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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF CONTRA COSTA

ISAIAH BARRERA, on behalf of himself and all others similarly situated, Plaintiff, vs. PACIFIC STATES PETROLEUM, INC., a California corporation; and DOES 1 through 100, inclusive, Defendants.	Case No. C25-00659 **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR:** **(1) FAILURE TO REIMBURSE BUSINESS EXPENSES (LABOR CODE §§ 2802, 2804);** **(2) WAGE STATEMENT VIOLATIONS (LABOR CODE § 226, *et seq.*);** **(3) UNFAIR COMPETITION (BUS. & PROF. CODE § 17200, *et seq.*);** **(4) PRIVATE ATTORNEYS GENERAL ACT (LABOR CODE § 2698 *et seq.*).** **DEMAND FOR JURY TRIAL** **UNLIMITED CIVIL CASE**

Plaintiff Isaiah Barrera ("Plaintiff"), on behalf of himself and all others similarly situated, and as a private attorney general on behalf of the State of California and other aggrieved employees, hereby brings this Class and Representative Action Complaint against Pacific States Petroleum, Inc., and Does 1 through 100, inclusive (collectively, "Defendants"), and on information and belief alleges as follows:

JURISDICTION

1. Plaintiff, on behalf of himself and all others similarly situated, and as a private attorney general on behalf of the State of California and other aggrieved employees, brings this class and representative action under California Business and Professions Code section 17200, *et. seq*.; Labor Code sections 226, 2698 *et seq*., 2802, and 2804; and Industrial Welfare Commission Wage Order No. 9 ("Wage Order 9"), in addition to seeking declaratory relief and restitution. This class action is brought pursuant to California Code of Civil Procedure section 382. This Court has jurisdiction over Defendants' violations of the Labor Code because the amount in controversy exceeds this Court's jurisdictional minimum.

VENUE

2. Venue is proper in this judicial district pursuant to California Code of Civil Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in Contra Costa County. Defendants own, maintain offices, transact business, have an agent or agents within Contra Costa County, and/or otherwise are found within Contra Costa County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

PARTIES

3. Plaintiff is an individual over the age of eighteen (18). At all relevant times, Plaintiff was, and currently is, a California resident. Within each applicable statute of limitations period herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff was, and is, a victim of Defendants' policies and/or practices complained of herein, lost money and/or property, and has been deprived of the rights guaranteed by California Labor Code §§ 226, 2802, 2804; California Business & Professions Code § 17200, *et seq.* (Unfair Competition), and Wage Order 9, which sets employment standards for the transportation industry.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of this lawsuit and continuing to the present, Defendants did (and do) business as a petroleum transport company. Plaintiff is further informed and believes, and based thereon alleges, that Defendants employed Plaintiff and other similarly situated employees within Contra Costa County and the state of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 14) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; 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. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 14).

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GENERAL FACTUAL ALLEGATIONS

9. Plaintiff worked for Defendants as a non-exempt driver from approximately September 2021 to December 2024.

10. During Plaintiff's employment with Defendants, Defendants failed to reimburse Plaintiff and other employees for expenses they incurred in the course of their employment. Specifically, Defendants required Plaintiff and other employees to use their personal cellphones for various work-related purposes, including to communicate with supervisors, dispatch, and others regarding work-related issues, as well as for GPS and/or other work-related uses. Defendants knew, or reasonably should have known, that Plaintiff and other employees used their personal cell phones for work purposes. Indeed, as noted above, Defendants would frequently contact Plaintiff and other employees on their personal cell phones.

11. Despite requiring Plaintiff and other employees to use their personal cell phones for work-related purposes, Defendants have failed to reimburse any portion of their monthly cell phone bill. As a result of the foregoing, Plaintiff and other employees are entitled to reimbursement pursuant to Labor Code § 2802 and *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th 1137 (holding employer must reimburse employees for "reasonable percentage" of their cell phone bills if they are required to use their cell phones for work, even if employees did not incur specific out-of-pocket expense).

12. In addition, during Plaintiff's employment with Defendants, Defendants regularly issued facially deficient wage statements to Plaintiff and other non-exempt employees, in that the wage statements frequently included an inaccurate number of "total hours worked" in violation of Labor Code § 226(a)(2). Specifically, the wage statements issued by Defendants included a line item titled "Totl Hrs Worked," and the wage statements would include the hours paid as meal period premiums, holiday pay, sick pay, "Oth Guaranteed" pay, and/or other non-working hours as "hours worked," even though such hours do not actually reflect hours worked. For example, in Plaintiff's wage statement dated December 5, 2024 (covering the pay period of November 16-30, 2024), Plaintiff was paid 68.62 hours of regular pay, 22.28 hours of overtime pay, 3.73 hours of double-time pay, as well as 8.0 hours of holiday pay, 1.38 hours of "Oth Guaranteed" pay, and

9.0 hours of meal period premiums (labeled "Meal Award" on the wage statement), for a total of 113.01 hours. Although several of these categories of compensation, including meal period premiums, holiday pay, and "Oth Guaranteed" pay, do not reflect pay for hours worked, the wage statement issued by Defendants reported 113.01 "Totl Hrs Worked." Similarly, Plaintiff's wage statement dated October 4, 2024 reported that Plaintiff was paid 72.0 hours of regular pay, 28.07 hours of overtime pay, and 5.22 hours of double-time pay, as well as 8.0 hours of paid time off and 8.0 hours of sick pay. Although the latter two categories (paid time off and sick pay) do not reflect hours worked, Defendants included all of these categories of compensation when reporting "Totl Hrs Worked" of 121.29 hours.

13. Thus, the wage statements issued by Defendants during pay periods when employees were paid meal period premiums, sick pay, holiday pay, "Oth Guaranteed" pay, and/or other categories of non-hours worked but that were nonetheless counted among "Totl Hrs Worked" on the wage statement, failed to accurately report employees' total hours worked, and in fact reported total hours worked inaccurately, in violation of Labor Code § 226(a)(2).

CLASS ACTION ALLEGATIONS

14. Class Definitions: Plaintiff bring this action on behalf of himself and the following Classes pursuant to Section 382 of the Code of Civil Procedure:

a. The Expense Reimbursement Class consists of all of Defendants' employees who worked for Defendants in California and were required to use their personal cell phones for work-related purposes and did not receive reimbursement, at any time from four years prior to the filing of this action through the present.

b. The Wage Statement Class consists of all of Defendants' non-exempt employees who worked for Defendants in California and who received a wage statement that included meal period premiums, sick pay, paid time off, "Oth Guaranteed" pay, holiday pay, and/or any other non-working hours among total hours worked, at any time from one year prior to the filing of this action through the present.

15. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Classes is

unknown to Plaintiff at this time; however, it is estimated that the Classes number greater than fifty (50) individuals in each Class. The identity of such membership is readily ascertainable via Defendants' employment records.

16. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226; and

ii. Whether Defendants properly reimbursed expenses incurred by members of the Expense Reimbursement Class.

17. **Predominance of Common Questions:** Common questions of law and fact predominate over questions that affect only individual members of the Classes. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' wage statement and expense reimbursement policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

18. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because Plaintiff was employed by Defendants in California as a non-exempt employee during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Classes, was furnished with inaccurate wage statements and was not reimbursed for all expenses he incurred in carrying out his job duties for Defendants.

19. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Classes. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Classes and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class

actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Classes.

20. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unfair advantage, as they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by individual class members would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 14 are maintainable under Section 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO REIMBURSE BUSINESS EXPENSES

(AGAINST ALL DEFENDANTS)

21. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

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22. At all relevant times, Defendants were subject to Labor Code § 2802, which states that "an employer shall indemnify his or her employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer."

23. At all relevant times, Defendants were subject to Labor Code § 2804, which states, "any contract or agreement, express or implied, made by any employee to waive the benefits of this article or any part thereof, is null and void, and this article shall not deprive any employee or his personal representative of any right or remedy to which he is entitled under the laws of this State."

24. Due to Defendants' unlawful policy and practice of requiring employees to use their personal property, including but not limited to personal cell phones, for work purposes, and their failure to reimburse Plaintiff and members of the Expense Reimbursement Class, Defendants have violated Labor Code § 2802.

25. As a proximate result of Defendants' policies and/or practices in violation of Labor Code §§ 2802 and 2804, Plaintiff and members of the Expense Reimbursement Class have suffered damages in sums, which will be shown according to proof.

26. Plaintiff and members of the Expense Reimbursement Class are entitled to attorneys' fees and costs of suit pursuant to Labor Code § 2802(c) for bringing this action.

27. Pursuant to Labor Code § 2802(b), any action brought for the reimbursement of necessary expenditures carries interest at the same rate as judgments in civil actions. Thus, Plaintiff and members of the Expense Reimbursement Class are entitled to interest, which shall accrue from the date on which they incurred the initial necessary expenditure.

SECOND CAUSE OF ACTION

WAGE STATEMENT VIOLATIONS

(AGAINST ALL DEFENDANTS)

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

29. Plaintiff is informed and believes, and based thereon alleges, that Defendants knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff

and the Wage Statement Class with accurate and complete itemized wage statements that included, among other requirements, the total hours worked by the employe, in violation of Labor Code § 226.

30. Defendants' failure to furnish Plaintiff and members of the Wage Statement Class with complete and accurate itemized wage statements resulted in injury, as said failures led to, among other things, confusion over the total number of hours actually worked in the pay period, and failed to include an accurate reporting of one of the items required to be reported under Labor Code § 226(a), requiring Plaintiff and members of the Wage Statement Class to refer to other documents or information to determine their "total hours worked."

31. Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit, pursuant to Labor Code §§ 226 and 226.3.

THIRD CAUSE OF ACTION

UNFAIR COMPETITION

(AGAINST ALL DEFENDANTS)

32. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

33. Defendants have engaged, and continue to engage, in unfair and/or unlawful business practices in violation of Business & Professions Code § 17200, *et seq.*, by failing to reimburse business expenses and failing to furnish accurate and complete itemized wage statements.

34. Defendants' utilization of these unfair and/or unlawful business practices has deprived Plaintiff and members of the Classes of compensation to which they are legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage over Defendants' competitors who have been and/or are currently employing workers and attempting to do so in honest compliance with applicable wage and hour laws.

35. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged herein, Plaintiff, for herself and on behalf of the members of the Classes, seeks full restitution of

monies as necessary and according to proof, to restore all monies withheld, acquired, and/or converted by Defendants pursuant to Business & Professions Code §§ 17203 and 17208.

36. The acts complained of herein occurred within the four years immediately preceding the filing of this action.

37. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

FOURTH CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

39. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq*. Plaintiff, acting on behalf of himself, the State of California, and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof, as well as for injunctive relief, as provided under the Private Attorneys General Act, based on the following violations:

a. Failing to reimburse Plaintiff and other aggrieved employees for all work-related expenses, in violation of Labor Code §§ 2802, and 2804;

b. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code § 226.

40. On or about March 10, 2025, Plaintiff notified Defendant Pacific States Petroleum, Inc. via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the California Labor Code and Plaintiff's intent to bring a claim under California Labor Code § 2698 *et seq.* with respect to the violations of the

Labor Code identified in paragraph 39 (a)-(b) above. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

41. As indicated in Plaintiff's PAGA notice letter, the "aggrieved employees" whom Plaintiff seeks to represent in this representative PAGA action include all of Defendants' current and former non-exempt employees who have worked for Defendants in California at any time from one year prior to the date of Plaintiff's PAGA notice letter through the date that judgment is entered in Plaintiff's PAGA action or any other alternative date agreed upon by the partes and/or approved by the Court.

42. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants and to seek injunctive relief under the PAGA. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under Labor Code § 2699(k).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing counsel for Plaintiff as counsel for the Classes;
4. Upon the First Cause of Action, for compensatory, consequential, general, and special damages according to proof pursuant to Labor Code §§ 2802 and 2804;
5. Upon the Second Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
6. Upon the Third Cause of Action, for restitution to Plaintiff and members of the Classes of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Bus. & Prof Code § 17200, *et seq.*;

7. Upon the Fourth Cause of Action, for any and all civil penalties available to Plaintiff, the State of California, and other aggrieved employees under the Private Attorneys General Act, as well as injunctive relief under the Private Attorneys General Act prohibiting Defendants from engaging in the unlawful conduct alleged herein;

8. Prejudgment interest on all due and unpaid wages and other damages pursuant to Cal. Labor Code § 2802(b); Civil Code § 3287; and Art. XV, § 1 of the California Constitution;

9. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e), 2699(k), 2802(c), and Code of Civil Procedure § 1021.5; and

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

Date: May 16, 2025

Respectfully submitted,
MARQUEE LAW GROUP, APC

By: ______________________________
Tuvia Korobkin
Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: May 16, 2025

Respectfully submitted,
MARQUEE LAW GROUP, APC

By: ______________________________
Tuvia Korobkin
Attorneys for Plaintiff