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Judge William Claster

CX-104

Attorneys for Plaintiff and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

JAVIER LOPEZ, as an individual and on
behalf of aggrieved employees,

Plaintiff,

vs.

CH ROBINSON COMPANY, INC.; and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **30-2022-01273893-CU-OE-CXC**

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

**(1) VIOLATION OF LABOR CODE §
2698, ET SEQ.**

DEMAND OVER \$25,000.00

1 Plaintiff Javier Lopez (“Plaintiff”), hereby submits this representative action complaint
2 (“Complaint”) against Defendant CH Robinson Company, Inc. (“Defendant”) and Does 1-50
3 (hereinafter collectively referred to as “Defendants”), on behalf of himself and other aggrieved
4 employees of Defendant for penalties pursuant to the Private Attorneys General Act (“PAGA”)
5 for Defendant’s violation of the California Labor Code as follows:

6 **INTRODUCTION**

7 1. This action is within the Court’s jurisdiction under California Labor Code
8 sections 201, 202, 203, 204, 246, 2802, and 2698, *et seq.*

9 2. This Complaint challenges systemic illegal employment practices resulting in
10 violations of the California Labor Code against employees of Defendant.

11 3. Plaintiff is informed and believes and based thereon alleges that Defendants
12 jointly and severally have acted intentionally and with deliberate indifference and conscious
13 disregard to the rights of all employees by failing to: properly calculate the regular rate of pay for
14 purposes of paying sick pay; reimburse business expenses; and pay all final wages upon
15 separation of employment.

16 4. Plaintiff is informed and believes and based thereon alleges that Defendants have
17 engaged in, among other things a system of willful violations of the California Labor Code by
18 creating and maintaining policies, practices, and customs that knowingly deny employees the
19 above stated rights and benefits.

20 **JURISDICTION AND VENUE**

21 5. The Court has jurisdiction over the violations of the California Labor Code
22 sections 201, 202, 203, 204, 246, 2802, and 2698, *et seq.*

23 6. Venue is proper in Orange County because Defendant maintains operations in the
24 City of Orange, California.

25 **PARTIES**

26 7. Plaintiff was employed by Defendant as an hourly, non-exempt employee during
27 the approximate time period of May 2021 to on or about April 20, 2022.

28 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant

complained of in this action in ways that have deprived him of the rights guaranteed by California Labor Code sections 201, 202, 203, 204, 246, 2802, and 2698, *et seq.*

9. Plaintiff is informed and believes and based thereon alleges that Defendant CH Robinson Company, Inc. was and is a Minnesota corporation that does business in California, including in Orange County.

10. Plaintiff is informed and believes and based thereon alleges that at all times herein mentioned Defendant and Does 1 through 50 are and were business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California.

11. As such, and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to California Labor Code sections 201, 202, 203, 204, 246, 2802, and 2698, *et seq.*

12. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants were responsible in some way for the matters alleged herein and proximately caused Plaintiff and the class to be subject to the illegal employment practices, wrongs, and injuries complained of herein.

13. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

14. Plaintiff is informed and believes and based thereon alleges that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of

1 the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
2 Defendants.

3 15. At all times herein mentioned, Defendants, and each of them, were members of,
4 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

6 16. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and all of the
8 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
9 herein mentioned, Defendants, and each of them, ratified each and every act or omission
10 complained of herein. At all times herein mentioned, the Defendants, and each of them, aided
11 and abetted the acts and omissions of each and all of the other Defendants in proximately causing
12 the damages as herein alleged.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

15 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

16 17. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
17 though fully set forth herein.

18 18. Plaintiff brings this cause of action as a proxy for the State of California and in
19 this capacity, seeks penalties on behalf of all Aggrieved Employees from May 11, 2021, through
20 the present, for Defendants' violations of Labor Code sections 201-204, 246, and 2802, for
21 failing to pay employees sick pay at the correct regular rate of pay that included all non-
22 discretionary remuneration, in violation of Labor Code section 246; failing to pay final wages in
23 a timely manner to separated employees as a result of the underpayment of sick pay wages, in
24 violation of Labor Code sections 201, 202, and 203; and failing to reimburse all business
25 expenses, in violation of Labor Code section 2802. Specifically, Plaintiff and Aggrieved
26 Employees earned non-discretionary incentives and bonuses. However, the non-discretionary
27 wages were not factored into the regular rate of pay for the purposes of paying sick pay. Rather,
28 sick pay wages were paid at the employee's base rate of pay. As such, Plaintiff is owed

1 additional sick pay based on the correct, higher regular rate of pay. To date, Plaintiff has yet to
2 receive the underpaid sick pay wages owed to him. Thus, Defendants are liable for waiting time
3 penalties under Labor Code section 203.

4 19. Defendants also required Plaintiff and other employees to use their personal cell
5 phones for work purposes. Defendants did not reimburse Plaintiff for such costs.

6 20. On or about May 11, 2022, Plaintiff sent written notice to the California Labor &
7 Workforce Development Agency ("LWDA") of Defendants' violation of Labor Code sections
8 201-204, 246, and 2802, pursuant to the PAGA. Plaintiff also provided notice of said Labor
9 Code violations to Defendant via certified mail pursuant to the PAGA.

10 21. As of the date of the filing of this Complaint, the LWDA has not responded nor
11 informed Plaintiff that it intends to investigate the Labor Code violations provided for in the
12 written notice. As such, pursuant to Labor Code section 2699(a), Plaintiff and the aggrieved
13 employees may seek recovery of any and all applicable civil penalties on behalf of the State of
14 California and Aggrieved Employees for Defendants' violations of Labor Code sections 201-
15 204, 246, and 2802.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff prays for judgment for himself and all aggrieved employees
18 against Defendants, jointly and severally, as follows:

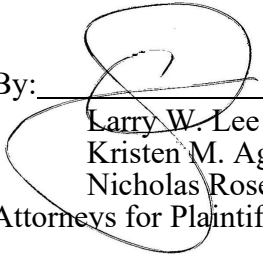
19 1. Upon the First Cause of Action, for civil penalties pursuant to California Labor
20 Code section 2698, *et seq.*, and for costs and attorneys' fees;

21 2. On all causes of action for attorneys' fees and costs as provided by California
22 Labor Code section 2699, and Code of Civil Procedure section 1021.5; and

23 3. For such other and further relief the Court may deem just and proper.

24 DATED: August 5, 2022

DIVERSITY LAW GROUP, P.C.

25 By: 
26 _____

Larry W. Lee

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Attorneys for Plaintiff and Aggrieved Employees
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