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and all others similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

FERNANDO PRADO, an individual, on behalf
of himself and all others similarly situated,

Plaintiff,

vs.

MCLANE/SUNEAST, INC., a Texas
Corporation; and DOES 1 to 100, inclusive,
Defendants.

Case No.: **22STCV31208**

CLASS ACTION COMPLAINT

- (1) FAILURE TO PAY MINIMUM WAGES;**
- (2) FAILURE TO FURNISH TIMELY AND ACCURATE WAGE STATEMENTS;**
- (3) FAILURE TO REIMBURSE NECESSARY, BUSINESS-RELATED EXPENSES;**
- (4) FAILURE TO MAINTAIN REQUIRED RECORDS;**
- (5) FAILURE TO PAY ALL WAGES OWED UPON SEPARATION;**
- (6) VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL"), BUS. & PROF. CODE §§ 17200; ET SEQ.**

DEMAND FOR JURY TRIAL

1 Plaintiff FERNANDO PRADO (“PRADO”), on behalf of himself and all others similarly
2 situated, by and through his undersigned attorneys, files this Class Action Complaint against Defendant
3 MCLANE/SUNEAST, INC., a Texas Corporation; and DOES 1 through 100 inclusive (collectively,
4 “Defendants”), respectfully alleges as follows:

5 **I. NATURE OF THE ACTION**

6 1. This is a class action action for wage and hour Labor Code violations arising out of, among
7 other things, Defendants’ failure to pay minimum wages for all compensable hours worked; failure to
8 reimburse all necessary, business-related expenses incurred in the course of employment; failure to
9 maintain required payroll records; failure to furnish timely, accurate wage statements; and failure to pay
10 all wages owed upon separation.

11 2. As more fully set forth herein, Defendants failed to pay minimum wages, including but not
12 limited to all nonproductive time for rest breaks and pre-post trip inspections and time worked off-the-
13 clock before shifts started and after they ended; failed to issue timely and accurate wage statements;
14 failed to maintain accurate payroll records; failed to reimburse all necessary, business-related expenses;
15 failed to pay all wages owed upon separation; and violated California’s Unfair Competition Law,
16 Business and Professions Code, sections 17200; *et seq.*

17 3. Plaintiff seeks to represent the following Class¹:

18 All current and former employee drivers residing in California
19 who worked for Defendant MCLANE/SUNEAST, INC. at any
20 time beginning four (4) years prior to the filing of the
21 Complaint through the present (the “Class Period”).

22 **II. JURISDICTION AND VENUE**

23 4. This Court has jurisdiction over the entire action by virtue of the fact that this is a civil action
24 wherein the matter in controversy, exclusive of interest and costs, exceeds the jurisdictional minimum
25 of the Court. The acts and omissions complained of in this action took place in the State of California,
26 and at least one Defendant resides in the state of California. Venue is proper pursuant to California

27 _____
28 ¹ Plaintiff reserves the right under California Rules of Court, Rule 3.765, to amend or modify the Class
description with greater particularity or further division into subclasses or limitation to particular issues.

1 Code of Civil Procedure section 395.5, because this is a class action, the acts and/or omissions
2 complained of took place, in part, within the venue of this Court.

3 5. A substantial amount of Plaintiff FERNANDO PRADO'S work for Defendants took place
4 within Los Angeles County for several of Defendants' clients, including Wal-Mart on Crenshaw
5 Boulevard. All of this work that took place within Los Angeles County that Plaintiff FERNANDO
6 PRADO performed involved the acts and/or omissions complained of in this Complaint, including, but
7 not limited to, Defendants' failure to pay minimum wages for nonproductive time such as for 30-
8 45minutes of time preparing at the start of a shift off-the-clock, rest breaks, pre- and post-trip
9 inspections, 30-45 minutes of time wrapping up final tasks at the end of a shift off-the-clock, and for
10 waiting time. *See Owens v. Paraco, Inc.* (1958) 160 Cal.App.2d 824, 825–26 (holding that venue in a
11 wage and hour case was proper in the county where the plaintiff performed the work even though the
12 defendant's principal place of business was elsewhere).

13 6. Plaintiff alleges that more than two-thirds of all members of the proposed Class in the
14 aggregate are citizens of California, so federal jurisdiction under the Class Action Fairness Act does not
15 exist. Further, Plaintiffs allege that the proposed Class is estimated to be 100% California residents, as
16 that is how the Class is defined.

17 **III. PARTIES**

18 7. Plaintiff FERNANDO PRADO was, at all relevant times, a citizen of the State of
19 California. PRADO was employed by Defendants as a driver for approximately 21 years, from May
20 2000 through approximately October 2021, which is during the Class Period as alleged herein.

21 8. Defendant MCLANE/SUNEAST, INC. ("MCLANE/SUNEAST") is a Texas Corporation
22 licensed to do and doing business in the State of California. At all times relevant during the Class
23 Period, Defendant had and has a registered agent for service of process at 330 North Brand Boulevard,
24 Suite 700, Glendale, California 91203. Defendant MCLANE/SUNEAST is and has been at various
25 relevant times a Texas Corporation engaged in the transportation industry. Upon information and
26 belief, MCLANE/SUNEAST has agreements with various customers to provide those customers
27 services within Los Angeles County that require MCLANE/SUNEAST to transport property to
28 specified locations within California as well as extraterritorially. MCLANE/SUNEAST warehouses in

1 Merced, California; San Bernardino, California; Tracy, California; and Riverside, California and has
2 conducted and transacted business at all times relevant to this lawsuit in, among other places, the
3 County of Los Angeles in the State of California.

4 9. Plaintiff is ignorant of the true names, capacities, relationships, and extent of participation
5 in the conduct alleged herein, of the Defendants sued as Does 1-100, inclusive, but is informed and
6 believes that said Defendants are legally responsible for the conduct alleged herein and therefore sues
7 these Defendants by such fictitious names. Plaintiff will seek leave to amend this Complaint to allege
8 both the true names and capacities of the Doe Defendants when ascertained. Plaintiff is informed and
9 believes, and thereon alleges, that at all times mentioned herein, all Defendants, including Doe
10 Defendants, and each of them, were agents, servants, employees, successors in interest, and/or joint
11 venturers of their co-Defendants and were, as such, acting within the course and scope of said agency,
12 employment, partnership, joint venture, conspiracy, or enterprise, and with the express and/or implied
13 permission, knowledge, consent, authorization and ratification of their co-defendants; however, each of
14 these allegations are deemed “alternative” theories whenever not doing so would result in a
15 contradiction with other allegations. Plaintiff is informed and believes that each Defendant acted in all
16 respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business
17 plan, or policy in all respects pertinent hereto, and that the acts of each Defendant are legally
18 attributable to each of the other Defendant.

19 **IV. FACTS COMMON TO ALL CAUSES OF ACTION**

20 10. Defendants provide various transportation services to customers throughout California as
21 well as nationally.

22 11. At all times during the Class Period, Defendants employed Plaintiff and Class Members as
23 truck drivers paid a piece rate for piece count and mileage.

24 12. At all times during the Class Period, Defendants employed Plaintiff and the Class as
25 employee drivers who were engaged in transporting goods in interstate commerce in the trucking
26 industry throughout California.

27 13. At all times during the Class Period, Plaintiff and Class Members spent time working
28 performing nonproductive activities, including pre- and post-trip inspections, ten- (10) minute rest

breaks, and waiting time.

14. At all times during the Class Period, Defendants failed to pay Class Members for all hours worked, namely, for nonproductive time, including but not limited to pre- and post- trip inspections, rest breaks, and waiting time. Likewise, Plaintiff and Class Members spent approximately 30-45 minutes working prior to clocking in inside their trucks, performing tasks including but not limited to collecting paperwork, collecting a handheld scanner, obtaining truck keys, and checking off an inventory of required items. In addition, Plaintiff and Class Members spent approximately 30-45 minutes working after clocking out inside their trucks, performing tasks to wrap up their workday. All of this off-the-clock time was neither recorded nor ultimately compensated, even though all of that nonproductive time is compensable. Thus, Defendants do not pay Plaintiff and Class Members minimum wage in accordance with California law.

15. Defendants fail to provide Plaintiff and Class Members timely, accurate wage statements that reflect their total number of nonproductive, compensable hours worked. The applicable rate is not listed and the total hours worked during the pay period is not listed, while trips were performed during that time. As such, nonproductive, compensable time was worked during that period, but no time is reflected on their paystubs nor were Plaintiff and Class Members paid for that time. Accordingly, Defendants failed to provide accurate wage statements to Plaintiff and Class Members identifying all hours worked and all rates in effect during the pay period.

16. At all times during the Class Period, Defendants failed to reimburse Plaintiff and Class Members for the necessary, business-related expenses they incurred, including but not limited to, cell phone service charges. Class Members were required to use their cell phones during the course of employment to navigate to their delivery destinations and communicate with dispatch.

17. At all times during the Class Period, Defendants failed to pay Plaintiff and other similarly situated Class Members who separated from Defendants all of Plaintiff's and those Class Members' final wages upon separation. The outstanding final wages owed are in the form of unpaid minimum wages accrued over time as described herein.

18. Defendants' conduct, as alleged herein, has caused Plaintiff and Class Members damages including, but not limited to, loss of wages and compensation. Defendants are liable to Plaintiff and the

1 Class for failing to pay minimum wages; failure to provide timely and accurate wage statements; failing
2 to maintain all required payroll records; failing to reimburse all necessary business-related expenses;
3 failing to pay all wages owed upon separation; and unfair competition.

4 19. Plaintiff is a member of and seeks to be the representative for the Class of similarly situated
5 employees who all have been exposed to, have suffered, and/or were permitted to work under,
6 Defendants' unlawful employment practices as alleged herein.

7 20. At all relevant times, Defendants have been, and continue to be, a "person" as that term is
8 defined under California Business & Professions Code section 17021 and California Labor Code
9 sections 1-29.5.

10 **V. CLASS DEFINITIONS AND CLASS ALLEGATIONS**

11 21. Plaintiff brings this action on behalf of himself and all others similarly situated and as a
12 Class Member defined as follows:

13 All current and former employee drivers residing in California who worked
14 for Defendant MCLANE/SUNEAST, INC. at any time beginning four (4)
15 years prior to the filing of the Complaint through the present (the "Class
16 Period").

17 22. Plaintiff reserves the right to amend or otherwise alter the Class definition presented to the
18 Court at the appropriate time, or to propose or eliminate subclasses, in response to facts learned through
19 discovery, legal arguments advanced by Defendants, or otherwise.

20 23. This action has been brought and may be properly maintained as a class action pursuant to
21 the provisions of California Code of Civil Procedure section 382 (hereinafter "section 382") and other
22 applicable law.

23 24. **Numerosity of the Class:** Pursuant to section 382, Class Members are so numerous that
24 their individual joinder is impracticable. Plaintiff estimates, on information and belief, that there are at
25 least 100 current and former similarly situated employee Class Members of Defendants employed as
26 drivers in California during the Class Period. The precise number of Class Members and their
27 addresses are known to Plaintiff or will be known to Plaintiff through discovery. Class Members may
28 be notified of the pendency of this action by mail, electronic mail, the Internet, or published notice.

1 25. **Existence of Predominance of Common Questions of Fact and Law:** Pursuant to
2 section 382, common questions of law and fact exist as to all Class Members. These questions
3 predominate over any questions affecting only individual Class Members. These common legal and
4 factual questions include:

5 a. Whether Plaintiff and each Class Member were not paid minimum wage for each
6 hour worked or part thereof during which they were required to perform acts at the
7 direction and for the benefit of Defendants;

8 b. Whether Defendants engaged in a pattern or practice of failing to pay Plaintiff
9 and Class Members who worked as drivers in California for the total compensable hours
10 worked during the Class Period;

11 c. Whether Defendants violated California Labor Code section 2802 by failing to
12 reimburse Plaintiff and Class Members for all necessary business-related expenses they
13 incurred;

14 d. Whether Defendants engaged in unfair practices and violated California Business
15 and Professions Code, sections 17200; *et seq.* by failing to reimburse Plaintiff and Class
16 Members with all necessary, business-related expenses;

17 e. Whether Defendants maintained accurate time records of all hours worked,
18 including all non-productive time during the Class Period in accordance with IWC Wage
19 Order No. 9-2001(7);

20 f. Whether Defendants violated California Labor Code section 226(a) by failing to
21 issue accurate itemized wage statements to Plaintiff and Class Members that included all
22 compensable hours worked among other piece-rate wages earned throughout the Class
23 Period;

24 g. Whether Defendants violated California Labor Code section 226 by issuing
25 inaccurate itemized wage statements to Plaintiff and Class Members that failed to
26 accurately state the total hours worked, to the detriment of Plaintiff and the Class;

27 h. Whether Defendants violated California Labor Code sections 218.5, 204, 1197,
28 and 1198 by failing to compensate Plaintiff and Class Members for those acts Defendants

required Plaintiff and Class Members to perform for the benefit of Defendants; and

i. The nature and extent of classwide injury and measure of damages for the injury.

26. **Typicality**: Plaintiff's claims are typical of the claims of the members of the Class he represents because Plaintiff, as a driver of Defendants, was exposed and subjected to the same unlawful business practices as other drivers employed by Defendants during the Class Period. Plaintiff and the members of the Class he represents sustained the same types of damages and losses.

27. **Adequacy**: Plaintiff is an adequate representative of the Class he seeks to represent because his interests do not conflict with the interests of the members of the Class Plaintiff seeks to represent. Plaintiff has retained counsel competent and experienced in complex class action litigation and Plaintiff intends to prosecute this action vigorously. The interests of Class Members will be fairly and adequately protected by Plaintiff and his counsel.

28. **Superiority and Substantial Benefit**: The class action is superior to other available means for the fair and efficient adjudication of Plaintiff's and Class Members' claims. The damages suffered by each individual Class Member may be limited. Damages of such magnitude are small given the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendants' conduct. Further, it would be virtually impossible for Class Members to redress the wrongs done to them on an individual basis. Even if Class Members themselves could afford such individual litigation, the court system could not. Individualized litigation increases the delay and expense to all parties and the court system, due to the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

29. The Class should also be certified because:

a. The prosecution of separate actions by individual Class Members would create a risk of inconsistent or varying adjudications for individual Class Members, which would establish incompatible standards of conduct for Defendants;

b. The prosecution of separate actions by individual Class Members would create a risk of adjudication with respect to them, which would, as a practical matter, be dispositive of the interests of the other Class Members not parties to the adjudications, or substantially

impair or impede their ability to protect their interests; and

c. Defendants have acted or refused to act on grounds generally applicable to the Class, and/or the general public, thereby making appropriate final and injunctive relief with respect to the Class as a whole.

VI. FIRST CAUSE OF ACTION

Failure to Pay Minimum Wages

Violation of California Labor Code §§ 510, 1194, 1194.2, and 1197; Wage Order No. 9-2001, § 4

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

30. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

31. California Labor Code section 510 provides in pertinent part, “Eight hours of labor constitutes a day’s work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

32. California Labor Code section 1197 provides in pertinent part that “The minimum wage for employees fixed by the commission or by any applicable state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful.”

33. California Labor Code section 1194(a) provides, “Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.”

34. California Labor Code section 1194.2 provides in pertinent part, “In any action under Section 98, 1193.6, 1194, or 1197.1 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to

1 recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.”

2 35. Pursuant to IWC Wage Order No. 9-2001, “hours worked” includes “the time during which
3 an employee is subject to the control of an employer, and includes all the time the employee is suffered
4 or permitted to work, whether or not required to do so.”

5 36. Pursuant to California Labor Code section 1182.12(b)(1) and IWC Wage Order No. 9-
6 2001(4), Plaintiff and Class Members who worked for MCLANE/SUNEAST, an employer who
7 employs at least 26 employees, were entitled to receive not less than eleven dollars (\$11) per hour
8 through December 31, 2018, then twelve dollars (\$12) per hour through December 31, 2019, then
9 thirteen dollars (\$13) per hour through December 31, 2020, fourteen dollars (\$14) per hour through
10 December 31, 2021, and then fifteen dollars (\$15.00) per hour from January 1, 2022 and thereafter.

11 37. At all times relevant during the Class Period, under the provisions of Wage Order No. 9-
12 2001, Plaintiff and each Class Member should have received not less than the minimum wage in a sum
13 according to proof for the time worked, but were not compensated.

14 38. For all hours that Plaintiff and Class Members worked, they are entitled to not less than the
15 California minimum wage and, pursuant to California Labor Code section 1194.2(a) liquidated
16 damages in an amount equal to the unpaid minimum wages and interest thereon. Pursuant to California
17 Labor Code section 1194, Plaintiff and Class Members are also entitled to their attorneys’ fees, costs,
18 and interest according to proof.

19 39. At all times relevant during the Class Period, Defendants willfully failed and refused, and
20 continue to willfully fail and refuse, to pay Plaintiff and Class Members the amounts owed.

21 40. Defendants’ unlawful conduct alleged herein occurred in the course of employment of
22 Plaintiff and all other similarly situated drivers, and Defendants have done so continuously throughout
23 the filing of this First Amended Complaint.

24 41. As a direct and proximate result of Defendants’ violation of California Labor Code sections
25 510 and 1197, Plaintiff and Class Members have suffered irreparable harm and money damages
26 entitling them to damages, injunctive relief, or restitution. Plaintiff, on behalf of himself and all others
27 similarly situated, seeks damages and all other relief allowable including all wages due while working
28 as Defendants’ drivers, attorneys’ fees, liquidated damages, prejudgment interest, and as to those

employees no longer employed by Defendants, waiting time penalties pursuant to California Labor Code section 200, *et seq.*

42. Plaintiff and Class Members are entitled to back pay, pre-judgment interest, liquidated damages, statutory penalties, and attorneys' fees and costs. Plaintiff and former Class Members are entitled to waiting time penalties pursuant to California Labor Code section 1194.

VII. SECOND CAUSE OF ACTION

Failure to Furnish Timely and Accurate Wage Statements

Upon Payment of Wages in Violation of Cal. Labor Code § 227.3

(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)

43. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as if fully set forth herein.

44. Labor Code section 226(a) sets forth reporting requirements for employers when they pay wages, as follows: "Every employer shall . . . at the time of each payment of wages, furnish his or her employees . . . an itemized statement in writing showing (1) gross wages earned; (2) total hours worked by the employee . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis" Section (e) provides: "An employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000), and shall be entitled to an award of costs and reasonable attorney's fees."

45. Defendants failed to accurately record the overtime hours worked by Plaintiff and Class Members.

46. Additionally, Defendants failed to accurately record all rates of pay in effect during the pay period.

47. Plaintiff and Class Members were damaged by these failures because, among other things, the failures hindered Plaintiff and the Class from determining the amounts of wages actually owed to them.

1 48. Plaintiff and Class Members request recovery of Labor Code section 226(e) penalties
2 according to proof, as well as interest, attorneys' fees and costs pursuant to Labor Code section 226(e),
3 in a sum as provided by the Labor Code and/or other statutes.

4 **VIII. THIRD CAUSE OF ACTION**

5 **Failure to Reimburse All Necessary Business-Related Expenses**

6 **Violation of California Labor Code § 2802**

7 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

8 49. Plaintiff re-alleges and incorporates all preceding paragraphs as if set forth fully herein.

9 50. California Labor Code section 2802 provides that "An employer shall indemnify his or her
10 employee for all necessary expenditures or losses incurred by the employee in direct consequence of the
11 discharge of his or her duties, or of his or her obedience to the directions of the employer, even though
12 unlawful unless the employee, at the time of obeying the directions, believed them to be unlawful."

13 51. During the applicable statutory period, Plaintiff and Class Members incurred necessary
14 expenditures and losses in direct consequence of the discharge of their employment duties and their
15 obedience to the directions of Defendants, Defendants did not reimburse Plaintiff and Class Members
16 for these expenditures or losses. Such expenses include, but are not limited to, expenses for cellular
17 phone service, radio, safety vests and gloves, paper logs, and annual physical exams.

18 52. Defendants have failed to fully reimburse Plaintiff and Class Members for necessary
19 business-related expenses and losses.

20 53. Plaintiff and Class Members are entitled to recover their necessary unreimbursed business-
21 related expenses and losses incurred during the course and scope of their employment, plus interest
22 accrued from the date on which the employee incurred the necessary expenditures at the same rate as
23 judgments in civil actions in the State of California, pursuant to California Labor Code section 2802.

24 **IX. FOURTH CAUSE OF ACTION**

25 **Failure to Maintain Required Records**

26 **in Violation of Cal. Labor Code §§ 226, 1174; IWC Wage Order No. 9-2001, § 7**

27 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

28 54. Plaintiff hereby re-alleges and incorporates by reference all paragraphs of this Complaint as

1 if fully set forth herein.

2 55. During the Class Period, as part of Defendants' illegal payroll policies and practices to
3 deprive Plaintiff and Class Members of all wages earned and due, Defendants knowingly and
4 intentionally failed to maintain records as required under California Labor Code sections 226 and 1174,
5 and IWC Wage Order No. 9-2001, section 7, including but not limited to the following records: total
6 daily hours worked by each employee; applicable rates of pay; nonproductive, compensable time; time
7 records showing when each employee begins and ends each work period; and accurate itemized
8 statements.

9 56. As a proximate result of Defendants' unlawful actions and omissions, Plaintiff and Class
10 Members have been damaged in an amount according to proof at trial, and are entitled to all wages
11 earned and due, plus interest thereon. Additionally, Plaintiff and Class Members are entitled to all
12 available civil and statutory penalties and an award of costs, expenses, and reasonable attorneys' fees,
13 including but not limited to those provided in California Labor Code section 226(e), as well as other
14 available remedies.

15 **X. FIFTH CAUSE OF ACTION**

16 **Failure to Pay All Wages Due at Separation**

17 **Violation of California Labor Code §§ 201–203**

18 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

19 57. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

20 58. Labor Code section 201 provides, in relevant part, “[I]f an employer discharges an
21 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.”

22 59. Labor Code section 202 provides, in relevant part, “[I]f an employee not having a written
23 contract for a definite period quits his or her employment, his or her wages shall become due and
24 payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of
25 his or her intention to quit, in which case the employee is entitled to his or her wages at the time of
26 quitting.”

27 60. Section 203 of the California Labor Code provides that if an employer willfully fails to pay
28 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the

1 employer is liable for penalties in the form of continued compensation up to thirty (30) work days

2 61. So, California Labor Code sections 201 and 202 require Defendants to pay all
3 compensation due and owing to former drivers at or around the time employment is terminated.
4 Section 203 of the California Labor Code provides that if an employer willfully fails to pay
5 compensation promptly upon discharge or resignation, as required by sections 201 and 202, then the
6 employer is liable for penalties in the form of continued compensation of up to thirty (30) work days.

7 62. At all times relevant during the Class Period, Plaintiff and Class Members were employees
8 of Defendants covered by California Labor Code section 203.

9 63. Pursuant to Labor Code section 201, upon Plaintiff's and the Class Members' separation
10 dates, Defendants were required to pay Plaintiff and the Class Members all wages earned.

11 64. Plaintiff and Class Members were not paid for their rest period time and nonproductive
12 time.

13 65. At the time of Plaintiff's and the Class Members' respective separation dates, Plaintiff and
14 Class Members had unpaid wages. Defendants willfully failed to pay Plaintiff and other members of
15 the Class who are no longer employed by Defendants for their uncompensated hours, in the form of rest
16 breaks and nonproductive time upon their separation from employment with Defendants as required by
17 California Labor Code sections 201 and 202. Thus, in violation of Labor Code section 201, Defendants
18 failed to pay Plaintiff and the Class Members the full amount of wages due and owing them, in amounts
19 to be proven at the time of trial, but in excess of the jurisdictional minimum of this Court.

20 66. Defendants willfully failed to pay Plaintiff and former Class Members for their
21 uncompensated hours upon their termination or separation from employment with Defendants as
22 required by California Labor Code sections 201 and 202. As a result, Defendants are liable to Plaintiff
23 and other former Class Members for waiting time penalties amounting to thirty (30) days' wages for
24 Plaintiff and each such Class Member pursuant to California Labor Code section 203.

25 **XI. SIXTH CAUSE OF ACTION**

26 **Violation of California's Unfair Competition Law, Bus. & Prof. Code §§ 17200; *et seq.***

27 **(Brought by Plaintiff on Behalf of Himself and the Class Against All Defendants)**

28 67. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

68. Section 17200 of the California Business and Professions Code (the “UCL”) prohibits any unlawful, unfair, or fraudulent business practices.

69. Through their action alleged herein, Defendants have engaged in unfair competition within the meaning of the UCL. Defendants’ conduct, as alleged herein, constitutes unlawful, unfair, and/or fraudulent business practices under the UCL.

70. Defendants’ unlawful conduct under the UCL includes, but is not limited to, violating the statutes alleged herein. Defendants’ unfair conduct under the UCL includes, but is not limited to, failure to pay Class Members wages and compensation they earned through labor provided, and failing to otherwise compensate Class Members, as alleged herein. Defendants’ fraudulent conduct includes, but is not limited to, issuing wage statements—in the form of settlement histories—containing false and/or misleading information about the time Class Members worked and the amount of wages or compensation due.

71. Plaintiff has standing to assert this claim because he has suffered injury in fact and has lost money as a result of Defendants’ conduct.

72. Plaintiff and the Class seek restitutionary disgorgement from Defendants, and an injunction prohibiting them from engaging in the unlawful, unfair, and/or fraudulent conduct alleged herein.

XII. PRAYER

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated and also on behalf of the general public, pray for judgment against Defendants as follows:

- A. An order that this action may proceed and be maintained as a class action;
- B. For all unpaid minimum wages and liquidated damages due to Plaintiff and each Class Member on their minimum wage claim;
- C. For continuation wages under California Labor Code section 203;
- D. For statutory penalties under California Labor Code section 226(e);
- E. An order requiring Defendants to comply with California Labor Code section 226(a) with respect to all currently employed Class Members;
- F. For reimbursement of business expenses under California Labor Code section 2802;
- G. For all available civil penalties pursuant to California Labor Code sections 210, 225.5,

226.3, 558, 1174.5, 1197.1 and for violations of California Labor Code sections 201,
202, 203, 204, 226, 1194, 1197, 1198, and 2802;

H. For restitutionary disgorgement pursuant to the UCL;

I. An order enjoining Defendants from further unfair and unlawful business practices in
violation of Business & Professions Code sections 17200; *et seq.*;

J. Prejudgment interest at the maximum legal rate;

K. Reasonable attorneys' fees;

L. General, special and consequential damages, to the extent allowed by law;

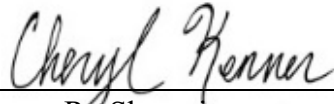
M. Costs of suit; and

N. Such other relief as the Court may deem just and proper.

Dated: September 23, 2022

SHEGERIAN & ASSOCIATES, INC.

By:



Carney R. Shegerian
Anthony Nguyen
Cheryl A. Kenner

Attorneys for FERNANDO PRADO and all others
similarly situated

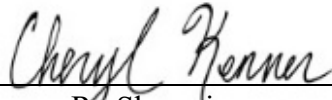
1 **DEMAND FOR JURY TRIAL**

2 Plaintiff demands a trial by jury for himself and Class Members on all claims so triable.

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4 Dated: September 23, 2022

SHEGERIAN & ASSOCIATES, INC.

5
6 By:


Carney R. Shegerian
Anthony Nguyen
Cheryl A. Kenner

7
8
9 Attorneys for FERNANDO PRADO and all others
similarly situated