

FILED
SUPERIOR COURT

2023 AUG -2 PM 2: 29

BRANDON E. RILEY, CLERK

BY TRUDY L. HALEY
DEPUTY

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa St., Suite 1250
Los Angeles, California 90071
(213) 488-6555
(213) 488-6554 facsimile

Attorneys for Plaintiff

*** ADDITIONAL COUNSEL ON NEXT PAGE

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

SAMNANG TOUCH, as a proxy for the
State of California,

Plaintiff,

v.

COX AUTOMOTIVE CORP SVCS., LLC,
a limited liability company; COX
AUTOMOTIVE MOBILITY
SOLUTIONS, INC., a corporation; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.

STK-CV-WE-2023- 8208

**REPRESENTATIVE ACTION COMPLAINT
FOR:**

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

DEMAND EXCEEDS \$25,000.00

ADDITIONAL COUNSEL FOR PLAINTIFF

William L. Marder (SBN 170131)
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
Telephone: (831) 531-4214
Facsimile: (831) 634-0333

Edward W. Choi, Esq. SBN 211334
edward.choi@choiandassociates.com
LAW OFFICES OF CHOI & ASSOCIATES
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
Telephone: (213) 381-1515
Facsimile: (213) 465-4885
Email: edward.choi@choiandassociates.com

Dennis S. Hyun (State Bar No. 224240)
HYUN LEGAL, APC
515 S. Figueroa St., Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile
dhyun@hyunlegal.com

Attorneys for Plaintiff

1 Plaintiff Samnang Touch (“Plaintiff”) hereby submits this Representative Action
2 Complaint against Defendants Cox Automotive Corp Svcs., LLC, a limited liability company,
3 and Cox Automotive Mobility Solutions, Inc., a corporation (collectively, “Defendant”) and Does
4 1-50 (hereinafter collectively referred to as “Defendants”), on behalf of the State of California
5 and all other similarly aggrieved current and former employees of Defendant for penalties for
6 failure to provide accurate and complete wage statements as follows:

7 **JURISDICTION AND VENUE**

8 1. This representative action is within the Court’s jurisdiction under the Private
9 Attorneys General Act (the “PAGA”), California Labor Code § 2698, *et seq.*, and the applicable
10 Wage Orders of the Industrial and Welfare Commission (the “IWC”).

11 2. This Complaint challenges systemic illegal employment practices resulting in
12 violations of the California Labor Code against Defendant’s employees.

13 3. Venue is proper in San Joaquin County because Plaintiff is employed by
14 Defendant in Stockton, California.

15 **PARTIES**

16 4. In or around April 2022, Plaintiff was hired by Defendant as a mobile diesel
17 technician. Plaintiff continues to work for Defendant. Throughout Plaintiff’s employment, he
18 has been an hourly, non-exempt employee.

19 5. Plaintiff is informed and believes and based thereon alleges that Defendant was
20 and is a corporation that provides automotive fleet maintenance and operations services
21 throughout the State of California, including in San Joaquin County.

22 6. Plaintiff is informed and believes and based thereon alleges that at all times herein
23 mentioned Defendant and DOES 1 through 50 are and were business entities, individuals, and
24 partnerships, licensed to do business and actually doing business in the State of California.

25 7. As such, and based upon all the facts and circumstances incident to Defendants’
26 business in California, Defendants are subject to Labor Code section 226 and the applicable IWC
27 Wage Orders.

28 8. Plaintiff does not know the true names or capacities, whether individual, partner or

1 corporate, of the Defendants sued herein as DOES 1 through 50, inclusive, and for that reason,
2 said Defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
3 complaint when the true names and capacities are known. Plaintiff is informed and believes and
4 based thereon alleges that each of said fictitious Defendants was responsible in some way for the
5 matters alleged herein and proximately caused Plaintiff and aggrieved employees to be subject to
6 the illegal employment practices, wrongs and violations complained of herein.

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

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

19 11. At all times herein mentioned, Defendants, and each of them, were members of,
20 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
21 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

22 12. At all times herein mentioned, the acts and omissions of various Defendants, and
23 each of them, concurred and contributed to the various acts and omissions of each and all of the
24 other Defendants in proximately causing the violations as herein alleged. At all times herein
25 mentioned, Defendants, and each of them, ratified each and every act or omission complained of
26 herein. At all times herein mentioned, the Defendants, and each of them, aided and abetted the
27 acts and omissions of each and all of the other Defendants in proximately causing the violations
28 as herein alleged.

1 **FIRST CAUSE OF ACTION**

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

3 **(BY PLAINTIFF AS A PROXY FOR THE STATE OF CALIFORNIA AGAINST ALL**
4 **DEFENDANTS)**

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

7 14. Plaintiff brings this cause of action on behalf as a proxy for the State of California
8 and in this capacity, seeks penalties on behalf of all Aggrieved Employees for Defendant's
9 violation of Labor Code §§ 226 and 226.3, from May 18, 2022, through the present.

10 15. Defendant Violated Labor Code § 226(a) by failing to provide accurate wage
11 statements. As with other non-exempt employees, Plaintiff received itemized wage statements
12 concurrent with the payment of wages. Specifically, Defendant has failed to list the accurate total
13 hours worked and applicable hourly rates of pay on wage statements furnished to Plaintiff and
14 Aggrieved Employees when overtime wages are paid. When overtime wages are paid to Plaintiff
15 and Aggrieved Employees and the applicable hours are added up in each respective wage
16 statement, it does not correlate to the correct number of total hours worked during each pay
17 period. Similarly, when overtime wages are paid to Plaintiff and Aggrieved Employees, the wage
18 statements failed to identify the applicable overtime hourly rates of pay. Additionally, as to **all**
19 **non-exempt and exempt employees who were paid any wages by Defendant**, Defendant failed
20 to list the actual name of the legal entity that is the employer of Plaintiff and Aggrieved
21 Employees. Defendant listed an entity called "Cox Automotive Corp Svcs., LLC," but this entity
22 is not an actual existent entity in the State of California, as it is not registered with the California
23 Secretary of State. Plaintiff is informed and believes and based thereon alleges that Cox
24 Automotive Mobility Solutions, Inc. is the actual legal entity that employed Plaintiff and
25 Aggrieved Employees, as it is registered with the California Secretary of State and has the same
26 address as the employer listed on Plaintiff's paystubs. Therefore, Defendant also violated Labor
27 Code § 226(a)(8) as to Plaintiff and Aggrieved Employees.

28 16. On or about May 18, 2023, Plaintiff sent written notice to the California Labor &

1 Workforce Development Agency (“LWDA”) and to Defendant regarding Defendant’s violations
2 of Labor Code §§ 226 and 226.3, pursuant to Labor Code § 2698, *et seq.*

3 17. As of the date of the filing of this Complaint, the LWDA has not provided written
4 notice as to whether it intends to investigate the Labor Code violations set forth in Plaintiff’s
5 written notice and, thus, allowing Plaintiff to proceed under PAGA against Defendants for said
6 violations. Therefore, Plaintiff may seek all applicable penalties under the PAGA.

7 18. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
8 applicable remedies under the PAGA for Defendant’s violation of Labor Code § 226 for the time
9 periods described above on behalf of all other Aggrieved Employees, including without
10 limitation, civil penalties under Labor Code § 2699, any remedies under Labor Code § 226.3 and
11 for costs and attorneys’ fees.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment on all others on whose behalf this suit is
14 brought against Defendants, jointly and severally, as follows:

15 1. Upon the First Cause of Action, for civil penalties, costs and attorneys’ fees
16 pursuant to Labor Code §§ 226.3 and 2699; and

17 2. For such other and further relief as the Court may deem just and proper.

18 DATED: August 2, 2023

DIVERSITY LAW GROUP, P.C.

19
20 By: 

Larry W. Lee

Attorneys for Plaintiff