

3 Joseph Clapp, Esq, SBN 99194
4 Aiman-Smith & Marcy
5 7677 Oakport St. Suite 1150
6 Oakland, CA 94621
7 T 510.590.7115
8 F 510.562.6830
9 jc@asmlawyers.com

10 Attorneys for Plaintiff
11 EDWARD WILSON

12
13 SUPERIOR COURT OF CALIFORNIA
14 COUNTY OF YOLO
15 UNLIMITED JURISDICTION
16

17 EDWARD WILSON, an individual,)

18 Plaintiff,)

19 v.)

20 JOE'S LOGISTICS INC., a)
21 corporation, and DOES 1-25,)
22 inclusive,)

23 Defendants.)
24
25
26
27
28

Case No.: CV2023-1013

CLASS ACTION

Complaint for Wage and Hour Violations

1 Plaintiff is informed and believes and thereon alleges as follows:

2 **PARTIES**

3 1. Plaintiff EDWARD WILSON is a competent adult.

4 2. Defendant JOE'S LOGISTICS INC., a general stock corporation formed in
5 California, is in the business of hauling freight by truck.

6 3. Plaintiff is presently unaware of the true names and capacities of the persons named
7 as Does 1 through 25, and therefore sues them by these fictitious names. Plaintiff will amend
8 this complaint to assert their true names and capacities when these are ascertained. Except as
9 otherwise alleged herein, each of the entities sued as Does 1 through 25 was responsible for
10 the damages to Plaintiff as alleged herein.

11 **VENUE**

12 4. Plaintiff was a truck driver employed by Defendant JOE'S LOGISTICS. He was
13 dispatched out of Defendant JOE'S LOGISTICS facility located in Woodland, California.

14
15 **FACTUAL BACKGROUND**

16 5. Plaintiff was employed by Defendant JOE'S LOGISTICS from approximately June
17 20, 2020, until his resignation on approximately February 6, 2023.

18
19 **CLASS ALLEGATIONS**

20 6. The class consists of all truck drivers employed by Defendants from the date four
21 years before the filing of this Complaint until the commencement of trial.

22 7. The class is readily ascertainable through Defendants' employment records.

23 8. The number of class members is too great to make joinder of all practicable.

24 9. The claims that Plaintiff makes in this lawsuit are typical of the claims made by the
25 other class members.

26 10. Plaintiff can adequately represent the interests of the other class members. He
27 does not have any conflict with any other class member, and his counsel is knowledgeable
28 and experienced in prosecuting wage and hour class actions.

1 11. The legal and factual issues that are common to the class predominate over any
2 individual issues that must be litigated.

3 12. Resolving the common issues in this class action lawsuit would provide
4 substantial efficiencies for the parties and the court in the management of the claims of the
5 class members and, through the vigorous enforcement of the State's wage and hour laws,
6 prevent the failure of justice that would occur if these claims were never litigated, which for
7 the vast majority of the class members is the practical alternative to a class procedure. A
8 class action lawsuit would be a superior procedure for resolving these claims than any
9 alternative.

10
11 **FIRST CAUSE OF ACTION**

12 **Minimum Wages – Nonproductive Time**

13 **Labor Code Sec. 226.2(a)(1); Labor Code Sec. 1182.12(b)(1); Labor Code Sec. 1194(a);**
14 **Labor Code Sec. 1197**

15 13. Plaintiff incorporates herein the foregoing paragraphs.

16 14. Defendants employed Plaintiff and the other class members primarily on a piece-
17 rate basis.

18 15. Defendants frequently failed to compensate Plaintiff and other class members for
19 "other nonproductive time," that is, for time under Defendants' control, exclusive of rest and
20 recovery periods, not directly related to the activity being compensated on a piece-rate basis.

21 **SECOND CAUSE OF ACTION**

22 **Failure to Provide Accurate Pay Stubs**

23 **Labor Code Sec. 226(a); Labor Code Sec. 226(e); Labor Code Sec. 226.2(a)(2)(B)**

24 16. Plaintiff incorporates herein the foregoing paragraphs.

25 17. On the regular paydays, Defendants furnished Plaintiff and the other class
26 members with itemized statements in writing. These itemized statements, however, did not
27 accurately show gross wages earned, total hours worked, the number of piece-rate units
28

1 earned and any applicable piece rate; net wages earned, all applicable hourly rates in effect
2 during the pay period and the corresponding number of hours worked at each hourly rate, or
3 the total hours of “other nonproductive time,” the rate of compensation, and the gross wages
4 paid for that time during the pay period.
5

6 18. Defendants knew that they were required by law to furnish accurate and complete
7 itemized statements in writing to Plaintiff and other class members on the regular paydays.
8 Defendants intentionally failed to furnish these accurate and complete statements to Plaintiff
9 and the other class members.
10

11 19. Plaintiff and the other class members suffered injury from Defendants’ failure to
12 provide accurate itemized statements in writing on the regular paydays. Plaintiff and other
13 drivers could not promptly and easily determine the amount of wages earned or whether all
14 wages due had been paid. Plaintiff and other drivers must go to the difficulty and bear the
15 expense of reconstructing time and pay records to make computations to analyze the amounts
16 of wages that are due.
17
18

19 **THIRD CAUSE OF ACTION**
20 **Waiting Time Penalties**
21 **Cal. Labor Code Sec. 201, 202, 203**

22 20. Plaintiff incorporates herein the foregoing paragraphs.

23 21. Because Defendants failed to pay Plaintiff and other drivers wages due as
24 described in paragraphs 15, Defendants willfully failed to pay Plaintiff and other former class
25 members all wages due upon the terminations of their employments or within 72 hours of
26 their quitting their employments. To date, Defendants have not paid all wages due.
27
28

1 **FOURTH CAUSE OF ACTION**

2 **Unfair Competition Law**

3 **Cal. Business & Professions Code Sec. 17200 *et seq.***

4 22. Plaintiff incorporates herein the foregoing paragraphs.

5 **FIFTH CAUSE OF ACTION**

6 **Cell Phone Reimbursement**

7 **Labor Code Sec. 2802**

8 23. Plaintiff incorporates herein the foregoing paragraphs.

9 24. Although Defendants required Plaintiff and other drivers to use their personal cell
10 phones for business communications, they failed to reimburse the drivers for this necessary
11 expense.
12

13 **SIXTH CAUSE OF ACTION**

14 **PAGA Penalties**

15 **Labor Code Sec. 2699**

16 25. Plaintiff incorporates herein the foregoing paragraphs.

17 26. Defendants employed Plaintiff and other drivers primarily on a piece-rate basis,
18 generally at the rate of a certain amount per mile. For more than the past year, Defendants
19 have often failed to pay Plaintiff and the other drivers for “other nonproductive time,” that is,
20 for time under Defendants’ control, exclusive of rest and recovery periods, not directly
21 related to the activity being compensated on a piece-rate basis. This failure violated, and
22 violates, Labor Code Sections 226.2(a)(1), 1182.12(b), and 1197.
23

24 27. Because Defendants failed to pay Plaintiff and other drivers the wages described
25 in paragraph 26, they also failed to pay them all wages due on their regular weekly paydays.
26 This failure violated, and violates, Labor Code Sections 204b and 210(a).
27
28

1 28. Because Defendants failed to pay Plaintiff and other drivers the wages described
2 in paragraph 26, they also failed to furnish them on their regular paydays with an accurate
3 itemized statement in writing showing gross wages earned and net wages earned. Moreover,
4 these itemized statements did not accurately show gross wages and net wages earned because
5 they frequently mischaracterized some of the wages earned as “per diem expenses.” The
6 itemized statements generally failed to show total hours worked. The itemized statements
7 generally failed to show both the number of piece-rate units earned and any applicable piece
8 rate, instead changing the rate from week to week depending on the amount of wages that had
9 been mischaracterized as “per diem expenses.” The itemized statements generally failed to
10 show all applicable hourly rates in effect during the pay period and the corresponding number
11 of hours worked at each hourly rate. The itemized statements generally failed to show the
12 total hours of “other nonproductive time,” the rate of compensation and the gross wages paid
13 for that time during the pay period. These failures violated, and violate, Labor Code Sections
14 226(a), 226.3, and 226.2(a)(2)(B).
15

16 29. Because Defendants failed to pay Plaintiff and other drivers the wages described
17 in paragraph 26, it also failed to pay them all wages due upon the termination of their
18 employments or within 72 hours after they quit their employments. These failures violated,
19 and violate, Labor Code Sections 201(a) and 202(a).
20

21 30. Defendants willfully failed to pay Plaintiff and other drivers the wages due upon
22 the termination of their employments, of within 72 hours after they quit their employments, as
23 described in paragraph 29, and also failed to pay them the penalty-wages that accrued for 30
24 days after these separations. These failures violated, and violated, Labor Code Section
25 203(a).
26
27
28

1 31. Although Defendants required Plaintiff and other drivers to use their personal cell
2 phones for business communications, they failed to reimburse them for this necessary
3 expense. These failures violated, and violated, Labor Code Section 2802(a).
4

5 32. Defendants failed to keep accurate records showing when Plaintiff and other
6 drivers began and ended each work period. These failures violated, and violate, Labor Code
7 Section 1198.
8

9 33. On or about March 7, 2023, Plaintiff gave written notice by online filing to the
10 California Labor and Workforce Development Agency (LWDA) of the specific provisions of
11 the Labor Code that Defendants allegedly violated, and this notice included the facts and
12 theories supporting the alleged violations. On or about March 13, 2023, Plaintiff gave written
13 notice by certified mail to Defendants of the specific provisions of the Labor Code that
14 Defendants allegedly violated, and this notice included the facts and theories supporting the
15 alleged violations. Although more than 65 calendar days have passed since the postmark date
16 of the notice given to the Defendants, the LWDA has not notified the Plaintiffs whether it
17 intends to investigate.
18
19
20
21

22 **PRAYER**

23 WHEREFORE, Plaintiff prays for judgment as follows:

- 24 1. Damages in an amount to be proved at trial;
- 25 2. Liquidated damages on the first cause of action pursuant to Cal. Labor Code Sec.
26 1194.2(a);
- 27 3. Penalty damages on the second cause of action pursuant to Cal. Labor Code Sec.
28 226(e);

4. Waiting time penalties on the third cause of action pursuant to Cal. Labor Code Sec. 203;
5. Restitution of wages on the fourth cause of action;
6. Civil penalties on the sixth cause of action pursuant to Cal. Labor Code Sec. 2699;
7. Declaratory relief;
8. Pre-judgment interest;
9. Costs of suit, including expert fees;
10. Reasonable attorney's fees; and
11. All other appropriate remedies.

Dated: May 18, 2023

AIMAN-SMITH MARCY
A PROFESSIONAL CORPORATION



Joseph Clapp, Esq.
Attorneys for Plaintiff