

Filed
Superior Court of California,
Sacramento
06/28/2023
chapman
By _____, Deputy
23CV003937

1 Adam Rose (210880)
adam@frontierlawcenter.com
2 Manny Starr (319778)
manny@frontierlawcenter.com
3 Frontier Law Center
23901 Calabasas Road, #2074
4 Calabasas, CA 91302
Telephone: (818) 914-3433
5 Facsimile: (818) 914-3433

6 Attorney for Plaintiffs
7 Theaodore Butler, et al.

8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF SACRAMENTO

10 THEAODORE BUTLER, DAVON LAMONT
11 TARVER, JAMAL COLEMAN TARVER, SR.,
12 CORNELL LACY, WARREN SAVAGE, on their
own behalf and on all similarly situated individuals
and aggrieved employees,
13 Plaintiffs,
14 v.
15 STEINER COPORATION dba ALSCO, and
DOES 1 to 100,
16 Defendants.
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) NO.
) CLASS ACTION
) COMPLAINT
) 1. Minimum Wage Violations
) 2. Overtime Violations
) 3. Meal Period Violations
) 4. Rest Period Violations
) 5. Wage Statement Penalties
) 6. Violation of Unfair Competition Law
) 7. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Theaodore Butler is a resident of Sacramento County.
2. Plaintiff Davon Lamont Tarver is a resident of Sacramento County.
3. Plaintiff Coleman Tarver, Sr. is a resident of Sacramento County.
4. Plaintiff Cornell Lacy is a resident of Sacramento County.
5. Plaintiff Warren Savage is a resident of Sacramento County.
6. Defendant Steiner Corporation is a Utah corporation that is qualified to do business in California and does business as Alsco with seven location in California, including Sacramento.
7. Alsco provides industrial laundry services and rentals, and Plaintiffs, the class members, and the aggrieved employees worked in nonexempt capacities at Alsco locations.

1 8. Plaintiffs do not know the true names and capacities of Does 1 to 100 and therefore use
2 fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section
3 474 to allege the true names and capacities when ascertained.

4 9. The named and Doe defendants are collectively referred to as "Defendants."

5 10. Plaintiffs are informed and believe that each of the Defendants was the agent or employee
6 of the other defendants and acted in the scope of agency or employment.

7 11. Defendants employed Plaintiff and the class members as delivery persons.

8 12. Plaintiffs worked out of Defendants' Sacramento location.

9 13. Plaintiff and the class members were not exempt since they did not customarily and
10 regularly exercise discretion and independent judgment.

11 14. Throughout Plaintiffs' and the class members' and aggrieved employees' employment, they
12 did not receive compliant meal and rest periods, did not receive overtime at the correct regular rate,
13 did not receive at least the minimum wage for work off the clock, and did not receive accurate
14 wage statements.

15 15. Regarding the regular rate for overtime, it was not calculated correctly since Defendants
16 incorrectly applied a 0.5 premium instead of the entire base rate. Also, sometimes referral bonuses
17 were given that were not included in the regular rate.

18 16. The overtime regular rate violation carried over into premium pay for missed breaks, which
19 was not paid at the correct regular rate.

20 17. On April 12, 2023 Plaintiffs sent a PAGA letter to Steiner Corporation and uploaded the
21 letter to the LWDA website. Since it has been more the 65 days, Plaintiffs may now request PAGA
22 penalties in this complaint.

23
24 CLASS ACTION ALLEGATIONS

25 18. The class is defined as the following: "All non-exempt employees who worked for
26 Defendants in California as from four years prior to filing the case to the date of certification or
27 judgment, whichever is earlier."

28 19. There is a well-defined community of interest, and the proposed class is ascertainable from

1 Defendants' employment records. Further, the following apply to show the viability of a class
2 action pursuant to Code of Civil Procedure section 382:

- 3 a. Numerosity: The members of the class as defined are so numerous that joinder
4 of all class members is impracticable.
- 5 b. Commonality: This action involves common questions of law and fact to the
6 class because the action focuses on Defendants' systematic course of conduct
7 with respect to violating the Labor Code and IWC Wage Order.
- 8 c. Typicality: The claims are typical of the claims of the class. Plaintiff was
9 subjected to the same violations and seeks the same types of damages,
10 restitution, and other relief on the same as those of the members of the class.
- 11 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
12 protect the interests of the class. Plaintiff understands the obligations as a class
13 representative and is willing and able to fulfill them. Plaintiff's counsel is
14 competent and experienced in litigating large employment class actions and
15 complex litigation matters, including wage and hour cases like this.
- 16 e. Superiority of Class Action: A class action is superior to other available means
17 for efficient adjudication. Class action treatment will allow similarly situated
18 persons to pursue the claims in a manner that is most efficient and economical.

19 20. There are common questions of law and fact including but not limited to:

- 20 a. Whether Defendants did not pay overtime at the correct regular rate of pay in
21 violation of Labor code sections 510 and 1194;
- 22 b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying
23 at least the minimum wage for work off the clock;
- 24 c. Whether Defendants violated Labor Code section 512 and the applicable Wage
25 Order by not providing meal breaks;
- 26 d. Whether Defendants violated the applicable Wage Order for not providing rest
27 breaks;
- 28 e. Whether Defendants violated Labor Code section 226 by providing inaccurate

- 1 wage statements;
- 2 f. Whether Defendants violated Labor Code section 226.7 by not paying premium
- 3 pay for missed meal and rest breaks;
- 4 g. Whether Defendants engaged in unfair competition; and
- 5 h. The amount of damages, wages, and penalties owed.
- 6

7 FIRST CAUSE OF ACTION

8 Minimum Wage Violations

9 Against All Defendants

- 10 21. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.
- 11 22. Plaintiffs and the class members were required to work off the clock, and this time should
- 12 have been paid at least the minimum wage.
- 13 23. Plaintiffs and the class members are owed reimbursement for unpaid wages and interest.
- 14 24. Also, statutory attorney fees apply.
- 15

16 SECOND CAUSE OF ACTION

17 Overtime Violations

18 Against All Defendants

- 19 25. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.
- 20 26. Plaintiffs and the class members were required to work over eight hours in a day and/or 40
- 21 hours in a week without being compensated for all overtime in violation of Labor Code 510.
- 22 22. Plaintiffs and the class members should have received overtime at the correct regular rate of
- 23 pay for the overtime work off the clock as explained above.
- 24 23. The remedy for the overtime violations is payment of the unpaid overtime at the correct
- 25 regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

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1 THIRD CAUSE OF ACTION

2 Meal Period Violations

3 Against All Defendants

4 24. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.

5 25. Pursuant to the applicable Wage Order, every employer shall authorize and permit
6 employees to take meal periods of thirty minutes for every five hours worked.

7 25. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when the employer does
8 not provide an employee with the required meal period, the employer shall pay the employee one
9 hour of pay at the employee's regular rate of compensation for each workday that a rest period is
10 not provided.

11 27. Plaintiff and the class members were denied meal periods as meal periods were not
12 provided or were on-duty.

13 28. As a result of Defendants' meal period violations, Plaintiff and the class members are
14 entitled to premium pay which is one additional hour of compensation for each missed break.

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16 FOURTH CAUSE OF ACTION

17 Rest Period Violations

18 Against All Defendants

19 29. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.

20 30. Pursuant to the applicable Wage Order every employer shall authorize and permit
21 employees to take rest periods of ten minutes for every four hours worked.

22 31. Pursuant to Labor Code section 226.7(c) and the applicable Wage Order, when the
23 employer does not provide an employee with the required rest period, the employer shall pay the
24 employee one hour of pay at the employee's regular rate of compensation.

25 32. Plaintiff and the class members were denied rest periods as rest periods were not provided
26 or were on-duty.

27 33. As a result of Defendants' rest period violations, Plaintiff and the class members are
28 entitled to premium pay which is one additional hour of compensation for each missed break.

1 FIFTH CAUSE OF ACTION

2 Wage Statement Penalties

3 Against All Defendants

4 34. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.

5 35. Defendants' wage statements issued to Plaintiffs and the class members violated Labor
6 Code section 226 since they did not list the work off the clock, did not list the correct regular rates
7 of pay for overtime, and did not list the correct rates for premium pay for missed breaks at the
8 regular rates of pay.

9 36. As a result, Plaintiff and the class members are entitled to wage statement penalties up to
10 \$4,000 each and attorney fees.

11
12 SIXTH CAUSE OF ACTION

13 Violation of Unfair Competition Law

14 Against All Defendants

15 37. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.

16 38. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

17 39. This claim is being brought under the unlawful prong of the UCL.

18 40. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due,
19 including minimum wage, and overtime and premium pay at the correct regular rate.

20 41. Plaintiffs and the class members are entitled to restitution for the above.

21 42. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

22
23 SEVENTH CAUSE OF ACTION

24 PAGA Penalties

25 Against All Defendants

26 43. Plaintiffs incorporate by reference paragraphs 1 to 20 of the complaint.

27 44. The PAGA period is from April 12, 2022 to present.

28 45. The PAGA penalties for the minimum wage violations are in Labor Code 1197.1 and 2699.

- 1 46. The PAGA penalties for overtime violations are in Labor Code 558, 1197.1, and 2699.
2 47. The PAGA penalties for the meal break violations are in Labor Code 558 and 2699.
3 48. The PAGA penalties for the rest break violations are in Labor Code section 2699.
4 49. The PAGA penalties for the wage statement violations are in Labor Code section 2699.
5 50. Further, Plaintiffs are entitled to attorney fees and costs under Labor Code section 2699.
6

7 PRAYER

8 For All Causes of Action

- 9 1. That the court determine that this action may be maintained as a class action
10 2. That Plaintiffs serve as representatives of the class
11 3 That Counsel for Plaintiffs is appointed as class counsel
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13 First Cause of Action

- 14 1. Payment of all unpaid wages
15 2. Interest
16 3. Attorney fees
17 4. Other relief the court deems proper
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19 Second Cause of Action

- 20 1. Payment of overtime
21 2. Interest
22 3. Attorney fees
23 4. Other relief the court deems proper
24

25 Third Cause of Action

- 26 1. Premium pay at the correct regular rate of pay
27 2. Other relief the court deems proper
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1 Fourth Cause of Action

2 1. Premium pay at the correct regular rate of pay

3 2. Other relief the court deems proper

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5 Fifth Cause of Action

6 1. Wage statement penalties

7 2. Attorney fees and costs

8 3. Other relief the court deems proper

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10 Sixth Cause of Action

11 1. Restitution of unpaid wages and premium pay

12 2. Attorney fees

13 3. Other relief the court deems proper

14
15 Seventh Cause of Action

16 1. All applicable PAGA penalties

17 2. Attorney fees and costs

18 3. Other relief the court deems proper

19
20 Date: June 28, 2023

FRONTIER LAW CENTER

21 *Adam Rose*

22 _____
23 Adam Rose
24 Attorney for Plaintiffs
25 Theaodore Butler, et al.
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