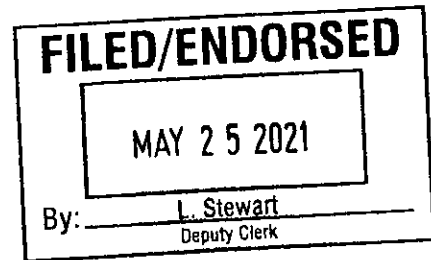


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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SACRAMENTO

34 2021 00301332

MICHAEL SHAW, on behalf of the State of
California;

Plaintiff,

v.

DAIFUKU NORTH AMERICA HOLDING
COMPANY, ELITE LINE SERVICES, INC. and
DOES 1-100, inclusive;

Defendants.

Case No.:

**COMPLAINT FOR PENALTIES
PURSUANT TO SECTIONS 2699(a) and (f)
OF THE CALIFORNIA LABOR CODE
PRIVATE ATTORNEYS GENERAL ACT**

DEMAND FOR JURY TRIAL

BY FAX

COMPLAINT FOR PENALTIES PURSUANT TO SECTIONS 2699(a) AND (f) OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS GENERAL ACT AND DEMAND FOR JURY TRIAL

Michael Shaw v. Daifuku North America Holding Company, et al.

1 Plaintiff Michael Shaw (“Plaintiff”), on behalf of the State of California and Aggrieved
2 Employees (defined below) complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this enforcement action against Defendant Diafuku North America
5 Holding Company (“Diafuku”), and Defendant Elite Line Services, Inc. (“ELS”) (collectively
6 “Defendants”) on behalf of the State of California to collect statutory penalties as a result of
7 Defendants’ systematic violations of California labor law with respect to Defendants’ non-exempt,
8 hourly workers employed in California (the “Aggrieved Employees”).

9 2. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers
10 employed by Defendants as mechanics, engineers, technicians, material handlers & processors,
11 apprentices, bag jammers, order fillers, field service coordinators and other non-managerial positions
12 throughout California.¹

13 3. Upon information and belief, Defendant Daifuku is part of the managerial handling
14 equipment manufacturing industry. Daifuku is a subsidiary of Daifuku Co., LTD, a company
15 headquartered in Osaka, Japan with over 10,000 employees worldwide. There are 216 companies in
16 the Daifuku corporate family. Daifuku has approximately 1,000 employees across all its locations in
17 the United States and generates \$787.10 million in sales. Daifuku conducts extensive operations in
18 California.

19 4. Upon information and belief, Defendant ELS provides airport facility equipment
20 operation and maintenance services. ELS offers in-line baggage handling systems, passenger
21 boarding bridges, ground support equipment, facilities, and airport vehicle fleets. ELS is one of the
22 subsidiaries of Daifuku. ELS also conducts extensive operations in California.

23 5. Plaintiff and Aggrieved Employees bring this action to challenge Defendants’ policies
24 and practices of: (1) failing to timely compensate Plaintiff and Aggrieved Employees for all hours
25 worked; (2) failing to make available, authorize and/or permit Plaintiff and Aggrieved Employees to
26 take timely and compliant meal periods to which they are entitled by law and failing to make premium

27 ¹ Although Plaintiff is a former employee, Aggrieved Employees include current and former
28 employees. For ease of discussion, the allegations herein are made in the present tense.

1 payments for those non-compliant meal periods; (3) failing to make available, authorize and/or permit
2 Plaintiff and Aggrieved Employees to take timely and compliant rest periods and failing to make
3 premium payments for those non-compliant rest periods; and (4) failing to provide Plaintiff and
4 Aggrieved Employees accurate, itemized wage statements.

5 6. Defendants maintain a longstanding policy and/or practice of failing to properly
6 compensate Plaintiff and Aggrieved Employees for work related tasks performed while “off-the-
7 clock,” including, but not limited to, waiting in line and going through security checks before leaving
8 the building, after the end of each shift, *i.e.*, after clocking out. Plaintiff and Aggrieved Employees
9 are required to wait on average five to ten minutes, and sometimes longer, after their shift ends.

10 7. Plaintiff and Aggrieved Employees routinely perform off-the-clock work after paid
11 shifts.

12 8. Throughout the relevant time period, Plaintiff and Aggrieved Employees have been
13 denied proper payment for all hours worked for the time spent off-the-clock. Defendants fail to pay
14 for any of this time worked off-the-clock in violation of the California Labor Code.

15 9. Defendants also regularly fail to provide Plaintiff and Aggrieved Employees with
16 timely, legally compliant meal and rest breaks, and Defendants fail to provide Plaintiff and Aggrieved
17 Employees with premium pay for missed, late and/or interrupted meal and rest breaks. Plaintiff and
18 Aggrieved Employees routinely work ten hours or more per shift. Plaintiff and Aggrieved Employees
19 are systematically denied meal and rest breaks because: (i) Defendants do not authorize, permit,
20 and/or make available timely meal and rest breaks for Plaintiff and Aggrieved Employees; and (ii)
21 Plaintiff and Aggrieved Employees are often too busy with work, as directed by Defendants, during
22 the day to have time to take bona fide meal and rest breaks. Plaintiff and Aggrieved Employees
23 constantly work through their meal and rest breaks. When Plaintiff and Aggrieved Employees attempt
24 a meal break, such is untimely, *i.e.*, the first meal break does not occur before the fifth hour of work,
25 and/or is interrupted, and the second meal break does not occur before the tenth hour of work, and/or
26 is interrupted.

27 10. As a result of the above violations, Defendants fail to provide Plaintiff and Aggrieved
28 Employees with accurate, itemized wage statements.

11. Plaintiff, on behalf of the State of California, seeks to recover penalties and reasonable attorneys' fees for these violations pursuant to Sections 2699(a) and (f) of the California Labor Code Private Attorneys General Act ("PAGA").

PARTIES

12. Plaintiff and Aggrieved Employees are current and former non-exempt, hourly workers employed by Defendants as mechanics, engineers, technicians, material handlers & processors, apprentices, bag jammers, order fillers, field service coordinators, and other non-managerial positions throughout California. Defendants employ and/or employed Plaintiff and Aggrieved Employees.

13. Plaintiff is an individual over the age of eighteen, and at all times mentioned in this Complaint was a resident of the State of California.

14. Plaintiff was employed as a non-exempt mechanic by Defendants from approximately June 2020 through February 13, 2021 and was compensated at an hourly rate of \$27.00. Plaintiff worked for Defendants at a location in Bakersfield, California.

15. Defendant Daifuku North America Holding Company is a Delaware corporation with its principal place of business located in Novi, Michigan. Daifuku does business in the State of California and employs workers, including Plaintiff and Aggrieved Employees, in California. Daifuku may be served with process by serving its registered agent, Michael J. Farley, 30100 Cabot Drive, Novi, MI 48377.

16. Defendant Elite Line Services, Inc. is a Florida corporation with its principal place of business located in Carrollton, Texas. Elite does business in the State of California and employs workers, including Plaintiff and Aggrieved Employees, in California. Elite may be served with process by serving its registered agent, CSC – Lawyer Incorporated Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento 95833.

17. Plaintiff is informed, believes, and thereon alleges that Defendants operate facility locations throughout California, including in Sacramento County. Plaintiff is informed, believes, and thereon alleges that Defendants employ Aggrieved Employees, throughout California, including in Sacramento County.

18. Plaintiff is informed, believes, and thereon alleges that Defendants jointly exercise

1 control over Plaintiff and Aggrieved Employees with respect to their employment.

2 19. The true names and capacities, whether individual, corporate, associate, or otherwise,
3 of Does 1-100, inclusive, are unknown to Plaintiff, who therefore sues the Doe Defendants by
4 fictitious names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously
5 named Defendants is responsible in some manner for the occurrences and violations as herein alleged.
6 Plaintiff will amend this Complaint to show their true names and capacities when they have been
7 ascertained. Defendants are jointly and severally liable for the civil penalties asserted.

8 20. At all relevant times, Defendants have done business under the laws of California, have
9 had places of business in California, including in this judicial district, and have employed Aggrieved
10 Employees in this judicial district. Defendants are “persons” as defined in Labor Code § 18 and
11 Business and Professions Code § 17201. Defendants are also “employers” as that term is used in the
12 Labor Code and IWC Wage Orders.

13 21. Defendants employ Plaintiff and Aggrieved Employees, because Defendants, directly
14 or indirectly, control the employment terms, pay practices, timekeeping practices, and daily work of
15 Plaintiff and Aggrieved Employees.

16 **JURISDICTION AND VENUE**

17 22. Venue is proper in this County pursuant to Code of Civil Procedure §§ 393(a) and/or
18 395.5. Defendants conduct business and employ Aggrieved Employees in this County, and therefore
19 the liability and the cause or some part of the cause arose in this County.

20 23. This Court has jurisdictions over Plaintiff’s claims for penalties pursuant to the PAGA.
21 The Court also has jurisdiction over Defendants because they are companies authorized to do business
22 in the State of California, and because Defendants in fact do business and employ workers in the State
23 of California.

24 **FACTUAL ALLEGATIONS**

25 24. Defendant Daifuku is part of the managerial handling equipment manufacturing
26 industry. Daifuku has approximately 1,000 employees across all its locations in the United States.
27 Daifuku employs hundreds of workers at facilities located in California.

28 25. Defendant ELS provides airport facility equipment operation and maintenance services.

1 ELS offers in-line baggage handling systems, passenger boarding bridges, ground support equipment,
2 facilities, and airport vehicle fleets. ELS is one of the subsidiaries of Daifuku. Elite employs a
3 substantial number of workers at facilities located in California.

4 26. Plaintiff formerly worked as a mechanic for Defendants at their facility located in
5 Bakersfield, California. Plaintiff was employed by Defendants from approximately June 2020 until
6 February 13, 2021.

7 27. Plaintiff is informed, believes, and thereon alleges that Aggrieved Employees were and
8 are employed by Defendants throughout California, including in this County, and perform work
9 materially similar to Plaintiff. Defendants pay and/or paid Aggrieved Employees, including Plaintiff,
10 on an hourly rate basis.

11 28. Plaintiff is informed, believes, and thereon alleges that the policies and practices of
12 Defendants have at all relevant times been similar for Plaintiff and Aggrieved Employees, regardless
13 of facilities' location in California.

14 29. Aggrieved Employees are required to follow and abide by common work, time, and pay
15 policies and procedures in the performance of their jobs and duties.

16 30. At the end of each pay period, Aggrieved Employees receive wages from Defendants
17 that are determined by common systems and methods that Defendants select and control.

18 31. As a matter of policy and/or practice, Defendants routinely fail to compensate Plaintiff
19 and Aggrieved Employees for all hours worked. Plaintiff and Aggrieved Employees are not permitted
20 to log the actual number of hours they work each week and therefore are not compensated for all time
21 worked and spent under the control and supervision of Defendants, *i.e.*, time spent for the benefit of
22 Defendants.

23 32. For instance, Defendants require Plaintiff and Aggrieved Employees to wait in line and
24 go through security checks before leaving the building after their shift ends. Defendants routinely
25 make Plaintiff and Aggrieved Employees wait for these security screenings at the end of their shifts
26 while they are off-the-clock—after they have clocked out. Plaintiff and Aggrieved Employees are
27 required to wait on average five to ten minutes, and sometimes even longer, after their shift ends. This
28 time goes unrecorded and uncompensated, even though it should be compensated.

1 33. Additionally, Defendants require Plaintiff and Aggrieved Employees to remain on duty
2 during rest and unpaid meal periods. Plaintiff and Aggrieved Employees are not provided with meal
3 and rest breaks during which they are relieved of work-related duties. Plaintiff and Aggrieved
4 Employees are systematically too busy with work during the day to have time to take bona fide meal
5 and rest breaks. In the rare instance when Plaintiff and Aggrieved Employees attempt a rest or meal
6 break, such is routinely untimely and/or interrupted.

7 34. Plaintiff and Aggrieved Employees routinely work in excess of ten hours per day; thus,
8 Plaintiff and Aggrieved Employees should receive and be permitted to take two meal breaks per day
9 during which they are relieved of work-related duties, one by the fifth hour of work and another by
10 before the tenth hour of work.

11 35. Defendants do not compensate Plaintiff and Aggrieved Employees for work performed
12 during rest and unpaid meal periods. Despite these recurring violations, Defendants do not pay
13 premiums to Plaintiff and Aggrieved Employees for missed, interrupted and/or untimely, *i.e.*, non-
14 compliant, rest and meal periods.

15 36. As a result of these practices, Defendants deny Plaintiff and Aggrieved Employees
16 compensation for all hours worked and premium payments resulting from missed meal and rest
17 periods.

18 37. Plaintiff is informed, believes, and thereon alleges that Defendants' same security
19 checks protocol and meal and rest periods practices are used across all Defendants' facilities
20 throughout California.

21 38. Consequently, Defendants' common course of wage-and-hour abuse includes routinely
22 failing to maintain true and accurate records of the hours worked by Plaintiff and Aggrieved
23 Employees. Defendants have failed to record hours that Plaintiff and Aggrieved Employees worked
24 off-the-clock and failed to record non-compliant meal and rest periods.

25 39. Defendants also do not provide Plaintiff and Aggrieved Employees with accurate wage
26 statements as required by California law because the wage statements do not reflect all hours worked.
27 Plaintiff and Aggrieved Employees receive wage statements that do not reflect all hours worked
28 premium pay for missed meal and rest periods.

40. Plaintiff is informed, believes, and thereon alleges that Defendants are well aware that their policies and practices deprive Plaintiff and Aggrieved Employees of substantial pay for all time worked and that Plaintiff and Aggrieved Employees do not receive legally compliant meal and rest periods. Thus, Defendants' denial of wages and compliant meal and rest periods to Plaintiff and Aggrieved Employees is and/or was deliberate and willful.

41. Plaintiff is informed, believes, and thereon alleges that Defendant's unlawful conduct has been widespread, repeated, and consistent as to Aggrieved Employees and throughout Defendants' operations in California.

42. Defendants' conduct was willful, carried out in bad faith, and triggers significant civil penalties in an amount to be determined at trial.

FIRST CAUSE OF ACTION
Penalties Pursuant to Labor Code § 2699(a)
(On Behalf of the State of California and Aggrieved Employees)

43. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

44. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

45. Labor Code § 226(a) provides:

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated

and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and his or her social security number, (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.

46. Labor Code § 226.3 provides:

Any employer who violates subdivision (a) of Section 226 shall be subject to a civil penalty in the amount of two hundred fifty dollars (\$250) per employee per violation in an initial citation and one thousand dollars (\$1,000) per employee for each violation in a subsequent citation, for which the employer fails to provide the employee a wage deduction statement or fails to keep the records required in subdivision (a) of Section 226. The civil penalties provided for in this section are in addition to any other penalty provided by law.

47. Plaintiff seeks civil penalties pursuant to Labor Code § 2699(a) for each failure by Defendants, alleged above, to provide Plaintiff and Aggrieved Employees an accurate, itemized wage statement in compliance with Labor Code § 226(a) in the amounts established by Labor Code § 226.3.

48. Labor Code §§ 226.7 and 512 require Defendants to authorize, permit, and/or make available timely and compliant meal and rest periods to its employees. Labor Code § 512 prohibits employers from employing an employee for more than five hours without a meal period of not less than thirty minutes, and from employing an employee more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes. § 226.7 requires employers to authorize and permit employees to take ten minutes of net rest time per four hours, or major fraction thereof of work, and to pay employees their full wages during those rest periods. Unless the employee is relieved of all duty during the thirty-minute meal period and ten-minute rest period, the employee is considered “on duty” and the meal or rest period is counted as time worked under the applicable wage orders.

49. Plaintiff seeks civil penalties pursuant to Labor Code § 558 for each failure by Defendants, as alleged above, to authorize, permit, and/or make available timely and compliant meal and rest periods.

50. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the Labor and

1 Workforce Development Agency (“LWDA”) with notice of his intention to file this claim. Sixty-
2 five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative
3 prerequisites to commence this civil action in compliance with § 2699.3(a).

4 51. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved
5 Employees, and herself as set forth in Labor Code § 2699.

6 52. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for
7 the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an
8 award of attorneys’ fees and costs as set forth below.

9 53. Wherefore, Plaintiff requests relief as hereinafter provided.

10 **SECOND CAUSE OF ACTION**
11 **Penalties Pursuant to Labor Code § 2699(f)**
(On Behalf of the State of California and Aggrieved Employees)

12 54. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
13 herein.

14 55. Labor Code § 2699(f) provides:

15 For all provisions of this code except those for which a civil penalty is
16 specifically provided, there is established a civil penalty for a violation
17 of these provisions, as follows: . . . (2) If, at the time of the alleged
18 violation, the person employs one or more employees, the civil penalty
19 is one hundred dollars (\$100) for each aggrieved employee per pay
20 period for the initial violation and two hundred dollars (\$200) for each
21 aggrieved employee per pay period for each subsequent violation.

22 56. Labor Code § 204(a) provides that “[a]ll wages ... earned by any person in any
23 employment are due and payable twice during each calendar month....”

24 57. To the extent than any violation alleged herein does not carry penalties under Labor
25 Code § 2699(a), Plaintiff seeks civil penalties pursuant to Labor Code § 2699(f) for Plaintiff and
26 Aggrieved Employees each pay period in which he or she was aggrieved, in the amounts established
27 by Labor Code § 2699(f). Plaintiff seeks penalties pursuant to Labor Code § 2699(f) for Plaintiff and
28 Aggrieved Employees for violations of Labor Code provisions including, but not limited, to, Labor
Code § 203, and any other violation alleged herein does not carry penalties under Labor Code §
2699(a).

58. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff has provided the LWDA with notice of his intention to file this claim. Sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

59. Plaintiff seeks the aforementioned penalties on behalf of the State, other Aggrieved Employees, and herself as set forth in Labor Code § 2699(g)(1).

60. Defendants are liable to Plaintiff, Aggrieved Employees, and the State of California for the civil penalties set forth in this Complaint, with interest thereon. Plaintiff is also entitled to an award of attorneys' fees and costs as set forth below.

61. Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief as follows:

1. For the Court to declare, adjudge, and decree that Defendants have violated the California Labor Code as alleged herein;
2. For an order awarding the State of California, Plaintiff, and Aggrieved Employees civil penalties provided under the PAGA;
3. For interest on penalties awarded as provided by applicable law;
4. For an award of reasonable attorneys' fees;
5. For all costs of suit; and
6. For such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: May 24, 2021

Carolyn H. Cottrell
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SCHNEIDER WALLACE
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*Attorneys for Plaintiff, on behalf of the State of
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Date: May 24, 2021

Carolyn Cottrell

*Attorneys for Plaintiff, on behalf of the State of
California and Aggrieved Employees*