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ALAMEDA COUNTY

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CLERK OF THE SUPERIOR COURT

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

DEKEISHA LINDSEY, individually, and on
behalf of other aggrieved employees pursuant to
the California Private Attorneys General Act;

Plaintiff,

vs.

WC LOGISTICS, INC., a California
corporation; AIT WORLDWIDE LOGISTICS,
INC., an unknown business entity; and DOES 1
through 100, inclusive,

Defendants.

Case No.: **RG21109456**

**COMPLAINT FOR ENFORCEMENT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT, CALIFORNIA
LABOR CODE § 2698, ET SEQ.**

Violation of California Labor Code § 2698,
et seq. (California Labor Code Private
Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

COMES NOW, Plaintiff DEKEISHA LINDSEY (“Plaintiff”), individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, and alleges as follows:

JURISDICTION AND VENUE

1. This representative action is brought pursuant to the California Labor Code section 2698, et seq. The civil penalties sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

2. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all other causes” except those given by statute to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

3. This Court has jurisdiction over Defendant because, upon information and belief, each Defendant is a citizen of California, has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

4. Venue is proper in this Court because, upon information and belief, each Defendant maintains offices, has agents, and/or transacts business in the State of California, including the County of Alameda.

PARTIES

5. Plaintiff DEKEISHA LINDSEY is an individual residing in the State of California.

6. Defendant WC LOGISTICS, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Alameda.

7. Defendant AIT WORLDWIDE LOGISTICS, INC., at all times herein mentioned, was and is, upon information and belief, an employer whose employees are engaged throughout the State of California, including the County of Alameda.

1 8. At all relevant times, Defendants WC LOGISTICS, INC. and AIT
2 WORLDWIDE LOGISTICS, INC. were the “employer” of Plaintiff within the meaning of all
3 applicable state laws and statutes.

4 9. At all times herein relevant, WC LOGISTICS, INC., AIT WORLDWIDE
5 LOGISTICS, INC., and DOES 1 through 100, and each of them, were the agents, partners,
6 joint venturers, joint employers, representatives, servants, employees, successors-in-interest,
7 co-conspirators and assigns, each of the other, and at all times relevant hereto were acting
8 within the course and scope of their authority as such agents, partners, joint venturers,
9 representatives, servants, employees, successors, co-conspirators and/or assigns, and all acts or
10 omissions alleged herein were duly committed with the ratification, knowledge, permission,
11 encouragement, authorization and/or consent of each defendant designated as a DOE herein.

12 10. The true names and capacities, whether corporate, associate, individual or
13 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues
14 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that
15 information and belief alleges, that each of the defendants designated as a DOE is legally
16 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
17 the injuries and damages to Plaintiff as alleged in this Complaint. Plaintiff will seek leave of
18 court to amend this Complaint to show the true names and capacities when the same have been
19 ascertained.

20 11. WC LOGISTICS, INC. , AIT WORLDWIDE LOGISTICS, INC., and DOES 1
21 through 100 will hereinafter collectively be referred to as “Defendants.”

22 12. Plaintiff further alleges that Defendants including the unknown defendants
23 identified as DOES, directly or indirectly controlled or affected the working conditions, wages,
24 working hours, and conditions of employment of Plaintiff and the other aggrieved employees
25 so as to make each of said Defendants employers and employers liable under the statutory
26 provisions set forth herein.

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PAGA ALLEGATIONS

13. At all times herein set forth, California Private Attorneys General Act (“PAGA”) was applicable to Plaintiff’s employment by Defendants.

14. At all times herein set forth, PAGA provides that any provision of law under the California Labor Code that provides for a civil penalty to be assessed and collected by the LWDA for violations of the California Labor Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of herself and other current or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

15. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved employee,” who is any person that was employed by the alleged violator and against whom one or more of the alleged violations was committed.

16. Plaintiff was employed by Defendants and the alleged violations were committed against her during her time of employment and she is, therefore, an aggrieved employee. Plaintiff and the other employees are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations were committed against them.

17. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved employee, including Plaintiff, may pursue a civil action arising under PAGA after the following requirements have been met:

a. The aggrieved employee shall give written notice by online submission (hereinafter “Employee’s Notice”) to the LWDA and by U.S. Certified Mail the employer of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations.

b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the alleged violation within sixty (60) calendar days of the postmark date of the Employee’s Notice. Upon receipt of the

LWDA Notice, or if the LWDA Notice is not provided within sixty-five (65) calendar days of the postmark date of the Employee's Notice, the aggrieved employee may commence a civil action pursuant to California Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.

18. On April 5, 2021, Plaintiff provided written notice by U.S. Certified Mail to the LWDA and to Defendant WC LOGISTICS, INC. and AIT WORLDWIDE LOGISTICS, INC. of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the date of submission of Plaintiff's Notice.

19. On June 9, 2021, Plaintiff provided an amended written notice by U.S. Certified Mail to the LWDA and to Defendant WC LOGISTICS, INC. and AIT WORLDWIDE LOGISTICS, INC. of the specific provisions of the California Labor Code alleged to have been violated, including the facts and theories to support the alleged violations. Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the date of submission of Plaintiff's Notice.

20. Therefore, Plaintiff has satisfied the administrative prerequisites under California Labor Code section 2699.3(a) to recover civil penalties against Defendants for violations of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

GENERAL ALLEGATIONS

21. At all relevant times set forth herein, Defendants employed Plaintiff and other aggrieved employees, including, but not limited to (a) all current and former hourly-paid or non-exempt individuals who were employed by any of the Defendants within the State of California including, but not limited to all current and former hourly-paid or non-exempt employees who worked for any of the Defendants within the State of California who earned shift differentials/non-discretionary bonuses/non-discretionary performance pay which was not used to calculate the correct regular rate of pay used to calculate the overtime rate ("aggrieved

employees in subgroup A”), and (b) all current and former salaried customer account managers, or persons who held similar job titles and/or performed similar job duties, misclassified as “exempt” who were employed by any of the Defendants within the State of California (“aggrieved employees in subgroup B”).

22. Defendants, jointly and severally, employed Plaintiff as a salaried employee misclassified as “exempt” and as an hourly-paid employee from approximately September 2016 to approximately July 2020 in the State of California.

23. Defendants hired Plaintiff and the other aggrieved employees in subgroup A, and failed to compensate them for all hours worked, missed meal periods or rest breaks.

24. Defendants hired Plaintiff and the other aggrieved employees in subgroup B, misclassified them as “exempt” employees, and paid them on a salary basis, without compensation for overtime hours worked, missed meal periods or rest breaks.

25. Defendants had the authority to hire and terminate Plaintiff and the other aggrieved employees, to set work rules and conditions governing Plaintiff’s and the other aggrieved employees’ employment, and to supervise their daily employment activities.

26. Defendants exercised sufficient authority over the terms and conditions of Plaintiff’s and the other aggrieved employees’ employment for them to be joint employers of Plaintiff and the other aggrieved employees.

27. Defendants directly hired and paid wages and benefits to Plaintiff and the other aggrieved employees.

28. Defendants continue to employ salaried, on-site employees misclassified as “exempt” within the State of California.

29. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and the other aggrieved employees worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

30. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a uniform policy and systematic scheme of wage abuse against their “exempt” or salaried employees. This scheme involved, *inter alia*, misclassifying these positions as

1 “exempt” managerial employees for purposes of the payment of overtime compensation when,
2 in fact, they were “non-exempt” non-managerial employees according to California law.

3 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
4 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
5 receive certain wages for overtime compensation and that they were not receiving wages for
6 overtime compensation.

7 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 failed to provide Plaintiff and the other aggrieved employees the required rest and meal periods
9 during the relevant time period as required under the applicable Industrial Welfare
10 Commission (“IWC”) Wage Orders and thus they are entitled to any and all applicable
11 penalties.

12 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
14 receive all meal periods or payment of one additional hour of pay at Plaintiff’s and the other
15 aggrieved employee’s regular rate of pay when a meal period was missed, and they did not
16 receive all meal periods or payment of one additional hour of pay at Plaintiff’s and the other
17 aggrieved employee’s regular rate of pay when a meal period was missed.

18 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
20 receive all rest periods or payment of one additional hour of pay at Plaintiff’s regular rate of
21 pay when a rest period was missed, and they did not receive all rest periods or payment of one
22 additional hour of pay at Plaintiff’s and the other aggrieved employees’ regular rate of pay
23 when a rest period was missed.

24 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
26 receive at least minimum wages for compensation and that they were not receiving at least
27 minimum wages for all hours worked.

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1 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that the aggrieved employees were entitled to receive all wages
3 owed to them upon discharge or resignation, including overtime wages and meal and rest
4 period premiums, and they did not, in fact, receive all such wages owed to them at the time of
5 their discharge.

6 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
7 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
8 receive all wages owed to them during their employment. Plaintiff and the other aggrieved
9 employees did not receive payment of all wages, including overtime wages and meal and rest
10 period premiums, within any time permissible under California Labor Code section 204.

11 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
12 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
13 receive complete and accurate wage statements in accordance with California law, but, in fact,
14 they did not receive complete and accurate wage statements from Defendants. The
15 deficiencies included, *inter alia*, the failure to include the total number of hours worked by
16 Plaintiff and the other aggrieved employees.

17 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 knew or should have known that Defendants had to keep complete and accurate payroll records
19 for Plaintiff and the other aggrieved employees in accordance with California law, but, in fact,
20 did not keep complete and accurate payroll records.

21 40. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
23 reimbursement for necessary business-related expenses and costs.

24 41. Plaintiff is informed and believes, and based thereon alleges, that Defendants
25 knew or should have known that they had a duty to compensate Plaintiff and the other
26 aggrieved employees pursuant to California law, and that Defendants had the financial ability
27 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
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1 falsely represented to Plaintiff and the other aggrieved employees that they were properly
2 denied wages, all in order to increase Defendants' profits.

3 42. At all material times set forth herein, Defendants failed to pay overtime wages
4 to Plaintiff and the other aggrieved employees. Plaintiff and the other aggrieved employees
5 were required to work more than eight (8) hours per day and/or forty (40) hours per week
6 without overtime compensation.

7 43. At all material times set forth herein, Defendants failed to provide uninterrupted
8 meal and rest periods to Plaintiff and the other aggrieved employees.

9 44. At all material times set forth herein, Defendants failed to pay Plaintiff and the
10 other aggrieved employees at least minimum wages for all hours worked.

11 45. At all material times set forth herein, Defendants failed to pay the aggrieved
12 employees all wages owed to them upon discharge or resignation.

13 46. At all material times set forth herein, Defendants failed to pay Plaintiff and the
14 other aggrieved employees' wages within any time permissible under California law,
15 including, *inter alia*, California Labor Code section 204.

16 47. At all material times set forth herein, Defendants failed to provide complete and
17 accurate wage statements to Plaintiff and the other aggrieved employees.

18 48. At all material times set forth herein, Defendants failed to keep complete and
19 accurate payroll records for Plaintiff and the other aggrieved employees.

20 49. At all material times set forth herein, Defendants failed to reimburse Plaintiff
21 and the other aggrieved employees for necessary business-related expenses and costs.

22 50. At all material times set forth herein, Defendants failed to properly compensate
23 Plaintiff and the other aggrieved employees pursuant to California law in order to increase
24 Defendants' profits.

25 51. California Labor Code section 218 states that nothing in Article 1 of the Labor
26 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
27 due to him [or her] under this article."

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FIRST CAUSE OF ACTION

Violation of California Labor Code § 2698, et seq.

**(Against WC LOGISTICS, INC., AIT WORLDWIDE LOGISTICS, INC.,
and DOES 1 through 100)**

52. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 51, and each and every part thereof with the same force and effect as though fully set forth herein.

53. PAGA expressly establishes that any provision of the California Labor Code which provides for a civil penalty to be assessed and collected by the LWDA, or any of its departments, divisions, commissions, boards, agencies or employees for a violation of the California Labor Code, may be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself, and other current or former employees.

54. Whenever the LWDA, or any of its departments, divisions, commissions, boards, agencies, or employees has discretion to assess a civil penalty, a court in a civil action is authorized to exercise the same discretion, subject to the same limitations and conditions, to assess a civil penalty.

55. Plaintiff and the other salaried, on-site employees misclassified as “exempt” are “aggrieved employees” as defined by California Labor Code section 2699(c) in that they are all current or former employees of Defendants, and one or more of the alleged violations was committed against them.

Failure to Pay Overtime

56. Defendants’ failure to pay legally required overtime wages to Plaintiff and the other aggrieved employees is in violation of the applicable IWC Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 510 and 1198.

Failure to Provide Meal Periods

57. Defendants’ failure to provide legally required meal periods to Plaintiff and the other aggrieved employees is in violation of the applicable IWC Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 226.7 and 512(a).

Failure to Provide Rest Periods

58. Defendants' failure to provide legally required rest periods to Plaintiff and the other aggrieved employees is in violation of the applicable IWC Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.7.

Failure to Pay Minimum Wages

59. Defendants' failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

60. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

61. Defendants' failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

62. Defendants' failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

63. Defendants' failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

64. Defendants' failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code

sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 2800 and 2802.

65. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on behalf of all aggrieved employees, requests and is entitled to recover from Defendants and each of them, business expenses, unpaid wages, and/or untimely wages according to proof, interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as all statutory penalties against Defendants, and each of them, including but not limited to:

- a. Penalties under California Labor Code section 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 section 11010, et seq. in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code section 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation; and
- d. Any and all additional penalties and sums as provided by the California Labor Code and/or other statutes.

66. Pursuant to California Labor Code section 2699(i), civil penalties recovered by aggrieved employees shall be distributed as follows: seventy-five percent (75%) to the Labor and Workforce Development Agency for the enforcement of labor laws and education of employers and employees about their rights and responsibilities and twenty-five percent (25%) to the aggrieved employees.

67. Further, Plaintiff is entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 210, 218.5 and 2699 and any other applicable statute.

DEMAND FOR JURY TRIAL

Plaintiff, individually, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act, requests a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually, and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act, prays for relief and judgment against Defendants, jointly and severally, in excess of twenty-five thousand dollars (\$25,000):

As to the First Cause of Action

1. For civil penalties pursuant to California Labor Code sections 2699(a), (f) and (g) and 558 plus costs/expenses and attorneys' fees for violation of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802;

2. Plaintiff does not seek underpaid wages pursuant to Labor Code section 558; and

3. For such other and further relief as the Court may deem equitable and appropriate.

DATED: August 13, 2021

LAWYERS for JUSTICE, PC

By: 

Edwin Aiwazian
Attorneys for Plaintiff