

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

Attorney for Plaintiff
Salvador Rodriguez, Jr.



SUPERIOR COURT OF CALIFORNIA
COUNTY OF BUTTE

SALVADOR RODRIGUEZ, JR., on his own behalf and all similarly situated individuals,
Plaintiff,
v.
RGIS, LLC AND WIS IVS, LLC; and DOES 1 to 100,
Defendants.

) NO. 23CV01731
) CLASS ACTION
)
) SECOND AMENDED CLASS AND
) REPRESENTATIVE ACTION
) COMPLAINT
)
) 1. Minimum Wage Violations
) 2. Overtime Violations
) 3. Meal Break Violations
) 4. Rest Break Violations
) 5. Work Expense Violations
) 6. Sick Pay Violations
) 7. Wage Statement Violations
) 8. Waiting Time Penalties
) 9. Unfair Competition
) 10. Private Attorneys General Act

RELEVANT PARTIES

1. Plaintiff Salvador Anthony Rodriguez Jr ("Plaintiff") is an adult resident of Butte County, California

2. Defendants RGIS, LLC and WIS IVS, LLC ("Defendants") are Delaware Limited Liability Corporations. Defendants are registered to and do conduct business in the State of California and are subject to the laws of the State of California. All acts and omissions of Defendants employees as alleged herein occurred while they were acting within the course and scope of their employment.

///

3. Plaintiff is unaware of the true names or capacities of the Defendants sued herein as DOES 1 through 100, inclusive (“Doe Defendants”), and therefore sues said Doe Defendants by such fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to insert the true names and capacities of such Doe Defendants when such information has been obtained. Plaintiff is informed and believes, and based on such information and belief alleges, that each of the fictitiously named Doe Defendants has participated in some way in the wrongful acts and omissions alleged below, and is liable to Plaintiff for damages and other relief to which Plaintiff is entitled. Defendant and Doe Defendants are collectively referred to as “Defendants”.

FACTUAL ALLEGATIONS

4. Plaintiff was Defendants’ employee.

5. Defendants failed to provide Plaintiff and the Class Members with compliant meal breaks because they were required to continue working through their entire shift without meal breaks due to understaffing and heavy workload, or because they were not provided with at least a 30-minute duty free meal period before they worked more than five hours or a second duty free meal period before they worked more than ten hours. Plaintiff also alleges that he and the Class Members were not allowed to leave the work premises during their meal periods. Additionally, during long drives to remote job sites, Plaintiff and the Class Members were often required to continue driving and/or eat while on the road to make it to the job sites on time. Despite not being provided with compliant meal breaks, Defendants did not pay premium pay for these missed breaks at Plaintiff’s and the Class Members’ regular rate of pay.

6. Defendants failed to provide Plaintiff and the Class Members with compliant rest breaks because they were required to remain on call and generally on duty during their rest breaks. Plaintiff and the Class Members were also required to remain on the premises during their rest breaks. Despite not being provided with compliant rest breaks, Defendants did not pay premium pay for these missed breaks at Plaintiff’s and the Class Members’ regular rate of pay.

7. Defendants failed to pay Plaintiff and the Class Members for all hours worked because they were required to perform pre-shift activities while off the clock, such as meeting other

1 employees and gathering equipment in preparation for an inventory count, passing through
2 security checkpoints, traveling to worksites (for which only a portion of the time was paid),
3 waiting time before the inventory actually started, or undergoing COVID-19 screenings.

4 Further, Defendants failed to properly track all time worked, and in addition to what is stated
5 above, did not pay Plaintiff and the Class Members for time waiting to clock in or out, or the
6 time locating a supervisor to clock in or out.

7 8. The time worked off the clock was often overtime. Therefore, Defendants failed to pay Plaintiff
8 and the Class Members for all overtime and double time worked.

9 9. Defendants failed to pay Plaintiff and the Class Members all overtime owed because they did
10 not include all time worked, including but not limited to travel time in the calculation of
11 overtime hours, resulting in a failure to pay overtime or double time at the correct regular rate
12 of pay.

13 10. Defendants failed to correctly calculate Plaintiff's and the Class Members' regular rate of pay,
14 and as a result, underpaid their overtime, premium pay, and sick pay. Specifically, Defendants
15 did not include all non-discretionary pay, including incentive and bonus payments, when
16 calculating the regular rate of pay.

17 11. Defendants failed to reimburse Plaintiff and the Class Members for all work-related expenses
18 because they were required to pay for fuel costs when using company vehicles for mandatory
19 travel. Defendant also failed to Plaintiff and the Class Members for use of their personal cell
20 phones to perform work duties.

21 12. On occasions when Plaintiff and the Class Members used their personal vehicles for work-
22 related travel, Defendants failed to reimburse them for fuel, maintenance, and wear and tear on
23 their vehicles.

24 13. Defendants are a temporary services employer as defined in Labor Code section 201.3 because
25 they negotiated with clients the time and place where services were to be performed,
26 determined the assignment of workers, retained the authority to assign or reassign workers to
27 another client, set the rate of pay for Plaintiff and the Aggrieved Employees, paid Plaintiff and
28

1 the Aggrieved Employees from their own accounts, and retained the right to hire and terminate
2 workers.

3 14. As a temporary services employer, Defendants were required to pay Plaintiff and the Aggrieved
4 Employees on a weekly basis. However, Defendants paid Plaintiff and the Aggrieved
5 Employees on a bi-weekly basis in violation of the Labor Code.

6 15. Defendants failed to properly accrue one hour of sick pay for every 30 hours worked for
7 Plaintiff and the Class Members due to off-the-clock work.

8 16. Additionally, Defendants did not pay Plaintiff and the Class Members sick pay at the correct
9 regular rate in violation of Labor Code 246.

10 17. Defendants failed to provide Plaintiff and the Class Members with accurate wage statements
11 because the wage statements issued did not accurately list total wages owed, hours worked, and
12 all applicable hourly rates in effect during the pay period. Defendants also generally failed to
13 maintain accurate payroll records.

14 18. Due to Defendants' failure to pay all wages due to Plaintiff and the Class Members during their
15 employment, it follows that Defendants failed to pay all wages due at the conclusion of their
16 employment as well. Therefore, Defendants are liable to Plaintiff and the Class Members for
17 waiting time penalties.

18 **PAGA ALLEGATIONS**

19 19. Pursuant to Labor Code section 2699(a), any provision of the Labor Code which provides for a
20 civil penalty to be assessed and collected by the Labor and Workforce Development Agency
21 ("LWDA") for violations of the Labor Code may, as an alternative, be recovered through a civil
22 action brought by an aggrieved employee on behalf of himself or herself and other current or
23 former employees pursuant to the procedures outlined in Labor Code section 2699.3.

24 20. Pursuant to Labor Code section 2699.3, an aggrieved employee may pursue a civil action under
25 PAGA after the following requirement have been met:

26 21. The aggrieved employee has provided written notice by online filing to the LWDA and by
27 certified mail to the employer (hereinafter "Employee's Notice") of the specific provisions of
28

the Labor Code alleged to have been violated, including the facts and theories to support the alleged violations; and

22. The LWDA has provided notice (hereinafter “LWDA’s Notice”) to the employer and the aggrieved employee by certified mail that it does not intend to investigate the aggrieved employee’s claims. Upon receipt of the LWDA’s Notice, or if the LWDA does not provide such Notice within 65 calendar days of the postmark date of the Employee’s Notice, the aggrieved employee may commence a civil action pursuant to Labor Code section 2699 to recover civil penalties in addition to any other penalties to which the employee may be entitled.
23. On July 6, 2023, Plaintiff provided written notice by online filing to the LWDA and by certified mail to Defendants of specific provisions of the Labor Code alleged to have been violated by Defendants, including the facts and theories to support the alleged violations. Plaintiff subsequently provided amended notices on May 10, 2024, and June 27, 2024, further detailing and expanding upon the alleged violations. All three PAGA notices are attached hereto as **Exhibit 1** and incorporated herein by reference.
24. The 65-day notice period has elapsed since the June 27, 2024 notice, and the LWDA did not provide Plaintiff with written notice that it intends to investigate the alleged violations of the Labor Code. Thus, Plaintiff seeks PAGA Penalties on behalf of all Aggrieved Employees.
25. The PAGA Period is defined as “July 6, 2022, through final disposition of this action.”
26. The Aggrieved Employees are defined as “All other nonexempt, hourly employees, current and former, who were employed by Defendants during the PAGA Period.”

CLASS ACTION ALLEGATIONS

27. The Class Period is defined as “June 29, 2019, through the date of final disposition.”
28. The Class is defined as: “all current and former non-exempt employees of Defendants who have worked in California at any time during the Class Period.”
29. The Waiting Time Subclass is defined as “all former non-exempt employees of Defendants who have worked in California during the Class Period and who are no longer employed by Defendants.”

- 1 30. There is a well-defined community of interest in the litigation and the proposed class is
2 ascertainable from Defendants' employment records.
- 3 a. Numerosity: The potential members of the class as defined are so numerous that joinder of all
4 class members is impracticable. Plaintiff is informed and believes that Defendants have
5 employed more than 5,000 people during the Class Period.
- 6 b. Commonality: This action involves common questions of law and fact to the class because the
7 action focuses on Defendants' systematic course of conduct with respect to violating the Labor
8 Code and IWC Wage Orders.
- 9 c. Typicality: Plaintiff's claims are typical of the claims of the class. Plaintiff was subjected to the
10 same violations and seeks the same types of damages, restitution, and other relief on the same
11 theories and legal grounds as those of the members of the class they seek to represent, as
12 detailed more specifically herein.
- 13 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and protect the
14 interests of all members of the class because it is in their best interest to prosecute the claims
15 alleged herein to obtain full compensation due to them for all unpaid wages, and other relief
16 afforded under the Labor Code and IWC Wage Orders. Plaintiff understands their obligations
17 as a class representative and is willing and able to fulfill them faithfully. Class counsel are
18 competent and experienced in litigating large employment class actions and other complex
19 litigation matters, including wage and hour cases like this.
- 20 e. Superiority of Class Action: Class certification is appropriate because a class action is superior
21 to other available means for the fair and efficient adjudication of this controversy. Each class
22 member has been damaged and is entitled to recovery. Class action treatment will allow those
23 similarly-situated persons to litigate their claims in the manner that is most efficient and
24 economical for the parties and the judicial system.
- 25 f. Public Policy Considerations: Employers violate employment laws every day. Employees are
26 often afraid to assert their rights out of fear of retaliation, and also fearful of bringing actions
27 because they believe employers might damage their future endeavors through negative
28 references and/or other means. Class actions provide the class members who are not named in

the complaint with anonymity that allows for vindication of rights while protecting their privacy.

31. There are common questions of law and fact as to the class that predominate over questions affecting only individuals, including but not limited to:
- a. Whether Class Members were paid for all hours worked;
 - b. Whether Class Members were paid all minimum and overtime wages owed, including proper calculation of the regular rate of pay;
 - c. Whether Class Members were provided with compliant meal breaks or premium pay in lieu thereof;
 - d. Whether Class Members were provided with compliant rest breaks or premium pay in lieu thereof;
 - e. Whether Class Members were properly reimbursed for all work-related expenses;
 - f. Whether Class Members' sick pay was properly accrued and paid at the correct rate;
 - g. Whether Class Members were provided with complete and accurate wage statements;
 - h. Whether Class Members are owed waiting time penalties and other penalties related to timeliness of pay;
 - i. Whether Defendants engaged in unfair competition; and
 - j. The amount of damages, wages, and penalties owed to Plaintiff and the Class.

FIRST CAUSE OF ACTION

Minimum Wage Violations

Against All Defendants

32. Plaintiff incorporates by reference paragraphs 1 through 31 above.

33. Labor Code sections 1182.12, 1194, 1197, 1197.1, and 1198 and the applicable Wage Orders require an employer to pay employees minimum wages for all hours worked.

34. Defendants failed to pay Plaintiff and the Class Members for all hours worked as alleged herein.

35. As a result of Defendants' unlawful acts, Plaintiff and the Class Members have been deprived of minimum wages in amounts to be determined at trial, and are entitled to recovery of such

1 amounts, plus interest thereon, attorneys' fees, and costs, under Labor Code sections 1194 and
2 1197.1.

3 36. Pursuant to Labor Code section 1194.2, Plaintiff and the Class Members are entitled to recover
4 liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

5 **SECOND CAUSE OF ACTION**

6 **Overtime Violations**

7 **Against All Defendants**

8 37. Plaintiff incorporates by reference paragraphs 1 through 36 above.

9 38. Labor Code sections 510, 1194, and 1198 and the applicable Wage Orders require an employer
10 to pay overtime wages to non-exempt employees.

11 39. Specifically, employees are entitled to overtime pay at a rate of no less than one and one-half
12 times their regular rate of pay for all hours worked in excess of 8 hours in a single workday, all
13 hours worked in excess of 40 hours in a single workweek, and the first 8 hours worked on the
14 seventh consecutive day of work in a workweek. Employees are entitled to doubletime pay at a
15 rate of no less than twice their regular rate of pay for all hours worked in excess of 12 hours in
16 a single workday and all hours worked in excess of 8 hours on the seventh consecutive day of
17 work in a workweek.

18 40. The regular rate of pay used to calculate overtime must include all non-discretionary
19 compensation, including but not limited to non-discretionary bonuses, commissions, and shift
20 differentials.

21 41. Defendants failed to pay Plaintiff and the Class Members all overtime and doubletime wages
22 owed as alleged herein.

23 42. Additionally, Defendants failed to pay Plaintiff and the Class Members overtime wages based
24 off of the correct regular rate of pay.

25 43. By failing to pay all overtime wages owed, Defendants willfully violated Labor Code sections
26 510, 1194, and 1198.

1 44. As a result of Defendants' unlawful acts, Plaintiff and the Class Members have been deprived
2 of overtime compensation in amounts to be determined at trial, and are entitled to recovery of
3 such amounts, plus interest thereon, attorneys' fees, and costs, under Labor Code section 1194.

4 **THIRD CAUSE OF ACTION**

5 **Meal Break Violations**

6 **Against All Defendants**

7 45. Plaintiff incorporates by reference paragraphs 1 through 44 above.

8 46. Labor Code section 512 and the Wage Orders provide that "an employer shall not employ an
9 employee for a work period of more than five hours per day without providing the employee
10 with a meal period of not less than 30 minutes" or "for a work period of more than 10 hours per
11 day without providing the employee with a second meal period of not less than 30 minutes".

12 47. An employer provides compliant meal breaks to its employees "if it relieves its employees of
13 all duty, relinquishes control over their activities and permits them a reasonable opportunity to
14 take an uninterrupted 30-minute break." (*Brinker Restaurant Corp. v. Superior Court*, 53
15 Cal.4th 1004, 1040 (2012)).

16 48. Not only must an employer affirmatively relieve its employees of all duty during their meal
17 breaks, it also must not "impede or discourage" its employees from taking compliant meal
18 breaks. (*Brinker*, supra).

19 49. Defendants failed to provide Plaintiff and the Class with compliant meal breaks as alleged
20 herein.

21 50. For each day that Defendants failed to provide Plaintiff and the Class with a compliant meal
22 break, Defendants were required to remit premium pay pursuant to Labor Code section
23 226.7(c), which is one additional hour of pay at Plaintiff's regular rate of pay. (*Ferra v. Loews*
24 *Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021)).

25 51. Defendants failed to pay premium pay at Plaintiff's and the Class Members' regular rate of pay
26 for each day a meal break was missed.

27 52. Plaintiff and the Class are therefore entitled to recover premium pay for missed meal breaks,
28 interest, penalties, attorney fees, and costs.

1 **FOURTH CAUSE OF ACTION**

2 **Rest Break Violations**

3 **Against All Defendants**

4 53. Plaintiff incorporates by reference paragraphs 1 through 52 above.

5 54. Labor Code section 226.7 and the Wage Orders requires employers to authorize and permit its
6 employees to take rest periods based on the total hours worked daily at the rate of 10 minutes
7 net per four hours or major fraction thereof.

8 55. Furthermore, “[d]uring rest periods employers must relieve employees of all duties and
9 relinquish control over how employees spend their time.” (*Augustus v. ABM Sec. Servs., Inc.*, 2
10 Cal. 5th 257, 269 (2016)).

11 56. Defendants failed to provide Plaintiff and the Class with compliant rest breaks as alleged
12 herein.

13 57. For each day that Defendants failed to provide Plaintiff and the Class with a compliant rest
14 break, Defendants were required to remit premium pay pursuant to Labor Code section
15 226.7(c), which is one additional hour of pay at Plaintiff’s regular rate of pay. (*Ferra v. Loews*
16 *Hollywood Hotel, LLC*, 11 Cal. 5th 858 (2021)).

17 58. Defendants failed to pay premium pay at Plaintiff’s and the Class Members’ regular rate of pay
18 for each day a rest break was missed.

19 59. Plaintiff and the Class are therefore entitled to recover premium pay for missed rest breaks,
20 interest, penalties, attorney fees, and costs.

21 ///

22 ///

23 ///

24 **FIFTH CAUSE OF ACTION**

25 **Work Expense Violations**

26 **Against All Defendants**

27 60. Plaintiff incorporates by reference paragraphs 1 through 59 above.

1 61. Pursuant to Labor Code section 2802, an employer shall indemnify his or her employee for all
2 necessary expenditures or losses incurred by the employee in direct consequence of the
3 employee's discharge of his or her duties.

4 62. Defendants failed to reimburse Plaintiff and the Class for all work-related expenses as alleged
5 herein.

6 63. Plaintiff and the Class are therefore entitled to reimbursement for all work-related expenses,
7 penalties, attorney fees, and costs.

8
9 **SIXTH CAUSE OF ACTION**

10 **Sick Pay Violations**

11 **Against All Defendants**

12 64. Plaintiff incorporates by reference paragraphs 1 through 63 above.

13 65. The Healthy Workplaces, Healthy Families Act of 2014, as codified in Labor Code sections
14 245.5, 246, 246.5, 247, 247.5, 248.5, and 249, requires employers to provide employees with
15 paid sick leave.

16 66. Defendants violated these provisions in several ways: Defendants failed to properly accrue one
17 hour of sick pay for every 30 hours worked for Plaintiff and the Class Members, Defendants
18 did not pay Plaintiff and the Class Members sick pay at the correct regular rate in violation of
19 Labor Code section 246, Defendants failed to provide Plaintiff and the Class Members with
20 accurate written notice setting forth the amount of paid sick leave available, as required by
21 Labor Code section 246(i), and Defendants failed to keep records showing the hours worked
22 and paid sick days accrued and used by Plaintiff and the Class Members, in violation of Labor
23 Code section 247.5.

24 67. As a result of Defendants' unlawful acts, Plaintiff and the Class Members have been deprived
25 of paid sick leave and compensation for sick leave in amounts to be determined at trial.

26 68. As a result of Defendants' failure to pay all sick pay to Plaintiff and the Class Members, it
27 violated Labor Code section 204 for failure to timely pay all wages due, and Labor Code
28

1 section 203 for failure to pay waiting time penalties based on these wages due and owing at the
2 end of Plaintiff's and the Waiting Time Subclass Members' employment.

3 **SEVENTH CAUSE OF ACTION**

4 **Wage Statement Violations**

5 **Against All Defendants**

6 69. Plaintiff incorporates by reference paragraphs 1 through 68 above.

7 70. Labor Code section 226(a) requires employers to provide itemized wage statements to its
8 employees that identify accurate information regarding their compensation. Defendants, as a
9 matter of policy and practice, failed in its affirmative obligation to provide accurate itemized
10 wage statements to Plaintiff and the Class in violation of Labor Code section 226(a).

11 71. As alleged herein, the wage statements that Defendants issued to Plaintiff and the Class were
12 inaccurate and incomplete.

13 72. Defendants knowingly and intentionally issued wage statements that were inaccurate and
14 incomplete, and the issuance of inaccurate and incomplete wage statements caused injury to
15 Plaintiff and the Class in that they were unable to accurately verify and/or calculate their wages.

16 73. Plaintiff and the Class are therefore entitled to the recovery of wage statement penalties,
17 attorney fees, and costs.

18 **EIGHTH CAUSE OF ACTION**

19 **Waiting Time Penalties**

20 **Against All Defendants**

21 74. Plaintiff incorporates by reference paragraphs 1 through 73 above.

22 75. Labor Code sections 201 and 202 require that an employer provide an employee with all wages
23 due and payable either: (a) immediately upon termination, or (b) within 3 days of the
24 employee's resignation.

25 76. Labor Code section 203 provides that if an employer willfully fails to pay wages owed in
26 accordance with Labor Code sections 201 or 202, then the wages of the employee continue as a
27 penalty from the due date at the same rate until paid or until an action is commenced, not to
28 exceed thirty days.

1 77. As alleged herein, Defendants willfully did not pay Plaintiff and the Waiting Time Subclass all
2 wages owed at the conclusion of employment.

3 78. Plaintiff and the Class are therefore entitled to the recovery of waiting time penalties, interest,
4 attorney fees, and costs.

5 **NINTH CAUSE OF ACTION**

6 **Unfair Competition**

7 **Against All Defendants**

8 79. Plaintiff incorporates by reference paragraphs 1 through 78 above.

9 80. Defendants' conduct described herein constitutes unfair competition.

10 81. Specifically, Defendants have gained an unfair advantage over other similarly situated
11 businesses by unlawfully reducing their overhead costs by not paying their employees what
12 they are owed.

13 82. Pursuant to Business and Professions Code 17203, Plaintiff and the Class are entitled to
14 restitution of all wrongfully withheld wages.

15 83. Plaintiff and the Class may recover attorney fees pursuant to Code of Civil Procedure section
16 1021.5.

17 **TENTH CAUSE OF ACTION**

18 **Private Attorneys General Act**

19 **Against All Defendants**

20 84. Plaintiff incorporates by reference paragraphs 1 through 83 above.

21 85. PAGA permits Plaintiff and the Aggrieved Employees to recover civil penalties for the
22 violation(s) of the Labor Code.

23 86. As alleged herein, Defendants' conduct violates numerous sections of the Labor Code.

24 87. In addition to the Labor Code violations set forth above, Plaintiff further alleges that
25 Defendants also failed to pay reporting time pay when Plaintiff and the Aggrieved Employees
26 reported to work and were not provided with at least one-half of their scheduled hours up to
27 four hours in a day. Defendants also failed to pay split shift payments when Plaintiff and the
28 Aggrieved Employees were required to work a split shift and were not paid a sufficient hourly

1 rate to avoid the requirement to pay a split shift payment. Defendants also failed on occasion to
2 provide Plaintiff and the Aggrieved Employees with one day of rest in seven days of the
3 workweek in violation of Labor Code section 551 and 552. Defendants also violated Labor
4 Code section 221, 223, and 224 by collecting or receiving a portion of the wages paid to
5 Plaintiff and the Aggrieved Employees or by secretly paying a lower wage than required by
6 statute or contract, or making an improper deduction from wages. Plaintiff further alleges that
7 Defendant also failed to provide or failed to provide complete and/or accurate wage theft
8 notices to employees at the time of hire in violation of Labor Code section 2810.5.

9 88. With respect to violations of Labor Code sections 226.7, 512, 516, 558, and 1198 for
10 Defendants' failure to provide Plaintiff and the Aggrieved Employees with compliant meal
11 periods or compensation in lieu thereof, the penalties in Labor Code sections 558 and 2699
12 apply.

13 89. With respect to violations of Labor Code sections 226.7, 516, and 1198 for Defendants' failure
14 to provide Plaintiff and the Aggrieved Employees with compliant rest periods or compensation
15 in lieu thereof, the penalties in Labor Code section 2699 apply.

16 90. With respect to violations of Labor Code sections 223, 1182.12, 1194, 1197, 1197.1, and 1198
17 for Defendants' failure to compensate Plaintiff and the Aggrieved Employees for all minimum
18 wages earned, including for off-the-clock work and travel time, the penalties in Labor Code
19 sections 1194.2, 1197.1 and 2699 apply.

20 91. With respect to violations of Labor Code sections 510, 1194, and 1198 for Defendants' failure
21 to compensate Plaintiff and the Aggrieved Employees for all overtime wages earned, including
22 incorrect calculations of regular rate of pay, the penalties in Labor Code sections 558, 1197.1,
23 and 2699 apply.

24 92. With respect to violations of Labor Code section 226 for failure to provide accurate wage
25 statements to Plaintiff and the Aggrieved Employees, the penalties in Labor Code sections
26 226.3 and 2699 apply.

- 1 93. With respect to violations of Labor Code sections 201, 202, and 203 for failure to pay all wages
2 due to Plaintiff and the Aggrieved Employees at the conclusion of their employment, the
3 penalties in Labor Code section 2699 apply.
- 4 94. With respect to violations of Labor Code sections 2800 and 2802 for failure to reimburse
5 Plaintiff and the Aggrieved Employees for all work-related expenses, including fuel costs and
6 vehicle wear and tear, the penalties in Labor Code section 2699 apply.
- 7 95. With respect to violations of Labor Code sections 551 and 552 for failure to provide Plaintiff
8 and the Aggrieved Employees with one day's rest in seven, the penalties in Labor Code section
9 2699 apply.
- 10 96. With respect to violations of Labor Code section 201.3 for failure to pay Plaintiff and the
11 Aggrieved Employees on a weekly basis as temporary service employees, the penalties in
12 Labor Code sections 210 and 2699 apply.
- 13 97. With respect to violations of Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5, and 249
14 for failure to properly provide and compensate sick leave, the penalties in Labor Code sections
15 248.5 and 2699 apply.
- 16 98. With respect to violations of Labor Code sections 1174, 1174(d), 1174.5 and 1198 for failure to
17 maintain accurate payroll records, the penalties in Labor Code sections 1174.5 and 2699 apply.
- 18 99. With respect to violations of Labor Code sections 204 and 204b for failure to pay all wages
19 due, including wages for all hours worked, overtime wages, meal and rest period premiums,
20 and sick pay at the correct regular rate of pay in a timely manner, the penalties in Labor Code
21 sections 210 and 2699 apply.
- 22 100. With respect to violations of Labor Code section 221 for unlawful collection or receipt of
23 wages paid to an employee, the penalties in Labor Code section 225.5 apply.
- 24 101. With respect to violations of Labor Code section 223 for secretly paying a lower wage
25 while purporting to pay the wage designated by statute or contract, including paying a lower
26 hourly rate for travel time and using that lower rate to pay for non-travel work, the penalties in
27 Labor Code section 225.5 apply.
- 28

102. With respect to violations of Labor Code section 223.5 for failure to maintain accurate records of hours worked, wages paid, and deductions made, the penalties in Labor Code section 2699 apply.

103. With respect to violations of Labor Code sections 224 and 225.5 for failure to withhold from wages only those amounts authorized by law or expressly authorized in writing by the employee, the penalties in Labor Code section 225.5 apply.

104. With respect to violations of Labor Code section 2810.5 for failure to provide required notices of material terms of employment, the penalties in Labor Code section 2699 apply.

105. With respect to violations of Labor Code section 1198 through 8 CCR 11040 subpart 5(A) for failure to pay reporting time pay, the penalties in Labor Code section 2699 apply.

106. With respect to violations of Labor Code section 1198 through 8 CCR 11040 subpart 4(C) for failure to pay split shift premium/penalty, the penalties in Labor Code section 2699 apply.

107. With respect to violations of Labor Code sections 551 and 552 for failure to provide one day rest in seven, the penalties in Labor Code section 2699 apply.

108. Additionally, Plaintiff and the Aggrieved Employees are entitled to attorney's fees pursuant to Labor Code section 2699(g).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays for relief and judgment against Defendants as follows:

As to All Causes of Action:

1. For certification of this action as a class action;
2. For appointment of Plaintiff as the Class representative;
3. For appointment of Plaintiff's counsel as Class counsel;

As to the First Cause of Action for Minimum Wage Violations:

1. Damages and/or penalties pursuant to Labor Code sections 558, 1194, 1197, and 1197.1;
2. Liquidated damages;
3. Interest;

4. Attorneys' fees;
5. Costs;
6. Other relief the court deems proper;

As to the Second Cause of Action for Overtime Violations:

1. Damages and/or penalties pursuant to Labor Code sections 510, 558, and 1194;
2. Interest;
3. Attorneys' fees;
4. Costs;
5. Other relief the court deems proper;

As to the Third Cause of Action for Meal Break Violations:

1. Damages and/or penalties pursuant to Labor Code section 226.7;
2. Interest;
3. Attorneys' fees;
4. Costs;
5. Other relief the court deems proper;

As to the Fourth Cause of Action for Rest Break Violations:

1. Damages and/or penalties pursuant to Labor Code section 226.7;
2. Interest;
3. Attorneys' fees;
4. Costs;
5. Other relief the court deems proper;

As to the Fifth Cause of Action for Work Expense Violations:

1. Reimbursement of all work-related expenses;
2. Attorneys' fees;

- 1 3. Costs;
- 2 4. Other relief the court deems proper;

3

4 As to the Sixth Cause of Action for Sick Pay Violations:

- 5 1. Damages for unpaid sick leave;
- 6 2. Penalties pursuant to Labor Code sections 203 and 204;
- 7 3. Interest;
- 8 4. Attorneys' fees;
- 9 5. Costs;
- 10 6. Other relief the court deems proper;

11

12 As to the Seventh Cause of Action for Wage Statement Violations:

- 13 1. Penalties pursuant to Labor Code section 226;
- 14 2. Attorneys' fees;
- 15 3. Costs;
- 16 4. Other relief the court deems proper;

17

18 As to the Eighth Cause of Action for Waiting Time Penalties:

- 19 1. Penalties pursuant to Labor Code section 203;
- 20 2. Attorneys' fees;
- 21 3. Costs;
- 22 4. Other relief the court deems proper;

23

24 As to the Ninth Cause of Action for Unfair Competition:

- 25 1. Restitution of all wrongfully withheld wages;
- 26 2. Attorneys' fees pursuant to Code of Civil Procedure section 1021.5;
- 27 3. Costs;
- 28 4. Other relief the court deems proper;

1 As to the Tenth Cause of Action Under the Private Attorneys General Act:

- 2 1. All applicable civil penalties available pursuant to Labor Code section 2698, et seq.;
- 3 2. Attorneys' fees;
- 4 3. Costs;
- 5 4. Other relief the court deems proper;
- 6

7 Date: November 14, 2024

FRONTIER LAW CENTER

8 /s/ Manny Starr

9 MANNY STARR

10 Attorney for Plaintiff

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

Exhibit 1



Adam Rose | Attorney

adam@frontierlawcenter.com ✉
(818) 914-3433 ☎
23901 Calabasas Road, Suite 2074 📍
Calabasas, CA 91302



www.frontierlawcenter.com

July 6, 2023

Via Online Filing

<http://www.dir.ca.gov/private-attorneys-general-act/private-attorneys-general-act.html>

Via Certified Mail

RGIS, LLC
2000 Taylor Rd., #200
Auburn Hills, MI 48326

Subject: *Salvador Rodriguez, Jr. v. RGIS, LLC*

Dear Representative:

This office represents Salvador Rodriguez, Jr. in connection with Labor Code violation claims related to employment with RGIS, LLC ("Employer") providing inventory supply services.

During employment with RGIS he was subjected to at least one of the Labor Code violations alleged. Therefore Plaintiff intends to seek PAGA penalties on behalf of himself and all other non-exempt employees of in California and who were subjected to any of the Labor Code violations referenced the PAGA period ("aggrieved employees"). The PAGA period begins one year prior to the date of this letter and, because the violations alleged herein are ongoing, the PAGA period extends beyond the date of this letter.

Minimum Wage Violations

Labor Code section 1197 and the applicable Wage Order requires an employer to pay an employee no less than the minimum wage for all hours worked.

Off the Clock Work

Employer did not pay Plaintiff the Aggrieved Employees the minimum wage for all hours worked because the Aggrieved Employees were required to perform work while off the clock, including going through mandatory security checkpoints.

Applicable Civil Penalties

As a result of the above minimum wage violations, Employer is subject to the civil penalties listed in Labor Code sections 1197.1 and 2699.

Overtime Violations

Labor Code section 510 and the applicable Wage Order provide that an employee shall be paid one and one-half times their regular rate of pay for any work over eight hours in one workday or 40 hours a week.

Unpaid Overtime Due to Off the Clock Work

Plaintiff and the Aggrieved Employees regularly worked over eight hours in a day and 40 hours in a workweek. Since Plaintiff and the Aggrieved Employees were required to perform work off the clock, it follows that this time was often overtime. Thus, the Aggrieved Employees were not paid all overtime wages owed.

Applicable Civil Penalties

As a result of the above overtime violations, Employer is subject to the civil penalties listed in Labor Code sections 558, 1197.1, and 2699.

Meal Break Violations

Labor Code section 512 and the applicable Wage Order provide that an employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes. Meal periods must be uninterrupted, and the employee must be relieved of all duty for the breaks.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant meal period was not provided.

On Call / On Premises / On Duty Meal Breaks

An employer provides compliant meal breaks to its employees “if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break.” (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1040 (2012)).

Here, the Aggrieved Employees were required to remain on duty because they were requested to work through any alleged breaks.

Applicable Civil Penalties

As a result of the above meal break violations, Employer is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Rest Break Violations

Labor Code section 226.7 and the applicable Wage Order requires employers to authorize and permit its employees to take rest periods based on the total hours worked daily at the rate of 10 minutes net per four hours or major fraction thereof. Employees must be relieved of all duties during their rest breaks.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant rest break was not provided.

On Call / On Duty Rest Breaks

Plaintiff and the Aggrieved Employees were required to remain on call and generally on duty during their rest breaks. Courts have repeatedly held that employers may not impose any limits on rest breaks. *Augustus v. ABM Sec. Servs., Inc.*, 2 Cal. 5th 257, 269 (2016) (an employer cannot “satisfy its obligation to relieve employees from duties and employer control during rest periods when the employer [] requires its employees to remain on call”).

Applicable Civil Penalties

As a result of the above rest break violations, Employer is subject to the civil penalties listed in Labor Code section 2699.

Wage Statement Violations

Labor Code section 226 requires an employer to provide wage statements to its employees which include gross and net wages earned / total hours worked / the number of piece-rate units earned and any applicable piece rate / all deductions / the inclusive dates of the period for which the employee is paid / the name of the employee and only the last four digits of his or her social security number or an employee identification number / the name and address of the legal entity that is the employer / all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. Employer intentionally did not provide wage statements which accurately reflected this information based on the above.

Applicable Civil Penalties

As a result of the wage statement violations detailed above, Employer is subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Waiting Time Penalties

Labor Code sections 201 and 202 require that an employer provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee's resignation. When an employer fails to comply with the above, the employee is entitled to the equivalent of a day's wage at their regular rate of pay for each day the employer is late, for up to 30 days. (Labor Code section 203).

Because Employer did not pay Plaintiff and the Aggrieved Employees all wages owed during their employment, they were willfully not paid these wages after the conclusion of their employment. Thus, Employer had an obligation to pay waiting time penalties, but did not.

Applicable Civil Penalties

Because of Employer's failure to pay all wages at the conclusion of employment and to pay the resulting waiting time penalties, Employer is subject to the civil penalties listed in Labor Code section 2699.

Sincerely,

Adam Rose



May 10, 2024

Via Online Filing<http://www.dir.gov/private-attorneys-general-act/private-attorneys-general-act.html>**Via Certified Mail**WIS IVS, LLC, fka RGIS, LLC
2000 Taylor Rd., #200
Auburn Hills, MI 48326Subject: *Salvador Rodriguez, Jr. V. RGIS, LLC*, LWDA-CM-966556-23, Supplemental Notice

Dear Representative:

This office represents Salvador Rodriguez, Jr. (“Plaintiff”) In connection with Labor Code violation claims related to his employment with WIS IVS, LLC., formerly known as RGIS, LLC (hereafter “RGIS”). This letter is to supplement and add to the letter sent from this office on July 6, 2023 regarding the same parties.

During employment with RGIS Rodriguez was subjected to at least one of the Labor Code violations alleged, either in this letter or the previous letter (or both). Therefore, our client intends to seek PAGA penalties on behalf of himself and all other non-exempt employees of RGIS in California and who were subjected to any of the Labor Code violations referenced within the PAGA period (“Aggrieved Employees”). The PAGA period begins on July 6, 2022, and, because the violations alleged herein are ongoing, the PAGA period extends beyond the date of this letter to the date of preliminary approval of any settlement or the date of judgment on the merits, whichever comes first.

Minimum Wage Violation

Labor Code sections 223, 1182.12, 1194, 1194.2, 1197, and 1198 (incorporating the applicable Wage Order) require an employer to pay an employee no less than the minimum wage for all hours worked.

Off the Clock Work

Plaintiff alleges that RGIS suffered and permitted he and the other Aggrieved Employees to work without pay. Specifically, Plaintiff alleges that RGIS required Plaintiff and the other Aggrieved Employees to drive excessively long distances to reach remote job sights, without paying for all of that time. While RGIS paid for *some* of this travel time, they, as a rule, deducted 1-hour from all drive-time pay, each way, under the theory that 1 hour represented a reasonable commute. Plaintiff contends no more than 30 minutes of that time (each way) should have been unpaid. Since these commutes required travel both to and from the remote job site to the meeting point to return company vehicles, each Aggrieved Employee was shorted, at a minimum, 1 hour of pay at the agreed upon rate for travel.

In addition to this time, Plaintiff contends that, even after arriving at the remote job site, Plaintiff and the Aggrieved Employees would sometimes be required to wait unpaid before clocking in to begin their inventory work. Plaintiff contends that since they were not free to use this time as they liked, and were not free to leave, it should have been paid time.

Applicable Penalties

As a result of the above minimum wage violations, RGIS is subject to civil penalties as listed in Labor Code sections 1197.1 and 2699.

Weekly Pay for Temporary Services Employee

Plaintiff alleges that he and the other Aggrieved Employees are Temporary Service Employees within the meaning of Labor Code section 201.3, and that RGIS is a Temporary Services Employer under the same section. Specifically, Plaintiff alleges that RGIS negotiated with clients the time and place where services were to be performed, including the price of those services; determined the assignment of the workers; retained the authority to assign or reassign workers to another client; actually assigned workers to perform the services for clients; set the rate of pay for Plaintiff and the other Aggrieved Employees; paid Plaintiff and the Aggrieved Employees from its own accounts; and retained the right to hire and terminate workers.

Despite this, RGIS paid Plaintiff and the Aggrieved Employees on a bi-weekly basis, rather than on a weekly basis as required by section 201.3. Furthermore, even on the weeks that it did pay, as stated above RGIS did not pay all wages due and payable.

Applicable Penalties

As a result of the above violations of weekly pay requirements, RGIS is subject to civil penalties as listed in Labor Code sections 203, 210, and 2699.

Timely Pay Violation

Plaintiff alleges, in the alternative, that if he and the other Aggrieved Employees were *not* due wages under Labor Code 201.3 at any time during their employment, wages were still not paid timely under Labor Code sections 204 and 204b. Labor Code section 204 requires an employer to pay all wages due at least semi-monthly (except for wages under section 201.3, and certain other exceptions which are not relevant here).

Labor Code section 204b requires weekly-paid employees to be paid in all events not later than seven calendar days after the regular payday following the work being performed.

Applicable Penalties

As a result of the above violations of timely pay requirements, RGIS is subject to civil penalties as listed in Labor Code sections 210 and 2699.

Work Expense Violations

Plaintiff alleges that even when providing company vehicles for use of mandatory travel time, RGIS failed to cover all travel expenses, most notably the cost of fuel, for himself and the Aggrieved Employees.

On the rare occasion where an Aggrieved Employee decided to drive themselves to a long-distance location, RGIS failed to reimburse for all of the expenses, including fuel, maintenance, and wear and tear to the vehicles. Labor Code sections 2800 and 2802 require employers to indemnify their employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.

Applicable Penalties

As a result of the above violations of Work Expense Indemnity requirements, RGIS is subject to civil penalties as listed in Labor Code section 2699.

Wage Deduction Violations

Plaintiff alleges that RGIS collected back wages theretofore paid to Aggrieved Employees, in violation of Labor Code sections 221 and 224.

Applicable Penalties

As a result of the above violations, RGIS is subject to civil penalties as listed in Labor Code section 225.5.

Healthy Workplaces, Healthy Families Act Violations

Plaintiff alleges that RGIS failed to properly accrue, record, and pay sick time for the Aggrieved Employees, in violation of the Healthy Workplaces, Healthy Families Act of 2014 (Labor Code Sections 245.5, 246, 246.5, 247, 247.5, and 249.

Applicable Penalties

As a result of the above violations, RGIS is subject to civil penalties as listed in Labor Code section 248.5.

Rest Day Violation

Plaintiff alleges that RGIS scheduled Aggrieved Employee's work in such a manner as to prevent them from having one day's rest in seven, or the equivalent thereof, in violation of Labor Code sections 551 and 552.

Applicable Penalties:

As a result of the above violations, RGIS is subject to civil penalties as listed in Labor Code section 558.

Failure to Maintain Records

Plaintiff alleges that RGIs failed to maintain records of each employee's name and address, as well as hours worked daily and wages paid, as required by Labor Code Section 1174.

Applicable Penalties:

As a result of the above violations, RGIS is subject to civil penalties as listed in Labor Code section 1174.5.

Hiring Notice Violation

Labor Code section 2810.5 requires employers, at the time of hiring, to provide employees with written notice about the job, detailing such information as: the wage, salary, piece rate or other rate of pay, including overtime rates; allowances claimed as part of the minimum wage; the regular pay day; the name of the employer, including any “doing business as” names used; the physical address of the employer’s main office and mailing address, if different; the employer’s phone number; the name, address, and telephone number of the employer’s worker’s compensation insurance carrier; the worker’s rights regarding paid sick leave; and the existence of any State or Federal emergency or disasters in the county or counties where the worker is to be employed within 30 days of employment. Importantly, Labor Code section 2810.5 subdivision (a)(3) also requires Temporary Service Employers under Labor Code section 201.3 to provide information about the entity for whom the worker is performing the work.

As alleged above, Plaintiff alleges that RGIS was a temporary Services Employer, yet never provided the required written notice.

Applicable Penalties

As a result of the above violations, RGIS is subject to civil penalties as listed in Labor Code section 2699, subd. (f).

Previously Alleged Claims

Plaintiff hereby realleges, and incorporates herein by reference, all facts and theories of liability alleged in the July 6, 2023, letter. Plaintiff further alleges that violations described above cause Plaintiff’s and the Aggrieved Employees’ Wage Statements under Labor Code section 226 to be inaccurate, and that those Aggrieved Employees who are no longer employed by RGIS have not had all wages due and payable to them paid within the timeframes required by Labor Code sections 201 and 202, thus creating a further violation of Labor Code section 203 (failing to pay waiting time). Finally, Labor Code 516 was also violated for rest break violations.

Applicable Civil Penalties

Due to the violations previously alleged, and the new theories of liability for Wage Statement Penalties and Waiting Time Penalties alleged herein, RGIS is subject to civil penalties under Labor Code sections 226.3, 558, and 2699.

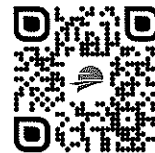
Sincerely,

Adam Rose



Adam Rose | Attorney

adam@frontierlawcenter.com
(818) 914-3433
23901 Calabasas Road, Suite 1084
Calabasas, CA 91302



www.frontierlawcenter.com

June 27, 2024

Via Online Filing

<http://www.dir.gov/private-attorneys-general-act/private-attorneys-general-act.html>

Via Certified Mail

WIS IVS, LLC, fka RGIS, LLC
2000 Taylor Rd., #200
Auburn Hills, MI 48326

Subject: *Salvador Rodriguez, Jr. v. RGIS, LLC, et al.,*
LWDA-CM-966556-23, Second Amended PAGA Notice

Dear Representative:

This office represents Salvador Rodriguez, Jr. ("Plaintiff") in connection with Labor Code violation claims related to employment with WIS IVS, LLC formerly known as RGIS, LLC ("RGIS"). This letter is to further supplement the amended notice submitted on May 10, 2024.

During employment with RGIS Rodriguez was subjected to at least one of the Labor Code violations alleged, either in this letter or the previous letter (or both). Therefore, Plaintiff intends to seek PAGA penalties on behalf of himself and all other non-exempt employees of RGIS in California who were subjected to any of the Labor Code violations referenced within the PAGA period ("Aggrieved Employees"). The PAGA period begins on September 5, 2022, and because the violations alleged herein are ongoing, the PAGA period extends beyond the date of this letter to the date of preliminary approval of any settlement or the date of judgment on the merits, whichever comes first.

Minimum Wage Violation

Labor Code sections 1182.12, 1194, 1197, 1197.1, 1198 and the applicable Wage Order require an RGIS to pay an employee no less than the minimum wage for all hours worked.

Off the Clock Work

Plaintiff alleges that RGIS suffered and permitted Plaintiff and the Aggrieved Employees to work off the clock without pay. Specifically, Plaintiff alleges that RGIS required Plaintiff and the Aggrieved Employees to drive excessively long distances to reach remote job sites, without paying for all of that travel time. While RGIS paid for *some* of this travel time, they, deducted 1-hour from all drive-time pay, each way, under the theory that 1 hour represented a reasonable commute.

In addition to this time, Plaintiff contends that, even after arriving at the remote job site, Plaintiff and the Aggrieved Employees would sometimes be required to wait unpaid before clocking in to begin their inventory work. Plaintiff contends that since they were not free to use this time as they liked, and were not free to leave, it should have been paid time. Additionally, Plaintiff and the Aggrieved Employees would often engage in work-related tasks when they were off the clock and were not compensated for that time, including time spent completing Covid-19/health screening protocols, security checks, waiting to enter jobsites, loading/unloading equipment onto company vehicles, communicating with RGIS employees or supervisors regarding work-related inquiries, scheduling, or preparing paperwork, printing paperwork and completing other administrative tasks. RGIS engaged in impermissible time shaving and rounding policies and practices that resulted in employees not being paid for all hours worked. RGIS also maintained a policy and practice of not allowing Plaintiff and the Aggrieved Employees to track their own hours worked, and instead only allowed them to clock in or out through an RGIS supervisor.

Plaintiff and the Aggrieved Employees also were not compensated for time spent locating a supervisor or waiting to clock in or out with a supervisor, and because they were not in control of their own time records, they could not verify their time recorded as time worked was accurate. They were also not compensated for time spent walking in or out of the store or performing other work before the supervisor clocked them in or after the supervisor had already clocked them out for lunch or at the end of their shift. This resulted in minimum wage violations for time spent working off the clock.

Applicable Penalties

As a result of the above minimum wage violations, RGIS is subject to civil penalties as listed in Labor Code sections 1194.2, 1197.1 and 2699.

Weekly Pay for Temporary Services Employee

Plaintiff alleges that he and the other Aggrieved Employees are Temporary Service Employees within the meaning of Labor Code section 201.3, and that RGIS is a Temporary Services RGIS under the same section. Specifically, Plaintiff alleges that RGIS negotiated with clients the time and place where services were to be performed, including the price of those services; determined the assignment of the workers; retained the authority to assign or reassign workers to another client; actually assigned workers to perform the services for clients; set the rate of pay for Plaintiff and the other Aggrieved Employees; paid Plaintiff and the Aggrieved Employees from its own accounts; and retained the right to hire and terminate workers. Despite this, RGIS paid Plaintiff and the Aggrieved Employees on a bi-weekly basis, rather than on a weekly basis as required by section 201.3. Furthermore, even on the weeks that it did pay, as stated above RGIS did not pay all wages due and payable. It is therefore Plaintiff's contention that RGIS failed to pay "weekly" even on those weeks where payment was in fact issued, but not for the travel or other unpaid time.

Applicable Penalties

As a result of the above violations of weekly pay requirements, RGIS is subject to civil penalties as listed in Labor Code sections 210 and 2699.

Timely Pay Violation

Plaintiff alleges, in the alternative, that if he and the other Aggrieved Employees were *not* due wages under Labor Code 201.3 at any time during their employment, wages were still not paid timely under Labor Code section 204 and 204b, because they were not paid for all time worked, and were not paid overtime pay, sick pay, and meal and rest period premium payments at the correct regular rate. Labor Code section 204 requires an RGIS to pay all wages due at least semi-monthly (except for wages under section 201.3, and certain other exceptions which are not relevant here). In the event any of these wages were not governed by Labor Code section 201.3, those wages were still not paid timely because of RGIS's failure to pay for all time worked, as alleged above for unpaid minimum wages and below for overtime and premium/sick pay violations pursuant to Labor Code 204b.

Applicable Penalties

As a result of the above violations of timely pay requirements, RGIS is subject to civil penalties as listed in Labor Code sections 210 and 2699.

Work Expense Violations

Labor Code section 2800 provides an RGIS must indemnify employees. Plaintiff alleges that even when providing company vehicles for use of the extreme mandatory travel time, RGIS failed to cover all travel expenses, most notably the cost of fuel, for himself and the Aggrieved Employees. On the rare occasion where an Aggrieved Employee decided to drive themselves to a long-distance location, RGIS failed to reimburse for all of the expenses, including fuel, maintenance, and wear and tear to the vehicles. RGIS also failed to reimburse Plaintiff and the Aggrieved employees for additional business expenses including, but not limited to, the use of their personal cell phone and data costs and work attire costs. Labor Code section 2802 requires RGIS to indemnify and reimburse employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties. Since RGIS failed to pay for fuel costs and other expenses, it is in violation of these sections

Applicable Penalties

As a result of the above violations of Work Expense Indemnity requirements, RGIS is subject to civil penalties as listed in Labor Code section 2699.

Overtime Violations

Labor Code sections 510 and 1198 and the applicable Wage Order provide that an employee shall be paid one and one-half times their regular rate of pay for any work over eight hours in one workday or 40 hours a week, and double time for hours worked in excess of 12 hours in one workday. Plaintiff and the Aggrieved Employees were not paid at the correct overtime rate because overtime and double time was not paid at the employees' regular rate of pay including all incentive and/or bonus payments. In addition, RGIS compensated Plaintiff and the Aggrieved Employees at a lower hourly rate for travel time, and at times used that lower rate to pay for non-travel work. That means the employees were not compensated for overtime hours at the correct regular rate, including for time improperly categorized as travel time. This also violated Labor Code section 223 prohibiting an employer from secretly paying lower wages than required by statute or agreement. This also violates Labor Code section 1194 and 1198.

Unpaid Overtime Due to Off the Clock Work

Plaintiff and the Aggrieved Employees regularly worked over eight hours in a day and 40 hours in a workweek. Since Plaintiff and the Aggrieved Employees were required to perform work off the clock, as described above, it follows that this time was often overtime or double time. Thus, the Aggrieved Employees were not paid all overtime wages owed.

Applicable Civil Penalties

As a result of the above overtime violations, RGIS is subject to the civil penalties listed in Labor Code sections 558, 1197.1, and 2699.

Meal Break Violations

Labor Code sections 226.7, 512, 516, 1198 and the applicable Wage Order provide that an RGIS shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, or more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes or paying a premium at the regular rate of pay. Meal periods must be uninterrupted, and the employee must be relieved of all duty for the breaks. RGIS failed to provide Plaintiff and the Aggrieved Employees with all required meal periods before the fifth hour worked due to understaffing and heavy workload, and did not provide a second meal period when Plaintiff and the Aggrieved Employees worked shifts in excess of 10 hours. RGIS pressured and/or encouraged Plaintiff and the Aggrieved employees to work through their breaks in order to complete work obligations.

Meal breaks were also cut short because employees were required to come back early from breaks to perform security checks and/or locate their supervisor to clock in. RGIS also maintained a policy and practice of failing to schedule meal periods and auto-deducting meal breaks from employee time records and/or adjusting employee start and stop times to reflect

compliant meal breaks taken even when Plaintiff and the Aggrieved employees were not provided with legally compliant meal breaks. Additionally, because RGIS scheduled Plaintiff and the Aggrieved Employees to work outside of normal business hours, their breaks were cut short when they had to wait several minutes for store doors to be opened.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant meal period was not provided. Plaintiff and the Aggrieved Employees were not paid at the correct regular rate for premium payments because RGIS did not include all incentive and/or bonus payments.

On Call / On Premises / On Duty Meal Breaks

An employer provides compliant meal breaks to its employees “if it relieves its employees of all duty, relinquishes control over their activities and permits them a reasonable opportunity to take an uninterrupted 30-minute break.” (*Brinker Restaurant Corp. v. Superior Court*, 53 Cal.4th 1004, 1040 (2012)).

Here, the Aggrieved Employees were required to remain on duty because they were requested to work through any alleged breaks.

Applicable Civil Penalties

As a result of the above meal break violations, RGIS is subject to the civil penalties listed in Labor Code sections 558 and 2699.

Rest Break Violations

Labor Code section 226.7, 516, 1198 and the applicable Wage Order requires RGIS to authorize and permit its employees to take rest periods based on the total hours worked daily at the rate of 10 minutes net per four hours or major fraction thereof. Employees must be relieved of all duties during their rest breaks or pay premium at the regular rate of pay. RGIS did not relieve Plaintiff and the Aggrieved Employees to take timely and complete rest breaks due to understaffing, heavy workload, and failing to schedule rest breaks. RGIS pressured and/or encouraged Plaintiff and the Aggrieved employees to work through their breaks in order to complete work obligations. RGIS also failed to maintain legally compliant rest period policies. For example, Plaintiff and the Aggrieved employees were required to remain on premises and/or on duty during their rest periods, and thus were not provided with legally compliant rest breaks. Additionally, because RGIS scheduled Plaintiff and the Aggrieved Employees to work outside of normal business hours, their breaks were cut short when they had to wait several minutes to store doors to be opened.

Labor Code section 226.7 further provides that an employee is entitled to one hour of pay at their regular rate of pay for each day that a compliant rest break was not provided. Plaintiff and the Aggrieved Employees were not paid at the correct regular rate for premium payments because RGIS did not include all incentive and/or bonus payments.

On Call / On Duty Rest Breaks

Plaintiff and the Aggrieved Employees were required to remain on call and generally on duty during their rest breaks. They were also required to remain on the premises during their rest breaks. Courts have repeatedly held that RGIS may not impose any limits on rest breaks.

Augustus v. ABM Sec. Servs., Inc., 2 Cal. 5th 257, 269 (2016) (an RGIS cannot “satisfy its obligation to relieve employees from duties and RGIS control during rest periods when the RGIS [] requires its employees to remain on call”).

Applicable Civil Penalties

As a result of the above rest break violations, RGIS is subject to the civil penalties listed in Labor Code section 2699.

Wage Statement Violations

Labor Code section 226 requires an RGIS to provide wage statements to its employees which include gross and net wages earned / total hours worked / the number of piece-rate units earned and any applicable piece rate / all deductions / the inclusive dates of the period for which the employee is paid / the name of the employee and only the last four digits of his or her social security number or an employee identification number / the name and address of the legal entity that is the RGIS / all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate. RGIS intentionally did not provide wage statements which accurately reflected all required information. Additionally, the wage statements were inaccurate because they did not reflect all hours worked for time Plaintiff and the Aggrieved Employees worked off the clock, and did not include the correct overtime, meal/rest premium rates, and sick leave pay rates based on their regular rate of pay.

Applicable Civil Penalties

As a result of the wage statement violations detailed above, RGIS is subject to the civil penalties listed in Labor Code sections 226.3 and 2699.

Waiting Time Penalties

Labor Code sections 201 and 202 require that RGIS provide an employee with all wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the employee’s resignation. When RGIS fails to comply with the above, the employee is entitled to the equivalent of a day’s wage at their regular rate of pay for each day the RGIS is late, for up to 30 days. (Labor Code section 203).

Because RGIS did not pay Plaintiff and the Aggrieved Employees all wages owed during their employment, including but not limited to unpaid wages for time spent working off the clock and overtime pay, sick pay, and premium pay at the correct regular rate, and they were willfully

not paid these wages after the conclusion of their employment. Thus, RGIS had an obligation to pay waiting time penalties, but did not.

Applicable Civil Penalties

Because of RGIS's failure to pay all wages at the conclusion of employment and to pay the resulting waiting time penalties, RGIS is subject to the civil penalties listed in Labor Code section 2699.

Reporting Time Violations

Labor Code section 1198, through the applicable Wage Order (8 CCR 11040 subdivision 5(A)), provides that an employee who is required to report to work and is furnished less than half of the employee's usual or scheduled workday shall be paid half of the usual or scheduled workday, but in no case less than 2 hours or more than 4 hours at the regular rate of pay. RGIS required Plaintiff and the Aggrieved Employees to report to work but furnished them with less than half of their usual or scheduled workday and did not pay them for required reporting time pay.

Split Shift Violations

Labor Code section 1198, through the Wage Order (8 CCR 11040 subdivision 4(C)), also provides that if an employee is required to report to work a second time in any one workday and is furnished with less than 2 hours of work on the second reporting, they shall be paid for 2 hours at their regular rate of pay. RGIS required Plaintiff and the Aggrieved Employees to report to work for a second reporting in one workday but furnished them with less than 2 hours of work on the second reporting without paying required split shift compensation at the regular rate of pay.

Seventh Day of Rest Violations

Labor code sections 551 and 552 require that employers provide one day's rest in a seven day workweek. RGIS failed to provide Plaintiff and the Aggrieved Employees with their required day of rest.

Sick Pay Violations

Labor Code sections 245.5, 246, 246.5, 247, 247.5, 248.5 and 249 provide employees with sick leave rights. RGIS violated this provisions because it did not properly accrue one hour of sick pay for every 30 hours worked due to the off-the-clock work described above. Also, because RGIS failed to include all incentive and bonus compensation in the regular rate of pay, RGIS did not pay Plaintiff and the Aggrieved Employees sick pay at the correct regular rate in violation of Labor Code 246. Furthermore, in light of the work employees performed off the clock, RGIS failed to provide Plaintiff and the Aggrieved Employees with one hour of paid sick leave for every 30 hours worked. Correct and accurate sick leave accruals were also not provided to employees in writing as required by the Labor Code.

Failure to Maintain Accurate Records

Labor Code sections 1174(d) and 1198 requires an employer to maintain accurate payroll records. Because RGIS did not accurately record all time worked by Plaintiff and the Aggrieved employees, and accurately pay Plaintiff and the Aggrieved Employees for all time worked at the correct rates of pay, RGIS failed to maintain accurate time and payroll records. Furthermore, RGIS's policy and practice of not allowing Plaintiff and the Aggrieved Employees to track their own hours worked, and instead only permitted them to clock in through an RGIS supervisor, resulted in inaccurate time and pay records. This was exacerbated by RGIS's policy and practice of engaging in unlawful time shaving and rounding. This violate Labor Code sections 1174, and Labor Code Section 1174.5 provides that violation is the basis to award penalties.

Failure to Provide Notice of Material Terms of Employment

RGIS failed to provide Plaintiff and the Aggrieved Employees with required Wage Theft Prevention Act Notices with all required correct and accurate information in violation of Labor Code section 2810.5.

Previously Alleged Claims

Plaintiff hereby realleges, and incorporates herein by reference, all facts and theories of liability alleged in his July 6, 2023, letter and the May 13, 2024 letter.

Sincerely,

Adam Rose

PROOF OF SERVICE

My eservice address is adam@frontierlawcenter.com. My business address is 23901 Calabasas Road, Suite 1084, Calabasas, California 91302.

On November 14, 2024, I electronically served the following: foregoing document(s) described as set forth below on the interested parties in this action, as follows:

Document(s) Served: **Second Amended Complaint**

Person(s) Served: Jody Landry
jlandry@littler.com
Christina Hayes
chayes@littler.com
Littler Mendelson
501 W. Broadway, #900
San Diego, CA 92101
For RGIS, LLC/WIS IVS, LLC

____ (BY MAIL) I enclosed a true copy of the above document(s) in a sealed envelope and placed said envelope in the mail at Calabasas, California. The envelope was addressed as above with postage thereon fully prepaid.

____ (BY PERSONAL SERVICE) I personally delivered by hand to the offices of the addressee(s).

X (BY ELECTRONIC MAIL) I emailed the document to the email addresses above.

X (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

____ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction the service was made.

Date: November 14, 2024

/s/ Adam Rose