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FILED
Superior Court of California
County of Los Angeles
07/21/2021

Sherri R. Carter, Executive Officer / Clerk of Court

By: K. Ghazarian Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES-CENTRAL

RAMIRO MATA MOYA, an individual,

Plaintiff,

vs.

CHIPMASTERS MANUFACTURING,
INC., a California corporation; and DOES
1 through 100, inclusive,

Defendant.

Case No.: 21STCV13094

[Assigned for all Purposes to the Hon. Stephen
I. Goorvitch, Department 39]

**FIRST AMENDED UNLIMITED
COMPLAINT FOR DAMAGES AND
PENALTIES FOR:**

- 1. FAILURE TO PAY MINIMUM
WAGES AND OVERTIME WAGES;
[California Labor Code §§510, 558 and
1194 and Industrial Welfare
Commission Wage Orders 4 and 5-2001
(8 Cal. Code Regs. §11050)];**
- 2. FAILURE TO PROVIDE REST
PERIODS AND MEAL PERIODS;
[California Labor Code §§512, 226.7]**
- 3. FAILURE TO PAY WAGES DUE AT
TIME OF TERMINATION; [California
Labor Code §§201, 202, and 203]**
- 4. FAILURE TO REIMBURSE FOR
BUSINESS EXPENSES; [California
Labor Code §2802] AND**
- 5. UNFAIR BUSINESS PRACTICES, IN
VIOLATION OF BUSINESS AND
PROFESSIONS CODE SECTION
17200, *et seq.*; AND**
- 6. VIOLATION OF LABOR CODE
SECTION 226**
- 7. CIVIL PENALTIES PURSUANT TO
LABOR CODE §2698, *et seq.***

DEMAND FOR JURY TRIAL

Plaintiff RAMIRO MATA MOYA, as an individual and on behalf of all aggrieved employees, alleges as follows:

PARTIES, VENUE, AND JURISDICTION

1. Plaintiff RAMIRO MATA MOYA (hereinafter to be referred to as “Plaintiff” or “MATA MOYA”) is, and at all times herein mentioned was, an individual residing and domiciled in the State of California, in the County of Los Angeles.

2. Defendant CHIPMASTERS MANUFACTURING, INC., a California corporation is, and at all times herein mentioned was, a California corporation with its headquarters and principal places of business in the State of California, County of Los Angeles, and in the City of Los Angeles. Defendant was authorized to do business in the State of California, County of Los Angeles. Richard Jacobsen, an individual, has now been identified and is now substituted in for Doe 51 as he can now be identified.

3. Plaintiff is unaware of the true names and capacities of Corporate Defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs are ignorant of the true names and capacities of individual Defendants sued herein as DOES 52 through 100, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiffs are informed and believes, and thereon alleges that each of the fictitiously named Defendants is responsible for the alleged occurrences and injuries to Plaintiffs. The Court has subject matter jurisdiction because the potential amount of damages and civil penalties are within the jurisdictional amounts of the Superior Court of California.

4. The Court has personal jurisdiction over the Defendants as they transact a substantial portion of their business within the State of California. Corporate Defendants, and each of them, have transacted extensive business in California related to the subject matter of this action.

5. Venue is proper under California Code of Civil Procedure Section 395 because one or more of the Defendants can be found residing in the County of Los Angeles, or engaged in wrongful acts related to the subject matter of this action, and otherwise conducted and are conducting business in the County of Los Angeles. In addition, Defendants maintained and administered records relevant to the unlawful practices alleged to have been committed in Los Angeles.

GENERAL ALLEGATIONS

6. Defendants didn't pay for all time worked, including but not limited to purported off-duty meal breaks wherein Plaintiff was required to perform work.

7. Defendants didn't pay all required overtime, including but not limited to work performed in excess of eight daily hours as required by law.

8. Defendants did not provide all required meal breaks in a timely fashion, even failing to provide a second meal break. As to rest breaks, Defendants failed to provide all rest breaks as required by law.

9. Defendants required Plaintiff to perform deliveries in his personal vehicle, but failed to reimburse him for all attributable costs as required by law.

FIRST CAUSE OF ACTION:

FAILURE TO PAY MINIMUM WAGE AND OVERTIME WAGES

(California Labor Code §§ 510, 1194, 1197, 1197.1)

(As Against Defendant CHIPMASTERS MANUFACTURING, INC.

and Does 1-100)

10. Plaintiff incorporates paragraphs 1 through 9 above as though fully set forth herein. At all times relevant to this Complaint, the IWC Wage Orders, and all applicable wage orders, provided that “employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any work week unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek” and that for any 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,” the employee is entitled to compensation of “[d]ouble the employee’s regular rate of pay.”

11. At all times relevant to this Complaint, California Labor Code section 510 was in effect and provided: “(a) 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 ... shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee” and “[a]ny 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.”

12. At all times relevant to this Complaint, California Labor Code section 1194 was in effect and provided: “(a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the minimum wage or legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of this ... overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

13. The Wage Order also reads: “When an employee works a split shift, one hour’s pay at the minimum wage shall be paid in addition to the minimum wage for that workday, except when the employee resides at the place of employment.”

14. At all times herein mentioned, Plaintiff was non-exempt and subject to the minimum wage and overtime provisions set-forth above. Plaintiff alleges that he worked for Defendants during shifts that consisted of more than eight (8) hours in a working day and more than forty (40) hours in a work week. Defendants had a policy of failing to pay all minimum wages and overtime wages due and owing. As required by Labor Code Sections 1197 and 1197.1, Defendants also failed to pay for all minimum wages as required by the laws of the County of Los Angeles.

15. Therefore, Plaintiff alleges that wages are due to him for all hours uncompensated due to failure to provide the minimum wages, and all uncompensated overtime hours. Plaintiff demands for himself all applicable payment of such minimum/overtime wages

1 with interest thereon, all applicable reimbursement and penalties/liquidated damages for his lost
2 wages, including all appropriate penalties and interest.

3 16. Plaintiff is also entitled to all reasonable attorney's fees and costs of suit
4 pursuant to Labor Code section 1194.

5 **SECOND CAUSE OF ACTION FOR FAILURE**

6 **TO PROVIDE MEAL AND REST PERIODS**

7 **(California Labor Code §§226.7, 512)**

8 **(As Against Defendant CHIPMASTERS MANUFACTURING, INC. and**
9 **Does 1-100)**

10 17. Plaintiff incorporates paragraphs 1 through 16 above as though fully set forth
11 herein

12 18. Labor Code Section 512 reads: "An employer may not employ an employee
13 for a work period of more than five hours per day without providing the employee with a meal
14 period of not less than 30 minutes, except that if the total work period per day of the employee
15 is no more than six hours, the meal period may be waived by mutual consent of both the
16 employer and employee. An employer may not employ an employee for a work period of
17 more than 10 hours per day without providing the employee with a second meal period of not
18 less than 30 minutes, except that if the total hours worked is no more than 12 hours, the
19 second meal period may be waived by mutual consent of the employer and the employee only
20 if the first meal period was not waived." At all times relevant to this Complaint, IWC Wage
21 Order 5-2001, as all other applicable wage orders, was in effect and stated in relevant part,
22 "every employer shall authorize and permit all employees to take rest periods, which insofar
23 as practicable shall be in the middle of each work period. The authorized rest period time shall
24 be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four
25 (4) hours or major fraction thereof. However, a rest period need not be authorized for
26 employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized
27 rest period time shall be counted, as hours worked, for which there shall be no deduction from
28 wages."

1 19. At all times relevant to this Complaint, California Labor Code section 226.7 was
2 in effect and provided: “[n] employer shall require any employee to work during any meal or
3 rest period mandated by an applicable order of the Industrial Welfare Commission. If an
4 employer fails to provide an employee a meal period or rest period in accordance with an
5 applicable order of the Industrial Welfare Commission, the employer shall pay the employee
6 one additional hour of pay at the employee's regular rate of compensation for each work day
7 that the meal or rest period is not provided.”

8 20. At all times herein mentioned, Plaintiff was non-exempt and subject to the rest
9 break and meal break provisions set forth above. Due to Defendants’ policies and procedures,
10 Plaintiff was not authorized and permitted to take all rest or meal breaks during his employment
11 in accordance to California law. Nor did Defendants pay meal or rest break premiums in
12 accordance to California Labor Code Section 226.7.

13 21. Defendants' unlawful conduct alleged herein occurred in the course of
14 employment of Plaintiff.

15 22. Because Defendants failed to afford and authorize all proper rest or meal
16 periods, they are liable to Plaintiff for one hour of additional pay at the regular rate of
17 compensation for each workday that the proper break period was not provided, pursuant to
18 Labor Code § 226.7.

19 **THIRD CAUSE OF ACTION FOR**
20 **FAILURE TO PAY WAGES DUE AT TIME OF**
21 **TERMINATION (California Labor Code §§201, 202 AND 203)**

22 **(As Against Defendant CHIPMASTERS MANUFACTURING, INC.**
23 **and Does 1-100)**

24 23. Plaintiff incorporates paragraphs 1 through 22 above as though fully set forth
25 herein.

26 24. At all times relevant to this Complaint, California Labor Code sections 201 and
27 202 required that an employer promptly pay all wages due to employees at the time of
28 separation of their employment. Section 201 required “[i]mmediate payment of wages due

1 upon discharge or layoff” and section 202 required that an employee who quits his or her
2 employment is paid all wages due “not later than 72 hours thereafter, unless the employee has
3 given 72 hours previous notice of his or her intention to quit, in which case the employee is
4 entitled to his or her wages at the time of quitting.”

5 25. At all times relevant to this Complaint, California Labor Code section 203
6 provided that, for the willful violation of sections 201 and/or 202, “the wages of the employee
7 shall continue as a penalty from the due date thereof at the same rate until paid or until an action
8 therefor is commenced; but the wages shall not continue for more than 30 days.”

9 26. Defendants willfully failed to pay all wages due to Plaintiff within seventy-two
10 hours of resignation from employment at Defendants’ business and, therefore, Defendants are
11 required to reimburse him all unpaid wages earned and the penalties provided by Labor Code
12 section 203, and all other applicable remedies.

13 **FOURTH CAUSE OF ACTION**

14 **FAILURE TO PAY REIMBURSABLE EXPENSES**

15 **(California Labor Code Section §2802)**

16 **(As Against Defendant CHIPMASTERS MANUFACTURING, INC.**
17 **and Does 1-100)**

18 27. Plaintiff incorporates paragraphs 1 through 26 above as though fully set forth
19 herein.

20 28. Labor Code section 2802(a) requires an employer to indemnify his or her
21 employee for all necessary expenditures or losses incurred by the employee in direct
22 consequence of the discharge of his or her duties, or of his or her obedience to the directions
23 of the employer, even though unlawful, unless the employee, at the time of obeying the
24 directions, believed them to be unlawful.

25 29. Plaintiff was not reimbursed for all required travel and necessary expenditures,
26 despite being required to travel to other off-site locations in one workday with his own
27 personal vehicle.
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30. Defendants failed to reimburse Plaintiff for these necessary expenditures. Plaintiff is entitled to recover all reasonable costs, including attorney's fees, incurred in enforcing their rights granted by Labor Code Section 2802.

FIFTH CAUSE OF ACTION

**UNFAIR COMPETITION IN VIOLATION OF CALIFORNIA BUSINESS AND
PROFESSIONS CODE SECTION 17200**

(As Against Defendant CHIPMASTERS MANUFACTURING, INC. and Does 1-100)

31. Plaintiff incorporates paragraphs 1 through 30 of this complaint as if fully alleged herein.

32. The unlawful conduct of Defendants alleged herein constitutes unfair competition within the meaning of California Business and Professions Code Section 17200. This unfair conduct includes Defendants' use of policies and procedures which resulted in: failing to pay employees at least at the appropriate rates for all hours which they worked, including overtime; and failure to provide meal/rest periods and/or meal/rest premium wages. Due to their unfair and unlawful business practices in violation of the California Labor Code, Defendants have gained a competitive advantage over other comparable companies doing business in the State of California that comply with their obligations to pay employees for all hours worked at appropriate rates, to provide all meal and rest breaks.

33. As a result of Defendants' unfair competition as alleged herein, Plaintiff has suffered injury in fact and lost money or property, as described in more detail above.

34. Pursuant to California Business and Professions Code Section 17203, Plaintiff is entitled to restitution of all wages and other monies rightfully belonging to them that Defendants failed to pay and wrongfully retained by means of their unlawful and unfair business practices. Plaintiff also seeks an injunction against Defendants enjoining Defendants, and any and all persons acting in concert with them, from engaging in each of the unlawful practices, policies and patterns set forth herein.

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1 **SIXTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE SECTION 226**

3 (California Labor Code §§226)

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5 **(As Against Defendant CHIPMASTERS MANUFACTURING, INC. and Does**
6 **1-100)**

7 35. Plaintiff incorporates paragraphs 1 through 34 of this complaint as if fully alleged
8 herein. During the period preceding the filing of the initial complaint in this action, Defendants
9 violated Labor Code sections 226. These violations subject Employer to civil penalties as set
10 forth in (1) the foregoing statute.

11 36. Specifically, Defendants have committed the following violations of California
12 Labor Code:

13 37. Record Violations: Plaintiff, by and through his attorney, requested the time
14 records required to be maintained by the employer, pursuant to Labor Code Section 226, to be
15 turned over in accordance to the twenty-one day period. Notwithstanding, Defendants failed to
16 provide or provide access to the records as required by subdivisions f and c of Labor Code
17 section 226.

18 38. Defendants also failed to provide an accurate and itemized wage statement that
19 accurately set forth all of the required items of information, required by Labor Code Section
20 226(a), including but not limited to: total hours worked by the employee, gross wages earned,
21 net wages earned, and all applicable hourly rates in effect during the work period and the
22 respective amount of hours worked at those applicable hourly rates, in violation of Laobr Code
23 Section 226(a).

24 39. Plaintiff is thus entitled to statutory civil penalties, in addition to attorney's
25 fees and costs.

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SEVENTH CAUSE OF ACTION FOR CIVIL PENALTIES FOR LABOR CODE
VIOLATIONS PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
(California Labor Code §§2698 et seq.)

(By Plaintiff, on behalf of himself and all aggrieved employees, against All Defendants and DOES 52 through 100)

40. Plaintiff incorporates paragraphs 1 through 39 of this complaint as if fully alleged herein. During the the statute of limitations' period preceding the filing of the initial complaint in this action, Plaintiff alleges on behalf of himself and all others—on information and belief—that Defendants violated Labor Code sections 201, 202, 203, 204, 210, 216, 226, 226.3, 226.6, 256, 510, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 2802, 1198, as well as 1199, and all applicable Wage Orders, including but not limited to Order nos. 1, 2, 4, 7, 16, and 17. As to Defendant Richard Jacobsen, Plaintiff only seeks civil PAGA penalties for only the following statutory violations as to him: Labor Code Sections 558, 1197.1, and 558.1. Plaintiff reserves any and all rights to later amend in order to do in other individuals in the future after further discovery. Plaintiff requests that Defendants put any doe defendants on notice of their potential inclusion in the future as to the lawsuit. These violations subject Employer to civil penalties as set forth in (1) the foregoing statutes, or (2) as set forth in the default penalties provisions of Labor Code Section 2699. Plaintiff did everything necessary to exhaust his administrative remedies as required by the PAGA statute commencing on or about March 19, 2021, never hearing from the LWDA or Defendants prior to the expiration of the required sixty-five day period, and as such, he exhausted all of his administrative remedies as required by the PAGA statute. He also seeks PAGA civil penalties and all PAGA relief on the above statutory violations as to himself and as to all other aggrieved employees, and on behalf of the LWDA during the applicable statute of limitations' period. A brief summary of the facts supporting the claims follow below.

41. Defendants have failed, and continue to fail, to keep the required time records. Defendants, for example, never maintained accurate time records of when Plaintiff performed work. Defendants did not maintain accurate and complete records of Plaintiff's actual daily and weekly earned wages, including but not limited to overtime wages, during the statute of

1 limitations' period. In addition, Defendants failed to keep accurate daily and weekly records of
2 Plaintiff's earnings for each pay period that he worked. During the statute of limitations' period,
3 Plaintiff's supervisors, including but not limited to Richard Jacobsen, would require Complainant
4 to perform off-the-clock work, wherein he would cause derivative minimum wage and overtime
5 wage violations. Plaintiff also alleges on information and belief that other aggrieved employees
6 were subjected to these same unlawful practices. Richard Jacobsen, a corporate officer, had the
7 power to stop such practices, but in fact, also caused and/or permitted them, causing the
8 violations alleged herein. Defendants further violated California's overtime laws by, among
9 other things, failing to correctly calculate and/or record proper overtime rates for all overtime
10 worked. Based on Plaintiff's regular work schedule, Plaintiff worked a significant amount of
11 overtime during the statutory time period, including several daily shifts in excess of eight hours.
12 However, Defendants failed to properly calculate overtime premiums based on all earnings
13 earned for that week. In addition, Plaintiff was required to perform deliveries during purported
14 meal breaks, causing off-the-clock work and was not fully reimbursed for his related driving
15 expenses. In addition, Plaintiff was not provided all required meal and rest breaks as required by
16 law. Plaintiff alleges that this occurred to other aggrieved employees as well. As a result of these
17 failures, Defendants owe waiting time penalties to terminated and/or employees who have
18 resigned as they were never fully paid as Plaintiff alleges on information and belief. Further, as a
19 result of the off-the-clock work, in addition to simply failing to keep the required records' of
20 information, Defendants failed to provide accurate and itemized wage statements that reflected
21 all of the required information, in accurate fashion, as to several categories of section (a) of
22 Labor Code Section 226, including but not limited to: 1) gross wages earned; 2) net wages
23 earned; 3) total hours worked; and 4) and all applicable hourly rates in effect during the time
24 period, and the respective hours worked at said time periods. In addition, Defendants never
25 provided a copy of Plaintiff's requested employee wage statements and time records in violation
26 of Labor Code Sections 226 and 1199. This also caused violations of Labor Code Sections 226,
27 226(a), 226.3, 226.6, in addition to Labor Code Sections 1174, 1174.5, and 1199. Despite having
28 the ability to pay, this intentional failure to properly pay wages and refusal to provide the legal

1 wages also results in derivative violations of the aforementioned statutes, including but not
2 limited to timeliness of payment, actual payment of what should have been paid, amongst other
3 violations.

4 42. As described throughout this complaint, and as the violations are described and
5 flow from both the allegations in this complaint and/or the aforementioned statutes, Defendants
6 thus violated all of the aforementioned labor code violations. These violations subject Employer
7 and individuals to civil penalties as set forth in (1) the foregoing statutes to the extent that they
8 are specified and contained therein, which Plaintiff will be seeking on his own behalf and on the
9 behalf of all aggrieved employees; or to (2) other PAGA relief. To the extent that that the statutes
10 do not provide for PAGA civil penalties or PAGA available relief, then Plaintiff will seek the
11 default PAGA penalties for each of the preceding statutory violations in accordance with Labor
12 Code Section 2699(f) for himself and for all aggrieved employees, as well as the LWDA.

13 43. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of
14 reasonable attorney's fees and costs in connection with his claims for civil penalties.

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

17 **AS TO ALL CAUSES OF ACTION:**

- 18 1. For general damages *and* statutory penalties against all Defendants in the amount
19 of \$100,000, or according to proof;
- 20 2. For special damages and liquidated damages against Defendants according to
21 proof;
- 22 3. For statutory penalties to the extent provided by law;
- 23 4. For costs of suit incurred herein;
- 24 5. For pre-judgment and post-judgment interest; and
- 25 6. For such other and further relief as the court deems just and proper.

26 **ON THE FIRST, FOURTH, AND SIXTH CAUSES OF ACTION**

27 **(As Against Defendant CHIPMASTERS MANUFACTURING, INC. and Does 1-100)**

- 28 1. For reasonable attorney's fees according to proof;

2. For statutory penalties to the extent provided by law; and
3. For declaratory and injunctive relief.

ON THE SECOND CAUSE OF ACTION

**(As Against Defendant CHIPMASTERS MANUFACTURING, INC.
and Does 1-100)**

1. For declaratory and injunctive relief.

ON THE THIRD CAUSE OF ACTION

**(As Against Defendant CHIPMASTERS MANUFACTURING, INC.
and Does 1-100)**

1. For declaratory and injunctive relief; and
2. For statutory penalties.

ON THE FIFTH CAUSE OF ACTION

**(As Against Defendant CHIPMASTERS MANUFACTURING, INC.
and Does 1-100)**

1. For declaratory and injunctive relief;
2. For restitution; and
3. For attorney's fees as provided by law.

ON THE SEVENTH CAUSE OF ACTION

(As Against All Defendants and DOES 52-100)

1. For reasonable attorney's fees according to proof; and
2. For PAGA civil penalties to the full extent permitted by law.

Dated: July 19, 2021

LAW OFFICE OF ALFREDO NAVA JR., APC

By: _____

ALFREDO NAVA
Attorney for Plaintiff,
RAMIRO MATA MOYA

DEMAND FOR JURY TRIAL

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Plaintiff hereby demands a trial by jury of the causes of action and claims asserted herein.

Dated: July 19, 2021

LAW OFFICE OF ALFREDO NAVA JR., APC



By: _____

ALFREDO NAVA
Attorney for Plaintiff,
RAMIRO MATA MOYA