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

JOSHIA LAYOFF on behalf of himself and all
others similarly situated,

Plaintiff,

v.

FREEDOMROADS, LLC, DBA CAMPING
WORLD; and DOES 1 through 50, inclusive,

Defendants.

Case No:

21CV

003464

REPRESENTATIVE ACTION

REPRESENTATIVE ACTION
COMPLAINT FOR:

1. VIOLATIONS OF THE LABOR CODE;
2. PENALTIES; and
3. ATTORNEYS' FEES.

**ENDORSED
FILED
ALAMEDA COUNTY**

DEC 03 2021

CLERK OF THE SUPERIOR COURT

By CHRISTNA ROGERS

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Plaintiff JOSIAH LAYOFF, on behalf of himself and all others similarly situated, complains against Defendants FREEDOMROADS, LLC DBA CAMPING WORLD, and Does 1 through 50 (all referred to collectively as “Defendants” or “FREEDOMROADS”) as follows:

I. JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over Plaintiff’s claims, based on, among other statutes, California Business & Professions Code §§ 17200, *et seq.*, and California Labor Code §§ 201-203, 226(a), 226.3, 226.7, 510, 558, 558.1, 1194, 1194.2, 1197, 1197.1, 1198, and 1199. Plaintiff has complied with all requirements set forth in Labor Code § 2699.3 necessary to commence a civil action seeking Labor Code § 2699 penalties.

2. This Court has personal jurisdiction over the parties because at all times relevant hereto Plaintiff was a California resident who worked in California for Defendants and Defendants have systematically and continuously conducted business in the State of California.

3. Venue is proper in this Court because California Code of Civil Procedure sections 395 and 395.5, and case law interpreting those sections, provide that if a foreign business entity fails to designate with the office of the California Secretary of State a principal place of business in California, it is subject to being sued in any county in the state that plaintiff desires. On information and belief, as of the date this Complaint is filed, Defendant FREEDOMROADS, LLC dba Camping World is a foreign business entity and has failed to designate a principal place of business in California with the office of the Secretary of State.

II. PARTIES AND BACKGROUND

4. Plaintiff JOSIAH LAYOFF is an adult who worked for Defendants as a mechanic from approximately September 2018 through November 2020 in California.

5. Defendant FREEDOMROADS, LLC DBA CAMPING WORLD is a Minnesota Limited Liability Company doing business throughout California and is a “person” as defined by California Labor Code § 18. In addition, it is an “employer” as that term is used in the California Labor Code and in the California Industrial Welfare Commission’s Orders regulating wages, hours, and working conditions.

6. Plaintiff is ignorant of the true names and capacities of Defendants sued as Does 1

1 through 50, inclusive, and therefore sues those Defendants by those fictitious names. Plaintiff
2 will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is
3 informed and believes and on that ground alleges that each of the fictitiously named Defendants is
4 responsible in some manner for the occurrences alleged and that Plaintiff's damages and other
5 losses as alleged are proximately caused by those occurrences.

6 7. Plaintiff brings this action on behalf of all aggrieved employees within the
7 meaning of Labor Code §§ 2698, *et seq.* who worked as hourly employees with or without the job
8 title of "Service Tech." Plaintiff seeks all penalties within the applicable limitations period for
9 each violation of: (1) Labor Code §§ 1194, 1194.2, 1197, 1197.1, 1198, 1199 and IWC Wage
10 Order 5-2001 (failure to pay minimum, overtime, and double-time wages at the correct rates); (2)
11 Labor Code §§ 226(a) and 226.3 (failure to provide correct itemized wage statements); (3) Labor
12 Code §§ 201-203 (failure to pay wages upon termination); and (4) Labor Code § 204 (failure to
13 pay wages in a timely manner).

14 **III. FACTUAL ALLEGATIONS**

15 8. FREEDOMROADS provides operates retail store locations throughout California
16 that sell recreational vehicles as well as outdoor equipment.

17 9. At all relevant times, Plaintiff performed work on behalf of FREEDOMROADS as
18 a mechanic. During his employment with FREEDOMROADS, Plaintiff worked approximately
19 eight hours a day, five days a week, plus occasional overtime averaging approximately one hour
20 per pay period.

21 10. FREEDOMROADS employed a policy and practice of requiring Plaintiff and
22 other aggrieved employees to utilize their own hand tools and failed to provide Plaintiff and other
23 aggrieved employees with the necessary hand tools at no cost. In view of that requirement and
24 that failure, FREEDOMROADS violated § 9(B) of IWC Wage Order 7-2001 by failing to pay
25 Plaintiff and other aggrieved employees twice the minimum wage. For example, Plaintiff's final
26 pay was approximately \$19 per hour. But because the minimum wage at that time was \$13 per
27 hour, Plaintiff should have received at least \$26 per hour. When a law or ordinance sets a
28 minimum wage for a particular job at a rate greater than the California minimum wage, the

1 employer is required to pay that higher applicable minimum wage. *See, e.g., Road Sprinkler*
2 *Fitters Local Union No. 669 v. G & G Fire Sprinklers, Inc.* 02 Cal.App.4th 765. Thus,
3 Defendants should have paid Plaintiff and each aggrieved employee at least twice the minimum
4 wage. This failure, in turn, resulted in Defendants paying overtime at the incorrect rate. Labor
5 Code § 2699.5 allows PAGA penalties for violations of Labor Code §§ 510, 1194, 1194.2, 1197,
6 1197.1, and 1199. Plaintiff, on behalf of himself and other aggrieved employees, therefore seeks
7 PAGA penalties for Defendants’ violations of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1,
8 and 1199.

9 11. Labor Code § 226 provides that every employer is required, “semimonthly or at
10 the time of each payment of wages,” to provide each employee an itemized wage statement that
11 includes, *inter alia*, “gross wages earned” and “all applicable hourly rates in effect during the pay
12 period and the corresponding number of hours worked at each hourly rate by the employee.”
13 Lab. Code § 226(a). Defendants implemented a policy and practice of failing to provide the
14 complete and accurate itemized wage statements to Plaintiff and other putative class members
15 that are required by Labor Code § 226 in that the wage statements provided did not, among other
16 things, display all of the correct gross wages earned as well as the applicable hourly rates in
17 effect. In doing so, Defendants violated Labor Code §§ 226 and 226.3.

18 12. FREEDOMROADS employed a policy and practice of violating Labor Code §
19 204 by failing to pay Plaintiff and other aggrieved employees all wages due and owing in a timely
20 manner.

21 **IV. REPRESENTATIVE ACTION ALLEGATIONS**

22 13. On behalf of all aggrieved employees, Plaintiff seeks PAGA penalties under Labor
23 Code § 2699(f), as applicable, for each violation of the Labor Code, including:

- 24 (a) §§ 1194, 1198 and 1999 (failure to pay minimum wages and overtime);
- 25 (b) §§ 226(a) and 226.3 (failure to provide itemized wage statements);
- 26 (c) §§ 201-203 (failure to pay wages upon termination or resignation); and
- 27 (d) § 204 (failure to pay wages in a timely manner).

28 14. There is a well-defined community of interest in the questions of law and fact

1 affecting the aggrieved employees whom Plaintiff seeks to represent. The aggrieved employees’
2 claims against Defendants involve questions of common or general interest including but not
3 limited to: (1) whether Defendants violated the Labor Code and the applicable IWC Wage Order
4 by failing to pay aggrieved employees minimum wages and overtime pay at the proper rate; (2)
5 whether Defendants violated Labor Code § 226 by failing to provide aggrieved employees with
6 accurate and itemized wage statements; (3) whether Defendants violated Labor Code §§ 201-203
7 by failing to pay departing aggrieved employees all wages due at the time of discharge or
8 voluntary quit; and (4) whether Defendants violated Labor Code § 204 by failing to pay aggrieved
9 employees their wages in the timely manner required by that section.

10 15. Plaintiff’s claims are typical of the claims of the aggrieved employees whom
11 Plaintiff seeks to represent on a representative basis and his interests are consistent with, and not
12 antagonistic to, those of the other aggrieved employees. Plaintiff will fairly and adequately
13 represent the interests of the aggrieved employees whom he seeks to represent because Plaintiff is
14 also an aggrieved employee and his claims are typical of those of the aggrieved employees.
15 Plaintiff has retained attorneys who are experienced in the prosecution of representative actions,
16 and Plaintiff intends to prosecute this action vigorously.

17 16. Common questions of law and fact exist as to all aggrieved employees that
18 predominate over any other questions affecting only individual aggrieved employees.

19 17. Plaintiff requests permission to amend the Complaint to include additional
20 representatives if Plaintiff is deemed not to be an adequate representative of the aggrieved
21 employees.

22 **V. FIRST CAUSE OF ACTION**

23 **(UNPAID WAGES, OVERTIME PAY AND MINIMUM WAGES –**

24 **LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)**

25 18. Plaintiff repeats and realleges each and every paragraph above as though fully set
26 forth herein.

27 19. Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties
28 on their own behalf and on behalf of other current and former employees.

20. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violators and against whom one or more of the alleged violations were committed.

21. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, and 1199.

22. By the actions alleged herein, Defendants failed to pay Plaintiff and other aggrieved employees the proper minimum wage and overtime pay, all in violation of §§ 510, 1194, 1194.2, 1197, 1197.1, and 1199.

23. Therefore, Plaintiff and all current and former aggrieved employees demand the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, and 1199.

24. Plaintiff further seeks reasonable attorneys’ fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

VI. SECOND CAUSE OF ACTION

(FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS – LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

25. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

26. Labor Code § 2699(f) permits “aggrieved employees” to recover certain penalties on their own behalf and on behalf of other current and former employees.

27. Plaintiff is an “aggrieved employee” as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

28. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 226(a).

29. By the actions alleged herein, Defendants failed to comply with Labor Code §

226(a) as it relates to Plaintiff and the other aggrieved employees. As alleged above, FREEDOMROADS implemented a policy and practice of failing to provide complete and accurate itemized wage statements to Plaintiff and other aggrieved employees as required by Labor Code § 226 in that the wage statements provided did not, among other things, display the correct gross wages earned as well as all applicable hourly rates in effect at the corresponding number of hours worked. In doing so, Defendants have violated Labor Code §§ 226(a) and 226.3.

30. Therefore, Plaintiff, for himself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 226(a) and 226.3.

31. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

VII. THIRD CAUSE OF ACTION

(LABOR CODE §§ 201-203 –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

32. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

33. California Labor Code § 2699(f) permits "aggrieved employees" to recover certain penalties on their own behalf and on behalf of other current and former employees.

34. Plaintiff is an "aggrieved employee" as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

35. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code §§ 201-203.

36. By the actions alleged herein, Defendants failed to comply with Labor Code §§ 201-203 as they relate to Plaintiff and the other aggrieved employees.

37. Therefore, Plaintiff, for himself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code §§ 201-

203.

38. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

VIII. FOURTH CAUSE OF ACTION

(LABOR CODE § 204 –

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004)

39. Plaintiff repeats and realleges each and every paragraph above as though fully set forth herein.

40. California Labor Code § 2699(f) permits "aggrieved employees" to recover certain penalties on their own behalf and on behalf of other current and former employees.

41. Plaintiff is an "aggrieved employee" as that term is defined in the Labor Code Private Attorneys General Act of 2004 because he is a person who was employed by the alleged violators and against whom one or more of the alleged violations was committed.

42. Plaintiff has met all of the Labor Code § 2699.3 requirements to commence a civil action against Defendants for violations of Labor Code § 204.

43. By the actions alleged herein, Defendants failed to comply with Labor Code § 204 as it relates to Plaintiff and the other aggrieved employees.

44. Therefore, Plaintiff, for himself and all current and former aggrieved employees, demands the penalties provided by Labor Code § 2699(f) for violations of Labor Code § 204.

45. Plaintiff further seeks reasonable attorneys' fees and costs under Labor Code § 2699(g)(1).

Wherefore, Plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

Plaintiff prays for relief as follows:

- i. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current and former aggrieved employee for each violation of Labor Code §§ 510, 1194, 1194.2, 1197, 1197.1, and 1199 (failure to pay

minimum and overtime wages at the correct hourly rates) during the applicable limitations period preceding the filing of the Complaint and up through and including the present and until the date of compliance with the law;

- ii. For civil penalties as specified by Labor Code § 226.3 for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the filing of the Complaint. (Should Labor Code § 226.3 be found not to apply to Defendants' violations of Labor Code § 226(a), Plaintiff alternatively seeks the civil penalties specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee and on behalf of the State of California for each violation of Labor Code § 226(a) (failure to provide itemized wage statements) during the applicable limitations period preceding the filing of the Complaint.)
- iii. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code §§ 201-203 (failure to pay departing employees all wages due and owing) during the applicable limitations period preceding the filing of the Complaint and up through and including the present and until the date of compliance with the law
- iv. For civil penalties as specified by Labor Code § 2699(f) for Plaintiff and each current or former aggrieved employee for each violation of Labor Code § 204 (failure to pay wages in a timely manner) during the applicable limitations period preceding the filing of the Complaint and up through and including the present and until the date of compliance with the law;
- v. For reasonable attorneys' fees and costs as allowed by Labor Code § 2699(g)(1) and Code of Civil Procedure § 1021.5;

- vi. For all costs of this suit as allowed by law, including Labor Code §§
2699(g)(1); and
- vii. For such other and further relief as the Court may deem proper.

Dated: November 30, 2021

Respectfully submitted,

KELLER GROVER LLP



By: _____

ERIC A. GROVER

ROBERT SPENCER

Attorneys for Plaintiff and the Aggrieved Employees