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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **COUNTY OF SAN JOAQUIN**

19 ERIC VILLALOBOS, individually and on
20 behalf of all those similarly situated,

21 Plaintiff,

22 vs.

23 ESTES FORWARDING WORLDWIDE, LLC,
24 a Virginia limited liability company; ESTES
25 EXPRESS LINES, an unknown entity; and GI
26 TRUCKING COMPANY, an unknown entity;
27 and DOES 1 through 50, inclusive,

28 Defendants.

Case No. STK-CV-UOE-2023-0005691

**PLAINTIFF'S FIRST AMENDED CLASS
ACTION COMPLAINT FOR:**

(1) VIOLATION OF LABOR CODE §§
226.7 and 512;

(2) VIOLATION OF LABOR CODE §
226.7;

(3) VIOLATION OF LABOR CODE §§
201-203, 233 AND 246;

(4) VIOLATION OF LABOR CODE §§
201-203, 510, 1194, AND 1197.1;

(5) VIOLATION OF LABOR CODE §
226;

(6) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17200, *ET*
SEQ.;

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

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STANDARD FILING SLIP
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1 Comes now Plaintiff Eric Villalobos (“Plaintiff”), individually and on behalf of all similarly
2 situated current and former employees hereby alleges and complains against Defendant ESTES
3 FORWARDING WORLDWIDE, LLC (“EFW”), GI TRUCKING COMPANY (“GI”), and ESTES
4 EXPRESS LINES (“EEL”) (collectively, “Defendant” or the “Company”), and Does 1 through 50
5 (collectively, “Defendants”) as follows:

6 **JURISDICTION AND VENUE**

7 1. This Court has jurisdiction over the violations of the California Labor Code §§ 201-204,
8 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, and 1197.1, and California Business & Professions
9 Code § 17200, *et seq.*

10 2. Venue is proper in this Court because Plaintiff performed work for Defendant in this
11 County.

12 **PARTIES**

13 3. EFW is a limited liability company that operates air freight forwarding in the State of
14 California, including in San Joaquin County.

15 4. EEL is an unknown corporate entity that is not registered with the California Secretary of State,
16 but Plaintiff is informed and believes and based thereon alleges that EEL is an affiliated corporate entity
17 of EFW and, therefore, has its principal offices located in San Francisco County.

18 5. GI is an unknown corporate entity that is not registered with the California Secretary of State,
19 but Plaintiff is informed and believes and based thereon alleges that GI is an affiliated corporate entity
20 of EFW and, therefore, has its principal offices located in San Francisco County.

21 6. In or about February 2018, Plaintiff began employment with the Company as a non-
22 exempt forklift driver. On or about September 27, 2022, Plaintiff’s employment with the Company
23 ended.

24 **DOE DEFENDANTS**

25 7. Plaintiff does not know the true names or capacities, whether individual, partner or
26 corporate, of the Defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
27 Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint
28 when the true names and capacities are known. Plaintiff is informed and believes and, based thereon

1 alleges, that each of said fictitious Defendants was responsible in some way for the matters alleged
2 herein and proximately caused Plaintiff to be subject to the illegal employment practices, wrongs and
3 injuries complained of herein.

4 **AGENCY STATUS OF EACH DEFENDANT**

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

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

16 10. At all times herein mentioned, Defendants, and each of them, were members of, and
17 engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope
18 of, and in pursuance of, said joint venture, partnership and common enterprise.

19 11. At all times herein mentioned, the acts and omissions of various Defendants, and each of
20 them, concurred and contributed to the various acts and omissions of each and all of the other
21 Defendants in proximately causing the injuries and damages as herein alleged. At all times herein
22 mentioned, Defendants, and each of them, ratified each and every act or omission complained of herein.
23 At all times herein mentioned, the Defendants, and each of them, aided and abetted the acts and
24 omissions of each and all of the other Defendants in proximately causing the damages as herein alleged.

25 **CLASS ALLEGATIONS**

26 12. **Class Definition:** The named individual Plaintiff brings this action individually and on
27 behalf of the Class pursuant to Code of Civil Procedure § 382. Plaintiff proposes the following classes:

28 a. All current and former California non-exempt employees of Defendants who were paid

any meal period premium payments and earned non-discretionary remuneration, including without limitation, bonus claims and incentives, covering the same period that meal period premiums were paid, at any time from December 14, 2018, through the present (the “Meal Period Premium Class”);

b. All current and former California non-exempt employees of Defendants who were paid any rest period premium payments and earned non-discretionary remuneration, including without limitation, bonus claims and incentives, covering the same period that rest period premiums were paid, at any time from December 14, 2018, through the present (the “Rest Period Premium Class”);

c. All current and former non-exempt employees who have worked for Defendant in California at any time from December 14, 2018, through the present and was paid overtime and earned non-discretionary pay, including without limitation, bonus claims and incentives, covering the same period (the “Regular Rate Class”); and

d. All former non-exempt California employees of Defendant whose employment terminated at any time from December 14, 2019, through the present, and who during their employment with Defendant were paid sick pay and earned non-discretionary pay, including without limitation, bonus claims and incentives, covering the same period in which the sick pay was paid (the “Sick Pay Class”).

13. **Numerosity:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identity of the members of the Class is readily ascertainable by review of Defendant’s records, including payroll records. Plaintiff is informed and believe, and based thereon alleges, that: Defendant failed to pay meal and rest period premium wages, overtime and sick pay based on the regular rate of pay when employees also earned additional non-discretionary remuneration, including without limitation, bonus claims and incentives, covering the same time periods in which the premiums were paid in violation of Labor Code §§ 201-204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, and 1197.1.

14. **Adequacy of Representation:** The named Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class defined above. Plaintiff’s

1 attorneys are ready, willing and able to fully and adequately represent the Class and individual Plaintiff.
2 Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and currently
3 have a number of wage-and-hour class actions pending in California courts.

4 15. **Common Question of Law and Fact:** There are predominant common questions of law
5 and fact and a community of interest amongst Plaintiff and the claims of the Class concerning:
6 Defendants' failure to pay meal and rest period premium wages, overtime and sick pay based on the
7 regular rate of pay when employees also earned additional non-discretionary remuneration, including
8 without limitation, bonus claims and incentives, covering the same time periods in which the premiums
9 were paid in violation of Labor Code §§ 201-204, 226, 226.7, 246, 510, 512, 558, 1194, 1197, and
10 1197.1.

11 16. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class.
12 Plaintiff is a member of the Class and has suffered the alleged violations of California Labor Code §§
13 201-204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, and 1197.1. Specifically, Plaintiff earned
14 non-discretionary incentive pay, including without limitation, bonus claims and incentives, which was
15 not factored into the regular rate of pay for purposes of paying meal and rest period premium wages,
16 overtime and sick pay. Instead, during pay periods in which Plaintiff earned non-discretionary
17 remuneration covering time periods in which Plaintiff was paid meal and rest period premiums,
18 overtime and sick pay, Defendants improperly paid these wages at the base rate of pay. Therefore,
19 Plaintiff is a member of the Class and has suffered the alleged violations of California Labor Code §§
20 201-204, 226, 226.7, 233, 246, 510, 512, 558, 1194, 1197, and 1197.1, and Business & Professions
21 Code § 17200, *et seq.*

22 17. The Labor Code and regulations upon which Plaintiff base these claims are broadly
23 remedial in nature. These laws and labor standards serve an important public interest in establishing
24 minimum working conditions and standards in California. These laws and labor standards protect the
25 average working employee from exploitation by employers who may seek to take advantage of superior
26 economic and bargaining power in setting onerous terms and conditions of employment.

27 18. The nature of this action and the format of laws available to Plaintiff and members of the
28 Class identified herein make the class action format a particularly efficient and appropriate procedure to

1 redress the wrongs alleged herein. If each employee were required to file an individual lawsuit, the
2 corporate Defendant would necessarily gain an unconscionable advantage since it would be able to
3 exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior
4 financial and legal resources. Requiring each Class member to pursue an individual remedy would also
5 discourage the assertion of lawful claims by employees who would be disinclined to file an action
6 against their former and/or current employer for real and justifiable fear of retaliation and permanent
7 damage to their careers at subsequent employment.

8 19. The prosecution of separate actions by the individual Class members, even if possible,
9 would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual
10 Class members against the Defendant and which would establish potentially incompatible standards of
11 conduct for the Defendant, and/or (b) adjudications with respect to individual Class members which
12 would, as a practical matter, be dispositive of the interest of the other Class members not parties to the
13 adjudications or which would substantially impair or impede the ability of the Class members to protect
14 their interests. Further, the claims of the individual members of the Class are not sufficiently large to
15 warrant vigorous individual prosecution considering all of the concomitant costs and expenses.

16 20. Such a pattern, practice and uniform administration of corporate policy regarding illegal
17 employee compensation described herein is unlawful and creates an entitlement to recovery by the
18 Plaintiff and the Class identified herein, in a civil action for all damages and or penalties, including
19 interest thereon, applicable penalties, reasonable attorney's fees, and costs of suit according to the
20 mandate of California Labor Code §§ 218.5, 226, and 1194 and Code of Civil Procedure § 1021.5.

21 21. Proof of a common business practice or factual pattern, which the named Plaintiff
22 experienced and is a representative of, will establish the right of each of the members of the Class to
23 recovery on the causes of action alleged herein. This action is brought for the benefit of the entire Class
24 and will result in the creation of a common fund.

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FIRST CAUSE OF ACTION

VIOLATION OF LABOR CODE §§ 226.7 AND 512

**(BY PLAINTIFF AND THE MEAL PERIOD PREMIUM CLASS AGAINST ALL
DEFENDANTS)**

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

23. At all relevant times, Defendants failed in their affirmative obligation to ensure that Plaintiff, and other class members, had the opportunity to take and were provided with off-duty meal periods in accordance with the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff and Class Members were suffered and permitted to work through legally required meal breaks and were denied the opportunity to take their full 30-minute off-duty meal breaks. As such, Defendants are responsible for paying premium compensation for missed meal periods pursuant to Labor Code §§ 226.7 and 512 and the applicable IWC Wage Order. Specifically, Labor Code § 226.7(c) provides that “the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday the meal or rest or recovery period is not provided.” Defendants, as a matter of corporate policy and procedure, regularly failed to pay the meal period premium at the correct rate of pay. Plaintiff and Class Members earned non-discretionary incentive pay, including without limitation, bonus claims and incentives, which was not factored into the regular rate of pay for purposes of paying meal period premium pay. Instead, during pay periods in which Plaintiff and Class Members earned non-discretionary remuneration, Defendants improperly paid the meal premium pay at the base rate of pay.

24. Plaintiff is informed and believe and based thereon alleges that Defendants willfully failed to include all remuneration, including non-discretionary remuneration, in the regular rate of pay for purposes of calculating meal period premium pay, as required by Labor Code §§ 226.7 and 512, and the applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and similarly situated employees are owed wages for the meal period violations set forth above.

25. Plaintiff is informed and believes, and based thereon allege, that Defendants’ willful failure to provide all meal period premium pay and/or wages due and owing them upon separation from

1 employment results in a continued payment of wages up to thirty (30) days from the time the wages
2 were due. Therefore, Plaintiff and other members of the Class who have separated from employment
3 are entitled to compensation pursuant to Labor Code § 203.

4 26. Such a pattern, practice and uniform administration of corporate policy as described
5 herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class Members identified
6 herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor
7 Code §§ 201, 202, 203, 226.7 and 512, and the applicable IWC Wage Order, including interest thereon,
8 penalties, and costs of suit.

9 **SECOND CAUSE OF ACTION**

10 **VIOLATION OF LABOR CODE § 226.7**

11 **(BY PLAINTIFF AND THE REST PERIOD PREMIUM CLASS AGAINST ALL**
12 **DEFENDANTS)**

13 27. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
14 fully set forth herein.

15 28. At all relevant times, Defendants failed in their affirmative obligation to ensure that
16 Plaintiff, and other class members, were authorized and permitted to take rest periods in accordance with
17 the mandates of the California Labor Code and the applicable IWC Wage Order. Plaintiff and Class
18 Members were suffered and permitted to work through legally required rest breaks and were denied the
19 opportunity to take their full 10-minute off-duty rest breaks for every 3.5 hours worked. As such,
20 Defendants are responsible for paying premium compensation for missed rest periods pursuant to Labor
21 Code §§ 226.7 and 512 and the applicable IWC Wage Order. Specifically, Labor Code § 226.7(c)
22 provides that “the employer shall pay the employee one additional hour of pay at the employee’s regular
23 rate of compensation for each workday the meal or rest or recovery period is not provided.” Defendants,
24 as a matter of corporate policy and procedure, regularly failed to pay the rest period premium at the
25 correct rate of pay. Plaintiff and Class Members earned non-discretionary incentive pay, including
26 without limitation, bonus claims and incentives, which was not factored into the regular rate of pay for
27 purposes of paying rest period premium pay. Instead, during pay periods in which Plaintiff and Class
28 Members earned non-discretionary remuneration, Defendants improperly paid the rest premium pay at

1 the base rate of pay.

2 29. Plaintiff is informed and believe and based thereon alleges that Defendants willfully
3 failed to include all remuneration, including non-discretionary remuneration, in the regular rate of pay
4 for purposes of calculating rest period premium pay, as required by Labor Code § 226.7, and the
5 applicable IWC Wage Order. Plaintiff further alleges that Plaintiff and similarly situated employees are
6 owed wages for the rest period violations set forth above.

7 30. Plaintiff is informed and believes, and based thereon allege, that Defendants' willful
8 failure to provide all rest period premium pay and/or wages due and owing them upon separation from
9 employment results in a continued payment of wages up to thirty (30) days from the time the wages
10 were due. Therefore, Plaintiff and other members of the Class who have separated from employment
11 are entitled to compensation pursuant to Labor Code § 203.

12 31. Such a pattern, practice and uniform administration of corporate policy as described
13 herein is unlawful and creates an entitlement to recovery by the Plaintiff and Class Members identified
14 herein, in a civil action, for the unpaid balance of the unpaid premium compensation pursuant to Labor
15 Code §§ 201, 202, 203, 226.7 and 512, and the applicable IWC Wage Order, including interest thereon,
16 penalties, and costs of suit.

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF CAL. LABOR CODE §§ 201-203, 233, AND 246**

19 **(BY PLAINTIFF AND THE SICK PAY CLASS AGAINST ALL DEFENDANTS)**

20 32. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
21 fully set for herein.

22 33. Labor Code § 233 provides that an employer must permit an employee to use accrued
23 sick leave in accordance with Labor Code § 246.5 at the employee's then current rate of entitlement.
24 Labor Code § 246 provides that an employee is entitled to sick pay wages for use of accrued sick leave.
25 An employer must calculate paid sick leave by using one of two calculations: (i) "Paid sick time for
26 nonexempt employees shall be calculated in the same manner as the regular rate of pay for the
27 workweek in which the employee uses paid sick time, whether or not the employee actually works
28 overtime in that workweek," or (ii) "Paid sick time for nonexempt employees shall be calculated by

1 dividing the employee's total wages, not including overtime premium pay, by the employee's total hours
2 worked in the full pay periods of the prior 90 days of employment."

3 34. As a policy and practice, Defendants unlawfully failed to pay sick pay at the regular rate
4 of pay. Plaintiff and Class Members routinely earned non-discretionary incentive wages, which
5 increased their regular rate of pay. However, when sick pay was paid, it was paid at the base rate of pay
6 for Plaintiff and Class Members, as opposed to the correct, higher regular rate of pay.

7 35. Moreover, Labor Code § 204 generally provides that wages are due and payable twice
8 during each calendar month, on days designated in advance by the employer as the regular paydays.
9 Consistent with Labor Code § 204, Labor Code § 246 also provides that an employer shall provide
10 payment for sick leave taken by an employee no later than the payday for the next regular payroll period
11 after the sick leave was taken. Labor Code § 201 provides if an employer discharges an employee, the
12 wages earned and unpaid at the time of discharge are due and payable immediately. Labor Code § 202
13 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an
14 employee quits his or her employment, unless the employee has given seventy-two (72) hours previous
15 notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the
16 time of quitting. Labor Code § 203 provides that if an employer willfully fails to pay wages owed in
17 accordance with Labor Code §§ 201 and 202, then the wages of the employee shall continue as a penalty
18 from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty
19 (30) days.

20 36. Based on Defendants' failure to pay all sick pay to Plaintiff and Class Members, and as a
21 matter of policy and practice, Defendants failed to timely pay Plaintiff and Class Members all due wages
22 or timely pay all due wages upon separation of employment. On information and belief, Defendants
23 were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as
24 it relates to Plaintiff's allegations. Defendants thus violated Sections 201-203 by not timely paying all
25 due wages and not timely paying all due wages upon the separation of employment.

26 37. As a pattern and practice, Defendants regularly and willfully failed to pay Plaintiff and
27 other members of the Class their correct wages and accordingly owe damages, restitution, and applicable
28 penalties, including waiting time penalties.

1 **FOURTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE §§ 201-203, 510, 558, 1194, 1197, AND 1197.1**

3 **(AGAINST ALL DEFENDANTS BY PLAINTIFF AND THE REGULAR RATE CLASS)**

4 38. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
5 fully set for herein.

6 39. This cause of action is brought pursuant to Labor Code §§ 510 and 1194, which require
7 an employer to pay employees overtime at a rate of one and one-half the employee's regular rate of pay
8 for any work in excess of eight hours in a workday or 40 hours in a workweek.

9 40. During their employment with Defendants, including during pay periods wherein
10 Plaintiff and the Class worked overtime, Plaintiff and the Class also earned non-discretionary
11 remuneration, such as bonus claims and incentives. Defendants, as a corporate-wide practice and policy,
12 did not calculate and/or factor such remuneration into the regular rate of pay for purposes of calculating
13 revised and increased overtime pay, and as such, owe Plaintiff and the Class additional overtime pay.

14 41. Plaintiff is informed and believes and based thereon alleges that Defendants' willful
15 failure to provide Plaintiff and Class Members the wages due and owing them upon separation from
16 employment results in a continued payment of wages up to thirty (30) days from the time the wages
17 were due. Therefore, Plaintiff and Class Members who have separated from employment are entitled to
18 compensation pursuant to Labor Code § 203.

19 42. Such a pattern, practice and uniform administration of corporate policy regarding illegal
20 employee compensation as described herein is unlawful and creates an entitlement to recovery by
21 Plaintiff and the Class in a civil action, for the unpaid balance of the full amount of damages owed,
22 including interest thereon, penalties, attorneys' fees, and costs of suit according to the mandate of
23 California Labor Code §§ 510, 558, 1194 and 1197.1.

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1 **FIFTH CAUSE OF ACTION**

2 **VIOLATION OF LABOR CODE § 226**

3 **(BY PLAINTIFF AND ALL CLASSES AGAINST ALL DEFENDANTS)**

4 43. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
5 fully set forth herein.

6 44. Defendants failed in their affirmative obligation to provide accurate itemized wage
7 statements. Specifically, Defendant did not include the correct rate of premium pay for missed meal
8 periods, overtime wages and sick pay on wage statements issued to Plaintiff and other non-exempt
9 employees. Therefore, Defendants violated Labor Code § 226 by not providing the requisite itemized
10 wage statements to Plaintiff and Class Members.

11 45. Such a pattern, practice and uniform administration of corporate policy as described
12 herein is unlawful and creates an entitlement to recovery by the Plaintiff and the Class identified herein,
13 in a civil action, for all damages or penalties pursuant to Labor Code § 226, including interest thereon,
14 attorneys' fees, and costs of suit according to the mandate of California Labor Code § 226.

15 **SIXTH CAUSE OF ACTION**

16 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200, *ET SEQ.***

17 **(BY PLAINTIFF ON BEHALF OF THE MEAL PERIOD PREMIUM CLASS, REST PERIOD**
18 **PREMIUM CLASS AND REGULAR RATE CLASS AGAINST ALL DEFENDANTS)**

19 46. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
20 fully set forth herein.

21 47. Defendants, and each of them, have engaged and continue to engage in unfair and
22 unlawful business practices in California by practicing, employing and utilizing the employment
23 practices outlined above, include, to wit, by failing to include all non-discretionary remuneration, in the
24 regular rate of pay for purposes of calculating meal and rest period premiums, and overtime in violation
25 of Labor Code §§ 226.7, 233, 246, 510, 512, and 1194.

26 48. Defendants' utilization of such unfair and unlawful business practices constitutes unfair,
27 unlawful competition and provides an unfair advantage over Defendants' competitors.

28 49. Plaintiff seeks individually and on behalf of all other members of the Class similarly

1 situated, full restitution of monies, as necessary and according to proof, to restore any and all monies
2 withheld, acquired and/or converted by the Defendants by means of the unfair practices complained of
3 herein.

4 50. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
5 mentioned Defendants have engaged in unlawful, deceptive and unfair business practices, as proscribed
6 by California Business and Professions Code § 17200, *et seq.*, including those set forth herein above
7 thereby depriving Plaintiff and other members of the class the minimum working condition standards
8 and conditions due to them under the California laws as specifically described therein.

9 **SEVENTH CAUSE OF ACTION**

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

11 **(BY PLAINTIFF AS PROXY FOR STATE OF CALIFORNIA AGAINST ALL DEFENDANTS)**

12 51. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
13 fully set forth herein.

14 52. Plaintiff brings this cause of action as a proxy for the State of California on behalf of all
15 similarly aggrieved employees. Specifically, Plaintiff seeks penalties on behalf of the State of California
16 for violations of Labor Code §§ 201-204, 226, 226.3, 226.7, 246, 510, 512, 558, 1194, 1197, and 1197.1
17 committed against all similarly aggrieved non-exempt employees who were paid any wages at any time
18 from November 28, 2021, through the present. As alleged above, Defendants failed to pay overtime,
19 meal and rest period premiums, and sick pay at the regular rate of pay. Further, as a result of said
20 violations, Defendants violated Labor Code §§ 201-204, 226 and 226.3.

21 53. On or about November 28, 2022, Plaintiff sent notice to EEL via certified mail, return
22 receipt requested, and the Labor Workforce Development Agency (the “LWDA”) of the violations of
23 Labor Code §§ 201-204, 226, 226.3, 226.7, 246, 510, 512, 558, 1194, 1197, and 1197.1. On or about
24 March 9, 2023, Plaintiff amended his notice to include GI and EFW and sent the notice via certified mail
25 to these defendants and to the LWDA of the foregoing violations.

26 54. As of the date of the filing of this Complaint, the LWDA has not notified Plaintiffs
27 whether it intends to investigate the claims. Therefore, Plaintiff may seek applicable penalties under the
28

1 PAGA.

2 55. Such a pattern, practice and uniform administration of corporate policy as described
3 herein is unlawful and creates an entitlement to recovery by the Plaintiff on behalf of the State of
4 California, in a civil action, for penalties pursuant to the PAGA, Labor Code §§ 226.3 and 2699(a),
5 including interest thereon, attorneys' fees, and costs of suit according to the mandate of PAGA for
6 Defendant's violations of Labor Code §§ 201-204, 226, 226.3, 226.7, 246, 510, 512, 558, 1194, 1197,
7 and 1197.1, as well as attorneys' fees and costs.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment to be entered in Plaintiff's favor and against
10 Defendants, and each of them, as follows:

- 11 1. For an order certifying the proposed Class;
- 12 2. For an order appointing Plaintiff as the representative of the Class;
- 13 3. For an order appointing Counsel for Plaintiff as Class counsel;
- 14 5. Upon the First Cause of Action, for damages and/or penalties pursuant to Labor Code §§
15 201-203, 226, 226.7, and 512, and for costs;
- 16 6. Upon the Second Cause of Action, for damages and/or penalties pursuant to Labor Code
17 §§ 201-203, 226, and 226.7, and for costs;
- 18 7. Upon the Third Cause of Action, for damages and/or penalties pursuant to Labor Code §§
19 201-203, 218.5, 233, 246, and for costs and attorneys' fees;
- 20 8. Upon the Fourth Cause of Action, for damages and/or penalties pursuant to Labor Code
21 §§ 201-203, 218.5, 510, 1194, and 1197.1, and for costs and attorneys' fees;
- 22 9. Upon the Fifth Cause of Action, for damages and/or penalties pursuant to Labor Code §
23 226 and for costs, and for attorney's fees;
- 24 10. Upon the Sixth Cause of Action, for restitution to Plaintiff and other similarly effected
25 members of the general public of all funds unlawfully acquired by Defendant by means of any acts or
26 practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
- 27 11. Upon the Seventh Cause of Action, for civil penalties, attorneys' fees and costs pursuant
28 to Labor Code §§ 226.3 and 2699;

- 1 12. On all causes of action, for prejudgment interest at the prevailing legal rate;
- 2 13. On all causes of action, for attorney’s fees and costs as provided by California Labor
- 3 Code §§ 218.5, 226, and 1194, and Code of Civil Procedure § 1021.5 and for such other and further
- 4 relief the Court may deem just and proper;
- 5 14. Costs of suit; and
- 6 15. Such other and further relief as the Court may deem proper.
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8 DATED: February 20, 2024

DIVERSITY LAW GROUP, P.C.

9 By: _____

10  Larry W. Lee
11 Attorneys for Plaintiff and the Class
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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On February 26, 2024, I served the following document(s) described as: **PLAINTIFF'S FIRST AMENDED CLASS ACTION COMPLAINT** on the interested parties in this action as follows:

Garrett V. Jensen CDF Labor Law LLP 18300 Von Karman Avenue, Suite 800 Irvine, California 92612	<i>Attorneys for Defendants Estes Forwarding Worldwide, LLC and Estes Express Lines</i> gjensen@cdfsaborlaw.com
David L. Woodard Poyner Spruill LLP 301 Fayetteville Street, Suite 1900 Raleigh, North Carolina 27601	<i>Attorneys for Defendants Estes Forwarding Worldwide, LLC and Estes Express Lines</i> dwoodard@poynerspruill.com

 X BY ELECTRONIC MAIL: by personally sending a true and correct copy of the above-described document(s) to the party(ies) listed above or on the attached mailing list from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s) indicated above or on the attached mailing list. I certify that said electronic transmission was completed and that all pages were received by the party(ies) identified herein or on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on February 26, 2024, at Los Angeles, California.



Erika Mejia