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ELECTRONICALLY
F I L E D
Superior Court of California,
County of San Francisco
07/15/2025
Clerk of the Court
BY: DAEJA ROGERS
Deputy Clerk

CGC-25-627254

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN FRANCISCO

Civic Center Courthouse

IRVIN A. ZUNIGA, on behalf of himself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*

Plaintiff,

v.

BAUER'S INTELLIGENT TRANSPORTATION INC., a corporation, and DOES 1-20 inclusive,

Defendants.

Civil Case No.:

COMPLAINT AND REPRESENTATIVE ACTION COMPLAINT UNDER THE PRIVATE ATTORNEYS GENERAL ACT (PAGA)

GENERAL ALLEGATIONS

Plaintiffs hereby bring this Complaint for Damages for **(1)** Failure to pay overtime wages (Cal. Lab. Codes §§204, 223, 510, 1194 and I.W.C. Wage Orders No. 4-2001); **(2)** Failure to pay Minimum Wage (Cal. Lab. Codes §§223, 1194, 1197, 1197.1 and I.W.C. Minimum Wage Orders); **(3)** Failure to Pay Earned Wages Upon Discharge (Cal. Lab. Codes §§201-203); **(4)** Failure to Reimburse Expenses (Cal. Lab. Codes §§ 2802 and 2804); **(5)** Failure to Provide Meal Periods (Cal. Lab. Codes §§223, 226.7, 512 and I.W.C. Wage Order No. 5-2001); **(6)** Failure to Provide Rest Periods (Cal. Lab. Code §226.7 and I.W.C. Wage Order No. 5-2001); **(7)** Failure to Provide Itemized Wage Statements (Cal Lab. Code §226) **(8)** Unfair and Unlawful Business Practices (Cal. Bus. and Prof. Code §17200 et seq. and Cal. Lab. Code §1199), and; **(9)** Private Attorney's General Act Claims (Cal. Lab. Code §2698, *et seq.*)

VENUE AND JURISDICTION

1. Venue is proper in this Court, as events described in the Complaint are located within the Jurisdiction.

PARTIES

2. At all times mentioned herein, Plaintiff IRVIN A. ZUNIGA (hereinafter referred to as "Plaintiff" or "Mr. Zuniga") was an employee for BAUER'S INTELLIGENT TRANSPORTATION INC. in the County of San Francisco.

3. At all times mentioned herein, Defendant BAUER'S INTELLIGENT TRANSPORTATION INC. (hereinafter referred to as "BAUER'S" or "Defendant") was and is a company doing business in the County of San Francsico that employed and/or assumed the employment of Mr. Zuniga at times relevant herein.

4. Plaintiff is ignorant of the true identity and capacity of Defendants designated as DOES 1 through 20, but will amend the Complaint when their identities have been ascertained according to proof at the time of trial. Plaintiff alleges on information and belief, however, that the named Defendants and every DOE Defendant is in some manner responsible for the acts, omissions, and conduct of Defendants, and were, and are, responsible for the injuries, damages, and harm, incurred by Plaintiff. Plaintiff further alleges on information and belief that each such designated Defendant acted, and acts, as authorized agent, representative, and associate of the Defendants in doing the things alleged herein.

BACKGROUND FACTS

5. Defendant runs a luxury transportation company that provides 24-hour transportation services to Bay Area residents and visitors.

6. Mr. Zuniga was an on-call driver who worked for Defendant from March 22, 2024 to November 8, 2024.

7. Through the majority of times throughout his employment with the Company, Mr. Zuniga was required to work on-call without pay.

8. Mr. Zuniga and others, were not able to use their on-call time effectively for their own purposes as they would have to respond to calls immediately.

9. Mr. Zuniga and others, were required to have their company vehicle accessible within a matter of minutes, but were not allowed to use their company vehicle for personal uses.

10. Oftentimes, this led to him not receiving overtime pay for time worked over eight hours a day or forty hours a week.

11. Mr. Zuniga was also paid per trip instead of for each minute actually worked causing him to not be paid all hours worked whether at his regular rate, an overtime rate, or double time rate.

12. Mr. Zuniga was also required to pay for work related expenses, such as being required to use his cell phone during his shifts for communication as well as off the clock.

13. Mr. Zuniga also had to pay for parking fees.

14. BAUER'S did not reimburse any of these expenses.

15. Mr. Zuniga was frequently unable to take all meal periods to which he was entitled.

16. Even if he or other drivers sat aside to eat a meal, they would consistently receive communications regarding ride scheduling that he was required to answer immediately.

17. Failure to answer these calls immediately would result in BAUER'S punishing employees by not calling them for any rides unless BAUER'S had no one else to call.

18. No second meal period was offered for shifts lasting longer than ten (10) hours.

19. BAUER'S did not permit any rest breaks.

20. Mr. Zuniga was on call for his entire shift.

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21. After Mr. Zuniga's employment with the BAUER'S ended, he had not been paid all wages, meal and rest period premiums or been reimbursed all expenses.

22. None of these items were delineated on his pay stubs.

23. These practices were widespread and, under information and belief, happened to all front desk clerks and hourly employees of the Defendant.

FIRST CAUSE OF ACTION

AGAINST DEFENDANT AND DOES 1-15

FOR FAILURE TO PAY OVERTIME WAGES

24. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

25. Labor Code §510 and the Industrial Welfare Commission Wage Order 9-2001 ("Wage Order") entitles employees to a minimum of one and one-half times their regular hourly pay for any time worked in excess of eight hours and less than twelve hours in any work day, and any time in excess of forty hours in any one work week. Employees are to be paid twice their regular hourly pay for any time worked in excess of twelve hours in any workday.

26. Plaintiff, at times, worked in excess of eight hours per day and/or forty hours per week without the additional compensation as required by Labor Code §510 and the Wage Order.

27. Plaintiff, at times, worked in excess of twelve hours pre day without being paid twice his usual hourly rate.

28. Defendants would implicitly or directly authorize or direct Plaintiff to work overtime only to later failure to dispense the actual overtime pay in violation of Labor Code §223.

29. By failing to pay overtime compensation to Plaintiff, Defendants have violated Labor Code §§204, 510 and 1194 and Wage Orders.

30. As a result of Defendant's omissions, Plaintiff has been deprived of overtime compensation in an amount to be determined in trial, and is entitled to recover such amounts, plus interest thereon, attorney's fees and costs, under Labor Code §1194.

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SECOND CAUSE OF ACTION

AGAINST DEFENDANT AND DOES 1-15

FOR FAILURE TO PAY MINIMUM WAGE

31. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

32. California Labor Code §§1194, 1197, 1197.1 and Wage Orders entitle employees to an amount equal to or greater than the minimum wage for all hours worked. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation.

33. Defendants failed to provide employees, including Plaintiff, a daily timekeeping of all hours worked.

34. Plaintiff regularly worked off the clock and/or on-call without compensation.

35. As a result of these violations Plaintiff is entitled to recover such amounts as unpaid wages with interest, liquidated damages, attorney's fees and cost of suit

THIRD CAUSE OF ACTION

AGAINST DEFENDANT AND DOES 1-15

FOR FAILURE TO PAY EARNED WAGES UPON DISCHARGE

36. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

37. California Labor Code §201 and §202 requires Defendant to pay all compensation due and owing to former employees of Defendant's immediately upon discharge or within seventy-two hours of their resignation.

38. California Labor Code §203 provides that if an employer willfully fails to pay compensation promptly upon discharge or resignation, as required by Sections 201 and 202, then the employer is liable for "waiting time" penalties, equivalent to one day's pay for each day the former employee goes without receiving final compensation, up to thirty days.

39. Defendant willfully failed to pay Plaintiff - who is no longer employed by BAUER'S – compensation due upon termination as described herein, and is liable for waiting time penalties, attorney's fees and costs of suit.

FOURTH CAUSE OF ACTION

AGAINST DEFENDANT AND DOES 1-15

FOR FAILURE TO REIMBURSE BUSINESS EXPENSES

40. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

41. California Labor Code §2802 entitles employees to be reimbursed for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties. All hours must be paid at the statutory or agreed rate and no part of this rate may be used as a credit against a minimum wage obligation. None of the reimbursements may be used as a credit against a minimum wage obligation.

42. All awards made by this court for reimbursement of necessary expenditures under this section shall carry interest at the same rate as judgments in civil actions. Interest shall accrue from the date on which the employee incurred the necessary expenditure or loss.

43. The term "necessary expenditures or losses" shall include all reasonable costs, including, but not limited to, attorney's fees incurred by the employee enforcing the rights granted by this section.

44. Defendants failed to indemnify Plaintiff for expenditures incurred by Plaintiff in direct consequence of the discharge of his duties, in the form of fees for use of personal telephones, internet and parking fees in violation of Labor Code sections 2800, 2802, and 2804.

45. Defendant failed to reimburse Plaintiff for all necessary expenditures during Plaintiff's employment.

46. As a result of these violations Plaintiff is entitled to recover such amounts, with interest, attorney's fees and cost of suit.

FIFTH CAUSE OF ACTION

AGAINST DEFENDANTS AND DOES 1-15

FOR FAILURE TO PROVIDE MEAL PERIODS

47. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

48. During the majority of his employment, Plaintiff worked in excess of five hours per day without being provided at least half hour, uninterrupted meal periods in which he was relieved of all his duties.

49. On occasion, Plaintiff worked over ten hours a day without being provided a second half hour, uninterrupted meal period in which he was relieved of all his duties

50. Defendants did not pay Plaintiff an additional one-hour pay at her regular rate of compensation for each missed meal period.

51. Plaintiff is entitled to an hour of additional pay for each meal period required but not given, with interest, attorneys' fees and costs of suit.

SIXTH CAUSE OF ACTION

AGAINST DEFENDANTS AND DOES 1-15

FOR FAILURE TO PROVIDE REST PERIODS

52. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

53. Throughout his employment Plaintiff regularly worked without rest periods as required.

54. Defendant did not permit non-exempt employees to take an uninterrupted ten-minute rest period.

55. Defendants did not pay Plaintiff an additional one-hour pay at his regular rate of compensation for each missed rest period.

56. The failure to provide rest periods entitles Plaintiff to one hour of additional pay at his regular rate of compensation for each workday that the proper rest periods were not provided as well as interest, attorneys' fees and costs of suit.

SEVENTH CAUSE OF ACTION

AGAINST DEFENDANTS AND DOES 1-15

FOR FAILURE TO PROVIDE ITEMIZED WAGE STATEMENTS

57. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

58. Labor Code section 226(a) provides, in pertinent part, that: "Every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an accurate itemized statement in writing showing "…(2) total hours worked by the employee, ..., and (9), all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee."

59. Defendants failed to include in its paystubs the total hours worked and the applicable hourly rates for each of Plaintiff's pay periods, permitting Plaintiff to recover up to $4,000 pursuant to Labor Code section 226(e).

60. Labor Code section 226(c) that an employer has no more than twenty-one (21) days to furnish pay records upon request by an employee (or former employee) and a failure to do so entitles the employee to $750.00 pursuant to section 226(f)

61. Defendants knowingly failed in their affirmative obligation to keep accurate records regarding time worked, overtime compensation and the premium wages owed to the employees and failed to provide wage statement to Plaintiffs upon request, and therefore failed to properly and accurately itemize the gross and net wages earned by Plaintiffs.

62. Plaintiff was damaged due to Defendant's failure to accurately itemize his earnings. Such a pattern and practice and uniform administration of policy as described herein is unlawful and creates an entitlement to recovery by the Plaintiff herein for all damages and/or penalties pursuant to Labor Code section 226, including interest thereon, attorney's fees and costs of suit.

EIGHTH CAUSE OF ACTION

AGAINST DEFENDANTS AND DOES 1-17

FOR UNFAIR AND UNLAWFUL BUSINESS PRACTICES

63. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

64. Business and Professions Code §17200 prohibits unfair competition in the form of any unlawful, unfair, or fraudulent business act or practice.

65. Business and Professions Code §17204 allows "any person who has suffered injury in fact and has lost money or property" to prosecute a civil action for unfair and unlawful business practices.

66. For the duration of Plaintiff's employment, Defendants have committed unlawful, unfair, and/or fraudulent business acts and practices as defined by Business and Professions Code §17200 by failing to pay minimum wage and overtime for all hours worked, failing to reimburse business expenses, failing to provide meal and rest breaks, failing to pay meal and rest period premiums and failing to pay all wages due upon discharge.

67. The above-described unlawful actions constitute false, unfair, fraudulent and/or deceptive business practices within the meaning of Business and Professions Code §17200, *et seq*.

68. As a result of their unlawful acts, Defendants have reaped and continues to reap unfair benefits and illegal profits at the expense of Plaintiff, its employees and the public. Defendants should be made to disgorge these ill-gotten gains and pay restitution.

NINTH CAUSE OF ACTION

AGAINST ALL DEFENDANTS

PRIVATE ATTORNEY'S GENERAL ACT CLAIMS

69. Plaintiff realleges and incorporates by reference the allegations contained in all preceding and all subsequent paragraphs of the Complaint as though fully set forth herein.

70. As a result of the acts alleged herein, Plaintiff, as an aggrieved employee within the meaning of Labor Code section 2699, subdivision (c), on behalf of herself and other current or former hourly, non-exempt employees of Defendants, seek the recovery of civil penalties against Defendants pursuant to California Labor Code sections 2698 et seq., for the following knowing and intentional violations of the California Labor Code:

a. For failing to pay Plaintiff and other hourly, non-exempt employees the legally-mandated minimum wage for each hour worked, in violation of Labor Code sections 1197 and 1197.1;
b. For failing to pay Plaintiff and other hourly, non-exempt employees the legally-mandated overtime wages, in violation of Labor Code sections 204, 510 and 1194 and Wage Orders
c. For failing to indemnify Plaintiff and other hourly, non-exempt employees for expenditures incurred by such employees in direct consequence of their discharge of duties, in the form of fees for use of telephones, internet and parking fees;
d. For failing to pay wages promptly following termination of employment, or when due and payable, in violation of Labor Code sections 201, 202 and 204;
e. For failure to Provide Meal Periods pursuant to Cal. Lab. Codes §§223, 226.7, 512 and I.W.C. Wage Order No. 5-2001
f. For failure to Provide Rest Periods pursuant to Cal. Lab. Code §226.7 and I.W.C. Wage Order No. 5-2001) and

g. For failing to maintain for and provide to Plaintiff and other hourly, non-exempt employees the accurate, itemized wage statements required by Labor Code sections 226(a) and (c), 1174, 1174.5, and 1198.

71. The above-referenced civil penalties shall include the recovery of amounts specified in the applicable sections of the Labor Code, and if not specifically provided, those under section 2699(f), and shall include those amounts sufficient to recover underpaid wages, including all necessary expenditures or losses incurred by Plaintiff and other misclassified Loan Processors, pursuant to Labor Code sections 210, 225.5, 226.3, 226.8, 558(a), 1197.1(a), 2802, and 2699, subdivisions (a) and (f).

72. Plaintiffs reserve their rights to allege any additional and all other violations of the Labor Code and the Wage Order as may be disclosed in discovery and as a result of additional investigation that may be pursued in this action.

73. On or about April 29, 2025, Plaintiff sent a letter by Certified Mail to Defendants giving notice of Defendants' Labor Code and Wage Order violations, as alleged herein. A copy of said PAGA letter was also submitted on the same date to the California Labor and Workplace Development Agency ("LWDA"), via the online filing system required by the PAGA statute.

74. The April 29, 2025 letter to Defendant and the LWDA gave notice of Plaintiff's intent to prosecute a private enforcement action to assess and recover civil penalties under PAGA in the event the LWDA, following review, declined to investigate the asserted violations of the California Labor Code and Wage Order 9-2001.

75. Sixty-five days have passed since notifying Defendants and the LWDA of these violations and Plaintiff has not received any response, thereby exhausting Plaintiff's administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

76. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and those of Defendants' other former and current Loan Processors, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which they are entitled to recover under Labor Code section 2699.

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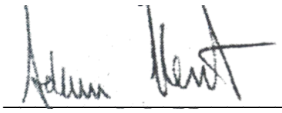
WHEREFORE PLAINTIFF PRAYS FOR JUDGMENT AGAINST DEFENDANTS AS FOLLOWS:

1. For special damages as to be proven at trial;
2. For incidental and consequential damages;
3. For general and compensatory damages;
4. For punitive damages;
5. For restitution of all monies due to Plaintiff and disgorgement of profits from the unlawful business practices of Defendants;
6. For all applicable statutory penalties and damages;
7. For Plaintiff's reasonable attorney's fees, expenses, and costs of suit as provided by law;
8. For pre-judgment and post-judgment interest to the extent permitted by law;
9. Penalties and relief pursuant to Labor Code § 2699; and
10. For such other and further relief as is just and proper

Dated: 07/14/25

LAW OFFICE OF JENNIFER B. SIVERTS



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