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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ALAMEDA

CHRISTIAN SANCHEZ, ATU AKINLABI
WATSON, and TYRON WESLEY
MCCARTHER, individuals, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

SPOKE LOGISTICS, LLC, a Wyoming
Limited Liability Company, and Does 1-25,
Inclusive,

Defendants.

CASE NO. 23-CV-035138

**FIRST AMENDED CLASS ACTION AND
REPRESENTATIVE ACTION COMPLAINT
FOR:**

- 1. FAILURE TO PAY MINIMUM AND
REGULAR WAGES;**
- 2. FAILURE TO PAY OVERTIME WAGES;**
- 3. FAILURE TO PROVIDE SICK PAY;**
- 4. FAILURE TO PROVIDE MEAL PERIODS;**
- 5. FAILURE TO PROVIDE REST PERIODS;**
- 6. FAILURE TO FURNISH TIMELY AND
ACCURATE WAGE STATEMENTS;**
- 7. FAILURE TO REIMBURSE BUSINESS
EXPENSES;**
- 8. FAILURE TO PAY ALL WAGES DUE
DURING EMPLOYMENT;**
- 9. FAILURE TO PAY ALL WAGES DUE AT
SEPARATION FROM EMPLOYMENT;**
- 10. UNLAWFUL DEDUCTIONS**
- 11. VIOLATION OF CALIFORNIA'S UNFAIR
COMPETITION LAW ("UCL"), Bus. & Prof.
Code §§ 17200, *et seq.***
- 12. PENALTIES PURSUANT TO LABOR CODE
§ 2699(f) FOR VIOLATIONS OF LABOR**

FILED

Superior Court of California
County of Alameda

03/17/2026

Clad Fluke, Executive Officer / Clerk of the Court

By: C. Huang Deputy
C. Huang

CODE §§ 201-203, 204, 226(a), 226.7, 233, 234,
246, 246.5, *et seq.*, 510, 512, 1174, 1198, 2802,
AND LABOR CODE § 2699(a)

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1 Plaintiffs CHRISTIAN SANCHEZ, ATU AKINLABI WATSON, and TYRON WESLEY
2 MCCARTHER (“Plaintiffs”), by and through their attorneys of record, bring this Class and PAGA
3 Representative Action Complaint, on behalf of themselves and all other similarly-situated and aggrieved
4 employees of Defendant SPOKE LOGISTICS, LLC (“SPOKE” or “Defendant”). Plaintiffs hereby
5 allege, on information and belief, except for information based on personal knowledge, which
6 allegations are likely to have evidentiary support after further investigation and discovery, as follows:

7 **NATURE OF THE ACTION**

8 1. Plaintiff brings this action on behalf of themselves and a proposed Class of all Full-Time
9 Dedicated Drivers who are hired as independent contractors, or formerly were hired as independent
10 contractors, by SPOKE LOGISTICS, LLC, a Wyoming Limited Liability Company, and DOES 1
11 through 25, Inclusive (“Defendants”) (“Class Members”) from September 18, 2021 through December
12 17, 2025 (“Class Period”) for unlawful employment policies and/or practices that denied, and continue
13 to deny, proposed Class Members the wages and benefits to which they are lawfully entitled.

14 2. This proposed class action is filed on behalf of Plaintiffs and other Class Members who,
15 during the Class Period, were: (1) misclassified as independent contractors, and as a result (2), were not
16 paid wages for all hours worked by Defendants, including minimum, regular, and overtime wages
17 (Labor Code §§ 510 and 1198); (2) were not provided timely and off-duty meal periods and rest periods
18 (Labor Code §§ 226.7 and 512); (3) were not provided sick pay (Labor Code §§ 233, 234, 246, 246.5, *et*
19 *seq.*; (4) were not furnished timely and accurate wage statements (Labor Code §226 and 1174); (5) were
20 not paid all wages due upon termination of employment (Labor Code §§ 201-203); (6) were not paid all
21 wages—specifically, overtime wages to Class Members within the required time period (Labor Code §
22 204); (7) were not reimbursed for necessary expenditures and losses incurred, including internet charges
23 (Labor Code § 2802); and were subject to unlawful wage deductions.

24 3. This case is also brought as a “Representative Action” arising from Defendants’
25 violations of the Private Attorney General Act of 2004 (“PAGA”), California Labor Code sections 2698,
26 *et seq.*, and is filed on behalf of Plaintiffs and all Full-Time Dedicated Drivers who are hired as
27 independent contractors, or formerly were hired as independent contractors by, Defendants within the
28 State of California (“aggrieved employees”) during the relevant time period, defined as one (1) year

1 from the date of service of Notice on the California Labor and Workforce Development Agency
2 (“LWDA”) and on the agent for service of process of SPOKE LOGISTICS, LLC, as provided by Labor
3 Code section 2699.3(a), until commencement of trial in this matter (“PAGA Period”).

4 4. Plaintiffs bring this case as a “Representative Action” seeking penalties for the State of
5 California in a representative capacity, as provided by PAGA to the extent permitted by law, as
6 aggrieved employees who allege that Defendants violated Labor Code sections 201, 202, 203, 204, 226,
7 226.7, 233, 234, 246, 246.5, *et seq.*, 510, 512, 1174, 1198, and 2802 to which PAGA applies under
8 Labor Code section 2699.5, and seek compensation for penalties when allowed, and other relief, and
9 reasonable attorneys’ fees and costs.

10 5. On **March 30, 2023**, Plaintiff Sanchez sent notice via online filing to the California
11 LWDA and a certified letter to Defendants’ agent for service of process in California, and also to the
12 Legal Department of Defendants’ chief executive office in Rancho Santa Margarita, California. A true
13 and correct copy of Sanchez’s notice is attached hereto as **Exhibit “A”** and is incorporated herein by
14 this reference. On **August 8, 2023**, Plaintiff Watson sent notice via online filing to the California
15 LWDA and a certified letter to Defendants. On **October 2, 2024**, Plaintiffs Watson and McCarther sent
16 amended notice via online filing to the California LWDA and a certified letter to Defendants. A true and
17 correct copy of Watson and McCarther’s amended notice is attached hereto as **Exhibit “B”** and is
18 incorporated herein by this reference. The notices have been sent pursuant to Labor Code section
19 2699.3(a) of PAGA, which provides, in Subsection (2)(A): “The agency shall notify the employer and
20 the aggrieved employee or representative by certified mail that it does not intend to investigate the
21 alleged violation within 60 calendar days of the postmark date of the notice received pursuant to
22 paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the
23 postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a
24 civil action pursuant to Section 2699.” By serving these notices before one year from any date of
25 separation from the employer, each Plaintiff’s claim under PAGA is timely and within the applicable
26 statute of limitations.

27 6. As of the date of this complaint, the LWDA has not responded to any of Plaintiffs’
28 notices. Accordingly, Plaintiffs file this action as a “Representative Action” as provided by California

Code of Civil Procedure and as specifically permitted and authorized by Labor Code section 2699.3(a)(2)(A).

7. Plaintiffs, on behalf of themselves and other Class Member, bring this action pursuant to California Code of Civil Procedure section 1021.5; California Labor Code sections 201, 202, 203, 218, 218.5, 218.6, 226, 226.7, 246, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, and 2802; the applicable Industrial Welfare Commission (“IWC”) Wage Order(s); Business and Professions Code sections 17200, *et seq.*, 17203, and 17204, and PAGA (Labor Code §§ 2698, *et seq.*) seeking unpaid wages, liquidated damages, penalties, equitable relief, prejudgment interest, reasonable attorneys’ fees and costs, and any other relief this Court deems proper

JURISDICTION AND VENUE

8. Venue is proper in this judicial district, because upon information and belief, Plaintiffs have worked for Defendants within this judicial district. Further, Defendants conduct substantial business and commits Labor Code violations in Alameda County, California, and each Defendant is within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged have a direct effect on Plaintiffs and other Class Members and aggrieved employees within the State of California and Alameda County. Defendants employ numerous independent contractors in Alameda County and surrounding counties.

9. Business and Professions Code section 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. Business and Professions Code section 17204 provides that any person, acting on his own behalf, may bring an action in a court of competent jurisdiction.

10. No federal question is raised and the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), does not apply, or in the alternative, local case or controversy exceptions apply and prohibit removal of this action. Based on their rate of pay, Plaintiffs’ individual claims do not meet the amount in controversy to implicate traditional diversity jurisdiction.

PARTIES

11. Plaintiff CHRISTIAN SANCHEZ is currently a resident of Hayward, California. Plaintiff has worked for Defendants as an independent contractor Full-Time Dedicated Driver, and worked for

Defendants in the Bay Area, California, from approximately July 2022 to the present.

12. Plaintiff ATU AKINLABI WATSON is a California resident. Plaintiff worked for Defendants as an independent contractor Full-Time Dedicated Driver from approximately November 2021 to October 2022.

13. Plaintiff TYRON WESLEY MCCARTHER is a California resident. Plaintiff worked for Defendants as an independent contractor Full-Time Dedicated Driver from approximately November 20, 2023 to August 9, 2024.

14. Plaintiffs are informed and believe, and on that basis allege, that SPOKE LOGISTICS, LLC is a Wyoming Limited Liability Company, which provides logistics consulting throughout all 50 states. See <https://spokelogistics.com/coverage/>.

15. Plaintiffs are informed and believe, and on that basis allege, that SPOKE LOGISTICS, LLC is, and at all relevant times alleged herein was, a Wyoming company authorized to and conducts business in California, including but not limited to Alameda County.

FACTS

16. During the relevant time periods asserted hereto, Plaintiffs, Class Members, and other aggrieved employees have been misclassified as independent contractors of Defendants within the meaning of the California Labor Code in the State of California. Plaintiffs suffered damages and legally cognizable harm due to Defendants' policies and practices and have standing to bring this case individually and as representatives for other similarly-impacted independent contractors.

17. From July 2022 to approximately April 2023, Plaintiff Sanchez worked for Defendants as a Full-Time Dedicated Driver. Plaintiff Sanchez is classified as an independent contractor.

18. From November 2021 to October 2022, Plaintiff Watson worked for Defendants as a Full-Time Dedicated Driver. Plaintiff Watson was classified as an independent contractor.

19. From November 2023 to August 2024, Plaintiff McCarther worked for Defendants as a Full-Time Dedicated Driver. Plaintiff McCarther was classified as an independent contractor.

20. Defendants provide logistics services to companies throughout the State of California and in all fifty states.

21. At all times during the relevant time periods, Defendants classified Plaintiffs and those

1 similarly situated as “independent contractors,” even though the work performed and conditions of
2 employment were that of an “employee.” Defendants are unable to provide their services without
3 delivery drivers like Plaintiffs.

4 22. Plaintiffs’ job duties required Plaintiffs to drive in a specific area for a specific company
5 who contracts with Defendants and was assigned to Plaintiffs. Plaintiffs were contracted to work five
6 days per week driving a total of 600 miles per week, for a total of 42.5 hours per week. On the sixth day,
7 Plaintiffs work an additional 8.5 hours and drives an additional 100 miles. Plaintiffs were contracted to
8 be paid \$340 per day, plus overtime for the hours worked outside of those hours. Plaintiffs have not been
9 paid any overtime compensation for such additional work.

10 23. Defendants direct and control the way the drivers perform their work, including
11 controlling their schedules, where they deliver product, and how they work.

12 24. Defendants contract with other companies, and Plaintiffs are required to follow the
13 schedule set by those companies. Plaintiffs are provided with an iPad which has their set route, which
14 tracks their route and time. Once Plaintiffs complete all of the pre-scheduled stops, more stops are
15 added, which puts undue pressure on Plaintiffs to continually work without allowing any time for them
16 to rest or take a meal break.

17 25. Plaintiffs were not allowed to deliver for other companies while actively delivering for
18 Defendants, or else they could be fined.

19 26. During the relevant time periods, Defendants failed to pay Plaintiffs, Class Members, and
20 other aggrieved employees for all hours worked. Plaintiffs are not paid any compensation outside of
21 \$340 per day, regardless of how many stops are put on their schedule. They must complete their route
22 before they can stop working for the day.

23 27. Defendants failed to keep track of Plaintiffs’, Class Members’, and other aggrieved
24 employees’ actual hours worked. Defendants rounded time entries and therefore the Drivers’ pay was
25 inaccurate.

26 28. Defendants failed to pay Plaintiffs, Class Members, and other aggrieved employees for
27 their actual travel time and expense. Defendants would “fix” the mileage and not allow Plaintiffs to
28 know true payment amounts. Plaintiffs often drove over 500 miles and was given partial payment or no

1 payment at all.

2 29. While misclassified as independent contractors, Plaintiffs were frequently not provided or
3 allowed to take a thirty (30) minute, uninterrupted, off-duty meal break. Moreover, Plaintiffs, Class
4 Members, and other aggrieved employees often worked in excess of ten (10) hours without a second
5 thirty (30) minute meal break.

6 30. Additionally, for the same reasons as above, Defendants intentionally and improperly
7 denied and failed to permit and authorize duty-free rest periods during the applicable time periods.

8 31. While misclassified as independent contractors, Plaintiffs were not provided sick pay in
9 the amounts mandated by California law. Due to Defendants' misclassification of Plaintiffs, Class
10 Members, and other aggrieved employees as independent contractors, sick pay or paid time off was not
11 provided. If Plaintiffs needed to take a sick day, it went unpaid.

12 32. Further, during the relevant time periods, Defendants failed to reimburse Plaintiffs, Class
13 Members, and other aggrieved employees for the business expenses they incurred. These business
14 expenses include, but are not limited to, cargo insurance, commercial insurance, fuel, maintenance,
15 DMV fees, personal cell phone use and other payments.

16 33. Defendants made numerous unlawful deductions from Plaintiffs', Class Members', and
17 other aggrieved employees' wages including deductions entitled "INSEL," "OF FEE," "Insurance
18 Processing Fee," "Wesco OccAcc," and "CMS Setup Fee."

19 34. By virtue of misclassifying Class Members and aggrieved employees as independent
20 contractors, Defendants knowingly and intentionally omitted required information from the wage
21 statements of Plaintiffs, Class Members, and other aggrieved employees. For instance, the wage
22 statements issued to Plaintiffs, Class Members, and other aggrieved employees failed to itemize the
23 number of minimum, regular, and overtime hours worked during the pay period, the meal and rest break
24 premiums, sick pay accrued, and the rate of pay owed to Plaintiffs, Class Members, and other aggrieved
25 employees, among other required information. As a result, Plaintiffs, Class Members, and other
26 aggrieved employees' wage statements were inaccurate, in violation of Labor Code section 226(a).

27 35. Further, as a result of Defendants' failure to pay Plaintiffs, Class Members, and other
28 aggrieved employees for all hours worked including overtime, Defendants failed to pay Plaintiffs, Class

1 Members, and other aggrieved employees' wages within the time periods prescribed by Labor Code
2 section 204.

3 36. As a result of Defendants' failure to pay Plaintiffs, Class Members, and aggrieved
4 employees for all hours worked, including overtime, Defendants failed to pay all wages due upon
5 separation of employment in violation of Labor Code sections 201-203, and the former Class Members
6 and aggrieved employees of Defendants are entitled to waiting time penalties.

7 37. In addition, Plaintiffs, Class Members, and other aggrieved employees have incurred
8 necessary expenditures and losses in direct consequence of the discharge of their employment duties and
9 their obedience to the directions of Defendants. Expenses include, but are not limited to, cargo
10 insurance, commercial insurance, fuel, maintenance, DMV fees, and personal cell phone use.
11 Defendants failed to reimburse Plaintiff, Class Members, and other aggrieved employees for those
12 expenses, in violation of Labor Code section 2802.

13 38. Upon information and belief, the above-mentioned unlawful employment practices by
14 Defendants were applied the same to all Full-Time Dedicated Drivers of Defendants in the State of
15 California.

16 39. Defendants' policies and/or practices and/or other unlawful conduct resulted in
17 Defendants' failure to: (1) timely pay Plaintiffs all minimum, regular and overtime wages for all hours
18 worked, in violation of Labor Code sections 201-203, 510, 1198; (2) provide Plaintiffs, Class Members,
19 and other aggrieved employees with timely and duty-free meal and rest periods in violation of Labor
20 Code sections 226.7 and 512; (3) were not provided sick pay (Labor Code §§ 233, 234, 246, 246.5, *et*
21 *seq.*; (4) provide Plaintiffs, Class Members, and other aggrieved employees with correctly itemized
22 wage statements in violation of Labor Code sections 226(a) and 1174; (5) timely provide Plaintiffs,
23 Class Members, and other aggrieved employees with all wages owed, in violation of Labor Code section
24 204; (6) pay all wages—specifically, overtime wages to employees within the required time period as
25 specified in Labor Code section 204; (7) reimburse Plaintiffs, Class Members, and other aggrieved
26 employees for necessary expenditures and losses occurred in violation of California Labor Code section
27 2802; and unlawful wage deductions. As a result, Defendants violated California Labor Code sections
28 201, 202, 203, 204, 226(a), 226.7, 233, 234, 246, 246.5, *et seq.*, 510, 512, 1174, 1198, and 2802, to

which penalties under PAGA apply pursuant to California Labor Code section 2699.5.

CLASS DEFINITIONS AND CLASS ALLEGATIONS

40. Plaintiffs bring this action on behalf of themselves and on behalf of all others similarly situated, and as members of the Class they seek to represent. The Class is defined as:

All current and former Drivers who performed work for Defendants in California during the time period September 18, 2021 through December 17, 2025 ("Class Period").

41. Plaintiffs further seek to represent the following subclasses:

Minimum Wages Subclass

All members of the Class who, during the Class Period, worked at least one shift less than eight hours in a workday and/or worked less than 40 hours during the workweek.

Overtime Wages Subclass

All members of the Class who, during the Class Period, worked at least one shift longer than eight hours in a workday and/or worked more than 40 hours during the workweek.

Sick Pay Subclass

All members of the Class who, during the Class Period, who were eligible to accrue or be paid sick pay wages.

Meal Period Subclass

All members of the Class who, during the Class Period, worked at least one shift longer than five hours in a workday, or one shift longer than ten hours in a workday.

Rest Period Subclass

All members of the Class who, during the Class Period, worked at least one shift longer than three and a half hours in a workday.

Wage Statement Subclass

All members of the Class who received one or more itemized wage statements during the one year preceding the filing of this Complaint.

Expense Reimbursement Subclass

All members of the Class who, during the Class Period, incurred business expenses.

Wage Deduction Subclass

All members of the Class who, during the Class Period, were subject to unlawful wage deductions.

Waiting Time Penalties Subclass

All members of the Class whose employment ended any time during the three years preceding the filing of this Complaint.

UCL Subclass

All members of the Class and Subclass who, during the Class Period, who were subject to Defendants' unlawful or unfair business acts or practices.

1 42. Plaintiffs reserve the right to amend or otherwise alter the class definition, or to propose
2 or eliminate subclasses, in response to facts learned through discovery, legal arguments advanced by
3 Defendants or otherwise.

4 43. This action has been brought and may be properly maintained as a class action pursuant
5 to the provisions of Code of Civil Procedure section 382 and other applicable law.

6 44. **Numerosity of the Class:** Pursuant to Code of Civil Procedure section 382, members of
7 the Class are so numerous that their individual joinder is impracticable. Plaintiffs estimate, on
8 information and belief, that there are several hundred current and former Drivers of Defendants in
9 California during the Class Period. The precise number of Class Members and their addresses are
10 known to Plaintiffs or will be known to Plaintiffs through discovery. Class Members may be notified of
11 the pendency of this action by mail, electronic mail, the Internet, or published notice.

12 45. **Existence of Predominance of Common Questions of Law and Fact:** Pursuant to
13 Code of Civil Procedure section 382, common questions of law and fact and common answers exist as
14 to all members of the Class. These questions predominate over any questions affecting only individual
15 Class Members. These common legal and factual questions and answers include:

- 16 a. Whether Defendant misclassified Class members as independent contractors;
- 17 b. Whether members of the Class were not paid all wages owed to them, including
18 minimum, regular, and overtime wages, and at the correct rate;
- 19 c. Whether Defendants violated Labor Code section 246 regarding paid sick leave;
- 20 d. Whether Defendants violated Labor Code section 226.7 and engaged in a pattern or
21 practice of failing to provide timely, off-duty ten (10) minute meal periods to Plaintiffs
22 and members of the Class;
- 23 e. Whether Defendants violated Labor Code sections 226.7 and/or 512 and engaged in a
24 pattern or practice of failing to provide timely, off-duty thirty (30) minute meal periods
25 to Plaintiffs and members of the Class;
- 26 f. Whether Defendants engaged in a pattern or practice of impeding Plaintiffs and the
27 members of the Class from taking statutory off-duty thirty (30) minute meal periods on a
28 timely basis;

- 1 g. Whether Defendants engaged in a pattern or practice of failing to properly compensate
2 Plaintiffs and the members of the Class for missed, untimely or on-duty meal periods as
3 required by California law;
- 4 h. Whether Defendants violated the applicable California Industrial Welfare Commission
5 Order by failing to provide Plaintiffs and the members of the Class with timely off-duty
6 thirty (30)-minute meal periods;
- 7 i. Whether Defendants failed to compensate, and therefore violated Labor Code sections
8 226(a) and 226.7 and the applicable Industrial Wage Order by failing to provide ten (10)
9 minute, uninterrupted rest periods as contemplated by California law for work periods in
10 excess of three and one-half (3 ½) hours;
- 11 j. Whether Defendants engaged in a pattern or practice of failing to properly compensate
12 Plaintiffs and the members of the Class for failing to provide ten (10)-minute,
13 uninterrupted rest periods as contemplated by California law for work periods in excess
14 of three and one-half (3 ½) hours;
- 15 k. Whether members of the Class were not provided with accurate wage statements as
16 required by Labor Code section 226;
- 17 l. Whether members of the Class were provided with wage statements in violation of Labor
18 Code section 226, where the wage statements fail to identify and distinguish between
19 meal and rest break premium payments;
- 20 m. Whether Defendants violated Labor Code section 2802 by failing to reimburse Plaintiffs
21 and Class Members incurred necessary business expenses;
- 22 n. Whether Defendants made unlawful deductions from Plaintiffs' and members of the
23 Class' wages;
- 24 o. Whether Defendants engaged in unfair practices and violated California Business &
25 Professions Code section 17200 by failing to provide Plaintiffs and the members of the
26 Class with their statutory off-duty meal and rest periods on a timely basis;
- 27 p. Whether Defendants engaged in unfair practices and violated California Business &
28 Professions Code section 17200 by failing to pay Plaintiffs and the members of the Class

- 1 for all time worked, and failing to provide meal and rest periods nor pay premiums;
- 2 q. Whether Defendants maintained accurate time records of off-duty thirty (30)-minute
- 3 meal breaks taken by Plaintiffs and members of the Class in accordance with the
- 4 applicable Industrial Wage Order;
- 5 r. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate itemized
- 6 wage statements to Plaintiffs and members of the Class that failed to include payments
- 7 for missed, untimely, and/or on-duty meal periods among wages earned throughout the
- 8 Class Period;
- 9 s. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate itemized
- 10 wage statements to Plaintiffs and members of the Class that failed to include payment for
- 11 all hours worked;
- 12 t. Whether Defendants violated Labor Code section 226(a) by issuing inaccurate itemized
- 13 wage statements to Plaintiffs and members of the Class that failed to accurately state the
- 14 total hours worked, to the detriment of Plaintiffs and the Class;
- 15 u. Whether Defendants violated Labor Code section 1197 due to failure to compensate
- 16 Plaintiffs and members of the Class for those acts Defendants required Plaintiffs and
- 17 members of the Class to perform for the benefit of Defendants;
- 18 v. Whether Defendants violated Labor Code sections 201-203 by failing to pay all wages
- 19 due upon termination to all Class Members who were terminated or voluntarily quit; and
- 20 w. The nature and extent of class-wide injury and the measure of damages or restitution.

21 46. **Typicality:** Plaintiffs' claims are typical of the claims of the members of the Class they

22 seek to represent because Plaintiffs, as misclassified drivers who performed work for Defendants, were

23 exposed and subjected to the same unlawful business practices as other employees employed by

24 Defendants during the Class Period. Plaintiffs and the members of the Class they seek to represent

25 sustained the same types of damages and losses.

26 47. **Adequacy:** Plaintiffs are adequate representatives of the Class they seek to represent

27 because their interests do not conflict with the interests of the members of the Class Plaintiffs seek to

28 represent. Plaintiffs have retained counsel competent and experienced in complex class action litigation

1 and Plaintiffs intend to prosecute this action vigorously. The interests of the members of the Class will
2 be fairly and adequately protected by Plaintiffs and their counsel.

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

13 49. The Class should also be certified because:

- 14 a. The prosecution of separate actions by individual members of the Class would create a
15 risk of inconsistent or varying adjudications with respect to individual Class Members
16 which would establish incompatible standards of conduct for Defendants;
- 17 b. The prosecution of separate actions by individual members of the Class would create a
18 risk of adjudication with respect to them, which would, as a practical matter, be
19 dispositive of the interests of the other Class Members not parties to the adjudications, or
20 substantially impair or impede their ability to protect their interests; and
- 21 c. Defendants have acted or refused to act on grounds generally applicable to the Class,
22 and/or the general public, thereby making appropriate final and injunctive relief with
23 respect to the Class as a whole.

24 **CAUSES OF ACTION**

25 **FIRST CAUSE OF ACTION**

26 **FAILURE TO PAY MINIMUM AND REGULAR WAGES** 27 **(California Labor Code §§ 218, 218.5, 218.6, 1194, 1194.2, 1197, 1197.1, 1198)** 28 **(Against all Defendants)**

50. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

1 51. Labor Code section 1194, subdivision (a) provides: “Notwithstanding any agreement to
2 work for a lesser wage, any employee receiving less than the legal minimum wage... is entitled to
3 recover in a civil action the unpaid balance of the full amount of this minimum wage... including
4 interest thereon, reasonable attorney’s fees, and costs of suit.”

5 52. Labor Code section 1194.2 states: “In any action under Section 1193.6 or Section 1194 to
6 recover wages because of the payment of a wage less than the minimum wage fixed by an order of the
7 commission, an employee shall be entitled to recover liquidated damages in an amount equal to the
8 wages unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to
9 authorize the recovery of liquidated damages for failure to pay overtime compensation.”

10 53. Labor Code section 1197 states: “The minimum wage for employees fixed by the
11 commission is the minimum wage to be paid to employees, and the payment of a wage less than
12 minimum wage so fixed is unlawful.”

13 54. Pursuant to Labor Code section 1198, it is unlawful to employ persons for longer than the
14 hours set by the Industrial Welfare Commission or under conditions prohibited by the IWC Wage
15 Order(s).

16 55. Labor Code section 218 provides, in pertinent part, that “[n]othing in this article
17 [California Labor Code, Division 2, Part 1, Chapter 1 – Payment of Wages, Article 1] shall limit the
18 right of any wage claimant to sue directly or through an assignee for any wages or penalty due to them
19 under this article.”

20 56. At all relevant times, California Labor Code sections 1194, 1197, and 1197.1 provide for
21 payment of not less than a minimum wage to employees, and the payment of a lesser wage than the
22 minimum so fixed is unlawful.

23 57. Pursuant to the IWC Wage Order(s), Defendants are required to pay Class Members for
24 all hours worked, meaning the time during which an employee is subject to the control of an employer,
25 including all the time the employee is suffered or permitted to work, whether or not required to do so.

26 58. As set forth herein, Defendants willfully breached their obligation and failed to pay
27 Plaintiffs, Class Members, and the Minimum Wages Subclass all minimum and regular wages for all
28 hours worked all in violation of the Labor Code and the applicable Wage Order.

59. Defendants also subjected Plaintiffs and other Class Members to an unlawful rounding policy. This policy was not neutral in application or on its face, and over time resulted in a loss of wages to Plaintiffs and other Class Members. As a result of this rounding policy, Defendants failed to pay Plaintiffs and other Class Members all minimum and regular wages for time spent working.

60. As a result of the unlawful acts of Defendants, Plaintiffs, and the Class and Minimum Wage Subclass they seek to represent, have been deprived of minimum and regular wages and/or other compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus interest thereon, liquidated damages in an amount equal to the wages unlawfully unpaid, attorneys' fees, and costs to the fullest extent permitted by law.

61. Plaintiffs and the Class they seek to represent request relief as described below.

SECOND CAUSE OF ACTION
FAILURE TO PAY OVERTIME WAGES
(California Labor Code §§ 510 and 1198)
(Against all Defendants)

62. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

63. Labor Code section 510 provides in pertinent part: "Eight hours of labor constitutes a day's work. Any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee."

64. Pursuant to the IWC Wage Order(s), an employer may not pay non-exempt employees less than the applicable overtime rate for all overtime hours worked.

65. As set forth herein, Defendants willfully breached their obligations to pay Plaintiffs, Class Members, and Overtime Wages Subclass Members all overtime wages for all overtime worked all in violation of Labor Code sections 510 and 1198, and the applicable Wage Order.

66. Additionally, for some shifts that would have required payment of overtime due to hours

1 actually worked, Defendants rounded to their benefit and thus failed to pay all overtime wages otherwise
2 due.

3 67. As a result of the unlawful acts of Defendants, Plaintiffs, and the Class and Overtime
4 Wages Subclass they seek to represent, have been deprived of overtime wages and/or other
5 compensation in amounts to be determined at trial, and are entitled to recovery of such amounts, plus
6 interest thereon, attorneys' fees, and costs.

7 68. Plaintiffs and the Class they seek to represent request relief as described below.

8 **THIRD CAUSE OF ACTION**
9 **FAILURE TO PROVIDE SICK PAY**
10 **(California Labor Code §§ 233, 234, 246, 246.5, *et seq.*)**
11 **(Against all Defendants)**

12 69. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

13 70. Labor Code section 246 grants the right to employees to paid sick days. Specifically, Cal.
Labor Code section 246(b) states that:

14 (1) An employee shall accrue paid sick days at the rate of not less than one hour
15 per every 30 hours worked, beginning at the commencement of employment or
16 the operative date of this article, whichever is later, subject to the use and accrual
limitations set forth in this section.

17 (2) An employee who is exempt from overtime requirements as an administrative,
18 executive, or professional employee under a wage order of the Industrial Welfare
19 Commission is deemed to work 40 hours per workweek for the purposes of this
section, unless the employee's normal workweek is less than 40 hours, in which
case the employee shall accrue paid sick days based upon that normal workweek.

20 (3) An employer may use a different accrual method, other than providing one
21 hour per every 30 hours worked, provided that the accrual is on a regular basis so
22 that an employee has no less than 24 hours of accrued sick leave or paid time off
23 by the 120th calendar day of employment or each calendar year, or in each 12-
month period, and no less than 40 hours of accrued sick leave or paid time off by
the 200th calendar day of employment or each calendar year, or in each 12-month
period.

24 (4) An employer may satisfy the accrual requirements of this section by providing
25 not less than 24 hours or 3 days of paid sick leave that is available to the
26 employee to use by the completion of the employee's 120th calendar day of
27 employment, and no less than 40 hours or 5 days of paid sick leave that is
28 available to the employee to use by the completion of the employee's 200th
calendar day of employment.

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1 71. Labor Code section 246(i) further requires that an employer provide employees written
2 notice setting forth the amount of paid sick leave available either on an employee's wage statement
3 pursuant to Section 226 or in a separate writing on the designated pay date.

4 72. As described herein Defendants wholly failed to provide sick pay as required by Cal.
5 Lab. Code section 246. Defendants also did not provide Plaintiffs and other Class Members the proper
6 written notice containing the correct amount of paid sick leave.

7 73. As a result of the unlawful acts of Defendants, Plaintiffs, and the Class and Sick Pay
8 Subclass they seek to represent, have suffered and continue to suffer substantial injuries, losses and
9 actual damages related to Defendants' violations, including lost wages, lost interest on such wages, and
10 expense and attorney's fees in seeking to compel Defendants to fully perform their obligations.

11 74. Plaintiffs and the Class they seek to represent request relief as described below.

12 **FOURTH CAUSE OF ACTION**
13 **FAILURE TO PROVIDE MEAL PERIODS**
14 **(California Labor Code §§ 226.7, 512)**
 (Against all Defendants)

15 75. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

16 76. At all relevant times, Plaintiffs and all other members of the Class were employees of
17 Defendants covered by Labor Code sections 226.7 and 512, and the applicable Wage Order.

18 77. Labor Code section 226.7 provides as follows:

19 (b) An employer shall not require any employee to work during any meal or
20 rest... period mandated pursuant to... an applicable... order of the Industrial
Welfare Commission.

21 (c) If an employer fails to provide an employee a meal period or rest... period in
22 accordance with an applicable order of the Industrial Welfare Commission..., the
23 employer shall pay the employee one additional hour of pay at the employee's
regular rate of compensation for each work day that the meal period or rest...
period is not provided.

24 78. Labor Code section 512(a) provides as follows:

25 An employer shall not employ an employee for a work period of more than five
26 hours per day without providing the employee with a meal period of not less than
27 30 minutes, except that if the total work period per day of the employee is no
28 more than six hours, the meal period may be waived by mutual consent of both
the employer and employee. An employer shall not employ an employee for a
work period of more than 10 hours per day without providing the employee with a
second meal period of not less than 30 minutes, except that if the total hours

1 worked is no more than 12 hours, the second meal period may be waived by
2 mutual consent of the employer and the employee only if the first meal period was
not waived.

3 79. Section 11(A) of the applicable Wage Order provides, in pertinent part: “No employer
4 shall employ any person for a work period of more than five (5) hours without a meal period of not less
5 than 30 minutes...”

6 80. Section 11(B) of the applicable Wage Order provides, in pertinent part: “An employer
7 may not employ an employee for a work period of more than ten (10) hours per day without providing
8 the employee with a second meal period of not less than 30 minutes...”

9 81. As set forth herein, as a result of misclassifying Drivers as independent contractors,
10 Defendants failed to provide members of the Meal Period Subclass with compliant meal periods as
11 provided in Labor Code sections 226.7 and 512, and failed to pay them the additional pay at the
12 employee’s regular rate of compensation for each work day in lieu of providing off-duty meal period(s).

13 82. Defendants’ policies are non-compliant because they do not provide duty-free and
14 uninterrupted meal periods of at least thirty minutes. Defendants’ policies further failed to provide for
15 premium wages in lieu of lawful meal periods.

16 83. As a result of Defendants’ failure to comply with their obligations under Labor Code
17 sections 226.7 and 512, and the applicable Wage Order, Plaintiffs, and the Class and Meal Period
18 Subclass they seek to represent, have suffered damages in an amount, subject to proof, to the extent they
19 were not paid additional pay owed for the Defendants’ failure to provide meal periods as required by the
20 law.

21 84. Plaintiffs, and the Class and Meal Period Subclass they seek to represent, are entitled to
22 recover the full amount of their unpaid additional pay for Defendants’ failure to provide statutory meal
23 periods as required by law. Pursuant to Labor Code section 218.6, Plaintiff and other members of the
24 Meal Period Subclass are entitled to recover prejudgment interest on the amount of the additional pay
25 owed.

26 85. Plaintiffs and the Class they seek to represent request relief as described below.

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28 ///

**FIFTH CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS
(California Labor Code § 226.7)
(Against all Defendants)**

86. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

87. At all relevant times, Plaintiffs and all other members of the Class were employees of Defendants covered by Labor Code section 226.7 and the applicable Wage Order.

88. Labor Code section 226.7 provides as follows:

(b) An employer shall not require any employee to work during any meal or rest... period mandated pursuant to... an applicable... order of the Industrial Welfare Commission.

(c) If an employer fails to provide an employee a meal period or rest... period in accordance with an applicable order of the Industrial Welfare Commission..., the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal period or rest... period is not provided.

89. Labor Code section 1198 states: "The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful."

90. Section 12(A) of the applicable Wage Order provides, in pertinent part:

"Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

91. Section 12(B) of the applicable wage order provides, in pertinent part: "If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided."

92. As set forth herein, as a result of misclassifying Drivers as independent contractors, Defendants failed to provide members of the Rest Period Subclass with compliant rest periods as provided in Labor Code section 226.7 and failed to pay them the additional pay at the employee's

1 regular rate of compensation for each work day in lieu of providing timely, off-duty rest period(s).
2 Defendants' policies are non-compliant because, among other reasons, they fail to state employees are
3 entitled to timely off-duty paid rest periods of at least ten minutes as required by law. Defendants'
4 policies further required their employees to remain on duty during part or all of the rest period.
5 Defendants' policies further failed to provide for premium wages in lieu of lawful rest periods.

6 93. As a result of Defendants' failure to comply with their obligations under Labor Code
7 section 226.7 and the applicable Wage Order, Plaintiffs, and the Class and Rest Period Subclass they
8 seek to represent, have suffered damages in an amount, subject to proof, to the extent they were not paid
9 additional pay owed for the Defendants' failure to provide rest periods as required by the law.

10 94. At all times, Defendants engaged Plaintiffs without having any policy to provide
11 compliant rest periods in the manner required by law, nor did the Defendants provide one hour of pay in
12 lieu of non-compliant rest periods.

13 95. Plaintiffs, and the Class and Rest Period Subclass they seek to represent, are entitled to
14 recover the full amount of their unpaid additional pay for Defendants' failure to provide statutory rest
15 periods as required by law. Pursuant to Labor Code section 218.6, Plaintiffs and other members of the
16 Rest Period Subclass are entitled to recover prejudgment interest on the amount of the additional pay
17 owed.

18 96. Plaintiffs and the Class they seek to represent request relief as described below.

19 **SIXTH CAUSE OF ACTION**
20 **FAILURE TO FURNISH TIMELY AND ACCURATE WAGE STATEMENTS**
21 **(California Labor Code §§ 226, 245-248.5)**
22 **(Against all Defendants)**

23 97. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

24 98. Labor Code section 226, subdivision (a) requires Defendants to itemize in wage
25 statements all deductions from payment of wages and to accurately report total hours worked by
26 Plaintiffs and Class Members. Defendants have knowingly and intentionally failed to comply with Labor
27 Code section 226, subdivision (a) on each and every wage statement that should have been provided to
28 Plaintiffs and Class Members.

99. Labor Code section 1174 requires Defendants to maintain and preserve, in a centralized

1 location, among other items, records showing the names and addresses of all employees employed,
2 payroll records showing the hours worked daily by, and the wages paid to, their employees. Defendants
3 have knowingly and intentionally failed to comply with Labor Code section 1174.

4 100. Section 7 of the applicable Wage Order requires Defendants to maintain time records
5 showing, including but not limited to, when the employee begins and ends each work period, meal
6 periods, and total daily hours worked in itemized wage statements, and must show all deductions from
7 payment of wages, and accurately report total hours worked by Plaintiffs and Class Members.

8 101. As set forth herein, as a result of misclassifying Drivers as independent contractors,
9 Defendants failed provide accurate itemized wage statements reflecting all of the required information,
10 including but not limited to gross wages earned, net wages earned, the name and address of the
11 employer, the total hours worked, all applicable rates of pay and the total number of hours worked at
12 each rate, all deductions, the last four digits of the social security number and/or the employee ID
13 number of the employee, and the inclusive dates of the pay period, all in violation of Labor Code section
14 226.

15 102. Plaintiffs and members of the Wage Statement Subclass suffered injuries as a result of
16 Defendants' intentional and knowing failure to provide to Plaintiffs and the Class Members accurate
17 wage statements and to maintain the writings required by Labor Code section 226(a).

18 103. As a result of the unlawful acts of Defendants, Plaintiff, and the Class and Wage
19 Statement Subclass they seek to represent, have suffered and continue to suffer substantial injuries,
20 losses and actual damages related to Defendants' violations, including lost wages, lost interest on such
21 wages, and expense and attorney's fees in seeking to compel Defendants to fully perform their
22 obligations.

23 104. Plaintiffs and the Class they seek to represent request relief as described below.

24 **SEVENTH CAUSE OF ACTION**
25 **FAILURE TO REIMBURSE INCURRED NECESSARY BUSINESS EXPENSES**
26 **(California Labor Code §§ 2800, 2802, *et seq.*)**
(Against all Defendants)

27 105. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

28 106. California Labor Code section 2802 requires employers to indemnify their employees for

1 expenses and losses incurred while discharging their duties or in obedience to the directions of their
2 employer.

3 107. California Labor Code section 2804 mandates that this statutory right cannot be waived.

4 108. As set forth herein, as a result of misclassifying Drivers as independent contractors,
5 Defendants failed to properly reimburse and indemnify Plaintiffs and members of the Expense
6 Reimbursement Subclass for all necessary expenditures or losses incurred by the Plaintiffs and members
7 of the Expense Reimbursement Subclass in direct consequence of the discharge of their duties.

8 109. Plaintiffs and members of the Expense Reimbursement Subclass incurred losses in
9 obedience to the directions of Defendants. This included cargo insurance, commercial insurance, fuel,
10 maintenance, DMV fees, personal cell phone use, and other payments. Defendants maintained no policy
11 of reimbursement of such expenses and refused to reimburse said expenses even though the employer
12 knew of, and expected, that these expenses would be incurred, for the benefit of the company.

13 110. As a direct result of Defendants' violation of California Labor Code section 2802,
14 Plaintiffs, and the Class and Reimbursement Subclass they seek to represent, suffered unpaid expenses,
15 the use and enjoyment of monies owed, lost interest on monies owed, and attorneys' fees in an amount
16 to be proven at the time of trial.

17 111. Defendants derive an unjust and inequitable economic benefit in failing to comply with
18 the law regarding indemnification and reimbursement of employees. For Defendants' violations of
19 California Labor Code section 2802, Plaintiffs are entitled to and hereby seek back-owed reimbursement
20 of expenses, interest, statutory and equitable attorneys' fees, costs, and applicable penalties in an amount
21 to be proven at trial.

22 112. Plaintiffs and the Class they seek to represent request relief as described below.

23 **EIGHTH CAUSE OF ACTION**
24 **FAILURE TO PAY ALL WAGES DUE DURING EMPLOYMENT**
25 **(California Labor Code §§ 204, 210)**
(Against all Defendants)

26 113. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

27 114. Labor Code section 204 requires all wages earned for labor in excess of the normal work
28 period shall be paid no later than the payday for the next regular payroll period. Alternatively, Labor

1 Code section 204 provides that the requirements of this section are deemed satisfied by the payment of
2 wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar
3 days following the close of the payroll period. Defendants failed to pay Plaintiffs and Class Members all
4 wages due to them within the time period specified by Section 204.

5 115. As a result of misclassifying Drivers as independent contractors, Defendants failed to
6 timely pay all wages owed to Plaintiffs, and the Class they seek to represent, including minimum and
7 regular wages, and overtime wages when applicable, when they performed work for Defendants,
8 including when they worked through meal breaks. As such, they were not paid all wages owed during
9 employment.

10 116. Therefore, Plaintiffs and Class Members are entitled to penalties pursuant to Labor Code
11 section 210 as follows: (1) for Defendants' initial violation, \$100 for each failure to pay each Class
12 Member; and (2) for each of Defendants' subsequent violations, or any willful or intentional violation,
13 \$200 for each failure to pay each Class Member, plus 25 percent of the amount unlawfully withheld

14 117. Plaintiffs and the Class they seek to represent request relief as described below.

15 **NINTH CAUSE OF ACTION**
16 **FAILURE TO PAY ALL WAGES DUE UPON TERMINATION**
17 **(California Labor Code §§ 201-203)**
(Against all Defendants)

18 118. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

19 119. Labor Code sections 201 and 202 require Defendants to pay employees all wages due no
20 later than 72 hours after resignation from employment, or immediately in the case of discharge by the
21 employer. Labor Code section 203 provides that if an employer willfully fails to timely pay such wages,
22 then the employer must, as a penalty, continue to pay the subject employees' wages until the back wages
23 are paid in full or an action is commenced. The penalty cannot exceed 30 days of wages.

24 120. As a result of misclassifying Drivers as independent contractors, Defendants willfully
25 failed to timely pay wages to employees who were voluntarily and/or involuntarily terminated from their
26 employment within the time requirements set forth in Cal. Labor Code sections 201 to 202. Plaintiffs are
27 informed and believe that Defendants' pay practices are continuing such that current employees are not
28 being timely paid wages as they work in violation of law.

1 121. More than 30 days have passed since members of the Waiting Time Penalties Subclass
2 have left Defendants' employ.

3 122. As set forth herein, Plaintiffs and the proposed Waiting Time Penalties Subclass are
4 entitled to compensation for unpaid minimum, regular, overtime, and sick pay, and premium wages for
5 non-compliant meal and rest periods but to date have not received such compensation.

6 123. As a consequence of Defendants' willful conduct in not paying wages owed, certain
7 members of the Class are entitled to 30 days' wages as a penalty under Labor Code section 203 for
8 failure to pay legal wages, with interest and attorneys' fees and costs.

9 124. Plaintiffs and the Class they seek to represent request relief as described below.

10 **TENTH CAUSE OF ACTION**
11 **UNLAWFUL WAGE DEDUCTIONS**
12 **(California Labor Code §§ 221 and 224)**
13 **(Against all Defendants)**

14 125. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

15 126. California Labor Code sections 221 and 224 provide that an employer may only lawfully
16 withhold amounts from an employee's wages when (1) required or empowered to do so by state or federal
17 law; (2) when a deduction is expressly authorized in writing by the employee to cover insurance premiums,
18 benefit plan contributions, or other deductions not amounting to a rebate on the employee's wages; or (3)
19 when a deduction to cover health, welfare or pension contributions is expressly authorized by a wage or
20 collective bargaining agreement.

21 127. As set forth herein, Defendants made unlawful deductions from Plaintiffs', Class
22 Members', and Wage Deduction Subclass Members' paychecks during the Class Period, including but
23 not limited to, wage deductions entitled "INSEL," "OF FEE," "Insurance Processing Fee," "Wesco
24 OccAcc," and "CMS Setup Fee" in violation of Labor Code sections 221-224.

25 128. Pursuant to California Labor Code sections 218, 218.5, and 218.6, Plaintiffs, and the Class
26 and Wage Deduction Subclass they seek to represent, are entitled to payment of unpaid wages or
27 compensation, including interest thereon, as well as reasonable attorney's fees, and costs of suit.

28 129. Plaintiffs and the Class they seek to represent request relief as described below.

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ELEVENTH CAUSE OF ACTION
VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW
(California Labor Code §§ 17200, *et seq.*)
(Against all Defendants)

130. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

131. The failure to pay minimum, regular, overtime wages, sick pay, meal and rest period premiums, and reimburse expenses, as well as unlawful wage deductions, caused by Defendants' systematic and routine conduct constituted unlawful, deceptive, and unfair business acts and/or practices within the meaning of Business and Professions Code sections 17200, *et seq.*, including but not limited to a violation of the applicable State of California Industrial Welfare Commission Wage Orders, regulations and statutes, or is a practice which is otherwise unfair, deceptive, and unlawful.

132. This cause of action is brought under Business and Professions Code sections 17203 and 17204, commonly called the Unfair Competition Law. Under this cause of action and pursuant to Business and Professions Code section 17208, Plaintiffs and members of the proposed UCL Subclass seek restitution of premium wages and other pay owed, where such wages were due during the Class Period, according to proof.

133. This cause of action is brought as a cumulative remedy as provided in Business and Professions Code section 17205, and is intended as an alternative remedy for restitution for Plaintiffs, the "Minimum Wages Subclass," the "Overtime Wages Subclass," the "Sick Pay Subclass," the "Meal Period Subclass," the "Rest Period Subclass," the "Expense Reimbursement Subclass," and the "Wage Deduction Subclass" for any portion of time commencing within three (3) years before filing this complaint, and as the primary remedy for Plaintiffs, and aforementioned Subclasses for any portion of time during the *fourth year* before filing this Complaint, as this period of time exceeds the general three-year statute of limitations on statutory wage claims, and is a basis for restitution for all wage claims on an equitable basis and subject to court adjudication.

134. As a result of Defendants' unlawful and unfair business practice of failing to pay minimum, regular, overtime wages for all applicable hours worked, failing to provide paid sick leave, failing to pay premium wages for non-compliant meal and rest periods, failing to provide all meal and rest periods, failing to reimburse expenses, and unlawfully deducting wages as a matter of policy, Plaintiffs and each member of the proposed "Minimum Wages Subclass," the "Overtime Wages

Subclass,” the “Sick Pay Subclass,” the “Meal Period Subclass,” the “Rest Period Subclass,” the “Expense Reimbursement Subclass,” and the “Wage Deduction Subclass” have suffered damages and are entitled to restitution in an amount according to proof for a time period of four years prior to the filing of this Complaint and until such time as (1) Defendants cease their unlawful business practices, (2) the commencement of trial, and/or (3) a date otherwise determined by the Court pursuant to the laws of California.

135. Plaintiffs, on behalf of themselves and the proposed UCL Subclass, request the violations of each Defendant be enjoined, and other equitable relief provided, as this court deems proper, including an order requiring Defendants to make tax contributions on the accrued wages in the form of FICA, Social Security, Medicare, Unemployment Insurance, or other appropriate payments. Defendants’ conduct, business acts, and practices undermined competition and were done in order to avoid costs other lawful employers comply with in order to avoid payment of full compensation, wages, and statutory penalties owed.

136. Plaintiffs and the Class they seek to represent request relief as described below.

TWELFTH CAUSE OF ACTION
VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
(California Labor Code §§ 2698, *et seq.*)
(Against all Defendants)

137. Plaintiffs re-allege and incorporate all preceding paragraphs as if fully set forth herein.

138. Plaintiffs, by virtue of their employment with Defendants, and Defendants’ failure to properly classify Plaintiffs and other aggrieved employees as independent contractors, and Defendants failure to (a) pay Plaintiffs and other aggrieved employees for time worked, (b) provide Plaintiffs and other aggrieved employees with timely and duty-free meal and rest periods, (c) provide Plaintiffs and other aggrieved employees with sick pay; (d) provide Plaintiffs and other aggrieved employees with accurately itemized wage statements; (e) provide Plaintiffs and other aggrieved employees with all wages due within time periods specified in Labor Code section 204; and (f) reimburse Plaintiffs and other aggrieved employees for necessary expenditures and losses occurred in violation of Labor Code section 2802, are aggrieved employees with standing to bring an action under the PAGA.

139. Plaintiffs have satisfied all prerequisites to serve as representatives of the general public

1 to enforce California's labor laws, including, without limitation, the notice requirement identified in
2 Labor Code sections 2699.3(a) (**Exhibits "A" and "B"**). Since Plaintiffs received no notice from the
3 LWDA that it intends to investigate Plaintiffs' allegations within 65 calendar days from the postmarked
4 date of Plaintiffs' notices, Plaintiffs, as representatives of the people of the State of California, will seek
5 any and all penalties otherwise capable of being collected by the Labor Commission and/or the
6 Department of Labor Standards Enforcement ("DLSE"). This representative action is proper, because
7 Labor Code section 2699.5 provides that penalties under the PAGA apply to any alleged violation of
8 sections of California Labor Code sections 201, 202, 203, 204, 226(a), 226.7, 233, 234, 246, 246.5, *et*
9 *seq.*, 510, 512, 1174, 1198, and 2802, *et seq.*

10 140. Plaintiffs are informed and believe that Defendants have violated and continue to violate
11 provisions of the California Labor Code related to Defendants' failure to (1) correctly classify Plaintiffs
12 and other aggrieved employees as independent contractors, and Defendants' failure to pay Plaintiffs and
13 other aggrieved employees for all time worked, (2) provide Plaintiffs and other aggrieved employees
14 with timely and uninterrupted, duty-free meal and rest periods, (3) provide Plaintiffs and other aggrieved
15 employees sick pay; (4) provide Plaintiffs and other aggrieved employees with accurately itemized wage
16 statements; (5) provide Plaintiffs and other aggrieved employees with all wages due within time periods
17 specified in Labor Code section 204; (6) timely pay all wages due to former aggrieved employees at
18 termination of employment, and (7) reimburse Plaintiffs and other aggrieved employees for necessary
19 business expenses incurred. As of the date of this Complaint, the LWDA has not advised whether it
20 intends to pursue this matter. Therefore, by operation of law, Plaintiffs are entitled to commence this
21 cause of action in the California Superior Court as a representative action under the PAGA on behalf of
22 the state of California.

23 141. Plaintiffs, as personal representatives of the general public, will and does seek to recover
24 any and all penalties for each and every violation shown to exist or to have occurred during the one-year
25 period before Plaintiffs filed Notices with the LWDA of Plaintiffs' intent to bring this action, in an
26 amount according to proof, as to those penalties that are otherwise only available to public agency
27 enforcement actions. Funds recovered will be distributed in accordance with the PAGA, with at least
28 75% of the penalties recovered being reimbursed to the State of California through the LWDA.

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs, on behalf of themselves, Class Members, and all other aggrieved
3 employees Plaintiffs seek to represent, prays for relief as follows:

4 **ON THE FIRST CAUSE OF ACTION**

- 5 1. For all minimum and regular wages owed to Plaintiffs and each Class Member for all hours
6 worked;
- 7 2. For other compensatory damages and/or statutory damages and statutory penalties resulting from
8 improper compensation according to proof;
- 9 3. For statutory attorney fees according to proof;
- 10 4. For statutory interest according to proof; and
- 11 5. For reasonable attorneys' fees and costs pursuant to the California Labor Code.

12 **ON THE SECOND CAUSE OF ACTION**

- 13 1. For all overtime wages owed to Plaintiffs and each Class Member for all hours worked;
- 14 2. For other compensatory damages and/or statutory damages and statutory penalties resulting from
15 improper compensation according to proof;
- 16 3. For statutory attorney fees according to proof;
- 17 4. For statutory interest according to proof; and
- 18 5. For reasonable attorneys' fees and costs pursuant to the California Labor Code.

19 **ON THE THIRD CAUSE OF ACTION**

- 20 1. For unpaid sick pay owed to Plaintiffs and each Class Member according to proof;
- 21 2. For waiting time penalties according to proof;
- 22 3. For statutory attorney fees according to proof;
- 23 4. For statutory interest according to proof; and
- 24 5. For reasonable attorneys' fees and costs pursuant to the Labor Code.

25 **ON THE FOURTH CAUSE OF ACTION**

- 26 1. For one hour of wages due to Plaintiffs and each Class Member for each work period of more
27 than five (5) hours when they did not receive an uninterrupted thirty (30) minute meal period;
- 28 2. For waiting time penalties according to proof;

1 3. For statutory costs according to proof; and

2 4. For statutory interest according to proof.

3 **ON THE FIFTH CAUSE OF ACTION**

4 1. For one hour of wages due to Plaintiffs and each Class Member for each work period of more
5 than three and one-half (3 ½) hours when they did not receive an uninterrupted ten (10) minute
6 rest period for each four (4) hours or major fraction thereof worked;

7 2. For waiting penalties according to proof;

8 3. For statutory costs according to proof; and

9 4. For statutory interest according to proof

10 **ON THE SIXTH CAUSE OF ACTION**

11 1. For statutory compensation for any harm caused;

12 2. For compensatory damages and interest thereon for actual harm caused; and

13 3. For statutory penalties under Labor Code section 226(e) according to proof;

14 4. For statutory interest according to proof; and

15 5. For reasonable attorneys' fees and costs pursuant to the Labor Code.

16 **ON THE SEVENTH CAUSE OF ACTION**

17 1. For reimbursement of incurred necessary business expenses under Labor Code section 2802;

18 2. For statutory interest according to proof; and

19 3. For reasonable attorney's fees and costs pursuant to the Labor Code.

20 **ON THE EIGHTH CAUSE OF ACTION**

21 1. For statutory penalties incurred under Labor Code section 210 per underpaid employee for
22 all wages not timely paid during employment;

23 2. For statutory interest according to proof; and

24 3. For reasonable attorneys' fees and costs pursuant to the Labor Code.

25 **ON THE NINTH CAUSE OF ACTION**

26 1. For statutory penalties, including thirty (30) days' wages at the correct hourly rate for all
27 wages not timely paid upon termination;

28 2. For penalty enhancement for willful conduct;

3. For statutory interest according to proof; and
4. For reasonable attorney's fees and costs pursuant to the Labor Code.

ON THE TENTH CAUSE OF ACTION

1. For reimbursement of wage deductions that are owed to Plaintiffs and each Class Member;
2. For interest on any compensatory damages;
3. For any statutory penalties according to proof;
4. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code section 226(h); and
5. For reasonable attorneys' fees and costs pursuant to the Labor Code.

ON THE ELEVENTH CAUSE OF ACTION

1. For the equitable, injunctive and declaratory relief;
2. For liquidated damages pursuant to Labor Code section 1194.2; and
3. For restitutionary disgorgement pursuant to the UCL.

ON THE TWELFTH CAUSE OF ACTION

1. That this action be maintained as a PAGA representative action, and that Plaintiffs and their counsel be provided with all enforcement capability as if the action were brought by the California Division of Labor Standards Enforcement;
2. For recovery of civil penalties pursuant to Labor Code section 2699(a) or, in the alternative, section 2699(f)(2); and
3. For reasonable attorneys' fees and costs pursuant to the Labor Code.

ON CAUSES OF ACTION ONE THROUGH ELEVEN

1. An order that this action may proceed and be maintained as a class action;
2. General, special and consequential damages, to the extent allowed by law;
3. Costs of suit;
4. For attorneys' fees pursuant to Code of Civil Procedure section 1021.5;
5. Prejudgment interest at the maximum legal rate; and

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COHELAN KHOURY & SINGER

Dated: March 17, 2026

By: Maggie Realin
Maggie Realin

THE MARKHAM LAW FIRM

David R. Markham

Lisa Brevard

UNITED EMPLOYEES LAW GROUP

Walter L. Haines

Attorneys for Plaintiff CHRISTIAN SANCHEZ

SIRMABEKIAN LAW FIRM, PC

Dated: March 17, 2026

By: Sarkis Sirmabekian

Attorneys for Plaintiffs ATU AKINLABI WATSON and
TYRON WESLEY MCCARTHER

EXHIBIT A

THE MARKHAM LAW FIRM

- 888 Prospect Street, Suite 200 • La Jolla, California 92037 •
- Phone: (619) 399-3995 • Fax: (619) 615-2067 •
- Email: *contact@markham-law.com* •

March 30, 2023

Via Online Filing:

<https://dir.tfaforms.net/260>

Labor and Workforce Development Agency

Attn. PAGA Administrator

1515 Clay Street, Ste. 801

Oakland, California 94612

Re: Wage/Hour Claims of Christian Sanchez (“Employee”) against Spoke Logistics, LLC, (“Employer” or “Spoke”)

NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO LABOR CODE §2699.3

To: PAGA Administrator, California Labor and Workforce Development Agency (“LWDA”)

From: Christian Sanchez, who was subjected to the wage and hour practices set forth below

The Employee submits this Notice, pursuant to and in compliance with the requirements of California Labor Code §2699.3(a) and alleges as follows, on behalf of himself and other Full-Time Dedicated Drivers (which are aggrieved employees in this action):¹

Mr. Christian Sanchez is a resident of the State of California. During the applicable time period, Mr. Sanchez has been employed in California by Spoke Logistics, LLC. Mr. Sanchez began working for Spoke in or about July 2022 as a Full-Time Dedicated Driver. He is classified as an independent contractor. Mr. Sanchez is contracted to drive in specific areas for a specific company and works five days per week, driving 600 miles per week, for a total of approximately 42.5 hours per week. On the sixth day, Mr. Sanchez works an additional 8.5 hours and drives an additional 100 miles. Mr. Sanchez is contracted to be paid \$340 per day, plus overtime for the hours worked outside of 51 hours per week. Mr. Sanchez has not been paid any overtime compensation for such additional work.

In his role as a driver, Mr. Sanchez has no authority to make decisions concerning the route he drives, rates of pay, or what companies he delivers for. Mr. Sanchez is not allowed to deliver for other companies while working for Spoke or he could be fined. Spoke directs and controls the

¹ Please refer to **Attachment A** for details regarding Employee’s claims.

way the Mr. Sanchez performs his work, including controlling his schedules, where he delivers product, and how he works. Spoke also sends Mr. Sanchez on deliveries outside of his contracted area, and when Mr. Sanchez complained, he was told he is still required to do it. Spoke exercised the same dominion and control over all aggrieved employees.

Mr. Sanchez is contracted by Spoke to deliver for another company, Apria Healthcare. Mr. Sanchez is provided an iPad, which provides set routes and tracks him on his route and tracks his time. He is required to complete all his deliveries for that day, and as soon as deliveries are made, more stops are added. Due to the pressure to complete all the stops on his schedule, Mr. Sanchez is rarely able to stop for a rest break or take a meal period.

Further, Spoke maintained an unlawful sick pay policy and/or practice. During the relevant time period, Spoke failed to provide sick pay in the amounts mandated by California law when Mr. Sanchez and other aggrieved employees took a sick day(s). Due to Spoke's misclassification of Mr. Sanchez and other aggrieved employees as independent contractors, sick pay or paid time off was not provided. If Mr. Sanchez needed to take a sick day, it went unpaid.

Spoke Logistics, LLC. contracts with numerous drivers in the State of California and is headquartered in Rancho Santa Margarita, California. During the relevant time period, the Employer utilized consistent policies and procedures regarding Mr. Sanchez, and other similarly situated employees, in violation of the sections of the Labor Code specified below, and the applicable Wage Order. The following is a summary of the violations.

Violation of California Labor Code § 510, and 1198

Labor Code establishes fundamental right of all employees in California to be paid wages for their work in a timely fashion. Under section 510(a) and 1198 of the California Labor Code, and an applicable Wage Order, non-exempt employees are to be paid 1.5 times their regular rate of pay for all hours worked in excess of eight (8) hours per workday and/or forty (40) hours per workweek.

During the relevant time period, Mr. Sanchez worked uncompensated overtime while misclassified as an independent contractor. Spoke failed to pay Mr. Sanchez for all hours worked, including 1.5-times his hourly rate for his work performed over 8 hours per day and/or 40 hours per week.

Spoke willfully, and on a systematic and company-wide basis, maintained and implemented a non-compliant practice and/or policy for the payment of straight wages and overtime. Specifically, Spoke misclassified Mr. Sanchez and all other aggrieved employees as independent contractors and failed to pay all straight time and overtime wages owed to them at the correct rate of pay.

Mr. Sanchez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 558, 218.5, 218.6, 1194, and/or 2699(a), (f)-(g).

Violation of California Labor Codes 226.7 and 512

California Labor Code section 512 provides no employer shall employ any person for a work period of more than five (5) hours without a duty-free meal period of not less than 30 minutes. Under IWC Wage Orders, California Code of Regulations, and California Labor Code section 226.7, if an employer fails to provide an employee a duty-free meal period in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the meal period is not provided.

During the applicable time period, Mr. Sanchez and other aggrieved employees were improperly classified as independent contractors, and intentionally and improperly denied and failed to provide duty-free meal periods. Spoke did this systematically and maintained and implemented a non-compliant practice and/or policy for the classification of its drivers resulting in non-payment of meal period premiums.

Similarly, under applicable IWC Wage Orders and California Code of Regulations require employers authorize and permit all employees to take rest periods at the rate of ten (10) minutes for every four (4) hours of work, or major fraction thereof. The Wage Orders and Regulations also state if an employer fails to provide an employee rest periods in accordance with this section, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday the rest period was not provided. These remedies are codified under California Labor Code section 226.7.

Mr. Sanchez and other aggrieved employees were improperly classified as independent contractors and Spoke intentionally and improperly denied and failed to permit duty-free rest periods during the applicable time period. This non-compliant practice and/or policy was executed by Spoke on a system-wide basis and resulted in non-payment of rest period premiums.

Mr. Sanchez and other aggrieved employees are entitled to seek and recover reasonable attorneys' fees and costs pursuant to California Labor Code sections 218.5, 218.6, and 1194, and penalties pursuant to California Labor Code sections 203, 226.7, and 558.

Violation of California Labor Code §§ 233, 234, 246, 246.5, *et seq.*

California Labor Code section 233 states that "Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5."

California Labor Code section 246(a)(1) states that “An employee who...works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.”

Labor Code § 246.5(a) states that upon oral or written request by an employee, an employer shall provide paid sick days for the “Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.”

Both Labor Code § 233(c) and § 246.5(c)(1) state that an employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using or attempting to use sick leave to attend to an illness, or for opposing any policy or practice or act that is prohibited by this article.

Any employer who violates Labor Code Section 233 is liable to employees for the greater of one days’ pay or actual damages, reasonable equitable relief, and reasonable attorneys’ fees and costs. [Lab. Code Sections 233\(d\), \(e\)](#). [Labor Code Section 218](#) authorizes a private right of action to recover unpaid wages, including under [sections 204](#) and [233](#).

During the relevant time period, Spoke failed to provide sick pay in the amounts mandated by California law. Due to Spoke’s misclassification of Mr. Sanchez and other aggrieved employees as independent contractors, sick pay or paid time off was not provided. If Mr. Sanchez needed to take a sick day, it went unpaid.

The Aggrieved Employee and other aggrieved employees are entitled to seek and recover penalties and other remedies as provided by California law.

Violation of California Labor Code § 226 and 1174

California Labor Code section 226(a) provides that every employer is required to furnish each employee with accurate itemized statements in writing showing, in part, “gross wages earned,” (§226(a)(1)), “net wages earned” (§226(a)(5)), “all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...” (§226(a)(9)) and “the inclusive dates of the period for which the employee is paid. (§226(a)(6).)

Labor Code Section 226(e) provides that if an employer fails to comply with providing an employee with properly itemized wages statements as set forth in 226(a), then the employee is entitled to recover the greater of all actual damages or \$50 for the initial pay period in which a violation occurs, and \$100 per employee for each violation in any subsequent pay period, not to exceed \$4,000. Further, Labor Code section 226.3 provides that any employer who violates section 226(a) shall be subject to a civil penalty in the amount of \$250 per employee per violation in an initial citation and \$1,000 per employee for each violation in a subsequent

citation, for which the employer fails to provide the employee a wage statement or fails to keep the required records pursuant to Section 226(a).

During the relevant time period, Spoke knowingly and intentionally provided Mr. Sanchez and other aggrieved employees with uniform, incomplete, and inaccurate wage statements. By virtue of misclassifying aggrieved employees as independent contractors, Spoke knowingly and intentionally omitted required information from the wage statements of Mr. Sanchez and the aggrieved employees. For instance, the wage statements issued to Mr. Sanchez and other aggrieved employees failed to itemize the number of regular and overtime hours worked during the pay period, and the rate of pay for regular and overtime wages, and the rate and number of meal and rest break premium wages, among other required information.

Labor Code section 1174(d) provides that [e]very person employing labor in this state shall... [k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants..." Labor Code Section 1174.5 provides that employers are subject to a \$500 civil penalty if they fail to maintain accurate and complete records as required by section 1174(d). During the relevant time period, and in violation of Labor Code section 1174(d), Spoke willfully failed to maintain accurate payroll records for Mr. Sanchez and other aggrieved employees by improperly classifying them as independent contractors, and by failing to itemize wage statements with correct regular, overtime, and meal and rest break premium rates of pay, and failing to correctly list the gross wages and net wages.

Because Spoke failed to list the correct classification status, regular and overtime rates of pay, meal and rest break premiums, gross wages earned, sick pay accrued, and net wages on wage statements, Mr. Sanchez and other aggrieved employees have been prevented from verifying, solely from information on the wage statements themselves, that they were paid correctly and in full. Instead, Mr. Sanchez and other aggrieved employees have had to look to sources outside of the wage statements themselves and reconstruct time records to determine whether in fact they were paid correctly and the extent of underpayment.

Mr. Sanchez and other aggrieved employees are entitled to recover civil penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 226(e), 226.3, 1174.5, and/or 2699(a), (f)-(g).

Violation of California Labor Code § 204

California Labor Code section 204 requires all wages earned by any person in any employment between the 1st and 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than

those wages due upon termination of an employee are due and payable between the 1st and 10th day of the following month. California Labor Code section 204 also requires all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period. Alternatively, California Labor Code section 204 provides that the requirements of this section are deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.

During the relevant time period, Spoke failed to pay Mr. Sanchez and other aggrieved employees all wages due to them within the time period specified by section 204—specifically, regular and overtime wages not paid as a result of failing to properly classify them as non-exempt employees.

Mr. Sanchez and other aggrieved employees are entitled to recover penalties, attorney's fees, costs, and interest thereon, pursuant to Labor Code sections 210 and/or 2699(a), (f)-(g).

Violation of California Labor Code §§ 201-203

In addition, pursuant to Labor Code sections 201-203, aggrieved employees are entitled to thirty days of wages at their regular rate of pay for the Spoke's failure to pay all wages due upon separation of employment. Here, because Spoke failed to pay aggrieved employees regular and overtime wages, sick pay accrued, and meal and rest premium wages, for all hours worked, Mr. Sanchez alleges that the Spoke has violated Labor Code sections 201-203, and the former employees of Spoke are entitled to waiting time penalties.

Violation of California Labor Code § 2802

Lastly, during the applicable statutory period, Mr. Sanchez and other aggrieved employees incurred necessary expenditures and losses in direct consequence of the discharge of their employment duties and their obedience to the directions of Spoke. Expenses include, but are not limited to, mobile phone charges, cargo insurance, commercial insurance, fuel, maintenance, DMV fees, and other payments. This violates California Labor Code section 2802, which provides that the "[E]mployer shall 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."

Mr. Sanchez, as an aggrieved employee and on behalf of himself and all other current or former misclassified Spoke Logistics, LLC, Full-Time Dedicated Drivers, seeks all penalties or remedies as may be allowed under PAGA, and by this letter give written notice of their PAGA claim pursuant to Labor Code section 2699.3(a/c)(2)(A). Please advise within sixty (60) calendar days of the filing/postmark date of this Notice whether the LWDA intends to investigate the violations alleged above. We understand that if we do not receive a response within sixty-five (65) calendar days of the filing/postmark date of this Notice that the LWDA intends to

investigate these allegations, the aggrieved Employees may immediately thereafter commence a civil action against the Employer pursuant to Labor Code §2699.

The Markham Law Firm and United Employees Law Group represent Mr. Sanchez in this matter.

Very truly yours,

THE MARKHAM LAW FIRM



David Markham
Maggie Realin
Lisa Brevard

cc: (via Certified Mail)

Agent for Service of Process for
Spoke Logistics, LLC
Andria Pontello
22431 Antonio Parkway, #B160-634
Rancho Santa Margarita, CA 92688

Spoke Logistics, LLC
Attn: Legal Department
22431 Antonio Parkway, #B160-634
Rancho Santa Margarita, CA 92688

Cc: (via Electronic Mail)
walter@uelglaw.com
Walter L. Haines

Attachment A

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Attorneys for Plaintiff on behalf of himself and all others similarly situated

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA

CHRISTIAN SANCHEZ, an individual, on
behalf of himself and all others similarly
situated,

Plaintiff,

v.

SPOKE LOGISTICS, LLC, a California
Corporation,

Defendant.

CASE NO.:
REPRESENTATIVE ACTION COMPLAINT
FOR:

**PENALTIES PURSUANT TO LABOR CODE §
2699(f) FOR VIOLATIONS OF LABOR CODE
§§ 201-203, 204, 226(a), 226.7, 233, 234, 246, 246.5,
et seq, 510, 512, 1174, 1198, 2802, AND LABOR
CODE § 2699(a)**

1 Plaintiff CHRISTIAN SANCHEZ (“Plaintiff”), by and through his attorneys of record, brings
2 this Representative Action Complaint, on behalf of himself and all other aggrieved employees of
3 Defendant SPOKE LOGISTICS, LLC, (“SPOKE” or “Defendant”). Plaintiff hereby alleges, on
4 information and belief, except for information based on personal knowledge, which allegations are
5 likely to have evidentiary support after further investigation and discovery, as follows:

6 **NATURE OF THE ACTION**

7 1. This case is brought as a “Representative Action” arising from Defendant’s violations of
8 the Private Attorney General Act (“PAGA”) of 2004, California Labor Code § 2698, *et seq.*, and is filed
9 on behalf of Plaintiff and all Full-Time Dedicated Drivers who are hired as independent contractors, or
10 formerly were hired as independent contractors by, Defendant within the State of California during the
11 relevant time period, defined as one (1) year from the date of service of Notice on the California Labor
12 and Workforce Development Agency (“LWDA”) and on the agent for service of process of SPOKE
13 LOGISTICS, LLC, and DOES 1 through 25, inclusive, as provided by Labor Code § 2699.3(a), until
14 commencement of trial in this matter (“aggrieved employees”).

15 2. This action is commenced by Plaintiff on behalf of himself and other aggrieved
16 employees of Defendant in California, who, during the relevant time period were: (1) misclassified as
17 independent contractors, and as a result (2), were not paid wages for all hours worked by Defendants,
18 including regular and overtime wages (Labor Code §§ 510 and 1198); (2) were not provided timely and
19 off-duty meal periods and rest periods (Labor Code §§ 226.7 and 512); (3) were not provided sick pay
20 (Labor Code §§ 233, 234, 246, 246.5, *et seq.*; (4) were not furnished timely and accurate wage
21 statements (Labor Code §226 and 1174); (5) were not paid all wages due upon termination of
22 employment (Labor Code §§ 201-203); (6) were not paid all wages—specifically, overtime wages to
23 aggrieved employees within the required time period (Labor Code § 204); and (7) were not reimbursed
24 for necessary expenditures and losses incurred, including internet charges (Labor Code §2802).

25 3. Plaintiff brings this case as a “Representative Action” seeking penalties for the State of
26 California in a representative capacity, as provided by PAGA to the extent permitted by law, as
27 aggrieved employees who allege that Defendant violated Labor Code §§ 201, 202, 203, 204, 226, 226.7,
28

233, 234, 246, 246.5, *et seq.*, 510, 512, 1174, 1198, and 2802 to which PAGA applies under Labor Code § 2699.5, and seeks compensation for penalties when allowed, and other relief, and reasonable attorneys' fees and costs.

4. On _____, **2023**, Plaintiff sent notice via online filing to the California LWDA and a certified letter to Defendant's agent for service of process in California, and also to the Legal Department of Defendant's chief executive office in Rancho Santa Margarita, California. A true and correct copy of the notice is attached hereto as **Exhibit "A"** and is incorporated herein by this reference. The notice has been sent pursuant to Labor Code § 2699.3(a) of PAGA, which provides, in subsection (2)(A): "The agency shall notify the employer and the aggrieved employee or representative by certified mail that it does not intend to investigate the alleged violation within 60 calendar days of the postmark date of the notice received pursuant to paragraph (1). Upon receipt of that notice or if no notice is provided within 65 calendar days of the postmark date of the notice given pursuant to paragraph (1), the aggrieved employee may commence a civil action pursuant to Section 2699." By serving the notice before one year from any date of separation from the employer, Plaintiff's claim under PAGA is timely and within the applicable statute of limitations.

5. As of the date of this complaint, the LWDA has not responded to Plaintiff's notice. Accordingly, Plaintiff files this action as a "Representative Action" as provided by California Code of Civil Procedure and as specifically permitted and authorized by Labor Code § 2699.3(a)(2)(A).

JURISDICTION AND VENUE

6. Venue is proper in this judicial district, because upon information and belief, Plaintiff has worked for Defendants within this judicial district. Further, Defendant conducts substantial business and commits Labor Code violations in Alameda County, California, and each Defendant is within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged have a direct effect on Plaintiff and other aggrieved employees within the State of California and Alameda County. Defendant employs numerous independent contractors in Alameda County and surrounding counties.

7. Jurisdiction of this Court is proper as Plaintiff alleges that this entire action arises solely under state law of the State of California, as the claims herein are based solely on the California PAGA

1 statute. Plaintiff alleges, on information and belief, that no federal question is raised warranting removal
2 of the action to federal court.

3 PARTIES

4 8. Plaintiff CHRISTIAN SANCHEZ is currently a resident of Hayward, California. Plaintiff
5 has worked for Defendant as an independent contractor Full-Time Dedicated Driver, and worked for
6 Defendant in the Bay Area, California, from approximately July 2022 to the present.

7 9. Plaintiff is informed and believes, and on that basis alleges, that SPOKE LOGISTICS,
8 LLC, is a Wyoming Corporation which, provides logistics consulting throughout all 50 states. *See*
9 <https://spokelogistics.com/coverage/>.

10 10. Plaintiff is informed and believes, and on that basis alleges, that SPOKE LOGISTICS,
11 LLC, is, and at all relevant times alleged herein was, a Wyoming corporation authorized to and conducts
12 business in California, including but not limited to Alameda County.

13 FACTS

14 11. During the relevant time period asserted hereto, Plaintiff and other aggrieved employees
15 have been misclassified as independent contractors of Defendant within the meaning of the California
16 Labor Code in the State of California. Plaintiff suffered damages and legally cognizable harm due to
17 Defendant's policies and practices and has standing to bring this case individually and as a
18 representative for other similarly impacted independent contractors.

19 12. From July 2022 to present, Plaintiff has worked for Defendant as a Full-Time Dedicated
20 Driver. Plaintiff is classified as an independent contractor.

21 13. Defendant provides logistics services to companies throughout the State of California and
22 in all fifty states.

23 14. At all times during the relevant time period, Defendant classified Plaintiff and those
24 similarly situated as "independent contractors," even though the work performed and conditions of
25 employment were that of an "employee." Defendant is unable to provide its services without delivery
26 drivers like Plaintiff.

27 15. Plaintiff's job duties require Plaintiff to drive in a specific area for a specific company
28 who contracts with Defendant and is assigned to Plaintiff. Plaintiff is contracted to work five days per

1 week driving a total of 600 miles per week, for a total of 42.5 hours per week. On the sixth day, Plaintiff
2 works an additional 8.5 hours and drives an additional 100 miles. Plaintiff is contracted to be paid \$340
3 per day, plus overtime for the hours worked outside of those hours. Plaintiff has not been paid any
4 overtime compensation for such additional work.

5 16. Defendant directs and controls the way the drivers perform their work, including
6 controlling their schedules, where they deliver product, and how they work.

7 17. Defendant contracts with other companies, and Plaintiff is required to follow the schedule
8 set by those companies. Plaintiff is provided with an iPad which has his set route, which tracks his route
9 and time. Once Plaintiff completes all of the pre-scheduled stops, more stops are added, which puts
10 undue pressure on Plaintiff to continually work without allowing any time for him to rest or take a meal
11 break.

12 18. Plaintiff was not allowed to deliver for other companies while actively delivering for
13 Defendant, or else he could be fined.

14 19. During the relevant time period, Defendant failed to pay Plaintiff and other aggrieved
15 employees for all hours worked. Plaintiff is not paid any compensation outside of \$340 per day,
16 regardless of how many stops are put on his schedule. He must complete his route before he can stop
17 working for the day.

18 20. While misclassified as an independent contractor, Plaintiff is frequently not provided or
19 allowed to take a thirty (30) minute, uninterrupted, off-duty meal break. Moreover, Plaintiff and other
20 aggrieved employees often worked in excess of ten (10) hours without a second thirty (30) minute meal
21 break.

22 21. Additionally, for the same reasons as above, Defendant intentionally and improperly
23 denied and failed to permit and authorize duty-free rest periods during the applicable time period.

24 22. While misclassified as an independent contractor, Plaintiff was not provided sick pay in
25 the amounts mandated by California law. Due to Defendant's misclassification of Plaintiff and other
26 aggrieved employees as independent contractors, sick pay or paid time off was not provided. If Plaintiff
27 needed to take a sick day, it went unpaid.

23. Further, during the relevant time period, Defendant failed to reimburse Plaintiff and other aggrieved employees for the business expenses they incurred. These business expenses include, but are not limited to, cargo insurance, commercial insurance, fuel, maintenance, DMV fees, and other payments.

24. By virtue of misclassifying aggrieved employees as independent contractors, Defendant knowingly and intentionally omitted required information from the wage statements of Plaintiff and other aggrieved employees. For instance, the wage statements issued to Plaintiff and other aggrieved employees failed to itemize the number of regular and overtime hours worked during the pay period, the meal and rest break premiums, sick pay accrued, and the rate of pay owed to Plaintiff and other aggrieved employees, among other required information. As a result, Plaintiff and other aggrieved employees' wage statements were inaccurate, in violation of Labor Code § 226(a).

25. Further, as a result of Defendant's failure to pay Plaintiff and other aggrieved employees for all hours worked including overtime, Defendants failed to pay Plaintiff and other aggrieved employees' wages within the time periods prescribed by Labor Code § 204.

26. As a result of Defendant's failure to pay Plaintiff and aggrieved employees for all hours worked, including overtime, Defendant failed to pay all wages due upon separation of employment in violation of Labor Code §§ 201-203, and the former aggrieved employees of Defendant are entitled to waiting time penalties.

27. In addition, Plaintiff and other aggrieved employees have incurred necessary expenditures and losses in direct consequence of the discharge of their employment duties and their obedience to the directions of Defendant. Expenses include, but are not limited to, cargo insurance, commercial insurance, fuel, maintenance, and DMV fees. Defendant failed to reimburse Plaintiff and other aggrieved employees for those expenses, in violation of Labor Code § 2802.

28. Upon information and belief, the above-mentioned unlawful employment practices by Defendant were applied the same to all Full-Time Dedicated Drivers of Defendant in the State of California.

29. Defendant's policies and/or practices and/or other unlawful conduct resulted in

1 Defendant's failure to: (1) timely pay Plaintiff all regular and overtime wages for all hours worked, in
2 violation of Labor Code §§ 201-203, 510, 1198; (2) provide Plaintiff and other aggrieved employees
3 with timely and duty-free meal and rest periods in violation of Labor Code §§ 226.7 and 512; (3) were
4 not provided sick pay (Labor Code §§ 233, 234, 246, 246.5, *et seq.*; (4) provide Plaintiff and other
5 aggrieved employees with correctly itemized wage statements in violation of Labor Code §§ 226(a) and
6 1174; (5) timely provide Plaintiff and other aggrieved employees with all wages owed, in violation of
7 Labor Code §204; (6) pay all wages—specifically, overtime wages to employees within the required
8 time period as specified in Labor Code § 204; and (7) reimburse Plaintiff and other aggrieved employees
9 for necessary expenditures and losses occurred in violation of California Labor Code §2802. As a result,
10 Defendant violated California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 233, 234, 246, 246.5, *et*
11 *seq.*, 510, 512, 1174, 1198, and 2802, to which penalties under PAGA apply pursuant to California
12 Labor Code § 2699.5.

13
14 **FIRST CAUSE OF ACTION**
VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT OF 2004
(California Labor Code § 2698, *et seq.*)
(Against all Defendants)

15
16 30. Plaintiff re-alleges and incorporates all preceding paragraphs as if fully set forth herein.

17 31. Plaintiff, by virtue of his employment with Defendant, and Defendant's failure to
18 properly classify Plaintiff and other aggrieved employees as independent contractors, Defendant failed
19 to (a) pay Plaintiff and other aggrieved employees for time worked, (b) provide Plaintiff and other
20 aggrieved employees with timely and duty-free meal and rest periods, (c) provide Plaintiff and other
21 aggrieved employees with sick pay; (d) provide Plaintiff and other aggrieved employees with accurately
22 itemized wage statements; (e) provide Plaintiff and other aggrieved employees with all wages due within
23 time periods specified in Labor Code §204; and (f) reimburse Plaintiff and other aggrieved employees
24 for necessary expenditures and losses occurred in violation of Labor Code §2802, is an aggrieved
25 employee with standing to bring an action under the PAGA.

26 32. Plaintiff has satisfied all prerequisites to serve as a representative of the general public to
27 enforce California's labor laws, including, without limitation, the notice requirement identified in Labor
28 Code § 2699.3(a) (**Exhibit "A"**). Since Plaintiff received no notice from the LWDA that it intends to

investigate Plaintiff's allegations within 65 calendar days from the postmarked date of Plaintiff's notice, Plaintiff, as a representative of the people of the State of California, will seek any and all penalties otherwise capable of being collected by the Labor Commission and/or the Department of Labor Standards Enforcement ("DLSE"). This representative action is proper, because Labor Code § 2699.5 provides that penalties under PAGA apply to any alleged violation of sections of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.7, 233, 234, 246, 246.5, *et seq.*, 510, 512, 1174, 1198, and 2802, *et seq.*

33. Plaintiff is informed and believes that Defendant has violated and continues to violate provisions of the California Labor Code related to Defendant's failure to (1) correctly classify Plaintiff and other aggrieved employees as independent contractors, Defendant failed to pay Plaintiff and other aggrieved employees for all time worked, (2) provide Plaintiff and other aggrieved employees with timely and uninterrupted, duty-free meal and rest periods, (3) provide Plaintiff and other aggrieved employees sick pay; (4) provide Plaintiff and other aggrieved employees with accurately itemized wage statements; (5) provide Plaintiff and other aggrieved employees with all wages due within time periods specified in Labor Code §204; (6) timely pay all wages due to former aggrieved employees at termination of employment, and (7) reimburse Plaintiff and other aggrieved employees for necessary business expenses incurred. As of the date of this Complaint, the LWDA has not advised whether it intends to pursue this matter. Therefore, by operation of law, Plaintiff is entitled to commence this cause of action in the California Superior Court as a representative action under PAGA on behalf of the state of California.

34. Plaintiff, as a personal representative of the general public, will and does seek to recover any and all penalties for each and every violation shown to exist or to have occurred during the one-year period before Plaintiff filed Notice with the LWDA of Plaintiff's intent to bring this action, in an amount according to proof, as to those penalties that are otherwise only available to public agency enforcement actions. Funds recovered will be distributed in accordance with PAGA, with at least 75% of the penalties recovered being reimbursed to the State of California through the LWDA.

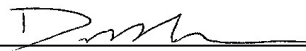
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all other aggrieved employees Plaintiff seeks to represent, prays for relief as follows:

- A. For penalties for each violation of the Private Attorney General Act;
- B. Pre-Judgment and Post-Judgment interest, as provided by law;
- C. Such other equitable relief as the Court may deem just and proper;
- D. Attorneys' fees and costs of suit; and
- E. Such other legal equitable relief as this Court deems necessary, just, equitable and proper.

Dated: , 2023

By: 
David R. Markham
Maggie Realin
Lisa Brevard

UNITED EMPLOYEES LAW GROUP
Walter L. Haines
Attorneys for Plaintiff

DRAFT

EXHIBIT B



SIRMABEKIAN
LAW FIRM

3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010

6314 San Fernando Rd.
Glendale, CA 91201

T (818) 473-5003
F (818) 476-5619

sarkis@slawla.com
www.slawla.com

October 2, 2024

SPOKE LOGISTICS LLC
22431 Antonio Pkwy, #B160-634
Rancho Santa Margarita, California 92688

via U.S. Certified Mail

ANDRIA PONTELLO
22431 Antonio Pkwy, #B160-634
Rancho Santa Margarita, California 92688

via U.S. Certified Mail

Labor and Workforce Development Agency
("LWDA")
Department of Industrial Relations
Accounting Unit
455 Golden Gate Avenue, 10th Floor
San Francisco, CA 94102

filed/served online at:
<http://www.dir.ca.gov>

**RE: ATU AKINLABI WATSON and TYRON WESLEY MCCARTHER's
AMENDED Notice of Labor Code Violations Pursuant to California Labor Code
Section 2699 et seq. ("PAGA")**

Dear Sir or Madam:

Please be advised that ATU AKINLABI WATSON and TYRON WESLEY MCCARTHER (hereinafter "Plaintiff" or "Plaintiffs" used interchangeably) have retained the Sirmabekian Law Firm, PC to represent them and other aggrieved employees for various California Labor Code violations including wage and hour claims against SPOKE LOGISTICS LLC and ANDRIA PONTELLO (hereafter referred to as "Employer," "Defendants," or "You" and/or referred to with "Your" and "Yours", and "EMPLOYER" or "DEFENDANTS").

EMPLOYER is hereby on notice that Plaintiff seeks compensation and all other available relief. Pursuant to the procedures specified in California Labor Code *Section 2699.3*, Plaintiff claims that EMPLOYER has violated, and/or caused to be violated, several Labor Code provisions, and is therefore liable for civil penalties under California Labor Code *§ 2698 et seq.*

The scope of this PAGA letter is intended to include Plaintiff and all other aggrieved employees of all positions against whom the below labor law violations have been committed. The scope includes each employee of each employer named above, whether or not such employee was also employed by any of the remaining employers.

Plaintiff and other aggrieved employees engaged in working as a delivery driver and other positions for Defendants.

Defendant SPOKE LOGISTICS LLC is a logistics consulting business operating through California with its principal and mailing address located at 22431 Antonio Pkwy, #B160-634, Rancho Santa Margarita, California 92688. Individual defendant ANDRIA PONTELLO is a manager/member, chief executive officer, and agent for service of process of the business.

Plaintiff alleges that Defendants were in charge of managing, supervising, and controlling Plaintiffs and other employees' wages, work hours, pay, and work conditions, along with managing the day-to-day operations for the business. Therefore, Defendants controlled Plaintiffs' (and other aggrieved employees') employment.

Defendants employed Plaintiff ATU AKINLABI WATSON as a delivery driver between approximately November 2021 through approximately October 2022. Defendants also employed Plaintiff TYRON WESLEY MCCARTHER as a delivery driver, from approximately November 20, 2023 through approximately August 9, 2024. Below are facts supporting allegations of Defendants' labor code violations against Plaintiff and other employees:

- Defendants misclassified their drivers and other employees as independent contractors in violation of Labor Code section 226.8 by paying them outside of payroll and depriving them of numerous labor law protections.
- Defendants failed to keep track of Plaintiffs and other employees' actual hours worked. Employees' pay was rounded and inaccurate. This is in violation of Section 6 of Wage Order 9 and other wage orders;
- Defendants made numerous unlawful deductions from Plaintiff and other drivers' wages including deductions entitled "INSEL", "OF FEE", "Insurance Processing Fee", "Wesco OccAcc", and "CMS Setup Fee";
- Defendants failed to pay Plaintiff for his actual travel time and expense. Defendants would "fix" the mileage and not allow Plaintiff to know true payment amounts. Plaintiff often drove over 500 miles and was given partial payment or no payment at all;
- Defendants never authorized or permitted Plaintiffs and others to take meal or rest breaks;
- Defendants failed to pay Plaintiffs and others at 1.5x for all overtime hours worked;
- Defendants failed to reimburse Plaintiffs and others for using their personal vehicles for deliveries, gas, cell phones, and equipment;
- Defendants failed to provide Plaintiff's final pay upon separation;
- Defendant violated these and other labor laws as described throughout this letter;

The term “aggrieved employees” is broadly defined as all employees of either Defendant, regardless of exempt or non-exempt status, and regardless of whether such employee was also employed by the remaining Defendant. All employees are included in this definition, including positions other than that of Plaintiff.

EMPLOYER deprived Plaintiff and other aggrieved employees of certain protections of the Industrial Welfare Commission Orders, including misclassification of employees, overtime pay, minimum wage, meal and rest periods, failure to pay wages upon separation, among numerous other California Labor Code violations. Many other aggrieved employees were also treated as exempt from those protections.

Plaintiff and other aggrieved employees primarily engage(d) in duties that failed to meet the requirements of the various exemptions. They lacked the requisite discretion and independent judgment required by the labor code and the IWC Orders (without limitation) to qualify as exempt from various labor law protections. By misclassifying aggrieved employees, EMPLOYER deprived them of many protections.

Unlawful Failure to Pay Overtime

EMPLOYER fails to maintain a policy that compensates Plaintiff and other employees for all hours worked, including overtime. Many employees, including Plaintiff, routinely worked work over eight (8) hours per day and/or forty (40) hours per week but are not paid one and one-half their regular rate of pay for overtime work. Defendants failed to pay Plaintiff and others at 1.5x for all overtime hours worked. As a result of violations of California Labor Code §§ 510, 1194, and applicable Industrial Welfare Commission Wage Orders for failure to pay overtime, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Unpaid Balance of Full Amount of Overtime Compensation

As described above, EMPLOYER has required employees to work hours in excess of eight hours in a day and forty hours in a week as a result of working their regular shifts, but EMPLOYER has not paid these employees overtime compensation. Here, Defendants failed to keep track of Plaintiff's and other employees' actual hours worked. Employees' pay was rounded and inaccurate. This is in violation of Section 6 of Wage Order 9 and other wage orders. As a result, Plaintiff and other employees have been denied “the unpaid balance of the full amount of this ... overtime compensation” as required by California Labor Code § 1194, and EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Unlawful Failure to Pay Minimum Wage

EMPLOYER has failed to maintain a policy that compensates Plaintiff and other employees an amount equal to or greater than the minimum wage for all hours worked, as required by California Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders. 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. EMPLOYER did not compensate Plaintiff and other employees for time spent working off the clock. Here, Defendants failed to keep track of Plaintiff's and other employees' actual hours worked. Employees' pay was rounded and inaccurate. As a result of violations of California

Labor Code §§ 1194, 1197, 1197.1 and applicable Industrial Welfare Commission Wage Orders, for failure to pay minimum wage, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 1197.1, and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Meal Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty meal periods as required by California law. Plaintiff and similarly situated employees regularly worked in excess of five (5) hours a day without being provided at least half-hour meal periods in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512, and applicable Industrial Welfare Commission Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed meal periods. They would be required to work through their meal breaks, or take short meal breaks, and no premium compensation was provided. Many employees, including Plaintiff, were forced to skip or take untimely breaks without appropriate compensation. Here, Defendants never authorized or permitted Plaintiff and others to take meal or rest breaks. Meal breaks were often taken late or nonexistent without payment of premiums. Employees sometimes worked shifts over >10 hours without a second meal break. Defendants also failed to keep proper record of any meal breaks taken, thereby violating the Labor Code and the Wage Order(s), and resulting in a presumption of violations in Plaintiff's favor. Auto-deductions were also common despite Plaintiff not having taken a full uninterrupted code-compliant meal break. As a result of violations of California Labor Code §§ 226.7 and 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Provide Uninterrupted Off-Duty Rest Periods

EMPLOYER has failed to maintain a policy that provides Plaintiff and other employees with off-duty rest periods as required by California law. Plaintiff and other employees regularly worked in excess of 3.5 hours or major fraction thereof during work days without being provided at least a ten-minute rest period in which they were relieved of all duties, as required by Labor Code §§ 226.7, 512 and applicable Wage Orders. EMPLOYER failed to pay Plaintiff and other employees the premium compensation mandated by Labor Code § 226.7(b) for these missed rest periods. Many employees, including Plaintiff, were forced to skip or take untimely rest breaks without appropriate compensation. Here, Defendants never authorized or permitted Plaintiff and others to take meal or rest breaks. Defendants also failed to keep proper record of any rest breaks taken, thereby violating the Labor Code and the Wage Order(s), and resulting in a presumption of violations in Plaintiff's favor. Auto-deductions were also common despite Plaintiff not having taken a full uninterrupted code-compliant meal break. As a result of violations of California Labor Code §§ 226.7, 512 and applicable Industrial Welfare Commission Wage Orders, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558 and 2698 *et seq.*

Unlawful Failure to Reimburse Expenses

EMPLOYER has failed to indemnify Plaintiff and other employees for all necessary expenditures or losses incurred by Plaintiff. EMPLOYER did not reimburse Plaintiff for various work-related expenses. For example, Defendants failed to pay Plaintiff

for his actual travel time and expense. Defendants would “fix” the mileage and not allow Plaintiff to know true payment amounts. Plaintiff often drove over 500 miles and was given partial payment or no payment at all. California Labor Code § 2802 requires the employer to indemnify employees for all necessary expenditures or losses incurred by employees in direct consequence of the discharge their duties. As a result of violations of California Labor Code § 2802, EMPLOYER is liable for civil penalties pursuant to California Labor Code §§ 558, 2802 and 2698 *et seq.*

Unlawful Failure to Furnish Wage Statements

EMPLOYER has violated California Labor Code § 226(a) by willfully failing to furnish Plaintiff and other employees with required wage statement information. As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Every employer shall, semimonthly or at the time of each payment of wages, furnish each of her 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 (1) gross wages earned, (2) total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and the last four digits of her or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, 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. The deductions made from payment of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement and the record of the deductions shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

Plaintiff and others were deprived of wage statements altogether, or various necessary items of information such as total hours worked, applicable hourly rates, and the employers’ address, etc., were missing. Defendants’ wage statements were inaccurate, including failing to state the inclusive dates of the period for which the employee is paid. Payments, both untimely and inadequate, were made with inaccurate wage statements in violation of Labor Code 226. Moreover, EMPLOYER’s employees’ work hours, overtime hours and pay, missed rest or meal break premiums, wages, without limitation, were misreported on their wage statements. As a result of violations of California Labor Code § 226(a), EMPLOYER is liable for civil penalties pursuant to California Labor Code Labor Code §§ 226.3 and 2698 *et seq.*

Unlawful Failure to Keep Accurate Payroll Records of Daily Hours Worked

EMPLOYER has failed to keep payroll records showing total hours worked and wages paid to Plaintiff and other employees. Under California Labor Code § 1174(d), employers must keep “payroll records showing the hours worked daily by and the wages paid to ... employees” Because EMPLOYER did not keep complete and accurate time records reflecting hours worked for Plaintiff and other employees, including, but not limited to, beginning work prior to the start of their shifts, working after the end of their shifts, and missed/short/late rest and meal breaks, it is liable for civil penalties pursuant to California Labor Code §2698 *et seq.* Sections of the applicable wage order requires the recording of this time. EMPLOYER would not keep track of action time. Instead, Defendants unfairly rounded employees’ hours, which resulted in underpayment of wages to their employees. To the extent that EMPLOYER’s failure to keep accurate payroll records was willful, it is liable for civil penalties under California Labor Code § 1174.5.

Unlawful Violation of California Labor Code § 1199

Under California Labor Code §§ 1199(a) and (c) and 2699.5 *et seq.*, an employer who “requires or causes any employee to work for longer hours than those fixed” or “violates or refuses or neglects to comply with any provision of” the Labor Code regarding employees’ wages, hours, and working conditions, is subject to PAGA penalties. As described above, EMPLOYER has required Plaintiff and other employees to work hours in excess of eight (8) in a day and forty (40) in a week (thereby violating § 1199(a)), failed to provide adequate rest and meal breaks, failed to pay minimum wage and has violated numerous provisions of the Labor Code pertaining to employee wages and hours (thereby violating § 1199(b)).

Accordingly, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Misclassification of Employees

It unlawful for any person or employer to willfully misclassify an individual as an independent contractor. Cal. Lab. Code § 226.8(a)(1). This permits Plaintiff to recover a civil penalty from five thousand dollars (\$5,000) to twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law. Cal. Lab. Code § 226.8(b)-(c). Here, Defendants misclassified their drivers and other employees as independent contractors in violation of Labor Code 226.8 by paying them outside of payroll and depriving them of numerous labor law protections. However, this PAGA Notice applies for all workers irrespective of Defendants' classification of them as employees or independent contractors. Defendants partly paid certain employees outside of payroll, as independent contractors, thereby depriving employees of wage statements and other labor law protections. As such, Defendants violated California Labor Code § 226.8 and numerous other Labor Code sections. Plaintiff and others were always employees as evidenced by the following facts: Plaintiff’s position required her to work for EMPLOYER, among many other duties which were directly related to the services provided by EMPLOYER. EMPLOYER supplied the instrumentalities, tools, and the place for the employees to do their work (all work was done under EMPLOYER’s supervision; the employees’ investment in the equipment or materials required were limited or non-existent; no special skills were required of the employees; the employees’ services were to be

performed for a long period of time with a high degree of permanence in the working relationship; and the parties believed they were maintaining an employer-employee relationship.).

Unlawful Failure to Pay Wages Due Upon Termination

EMPLOYER has violated California Labor Code § § 201 and 202 by willfully failing to pay all compensation due and owing to Plaintiff and other employees at the time employment was terminated, EMPLOYER willfully failed to pay Plaintiff and other employees who are no longer employed by it all compensation due upon termination of employment as required under California Labor Code §§ 201 and 202 including, but not limited to, missing wages due to inaccurate tracking of employees' time records and failing to properly track their hours works and premium pay for missed/short/late meal and rest breaks. Here, Defendants failed to provide Plaintiff's final pay upon separation. Defendants failed to pay Plaintiff adequately for reporting to work on his final day, in violation of the applicable wage order(s). Therefore, and for other failures to pay as stated within this letter, Defendants failed to provide Plaintiff's final pay upon separation. Plaintiff and other employees are now also entitled to recover up to thirty (30) days of wages due to EMPLOYER's "willful" failure to comply with the statutory requirements of sections 201 and 202 of the Labor Code.

Additionally, because EMPLOYER violated California Labor Code §§ 201, 201and 203 of the Labor Code, EMPLOYER is liable for civil penalties pursuant to California Labor Code § 2698 *et seq.*

Conclusion

EMPLOYER has violated or has caused to be violated a number of California wage and hour laws. Plaintiff therefore intends to file civil claims for the aforementioned violations of the Labor Code and other law. Plaintiff requests the agency review this notice per PAGA's provisions.

Sincerely,

SIRMABEKIAN LAW FIRM, PC

A handwritten signature in black ink, appearing to read 'Sarkis Sirmabekian', with a stylized, cursive script.

Sarkis Sirmabekian, Esq.



Thank you for your Amended PAGA Claim Notice Submission.

1 message

DIR PAGA Unit <no-reply@formassembly.com>

Wed, Oct 2, 2024 at 10:51 AM

To: contact@slawla.com

10/02/2024 10:50:58 AM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim Notice

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm

PROOF OF SERVICE

Sanchez v. Spoke Logistics, LLC/Alameda Superior Court Case No. 23CV035138

I, Amber Worden, declare as follows:

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to this action. My business address is 605 “C” Street, Suite 200, San Diego, California 92101.

On March 17, 2026, I instituted service of the forgoing document(s) described as:

FIRST AMENDED CLASS ACTION AND REPRESENTATIVE ACTION COMPLAINT

on the following interested parties:

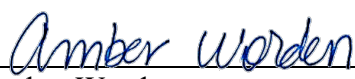
<u>Counsel for Defendant/Cross-Complainant</u> <u>Spoke Logistics, LLC</u> MARRON LAWYERS, APC Paul Marron, Esq. Laura A. Theriault, Esq. 5000 E. Spring Street, Suite 580 Long Beach, CA 90815 pmarron@marronlaw.com ltheriault@marronlaw.com	<u>Counsel for <i>Sanchez</i> Plaintiff</u> THE MARKHAM LAW FIRM David R. Markham, Esq. Lisa R. Brevard, Esq. 888 Prospect Street, Suite 200 La Jolla, CA 92037 dmarkham@markham-law.com lbrevard@markham-law.com UNITED EMPLOYEES LAW GROUP Walter Haines 8605 Santa Monica Blvd., #63354 West Hollywood, CA 90069 walter@uelglaw.com <u>Counsel for <i>Watson</i> Plaintiff</u> SIRMABEKIAN LAW FIRM, PC Sarkis Sirmabekian, Esq. 3435 Wilshire Blvd., Suite 1710 Los Angeles, CA 90010 sarkis@slawla.com
<u>Counsel for Cross-Defendant He Is The Way</u> <u>Transport Services, Inc.</u> JONES TRIAL ATTORNEYS Sean M. Jones, Esq./LL.M. Wells Fargo Plaza, 20th Floor 401 B Street, Suite 2010 San Diego, CA 92101 sean@jonestrialattorneys.com	

in the manner described below:

[XX] BY ELECTRONIC SERVICE – ONE LEGAL: Pursuant to Cal. Rules of Court, Rule 2.251(c)(3), I submitted an electronic version of the document(s) through the user interface of the e-filing vendor at www.onelegal.com.

[XX] STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 17, 2026, at San Diego, California.


Amber Worden