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10 Attorneys for: Plaintiff FRANCISCO SALAZAR, individually and on behalf of
11 all other aggrieved employees

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES – CENTRAL**

14 FRANCISCO SALAZAR, individually and on
15 behalf of all other aggrieved employees,

16 Plaintiffs,

17 v.

18 YUSEN LOGISTICS (AMERICAS) INC., an
19 active New York Corporation; STAFFMARK
20 INVESTMENT LLC, an active Delaware
21 Limited Liability Company; and DOES 1
22 through 10,

23 Defendants.

Case No.: 21STCV39663

Assigned to:

Department:

Complaint Filed:

**COMPLAINT FOR VIOLATIONS
UNDER THE CALIFORNIA
PRIVATE ATTORNEYS GENERAL
ACT ("PAGA")**

1 Plaintiff FRANCISCO SALAZAR ("Plaintiff") brings this action under the
2 California Private Attorneys General Act ("PAGA") on behalf of the State of
3 California, as the representative Plaintiff that includes himself and all other aggrieved
4 employees as described herein, and alleges:

- 5 1. At all relevant times hereto, Plaintiff FRANCISCO SALAZAR is a resident of
6 the State of California, and was employed by Defendant YUSEN LOGISTICS
7 (AMERICAS) INC. ("YUSEN") and Defendant STAFFMARK INVESTMENT
8 LLC ("STAFFMARK") (jointly referred to hereinafter as "Defendants") in
9 California from on or about July 28, 2020 through on or about September 1,
10 2020.
- 11 2. At all times relevant hereto, Defendant YUSEN LOGISTICS (AMERICAS) INC.
12 was an active New York Corporation and Defendant STAFFMARK
13 INVESTMENT LLC was an active Delaware Limited Liability Company and
14 both were doing business in California. YUSEN is engaged in the business of
15 warehousing and transportation and STAFFMARK is a staffing agency.
- 16 3. Plaintiff is ignorant of the true names, capacities, relationships and extent of
17 participation in the conduct herein alleged, of the Defendants sued herein as
18 Does 1 through 10, but she is informed and believes and thereon alleges that
19 said Defendants are legally responsible for the wrongful conduct alleged herein
20 and therefore sues these Defendants by such fictitious names under Code of
21 Civil Procedure § 474. Plaintiff will amend this Complaint to allege their true
22 names and capacities when ascertained.
- 23 4. Plaintiff is informed and believes and thereon alleges that each Defendant acted
24 in all respects pertinent to this action as the agent of the other Defendants,
25 carried out a joint scheme, business plan or policy in all respects pertinent
26 hereto, and the acts of each Defendant are legally attributable to the other
27 Defendants.
28

- 1 5. Venue is proper in this judicial district, pursuant to Code of Civil Procedure §
2 395. The County of Los Angeles is the proper venue, because work for
3 Defendants was performed by Plaintiff in the County of Los Angeles and the
4 legal obligations owed by Defendants to Plaintiff and other aggrieved
5 employees were breached in the County of Los Angeles.
- 6 6. This action is brought by Plaintiff on behalf of all aggrieved employees as
7 described as follows: All current and former non-exempt employees who
8 worked for Defendants in California during the covered time period.
- 9 7. On August 21, 2021, Plaintiff on behalf of the State of California, himself, and all
10 aggrieved employees provided written notice by online submission to the
11 Labor and Workforce Development Agency ("LWDA") and by certified mail to
12 Defendants that Defendants have violated and continue to violate the California
13 Labor Code. Plaintiff's claim was assigned case number LWDA-CM-842151-21
14 by the LWDA. A true and correct copy of Plaintiff's notice letter is attached
15 hereto as **Exhibit "A"**.
- 16 8. Pursuant to Lab. Code §2699.3(a), no response has been received from the
17 LWDA of its intent to prosecute within sixty-five (65) days of the postmark date
18 of August 21, 2021 regarding Plaintiff's allegations.
- 19 9. As a result, Plaintiff has exhausted all statutory procedures required of him
20 under Lab. Code §§ 2698, 2699, and 2699.3, and as a result, is justified as a
21 matter of right and law in bringing forward this claim and cause of action.
- 22 10. Defendants implemented the policy and practice of failing to properly pay
23 employees for all hours worked due to performance of off-the-clock work and
24 use of debit pay cards.
- 25 11. Defendants engage in the practice of not allowing mandated meal breaks and
26 not compensating employees for any missed, late, or short meal breaks.
27 Employees did not receive premium pay for any missed, late, or short meal
28 period.

- 1 12. Defendants engage in the practice of not allowing mandated rest breaks and not
2 compensating employees for any missed, late, or short rest breaks. Employees
3 were regularly not afforded an opportunity to take rest breaks every four hours,
4 or major fraction thereof, they worked. Employees did not receive premium
5 pay for any missed rest breaks.
- 6 13. At the time of an employee's separation (whether it be by termination or
7 resignation) Defendants have failed to provide the employee with all monies
8 owed, including meal break premiums, rest break premiums, and unpaid
9 wages for work performed, including overtime and double-time wages to the
10 extent applicable.
- 11 14. Defendants have adopted a custom and practice of failing to provide wage
12 statements which reflect all hours worked during any pay period, whether or
13 not employees received all wages entitled to, including meal and rest break
14 premiums.
- 15 15. Plaintiff and all other similarly aggrieved California employees intend to seek
16 all penalties for the violations described above, including but not limited to
17 Labor Code § 558.
- 18 16. The specific California Labor Code Sections violated under PAGA by
19 Defendant includes but are not limited to the following: Lab. Code §§201-203;
20 Lab. Code § 204; Lab. Code § 212; Lab. Code § 213; Lab. Code § 226; Lab. Code §
21 226.7; Lab. Code § 510; Lab. Code § 512; and Lab. Code § 1194.
- 22 17. As a result of the acts alleged above, Plaintiff seeks penalties under Lab. Code §
23 2698 and 2699, and all other applicable sections, because of Defendants'
24 violations of the above stated provisions of the California Labor Code.
- 25 18. Pursuant to Lab. Code § 2699, civil penalties recoverable by aggrieved
26 employees shall be distributed seventy-five percent (75%) to the LWDA and
27 Plaintiff and all similarly aggrieved employees should be awarded twenty-five
28

1 percent (25%) of all penalties due under California law. Plaintiff shall be
2 entitled to reasonable attorneys' fees and costs.

3
4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff prays judgment against Defendants as follows:

6 A. Pursuant to Lab. Code § 2699, Plaintiff and aggrieved employees should
7 be awarded twenty-five percent (25%) of all penalties due under California law, as
8 well as attorneys' fees and costs; the LWDA shall be awarded seventy-five percent
9 (75%) of all penalties due under California law;

10 B. Civil penalties pursuant to Labor Code § 558;

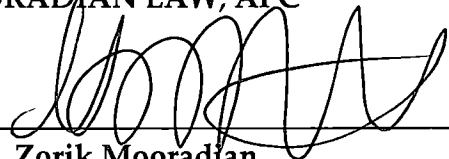
11 C. For costs of the suit incurred;

12 D. Reasonable attorney's fees and costs pursuant to statute, including, but
13 not limited to Labor Code § 218.5 and Code of Civ. Proc. § 1021.5; and

14 E. For such other relief that the Court may deem just and proper, including
15 prejudgment interest and costs.

16
17 DATED: October 27, 2021

MOORADIAN LAW, APC

18
19 By: 

20 Zorik Mooradian,

21 Haik Hacopian,

22 Attorneys for Plaintiff and aggrieved
23 employees
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HAIK HACOPIAN

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AUGUST 21, 2021

VIA USPS CERTIFIED MAIL

Yusen Logistics (Americas) Inc.
300 Lighting Way, 6th Floor
Seacaucus, NJ 07094
7019 0700 0002 2582 8441

Staffmark Investment LLC
201 E. 4th St., Suite 800
Cincinnati, OH 45202
7019 0700 0002 2582 8434

VIA ONLINE SUBMISSION

State of California
Labor & Workforce Development Agency
800 Capitol Mall, MIC-55
Sacramento, CA 95814
www.dir.ca.gov

Re: *California Wage & Hour Violations*
Yusen Logistics (Americas) Inc. & Staffmark Investment LLC

To Whom It May Concern:

This office represents Mr. Francisco Salazar with respect to Private Attorneys General Act ("PAGA") claims that he intends to pursue against Yusen Logistics (Americas) Inc. ("Yusen") and Staffmark Investment LLC ("Staffmark") (jointly referred to herein as "Employers") based upon their illegal wage and hour practices in the State of California as to their non-exempt employees. This letter constitutes the notice required by Labor Code Section 2699.3.

Facts

Staffmark is a staffing agency which provides employees to Yusen, which is engaged in the business of warehousing and transportation. Mr. Salazar worked as a non-exempt hourly employee of Employers at the facility located at 2211 East Carson Street in Carson, California. Employers employ numerous non-exempt, hourly paid employees such as Mr. Salazar in California. Unfortunately, Employers have engaged in the following practices:

EXHIBIT "A"

Failure to Pay Wages

Employers implemented the policy and practice of failing to pay employees for all hours worked. Employers engaged in the practice of engaging in security checks pre and/or post shift off-the-clock. Employees also did not receive net 30-minute meal breaks. Additionally, Employers adopted a system of paying employees through debit pay cards that did not result in the full and timely payment of wages owed to employees, including due to the imposition of fees. The foregoing practices resulted in underpayment of wages, including underpayment of overtime and double-time to the extent applicable.

Meal Breaks

Employers engage in the practice of not allowing mandated meal breaks and not compensating employees for any missed, late, or short meal breaks. Employees did not receive premium pay for any missed, late, or short meal period. Notably, meal breaks were not off-duty as employees were prevented from leaving the facility and not at least a net thirty (30) minutes in duration on account of the clock in and out process.

Rest Breaks

Employers engage in the practice of not allowing mandated rest breaks and not compensating employees for any missed, late, or short rest breaks. Employees did not receive premium pay for these missed rest breaks. Notably, rest breaks were not off-duty as employees were required to remain at the work premises during rest breaks.

Waiting Time

At the time of an employee's separation (whether it be by termination or resignation) Employers have failed to provide the employee with all monies owed, including meal break premiums, rest break premiums, and unpaid wages for work performed, including overtime and double-time wages to the extent applicable.

Noncompliant Wage Statements

Employers have adopted a custom and practice of failing to provide wage statements which reflect all hours worked during any pay period, whether or not employees received all wages entitled to, including meal and rest break premiums.

Additional Penalties

Mr. Salazar and all other similarly aggrieved California employees intend to seek all available civil penalties for the violations described above.

Code Provisions Violated and Legal Theories

The specific provisions of the California Labor Code which Employers have violated, and applicable legal theories which establish the violations, are as follows:

Labor Code Section 201: Employers violated, and continue to violate, Labor Code Section 201 by failing to pay the employees they have discharged the complete and correct amount of all wages owing at the time of termination. The wages earned but not paid at termination include uncompensated work time, including overtime and double-time as applicable, and premium wages for missed meal and rest breaks.

Labor Code Section 202: Employers violated, and continue to violate, Labor Code Section 202 by failing to pay employees who quit the correct amount of all wages, within 72 hours of the termination. As already stated, the wages earned but not paid at termination include the above.

Labor Code Section 203: Employers violated, and continue to violate, Labor Code Section 203 by failing to pay 30 days of continuing wages to employees owed wages (explained above) whose employment ended.

Labor Code Section 204: Employers violated, and continue to violate, Labor Code Section 204 by failing to pay wages to employees for all hours worked as explained above.

Labor Code Section 212: Employers violated, and continue to violate, Labor Code Section 212 by paying wages to employees through debit pay cards that did not permit the withdrawal of cash, on demand, without discount.

Labor Code Section 213: Employers violated, and continue to violate, Labor Code Section 213 by imposing the mandatory use debit pay cards by employees to access wages they were owed.

Labor Code Section 226: Employers violated, and continue to violate, Labor Code Section 226(a) by failing to provide employees with accurate and compliant itemized wage statements.

Labor Code Section 226.7: Employers violated, and continue to violate, Labor Code Section 226.7 by failing to provide meal periods and/or rest periods that are in accordance and in compliance with the IWC's applicable wage order.

Labor Code Section 510: Employers violated, and continue to violate, Labor Code Section 510 by failing to pay minimum wage or overtime compensation required by law.

Labor Code Section 512: Employers violated, and continue to violate, Labor Code Section 512 by not providing aggrieved employees with legally compliant meal periods.

Labor Code Section 1194: Employers violated, and continue to violate, Labor Code Section 1194 by failing to pay employees minimum wage and overtime compensation required by law.

Conclusion

Please inform us if you intend to investigate this matter. We look forward to prompt administrative action so that the identified unlawful practices can be rectified. In the absence of such action, we may file an appropriate action, pursuant to Labor Code Section 2698 *et seq.* Mr. Salazar and all other similarly aggrieved California employees intend to seek all penalties for the violations described above. Should you require any additional information, do not hesitate to contact the undersigned.

Very truly yours,
MOORADIAN LAW, APC

/s/ Haik Hacopian
HAIK HACOPIAN

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PS Form 3800, April 2015 PSN 7530-02-000-9047

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 City, State, ZIP+4® SEACAUCUS, NJ 07094

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