

Carolyn H. Cottrell (SBN 166977)
Esther L. Bylsma (SBN 264208)
Sandra Acosta Tello (SBN 315616)
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
2000 Powell Street, Suite 1400
Emeryville, California 94608
Tel: (415) 421-7100
Fax: (415) 421-7105
ccottrell@schneiderwallace.com
ebylsma@schneiderwallace.com
sacostatello@schneiderwallace.com

Attorneys for Plaintiff and the Putative Class

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Case #22CV409283
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

JESSE HUGHES, on behalf of himself and the
Class members,

Plaintiff,

v.

ROADIE INC., a California corporation; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV409283

**FIRST AMENDED CLASS ACTION
COMPLAINT**

- (1) **Willful Misclassification of Employee as Independent Contractor (Cal. Labor Code § 226.8);**
- (2) **Failure to Authorize and Permit and/or Make Available Meal and Rest Periods (Cal. Labor Code §§ 226.7, 512, and 1198);**
- (3) **Failure to Pay Overtime Wages (Cal. Labor Code § 510);**
- (4) **Failure to Pay Minimum Wage (Cal. Labor Code §§ 1182.12 and 1197);**
- (5) **Failure to Reimburse for Necessary Business Expenses (Cal. Labor Code § 2802);**
- (6) **Failure to Provide Accurate, Itemized Wage Statements (Cal. Labor Code § 226(a));**
- (7) **Waiting Time Penalties (Cal. Labor Code §§ 201 and 202); and**
- (8) **Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.).**
- (9) **The Private Attorneys General Act (Labor Code §2699(a) and (f))**

DEMAND FOR JURY TRIAL

1 Plaintiff Jesse Hughes (“Plaintiff”), by and through his undersigned attorneys, allege upon
2 information and belief, except for his own acts which are alleged on knowledge, as follows:

3 **SUMMARY OF THE ACTION**

4 1. This is a class and Labor Code Private Attorneys General Act (“PAGA”) enforcement
5 action against Roadie, Inc. (“Roadie” or “Defendant”). Plaintiff brings his class claims on behalf of
6 himself and all members of the Class (defined below). Plaintiff brings his PAGA claims on behalf of
7 the State of California.

8 2. Plaintiff’s claims on Defendant’s employment policies and practices of: (a)
9 misclassifying Plaintiff and Class members as independent contractors instead of employees; (b) failing
10 to authorize and permit Plaintiff and Class members to take meal and rest breaks to which they are
11 entitled by law; (c) failing to pay Plaintiff and Class members at least minimum wages for their work;
12 (d) failing to pay Plaintiff and Class members earned overtime wages; (e) failing to provide Plaintiff
13 and Class members accurate, itemized wage statements; (f) failing to timely pay Plaintiff and Class
14 members full wages upon termination or resignation; and (g) failing to reimburse Plaintiff and Class
15 members for necessary business expenses.

16 3. Roadie is a is a company that provides delivery services. Plaintiff and members of the
17 putative Class are current and former non-exempt employees of Roadie who worked in California.
18 Plaintiff and Class members work delivering various goods and items for Roadie. Defendants willfully
19 misclassify Plaintiff and Class members as independent contractors, even though they are hourly non-
20 exempt employees, to avoid California wage and hour laws. Defendants’ willful misclassification of
21 Plaintiff and Class members results in violations of California law.

22 4. As a result of these violations, Plaintiff seeks compensation, damages, penalties, PAGA
23 penalties, and other relief, to the full extent permitted by the California Labor Code, Industrial Welfare
24 Commission (“IWC”) Wage Order, and California Business and Professions Code §§ 17200, et seq.
25 (“UCL”).

26 **JURISDICTION AND VENUE**

27 5. This Court has jurisdiction over Plaintiff’s claims pursuant to the California Labor Code
28 and California Business and Professions Code. The Court also has jurisdiction over Defendant because

1 Defendant is a corporation formed in California and does business throughout California.

2 6. Venue is proper in this County pursuant to Code of Civil Procedure §§ 395(a) and/or
3 395.5. Defendant conducts business, has jobsites, and employs putative Class members in this County,
4 and as a result, the causes of action asserted arose in whole or in part in this County.

5 **PARTIES**

6 7. Plaintiff Jesse Hughes is an individual over the age of eighteen, and at all relevant was a
7 resident of the State of California, County of Santa Clara. Plaintiff has been employed as a delivery
8 driver by Defendant in San Jose, California since approximately June 2022.

9 8. Defendant Roadie, Inc. is a California corporation with its principal place of business in
10 Atlanta, Georgia. At all relevant times, Roadie has done business under the laws of California, has had
11 places of business in California, including in this judicial district, and has employed Class members in
12 this judicial district. Roadie is a “person” as defined in Labor Code § 18 and Business and Professions
13 Code § 17201, and also an “employer” as that term is used in the Labor Code and the applicable
14 Industrial Welfare Commission (“IWC”) Wage Order regulating wages, hours, and working conditions.
15 Roadie may be served with process by serving its registered agent, CSC- Lawyers Incorporating
16 Service, 2710 Gateway Oaks Drive, Ste. 150N, Sacramento, CA 95833.

17 9. The true names and capacities, whether individual, corporate, associate, or otherwise, of
18 Does 1-50, inclusive, are unknown to Plaintiff, who therefore sues the Doe Defendants by fictitious
19 names. Plaintiff is informed, believes, and thereon alleges that each of these fictitiously-named
20 Defendants is responsible in some manner for the occurrences and Plaintiff’s and Class members’
21 damages as herein alleged. Defendants are jointly and severally liable for Plaintiff and Class members’
22 damages. Plaintiff will amend this Complaint to show their true names and capacities when they have
23 been ascertained.

24 **FACTUAL ALLEGATIONS**

25 10. Roadie is a company that provides delivery services throughout the United States
26 utilizing a crowdsourced delivery platform. According to its website, it provides “urgent, same-day and
27 local next-day delivery of just about anything, anywhere in the U.S.”

28 11. Plaintiff works for Roadie as a delivery driver in San Jose, California. Plaintiff has

1 worked as a delivery driver for Roadie since June 2022 to the present.

2 12. Roadie incorrectly labels Plaintiff and Class members as “independent contractors.” In
3 fact, Plaintiffs and Class members are employees for purposes of the California Labor Code and the
4 IWC wage orders under California’s Assembly Bill (“AB”) No. 5.

5 13. Under AB 5, Roadie as the hiring entity must establish **all** of the following conditions:
6 (i) Plaintiff and Class members are free from the control and direction of Roadie in connection with the
7 performance of the work, both under the contract for the performance of the work and in fact; (ii)
8 Plaintiff and Class members perform work that is outside the usual course of the hiring entity’s
9 business; and (iii) Plaintiff and Class members are customarily engaged in an independently established
10 trade, occupation, or business of the same nature as that involved in the work performed. Roadie cannot
11 establish all the required AB 5 conditions as detailed herein.

12 14. Plaintiff and Class members are not free from the control and direction of Roadie in
13 connection with the performance of their work. For example, as a condition of performing work for
14 Roadie, Plaintiff and Class members are required to sign “Terms & Conditions.” The Roadie Terms &
15 Conditions establishes Roadie’s maintenance of control over, *inter alia*, the following:

- 16 (a) Control over what devices workers may use to access the Roadie platform;
- 17 (b) Control over communications between workers and Roadie’s customers;
- 18 (c) Control over access to workers’ consumer reports;
- 19 (d) Control over workers ability to hire/engage others;
- 20 (e) Control over contents of delivery;
- 21 (f) Control over workers’ responses to cancelations or no shows;
- 22 (g) Control over timing of payment for workers, in Roadie’s sole discretion;
- 23 (h) Control over locks or deactivations of workers’ accounts, in Roadie’s sole discretion;
- 24 and
- 25 (i) Control over ability to modify the Terms & Conditions, in Roadie’s sole discretion.

26 15. In addition, Roadie, in practice, requires Plaintiff and Class members to work in
27 accordance with Roadie’s standards and specifications, including but not limited to the following:

- 28 (a) Roadie requires workers to complete its orientation and training program;

- (b) Roadie assigns workers their deliveries and reserves the right to control the number and nature of the deliveries assigned;
- (c) Roadie requires workers to utilize its proprietary mobile application to access delivery assignments, delivery deadlines, and other instructions;
- (d) Roadie requires workers to complete all deliveries on the day of the assignment and requires workers to follow all instructions transmitted through the proprietary mobile application;
- (e) Roadie requires their workers to comply with specific directives regarding delivery times, customer service obligations, among other customer specifications, based on covenants negotiated between Roadie and its customers; and
- (f) Roadie withholds the right to unilaterally suspend or terminate workers' accounts without notice, including if workers miss deliveries within Roadie's specified time frame.

16. Plaintiff and Class members do not perform work that is outside the usual course of Roadie's business. To the contrary, Plaintiff and Class Members perform work that is central and integral to Defendant's business, i.e., delivery of goods and items.

17. Plaintiff and Class members are not customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed. To the contrary, Plaintiff and Class members are required to follow and abide by Roadie's work, time, and pay policies and procedures without ability to negotiate their terms. Plaintiff and Class members receive wages from Roadie that are determined by common systems and methods that Roadie exclusively selects and controls.

18. Roadie's delivery business cannot function without the labor force of its workers. By labeling Plaintiff and Class members as "independent contractors," however, Roadie is able to avoid providing the wages and protections afforded to employees under California law.

19. By willfully misclassifying Plaintiff and Class Members as independent contractors, Roadie has and continues to violate Labor Code §226.8.

20. In addition, because Plaintiff and Class members are misclassified as independent

1 contractors, Roadie has no policies or procedures related to meal and rest breaks. Further, Roadie makes
2 no effort whatsoever to make meal and rest breaks available to Plaintiff and Class members, or pay
3 premium wages for missed meal breaks, in violation of Labor Code §§226.7, 512, 1198, and the
4 applicable IWC Wage Order.

5 21. In addition, because Plaintiff and Class members are misclassified as independent
6 contractors (or in addition to this issue), Roadie has no policies or procedures related to providing
7 overtime compensation. Roadie also does not provide at least minimum wages for all time that Plaintiff
8 and Class members are subject to the control of Roadie, including but not limited to, waiting for orders
9 to be ready for pick up, attending trainings, monitoring orders via Roadie's online platform and/or
10 completing administrative tasks. This time spent working in addition to delivering orders goes
11 unrecorded and uncompensated. As a result, Plaintiff and Class Members are denied compensation for
12 all hours worked, including at minimum wages, overtime and/or double time, which they are lawfully
13 owed, in violation of Labor Code §§510, 1182.12, and 1197, and the applicable IWC Wage Order.

14 22. In addition, because Plaintiff and Class members are misclassified as independent
15 contractors (or in addition to this issue), Roadie only reimburses workers for tolls and parking fees
16 incurred while on active delivery. Plaintiff and Class Members are constantly required to use their
17 personal vehicles and personal cell phones in direct consequence of the discharge of their duties.
18 Plaintiff and Class members are required to pay for their own fuel costs, insurance, maintenance, and
19 vehicle repairs. Roadie has failed and fails to reimburse Plaintiff and Class Members for such business
20 expenditures in violation of Labor Code §2802.

21 23. In addition, because Plaintiff and Class members are misclassified as independent
22 contractors (or in addition to this issue), Roadie fails to provide Plaintiff and Class Members accurate
23 itemized wage statements that reflect the total hours worked, the gross and net wages earned, all
24 deductions, and applicable hourly rates, in violation of Labor Code §226.

25 24. Finally, because Plaintiff and Class members are misclassified as independent
26 contractors (or in addition to this issue), Roadie fails to provide Class members who have separated
27 from the company with all wages earned, in violation of Labor Code §§201-203.

28 ///

1 **CLASS ACTION ALLEGATIONS**

2 25. Plaintiff brings this action individually and as a class action pursuant to California Code
3 of Civil Procedure § 382. The Class that Plaintiff seeks to represent is defined as follows:

4 All current and former individuals who personally performed
5 delivery services for Roadie, Inc. (“Roadie”) in the State of
6 California while classified as independent contractors by Roadie, at
any time from four years prior to the filing of the original complaint
in this action until the resolution of this action.

7 26. This action has been brought and may properly be maintained as a class action under
8 Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation
9 and the proposed class is easily ascertainable.

10 27. **Numerosity:** The potential members of the Class are so numerous that joinder of all the
11 members of the class is impracticable. Plaintiff is informed and believes that the number of Class
12 members exceeds 100. This volume makes bringing the claims of each individual member of the Class
13 before this Court impracticable. Likewise, joining each individual member of the Class as a plaintiff in
14 this action is impracticable. Furthermore, the identities of the Class will be determined from
15 Defendant’s records, as will the compensation paid to each of them. As such, a class action is a
16 reasonable and practical means of resolving these claims. To require individual actions would prejudice
17 the Class.

18 28. **Commonality:** There are questions of law and fact common to Plaintiff and the Class
19 that predominate over any questions affecting only individual members of the Class. These common
20 questions of law and fact include, but are not limited to:

- 21 (a) Whether Class members are independent contractors or employees under the
22 applicable law;
23 (b) Whether Defendant maintains a common policy and practice of unlawfully
24 misclassifying Class members as independent contractors who are exempt from the
25 Labor Code and Wage Orders;
26 (c) Whether Defendant, through their policy and practice of unlawfully misclassifying
27 Class members as independent contractors who are exempt from the Labor Code and
28

Wage Order, fails to properly pay Class members all of the wages owed to them in violation of California law;

(d) Whether Defendant fails to authorize, permit, make available, and/or provide Class members with compliant meal periods, or premium wages in lieu thereof, to which they are entitled in violation of the Labor Code;

(e) Whether Defendant fails to authorize, permit, make available, and/or provide Class members with compliant rest periods, or premium wages in lieu thereof, to which they are entitled in violation of the Labor Code;

(f) Whether Defendant fails to properly pay at least minimum wages to Class members for their time and work in violation of the Labor Code and Wage Orders;

(g) Whether Defendant fails to properly pay earned overtime wages to Class members in violation of the Labor Code and Wage Orders;

(h) Whether Defendant fails to reimburse Class members for business related expenses, in violation of the Labor Code and Wage Orders;

(i) Whether Defendant fails to provide Class members with timely, accurate itemized wage statements in violation of the Labor Code;

(j) Whether Defendant fails to provide Class members all wages due upon the end of their employment in violation of the Labor Code; and

(k) Whether Defendant violates Business and Professions Code §§ 17200 et seq., by the misconduct alleged in (b) to (j) above.

29. **Typicality:** Plaintiff's claims are typical of the claims of the Class. Defendant's common course of conduct in violation of law as alleged herein caused Plaintiff and Class members to sustain the same or similar injuries and damages. Plaintiff's claims are thereby representative of and co-extensive with the claims of the Class.

30. **Adequacy of Representation:** Plaintiff seeks relief for state law violations perpetrated by Defendant. In that sense, Plaintiff does not have any conflicts of interest with other Class members and will prosecute the case vigorously on behalf of the Class. Counsel representing Plaintiff is competent and experienced in litigating complex cases and large class actions, including wage and hour

1 cases. Plaintiff will fairly and adequately represent and protect the interests of the Class members.

2 31. **Superiority of Class Action:** A class action is superior to other available means for the
3 fair and efficient adjudication of this controversy. Individual joinder of all proposed Class members is
4 not practicable, and questions of law and fact common to the Class predominate over any questions
5 affecting only individual members of the Class. Each proposed Class member has been damaged and
6 is entitled to recovery by reason of Defendant's illegal policies and/or practices. Class action treatment
7 will allow those Class members to litigate their claims in the manner that is most efficient and
8 economical for the parties and the judicial system.

9 32. In the alternative, the Class may be certified because the prosecution of separate actions
10 by the individual members of the Class would create a risk of inconsistent or varying adjudication with
11 respect to individual members of the Class which would establish incompatible standards of conduct
12 for Defendant.

13 33. If each individual Class member was required to file an individual lawsuit, Defendant
14 would necessarily gain an unconscionable advantage because Defendant would be able to exploit and
15 overwhelm the limited resources of each member of the Class with Defendant's vastly superior
16 financial and legal resources.

17 34. Requiring each individual Class member to pursue an individual remedy would also
18 discourage the assertion of lawful claims by the Class members who would be disinclined to pursue
19 these claims against Defendant because of an appreciable and justifiable fear of retaliation and
20 permanent damage to their lives, careers and well-being.

21 **FIRST CAUSE OF ACTION**
22 **Willful Misclassification of Employees as Independent Contractors**
23 **Against all Defendants on Behalf of the Class**

24 35. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth
25 herein.

26 36. Labor Code § 226.8 prohibits Defendant from misclassifying employees as independent
27 contractors.

28 37. IWC Wage Order 9, Section (2)(F) provides: "'Employee' means any person employed
by an employer."

1 38. At all relevant times, Plaintiff and Class members have been and are “employees” of
2 Defendant within the meaning of California law.

3 39. The IWC Wage Order 9, Section (2)(G) provides: “‘Employer’ means any person as
4 defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other
5 person, employs or exercises control over the wages, hours, or working conditions of any person.”

6 40. At all relevant times, Roadie has been and continues to be an “employer” within the
7 meaning of the Labor Code and applicable Wage Order.

8 41. Under AB 5, Defendant as the hiring entity must establish all of the following conditions:
9 (i) Plaintiff and Class members are free from the control and direction of Defendant in connection with
10 the performance of the work, both under the contract for the performance of the work and in fact; (ii)
11 Plaintiff and Class members perform work that is outside the usual course of the hiring entity’s
12 business; and (iii) Plaintiff and Class members are customarily engaged in an independently established
13 trade, occupation, or business of the same nature as that involved in the work performed.

14 42. Defendant cannot establish all of the above conditions. Plaintiff and Class members are
15 not free from the control and direction of Defendant in connection with the performance of the work,
16 both under the contract for the performance of the work and in fact. Plaintiff and Class members do not
17 perform work that is outside the usual course of the hiring entity’s business. Plaintiff and Class
18 members are not customarily engaged in an independently established trade, occupation, or business of
19 the same nature as that involved in the work performed.

20 43. Defendant engaged in a pattern and practice of misclassifying employees as independent
21 contractors for its own financial benefit.

22 44. Defendant intentionally and willfully mischaracterized Plaintiff and Class members as
23 independent contractors rather than employees, in violation of Labor Code § 226.8.

24 45. As a direct and proximate result of the unlawful acts and/or omissions of Defendant,
25 Plaintiff and Class members are entitled to recover damages in an amount to be determined at trial and
26 civil penalties, plus interest thereon, and attorneys’ fees and costs pursuant to Labor Code § 226.8.

27 46. Wherefore, Plaintiff and the Class request relief as hereinafter provided.
28

SECOND CAUSE OF ACTION
Failure to Authorize and Permit, Provide and/or Make Available Meal and Rest Periods
Against all Defendants on Behalf of the Class

47. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

48. Labor Code §§226.7 and 512 and the applicable Wage Order requires Defendant to authorize and permit meal and rest periods to its employees. Labor Code §§ 226.7 and 512 and the Wage Order prohibit employers from employing an employee for more than five hours without a meal period of not less than thirty minutes, and from employing an employee more than ten hours per day without providing the employee with a second meal period of not less than thirty minutes.

49. Labor Code §226.7 and the applicable Wage Order also require employers to authorize and permit employees to take ten minutes of net rest time per four hours or major fraction thereof of work, and to pay employees their full wages during those rest periods.

50. Unless the employee is relieved of all duty during the thirty-minute meal period and ten-minute rest period, the employee is considered “on duty” and the meal or rest period is counted as time worked under the applicable Wage Order.

51. Under § 226.7(b) and the applicable Wage Order, an employer who fails to authorize, permit, and/or make available a required meal period must, as compensation, pay the employee one hour of pay at the employee’s regular rate of compensation for each workday that the meal period was not authorized and permitted. Similarly, an employer must pay an employee denied a required rest period one hour of pay at the employee’s regular rate of compensation for each workday that the rest period was not authorized and permitted and/or not made available.

52. Labor Code §1198 prohibit employers from employing workers under conditions of labor prohibited by the IWC order.

53. Despite these requirements, Defendant has knowingly and willfully refused to perform its obligations to authorize and permit and/or make available to Plaintiff and the Class the ability to take meal and rest periods to which they are entitled. Because Defendant misclassifies Plaintiff and Class members as independent contractors, Defendant has no policies providing Plaintiff and Class members meal and rest breaks, and Defendant does not make meal and rest breaks available to Plaintiff and Class members.

54. Defendant also does not pay Plaintiff and Class members one hour of premium wages for missed meal and rest breaks.

55. Defendant's conduct described herein violates Labor Code §§ 226.7, 512, and 1198. Therefore, pursuant to Labor Code § 226.7(c), Plaintiff and the Class are entitled to compensation for the failure to authorize and permit and/or make available meal and rest periods, plus interest, attorneys' fees, expenses and costs of suit.

56. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial.

57. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

THIRD CAUSE OF ACTION
Failure to Pay Overtime Wages
Against all Defendants on Behalf of the Class

58. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

59. Labor Code § 510(a), and IWC Wage Order 4, Section (3)(A)(1) requires Defendant to pay overtime wages to its employees.

60. Because Defendant misclassifies Plaintiff and Class members as independent contractors, Defendant has no policies providing Plaintiff and Class members overtime wages, and Defendant does not pay overtime wages to Plaintiff and Class members.

61. Defendant often requires Plaintiff and Class members to work in excess of eight hours per day. Defendants do not compensate Plaintiff and proposed Class members at an overtime rate for hours in excess of eight hours each day or in excess of forty in each week, nor does Defendant compensate Plaintiff and Class members at a double time rate for hours in excess of twelve each day or in excess of eight on the seventh consecutive day.

62. Plaintiff and Class members have worked overtime hours for Defendant without being paid overtime premiums in violation of Labor Code §510(a), IWC Wage Order 4, Section (3)(A)(1).

63. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial.

64. Therefore, pursuant to Labor Code §§1194 and 1197.1(a), Plaintiff and the Class are

entitled to compensation, penalties, interest, attorneys' fees, expenses and costs of suit. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

FOURTH CAUSE OF ACTION
Failure to Pay Minimum Wages
Against all Defendants on Behalf of the Class

65. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

66. Labor Code §§1182.12 and 1197, and IWC Wage Order 4, Section 4, requires Defendant to pay at least minimum wages to its employees.

67. Defendant does not provide at least minimum wages for all time that Plaintiff and Class members are subject to the control of Defendant, including but not limited to waiting for orders to be ready for pick up, attending trainings, monitoring orders via Defendant's online platform and/or completing administrative tasks. This time spent working in addition to delivering orders goes unrecorded and uncompensated.

68. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial.

69. Therefore, pursuant to Labor Code §§1194. 1194.2, and 1197.1(a), Plaintiff and the Class are entitled to compensation, penalties, interest, attorneys' fees, expenses and costs of suit. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

FIFTH CAUSE OF ACTION
Failure to Reimburse for Necessary Business Expenses
Against all Defendants on Behalf of the Class

70. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

71. Labor Code §2802 requires Defendant to "indemnify his or her employee 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."

72. Plaintiff and Class Members are constantly required to use their personal vehicles and personal cell phones in the direct consequence of the discharge of their duties. Plaintiff and Class members are required to pay for their own fuel costs, insurance, maintenance, and vehicle repairs.

73. Defendant fails to reimburse Plaintiff and Class Members for such business expenditures in violation of Labor Code §2802.

74. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

SIXTH CAUSE OF ACTION
Failure to Provide Accurate Itemized Wage Statements
Against all Defendants on Behalf of the Class

75. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

76. Labor Code §226(a) requires Defendant to provide accurate itemized wage statements.

77. Defendant fails to provide Plaintiff and Class Members accurate itemized wage statements that reflect the total hours worked, the gross and net wages earned, all deductions, and applicable hourly rates, in violation of Labor Code §226.

78. As a proximate result of the aforementioned violations, Plaintiff and the Class have been damaged in an amount according to proof at time of trial. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

SEVENTH CAUSE OF ACTION
Waiting Time Penalties
Against all Defendants on Behalf of the Class

79. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

80. Labor Code §§201 and 202 requires Defendant to promptly pay all earned wages to employees who are separated from the company.

81. Defendant failed to pay Class members all the wages that were due and owing them, in the form of, inter alia, overtime and double time pay and meal and rest period premium pay, upon the end of their employment.

82. As a result, Defendant is liable for all penalties plus interest owing pursuant to Labor Code §203.

83. Wherefore, Plaintiff and the Class request relief as hereinafter provided.

EIGHTH CAUSE OF ACTION
Violation of Business and Professions Code §§ 17200, *et seq.*
Against all Defendants on Behalf of the Class

84. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

85. Business and Professions Code §§17200 et seq. prohibits unfair competition in the form of any unlawful, unfair or fraudulent business acts or practices.

86. Business and Professions Code § 17204 allows a person injured by the unfair business acts or practices to prosecute a civil action for violation of the UCL.

87. Labor Code § 90.5(a) states it is the public policy of California to vigorously enforce minimum labor standards in order to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

88. Beginning at an exact date unknown to Plaintiff, but at least since the date four years prior to the filing of this suit, Defendant has committed acts of unfair competition as defined by the Unfair Business Practices Act, by engaging in the unlawful, unfair and fraudulent business acts and practices described in this Complaint, including, but not limited to:

- (a) violations of Labor Code §226.8 pertaining to willful misclassification of its employees as independent contractors;
- (b) violations of Labor Code §§226.7, 512, and 1198 pertaining to meal and rest breaks;
- (c) violations of Labor Code §510 pertaining to overtime;
- (d) violations of Labor Code §§1182.12, and 1197 pertaining to minimum wage;
- (e) violations of Labor Code §2802 pertaining to business reimbursements;
- (f) violations of Labor Code §226(a) pertaining to accurate itemized wage statements;
- and
- (g) violations of Labor Code §§201 and 202 pertaining to timely payment of earned wages to separated employees.

89. The violations of these laws and regulations, as well as of the fundamental California public policies protecting wages and discouraging overtime labor underlying them, serve as unlawful

1 predicate acts and practices for purposes of Business and Professions Code §§17200 et seq.

2 90. The acts and practices described above constitute unfair, unlawful and fraudulent
3 business practices, and unfair competition, within the meaning of Business and Professions Code
4 §§17200, et seq. Among other things, the acts and practices have taken from Plaintiff and the Class
5 wages rightfully earned by them, while enabling Defendant to gain an unfair competitive advantage
6 over law-abiding employers and competitors.

7 91. Business and Professions Code § 17203 provides that a court may make such orders or
8 judgments as may be necessary to prevent the use or employment by any person of any practice which
9 constitutes unfair competition. Injunctive relief is necessary and appropriate to prevent Defendant from
10 repeating its unlawful, unfair and fraudulent business acts and practices alleged above.

11 92. As a direct and proximate result of the aforementioned acts and practices, Plaintiff and
12 Class members have suffered a loss of money and property, in the form of unpaid wages which are due
13 and payable to them.

14 93. Business and Professions Code §17203 provides that the Court may restore to any person
15 in interest any money or property which may have been acquired by means of such unfair competition.
16 Plaintiff and the Class are entitled to restitution pursuant to Business and Professions Code §17203 for
17 all wages and payments unlawfully withheld from employees during the four-year period prior to the
18 filing of this Complaint. Plaintiff's success in this action will enforce important rights affecting the
19 public interest and in that regard Plaintiff sues on behalf of himself as well as others similarly situated.
20 Plaintiff and Class members seek and are entitled to unpaid wages, declaratory and injunctive relief,
21 and all other equitable remedies owing to them.

22 94. Plaintiff herein takes upon himself enforcement of these laws and lawful claims. There
23 is a financial burden involved in pursuing this action, the action is seeking to vindicate a public right,
24 and it would be against the interests of justice to penalize Plaintiff by forcing them to pay attorneys'
25 fees from the recovery in this action. Attorneys' fees are appropriate pursuant to Code of Civil
26 Procedure §1021.5 and otherwise.

27 95. Wherefore, Plaintiffs and the Class request relief as hereinafter provided.

28 ///

NINTH CAUSE OF ACTION
Penalties Pursuant to § 2699(a) and 2699(f) of the PAGA
(Representative Claim on Behalf of the State of California)

96. Plaintiff re-alleges and incorporates the foregoing paragraphs as though fully set forth herein.

97. Under the PAGA, an Aggrieved Employee¹ may bring a representative action as a private attorney general to recover civil penalties for an employer's violations of the California Labor Code and IWC Wage Orders. These civil penalties are in addition to any other relief available under the California Labor Code, and must be allocated 75% to California's Labor and Workforce Development Agency ("LWDA") and 25% to Aggrieved Employees.

98. Labor Code § 2699(a) provides:

Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions commissions, boards, agencies or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees.

99. Plaintiff brings this PAGA action on behalf of the State of California and other Aggrieved Employees of Roadie.

100. As described above, Roadie willfully misclassified Plaintiff and other Aggrieved Employees in violation of California Labor Code § 226.8. The misclassification of these workers gives rise to various violations of the California Labor Code (and applicable wage order(s)), including: § 204 (failure to pay earned wages when due); §§ 1182.12, 1197, 1197.1 & 1198 (failure to pay minimum wage), § 510 (failure to pay overtime wages); §§ 226.7 & 512, (failure to provide compliant meal/rest periods, or premium wages in lieu thereof); §§ 226 & 226.3 (failure to provide timely and accurate itemized wage statements); § 2802 (failure to reimburse business expenditures); §§ 201-203 (waiting time penalties).

101. Each of these violations entitles Plaintiff to recover the applicable civil penalties as a private attorney general, to be distributed to the State of California and Aggrieved Employees under the PAGA, pursuant to California Labor Code § 2699(i).

¹ An "Aggrieved Employee" is "any person who was employed by the alleged violator and against whom one or more of the alleged violations was committed." Labor Code § 2699(c).

102. Plaintiff is entitled to civil penalties, to be paid by Defendant and allocated as PAGA requires, pursuant to California Labor Code § 2699(a) for Defendant's violations of the California Labor Code and IWC Wage Orders for which violations a civil penalty is already specifically provided by law. Furthermore, Plaintiff is entitled to civil penalties, to be paid by Defendant and allocated as PAGA requires, pursuant to California Labor Code § 2699(f) for Defendant's violations of the California Labor Code and IWC Wage Orders for which violations a civil penalty is not already specifically provided.

103. Labor Code § 2699(f) provides:

For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: . . . (2) If, at the time of the alleged violation, the person employs one or more employees, the civil penalty is one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

104. Pursuant to Labor Code § 2699.3(a)(1) and (2), Plaintiff provided the LWDA with notice of his intention to file this claim on December 7, 2022. See LWDA Case No. LWDA-CM-881242-22, at: <https://cadir.secure.force.com/PagaSearch/PAGACaseDetails?id=a1Bt0000002aaj9EAA>. At least sixty-five calendar days have passed without notice from the LWDA. Plaintiff satisfied the administrative prerequisites to commence this civil action in compliance with § 2699.3(a).

105. Plaintiff seeks the aforementioned penalties, with interest thereon, and an award of attorneys' fees and costs under the PAGA. *See* Labor Code § 2699(g)(1). Wherefore, Plaintiff requests relief as hereinafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment, in plaintiff's favor and in favor of the Class and against defendants, as follows:

A. For an order certifying this action as a class action, appointing Plaintiff as Class representative and Plaintiff's counsel as Class counsel;

B. For a declaratory judgment that Defendants have violated the California Labor Code and public policy as alleged herein;

C. For a declaratory judgment that Defendants have violated California Business and

1 Professions Code §§17200 et seq., as a result of the aforementioned violations of the California Labor
2 Code and of California public policy protecting wages;

3 D. For preliminary, permanent, and mandatory injunctive relief prohibiting Defendant, its
4 officers, agents, and all those acting in concert with them from committing in the future those violations
5 of law herein alleged;

6 E. For an equitable accounting to identify, locate, and restore to all current and former
7 employees the wages they are due, with interest thereon;

8 F. For an order awarding Plaintiff and the proposed Class members compensatory damages,
9 including lost wages, liquidated damages, earnings, and other employee benefits, restitution, and all
10 other sums of money owed to Plaintiff and Class members, together with interest on these amounts,
11 according to proof;

12 G. For an order awarding Plaintiff and the proposed Class members statutory penalties
13 pursuant to the California Labor Code provisions cited herein, with interest thereon.

14 H. For an order awarding civil penalties to the full extent provided for by the PAGA, with
15 interest thereon;

16 I. For an award of reasonable attorneys' fees as provided by the California Labor Code;
17 California Code of Civil Procedure § 1021.5; and/or other applicable law;

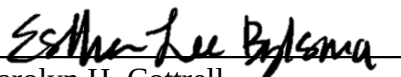
18 J. For all costs of suit;

19 K. For interest on any damages and/or penalties awarded, as provided by applicable law;
20 and

21 L. For such other and further relief as this Court deems just and proper.

22 Dated: February 13, 2023

Respectfully submitted,

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24 

Carolyn H. Cottrell

Esther L. Bylsma

Sandra Acosta Tello

26 SCHNEIDER WALLACE

27 COTTRELL KONECKY LLP

Attorneys for Plaintiff and the Putative Class

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JURY DEMAND

Plaintiff hereby demands a jury trial on all claims and issues for which Plaintiff is entitled to a jury.

Dated: February 13, 2023

Respectfully submitted,


Carolyn H. Cottrell
Esther L. Bylsma
Sandra Acosta Tello
SCHNEIDER WALLACE
COTTRELL KONECKY LLP
Attorneys for Plaintiff and the Putative Class