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ELECTRONICALLY FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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By: Kayla Schuebel, DEPUTY

Attorney for Plaintiff
Elsa Chavez

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

ELSA CHAVEZ, individually and on behalf of all
similarly situated individuals and aggrieved
employees,

Plaintiff,

v.

TLD LOGISTICS SERVICES, INC., and DOES 1
to 100,

Defendants.

) NO. CIVSB2314330
) CLASS ACTION
)
) FIRST AMENDED COMPLAINT
)
) 1. Minimum Wage Violations
) 2. Overtime Violations
) 3. Meal Period Violations
) 4. Rest Period Violations
) 5. Wage Statement Penalties
) 6. Sick Pay Violations
) 7. Violation of Unfair Competition Law
) 8. PAGA Penalties
)

PRELIMINARY ALLEGATIONS

1. Plaintiff Elsa Chavez is a resident of San Bernardino County.
2. Defendant TLD Logistics Services, Inc. is a Tennessee corporation that is authorized to do business in California, with a business location in San Bernardino County.
3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore uses fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
4. The named and Doe defendants are collectively referred to as "Defendants."
5. Plaintiff is informed and believes that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.

6. Defendants employed Plaintiff and the class members as transportation workers. Therefore, Wage Order 9 applies.

7. Plaintiff has worked for Defendants from September 2022 to present.

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

9. Throughout Plaintiffs' and the class members' employment, they did not receive compliant meal and rest periods, did not receive overtime, premium pay, and sick time at the correct regular rate, did not receive at least the minimum wage for work off the clock, and did not receive accurate wage statements.

CLASS ACTION ALLEGATIONS

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

11. There is a well-defined community of interest, and the proposed class is ascertainable from Defendants' employment records. Further, the following apply to show the viability of a class action pursuant to Code of Civil Procedure section 382:

- a. Numerosity: The members of the class as defined are so numerous that joinder of all class members is impracticable.
- b. Commonality: This action involves common questions of law and fact to the class because the action focuses on Defendants' systematic course of conduct with respect to violating the Labor Code and IWC Wage Order.
- c. Typicality: The claims are typical of the claims of the class. Plaintiff was subjected to the same violations and seeks the same types of damages, restitution, and other relief on the same as those of the members of the class.
- d. Adequacy of Representation: Plaintiff will fairly and adequately represent and protect the interests of the class. Plaintiff understands the obligations as a class representative and is willing and able to fulfill them. Plaintiff's counsel is

competent and experienced in litigating large employment class actions and complex litigation matters, including wage and hour cases like this.

- e. Superiority of Class Action: A class action is superior to other available means for efficient adjudication. Class action treatment will allow similarly situated persons to pursue the claims in a manner that is most efficient and economical.

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

- a. Whether Defendants did not pay overtime at the correct regular rate of pay in violation of Labor code sections 510 and 1194;
- b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying at least the minimum wage for work off the clock;
- c. Whether Defendants violated Labor Code section 512 and Wage Order 9 by not providing meal breaks;
- d. Whether Defendants violated Wage Order 9 for not providing rest breaks;
- e. Whether Defendants violated Labor Code section 226 by providing inaccurate wage statements;
- f. Whether Defendants violated Labor Code section 226.7 by not paying premium pay for missed meal and rest breaks at the correct regular rate of pay;
- g. Whether Defendants did not pay sick time at the correct regular rate of pay;
- h. Whether Defendants engaged in unfair competition; and
- i. The amount of damages, wages, and penalties owed.

FIRST CAUSE OF ACTION

Minimum Wage Violations

Against All Defendants

13. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

14. Plaintiff and the class members were required to work off the clock, and this time should have been paid at least the minimum wage.

15. Plaintiff and the class members are owed reimbursement for unpaid wages and interest.

1 16. Also, statutory attorney fees apply.

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SECOND CAUSE OF ACTION

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Overtime Violations

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Against All Defendants

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17. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

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18. Plaintiff and the class members were required to work over eight hours in a day and/or 40 hours in a week without being compensated for all overtime in violation of Labor Code 510.

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19. Plaintiff and the class members should have received overtime at the correct regular rate of pay for the overtime work; the reason for the violations is that Plaintiffs and the class members received bonuses that should have been incorporated into the regular rate pay but were not.

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20. The remedy for the overtime violations is payment of the unpaid overtime at the correct regular rate of pay, plus interest and attorney fees.

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THIRD CAUSE OF ACTION

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Meal Period Violations

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Against All Defendants

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21. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

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22. Pursuant to Wage Order 9 every employer shall authorize and permit employees to take meal periods of thirty minutes for every five hours worked.

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

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

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25. As a result of Defendants' meal period violations, Plaintiff and the class members are entitled to premium pay which is one additional hour of compensation for each missed break at the correct regular rate of pay.

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1 FOURTH CAUSE OF ACTION

2 Rest Period Violations

3 Against All Defendants

4 26. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

5 27. Pursuant to Wage Order 9 every employer shall authorize and permit employees to take rest
6 periods of ten minutes for every four hours worked.

7 28. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 9, when the employer does
8 not provide an employee with the required rest 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 29. Plaintiff and the class members were denied rest periods as rest periods were not provided
12 or were on-duty.

13 30. As a result of Defendants' rest 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 FIFTH CAUSE OF ACTION

17 Wage Statement Penalties

18 Against All Defendants

19 31. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

20 32. Defendants' wage statements issued to Plaintiff and the class members violated Labor Code
21 section 226 since they did not list the work off the clock, did not list the correct regular rates of pay
22 for overtime, and did not list premium pay and sick pay at the regular rates of pay.

23 33. As a result, Plaintiff and the class members are entitled to wage statement penalties up to
24 \$4,000 each and attorney fees.

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1 SIXTH CAUSE OF ACTION

2 Sick Pay Violations

3 Against All Defendants

4 34. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

5 35. Sick pay accrues for employees pursuant to Labor Code section 246.5.

6 36. Sick pay is a type of wage pursuant to Labor Cod sections 200 and 218.5.

7 37. Defendants did not pay sick pay at the correct regular necessitated by Labor Code 246(l).

8 38. Based on that violation, Plaintiff and the class are entitled to the difference of unpaid sick
9 pay, and attorney fees and costs pursuant to Labor Code section 218.5.

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11 SEVENTH CAUSE OF ACTION

12 Violation of Unfair Competition Law

13 Against All Defendants

14 39. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

15 40. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

16 41. This claim is being brought under the unlawful prong of the UCL.

17 42. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due, and
18 overtime, premium pay, and sick pay at the correct regular rate.

19 43. Plaintiffs and the class members are entitled to restitution for the above.

20 44. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

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22 EIGHTH CAUSE OF ACTION

23 PAGA Penalties

24 Against All Defendants

25 45. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

26 46. On June 22, 2023 Plaintiff sent TLD Logistics, Inc. a PAGA letter by certified mail and
27 uploaded the letter to the LWDA website. Since it has been more than 65 days since the PAGA
28 letter was sent and uploaded, Plaintiff may now request PAGA penalties.

1 47. The PAGA penalties for the minimum wage violations are contained in Labor Code section
2 1197.1 and 2699.

3 48. The PAGA penalties for the overtime violations are contained in Labor Code sections 558,
4 1197.1, and 2699.

5 49. The PAGA penalties for the meal break violations are contained in Labor Code sections 558
6 and 2699.

7 50. The PAGA penalties for the rest break violations are contained in Labor Code section 2699.

8 51. The PAGA penalties for the wage statement violations are contained in Labor Code 2699.

9 52. The PAGA penalties for the waiting time penalty violations are in Labor Code 2699.

10 53. The PAGA penalties for the sick pay violations are contained in Labor Code section 2699.

11 54. Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

12 PRAYER

13 For All Causes of Action

14 1. That the court determine that this action may be maintained as a class action

15 2. That Plaintiff serves as representatives of the class

16 3. That Counsel for Plaintiff is appointed as class counsel.

18 First Cause of Action

19 1. Payment of all unpaid wages

20 2. Interest

21 3. Attorney fees

22 4. Other relief the court deems proper

24 Second Cause of Action

25 1. Payment of overtime

26 2. Interest

27 3. Attorney fees

28 4. Other relief the court deems proper

1 Third 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 Fourth Cause of Action

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

7 2. Other relief the court deems proper

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9 Fifth Cause of Action

10 1. Wage statement penalties

11 2. Attorney fees and costs

12 3. Other relief the court deems proper

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14 Sixth Cause of Action

15 1. Payment of all unpaid sick pay

16 2. Attorney fees and costs

17 3. Other relief the court deems proper\

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19 Seventh Cause of Action

20 1. Restitution of unpaid wages, premium pay, and sick pay

21 2. Attorney fees

22 3. Other relief the court deems proper

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24 Eighth Cause of Action

25 1. All applicable PAGA penalties

26 2. Attorney fees and costs

27 3. Other relief the court deems proper

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1 Date: October 16, 2023

FRONTIER LAW CENTER

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3 *Adam Rose*

4 Adam Rose
5 Attorney for Plaintiff
6 Elsa Chavez
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