

David Mara, Esq., (SBN 230498)
Matthew Crawford, Esq. (SBN 310230)
MARA LAW FIRM, PC
2650 Camino del Rio North, Suite 302
San Diego, CA 92108
Telephone: 619.234.2833
Facsimile: 619.234.4048

ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
6/23/2025 9:32 AM
By: Eric Iturralde, DEPUTY

Attorneys for Plaintiff DANNY ERWING, on
behalf of himself and all others similarly situated
and on behalf of the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO

DANNY ERWING, on behalf of himself
and all others similarly situated, and on
behalf of the general public,

Plaintiff,

v.

G.I. TRUCKING COMPANY DBA ESTES
WEST, ESTES EXPRESS LINES; and
DOES 1-100,

Defendants.

Case No. CIVSB2517844

**PLAINTIFF DANNY ERWING'S PAGA
COMPLAINT**

1. Violation of the Private Attorney General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code § 2698, et. seq.)
2. Violation of PAGA for Failure to Pay Wages Due at Termination and During Employment (Cal. Lab. Code § 2698, et. seq.)
3. Violation of PAGA for Knowing and Intentional Failure to Comply with Itemized Employee Wage Statements (Cal. Lab. Code § 2698, et. seq.)
4. Violation of PAGA for Failure to Pay Employees Two Times Per Month (Cal. Lab. Code § 2698, et. seq.)
5. Violation of PAGA for Failure to Reimburse Business Expenses Incurred in Discharging Duties (Cal. Lab. Code § 2698, et. seq.)

DEMAND FOR JURY TRIAL

1 Plaintiff DANNY ERWING (hereinafter “Plaintiff”), on behalf himself and all other similarly
2 aggrieved employees (hereinafter “aggrieved employees”), files this Complaint against Defendant G.I.
3 TRUCKING COMPANY DBA ESTES WEST, ESTES EXPRESS LINES (hereinafter “Defendant”)
4 and/or DOES 1-100.

5 **I. INTRODUCTION**

6 1. This is a representative action seeking recovery of penalties under the California Labor Code
7 Private Attorney General Act of 2004 (PAGA), California Labor Code § 2698 *et. seq.*, against
8 Defendant and/or DOES 1-100. The PAGA permits an “aggrieved employee” to bring a
9 lawsuit on behalf of himself and other current and former employees to address an employer’s
10 violations of the *California Labor Code*.

11 2. This action is brought on behalf of Plaintiff and all other aggrieved employees of Defendant
12 and/or DOES who: were not provided accurate itemized wage statements; were not paid all
13 wages owed twice per month; were not paid compensation for all time worked; were not paid
14 waiting time penalties; and were not reimbursed for business expenses. Plaintiff seeks penalties
15 on behalf of himself and all other aggrieved employees of Defendant and/or DOES as provided
16 herein. This Complaint also seeks attorneys’ fees and costs under the PAGA, Cal. Lab. Code
17 § 2699(g)(1).

18 3. At all times mentioned herein, Plaintiff and the other aggrieved employees were not classified
19 as “Exempt” or primarily employed in an executive, professional, or administrative capacity.
20 Thus, under California law, Plaintiff and the aggrieved employees should be: provided meal
21 periods; paid penalties for not being provided itemized wage statements; paid compensation
22 for all time worked; paid all wages owed twice per month; paid penalties for not being paid
23 timely at the time of termination; and not reimbursed for business expenses.

24 4. At all times mentioned herein, Defendant and/or DOES controlled the working conditions of
25 Plaintiff and the aggrieved employees including, but not limited to, having the authority to hire
26 and fire Plaintiff and the other aggrieved employees, setting the wages of Plaintiff and the other
27 aggrieved employees, and instructing Plaintiff and the other aggrieved employees when and/or
28 where to work. In addition, Defendant and/or DOES developed, wrote, dictated, approved

1 and/or authorized wage and hour policies and/or practices that Plaintiff and the aggrieved
2 employees labored under. These policies and/or practices included, but were not limited to,
3 policies and/or practices regarding meal periods, paying for all time worked, wage statements,
4 paying compensation at time of termination, timing of payment, and business expense
5 reimbursement. Further, Defendant and/or DOES had the ability to prevent Plaintiff and the
6 other aggrieved employees from working.

7 **II. JURISDICTION AND VENUE**

- 8 5. Plaintiff is an individual residing in California. Plaintiff was employed by Defendant and/or
9 DOES in California. Plaintiff, and each of the aggrieved employees, were employees of
10 Defendant and/or DOES, and/or its operating divisions and subsidiaries, within the State of
11 California. Plaintiff and each of the aggrieved employees were subject to the unlawful policies
12 beginning one (1) year prior to the date Plaintiff sent Notice to the State of California Labor
13 and Workforce Development Agency (LWDA).
- 14 6. Venue as to each Defendant and/or DOE is proper in this judicial district. Each Defendant
15 and/or DOE operates facilities, employs drivers, delivery drivers, truck drivers, truck workers,
16 or similar job designations, conducts business, and commits *California Labor Code* violations
17 within San Bernardino County and California. Each Defendant and/or DOE is within the
18 jurisdiction of this Court for service of process purposes. The unlawful acts alleged herein have
19 a direct effect on Plaintiff and the other aggrieved employees situated within the State of
20 California and within San Bernardino County. Defendant and/or DOES employ numerous
21 aggrieved employees in California and/or San Bernardino County.
- 22 7. Plaintiff brings this action on behalf of himself and the other aggrieved employees of
23 Defendant and/or DOES pursuant to the PAGA. Plaintiff, as personal representatives of the
24 general public, will and does seek to recover any and all penalties for each and every violation
25 shown to exist or to have occurred during the one (1) year period before Plaintiff filed Notice
26 with the LWDA of his intent to bring this action, in an amount according to proof, as to those
27 penalties that are otherwise only available to public agency enforcement actions. Funds
28 recovered will be distributed in accordance with the PAGA, with at least sixty-five (65) percent

of the penalties recovered being reimbursed to the State of California and the LWDA.

8. There is no federal question at issue as the issues herein are based solely upon California statutes and law, including the *California Labor Code*, IWC Wage Orders, *Code of Civil Procedure*, and *Civil Code*.

9. The California Superior Court also has jurisdiction in this matter because the penalties sought exceed the minimum jurisdictional limits of the Superior Court and will be established at trial, according to proof. Defendant and/or DOES either own, maintain offices, transact business, have an agent or agents, have their principal place of business in, and/or otherwise are found within the County of San Bernardino, California.

III. THE PARTIES

A. Plaintiff

10. Plaintiff, a former employee of Defendant and/or DOES, and similar aggrieved employees were and are entitled to accurate itemized wage statements, payment of wages owed twice a month, compensation for all time worked, to be paid timely pursuant to California law, to receive timely wages at the time of termination, and to be reimbursed for business expenses.

11. Plaintiff and similar aggrieved employees were and are employed in the State of California by the Defendant and/or DOES as drivers, delivery drivers, truck drivers, truck workers, or similar job designations and hauled freight for Defendant and/or DOES and spent a majority of their work time in California and/or had their base of operations in California during the relevant time period. Plaintiff was employed in a non-exempt capacity.

12. A notice correspondence showing compliance with *Cal. Lab. Code* § 2699.3 was sent to the LWDA and Defendant on March 27, 2025. This notice demonstrates that Plaintiff is an aggrieved employee and has standing to bring a representative action on behalf of the LWDA and as a private attorney general. No notice of cure by Defendant and/or DOES was provided and no notice of investigation was received from the LWDA in the statutorily proscribed sixty-five (65) day period since the mailing of the notice of the action. Accordingly, Plaintiff files this action as a “Representative Action” as authorized by *Cal. Lab. Code* § 2699.3(a)(2)(C).

B. Defendant

13. Defendant and/or DOES operate throughout the State of California to transport and/or deliver freight, including, but not limited to, fuel and other hazardous materials, for Defendant's and/or DOES' customers in the State of California.

14. Defendant's and/or DOES' principal place of business was/is in the State of California.

15. Defendant and/or DOES have numerous offices and/or contracts in the State of California.

16. California is the nerve center of Defendant's and/or DOES' operations.

17. Plaintiff is ignorant of the true names, capacities, relationships and extent of participation in the conduct alleged, of the Defendants sued as DOES 1 through 100, inclusive, but on information and belief alleges that said Defendants are now, and/or at all times mentioned in this Complaint were doing business in the State of California and/or throughout the United States. Plaintiff is informed and believes that each of the Defendants designated as a DOE is legally responsible in some manner for the unlawful acts alleged. Plaintiff will amend this Complaint to allege the true names and capacities of the DOE Defendants when ascertained.

18. Plaintiff is informed and believes each Defendant acted, in whole or in part, in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants as each Defendant has ratified, approved, and/or authorized the acts of each of the remaining Defendants.

19. Plaintiff is informed and believes, and thereon alleges, that DOES 1 through 100 are partners, agents, owners, and/or shareholders of Defendant and/or DOES and were acting on behalf of Defendant and/or DOES at all times.

IV. GENERAL ALLEGATIONS

20. During all, or a portion, of the one (1) year period before Plaintiff filed Notice of his claims with the LWDA, Plaintiff and each of the aggrieved employees were employed by Defendant and/or DOES in the State of California. Plaintiff and the other aggrieved employees are composed of all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority

- 1 of their work time in California and/or had their base of operations in California.
- 2 21. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
- 3 Plaintiff and the aggrieved employees were entitled to be paid for all hours worked.
- 4 22. At all times mentioned herein, Defendant and/or DOES failed to pay all wages owed to Plaintiff
- 5 and to other terminated or resigned members of the aggrieved employees and failed to timely
- 6 pay wages during employment.
- 7 23. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the aggrieved
- 8 employees all wages earned twice per month.
- 9 24. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
- 10 Plaintiff and the aggrieved employees were entitled to receive complete and accurate pay
- 11 statements in accordance with California law.
- 12 25. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
- 13 they were not providing complete and accurate pay statements in accordance with California
- 14 law to Plaintiff and the aggrieved employees.
- 15 26. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
- 16 they had a duty to compensate Plaintiff and the other aggrieved employees in accordance with
- 17 California law, and that Defendant and DOES had the ability to pay such compensation, but
- 18 willfully and intentionally failed to do so, and Defendant and DOES falsely represented to
- 19 Plaintiff and the other aggrieved employees that they were properly compensating Plaintiff and
- 20 the other aggrieved employees.
- 21 27. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that
- 22 Plaintiff and the other aggrieved employees were entitled to timely wages at the time of
- 23 termination. Defendant and/or DOES did not pay all timely wages owed, straight-time wages
- 24 owed, meal period premiums, and/or rest period premiums owed at the time of termination.
- 25 28. At all times mentioned herein, Defendant and/or DOES failed to pay Plaintiff and the other
- 26 aggrieved employees a sum certain at the time of termination or within seventy-two (72) hours
- 27 of their resignation, and have failed to pay those sums for thirty (30) days thereafter.
- 28 29. At all times mentioned herein, Defendant and/or DOES knew and/or should have known that

Plaintiff and the aggrieved employees were entitled to receive be reimbursed for business expenses in accordance with California law.

30. Plaintiff brings this action on behalf of himself and all other aggrieved employees defined as all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority of their work time in California and/or had their base of operations in California, employed beginning one year prior to the date Plaintiff sent Notice to the LWDA.

31. Plaintiff reserves the right to amend or modify the definition of aggrieved employees with respect to the issues or in any other way.

FIRST CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Straight, Regular Rate Wages for All Work Performed (Cal. Lab. Code §2698 et. seq.).

32. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

33. It is fundamental that an employer must pay its employees for the time worked. Cal. Lab. Code § 222 prohibits the withholding on part of a wage. Cal. Lab. Code § 223 prohibits the pay of less than a statutory or contractual wage scale. Cal. Lab. Code §§ 1194-1197.1 prohibits the payment of less than the minimum wage. Cal. Lab. Code § 224 only permits deductions from wages when the employer is required or empowered to do so by state or federal law or when the deduction is expressly authorized in writing by the employee for specified purposes that do not in effect reduce the agreed upon wage.

34. Section 1197.1 of the California Labor Code states “[a]ny employer or other person acting individually as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties pursuant to Section 203.”

35. Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and the aggrieved employees for all hours worked by consistently shorting Plaintiff’s and the aggrieved

employees' pay, including, but not limited to rounding before "shifts" start, after "shifts" end, and/or any other time in the day when Plaintiff and the aggrieved employees were performing work tasks, subject to the control of Defendant and/or DOES and/or otherwise had work duties that went unpaid.

36. In addition, Defendant and/or DOES require Plaintiff and the aggrieved employees to remain in constant attendance of their trucks and its contents at all times because Defendant and/or DOES are in the business of transporting hazardous materials. As such, Plaintiff and the aggrieved employees are never relieved of all duties and/or employer control during their meal periods, and Plaintiff and the aggrieved employees should therefore be paid for the time spent clocked out during unpaid meal periods.

37. Plaintiff and the aggrieved employees are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay Plaintiff and similarly aggrieved employees for meal period time when Plaintiff and the aggrieved employees were not relieved of all duties and/or employer control.

38. Defendant and/or DOES committed the acts alleged herein knowingly and willfully, with the wrongful and deliberate intention of injuring Plaintiff and the aggrieved employees. Defendant and/or DOES acted with malice or in conscious disregard of Plaintiff's and the aggrieved employees' rights.

39. Plaintiff and the aggrieved employees have suffered, and continue to suffer, substantial unpaid wages, and lost interest on such wages, and expenses.

40. These claims are for Plaintiff and all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority of their work time in California and/or had their base of operations in California.

41. Plaintiff, as a former non-exempt employee of Defendant and/or DOES who Defendant and/or DOES failed to pay all wages, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Cal. Lab. Code* §

1 2699.5.

2 42. Plaintiff, as a representative of the people of the State of California, will seek any and all
3 penalties otherwise capable of being collected by the Labor Commission and/or the
4 Department of Labor Standards Enforcement (DLSE). This includes each of the following, as
5 set forth in *Cal. Lab. Code* § 2699.5, which provides that section 2699.3(a) applies to any
6 alleged violation of the following provisions: sections 510, 1194, 1197, and 1199.

7 43. Pursuant to *Cal. Lab. Code* § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
8 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
9 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Cal.*
10 *Lab. Code* § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
11 pay period for each subsequent violation, per *Cal. Lab. Code* § 2699(f)(2).

12 44. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
13 employees, seeks penalties pursuant to *Cal. Lab. Code* § 558 for violations pursuant to this
14 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
15 Commission under *Cal. Lab. Code* § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
16 pursuant to *Cal. Lab. Code* § 558(a).

17 **SECOND CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
18 **Private Attorneys General Act of 2004 (PAGA) for Failure to Pay Wages Due at Termination**
19 **and During Employment (*Cal. Lab. Code* §2698 *et. seq.*).**

20 45. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
21 as if fully plead.

22 46. Defendant and/or DOES and/or their officers and/or managing agents willfully failed to pay,
23 in a timely manner, wages owed to Plaintiff and the other aggrieved employees who left
24 Defendant's and/or DOES' employ or who were terminated.

25 47. Plaintiff and/or the other aggrieved employees who ended their employment with Defendant
26 and/or DOES during the last year were entitled to be promptly paid all lawful compensation,
27 and other premiums, as required by *Cal. Lab. Code* §§ 201 through 203.

28 48. At all relevant times, *Cal. Lab. Code* §§ 201 and 202 provide that if an employer discharges

an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and if an employee quits his or her employment, his or her wages shall become due and payable no later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours 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.

49. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to pay Plaintiff and the other aggrieved employees who are no longer employed by Defendant and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ.

50. As outlined above, Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and the aggrieved employees for all hours worked by consistently shorting Plaintiff's and the aggrieved employees' pay, including, but not limited to rounding before "shifts" start, after "shifts" end, and/or any other time in the day when Plaintiff and the aggrieved employees were performing work tasks, subject to the control of Defendant and/or DOES and/or otherwise had work duties that went unpaid.

51. In addition, Defendant and/or DOES require Plaintiff and the aggrieved employees to remain in constant attendance of their trucks and its contents at all times because Defendant and/or DOES are in the business of transporting hazardous materials. As such, Plaintiff and the aggrieved employees are never relieved of all duties and/or employer control during their meal periods, and Plaintiff and the aggrieved employees should therefore be paid for the time spent clocked out during unpaid meal periods.

52. Defendant's and/or DOES' failure to pay Plaintiff and the aggrieved employees who are no longer employed by Defendant and/or DOES their wages, that were earned and unpaid, within seventy-two (72) hours of their leaving Defendant's and/or DOES' employ, is in violation of Cal. Lab. Code §§ 201 and 202.

53. Cal. Lab. Code § 203 provides that when an employer willfully fails to pay wages owed, in accordance with sections 201 and 202, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until action is commenced; but the

1 wages shall not continue for more than thirty (30) days.

2 54. These claims are for Plaintiff and all similarly situated drivers, delivery drivers, truck drivers,
3 truck workers, or similar job designations who haul freight for Defendant and/or DOES and
4 who spent a majority of their work time in California and/or had their base of operations in
5 California.

6 55. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed to pay all wages due
7 at termination, is an aggrieved employee with standing to bring an action under the
8 PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public to
9 enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code §
10 2699.5.

11 56. Plaintiff, as a representative of the people of the State of California, seeks all penalties
12 otherwise capable of being collected by the Labor Commission and/or the Department of Labor
13 Standards Enforcement ("DLSE"). This includes each of the following, as set forth in Cal. Lab.
14 Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the
15 following provisions: sections 201 through 203.

16 57. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself
17 and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred
18 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal.
19 Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per
20 pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

21 58. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved
22 employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this
23 chapter or any provisions regulating hours and days of the week of the Industrial Welfare
24 Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages
25 pursuant to Cal. Lab. Code § 558(a).

26 \\\

27 \\\

28 \\\

1 **THIRD CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the**
2 **Private Attorneys General Act of 2004 (PAGA) for Knowing and Intentional Failure to Comply**
3 **with Itemized Employee Wage Statement Provisions (Cal. Lab. Code § 2698 *et. seq.*).**

4 59. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein
5 as if fully plead.

6 60. Cal. Lab. Code § 226 subdivision (a) requires Defendant and/or DOES to itemize in wage
7 statements all deductions from payment of wages and to accurately report total hours worked
8 by Plaintiff and the other aggrieved employees. Cal. Lab. Code § 226(a) requires Defendant
9 and/or DOES, at the time of each payment of wages, to “furnish each of her or her employees,
10 either as an detachable part of the check, draft, or voucher paying the employee’s wages, or
11 separately when wages are paid by personal check or cash, an accurate itemized statement in
12 writing showing (1) gross wages earned, (2) total hours worked by the employee, (3) the
13 number of piece-rate units earned and any applicable piece rate if the employee is paid on a
14 piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the
15 employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive
16 dates of the period for which the employee is paid, (7) the name of the employee and only the
17 last four digits of his or her social security number or an employee identification number other
18 than the social security number, (8) the name and address of the legal entity that is the
19 employer...(9) all applicable hourly rates in effect during the pay period and the corresponding
20 number of hours worked at each hourly rate and the corresponding number of hours worked at
21 each hourly rate by the employee....”

22 61. Cal. Lab. Code § 226, subdivision (a) also requires that “deductions made from payment of
23 wages shall be recorded in ink or other indelible form, properly dates, showing the month, day
24 and year, and a copy of the statement and the record of the deductions shall be kept on file by
25 the employer for at least three years at the place of employment or at a central location within
26 the State of California.”

27 62. *California Labor Code* section 246(i) also requires that, “[a]n employer shall provide an
28 employee with written notice that sets forth the amount of paid sick leave available, or paid

time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages."

63. In addition, *California Labor Code* section 204(b) 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." An employer complies with *California Labor Code* section 226(a) "if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked."

64. Defendant and/or DOES have knowingly and intentionally failed to comply with *California Labor Code* section 226(a) by failing to include all of the information required by *California Labor Code* section 226(a)(1) through (9) on each and every wage statement provided to Plaintiff and the aggrieved employees.

65. Additionally, by virtue of its failure to pay for all time worked, Defendant and/or DOES knowingly and intentionally did not correctly itemize the gross wages earned, total hours worked, net wages earned, and number of hours worked at each hourly rate on wage statements provided to Plaintiff and the aggrieved employees as *California Labor Code* section 226, subsection (a), requires in every pay period during the period of the relevant statute of limitations.

66. As outlined above, Defendant and/or DOES have a continuous policy of failing to pay Plaintiff and the aggrieved employees for all hours worked by consistently shorting Plaintiff's and the aggrieved employees' pay, including, but not limited to rounding before "shifts" start, after "shifts" end, and/or any other time in the day when Plaintiff and the aggrieved employees were performing work tasks, subject to the control of Defendant and/or DOES and/or otherwise had work duties that went unpaid.

67. In addition, Defendant and/or DOES require Plaintiff and the aggrieved employees to remain in constant attendance of their trucks and its contents at all times because Defendant and/or

DOES are in the business of transporting hazardous materials. As such, Plaintiff and the aggrieved employees are never relieved of all duties and/or employer control during their meal periods, and Plaintiff and the aggrieved employees should therefore be paid for the time spent clocked out during unpaid meal periods.

68. Plaintiff and the aggrieved employees are informed and believe and thereon allege that Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay Plaintiff and similarly aggrieved employees for time when Plaintiff and the aggrieved employees were not relieved of all duties and/or employer control.

69. Throughout the statutory period, because of the knowing and intentional failure by Defendant and/or DOES to comply with itemized employee wage statement provisions, Plaintiff and the aggrieved employees have been able to reconstruct only a reasonable estimate of the hours worked and have, therefore, not received full compensation.

70. Further, in addition to any penalties levied upon Defendant and/or DOES for its failure to comply with *Labor Code* section 226 subdivision (a)'s requirement to provide Plaintiff and the aggrieved employees accurate, itemized wage statements, *Labor Code* section 226.3 assesses additional penalties for the failure to keep the records required in subdivision (a) of Section 226. *Labor Code* section 226 subdivision (a) requires Defendant and/or DOES to maintain records that "accurately shows all of the information required by this subdivision." Defendant and/or DOES have violated their statutory duty to maintain records for Plaintiff and the aggrieved employees that contain all of the information under *Labor Code* section 226(a)(1) through (9)

71. These claims are for Plaintiff and all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority of their work time in California and/or had their base of operations in California.

72. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed to provide accurate and itemized wage statements, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff satisfied all prerequisites to serve as a representative of the general public

to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5.

73. Plaintiff, as a representative of the people of the State of California, will seek all penalties otherwise capable of being collected by the Labor Commission and/or the DLSE. This includes each of the following, as set forth in Cal. Lab. Code § 2699.5, which provides that section 2699.3(a) applies to any alleged violation of the following provisions: sections 226, 1174, 1199.

74. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

75. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

FOURTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Pay Employees Twice Per Month (Cal. Lab. Code § 2698 et. seq.).

76. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

77. Section 204(a) of the *California Labor Code* requires that all wages earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.

78. *Cal. Lab. Code* § 226 subdivision (a) provides "[a]ll wages . . . earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th

1 days, inclusive, of any calendar month shall be paid for between the 16th and 26th day of the
2 month during which the labor was performed, and labor performed between the 16th and the
3 last day, inclusive, of any calendar month shall be paid for between the 1st and 10th day of the
4 following month.”

5 79. Defendant and/or DOES have a consistent policy and/or practice of failing to pay Plaintiff and
6 the aggrieved employees twice per month. By failing to pay employees twice per month,
7 Defendant and/or DOES willfully violated the provisions of Cal. Lab. Code § 204(a).

8 80. During the relevant time period, Defendant and/or DOES intentionally and willfully failed to
9 pay Plaintiff and the aggrieved employees their wages, that were earned and unpaid, twice
10 during each calendar month.

11 81. As outlined above, Defendant and/or DOES have a continuous policy of failing to pay Plaintiff
12 and the aggrieved employees for all hours worked by consistently shorting Plaintiff’s and the
13 aggrieved employees’ pay, including, but not limited to rounding before “shifts” start, after
14 “shifts” end, and/or any other time in the day when Plaintiff and the aggrieved employees were
15 performing work tasks, subject to the control of Defendant and/or DOES and/or otherwise had
16 work duties that went unpaid.

17 82. In addition, Defendant and/or DOES require Plaintiff and the aggrieved employees to remain
18 in constant attendance of their trucks and its contents at all times because Defendant and/or
19 DOES are in the business of transporting hazardous materials. As such, Plaintiff and the
20 aggrieved employees are never relieved of all duties and/or employer control during their meal
21 periods, and Plaintiff and the aggrieved employees should therefore be paid for the time spent
22 clocked out during unpaid meal periods.

23 83. Plaintiff and the aggrieved employees are informed and believe and thereon allege that
24 Defendant and/or DOES breached the legal duty to pay full wages to Plaintiff by failing to pay
25 Plaintiff and similarly aggrieved employees for time when Plaintiff and the aggrieved
26 employees were not relieved of all duties and/or employer control.

27 84. Defendant and/or DOES failure to pay Plaintiff and the aggrieved employees their wages, that
28 were earned and unpaid, twice during each calendar month, is in violation of Cal. Lab. Code §

204.

85. These claims are for Plaintiff and all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority of their work time in California and/or had their base of operations in California.

86. Plaintiff, as a non-exempt employee who Defendant and/or DOES failed pay all wages owed twice per month, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in Cal. Lab. Code § 2699.5 for violations of Cal. Lab. Code § 204.

87. Pursuant to Cal. Lab. Code § 2699(f), Plaintiff, as an aggrieved employee, on behalf of himself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per Cal. Lab. Code § 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per Cal. Lab. Code § 2699(f)(2).

88. In the alternative, Plaintiff, as an aggrieved employee, on behalf of himself and other aggrieved employees, seeks penalties pursuant to Cal. Lab. Code § 558 for violations pursuant to this chapter or any provisions regulating hours and days of the week of the Industrial Welfare Commission under Cal. Lab. Code § 558(a)(1) and 558(a)(2). Plaintiff is not seeking wages pursuant to Cal. Lab. Code § 558(a).

FIFTH CAUSE OF ACTION AGAINST DEFENDANT AND/OR DOES: Violation of the Private Attorneys General Act of 2004 (PAGA) for Failing to Reimburse Employees for Business Expenses (California Labor Code §2698 et. seq.)

89. Plaintiff re-alleges and hereby incorporates each and every paragraph of this Complaint herein as if fully plead.

90. California Labor Code section 2802 provides: "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...[which includes] all reasonable costs, including, but not limited to, attorneys' fees incurred by the employee enforcing the rights granted by this section."

91. Plaintiff and the aggrieved employees incurred expenses necessary for the discharge of their duties without receiving reimbursement from Defendant and/or DOES. Defendant and/or DOES required Plaintiff and the aggrieved employees to use their personal cell phones for business purposes, such as fielding calls from Defendant and/or DOES throughout the workday, using GPS for driving directions, and communicating with dispatch, but failed to reimburse this expense.

92. *California Labor Code* section 2802(a) entitles Plaintiff and the aggrieved employees to reimbursement for said necessary expenditures, plus interest and expenses.

93. These claims are for Plaintiff and all similarly situated drivers, delivery drivers, truck drivers, truck workers, or similar job designations who haul freight for Defendant and/or DOES and who spent a majority of their work time in California and/or had their base of operations in California.

94. Plaintiff, as a non-exempt employee who incurred business expenses which Defendant and/or DOES failed to reimburse, is an aggrieved employee with standing to bring an action under the PAGA. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to enforce California's labor laws, and the penalty provisions identified in *Labor Code* section 2699.5 for violations of *Labor Code* section 2802.

95. Pursuant to *Labor Code* section 2699(f), Plaintiff, as an aggrieved employee, on behalf of herself and the other aggrieved employees, seeks recovery of applicable civil penalties: one hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation per *Labor Code* section 2699(f)(2) and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, per *Labor Code* section 2699(f)(2).

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays for relief and judgment against Defendant and/or DOES, jointly and severally, as follows:

A. For penalties as provided under Cal. Lab. Code § 558(a)(1) and 558(a)(2).

- 1 B. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
2 for failure to timely pay wages at separation;
- 3 C. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
4 for failure to provide compensation for all time worked;
- 5 D. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
6 for failure to provide compensation at the minimum wage;
- 7 E. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
8 for failure to provide accurate, itemized wage statements;
- 9 F. For penalties as provided, per each violation, by the PAGA, Cal. Lab. Code § 2699, *et. seq.*
10 for failure to pay employees all wages owed twice per month;
- 11 G. For penalties as provided, per each violation, by the PAGA, *Labor Code* section 2699, *et. seq.*
12 for failure to reimburse business expenses; and
- 13 H. For reasonable attorneys' fees and costs under the PAGA, Cal. Lab. Code § 2699(g)(1).

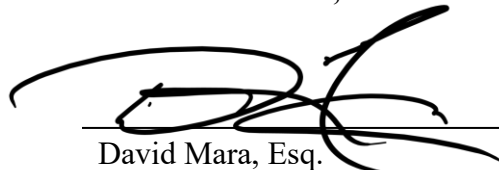
14 **DEMAND FOR JURY TRIAL**

15 Plaintiff demands a jury trial.

16 **MARA LAW FIRM, PC**

17
18 Date: June 23, 2025

Signed:



David Mara, Esq.
Matthew Crawford, Esq.
Attorneys for Plaintiff DANNY ERWING, on
behalf of himself and all others similarly
situated, and on behalf of the general public