common Questions:** Common questions of law and fact
8 predominate over questions that affect only individual members of the Classes. The common
9 questions of law set forth above are numerous and substantial and stem from Defendants' policies
10 and/or practices applicable to each individual class member, such as Defendants' uniform
11 timekeeping and payroll policies/practices as well as meal and rest period policies/practices. As
12 such, the common questions predominate over individual questions concerning each individual
13 class member's showing as to their eligibility for recovery or as to the amount of their damages.

14 19. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
15 Plaintiff was employed by Defendants as a non-exempt employee in California during the
16 statute(s) of limitations period applicable to each cause of action pled in the action. As alleged
17 herein, Plaintiff, like the members of the Classes, was not paid for all hours worked due to
18 Defendants' timekeeping policy/practice, was not provided all required meal periods, was not
19 authorized and permitted to take all required rest periods, did not receive meal and rest period
20 premium wages for missed or non-compliant meal and rest periods, and was not provided with
21 compliant wage statements pursuant to Labor Code § 226.

22 20. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
23 to represent fairly and adequately the interests of the members of the Classes. Moreover,
24 Plaintiff's attorneys are ready, willing and able to represent the members of the Classes and
25 Plaintiff fully and adequately. Plaintiff's attorneys have prosecuted and defended numerous
26 wage-and-hour class actions in state and federal courts in the past and are committed to vigorously
27 prosecuting this action on behalf of the members of the Classes.
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21. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified herein are maintainable as a Class under § 382 of the Code of Civil Procedure.

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1 **FIRST CAUSE OF ACTION**

2 **FAILURE TO PAY ALL OVERTIME WAGES**

3 **(AGAINST ALL DEFENDANTS)**

4 22. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 23. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194,
6 and 1198, which provide that non-exempt employees are entitled to overtime wages for all
7 overtime hours worked and provide a private right of action for the failure to pay all overtime
8 compensation for overtime work performed.

9 24. At all times relevant herein, Defendants were required to properly pay Plaintiff
10 and members of the Overtime Class for all overtime hours worked pursuant to California Labor
11 Code § 1194 and Wage Order 9. Wage Order 9, § 3 requires an employer to pay an employee
12 “one and one-half (1½) times the employee’s regular rate of pay” for work in excess of 8 hours
13 per work day and/or in excess of 40 hours of work in the workweek. Wage Order 9, § 3 also
14 requires an employer to pay an employee double the employee’s regular rate of pay for work in
15 excess of twelve hours each work day and/or for work in excess of 8 hours on the seventh
16 consecutive day of work in the workweek. Defendants caused Plaintiff and other non-exempt
17 employees to work overtime hours but did not compensate Plaintiff or members of the Overtime
18 Class at one and one-half times their regular rate of pay for such hours.

19 25. The foregoing policies and practices are unlawful and create entitlement to
20 recovery by Plaintiff and the Overtime Class in a civil action for the unpaid amount of overtime
21 premiums owing, including interest thereon, statutory penalties, attorney’s fees, and costs of suit
22 according to California Labor Code §§ 204, 510, 558, 1194, and 1198, Wage Order 9, and Code
23 of Civil Procedure § 1021.5.

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SECOND CAUSE OF ACTION
MINIMUM WAGE VIOLATIONS
(AGAINST ALL DEFENDANTS)

26. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

27. Wage Order 9, § 4 and California Labor Code §§ 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked, in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount equal to the unpaid wages and interest accrued thereon.

28. At all relevant times herein, Defendants failed to conform their pay practices to the requirements of the law. This unlawful conduct includes Defendants' failure to pay Plaintiff and members of the Minimum Wage Class for all hours worked including, but not limited to, all hours they were subject to the control of Defendants and/or suffered or permitted to work under the California Labor Code and Wage Order 9.

29. California Labor Code § 1198 makes unlawful the employment of an employee under conditions that the IWC prohibits. California Labor Code §§ 1194(a) and 1194.2(a) provide that an employer who has failed to pay its employees the legal minimum wage is liable to pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an amount equal to the wages due and interest thereon.

30. As a direct and proximate result of Defendants' unlawful conduct as alleged herein, Plaintiff and the Minimum Wage Class have sustained economic damages, including but not limited to unpaid wages and lost interest, in an amount to be established at trial, and they are entitled to recover economic and statutory damages and penalties and other appropriate relief as a result of Defendants' violations of the California Labor Code and Wage Order 9.

31. Defendants' practice and uniform administration of corporate policy regarding illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiff and members of the Minimum Wage Class in a civil action for the unpaid amount of minimum wages,

1 liquidated damages, including interest thereon, statutory penalties, attorney's fees, and costs of
2 suit according to California Labor Code §§ 204, 558, 1194 *et seq.*, 1197, 1198, and Code of Civil
3 Procedure § 1021.5.

4 **THIRD CAUSE OF ACTION**

5 **MEAL PERIOD VIOLATIONS**

6 **(AGAINST ALL DEFENDANTS)**

7 32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

8 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 failed in their affirmative obligation to provide all of their non-exempt employees in California,
10 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
11 in accordance with the mandates of the California Labor Code and Wage Order 9, § 11. Despite
12 Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and members
13 of the Meal Period Class at their respective regular rates of pay, in accordance with California
14 Labor Code §§ 204, 210, 226.7, and 512.

15 34. As a result, Defendants are responsible for paying premium compensation for meal
16 period violations pursuant to Labor Code §§ 226.7, 512, and 558, and Wage Order 9, including
17 interest thereon, statutory penalties, civil penalties, and costs of suit.

18 **FOURTH CAUSE OF ACTION**

19 **REST PERIOD VIOLATIONS**

20 **(AGAINST ALL DEFENDANTS)**

21 35. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22 36. Wage Order 9, § 12 and Labor Code §§ 226.7 and 516 establish the right of
23 employees to be provided with a rest period of at least ten (10) minutes for each four (4) hour
24 period worked, or major fraction thereof.

25 37. Due to Defendants' unlawful rest period policy and practices, Defendants did not
26 authorize and permit members of the Rest Period Class to take all rest periods to which they were
27 legally entitled. Despite Defendants' violations, Defendants have not paid an additional hour of
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1 pay to Plaintiff and the Rest Period Class at their respective regular rates of pay for each violation,
2 in accordance with California Labor Code § 226.7.

3 38. The foregoing violations create an entitlement to recovery by Plaintiff and
4 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
5 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
6 to Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

7 **FIFTH CAUSE OF ACTION**

8 **WAGE STATEMENT VIOLATIONS**

9 **(AGAINST ALL DEFENDANTS)**

10 39. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

11 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
13 and members of the Wage Statement Class with complete and accurate wage statements with
14 respect to all hours worked, total gross wages earned, all rates of pay, total net wages earned, and
15 the legal name and address of their employer, in violation of Labor Code § 226 *et seq.*

16 41. Defendants' failures in furnishing Plaintiff and members of the Wage Statement
17 Class with complete and accurate itemized wage statements resulted in actual injury, as said
18 failures led to, among other things, the non-payment of all overtime and minimum wages as well
19 as meal and rest period premium wages and deprived them of the information necessary to
20 identify the discrepancies in Defendants' reported data and whether they have been paid all wages
21 earned.

22 42. Defendants' failures create an entitlement to recovery by Plaintiff and members of
23 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
24 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
25 costs of suit according to California Labor Code § 226 *et seq.*

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1 affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees
2 and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

3 **SEVENTH CAUSE OF ACTION**

4 **PRIVATE ATTORNEYS GENERAL ACT**

5 **(AGAINST ALL DEFENDANTS)**

6 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

7 50. Defendants have committed several Labor Code violations against Plaintiff,
8 members of the Classes, and other aggrieved employees. Plaintiff, an "aggrieved employee"
9 within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved
10 employees, brings this representative action against Defendants to recover the civil penalties due
11 to Plaintiff, the members of the Classes, other aggrieved employees, and the State of California
12 according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited
13 to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200 for each
14 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
15 failure to pay each employee; (2) \$50.00 for each initial violation and \$100 for each subsequent
16 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
17 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
18 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
19 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
20 each initial violation and \$200 for each subsequent violation per employee per pay period for
21 those violations of the Labor Code for which no civil penalty is specifically provided, based on
22 the following Labor Code violations;

- 23 a. Failing to pay Plaintiff and other aggrieved employees all overtime compensation
24 earned in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- 25 b. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
26 wage for all hours worked in violation of Labor Code §§ 1182.12, 1194, 1194.2,
27 and 1197;
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- c. Failing to provide meal periods as required by law and failing to pay meal period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for meal period violations in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit Plaintiff and other aggrieved employees all required rest periods and failing to pay rest period premiums to Plaintiff and other aggrieved employees at these employees' respective regular rates of compensation for rest period violations in violation of Labor Code §§ 226.7, 516, 558, and 1198;
- e. Failing to furnish Plaintiff and other aggrieved employees with accurate and compliant itemized wage statements in violation of Labor Code § 226;
- f. Failing to pay Plaintiff and other aggrieved employees all wages earned at least twice during each calendar month in violation of Labor Code § 204 by; and
- g. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees in violation of Labor Code §§ 558 and 1174.

51. On February 2, 2021, Plaintiff notified Defendant, via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via e-mail of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified herein. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

52. Based on the foregoing, Plaintiff seeks to represent himself and all other Aggrieved Employees, as defined by Labor Code § 2699(c), which includes all of Defendants' non-exempt employees who were employed by Defendants from February 2, 2020 to the present.

53. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other similarly aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699.

1 **PRAYER**

2 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
3 this suit is brought against Defendants, as follows:

- 4 1. For an order certifying the proposed Classes;
- 5 2. For an order appointing Plaintiff as representative of the Classes;
- 6 3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
- 7 4. Upon the First Cause of Action, for compensatory, consequential, general and
8 special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
- 9 5. Upon the Second Cause of Action, for payment of minimum wages, liquidated
10 damages, and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and
11 1197;
- 12 6. Upon the Third Cause of Action, for compensatory, consequential, general and
13 special damages according to proof pursuant to Labor Code §§ 226.7, 512 and 558;
- 14 7. Upon the Fourth Cause of Action, for compensatory, consequential, general, and
15 special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
- 16 8. Upon the Fifth Cause of Action, for statutory penalties pursuant to Labor
17 Code § 226 *et. seq.*;
- 18 9. Upon the Sixth Cause of Action, for restitution to Plaintiff and members of the
19 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
20 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et*
21 *seq.*;
- 22 10. Upon the Seventh Cause of Action, for civil penalties due to Plaintiff, other
23 aggrieved employees, and the State of California according to proof pursuant to Labor
24 Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial
25 violation for each failure to pay each employee and \$200.00 for each subsequent violation or
26 willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each
27 employee; (2) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant
28 to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial violation and

1 \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per employee per pay
2 period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant
3 to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for each initial violation
4 and \$200.00 for each subsequent violation per employee per pay period for those violations of
5 the Labor Code for which no civil penalty is specifically provided, based on the violations of
6 Labor Code sections cited in Paragraph 50 (a)-(g) above.;

7 11. Prejudgment interest on all due and unpaid wages pursuant to California Labor
8 Code § 218.6 and Civil Code §§ 3287 and 3289;

9 12. On all causes of action, for attorneys' fees and costs as provided by Labor
10 Code §§ 226, and 2698 *et seq.*, and Code of Civil Procedure § 1021.5; and

11 13. For such other and further relief the Court may deem just and proper.

12
13 Dated: April 16, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

14
15 By:


Fletcher W. Schmidt
Attorneys for Plaintiff

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17
18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

20
21 Dated: April 16, 2021

Respectfully submitted,
HAINES LAW GROUP, APC

22
23 By:


Fletcher W. Schmidt
Attorneys for Plaintiff

PROOF OF SERVICE

Luis Montanez v. MEI Rigging & Crating, LLC, et al.
Los Angeles County Superior Court Case No. 21STCV04062

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is [X] 2155 Campus Drive, Suite 180, El Segundo, California 90245.

On April 16, 2021, I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Jonathan L. Brophy, Esq.
E-mail: jbrophy@seyfarth.com
Michael Afar, Esq.
E-mail: mafar@seyfarth.com
2029 Century Park East, Suite 3500
Los Angeles, California 90067-3021
Attorneys for Defendant MEI RIGGING & CRATING, LLC

[X] (VIA ELECTRONIC MAIL) I caused a true and correct copy of the document(s) described above to be electronically served on counsel of record at the electronic service addresses listed above by transmission to CASE ANYWHERE

Further, on April 16, 2021, I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on the interested party(ies) in this action as follows:

Dunkel Bros. Machinery Moving, Inc.
c/o CSC - Lawyers Incorporating Service
2710 Gateway Oaks Dr., Ste. 150N
Sacramento, CA 95833

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1 [X] (BY MAIL) I am "readily familiar" with Haines Law Group, APC's practice of collection
2 and processing correspondence for mailing. I enclosed the document(s) in a sealed envelope or
3 package addressed to the persons at the address(es) listed above. Under the practice the
4 correspondence would be deposited with the U.S. postal service on the same day with postage
5 thereof fully prepaid at El Segundo, California in the ordinary course of business. I am aware
6 that on motion of the party served, service is presumed invalid if postage cancellation date or
7 postage date is more than one day after date of deposit for mailing in affidavit.

8 [X] (STATE) I declare under penalty of perjury under the laws of the State of California that the
9 above is true and correct.

10 Executed on April 16, 2021, at El Segundo, California.

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Jonathan Ramirez