

FILED
Superior Court Of California,
Sacramento
11/07/2022
rsanmiguel
By Deputy
Case Number:
34-2021-00298583

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

ERIC SHADINGER, individually, and on
behalf of other members of the general public
similarly situated;

Plaintiff,

v.

WESCO DISTRIBUTION, INC., a Delaware
corporation; and DOES 1 through 100,
inclusive;

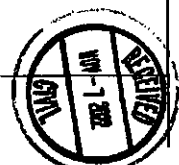
Defendants.

Case No.: 34-2021-00298583

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR DAMAGES**

- (1) Violation of California Labor Code §§ 510 and 1198 (Unpaid Overtime);
- (2) Violation of California Labor Code §§ 226.7 and 512(a) (Unpaid Meal Period Premiums);
- (3) Violation of California Labor Code § 226.7 (Unpaid Rest Period Premiums);
- (4) Violation of California Labor Code §§ 1194 and 1197 (Unpaid Minimum Wages);
- (5) Violation of California Labor Code §§ 201 and 202 (Final Wages Not Timely Paid);
- (6) Violation of California Labor Code § 226(a) (Non-Compliant Wage Statements);
- (7) Violation of California Labor Code §§ 2800 and 2802 (Unreimbursed Business Expenses);
- (8) Violation of California Business & Professions Code § 17200, *et seq.*
- (9) Violation of Labor Code §§ 2698, *et seq.* (Private Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL



1 COMES NOW, Plaintiff ERIC SHADINGER ("Plaintiff"), individually, and on behalf
2 of other members of the general public similarly situated, and alleges as follows:

3 **JURISDICTION AND VENUE**

4 1. This class action is brought pursuant to the California Code of Civil Procedure
5 section 382. The monetary damages and restitution sought by Plaintiff exceeds the minimal
6 jurisdiction limits of the Superior Court and will be established according to proof at trial. The
7 "amount in controversy" for the named Plaintiff, including claims for compensatory damages,
8 restitution, penalties, wages, premium pay, and pro rata share of attorneys' fees, is less than
9 seventy-five thousand dollars (\$75,000).

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

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

19 4. Venue is proper in this Court because, upon information and belief, Defendants
20 maintain offices, have agents, and/or transact business in the State of California, including the
21 County of Sacramento. The majority of the acts and omissions alleged herein relating to
22 Plaintiff took place in the State of California. Defendants employed Plaintiff within the State of
23 California, County of Sacramento.

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PARTIES

5. Plaintiff ERIC SHADINGER is an individual residing in the State of California, County of Sacramento.

6. Defendant WESCO DISTRIBUTION, INC., at all times herein mentioned, was and is, upon information and belief, a Delaware corporation, and at all times herein mentioned, was and is, an employer whose employees are engaged throughout the State of California, including the County of Sacramento.

7. At all relevant times, Defendants WESCO DISTRIBUTION, INC. was the "employer" of Plaintiff within the meaning of all applicable California laws and statutes.

8. At all times herein relevant, Defendants WESCO DISTRIBUTION, INC. and DOES 1 through 100, and each of them, were the agents, partners, joint venturers, joint employers, representatives, servants, employees, successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant hereto were acting within the course and scope of their authority as such agents, partners, joint venturers, joint employers, representatives, servants, employees, successors, co-conspirators and assigns, and all acts or omissions alleged herein were duly committed with the ratification, knowledge, permission, encouragement, authorization, and consent of each defendant designated herein.

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

10. Defendants WESCO DISTRIBUTION, INC. and DOES 1 through 100 will hereinafter collectively be referred to as "Defendants."

1 11. Plaintiff further alleges that Defendants directly or indirectly controlled or
2 affected the working conditions, wages, working hours, and conditions of employment of
3 Plaintiff and the other class members so as to make each of said Defendants employers and
4 employers liable under the statutory provisions set forth herein.

5 **CLASS ACTION ALLEGATIONS**

6 12. Plaintiff brings this action on his own behalf and on behalf of all other members
7 of the general public similarly situated, and, thus, seeks class certification under Code of Civil
8 Procedure section 382.

9 13. The proposed class is defined as follows:

10 All current and former non-exempt employees who worked for Defendant
11 within the State of California at any time during the period from April 12, 2017
12 to July 8, 2022.

13 14. Plaintiff reserves the right to establish subclasses as appropriate.

14 15. The class is ascertainable and there is a well-defined community of interest in
15 the litigation:

16 a. Numerosity: The class members are so numerous that joinder of all class
17 members is impracticable. The membership of the entire class is
18 unknown to Plaintiff at this time; however, the class is estimated to be
19 greater than fifty (50) individuals and the identity of such membership is
20 readily ascertainable by inspection of Defendants' employment records.

21 b. Typicality: Plaintiff's claims are typical of all other class members'
22 claims as demonstrated herein. Plaintiff will fairly and adequately
23 protect the interests of the other class members with whom he has a well-
24 defined community of interest.

25 c. Adequacy: Plaintiff will fairly and adequately protect the interests of
26 each class member, with whom he has a well-defined community of
27 interest and typicality of claims, as demonstrated herein. Plaintiff has no
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1 interest that is antagonistic to the other class members. Plaintiff's
2 attorneys, the proposed class counsel, are versed in the rules governing
3 class action discovery, certification, and settlement. Plaintiff has
4 incurred, and during the pendency of this action will continue to incur,
5 costs and attorneys' fees, that have been, are, and will be necessarily
6 expended for the prosecution of this action for the substantial benefit of
7 each class member.

8 d. Superiority: A class action is superior to other available methods for the
9 fair and efficient adjudication of this litigation because individual joinder
10 of all class members is impractical.

11 e. Public Policy Considerations: Certification of this lawsuit as a class
12 action will advance public policy objectives. Employers of this great
13 state violate employment and labor laws every day. Current employees
14 are often afraid to assert their rights out of fear of direct or indirect
15 retaliation. However, class actions provide the class members who are
16 not named in the complaint anonymity that allows for the vindication of
17 their rights.

18 16. There are common questions of law and fact as to the class members that
19 predominate over questions affecting only individual members. The following common
20 questions of law or fact, among others, exist as to the members of the class:

- 21 a. Whether Defendants' failure to pay wages, without abatement or
22 reduction, in accordance with the California Labor Code, was willful;
23 b. Whether Defendants failed to pay their hourly-paid or non-exempt
24 employees within the State of California for all hours worked, missed
25 meal periods and rest breaks in violation of California law;
26 c. Whether Defendants required Plaintiff and the other class members to
27 work over eight (8) hours per day and/or over forty (40) hours per week
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1 and failed to pay the legally required overtime compensation to Plaintiff
2 and the other class members;

3 d. Whether Defendants properly calculated the regular rate for Plaintiff and
4 the other class members to worked overtime and earned incentive pay;

5 e. Whether Defendants deprived Plaintiff and the other class members of
6 meal and/or rest periods or required Plaintiff and the other class
7 members to work during meal and/or rest periods without compensation;

8 f. Whether Defendants failed to pay minimum wages to Plaintiff and the
9 other class members for all hours worked;

10 g. Whether Defendants failed to pay all wages due to Plaintiff and the other
11 class members within the required time upon their discharge or
12 resignation;

13 h. Whether Defendants failed to timely pay all wages due to Plaintiff and
14 the other class members during their employment;

15 i. Whether Defendants complied with wage reporting as required by the
16 California Labor Code, including, inter alia, section 226;

17 j. Whether Defendants failed to reimburse the class members for necessary
18 business-related expenses and costs;

19 k. Whether Defendants' conduct was willful or reckless;

20 l. Whether Defendants engaged in unfair business practices in violation of
21 California Business & Professions Code section 17200, *et seq.*;

22 m. The appropriate amount of damages, restitution, and/or monetary
23 penalties resulting from Defendants' violation of California law; and

24 n. Whether Plaintiff and the other class members are entitled to
25 compensatory damages pursuant to the California Labor Code.

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GENERAL ALLEGATIONS

17. During the relevant time period set forth herein, Defendants employed Plaintiff and other persons as hourly-paid or non-exempt employees within the State of California.

18. Defendants, jointly and severally, employed Plaintiff as an hourly-paid non-exempt employee from 2018 to 2019 in the State of California, County of Sacramento.

19. Defendants had the authority to hire and terminate Plaintiff and other class members; to set work rules and conditions governing Plaintiff's and other class members' employment; and to supervise their daily employment activities.

20. Defendants exercised sufficient authority over the terms and conditions of Plaintiff and other class members' employment for them to be joint employers of Plaintiff and the other class members.

21. Defendants directly hired and paid wages and benefits to Plaintiff and other class members.

22. Defendants continue to employ hourly-paid or non-exempt employees within the State of California.

23. Plaintiff and other class members worked over eight (8) hours in a day, and/or forty (40) hours in a week during their employment with Defendants.

24. Plaintiff is informed and believes, and based thereon alleges, that Defendants engaged in a pattern and practice of wage abuse against their hourly-paid or non-exempt employees within the State of California. This scheme involved, inter alia, failing to pay them for all hours worked, missed meal periods, and missed rest breaks in violation of California law.

25. Plaintiff is informed and believes, and based thereon alleges, that Defendants knew or should have known that Plaintiff and other class members were entitled to receive certain wages for overtime compensation and that Plaintiff and other class members were not receiving wages for overtime compensation.

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1 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to provide Plaintiff and other class members the required rest and meal periods during
3 the relevant time period as required under the Industrial Welfare Commission Wage Orders
4 and thus they are entitled to any and all applicable penalties.

5 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knew or should have known that Plaintiff and other class members were entitled to receive all
7 timely and complete meal periods or payment of one additional hour of pay at Plaintiff's and
8 the other class members' regular rate of pay when a meal period was missed, late or
9 interrupted, and that Plaintiff and other class members did not receive all timely and proper
10 meal periods or payment of one additional hour of pay at their regular rate of pay when a meal
11 period was missed.

12 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that Plaintiff and other class members were entitled to receive all
14 timely rest periods without interruption or payment of one additional hour of pay at Plaintiff
15 and the other class members' regular rate of pay when a rest period was missed, late or
16 interrupted, and that Plaintiff and other class members did not receive all rest periods or
17 payment of one additional hour of pay at their regular rate of pay when a rest period was
18 missed.

19 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knew or should have known that Plaintiff and other class members were entitled to receive at
21 least minimum wages for compensation and that Plaintiff and other class members were not
22 receiving at least minimum wages for all hours worked.

23 30. Plaintiff is informed and believes, and based thereon alleges, that Defendants
24 knew or should have known that Plaintiff and other class members were entitled to receive the
25 wages owed to them upon discharge or resignation, including overtime and minimum wages
26 and meal and rest period premiums, and that Plaintiff and other class members did not, in fact,
27 receive such wages owed to them at the time of their discharge or resignation.
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1 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Plaintiff and other class members were entitled to receive
3 complete and accurate wage statements in accordance with California law, but, in fact, Plaintiff
4 and other class members did not receive complete and accurate wage statements from
5 Defendants. The deficiencies included, inter alia, the failure to include the total number of
6 hours worked by Plaintiff and other class members.

7 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
8 knew or should have known that the class members were entitled to reimbursement for
9 necessary business-related expenses.

10 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
11 knew or should have known that Defendants had to keep complete and accurate payroll records
12 for Plaintiff and other class members in accordance with California law, but, in fact, did not
13 keep complete and accurate payroll records for Plaintiff and other class members.

14 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
15 knew or should have known that they had a duty to compensate Plaintiff and other class
16 members pursuant to California law, and that Defendants had the financial ability to pay such
17 compensation, but willfully, knowingly, and intentionally failed to do so, and falsely
18 represented to Plaintiff and other class members that they were properly denied wages, all in
19 order to increase Defendants' profits.

20 35. As a pattern and practice, during the relevant time period set forth herein,
21 Defendants failed to pay overtime wages to Plaintiff and other class members for all hours
22 worked. Plaintiff and other class members were required to work more than eight (8) hours per
23 day and/or forty (40) hours per week without overtime compensation.

24 36. As a pattern and practice, during the relevant time period set forth herein,
25 Defendants failed to provide the requisite uninterrupted and timely meal and rest periods to
26 Plaintiff and other class members.

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37. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiff and other class members at least minimum wages for all hours worked.

38. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiff and other class members the wages owed to them upon discharge or resignation.

39. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to provide complete or accurate wage statements to Plaintiff and other class members.

40. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to keep complete or accurate payroll records for Plaintiff and other class members.

41. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to properly compensate Plaintiff and other class members pursuant to California law in order to increase Defendants' profits.

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

FIRST CAUSE OF ACTION

(Violation of California Labor Code §§ 510 and 1198)

(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)

43. Plaintiff incorporates by reference the allegations contained in Paragraphs 1 through 42, and each and every part thereof with the same force and effect as though fully set forth herein.

44. California Labor Code section 1198 and the applicable Industrial Welfare Commission ("IWC") Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-times that person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly

1 basis.

2 45. Specifically, the applicable IWC Wage Order provides that Defendants are and
3 were required to pay Plaintiff and other class members employed by Defendants, who
4 work(ed) more than eight (8) hours in a day or more than forty (40) hours in a workweek, at
5 the rate of time-and-one-half for all hours worked in excess of eight (8) hours in a day or more
6 than forty (40) hours in a workweek.

7 46. The applicable IWC Wage Order further provides that Defendants are and were
8 required to pay Plaintiff and other class members overtime compensation at a rate of two times
9 their regular rate of pay for all hours worked in excess of twelve (12) hours in a day.

10 47. California Labor Code section 510 codifies the right to overtime compensation
11 at one-and-one-half times the regular hourly rate for hours worked in excess of eight (8) hours
12 in a day or forty (40) hours in a week or for the first eight (8) hours worked on the seventh day
13 of work, and overtime compensation at twice the regular hourly rate for hours worked in
14 excess of twelve (12) hours in a day or in excess of eight (8) hours in a day on the seventh day
15 of work.

16 48. During the relevant time period set forth herein, Plaintiff and other class
17 members worked in excess of eight (8) hours in a day, and/or in excess of forty (40) hours in a
18 week.

19 49. As a pattern and practice, during the relevant time period set forth herein,
20 Defendants intentionally and willfully failed to pay overtime wages owed to Plaintiff and other
21 class members (but not all).

22 50. Defendants' pattern and practice of failing to pay Plaintiff and other class
23 members the unpaid balance of overtime compensation, as required by California laws,
24 violates the provisions of California Labor Code sections 510 and 1198, and is therefore
25 unlawful.

26 51. Pursuant to California Labor Code section 1194, Plaintiff and other class
27 members are entitled to recover unpaid overtime compensation, as well as interest, costs, and
28 attorneys' fees.

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1 mutual consent, were required to work for periods longer than five (5) hours without an
2 uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

3 58. As a pattern and practice, during the relevant time period set forth herein,
4 Plaintiff and other class members (but not all) who were scheduled to work for a period of time
5 no longer than twelve (12) hours, and who did not waive their legally-mandated meal periods
6 by mutual consent, were required to work for periods longer than ten (10) hours without an
7 uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

8 59. As a pattern and practice, during the relevant time period set forth herein,
9 Plaintiff and other class members (but not all) who were scheduled to work for a period of time
10 in excess of six (6) hours were required to work for periods longer than five (5) hours without
11 an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest period.

12 60. As a pattern and practice, during the relevant time period set forth herein,
13 Plaintiff and other class members (but not all) who were scheduled to work for a period of time
14 in excess of twelve (12) hours were required to work for periods longer than ten (10) hours
15 without an uninterrupted meal period of not less than thirty (30) minutes and/or without a rest
16 period.

17 61. As a pattern and practice, during the relevant time period set forth herein,
18 Defendants intentionally and willfully required Plaintiff and other class members (but not all)
19 to work during meal periods and failed to compensate Plaintiff and the other class members
20 (but not all) the full meal period premium for work performed during meal periods.

21 62. As a pattern and practice, during the relevant time period set forth herein,
22 Defendants failed to pay Plaintiff and other class members (but not all) the full meal period
23 premium due pursuant to California Labor Code section 226.7.

24 63. Defendants' conduct violates applicable IWC Wage Order and California Labor
25 Code sections 226.7 and 512(a).

26 64. Pursuant to the applicable IWC Wage Order and California Labor Code section
27 226.7(b), Plaintiff and other class members are entitled to recover from Defendants one
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1 additional hour of pay at the employee's regular rate of compensation for each workday that
2 the meal or rest period is not provided.

3 **THIRD CAUSE OF ACTION**

4 **(Violation of California Labor Code § 226.7)**

5 **(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)**

6 65. Plaintiff incorporates by reference the allegations contained in paragraphs 1
7 through 64, and each and every part thereof with the same force and effect as though fully set
8 forth herein.

9 66. During the relevant time period set forth herein, the applicable IWC Wage
10 Order and California Labor Code section 226.7 were applicable to Plaintiff's and other class
11 members' employment by Defendants.

12 67. During the relevant time period set forth herein, California Labor Code section
13 226.7 provides that no employer shall require an employee to work during any rest period
14 mandated by an applicable order of the California IWC.

15 68. During the relevant time period set forth herein, the applicable IWC Wage
16 Order provides that "[e]very employer shall authorize and permit all employees to take rest
17 periods, which insofar as practicable shall be in the middle of each work period" and that the
18 "rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes
19 net rest time per four (4) hours or major fraction thereof" unless the total daily work time is
20 less than three and one-half (3 ½) hours.

21 69. As a pattern and practice, during the relevant time period set forth herein,
22 Defendants required Plaintiff and other class members (but not all) to work four (4) or more
23 hours without authorizing or permitting a ten (10) minute rest period per each four (4) hour
24 period worked.

25 70. As a pattern and practice, during the relevant time period set forth herein,
26 Defendants willfully required Plaintiff and other class members (but not all) to work during
27 rest periods and failed to pay Plaintiff and the other class members the full rest period premium
28 for work performed during rest periods.

71. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay Plaintiff and the other class members (but not all) the full rest period premium due pursuant to California Labor Code section 226.7

72. Defendants' conduct violates applicable IWC Wage Orders and California Labor Code section 226.7.

73. Pursuant to the applicable IWC Wage Orders and California Labor Code section 226.7(b), Plaintiff and the other class members are entitled to recover from Defendants one additional hour of pay at the employees' regular hourly rate of compensation for each workday that the rest period was not provided.

FOURTH CAUSE OF ACTION

(Violation of California Labor Code §§ 1194 and 1197)

(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)

74. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 73 and each and every part thereof with the same force and effect as though fully set forth herein.

75. During the relevant time period set forth herein, California Labor Code sections 1194 and 1197 provide that the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed, is unlawful.

76. As a pattern and practice, during the relevant time period set forth herein, Defendants failed to pay minimum wages to Plaintiff and other class members (but not all) as required, pursuant to California Labor Code sections 1194 and 1197.

77. Defendants' failure to pay Plaintiff and other class members the minimum wage as required violates California Labor Code sections 1194 and 1197. Pursuant to those sections, Plaintiff and other class members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs, and attorney's fees, and liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

78. Pursuant to California Labor Code section 1194.2, Plaintiff and other class members are entitled to recover liquidated damages in an amount equal to the wages

1 unlawfully unpaid and interest thereon.

2 **FIFTH CAUSE OF ACTION**

3 **(Violation of California Labor Code §§ 201 and 202)**

4 **(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)**

5 79. Plaintiff incorporates by reference the allegations contained in paragraphs 1
6 through 78, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 80. During the relevant time period set forth herein, California Labor Code sections
9 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid
10 at the time of discharge are due and payable immediately, and if an employee quits his or her
11 employment, his or her wages shall become due and payable not later than seventy-two (72)
12 hours thereafter, unless the employee has given seventy-two (72) hours notice of his or her
13 intention to quit, in which case the employee is entitled to his or her wages at the time of
14 quitting.

15 81. As a pattern and practice, during the relevant time period set forth herein,
16 Defendants intentionally and willfully failed to pay Plaintiff and other class members (but not
17 all) who are no longer employed by Defendants their wages, earned and unpaid, within
18 seventy-two (72) hours of their leaving Defendants' employ.

19 82. Defendants' pattern and practice of failing to pay Plaintiff and other class
20 members who are no longer employed by Defendants their wages, earned and unpaid, within
21 seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor
22 Code sections 201 and 202.

23 83. California Labor Code section 203 provides that if an employer willfully fails to
24 pay wages owed, in accordance with sections 201 and 202, then the wages of the employee
25 shall continue as a penalty from the due date thereof at the same rate until paid or until an
26 action is commenced; but the wages shall not continue for more than thirty (30) days.

27 84. Plaintiff and other class members are entitled to recover from Defendants the
28 statutory penalty wages for each day they were not paid, up to the thirty (30) day maximum as

1 provided by Labor Code section 203.

2 **SIXTH CAUSE OF ACTION**

3 **(Violation of California Labor Code § 226(a))**

4 **(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)**

5 85. Plaintiff incorporates by reference the allegations contained in paragraphs 1
6 through 84, and each and every part thereof with the same force and effect as though fully set
7 forth herein.

8 86. During the relevant time period set forth herein, California Labor Code section
9 226(a) provides that every employer shall furnish each of his or her employees an accurate
10 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
11 employee, (3) the number of piece-rate units earned and any applicable piece rate if the
12 employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on
13 written orders of the employee may be aggregated and shown as one item, (5) net wages
14 earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the
15 employee and his or her social security number, (8) the name and address of the legal entity
16 that is the employer, and (9) all applicable hourly rates in effect during the pay period and the
17 corresponding number of hours worked at each hourly rate by the employee. The deductions
18 made from payments of wages shall be recorded in ink or other indelible form, properly dated,
19 showing the month, day, and year, and a copy of the statement or a record of the deductions
20 shall be kept on file by the employer for at least three years at the place of employment or at a
21 central location within the State of California.

22 87. As a pattern and practice, Defendants have intentionally and willfully failed to
23 provide Plaintiff and other class members (but not all) with complete and accurate wage
24 statements. The deficiencies include but are not limited to: the failure to include the total
25 number of hours worked by Plaintiff and other class members.

26 88. As a result of Defendants' violation of California Labor Code section 226(a),
27 Plaintiff and other class members have suffered injury and damage to their statutorily protected
28 rights.

1 89. More specifically, Plaintiff and other class members have been injured by
2 Defendants' intentional and willful violation of California Labor Code section 226(a) because
3 they were denied both their legal right to receive, and their protected interest in receiving,
4 accurate and itemized wage statements pursuant to California Labor Code section 226(a).

5 90. Plaintiff and other class members are entitled to recover from Defendants the
6 greater of their actual damages caused by Defendants' failure to comply with California Labor
7 Code section 226(a), or an aggregate penalty not exceeding four thousand dollars per
8 employee.

9 91. Plaintiff and other class members are also entitled to injunctive relief to ensure
10 compliance with this section, pursuant to California Labor Code section 226(g).

11 **SEVENTH CAUSE OF ACTION**

12 **(Violation of California Labor Code §§ 2800 and 2802)**

13 **(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)**

14 92. Plaintiff incorporates by reference the allegations contained in paragraphs 1
15 through 91, and each and every part thereof with the same force and effect as though fully set
16 forth herein.

17 93. Pursuant to California Labor Code sections 2800 and 2802, an employer must
18 reimburse its employee for all necessary expenditures incurred by the employee in direct
19 consequence of the discharge of his or her job duties or in direct consequence of his or her
20 obedience to the directions of the employer.

21 94. Defendants have intentionally and willfully failed to reimburse the class members
22 (but not all) for all necessary business-related expenses and costs. The class members are
23 entitled to recover from Defendants their business-related expenses and costs incurred during the
24 course and scope of their employment, plus interest accrued from the date on which the
25 employee incurred the necessary expenditures at the same rate as judgments in civil actions in
26 the State of California.

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EIGHTH CAUSE OF ACTION

(Violation of California Business & Professions Code §§ 17200, *et seq.*)

(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)

95. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 94, and each and every part thereof with the same force and effect as though fully set forth herein.

96. Defendants' conduct, as alleged herein, has been, and continues to be unfair, unlawful and harmful to Plaintiff, other class members, to the general public, and Defendants' competitors. Accordingly, Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure section 1021.5.

97. Defendants' activities as alleged herein are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code section 17200, *et seq.*

98. A violation of California Business & Professions Code section 17200, *et seq.* may be predicated on the violation of any state or federal law. In this instant case, Defendants' pattern and practice of requiring Plaintiff and other class members work overtime hours without paying them proper compensation violate California Labor Code sections 510 and 1198. Additionally, Defendants' pattern and practice of requiring Plaintiff and other class members, to work through their meal and rest periods without paying them proper compensation violate California Labor Code sections 226.7 and 512(a). Moreover, Defendants' pattern and practice of failing to timely pay wages to Plaintiff and other class members violate California Labor Code sections 201 and 202. Defendants also violated California Labor Code sections 226(a), 1194, 1197, 2800 and 2802.

99. As a result of the herein described violations of California law, Defendants unlawfully gained an unfair advantage over other businesses.

100. Plaintiff and other class members (but not all) have been personally injured by Defendants' unlawful business acts and practices as alleged herein, including but not necessarily limited to the loss of money and/or property.

101. Pursuant to California Business & Professions Code sections 17200, *et seq.*, Plaintiff and other class members are entitled to restitution of the wages withheld and retained by Defendants during a period that commences four years prior to the filing of this Complaint; an award of attorneys' fees pursuant to California Code of Civil procedure section 1021.5 and other applicable laws; and an award of costs.

NINTH CAUSE OF ACTION

(Violation of California Labor Code §§ 2698, *et seq.*)

(Against WESCO DISTRIBUTION, INC. and DOES 1 through 100)

102. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 101, and each and every part thereof with the same force and effect as though fully set forth herein.

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

104. On April 19, 2022, Plaintiff provided written notice to the LWDA and Defendants of the specific provisions of the Labor Code he contends were violated, and the theories supporting his contentions. Attached hereto as **Exhibit 1** and incorporated by reference is a copy of the written notice to the LWDA. The LWDA did not take any action to investigate or prosecute this matter, and Plaintiff believes that on June 23, 2022, the sixty-five (65) day notice period expired. Therefore, Plaintiff has exhausted the statutory time period to bring this action.

105. Plaintiff and the other hourly-paid or non-exempt employees are “aggrieved employees” as defined by California Labor Code § 2699(c) in that they are all current and former hourly-paid or non-exempt employees of Defendants within the State of California who worked for Defendants at any time during the period from April 18, 2021 to July 8, 2022, and

1 one or more of the alleged violations was committed against them.

2 **Failure to Pay Minimum and Overtime Wages**

3 106. At all times relevant herein, Defendants were required to compensate their non-
4 exempt employees minimum wages for all hours worked and overtime wages for all hours
5 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the
6 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

7 As a policy and practice, Defendants failed to compensate Plaintiff and the other
8 aggrieved current and former employees for all hours worked, resulting in a failure to pay all
9 minimum wages and overtime wages, where applicable.

10 **Failure to Provide Meal Periods and Rest Breaks**

11 107. In accordance with the mandates of Labor Code §§ 226.7 and 512, Defendants
12 were required to authorize and permit their non-exempt employees to take a 10-minute rest
13 break for every four (4) hours worked or major fraction thereof, and were further required to
14 provide their non-exempt employees with a 30-minute meal period for every five (5) hours
15 worked.

16 108. As a policy and practice, Defendants failed to provide Plaintiff and the other
17 aggrieved current and former employees with legally-mandated meal periods and rest breaks
18 and failed to pay proper compensation for this failure.

19 **Failure to Timely Pay Wages During Employment**

20 109. At all times relevant herein, Defendants were required to pay their employees
21 within a specified time period pursuant to the mandate of Labor Code § 204.

22 110. As a policy and practice, Defendants failed to pay Plaintiff and the other
23 aggrieved current and former employees all wages due and owing them within the required
24 time period.

25 ///

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27 ///

1 **Failure to Timely Pay Wages Upon Termination**

2 111. At all times relevant herein, Defendants were required to pay their employees
3 all wages owed in a timely fashion at the end of employment pursuant to California Labor
4 Code §§ 201 to 204.

5 112. As a result of Defendants' Labor Code violations alleged above, Defendants
6 failed to pay Plaintiff and the other aggrieved former employees their final wages pursuant to
7 Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to Labor Code
8 § 203.

9 **Failure to Provide Complete and Accurate Wage Statements**

10 113. At all times relevant herein, Defendants were required to keep *accurate* records
11 regarding their California employees pursuant to the mandate of Labor Code §§ 226 and 1174.

12 114. As a result of Defendants' various Labor Code violations, Defendants failed to
13 keep accurate records regarding Plaintiff and the other aggrieved current and former
14 employees. For example, Defendants failed in their affirmative obligation to keep accurate
15 records regarding Plaintiff and the other aggrieved current and former employees' gross wages
16 earned, total hours worked, all deductions, net wages earned, and all applicable hourly rates
17 and the number of hours worked at each hourly rate.

18 **Failure to Reimburse Business Expenses**

19 115. At all times relevant herein, Defendants were required to reimburse its
20 employees for any and all necessary expenditures or losses incurred by the employees in direct
21 consequences of the discharge or his or her duties pursuant to the mandate of Labor Code §§
22 2800 and 2802.

23 116. As a policy and practice, Defendants failed to reimburse Plaintiff and the other
24 aggrieved current and former employees for all business expenses incurred and owing them
25 within the required time period.

26 ///

27 ///

Penalties

117. Pursuant to California Labor Code § 2699, Plaintiff, individually, and on behalf of other current and former aggrieved employees, requests and is entitled to recover from Defendants, and each of them, civil penalties, interest, attorneys' fees and costs, including but not limited to:

- a. Penalties under California Labor Code § 2699 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- b. Penalties under California Code of Regulations Title 8 § 11040 in the amount of fifty dollars (\$50) for each aggrieved employee per pay period for the initial violation, and one hundred dollars (\$100) for each aggrieved employee per pay period for each subsequent violation;
- c. Penalties under California Labor Code § 210 in addition to, and entirely independent and apart from, any other penalty provided in the California Labor Code in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation;
- d. Penalties under Labor Code § 1197.1 in the amount of a hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation, and two hundred fifty dollars (\$250) for each aggrieved employee per pay period for each subsequent violation;
- e. Any and all additional penalties as provided by the Labor Code and/or other statutes; and
- f. Attorneys' fees and costs pursuant to Labor Code §§ 210, 1194, and 2699, and any other applicable statute.

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff, individually, and on behalf of other members of the general public similarly
3 situated, requests a trial by jury.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, individually and on behalf of all other members of the general
6 public similarly situated, prays for relief and judgment against Defendants, jointly and
7 severally, as follows:

8 **Class Certification**

- 9 1. That this action be certified as a class action;
10 2. That Plaintiff be appointed as representative of the Class;
11 3. That counsel for Plaintiff be appointed as Class Counsel; and
12 4. That Defendants provide to Class Counsel immediately the names and most
13 current contact information (address, e-mail and telephone numbers) of all class members.

14 **As to the First Cause of Action**

- 15 5. That the Court declare, adjudge and decree that Defendants violated California
16 Labor Code sections 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay
17 all overtime wages due to Plaintiff and other class members (but not all);

- 18 6. For general unpaid wages at overtime wage rates and such general and special
19 damages as may be appropriate;

- 20 7. For pre-judgment interest on any unpaid overtime compensation commencing
21 from the date such amounts were due;

- 22 8. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
23 California Labor Code section 1194; and

- 24 9. For such other and further relief as the court may deem just and proper.

25 **As to the Second Cause of Action**

- 26 10. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 226.7 and 512 and applicable IWC Wage Orders by willfully failing to
28 provide all meal periods (including second meal periods) to Plaintiff and other class members

1 (but not all);

2 11. That the Court make an award to Plaintiff and the other class members of one
3 (1) hour of pay at each employee's regular rate of compensation for each workday that a meal
4 period was not provided;

5 12. For all actual, consequential, and incidental losses and damages, according to
6 proof;

7 13. For premium wages pursuant to California Labor Code section 226.7(b);

8 14. For pre-judgment interest on any unpaid wages from the date such amounts
9 were due;

10 15. For reasonable attorneys' fees and costs of suit incurred herein; and

11 16. For such other and further relief as the court may deem just and proper.

12 **As to the Third Cause of Action**

13 17. That the Court declare, adjudge and decree that Defendants violated California
14 Labor Code section 226.7 and applicable IWC Wage Orders by willfully failing to provide all
15 rest periods to Plaintiff and other class members (but not all);

16 18. That the Court make an award to Plaintiff and the other class members of one
17 (1) hour of pay at each employee's regular rate of compensation for each workday that a rest
18 period was not provided;

19 19. For all actual, consequential, and incidental losses and damages, according to
20 proof;

21 20. For premium wages pursuant to California Labor Code section 226.7(b);

22 21. For pre-judgment interest on any unpaid wages from the date such amounts
23 were due; and

24 22. For such other and further relief as the court may deem just and proper.

25 **As to the Fourth Cause of Action**

26 23. That the Court declare, adjudge and decree that Defendants violated California
27 Labor Code sections 1194 and 1197 by willfully failing to pay minimum wages to Plaintiff and
28

1 other class members (but not all);

2 24. For general unpaid wages and such general and special damages as may be
3 appropriate;

4 25. For pre-judgment interest on any unpaid compensation from the date such
5 amounts were due;

6 26. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
7 California Labor Code section 1194(a);

8 27. For liquidated damages pursuant to California Labor Code section 1194.2; and

9 28. For such other and further relief as the court may deem just and proper.

10 **As to the Fifth Cause of Action**

11 29. That the Court declare, adjudge and decree that Defendants violated California
12 Labor Code sections 201, 202, and 203 by willfully failing to pay all compensation owed at the
13 time of termination of the employment of Plaintiff and other class members (but not all) no
14 longer employed by Defendants;

15 30. For all actual, consequential, and incidental losses and damages, according to
16 proof;

17 31. For statutory wage penalties pursuant to California Labor Code section 203 for
18 the other class members who have left Defendants' employ;

19 32. For pre-judgment interest on any unpaid compensation from the date such
20 amounts were due; and

21 33. For such other and further relief as the court may deem just and proper.

22 **As to the Sixth Cause of Action**

23 34. That the Court declare, adjudge and decree that Defendants violated the record
24 keeping provisions of California Labor Code section 226(a) and applicable IWC Wage Orders
25 as to Plaintiff and other class members (but not all), and willfully failed to provide accurate
26 itemized wage statements thereto;

27 35. For actual, consequential and incidental losses and damages, according to proof;
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1 36. For statutory penalties pursuant to California Labor Code section 226(e);

2 37. For injunctive relief to ensure compliance with this section, pursuant to
3 California Labor Code section 226(g); and

4 38. For such other and further relief as the court may deem just and proper.

5 **As to the Seventh Cause of Action**

6 39. That the Court declare, adjudge and decree that Defendants violated California
7 Labor Code sections 2800 and 2802 by willfully failing to reimburse the class members (but
8 not all) for all necessary business-related expenses as required by California Labor Code
9 sections 2800 and 2802;

10 40. For actual, consequential and incidental losses and damages, according to proof;

11 41. For the imposition of civil penalties and/or statutory penalties;

12 42. For punitive damages and/or exemplary damages according to proof at trial;

13 43. For reasonable attorneys' fees and costs of suit incurred herein; and

14 44. For such other and further relief as the court may deem just and proper.

15 **As to the Eighth Cause of Action**

16 45. That the Court declare, adjudge and decree that Defendants violated California
17 Business and Professions Code sections 17200, *et seq.* by failing to provide Plaintiff and other
18 class members all overtime compensation due to them, failing to provide all meal and rest
19 periods to Plaintiff and the other class members, failing to pay at least minimum wages to
20 Plaintiff and the other class members, failing to pay Plaintiff's and other class members' wages
21 timely as required by California Labor Code section 201, 202.

22 46. For restitution of unpaid wages to Plaintiff and other class members and all pre-
23 judgment interest from the day such amounts were due and payable;

24 47. For the appointment of a receiver to receive, manage and distribute any and all
25 funds disgorged from Defendants and determined to have been wrongfully acquired by
26 Defendants as a result of violation of California Business and Professions Code sections
27 17200, *et seq.*;

1 48. For reasonable attorneys' fees and costs of suit incurred herein pursuant to
2 California Code of Civil Procedure section 1021.5;

3 49. For injunctive relief to ensure compliance with this section, pursuant to
4 California Business and Professions Code sections 17200, *et seq.*; and

5 50. For such other and further relief as the court may deem just and proper.

6 **As to the Ninth Cause of Action**

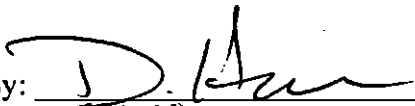
7 51. That the Court declare, adjudge and decree that Defendants violated California
8 Labor Code section 2698, *et seq.*, the PAGA, for civil penalties pursuant to Defendants'
9 violations of Labor Code §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 510, 512(a),
10 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800, and 2802;

11 52. Upon the Cause of Action, for costs and attorneys' fees pursuant to Labor Code
12 Sections 210, 1194, and 2699, and any other applicable statute; and

13 53. For such other and further relief as the Court may deem just and proper
14

15 Dated: November 4, 2022

JUSTICE LAW CORPORATION

16
17 By: 

18 Douglas Han
19 Shunt Tatavos-Gharajeh
20 Lizette Rodriguez
21 *Attorneys for Plaintiff*
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EXHIBIT 1

April 19, 2022

BY U.S. EMAIL/ELECTRONIC SUBMISSION

PAGAfilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

Re: Wesco Distribution, Inc.

Dear Representative:

We have been retained to represent Eric Shadinger against Wesco Distribution, Inc. (hereinafter referred to as "WESCO").

Mr. Shadinger is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. Shadinger may seek penalties for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

Wesco Distribution, Inc. is a Delaware corporation located at 225 West Station Square Drive, Suite 700 Pittsburgh, PA 15219.

WESCO employed Mr. Shadinger as an hourly-paid non-exempt employee during the relevant time period in the State of California. WESCO directly controlled the wages, hours and/or working conditions of Mr. Shadinger and other aggrieved employees' employment, including direction, retention, scheduling, supervision, and termination.

The "aggrieved employees" that Mr. Shadinger may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees of WESCO within the State of California.

WESCO failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements, and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

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LWDA

April 19, 2022

Page 2 of 6

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. Shadinger has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at WESCO.

WESCO has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 210, 218.5, 221, 226(a), 226.3, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double-time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. Shadinger and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. WESCO failed to compensate Mr. Shadinger and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, waiting in line to clock in, pre-shift preparatory work (such as checking and preparing tools and other required items), and during meal breaks. WESCO also failed to include non-discretionary bonuses and commissions in Mr. Shadinger and other aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Mr. Shadinger and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, WESCO routinely required Mr. Shadinger and other aggrieved employees to work through, interrupt, cut short, remain on-duty, and/or delay their meal and rest breaks to comply with WESCO's policies and expectations. WESCO failed to provide coverage to Mr. Shadinger and other aggrieved employees so they may be relieved of all work duties and take legally mandated meal and rest breaks. Additionally, WESCO forced Mr. Shadinger and other aggrieved employees to work through meal and rest breaks in order to meet the demands, such that aggrieved employees frequently had no one available to cover their meal or rest breaks and forcing them to skip, cut short, and/or take their breaks late. Lastly, WESCO also failed to authorize and permit Mr. Shadinger and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, WESCO failed to compensate Mr. Shadinger and other aggrieved employees all the premium wages they were owed, including failing to pay premium wages at Mr. Shadinger and other aggrieved employees' regular rate of pay.

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. During the relevant time period, WESCO failed to pay Mr. Shadinger and other aggrieved employees all wages, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

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California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. During the relevant time period, WESCO failed to pay Mr. Shadinger and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work, unpaid overtime premiums and premium wages for failing to provide legally mandated meal and rest breaks within any time period specified by California Labor Code section 204.

California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, WESCO did not provide Mr. Shadinger and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from WESCO were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. Shadinger and other aggrieved employees, (2) total hours worked by Mr. Shadinger and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. Shadinger and other aggrieved employees (4) all deductions for Mr. Shadinger and other aggrieved employees, (5) net wages earned by Mr. Shadinger and other aggrieved employees, (6) the inclusive dates of the period for which Mr. Shadinger and other aggrieved employees are paid, (7) the name of the aggrieved 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 (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. Shadinger and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. Shadinger and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, WESCO failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. Shadinger and other aggrieved employees.

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, WESCO did not provide Mr. Shadinger and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift, finishing assisting patients, taking phone calls, cleaning up their work areas, donning and doffing uniforms, pre-shift preparatory work (such as checking and responding to emails, assigning duties for the day, and being debriefed on their daily tasks), time spent on-call, and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Mr. Shadinger and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by WESCO, including for purchasing scrubs required as part of their uniform, office supplies such as binders, pens, tape and sticky notes necessary to complete clerical tasks, and using their personal cellular phones to communicate with supervisors and coworkers.

We believe that Mr. Shadinger and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 210, 218.5, 226(a), 226.3, 226.7, 510, 512, 1174, 1194, 1197, 1197.1, 1198, 1199, 2698 *et seq.*, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

LWDA

April 19, 2022

Page 6 of 6

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. Shadinger will seek these penalties on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of WESCO within one year of the date of this letter, as allowed by law.

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

JUSTICE LAW CORPORATION

A handwritten signature in black ink, appearing to read "D. Han", written over a horizontal line.

Douglas Han, Esq.

CC: (By E-mail Only):

Daniel Whang

dwhang@seyfarth.com

c/o Wesco Distribution, Inc.

Attorney for Wesco Distribution, Inc.

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