

BOKHOUR LAW GROUP, P.C.

Mehrdad Bokhour, Esq. (Bar No. 285256)

mehrdad@bokhourlaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (310) 975-1493; Fax: (310) 675-0861

FALAKASSA LAW, P.C.

Joshua S. Falakassa, Esq. (Bar No. 295045)

josh@falakassalaw.com

1901 Avenue of the Stars, Suite 450

Los Angeles, California 90067

Tel: (818) 456-6168; Fax: (888) 505-0868

Attorneys for Plaintiffs, on behalf of themselves and all others similarly situated

Additional counsel on the following page

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

DONALD PARKS, JEREMY RAMEY-
VICARIO, and DEAN KNOX, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

CENTRAL TRANSPORT, LLC., a Michigan
Corporation; and DOES 1-50, inclusive.

Defendants.

CASE NO.: CIVSB2126540

**SECOND AMENDED CLASS AND PAGA
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) FAILURE TO PAY ALL WAGES
(LABOR CODE §§ 226.2, 510,
1182.12, 1194, 1194.2, 1197, 1197.1,
1198);
- (2) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226a);
- (3) WAITING TIME PENALTIES
(LABOR CODE §§ 201-203);
- (4) FAILURE TO REIMBURSE
INCURRED BUSINESS EXPENSES
(LABOR CODE § 2802);
- (5) FAILURE TO PAY MINIMUM
WAGES ("FLSA")
- (6) UNFAIR COMPETITION (BUS &
PROF CODE § 17200 *et seq.*;

- 1 (7) FAILURE TO PROVIDE MEAL
2 PERIODS AND REST PERIODS OR
3 COMPENSATION IN LIEU THEREOF
(Labor Code §§ 226.7, 512, 558) ;
4 (8)
5 (9) FAILURE TO TIMELY PAY
6 EMPLOYEES IN VIOLATION OF
7 LABOR CODE § 204(a)(b) ; and
8 (10) PAGA PENALTIES

9 **DEMAND FOR JURY TRIAL**

10 JAMES HAWKINS APLC
11 James R. Hawkins, Esq. (Bar No. 192925)
12 Gregory Mauro, Esq. (Bar No. 222239)
13 9880 Research Drive, Suite 200
14 Irvine, CA 92618
15 Tel.: (949) 387-7200
16 Fax: (949) 387-6676
17 Email: James@jameshawkinsaplc.com
18 Email: Greg@jameshawkinsaplc.com

19 Attorneys for Plaintiffs, on behalf of themselves and all others similarly situated

20 Roman Otkupman, (Bar No. 249423)
21 *Roman@OLFLA.com*
22 OTKUPMAN LAW FIRM, A LAW CORPORATION
23 5743 Corsa Ave., Suite 123
24 Westlake Village, CA 91362
25 Telephone: (818) 293-5623
26 Facsimile: (888) 850-1310

27 Attorney for Plaintiffs, on behalf of themselves and all others similarly situated
28

1 Plaintiffs Donald Parks, Jeremy Michael Ramey-Vicario, and Dean Knox (collectively,
2 “Plaintiffs”) on behalf of themselves, and all others similarly situated, complains and alleges as
3 follows:

4 **INTRODUCTION**

5 1. Defendant Central Transport, LLC (“Defendant”) and DOES 1-50 (collectively
6 “Defendants”) are one the nation’s largest and fastest growing freight carriers representing a spectrum
7 of manufacturing, retail, and companies of all sizes.

8 2. Plaintiffs bring this class action lawsuit against Defendants for alleged violations of
9 the California Labor Code, applicable Industrial Welfare Commission (“IWC”) Wage Orders,
10 including Wage Order No. 9, and Business and Professions Code § 17200 *et. seq.*

11 3. As set forth below, Plaintiffs alleges that Defendants’ pay practices failed to pay them
12 and all other similarly situated non-exempt employees, including truck-drivers and dock workers for
13 all hours worked and for work related duties. As a result of the foregoing violations, Plaintiffs further
14 alleges that Defendants failed to provide him and similarly situated truck-drivers and dock workers
15 with accurate written itemized wage statements, failed to timely pay all of their final wages following
16 separation of employment, and failure to reimburse incurred business expenses.

17 4. Based on these alleged violations, Plaintiffs now brings this class action to recover
18 unpaid wages, restitution, penalties and other related relief on behalf of himself and all other similarly
19 situated truck drivers.

20 **JURISDICTION AND VENUE**

21 5. Plaintiffs, on behalf of themselves and all others similarly situated non-exempt truck-
22 drivers and dock workers hereby brings this class action for recovery of unpaid wages and penalties
23 under California Labor Code §§ 201-203, 204, 210, 218, 221, 223, 226, 226.2, 226.3, 226.7, 510,
24 512, 558, 558.1, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199,
25 2802, 2698, 2699, and applicable IWC Wage Orders, in addition to seeking declaratory relief and
26 restitution pursuant to California Business and Professions Code § 17200, *et. seq.* This class action is
27 brought pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
28 Defendants’ violations of the California Labor Code and Wage Order No. 9 because the amount in

controversy exceeds this Court's jurisdictional minimum.

6. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, as most of the acts and omissions complained of herein occurred in the City of Sacramento, County of San Bernardino. Defendants own, maintain offices, transact business, employ Plaintiffs, and have an agent or agents within the County of San Bernardino, and/or otherwise are found within the County of San Bernardino. Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

7. At all relevant times herein, Plaintiffs, who are over the age of 18, were and currently are California residents. Defendants employed Plaintiffs as non-exempt truck drivers and/or dock workers in the County of San Bernardino, and other counties in California.

8. Plaintiffs were victims of Defendants' policies and/or practices complained of herein, lost money and/or property, and has been deprived of the rights guaranteed to them by California Labor Code §§ 201-203, 204, 210, 218, 221, 223, 226, 226.2, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1194.3, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2698, 2699, *et seq.* and California Business and Professions Code § 17200 *et seq.* (Unfair Competition), and applicable IWC Wage Orders, which sets employment standards for the workers in the transportation industry.

9. Plaintiffs are informed and believe, and based thereon alleges, that during the four years preceding the filing of the Complaint and continuing to the present, Defendants did (and continue to do) business in the State of California, County of San Bernardino, specifically, operate a facility in Rancho Cucamonga.

10. Plaintiffs do not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 50, inclusive, and for that reason, said Defendants are sued under such fictitious names, and Plaintiffs will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiffs are informed, and believe, and thereon allege, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and

1 proximately caused Plaintiffs and the Classes to be subject to the unlawful employment practices,
2 wrongs, injuries and damages complained of herein.

3 11. Plaintiffs are informed, and believes, and thereon allege, that at all times mentioned
4 herein, Defendants were and are the employers of Plaintiffs and all members of the Classes. At all
5 times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter
6 alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of
7 them, were the agents, servants, and employees of each and every one of the other Defendants, as
8 well as the agents of all Defendants, and at all times herein mentioned were acting within the course
9 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
10 and/or otherwise ratified each and every one of the acts or omissions complained of herein.

11 12. At all times mentioned herein, Defendants, and each of them, were members of and
12 engaged in a joint venture, partnership, and common enterprise, and acting within the course and
13 scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
14 Plaintiffs alleges that all Defendants were joint employers for all purposes of Plaintiffs and all
15 members of the Classes.

16 **COMMON FACTUAL ALLEGATIONS**

17 13. Defendants are one of the nation's largest and fastest growing freight carriers
18 representing a spectrum of manufacturing, retail, and companies of all sizes. Plaintiffs and other non-
19 exempt employees worked as dock workers and truck drivers for Defendants within the State of
20 California.

21 14. Plaintiff Parks first started working for Defendants as a non-exempt truck driver on
22 or about October 12, 2018, until June 10, 2021. Plaintiffs and other non-exempt employees are
23 engaged in the hauling and delivery of LTL and other freight across California.

24 15. Plaintiff Ramey-Vicario was employed by Defendants in approximately September
25 2019 as a non-exempt truck driver and worked during the liability period for Defendants his
26 separation in approximately March 2021. Plaintiffs' duties included, but were not limited to, delivery
27 and pick-up within California, both residential and commercial.

1 16. Plaintiffs Knox was employed by Defendants as a non-exempt, hourly truck
2 driver/dock worker in California from approximately March 14, 2009 to January 19, 2021.

3 17. At all relevant times, Defendants uniformly paid Plaintiffs and other non-exempt
4 employees on both an hourly basis and using a piece-rate formula based on the miles driven, per day,
5 and/or other piece rate compensation. As a result of Defendants' pay policies/practices, Plaintiffs and
6 other non-exempt employees were and are not being paid at least the minimum wage for all hours
7 worked in violation of Labor Code, including Labor Code §§ 204, 210, 510, 1194, 1197.1, 1199, and
8 the applicable Wage Order.

9 18. Additionally, Plaintiffs and other non-exempt employees were also not paid for all
10 hours worked, including time spent on non-driving duties including but not limited to, inspections of
11 trucks, preparation of trucks, loading/unloading of cargo, cleaning of trucks, swapping/changing
12 trucks, idle time in traffic, parking, mechanical failures, late or absent drivers, fueling/maintenance.
13 As a result, Defendants did not provide sufficient pay equal to at least minimum wage for all the
14 additional hours worked performing the non-driving tasks.

15 19. Further, Plaintiffs and other non-exempt employees were not compensated for all
16 time worked on the days they were compensated at an hourly rate as Plaintiffs and other non-exempt
17 employees were required to work off the clock. As a result, Defendants did not provide sufficient pay
18 equal to at least minimum wage for all hours worked.

19 20. Plaintiffs also allege that Defendant failed to pay all overtime wages due to
20 Plaintiffs. As a result, Plaintiffs were not properly compensated for work performance in excess of
21 eight hours in a workday and work performed in excess of 40 hours in a workweek at a rate of no less
22 than one and one-half times the regular rate of pay. Plaintiffs regularly worked in excess of eight
23 hours in a day or more than 40 hours per week and did not receive overtime compensation at a rate
24 of one and one half their regular rate. Plaintiffs were forced to work overtime and were not paid for
25 all hours worked including all straight time wages, and overtime wages. These failures to pay all
26 overtime wages constitute violations of Labor Code §§ 510, 1194, 1194.2.

27 21. Under California law, employers must pay employees at least the minimum wage per
28 hour for all hours worked. See Cal. Code Regs., Tit. 8 § 11090. "Hours worked" is defined as "the

1 time during which an employee is subject to the control of an employer and includes all the time the
2 employee is suffered or permitted to work, whether or not required to do so.” *Id.* In *Morrillion v.*
3 *Royal Packing Co.* (2000) 22 Cal. 4th 575, the California Supreme Court explained that “an employee
4 who is subject to an employer’s control does not have to be working during that time to be
5 compensated.” The Court reasoned that when “an employer requires employees to meet at designated
6 places to take its buses to work and prohibits them from taking their own transportation” the
7 employees are “subject to the control of an employer” and the time spent traveling on the buses “is
8 compensable as ‘hours worked.’” *Id.* at 587.

9 22. Defendants’ piece-rate and/or hourly pay practices failed and continue to fail to
10 compensate Plaintiffs and other non-exempt employees the legal minimum wage for all work-related
11 duties and tasks as described herein, including but not limited to layover time. However, because
12 Defendants is capable of tracking the time worked by Plaintiffs and other non-exempt employees to
13 the minute, Defendants’ pay practice itself exists not for the convenience or benefit of the employees,
14 but to benefit Defendants by underpaying aggrieved employees for all work-related duties. As a
15 result, Plaintiffs and other non-exempt employees were not properly paid for all hours worked in
16 violation of Labor Code §§ 204, 510, 1194, 1197.1, 1199, and Wage Order No. 9.

17 23. Plaintiffs and other non-exempt employees were routinely unable and not authorized
18 to take their 10-minute rest periods and were unable to take an uninterrupted 30-minute meal break
19 for every shift worked. Specifically, Plaintiffs worked through their meal and rest breaks in order to
20 assist Defendants’ needs. Because of this, Plaintiffs were unable to take their required breaks.
21 Moreover, Defendants failed to pay premium wages of one hour’s pay for each missed meal and rest
22 break to Plaintiffs.

23 24. As a result of Defendants’ unlawful pay policies and practices that resulted in a failure
24 to pay aggrieved employees the minimum wage for all hours worked, Defendants also intentionally
25 failed and continue to fail to furnish Plaintiffs and other non-exempt employees with itemized wage
26 statements that accurately reflect the correct amount of gross wages earned, net wages earned as
27 required by Labor Code § 226(a). Consequently, since Defendants failed to comply with Labor Code
28 § 226(a), Plaintiffs and other non-exempt employees would be entitled to recover penalties under

Labor Code § 226(e).

25. 16. As a further result of Defendants' failure to pay Plaintiffs and other non-exempt employees for all hours worked, Defendants also failed to pay Plaintiffs and other non-exempt employees all wages owed at their time of separation from employment in violation of Labor Code §§ 201-203. Accordingly, Plaintiffs and other non-exempt employees would be entitled to recover penalties under Labor Code §§ 201-203.

26. As a further result of Defendants' failure to pay Plaintiffs and other non-exempt employees for all hours worked, Defendants failed to comply with Labor Code § 204(a), which holds that wages earned on a weekly basis must be paid no later than seven calendar days following the close of the payroll period. Due to the violations described above, Plaintiffs did not receive all of their wages earned in a timely manner as required by Labor Code § 204(a)((b).

27. On information and belief, during the relevant time frame, Defendants failed to adequately reimburse Plaintiffs and Class Members for business expenditures, including business expenditures incurred for the use of personal cellphones as Plaintiffs and Class Members used their personal cellphones to stay in contact with Defendants management who would call to inquire about the status and location of the Plaintiffs and Class Members and would call with customer updates. Such business expenditures incurred were incurred in direct consequence of Plaintiffs' and Class Members' duties and were not reimbursed pursuant to Labor Code § 2802.

CLASS ACTION ALLEGATIONS

28. Class Definition: Plaintiffs brings this action on behalf of himself and the following
Classes pursuant to § 382 of the Code of Civil Procedure:

- (1) All non-exempt truck drivers and/or dock workers who work or worked for Defendants in California, during the four years immediately preceding the filing of the Complaint through the date of trial. (“Class”); and
- (2) All non-exempt truck drivers and/or dock workers who worked for Defendants in California, and who have left Defendants’ employ during one year immediately preceding the filing of the Complaint through the date of trial. (“Waiting Time Penalty Class”) (Collectively “Classes”).

1 29. **Numerosity/Ascertainability:** The members of the Classes are so numerous that
2 joinder of all members would be unfeasible and not practicable. The membership of the Classes is
3 unknown to Plaintiffs at this time; however, it is estimated that the Classes number greater than one
4 hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of
5 Defendants' employment records.

6 30. **Common Questions of Law and Fact Predominate/Well Defined Community of**
7 **Interest:** There are common questions of law and fact as to Plaintiffs and all other similarly situated
8 employees, which predominate over questions affecting only individual members.

9 31. **Predominance of Common Questions:** Common questions of law and fact
10 predominate over questions that affect only individual members of the Classes. The common
11 questions of law set forth above are numerous and substantial and stem from Defendants' policies
12 and/or practices applicable to each individual class member, such as Defendants' uniform piece-rate
13 pay policy/practice, and Defendants' resulting failure to provide accurate itemized wage statements
14 and to pay for all wages due upon termination. As such, the common questions predominate over
15 individual questions concerning each individual class member's showing as to his or her eligibility
16 for recovery or as to the amount of his or her damages.

17 32. **Typicality:** The claims of Plaintiffs are typical of the claims of the Classes because
18 Plaintiffs was employed by Defendants as a non-exempt truck driver in California during the
19 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
20 alleged herein, Plaintiffs, like the members of the Classes was deprived of minimum wages as a result
21 of Defendants' unlawful piece-rate pay policy/practices, was not provided accurate itemized wage
22 statements, and was not paid all wages owed at the time of her separation of employment.

23 33. **Adequacy of Representation:** Plaintiffs is fully prepared to take all necessary steps
24 to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiffs'
25 attorneys are ready, willing and able to fully and adequately represent the members of the Classes
26 and Plaintiffs. Plaintiffs' attorneys have prosecuted several wage-and-hour class actions in state and
27 federal court in the past and are committed to vigorously prosecuting this action on behalf of the
28 members of the Classes.

1 34. **Superiority:** The Labor Code is broadly remedial in nature and serves an important
2 public interest in establishing minimum working conditions and standards in California. These laws
3 and labor standards protect the average working employee from exploitation by employers who have
4 the responsibility to follow the laws and who may seek to take advantage of superior economic and
5 bargaining power in setting onerous terms and conditions of employment.

6 35. The nature of this action and the format of laws available to Plaintiffs and members
7 of the Classes make the class action format a particularly efficient and appropriate procedure to
8 redress the violations alleged herein. If each employee were required to file an individual lawsuit,
9 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit
10 and overwhelm the limited resources of each individual Plaintiffs with their vastly superior financial
11 and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy
12 would also discourage the assertion of lawful claims by employees who would be disinclined to file
13 an action against their former and/or current employer for real and justifiable fear of retaliation and
14 permanent damages to their careers at subsequent employment. Further, the prosecution of separate
15 actions by the individual class members, even if possible, would create a substantial risk of
16 inconsistent or varying verdicts or adjudications with respect to the individual class members against
17 Defendants herein; and which would establish potentially incompatible standards of conduct for
18 Defendants; and/or legal determinations with respect to individual class members which would, as a
19 practical matter, be dispositive of the interest of the other class members not parties to adjudications
20 or which would substantially impair or impede the ability of the class members to protect their
21 interests. Further, the claims of the individual members of the Classes are not sufficiently large to
22 warrant vigorous individual prosecution considering all of the concomitant costs and expenses
23 attending thereto. As such, the Classes identified in Paragraph 17 are maintainable as Classes under
24 § 382 of the Code of Civil Procedure.

25 **FIRST CAUSE OF ACTION**

26 **FAILURE TO PAY ALL WAGES**

27 **(AGAINST ALL DEFENDANTS)**

28 36. Plaintiffs re-alleges and incorporates by reference all previous paragraphs.

1 37. Applicable IWC Wage Orders, including Wage Order No. 9, § 4, and Labor Code §§
2 1197 and 1182.12 establish the right of employees to be paid minimum wages for all hours worked,
3 in amounts set by state law. Labor Code §§ 1194(a) and 1194.2(a) provide that an employee who has
4 not been paid the legal minimum wage as required by Labor Code § 1197 may recover the unpaid
5 balance together with attorneys' fees and costs of suit, as well as liquidated damages in an amount
6 equal to the unpaid wages and interest accrued thereon.

7 38. Labor Code section 226.2 requires employers to pay employees compensated on a
8 piece-rate basis for other non-driving time separate from any piece-rate compensation. Employees
9 shall be compensated for other non-driving time at a regular hourly rate that is no less than the higher
10 of: (i) an average hourly rate determined by dividing the total compensation for the workweek by the
11 total hours worked during the workweek; (ii) the applicable minimum wage.

12 39. At all relevant times herein, Defendants failed to conform their pay practices to the
13 requirements of the law. This unlawful conduct includes but is not limited to Defendants' uniform
14 and unlawful hourly and piece-rate pay policies/practices, which resulted in these individuals not
15 being paid for all hours they were actually suffered or permitted worked. Accordingly, Plaintiffs and
16 members of the Classes were not compensated for all hours worked including, but not limited to, all
17 hours they were subject to the control of Defendants and/or suffered or permitted to work under the
18 Labor Code and Wage Order No. 9.

19 40. Labor Code § 1198 makes unlawful the employment of an employee under
20 conditions that the Industrial Welfare Commission prohibits. Labor Code §§ 1194(a) and 1194.2(a)
21 provide that an employer who has failed to pay its employees the legal minimum wage is liable to
22 pay those employees the unpaid balance of the unpaid wages as well as liquidated damages in an
23 amount equal to the wages due and interest thereon.

24 41. Plaintiffs also allege that Defendant failed to pay all overtime wages due to
25 Plaintiffs. As a result, Plaintiffs were not properly compensated for work performed in excess of eight
26 hours in a workday and work performed in excess of 40 hours in a workweek at a rate of no less than
27 one and one-half times the regular rate of pay. Plaintiffs regularly worked in excess of eight hours in
28 a day or more than 40 hours per week and did not receive overtime compensation at a rate of one and

1 one half their regular rate. Plaintiffs were forced to work overtime and were not paid for all hours
2 worked including all minimum and overtime wages. These failures to pay all minimum and overtime
3 wages constitute violations of the Labor Code, including sections 510, 1194, 1194.2.

4 42. As a direct and proximate result of Defendants' unlawful conduct as alleged herein,
5 Plaintiffs and the Classes have sustained economic damages, including but not limited to unpaid
6 wages and lost interest, in an amount to be established at trial, and they are entitled to recover
7 economic and statutory damages and penalties and other appropriate relief as a result of Defendants'
8 violations of the Labor Code and applicable IWC Wage Orders.

9 43. Defendants' practice and uniform administration of corporate policy regarding
10 illegal employee compensation is unlawful and creates an entitlement to recovery by Plaintiffs and
11 members of the Classes in a civil action for the unpaid amount of minimum wages, liquidated
12 damages, including interest thereon, statutory penalties, attorney's fees, and costs of suit according
13 to Labor Code §§ 200, 204, 226.2, 558, 1194 *et seq.*, 1194.2, 1197, 1197.1, 1198, and Code of Civil
14 Procedure § 1021.5.

15 **SECOND CAUSE OF ACTION**

16 **FAILURE TO PROVIDE ACCURATE WRITTEN WAGE STATEMENTS**

17 **(AGAINST ALL DEFENDANTS)**

18 44. Plaintiffs re-allege and incorporate by reference all previous paragraphs

19 45. Labor Code 226(a) states in pertinent part the following:

20 “(a) An employer, semimonthly or at the time of each payment of wages, shall
21 furnish to his or her employee, either as a detachable part of the check, draft, or
22 voucher paying the employee's wages, or separately if wages are paid by personal
23 check or cash, an accurate itemized statement in writing showing (1) gross wages
24 earned, (2) total hours worked by the employee, except as provided in subdivision
25 (j), (3) the number of piece-rate units earned and any applicable piece rate if the
26 employee is paid on a piece-rate basis, (4) all deductions, provided that all
27 deductions made on written orders of the employee may be aggregated and shown
28 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 only the last four digits of
his or her social security number or an employee identification number other than
a social security number, (8) the name and address of the legal entity that is the
employer and, if the employer is a farm labor contractor, as defined in subdivision

1 (b) of Section 1682, the name and address of the legal entity that secured the
2 services of the employer, and (9) all applicable hourly rates in effect during the pay
3 period and the corresponding number of hours worked at each hourly rate by the
employee. . .”

4 46. As set forth above, during the Class Period, Defendants issued and continues to issue
5 wage statements to its employees including Plaintiffs and members of the Classes which are
6 inadequate under Labor Code § 226(a). Here, by failing to pay Plaintiffs and the Classes for all hours
7 worked, including all minimum wages, Defendants failed to include the required information on
8 Plaintiffs and the Classes’ wage statements, including, but not limited to, the gross wages earned and
9 the net wages earned in violation of Labor Code § 226a.

10 47. Defendants’ failure to comply with Labor Code § 226(a) was knowing and intentional.

11 48. As a result of Defendants’ issuance of inaccurate itemized wage statements to
12 Plaintiffs and members of the Classes in violation of Labor Code § 226(a), Plaintiffs and members of
13 the Classes are each entitled to recover an initial penalty of \$50, and subsequent penalties of \$100,
14 up to an amount not exceeding an aggregate penalty of \$4,000 per Plaintiffs and per every member
15 of the Classes from Defendants pursuant to Labor Code § 226(e), costs and reasonable attorneys’
16 fees.

17 **THIRD CAUSE OF ACTION**

18 **WAITING TIME PENALTIES**

19 **(AGAINST ALL DEFENDANTS)**

20 49. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

21 50. The actionable period for this cause of action is three years prior to the filing of this
22 Complaint through the present, and on-going until the violation are corrected or the class is certified.

23 51. Sections 201 and 202 of the Labor Code require Defendants to pay all compensation
24 due and owing to Plaintiffs and the Waiting Time Penalty Class during the actionable period for this
25 cause of action at or around the time that their employment is or was terminated or ended.

26 52. Section 203 of the Labor Code provides that if an employer willfully fails to pay
27 compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the
28 employer is liable for penalties in the form of continued compensation up to thirty (30) workdays.

1 53. Defendants willfully failed to pay Plaintiffs and the Waiting Time Penalty Class for
2 all hours worked, including minimum wages prior to or upon termination or separation from
3 employment with Defendants as required by Labor Code §§ 201 and 202.

4 54. As a result, Defendants are liable to Plaintiffs and the Waiting Time Penalty Class
5 for waiting time penalties amounting to thirty (30) days wages for Plaintiffs and the Waiting Time
6 Penalty Class pursuant to Labor Code § 203. *See, e.g.,* DLSE Manual, 4.3.4 (Failure to pay any sort
7 of wages due upon termination entitles an employee to recover waiting time penalties).

8 **FOURTH CAUSE OF ACTION**

9 **FOR FAILURE TO INDEMNIFY NECESSARY BUSINESS EXPENSES**

10 **(AGAINST ALL DEFENDANTS)**

11 55. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

12 56. Labor Code § 2802 requires Defendants to indemnify Plaintiffs and Class Members
13 for necessary expenditures incurred in direct consequences of the discharge of his or her duties. As a
14 necessary part of employment, Plaintiffs and on information and belief Class Members, were not
15 adequately reimbursed by Defendants for expenses, including expenses incurred as results of personal
16 cell phone usage, which was incurred as a direct consequence of the discharge of duties by Plaintiffs
17 and Class Members. Despite these realities of the job, Defendants failed to provide reimbursements
18 for the use of personal cell phones necessary to carry out their job duties.

19 57. Labor Code § 2804 states in pertinent part: “Any contract or agreement, express or
20 implied, made by any employee to waive the benefits of this article or any part thereof is null and
21 void, and this article shall not deprive any employee or his or her personal representative of any right
22 or remedy to which he is entitled under the laws of this State.

23 58. As a result of the unlawful acts of Defendants, Plaintiffs and the Class Members have
24 been deprived of un-reimbursed expense amounts to be determined at trial, and are entitled to the
25 recovery of such amounts, plus interest and penalties thereon, attorneys’ fees, and costs, pursuant to
26 Labor Code § 2802.

1 **FIFTH CAUSE OF ACTION**

2 **UNFAIR COMPETITION BUSINESS & PROFESSIONS CODE § 17200 *et seq.***

3 **(AGAINST ALL DEFENDANTS)**

4 59. Plaintiffs re-alleges and incorporates by reference all previous paragraphs.

5 60. Defendants have engaged and continue to engage in unfair and/or unlawful business
6 practices in California in violation of California Business and Professions Code § 17200 *et seq.*, by
7 failing to pay for all hours worked, including minimum wages, by failing to provide accurate itemized
8 wage statements, and by failing to pay Plaintiffs and members of the Waiting Time Penalty Class all
9 earned wages at the time of their separation.

10 61. Defendants' utilization of these unfair and/or unlawful business practices deprived
11 Plaintiffs and continues to deprive members of the Classes of compensation to which they are legally
12 entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over
13 Defendants' competitors who have been and/or are currently employing workers and attempting to
14 do so in honest compliance with applicable California wage and hour laws.

15 62. Because Plaintiffs is a victim of Defendants' unfair and/or unlawful conduct alleged
16 herein, Plaintiffs for himself and on behalf of the members of the Classes, seeks full restitution of
17 monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or
18 converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

19 63. The acts complained of herein occurred within the last four years immediately
20 preceding the filing of the Complaint in this action.

21 64. Plaintiffs was compelled to retain the services of counsel to file this court action to
22 protect her interests and those of the Classes, to obtain restitution and injunctive relief on behalf of
23 Defendants' current hourly non-exempt truck drivers, and to enforce important rights affecting the
24 public interest. Plaintiffs has thereby incurred the financial burden of attorneys' fees and costs, which
25 he is entitled to recover under Code of Civil Procedure § 1021.5.

1 **SIXTH CAUSE OF ACTION**

2 **FAILURE TO PAY MINIMUM WAGES (“FLSA”)**

3 **(AGAINST ALL DEFENDANTS)**

4 65. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

5 66. and re-alleges each and every allegation contained above as though fully set forth
6 herein.

7 67. The Fair Labor Standards Act of 1938 (“FLSA”), 29 U.S.C. § 201 *et seq*, always
8 applied to Plaintiffs and Class Members’ employment with Defendants relevant herein.

9 68. Section 206 of the FLSA, 29 U.S.C. § 206 (a)(1)(C), mandates that employers pay
10 all employees engaged in commerce or in the production of goods for commerce, minimum wages
11 for their work in an amount set by federal law. Section 218 of the FLSA, 29 U.S.C. § 218 (a), provides
12 that employers pay such minimum wages as established by state law, should be higher than the federal
13 minimum.

14 69. During the liability period, Defendants failed to pay Plaintiffs and Class Members
15 minimum wages due and owing as a result of the piece rate compensation scheme alleged above.

16 70. Defendants willfully, intentionally, and with reckless regard failed to pay Plaintiffs
17 and Class Members the minimum wages for all hours worked in violation of the FLSA. Plaintiffs and
18 Class Members are entitled, pursuant to § 216(b) of the FLSA, 29 U.S.C. § 216(b), to recover unpaid
19 minimum wages, including interest, liquidated damages thereon, in amounts to be proven at trial, as
20 well as reasonable attorneys’ fees and costs. Plaintiffs has consented to join this action.

21 **SEVENTH CAUSE OF ACTION**

22 **FAILURE TO PROVIDE MEAL PERIODS AND REST PERIODS OR COMPENSATION**

23 **IN LIEU THEREOF**

24 **(AGAINST ALL DEFENDANTS)**

25 70. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

26 71. Plaintiffs were routinely unable, and not authorized to take their 10-minute rest periods
27 and were also unable to taken an uninterrupted 30 minute meal break for every shift they worked.
28 Specifically, Plaintiffs were forced to continue working throughout their meal and rest breaks to assist

1 Defendant's needs. Plaintiffs are entitled to one hour of pay for each day that Defendants failed to
2 properly provide one or more meal and rest periods as set forth in the IWC Wage Orders and Labor
3 Code §§ 226.7, 512, and 558.

4 72. Defendants have failed to provide Plaintiffs one or more meal and rest periods during
5 their employment. Defendants have failed to compensate them at the rate of one hour of pay at their
6 regular rate of pay for each on which one or more meal and/or rest periods were not provided.

7 73. Pursuant to Labor Code §§ 226.7 and 512, Plaintiffs seek the payment of all meal and
8 rest period compensation, which they were owed since they commenced working for Defendants,
9 according to proof.

10 74. Additionally, Plaintiffs are entitled to, and seeks, attorneys' fees and costs, and
11 prejudgment interest.

12 75. Accordingly, Plaintiffs are entitled to one hour of compensation at their regular hourly
13 rate for each meal period not taken and one hour of compensation at their regular hourly rate for each
14 rest period not taken in penalty, pursuant to Labor Code § 226.7.

15 **EIGHTH CAUSE OF ACTION**

16 **FAILURE TO TIMELY PAY WAGES IN VIOLATION OF LABOR CODE § 204(a)(b)**

17 **(AGAINST ALL DEFENDANTS)**

18 76. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

19 77. At all times relevant herein, Labor Code § 204 was in full force and effect and binding
20 on Defendants.

21 78. Wages must be paid according to a regularly set schedule pursuant to Labor Code §
22 204. All earned wages must be paid at least twice a month, on days designated in advance by the
23 employer. Work performed between the 1st and 15th days, inclusive, of any calendar month must be
24 paid between the 16th and 26th day of the same month, Work performed between the 16th and the
25 last day of the month must be paid between the 1st and 10th day of the following month. Weekly
26 payroll must be paid within seven days of the end of the pay period in which the wages were earned.

27 79. Defendants paid Plaintiffs on a weekly basis and have failed to comply with Labor
28 Code § 204(a), which holds that wages earned on a weekly basis, must be paid no later than seven

1 calendar days following the close of the payroll period. Due to the violations described above,
2 Plaintiffs did not receive all of their wages earned in a timely manner as required by Labor Code §
3 204(a)(b).

4 80. Defendants have failed to comply with the above-section because they waited longer
5 than seven days from the last pay-period to pay their weekly paid employees.

6 **PRIVATE ATTORNEYS GENERAL ACT PENALTIES**

7 **(AGAINST ALL DEFENDANTS)**

8 71. Plaintiffs re-allege and incorporate by reference all previous paragraphs.

9 72. Defendants have committed several Labor Code violations against Plaintiffs and
10 other non-exempt employees. Plaintiffs are “aggrieved employees” within the meaning of Labor
11 Code § 2698 *et seq.*, acting on behalf of themselves and other non-exempt employees, bring this
12 representative action against Defendants to recover the civil penalties due to Plaintiffs, other similarly
13 non-exempt employees, and the State of California according to proof pursuant to Labor Code § 2699
14 (a) and (f) including, but not limited to (1) \$100 for each initial violation and (2) \$200 for each
15 subsequent violation per employee per pay period for those violations of the Labor Code for which
16 no civil penalty is specifically provided based on the following Labor Code violations:

17 a. Failing to provide Plaintiffs and other non-exempt employees all wages, including
18 minimum and overtime wages, in violation of Labor Code § 200, 204, 226.2, 558, 510, 1194, 1194.2,
19 1197 & 1198;

20 b. Failing to reimburse Plaintiffs and other non-exempt employees for all necessary
21 business expenditures in violation of Labor Code §§ 2800 and 2802

22 c. Failing to timely compensate Plaintiffs and other non-exempt employees with all
23 earnings at their separation of employment in violation of Labor Code §§ 201-203.

24 d. Failing to furnish Plaintiffs and other non-exempt employees with complete,
25 accurate, itemized wage statements in violation of Labor Code § 226(a) and 226.3; and

26 e. Failing to maintain accurate records relating to aggrieved employees and hours
27 worked in violation of Labor Code sections 1174(d), and 1174.5.

28 f. Failing to timely pay wages to Plaintiffs and other non-exempt employees during

1 their employment in violation of Labor Code § 204.

2 g. Failing to provide timely meal and rest periods in violation of Labor Code §§ 226.7
3 512, 558, and the applicable IWC Wage Orders.

4 73. Plaintiffs have notified Defendant Central Transport LLC, via certified mail, and the
5 California Labor and Workforce Development Agency (“LWDA”) via its website of Defendant’s
6 violations of the California Labor Code § 2698 *et seq.*, with respect to violations of the California
7 Labor Code identified in Paragraph 66(a)-(e).

8 74. On May 3, 2021, Plaintiff Dean Knox sent a letter, by certified mail, return receipt
9 requested, to the LWDA and Defendants setting forth the facts and theories of the violations alleged
10 against Defendants on behalf of Defendants’ non-exempt employees, including truck drivers and
11 dock workers, as prescribed by Labor Code § 2698 *et seq.* (**Exhibit “A”**). Pursuant to Labor Code §
12 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar
13 days of May 3, 2021. Plaintiff may therefore commence this action to seek penalties pursuant to
14 Labor Code § 2698 *et seq.*

15 75. On August 13, 2021, Plaintiff Jeremy Michael Ramey-Vicario sent a letter, by
16 certified mail, return receipt requested, to the LWDA and Defendants setting forth the facts and
17 theories of the violations alleged against Defendants on behalf of Defendants’ non-exempt
18 employees, including truck drivers and dock workers, as prescribed by Labor Code § 2698 *et seq.*
19 (**Exhibit “B”**). Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from
20 the LWDA within sixty-five (65) calendar days of August 13, 2021. Plaintiff may therefore
21 commence this action to seek penalties pursuant to Labor Code § 2698 *et seq.*

22 76. On September 15, 2021, Plaintiff Donald Parks sent a letter, by certified mail, return
23 receipt requested, to the LWDA and Defendants setting forth the facts and theories of the violations
24 alleged against Defendants on behalf of Defendants’ truck drivers, as prescribed by Labor Code §
25 2698 *et seq.* (**Exhibit “C”**). Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by
26 Plaintiff from the LWDA within sixty-five (65) calendar days of September 15, 2021. Plaintiff may
27 therefore commence this action to seek penalties pursuant to Labor Code § 2698 *et seq.*

28 77. Now that sixty-five days have passed from Plaintiffs notifying Defendant and the

1 LWDA of these violations, Plaintiffs will have exhausted his administrative requirements for bringing
2 a claim under the Private Attorneys General Act with respect to these violations.

3 78. Plaintiffs were compelled to retain the services of counsel to file this court action to
4 protect their interests and the interests of other non-exempt employees, and to assess and collect the
5 civil penalties owed by Defendants. Plaintiffs have hereby incurred attorneys' fees and costs, which
6 she is entitled to receive under California Labor Code § 2699.

7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiffs prays for judgment for themselves and for all others on whose
9 behalf this suit is brought against Defendants, as follows:

- 10 1. For an order certifying the proposed Classes;
- 11 2. For an order appointing Plaintiffs as representatives of the Classes;
- 12 3. For an order appointing Counsel for Plaintiffs as Counsel for the Classes;
- 13 4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages,
14 and penalties according to proof pursuant to Labor Code §§ 1182.12, 1194, 1194.2 and 1197;
- 15 5. Upon the Second Cause of Action, penalties pursuant to Labor Code § 226(a), and
16 reasonable costs and attorneys' fees;
- 17 6. Upon the Third Cause of Action, for statutory waiting time penalties pursuant to
18 Labor Code §§ 201-203.
- 19 7. Upon the Fourth Causes of Action, for unreimbursed expenses and reasonable costs
20 and attorneys' fees pursuant to Labor Code § 2802
- 21 8. Upon the Fifth Cause of Action, for restitution to Plaintiffs and members of the
22 Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or
23 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
- 24 9. Upon the Seventh Cause of Action, for statutory penalties pursuant to Labor Code §§
25 226.7, 512, and 558.
- 26 10. Upon the Eighth Cause of Action, for penalties pursuant to Labor Code § 204(b).
- 27
- 28

1 11. Upon the Ninth Cause of Action, for civil penalties due to Plaintiffs, other non-
2 exempt aggrieved employees, and the State of California according to proof pursuant to Labor Code
3 § 2699 (a) and (f) including, but not limited to: (1) \$100 for each initial violation and \$200 for each
4 subsequent violation per employee per pay period for those violations of the Labor Code for which
5 no civil penalty is specifically provided under the Labor Code

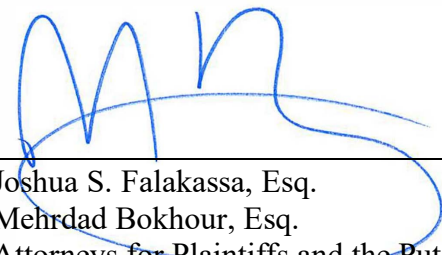
6 12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code
7 § 218.6 and Civil Code §§ 3287 and 3289;

8 13. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§
9 218.5, 226, and Code of Civil Procedure § 1021.5; and

10 14. For such other and further relief, the Court may deem just and proper.

11
12 Dated: May 31, 2023

FALAKASSA LAW, P.C.
BOKHOUR LAW GROUP, P.C.

13
14
15 By: 

16 Joshua S. Falakassa, Esq.

17 Mehrdad Bokhour, Esq.

18 Attorneys for Plaintiffs and the Putative Classes
19
20
21
22
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

3 I am employed in the County of Los Angeles, State of California. I am over the age of
4 eighteen years and not a party to the within action; my business address is 1901 Avenue of the
Stars, Suite 450, Los Angeles, California 90067.

5 On June 7, 2023, I served the following document(s) described as
6 **SECOND AMENDED CLASS AND PAGA REPRESENTATIVE COMPLAINT** on
7 the interested parties in this action by placing true copies thereof enclosed in sealed envelopes
addressed as follows:

8 Christian Keeney, Esq.
Christian.keeny@ogletree.com
9 Alis M. Moon, Esq.
Alis.moon@ogletree.com
10 OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, LLP
11 Park Tower, Fifteenth Floor
695 Town Center Drive
12 Costa Mesa, California 92626

13 **Counsel for defendant Central Transport,
14 LLC**

15 Roman Otkupman, Esq.
Roman@OLFLA.com
16 OTKUPMAN LAW FIRM, A LAW CORP.
5743 Corsa Avenue, Suite 123
17 Westlake Village, CA 91362

18 **Attorneys for Plaintiff Dean Knox and the
19 Putative Class**

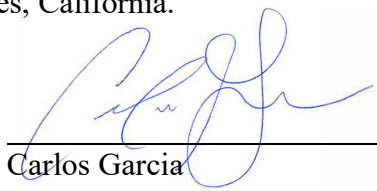
James R. Hawkins, Esq.
james@jameshawkinsaplc.com
Gregory Mauro, Esq.
greg@jameshawkinsaplc.com
Michael Calvo, Esq.
michael@jameshawkinsaplc.com
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618

**Attorneys for Plaintiff Jeremey Michael
Ramey-Vicario and the Putative Class**

20 **BY ELECTRONIC MAIL:** Based on a Court order or an agreement by the parties to
21 accept service by e-mail or electronic transmission, I caused such the document(s) described
22 above to be sent from my email address to the persons listed above. I did not receive, within a
reasonable time after the transmission, any electronic message or indication that the
transmission was unsuccessful.

23 I declare under penalty of perjury under the laws of the State of California that the
24 foregoing is true and correct.

25 Executed on June 7, 2023, at Los Angeles, California.

26
27 
28 Carlos Garcia