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Superior Court of California,
County of Alameda

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Individually and on behalf of all aggrieved employees

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

Brian Thomas Ruff, individually and on
behalf of all aggrieved employees,

Plaintiff,

vs.

Wilson Logistics, Inc.; and Does 1 through
20, inclusive,

Defendants.

Case No. **22CV008614**

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

**VIOLATION OF THE CALIFORNIA
LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 (CAL. LABOR
CODE §§ 2698, ET SEQ.)**

1 Plaintiff Brian Thomas Ruff, individually and on behalf of all aggrieved employees,
2 hereby alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiff Brian Thomas Ruff (“Plaintiff”) brings this representative action
5 against defendant Wilson Logistics, Inc., on behalf of himself individually and all other
6 aggrieved employees employed by Defendant throughout California.

7 2. Defendants are in the business of providing trucking and transportation services
8 to customers throughout California..

9 3. Through this action, Plaintiff alleges that Defendants have engaged in a
10 systematic pattern of wage and hour violations under the California Labor Code (“Labor
11 Code”).

12 4. Plaintiff is informed and believes, and thereon alleges, during the relevant time
13 period, Defendants had a consistent policy of violating state wage and hour laws by, among
14 other things:

- 15 (a) misclassifying Plaintiff and other workers as independent contractors
- 16 (b) failing to pay minimum wages for all hours worked;
- 17 (c) failing to pay overtime wages for all hours worked;
- 18 (d) failing to provide lawful meal periods or compensation in lieu thereof;
- 19 (e) failing to authorize or permit lawful rest breaks or provide compensation
20 in lieu thereof;
- 21 (f) failing to provide accurate itemized wage statements;
- 22 (g) failing to reimburse all business expenses;
- 23 (h) failing to timely pay all wages during employment;
- 24 (i) failing to pay all wages due upon separation of employment;
- 25 (j) failing to provide sick pay;
- 26 (k) unlawfully deducting wages; and
- 27 (l) failing to provide worker’s compensation insurance.

28 5. Plaintiff brings this representative action seeking monetary relief against

1 Defendants on behalf of himself and all aggrieved employees to recover, among other things,
2 penalties, attorney's fees, costs, and expenses pursuant to the Private Attorneys General Act of
3 2004, Labor Code §§ 2698, *et seq.* ("PAGA").

4 **JURISDICTION AND VENUE**

5 6. The monetary relief sought by Plaintiff exceeds the minimal jurisdictional limits
6 of the Superior Court and will be established according to proof at trial. The "amount in
7 controversy" for the named Plaintiff, including but not limited to claims for civil penalties and
8 a *pro rata* share of attorneys' fees, is less than seventy-five thousand dollars (\$75,000).

9 7. The Superior Court has jurisdiction over this action pursuant to the California
10 Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all
11 causes, except those given by statutes to other courts. The statutes under which this action is
12 brought do not specify any other basis for jurisdiction.

13 8. The Superior Court has jurisdiction over all Defendants because, upon
14 information and belief, they are citizens of California, have sufficient minimum contacts in
15 California, or otherwise intentionally avail themselves of the California market so as to render
16 the exercise of jurisdiction over them by the California courts consistent with traditional
17 notions of fair play and substantial justice.

18 9. Venue is proper in the Superior Court because, upon information and belief,
19 Defendants reside, transact business, or have offices in this county, and the acts and omissions
20 alleged herein took place in this county.

21 **THE PARTIES**

22 10. Plaintiff is a citizen of California and worked for Defendants in California
23 during the relevant time period as alleged herein.

24 11. Plaintiff is informed and believes, and thereon alleges, that Defendants are
25 corporations doing business throughout the State of California, and at all times hereinafter
26 mentioned, an employer as defined in and subject to the California Labor Code and Industrial
27 Welfare Commission ("IWC") Wage Orders, whose employees are and were engaged
28 throughout this county and the State of California.

1 12. Plaintiff is unaware of the true names or capacities of the defendants sued herein
2 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
3 Complaint and serve such fictitiously named defendants once their names and capacities
4 become known.

5 13. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 20
6 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants
7 at all relevant times.

8 14. Plaintiff is informed and believes, and thereon alleges, that each defendant acted
9 in all respects pertinent to this action as the agent of the other defendant, carried out a joint
10 scheme, business plan, or policy in all respects pertinent hereto, and the acts of each defendant
11 are legally attributable to the other defendant. Furthermore, defendants in all respects acted as
12 the employers and/or joint employers of Plaintiff and other aggrieved employees.

13 15. Plaintiff is informed and believes, and thereon alleges, that each and all of the
14 acts and omissions alleged herein were performed by, or are attributable to, Defendants and/or
15 DOES 1 through 20, acting as the agent or alter ego for the other, with legal authority to act on
16 the other's behalf. The acts of any and all Defendants were in accordance with, and represent,
17 the official policy of Defendants.

18 16. At all relevant times, Defendants, and each of them, acted within the scope of
19 such agency or employment, or ratified each and every act or omission complained of herein.
20 At all relevant times, Defendants, and each of them, aided and abetted the acts and omissions of
21 each and all the other Defendants in proximately causing the damages herein alleged.

22 17. Plaintiff is informed and believes, and thereon alleges, that each of said
23 Defendants is in some manner intentionally, negligently, or otherwise responsible for the acts,
24 omissions, occurrences, and transactions alleged herein.

25 **GENERAL ALLEGATIONS**

26 18. At all relevant times mentioned herein, Defendants employed Plaintiff and other
27 persons as employees.

28 19. Defendants employed Plaintiff during the relevant time period.

1 20. Plaintiff is informed and believes, and thereon alleges, that at all times
2 mentioned herein, Defendants were advised by skilled lawyers, employees, and other
3 professionals who were knowledgeable about California's wage and hour laws, employment
4 and personnel practices, and the requirements of California law.

5 21. Plaintiff and other aggrieved employees performed transportation services as
6 truck drivers for Defendants during the relevant time period.

7 22. During the relevant time period, Plaintiff and other aggrieved employees were
8 classified by Defendants as an independent contractor. Wilson Logistics workers work for the
9 business for specific shifts on a per load basis and recorded their hours using a digital system in
10 the trucks they operate.

11 23. Wilson Logistics workers lack business autonomy. Wilson Logistics workers
12 are each not engaged in an independently-established business.

13 24. By working for Defendants, Wilson Logistics workers have not independently
14 made the decision to go into business for themselves. Instead, Defendants have unilaterally
15 determined that Plaintiff and Wilson Logistics workers are independent contractors while
16 precluding them from taking the usual steps towards promoting and establishing an
17 independent business.

18 25. Defendants also prohibit Plaintiff and Wilson Logistics workers from setting
19 their rates of pay for their own services, and instead, Plaintiff and Wilson Logistics workers
20 agree to a set payment for a service.

21 26. Defendants control the terms of employment. Defendants maintain uniform
22 policies and terms of service which all Wilson Logistics workers, including Plaintiff, must
23 comply with.

24 27. Through this action, Plaintiff alleges that Defendants have engaged in a
25 systematic pattern of wage and hour violations under the California Labor Code and IWC
26 Wage Orders. Indeed, Defendants misclassified their workers in violation of *Dynamex*
27 *Operations West, Inc. v. Superior Court* (2018) 4 Cal.5th 903 and Assembly Bill 5.

1 28. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
2 should have known that Plaintiff and other aggrieved employees were entitled to receive wages
3 for all time worked (including minimum wages and overtime wages) and that they were not
4 receiving all wages earned for work that was required to be performed. In violation of the
5 Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees were not paid all wages
6 (including minimum wages and overtime wages) for all hours worked when Defendants failed
7 to pay for time spent for working during rest breaks among other things. During the relevant
8 time period, Defendants paid on a per job basis and therefore did not pay the minimum wage
9 for all non-productive time. *Armenta v. Osmose, Inc.* (2005) 135 Cal. App. 4th 314, 325.

10 29. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
11 should have known that Plaintiff and aggrieved employees were entitled to receive all required
12 meal periods or payment of one (1) additional hour of pay at the aggrieved employees' regular
13 rate of pay when they did not receive a timely, uninterrupted meal period. In violation of the
14 Labor Code and IWC Wage Orders, Plaintiff and aggrieved employees did not receive all meal
15 periods or payment of one (1) additional hour of pay at the aggrieved employees' regular rate
16 of pay when they did not receive a timely, uninterrupted meal period.

17 30. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and aggrieved employees were entitled to receive all rest
19 breaks or payment of one (1) additional hour of pay at the aggrieved employees' regular rate of
20 pay when a rest break was missed. Defendants paid on a per job basis and therefore never
21 provided paid rest breaks, in violation of California law. *Vaquero v. Stoneledge Furniture,*
22 *LLC* (2017) 9 Cal. App. 5th 98, 111. In violation of the Labor Code and IWC Wage Orders,
23 Plaintiff and aggrieved employees did not receive all rest breaks or payment of one (1)
24 additional hour of pay at their regular rate of pay when a rest break was missed, interrupted, or
25 on-duty.

26 31. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
27 should have known that Plaintiff and aggrieved employees were entitled to receive complete
28 and accurate wage statements in accordance with California law. In violation of the California

1 Labor Code, Plaintiff and aggrieved employees were not furnished with complete and accurate
2 wage statements showing their total hours worked, number of hours worked at each hourly rate
3 and gross and net wages, among other things.

4 32. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
5 should have known that Plaintiff and aggrieved employees were entitled to reimbursement for
6 necessary expenditures incurred in connection with the performance and execution of their job
7 duties. In violation of the California Labor Code, Plaintiff and aggrieved employees did not
8 receive adequate reimbursement for necessary business expenses, including but not limited to
9 reimbursement for use of their personal cell phones and personal automobiles or other
10 transportation expenses. During the relevant time period, Defendants required Plaintiff and
11 aggrieved employees to maintain the trucks they drove, including paying for tags, fees, fuel,
12 mileage, and maintenance — without reimbursement. In addition, Defendants required
13 Plaintiff and other aggrieved employees to use their own personal cellular phones to
14 communicate regarding the status and transportation of loads without reimbursement. Thus, in
15 violation of the Labor Code, Plaintiff and aggrieved employees did not receive reimbursements
16 for all business expenses.

17 33. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
18 should have known that Plaintiff and aggrieved employees were entitled to timely payment of
19 wages during their employment. In violation of the Labor Code, Plaintiff and aggrieved
20 employees did not receive payment of all wages within permissible time periods.

21 34. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
22 should have known that Plaintiff and aggrieved employees who separated from Defendants
23 were entitled to timely payment of wages upon separation of employment. In violation of the
24 California Labor Code, Plaintiff and aggrieved employees did not receive payment of all wages
25 including, but not limited to, unpaid minimum and overtime wages, meal periods premiums,
26 and rest break premiums within permissible time periods.

27 35. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
28 should have known that Plaintiff and aggrieved employees were entitled to sick pay. In

1 violation of the California Labor Code, Plaintiff and these aggrieved employees did not receive
2 sick pay.

3 36. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
4 should have known that wages were unlawfully deducted from Plaintiff and aggrieved
5 employees. During the relevant time period, Defendants made unlawful deductions from
6 Plaintiff and aggrieved employees' wages by deducting amounts including fees for using the
7 trucks provided by Defendants and other fees related to the usage of the trucks. As a result of
8 the deductions for operating the truck, Wilson Logistics workers often received paychecks with
9 a negative balance showing that they actually owed money to Defendants for using the truck
10 that was purportedly leased to them. In violation of the California Labor Code, Defendants
11 unlawfully deducted wages from Plaintiff and aggrieved employees.

12 37. Plaintiff is informed and believes, and thereon alleges, that Defendants knew or
13 should have known that Plaintiff and aggrieved employees were entitled to worker's
14 compensation insurance. In violation of the California Labor Code, Plaintiff and aggrieved
15 employees were not provided with worker's compensation insurance.

16 **FIRST CAUSE OF ACTION**

17 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")**

18 38. Plaintiff hereby re-alleges and incorporates by reference all paragraphs above as
19 though fully set forth herein.

20 39. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that
21 provides for a civil penalty to be assessed and collected by the Labor and Workforce
22 Development Agency ("LWDA") or any of its departments, divisions, commissions, boards,
23 agencies or employees for violation of the code may, as an alternative, be recovered through a
24 civil action brought by an aggrieved employee on behalf of himself and other current or former
25 employees pursuant to the procedures specified in Labor Code § 2699.3.

26 40. For all provisions of the Labor Code except those for which a civil penalty is
27 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one
28 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violations

1 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
2 subsequent pay period in which Defendants violated these provisions of the Labor Code.

3 41. Defendants' conduct with respect to Plaintiff and other aggrieved employees
4 violates numerous Labor Code sections including, but not limited to, the following:

- 5 a. Violation of Labor Code § 226.8 for willfully misclassifying Plaintiff and
6 other aggrieved employees as independent contractors as herein alleged;
- 7 b. Violation of Labor Code §§ 201-204, 210, 510, 1194, 1194.2, 1197, 1198,
8 and the IWC Wage Orders for failure to timely pay all earned wages
9 (including minimum and overtime wages) owed to Plaintiff and other
10 aggrieved employees during employment and upon separation of
11 employment as herein alleged;
- 12 c. Violation of Labor Code §§ 226.7 and 512 for failure to provide meal
13 periods to Plaintiff and other aggrieved employees and failure to pay
14 premium wages for missed meal periods as herein alleged;
- 15 d. Violation of Labor Code § 226.7 for failure to permit paid rest breaks to
16 Plaintiff and other aggrieved employees and failure to pay premium wages
17 for missed rest periods as herein alleged;
- 18 e. Violation of Labor Code § 226 for failure to provide accurate itemized wage
19 statements to Plaintiff and other aggrieved employees as herein alleged;
- 20 f. Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
21 and complete records showing the hours worked daily by Plaintiff and other
22 aggrieved employees as herein alleged;
- 23 g. Violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff
24 and other aggrieved employees for all reasonable and necessary business
25 expenses as herein alleged;
- 26 h. Violation of Labor Code § 246 for failing to provide Plaintiff and other
27 aggrieved employees mandatory paid sick leave as herein alleged;
- 28 i. Violation of Labor Code § 221 for unlawfully deducting wages of Plaintiff

1 and other aggrieved employees as herein alleged; and

2 j. Violation of Labor Code § 3700 for failing to secure worker's compensation
3 for Plaintiff and other aggrieved employees as herein alleged.

4 42. Plaintiff is an "aggrieved employee" because he was employed by the alleged
5 violator and had one or more of the alleged violations committed against him, and therefore is
6 properly suited to represent the interests of all other aggrieved employees.

7 43. Plaintiff has exhausted the procedural requirements under Labor Code § 2699.3
8 as to Defendants and is therefore able to pursue a claim for penalties on behalf of himself and
9 all other aggrieved employees under the PAGA.

10 44. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiff is entitled to
11 recover civil penalties for violations of the Labor Code sections cited above.

12 45. For bringing this action, Plaintiff is entitled to attorney's fees and costs incurred
13 herein.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff, individually and on behalf of all aggrieved employees, prays
16 for judgment against Defendants as follows:

- 17 1. For civil penalties against Defendants on behalf of all aggrieved employees;
18 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
19 including pursuant to California Labor Code §§ 2699(g) and California Code of Civil
20 Procedure § 1021.5; and
21 3. For such other relief as the Court deems just and proper.

22
23 Dated: March 18, 2022

LEBE LAW, APLC

24 By: _____


Jonathan M. Lebe
Zachary T. Gershman
Nicolas W. Tomas

26 Attorneys for Plaintiff Brian Thomas Ruff
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