

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,	) NO. 23CV01731
	) CLASS ACTION
Plaintiff,	) FIRST AMENDED COMPLAINT
v.	) 1. Minimum Wage Violations
	) 2. Overtime Violations
WIS IVS, LLC fka RGIS, LLC, and DOES 1 to 100,	) 3. Meal Period Violations
	) 4. Rest Period Violations
Defendants.	) 5. Wage Statement Penalties
	) 6. Waiting Time Penalties
	) 7. Violation of Unfair Competition Law
	) 8. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Salvador Rodriguez, Jr. is a resident of Butte County.
2. Defendant RGIS, LLC is a Delaware limited liability company that is authorized to do business in California and has a location in Butte County.
3. RGIS, LLC provides retail supply services; therefore Wage Order 4 applies.
4. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore use fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
5. The named and Doe defendants are collectively referred to as "Defendants."
6. Plaintiffs are informed and believe that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.

1 7. Defendants employed Plaintiff and the class members as retail suppliers.

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

4 9. Throughout Plaintiffs' and the class members' employment, they did not receive compliant
5 meal and rest periods, did not receive overtime at the correct regular rate, did not receive at least
6 the minimum wage for work off the clock including going through security checkpoints, and did
7 not receive accurate wage statements and waiting time penalties.

8
9 CLASS ACTION ALLEGATIONS

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

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

- 16 a. Numerosity: The members of the class as defined are so numerous that joinder
17 of all class members is impracticable.
- 18 b. Commonality: This action involves common questions of law and fact to the
19 class because the action focuses on Defendants' systematic course of conduct
20 with respect to violating the Labor Code and IWC Wage Order.
- 21 c. Typicality: The claims are typical of the claims of the class. Plaintiff was
22 subjected to the same violations and seeks the same types of damages,
23 restitution, and other relief on the same as those of the members of the class.
- 24 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
25 protect the interests of the class. Plaintiff understands the obligations as a class
26 representative and is willing and able to fulfill them. Plaintiff's counsel is
27 competent and experienced in litigating large employment class actions and
28 complex litigation matters, including wage and hour cases like this.

- 1 e. Superiority of Class Action: A class action is superior to other available means
2 for efficient adjudication. Class action treatment will allow similarly situated
3 persons to pursue the claims in a manner that is most efficient and economical.
- 4 12. There are common questions of law and fact including but not limited to:
- 5 a. Whether Defendants did not pay overtime at the correct regular rate of pay in
6 violation of Labor code sections 510 and 1194;
- 7 b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying
8 at least the minimum wage for work off the clock;
- 9 c. Whether Defendants violated Labor Code section 512 and the applicable Wage
10 Order by not providing meal breaks;
- 11 d. Whether Defendants violated the applicable Wage Order for not providing rest
12 breaks;
- 13 e. Whether Defendants violated Labor Code section 226 by providing inaccurate
14 wage statements;
- 15 f. Whether Defendants violated Labor Code section 226.7 by not paying premium
16 pay for missed meal and rest breaks;
- 17 g. Whether Defendants engaged in unfair competition; and
- 18 h. The amount of damages, wages, and penalties owed.
- 19

20 FIRST CAUSE OF ACTION

21 Minimum Wage Violations

22 Against All Defendants

- 23 13. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.
- 24 14. Plaintiff and the class members were required to work off the clock including having to go
25 through security checkpoints, and this time should have been paid at least the minimum wage.
- 26 15. Plaintiff and the class members are owed reimbursement for unpaid wages and interest.
- 27 16. Also, statutory attorney fees apply.
- 28

1 SECOND CAUSE OF ACTION

2 Overtime Violations

3 Against All Defendants

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

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

7 19. Plaintiff and the class members should have received overtime at the correct regular rate of
8 pay for the overtime work off the clock as explained above.

9 20. The remedy for the overtime violations is payment of the unpaid overtime at the correct
10 regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

11
12 THIRD CAUSE OF ACTION

13 Meal Period Violations

14 Against All Defendants

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

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

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

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

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

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27 FOURTH CAUSE OF ACTION

28 Rest Period Violations

Against All Defendants

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

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

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

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

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

FIFTH CAUSE OF ACTION

Wage Statement Penalties

Against All Defendants

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

36. Defendants' wage statements issued to Plaintiff and the class members violated Labor Code section 226 since they intentionally did not list the work off the clock including going through security checkpoints, did not list the correct regular rates of pay for overtime, and did not list the correct rates for premium pay for missed breaks at the regular rates of pay.

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

SIXTH CAUSE OF ACTION

Waiting Time Penalties

Against All Defendants

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

39. Plaintiff and the class members who no longer work for Defendants were willfully not paid

1 wages that were still owed after they stopped working for Defendants.

2 40. Therefore Plaintiff and the class members who no longer work for Defendants are owed
3 waiting time penalties under Labor Code section 203, which are 30 days of wages.

4
5 SEVENTH CAUSE OF ACTION

6 Violation of Unfair Competition Law

7 Against All Defendants

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

9 42. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

10 43. This claim is being brought under the unlawful prong of the UCL.

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

13 45. Plaintiffs and the class members are entitled to restitution for the above.

14 46. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

15
16 EIGHTH CAUSE OF ACTION

17 PAGA Penalties

18 Against All Defendants

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

20 48. On July 6, 2023 Plaintiff send RGIS, LLC which is now called WIS IVS, LLC a PAGA
21 letter by certified mail and uploaded the letter to the LWDA website. Since it has been more than
22 65 days, Plaintiff may now request PAGA penalties.

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

24 50. The PAGA penalties for the overtime violations are in Labor Code 558, 1197.1, and 2699.

25 51. The PAGA penalties for the meal break violations are in Labor Code 558 and 2699.

26 52. The PAGA penalties for the rest break violations are in Labor Code section 2699.

27 53. The PAGA penalties for the wage statement violations are in Labor Code section 2699.

28 54. The PAGA penalties for the waiting time penalty violations are in Labor Code 2699.

1 55. Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

2
3 PRAYER

4 For All Causes of Action

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

6 2. That Plaintiffs serve as representatives of the class

7 3 That Counsel for Plaintiffs is appointed as class counsel

8
9 First Cause of Action

10 1. Payment of all unpaid wages

11 2. Interest

12 3. Attorney fees

13 4. Other relief the court deems proper

14
15 Second Cause of Action

16 1. Payment of overtime

17 2. Interest

18 3. Attorney fees

19 4. Other relief the court deems proper

20
21 Third Cause of Action

22 1. Premium pay at the correct regular rate of pay plus interest

23 2. Other relief the court deems proper

24
25 Fourth Cause of Action

26 1. Premium pay at the correct regular rate of pay plus interest

27 2. Other relief the court deems proper

28 ///

1 Fifth Cause of Action

- 2 1. Wage statement penalties
3 2. Attorney fees and costs
4 3. Other relief the court deems proper
5

6 Sixth Cause of Action

- 7 1. Waiting time penalties
8

9 Seventh Cause of Action

- 10 1. Restitution of unpaid wages and premium pay
11 2. Attorney fees
12 3. Other relief the court deems proper
13

14 Eighth Cause of Action

- 15 1. All applicable PAGA penalties
16 2. Attorney fees and costs
17 3. Other relief the court deems proper
18

19 Date: November 9, 2023

FRONTIER LAW CENTER

20 *Adam Rose*
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22 Adam Rose
23 Attorney for Plaintiff
24 Salvador Rodriguez, Jr.
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