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

NOV 18 2023

BY [Signature]
JACQUELINE HARNES, DEPUTY

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY SAN BERNARDINO**

13 ANGEL MARCUCCI, an individual,

14 Plaintiff,

15 v.

16 BLACKROCK LOGISTICS, INC., a Nevada
17 corporation; and DOES 1 through 50,
18 inclusive,

19 Defendants.

CASE NO.: CIVSB2315706

**FIRST AMENDED COMPLAINT FOR
VIOLATION OF THE PRIVATE
ATTORNEYS GENERAL ACT OF 2004
("PAGA")**

[California Labor Code § 2698 *et seq.*]

Action Filed: July 10, 2023

INTRODUCTION

1
2 1. Blackrock Logistics, Inc. ("Defendant") has implemented common policies and
3 practices that have resulted in systematic violations of California's Labor Code and the applicable
4 Industrial Welfare Commission ("IWC") Wage Order(s). Accordingly, Plaintiff, on behalf of the State
5 of California, brings this representative action to recover civil penalties for the California Labor and
6 Workforce Development Agency ("LWDA"), himself, and all other aggrieved employees—i.e., non-
7 exempt employees who worked for Defendant in California during the statute of limitations period.

8 2. Defendant operates warehouses and provides distribution and logistics services for its
9 clients throughout the State of California. As a private, for-profit business, Defendant has implemented
10 common policies and practices that have resulted in systemic violations of California's Labor Code
11 relating to the implementation of quotas applicable to Plaintiff and the other aggrieved employees.

12 3. In an effort to conserve labor costs, and thereby maximize profits, Defendant has
13 implemented policies and practices that have resulted in systematic violations of California's wage and
14 hour laws. For example, Defendant has implemented unlawful policies with respect to meal and rest
15 breaks. Defendant requires its non-exempt employees, who are informed that the needs of the
16 businesses take top priority, to work through meal and rest breaks, to take untimely meal periods and
17 to remain on call during such breaks. As a result, Plaintiff and other aggrieved employees have been
18 denied the ability to take the meal and rest breaks that they were and are legally entitled to take.

19 4. As a further example, Defendant has implemented unlawful written policies with
20 respect to quotas and the expectations of nonexempt, hourly employees to comply with unwritten
21 quotas which prevents Plaintiff and the other aggrieved employees from taking legally compliant meal
22 and rest breaks and using the restroom during working hours. Defendant also requires its non-exempt
23 employees, to use the restroom during rest periods and meal periods only (or on their own time).

JURISDICTION AND VENUE

24
25 5. The Superior Court of the State of California has jurisdiction in this matter because
26 Plaintiff is a resident of the State of California.

27 6. Venue is proper in this judicial district and the County of San Bernardino because
28 Defendant operates one or more warehouses in the County of San Bernardino, and one or more of the

1 wrongful acts alleged herein occurred in the County of San Bernardino.

2 7. Defendant employed Plaintiff and other aggrieved employees within the State of
3 California and the unlawful acts alleged herein have a direct effect on Plaintiff and other aggrieved
4 employees.

5 8. The State of California, San Bernardino County, has jurisdiction in this matter because
6 the individual claims are under the seventy-five thousand dollar (\$75,000.00) individual jurisdictional
7 threshold and the five million dollar (\$5,000,000.00) aggregate jurisdictional threshold for federal court
8 diversity jurisdiction. Further, there is no federal question at issue as the issues herein are based solely
9 on the California Labor Code, Industrial Welfare Commission Wage Orders, Code of Civil Procedure
10 and Rules of Court. Thus, the State of California, San Bernardino County Superior Court maintains
11 the appropriate jurisdiction to hear this matter.

12 **THE PARTIES**

13 9. Plaintiff is a citizen of the State of California. During the relevant time period, Plaintiff
14 was employed by Defendant as a Yard Coordinator. Plaintiff was employed by Defendant from June
15 22, 2022 through on or about January of 2023.

16 10. Plaintiff is informed and believes, and thereon alleges, that Defendant, is, and at all
17 times relevant hereto was, and is a corporation organized and existing under the laws of the State of
18 Nevada. Defendant is authorized to conduct business and does conduct business in the State of
19 California.

20 11. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
21 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
22 business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally
23 attributable to the other Defendants. Furthermore, Defendants in all respects acted as the employer
24 and/or joint employer of Plaintiff and the other aggrieved employees.

25 12. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
26 in all respects as the agent, servant, partner, joint venture, alter-ego, employee, proxy, managing agent,
27 and/or principal of the co-Defendants, and in performing the acts mentioned below was acting, at least
28 in part, within the course and scope of that authority as such agent, proxy, servant, partner, joint venture,

1 employee, alter-ego, managing agent, and/or principal with the permission and consent of the co-
2 Defendants. Plaintiff also alleges that the acts of each Defendant are legally attributable to the other
3 Defendants.

4 13. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants
5 sued herein were, at all relevant times, the employer, owner, shareholder, principal, joint venture, alter-
6 ego, employee, proxy, managing agent, and/or principal of the remaining Defendants, and was acting,
7 at least in part, within the course and scope of such employment and agency, with the express and
8 implied permission, consent and knowledge, approval and/or ratification of the other Defendants. The
9 above co-Defendant, managing agents, and supervisors, aided, abetted, condoned, permitted, approved,
10 authorized, and/or ratified the unlawful acts described herein.

11 14. The true names and capacities of DOES 1 through 50, inclusive, are unknown to
12 Plaintiff at this time, and Plaintiff therefore sues such defendants under fictitious names. Plaintiff is
13 informed and believes, and thereon alleges, that each defendant designated as a DOE is in some manner
14 highly responsible for the occurrences alleged herein, and that Plaintiff and other aggrieved employees'
15 injuries and damages, as alleged herein, were proximately caused by the conduct of such DOE
16 defendants. Plaintiff will seek leave of the Court to amend this Complaint to allege the true names and
17 capacities of such DOE defendants when ascertained.

18 **PAGA REPRESENTATIVE ACTION ALLEGATIONS**

19 15. On August 29, 2023, Plaintiff gave written notice by certified mail pursuant to
20 California Labor Code § 2699.3, to the California Labor and Workforce Development Agency
21 ("LWDA") and Defendant, of the specific provisions of the California Labor Code and IWC Wage
22 Order alleged to have been violated, including the facts and theories to support the alleged violations.
23 Plaintiff has not received any response from the LWDA. As Plaintiff has waited more than sixty-five
24 (65) days from August 29, 2023, postmark date of his written notice before filing this action, Plaintiff
25 has complied with all of the requirements set forth in California Labor Code § 2699.3 to commence a
26 representative action under the California Private Attorneys General Act of 2004 ("PAGA").

27 16. Pursuant to the PAGA, California Labor Code §§ 2698-2699.5, Plaintiff brings this
28 action on behalf of the State of California, and all other aggrieved employees (e.g., current and former

1 non-exempt employees of Defendant who performed work for Defendant in the State of California at
2 any time within the period beginning one (1) year prior and sixty-five (65) days prior to the May 12,
3 2023 notice Plaintiff provided to the LWDA and Defendant, and ending at the time this action proceeds
4 to final judgment (“statute of limitations period”).

5 **FACTUAL ALLEGATIONS**

6 **Failure to Provide Required Meal Periods**

7 17. During the statute of limitations period, as part of Defendant’s illegal policies and
8 practices to minimize labor costs and maximize corporate profits, and the implementation of unfair
9 quotes, Defendant has required, permitted or otherwise suffered Plaintiff and aggrieved employees to
10 perform work during their meal periods, to completely skip their meal periods, to take late and short
11 meal periods, and Defendant has otherwise failed to provide the required meal periods to Plaintiff and
12 aggrieved employees as required under California Labor Code §§ 226.7, 512 and § 11 of the applicable
13 IWC Order.

14 18. Defendant has implemented several practices that have caused Plaintiff and aggrieved
15 employees to systematically miss and otherwise take non-compliant meal periods. Defendant
16 systematically understaff its job sites such that non-exempt employees are given so much work to
17 complete that they regularly miss or otherwise take non-compliant meal periods. As a direct
18 consequence of this understaffing, Plaintiff and aggrieved employees have so much work to complete
19 within their scheduled shifts that they are forced to skip their meal periods altogether, to take them after
20 working longer than five (5) hours, to perform work during their meal periods, or return to work after
21 taking less than a thirty (30) minute meal period. Defendant also did not properly notify their non-
22 exempt employees of their rights under California law to take timely, uninterrupted meal periods
23 (including the right to second meal periods during shifts of longer than ten (10) hours and less than
24 twelve (12) hours), and thus, aggrieved employees like Plaintiff were left in the dark as to when or for
25 how long they could take their meal periods.

26 19. There are also frequent occasions when Plaintiff and aggrieved employees need to
27 perform other duties immediately before the time during which they are legally entitled to take a meal
28 period. Pursuant to Defendant’s policies, Plaintiff and aggrieved employees cannot simply drop their

1 job duties and leave a customer to take a meal period. Consequently, Plaintiff and aggrieved employees
2 regularly miss meal periods, take late meal periods, return early from meal periods, and even clock out
3 for meal periods but continue working as a result of their work and assigned quotas. Plaintiff is
4 informed and believes Defendant failed to maintain records of meal periods allegedly taken by Plaintiff
5 and the other aggrieved employees.

6 20. Despite the foregoing, Defendant has implemented a policy and practice of actively
7 discouraging the issuance of meal period premium payments, and in the process, Defendant has
8 violated California Labor Code §§ 226.7 and § 11 of the applicable IWC Wage Order, by failing to
9 compensate Plaintiff and aggrieved employees who were not authorized and permitted to take a
10 complete, timely, uninterrupted meal period, one additional hour of compensation at the proper regular
11 rate of pay for each workday that such a meal period was not authorized or permitted.

12 **Failure to Provide Required Rest Breaks**

13 21. During the statute of limitations period, as part of Defendant's illegal policies and
14 practices to minimize labor costs and maximize corporate profits, Defendant has failed to authorize
15 and permit Plaintiff and other aggrieved employees to take rest breaks as required under California
16 Labor Code §§ 226.7 and 512, and § 12 of the applicable IWC Wage Order.

17 22. The same or similar policies and practices that deprive Plaintiff and other aggrieved
18 employees from taking their meal periods, as alleged herein, similarly deprive them of their ability to
19 take their first and second and third rest breaks. As alleged herein, Defendant understaffs work areas,
20 which creates so much work for Plaintiff and other aggrieved employees that they are frequently unable
21 to take rest breaks as result of their work and implementation of unfair quotas.

22 22. Defendant also does not provide adequate training regarding its legal obligations with
23 respect to the provision of rest breaks, does not implement a schedule regarding rest breaks for non-
24 exempt employees, and often interrupts staff who try to take rest periods. In short, Defendant essentially
25 has a non-existent rest break policy, as there is no guidance or specification as to when Plaintiff and
26 other aggrieved employees are authorized and permitted to take rest breaks during their shifts.

27 24. Defendant also violated California Labor Code § 226.7, and § 12 of the applicable IWC
28 Order, by failing to pay Plaintiff and other aggrieved employees who were not provided with a rest

1 break, in accordance with the applicable wage order, one additional hour of compensation at the proper
2 regular rate of pay for each workday that a rest break was not provided.

3 **Failure to Pay Overtime Wages**

4 25. Pursuant to California Labor Code §§ 510, 1194, and § 3 of the applicable IWC Order,
5 Defendant is required to compensate Plaintiff and other aggrieved employees for all overtime, which
6 is calculated at one and one-half (1 ½) times the regular rate of pay for all hours worked in excess of
7 eight (8) hours per day and/or forty (40) hours per week, and for the first eight (8) hours on the seventh
8 consecutive workday, with double time for all hours worked in excess of twelve (12) hours in any
9 workday and for all hours worked in excess of eight (8) hours on the seventh consecutive day of work
10 in any workweek.

11 26. During the statute of limitations period, Defendant failed to compensate Plaintiff and
12 other aggrieved employees for all overtime hours worked as required under the foregoing provisions
13 of the California Labor Code and IWC Wage Order by, among other methods: failing to pay overtime
14 at one and one-half (1 ½) or double the regular rate of pay as provided by California Labor Code §§
15 510, 1194 and § 3 of the applicable IWC Order, requiring, permitting or suffering Plaintiff and other
16 aggrieved employees to work off-the-clock, and to work through meal and rest breaks, but not
17 compensating them for this time, improperly calculating the regular rate of pay based on bonuses,
18 commissions, and other remuneration, and other methods to be discovered. Moreover, when Plaintiff
19 and the other aggrieved employees are paid on a production basis and work more than eight (8) hours
20 in a day and/or over forty (40) hours in a workweek, they are not paid overtime wages.

21 27. In a short-sighted attempt to maximize profits, Defendant has understaffs its job sites.
22 Not only has this practice resulted in widespread missed meal and rest breaks, but it has also caused
23 Plaintiff and other aggrieved employees to perform work while off-the-clock. Defendant has actual or
24 constructive knowledge of this off-the-clock work and subtly condones it. Plaintiff and other aggrieved
25 employees routinely arrive to work early to check so that they are prepared and ready to begin
26 performing their duties promptly at the start of their shifts, as they must be pursuant to the requirements
27 of Defendant. Defendant knows that Plaintiff and other aggrieved employees perform this work off-
28 the-clock.

1 28. Defendant has knowingly and willfully refused to perform its obligations to
2 compensate Plaintiff and other aggrieved employees for all wages earned and all hours worked in
3 violation of California Labor Code §§ 510, 1194 and 1198, and § 3 of the applicable IWC Order.

4 **Failure to Pay Minimum Wages**

5 29. Pursuant to Cal. Lab. Code §§ 1194, 1197, and § 4 of the applicable IWC Wage Order,
6 payment to an employee of less than the applicable minimum wage for all hours worked in a payroll
7 period is unlawful.

8 30. During the statute of limitations period, the hourly rates for Plaintiff and other aggrieved
9 employees were precisely at California minimum wage. Based on this common practice, Defendant
10 failed to pay Plaintiff and other aggrieved employees minimum wages for all hours worked by
11 requiring, permitting or suffering Plaintiff and other aggrieved employees to work off the clock, such
12 as requiring them to work through meal and rest breaks but not compensating them for this time, and
13 failing to include this time in all hours worked, and other methods to be discovered.

14 31. Defendant's conduct described herein violates Cal. Lab. Code §§ 1194, 1197, and § 4
15 of the applicable IWC Wage Order. As a proximate result of the aforementioned violations, Plaintiff
16 and other aggrieved employees have been damaged in an amount according to proof at trial. Therefore,
17 pursuant to California Labor Code §§ 200, 203, 226, 1194, 1197.1, and any other applicable law,
18 Plaintiff and other aggrieved employees are entitled to recover the unpaid balance of wages owed to
19 them by Defendant, plus interest, penalties, attorneys' fees, expenses, and costs of suit.

20 **Failure to Timely Pay Wages During Employment**

21 32. Pursuant to California Labor Code § 204, for all labor performed between the 1st and
22 15th days of any calendar month, Defendant is required to pay its nonexempt employees between the
23 16th and 26th day of the month during which the labor was performed. California Labor Code § 204
24 also provides that for all labor performed between the 16th and 26th days of any calendar month,
25 Defendant is required to pay its non-exempt employees between the 1st and 10th day of the following
26 calendar month. In addition, California Labor Code § 204 provides that all wages earned for labor in
27 excess of the normal work period shall be paid no later than the payday of the next regular payroll
28 period.

1 33. During the statute of limitations period, Defendant has knowingly and willfully failed
2 to timely pay Plaintiff and other aggrieved employees all the wages for labor performed by the next
3 regular payroll period as required by California Labor Code § 204, including but not limited to,
4 compensation for missed meal and rest breaks, proper overtime wages due to an unlawful calculation
5 of the regular rate of pay, and for work performed off-the-clock.

6 **Failure to Pay All Wages Due to Discharged and Quitting Employees**

7 34. Pursuant to California Labor Code §§ 201, 202 and 203, Defendant is required to pay
8 all earned and unpaid wages to an employee who is discharged. California Labor Code § 201 mandates
9 that if an employer discharges an employee, the employee's wages accrued and unpaid at the time of
10 discharge are due and payable immediately.

11 35. Furthermore, pursuant to California Labor Code § 202, Defendant is required to pay all
12 accrued wages due to an employee no later than 72 hours after the employee quits his or her
13 employment, unless the employee provided 72 hours previous notice of his or her intention to quit, in
14 which case the employee is entitled to his or her wages at the time of quitting.

15 36. California Labor Code § 203 provides that if an employer willfully fails to pay, in
16 accordance with Labor Code §§ 201 and 202, any wages of an employee who is discharged or who
17 quits, the employer is liable for waiting time penalties in the form of continued compensation to the
18 employee at the same rate for up to 30 workdays.

19 37. During the statute of limitations period, Defendant has willfully failed to pay accrued
20 wages and other compensation to Plaintiff and other aggrieved employees in accordance with
21 California Labor Code §§ 201 and 202. On information and belief, Defendant does not have a sufficient
22 policy to provide Plaintiff and other aggrieved employees with their final paychecks within the
23 timeframes required under California law. Further, Plaintiff's employment ended on or about May 6,
24 2022, Defendant failed and continues to fail to properly compensate Plaintiff and other aggrieved
25 employees for all hours worked when due, overtime wages, and compensation for non-compliant meal
26 and rest breaks, Defendant also willfully failed and continue to fail to pay accrued wages and other
27 compensation to Plaintiff and other aggrieved employees in accordance with California Labor Code §§
28 201 and 202.

1 **Failure to Furnish Accurate Itemized Wage Statements**

2 38. During the statute of limitations period, Defendant has routinely failed to provide
3 Plaintiff and other aggrieved employees with timely and accurate itemized wage statements.
4 Defendant's pay stubs have violated California Labor Code § 226. Defendant's wage statements are
5 non-compliant with Labor Code §226 since Defendant was and is not providing Plaintiff and other
6 aggrieved employees with proper meal periods and rest breaks and intentionally fails to include in their
7 wage statements one (1) additional hour of compensation at their regular rates of pay for each non-
8 compliant meal period or rest break. Moreover, Defendant fails to list the rates of pay on its wage
9 statements. Further, Defendant failed to pay proper overtime wages to Plaintiff and other aggrieved
10 employees and its wage statements therefore fail to reflect the correct hourly rates worked by Plaintiff
11 and other aggrieved employees. Finally, the wage statements do not reflect or incorrectly reflect the
12 supplemental COVID-19 sick pay balance and/or the amount of supplemental COVID-19 sick pay
13 available to Plaintiff and the other aggrieved employees. In 2022, Defendant failed to list "0" on its
14 wage statements for Plaintiff and the other aggrieved employees when supplemental COVID-19 sick
15 was not used making the wage statements inaccurate.

16 39. In order to conceal its wage theft, Defendant knowingly and intentionally failed to
17 provide Plaintiff and other aggrieved employees with timely and accurate itemized wage statements in
18 accordance with Labor Code § 226(a) and § 7 of the applicable IWC Order.

19 40. Plaintiff and other aggrieved employees suffered injury as a result of the failure of
20 Defendant to provide timely and accurate itemized wage statements because it prevented them from
21 discovering the scope and extent of Defendant's violations of California wage and hour laws, prevented
22 them from being able to accurately determine the gross wages earned, the total hours worked, all
23 deductions made, the net wages earned, all applicable hourly rates in effect during each pay period and
24 the corresponding number of hours worked at each hourly rate and the balance and available amount
25 of sick leave, including supplemental COVID-19 sick pay.

26 **Failure to Maintain Required Records**

27 41. During the statute of limitations period, as part of Defendant's illegal payroll policies
28 and practices to deprive Plaintiff and other aggrieved employees of all wages earned and due,

1 Defendant knowingly and intentionally failed to maintain records as required under California Labor
2 Code §§ 226(a) and 1174(d) and § 7 of the applicable IWC Order, including but not limited to the
3 following records: total daily hours worked by each employee; applicable rates of pay; all deductions;
4 meal periods; time records showing when each employee begins and ends each work period; the
5 balance and available amount of sick leave and accurate itemized statements. Defendant had knowledge
6 that it was not providing its non-exempt employees with proper meal and rest periods, but knowingly
7 failed to include in the wage statements one (1) extra hour of compensation for each missed meal and
8 rest period. Defendant also illegally and inaccurately recorded the time in which Plaintiff and other
9 aggrieved employees worked. Defendant has also failed to maintain accurate, itemized wage
10 statements, as alleged above.

11 **Failure to Pay COVID-19 Supplemental Sick Leave**

12 41. During the Statute of Limitations Period, Plaintiff is informed and believes from January
13 1, 2021 through the present, Defendants employed 26 or more aggrieved employees.

14 42. Defendants failed to provide 80 hours of COVID-19 Supplemental Paid Sick leave and
15 compensate Aggrieved Employees at their regular rate of pay for supplemental sick leave, i.e., their
16 highest regular rate of pay, taking into consideration non-discretionary bonuses, etc., in violation of
17 California Labor Code § 248.1(b)(3)(A) and §248.6. Defendants also failed to provide COVID-19
18 Supplemental Sick Leave to Aggrieved Employees in addition to regular sick leave, in violation of
19 California Labor Code § 248.1(b)(2)(D). Defendants also failed to accurately reflect any offset and/or
20 the current amount of COVID-19 Supplemental Sick Leave available to aggrieved employees on their
21 wage statements, in violation of California Labor Code §§ 248.1(b)(2)(D), 248.2, 248.6 and for the
22 reasons provided herein.

23 **Failure to Indemnify Employees for Necessary Expenditures**

24 43. California Labor Code § 2802(a) requires an employer to indemnify an employee for all
25 necessary expenditures or losses incurred by the employee in direct consequence of the discharge of
26 his or her duties, or of his or her obedience to the directions of the employer.

27 44. During the Statute of Limitations Period, Defendant has failed to reimburse Aggrieved
28 Employees for the usage of their personal cellular phones in addition to personal protective equipment

1 during the COVID-19 pandemic, including face masks and disposable gloves and other supplies.
2 Defendant did not reimburse Plaintiff and other Aggrieved Employees for the costs of the expenditures
3 relating to their cellular phones, face masks and other supplies.

4 **Failure to Provide Employment Records**

5 45. Pursuant to Labor Code §§ 226 and 1198.5 and IWC Wage Order No. 9-2001, § 7,
6 Defendant is required to provide to copies of their personnel files and certain other employment
7 records upon their request.

8 46. On January 31, 2023, March 7, 2023 and April 10, 2023, Plaintiff requested copies of
9 these records from Defendant. An authorization form, expressly permitting the disclosure of these
10 records to counsel, signed by Plaintiff was submitted to Defendant along with the request. Defendant
11 Employer failed to respond to the requests for the employer records and personnel file of Plaintiff.

12 **Failure to Provide Aggrieved Employees With Written Description of Quotas**

13 47. Beginning on January 1, 2022, California Labor Code §2101 requires California
14 employers to provide to each employee, upon hire, or within 30 days of the effective date of
15 California Labor Code §2101, “a written description of each quota to which the employee is subject,
16 including the quantified number of tasks to be performed or materials to be produced or handled,
17 within the defined time period, and any potential adverse employment action that could result from
18 failure to meet the quota.” See, California Labor Code §2101.

19 48. Moreover, California Labor Code §2102 states, “An employee shall not be required to
20 meet a quota that prevents compliance with meal or rest periods, use of bathroom facilities, including
21 reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the
22 Labor Code or division standards. An employer shall not take adverse employment action against an
23 employee for failure to meet a quota that does not allow a worker to comply with meal and rest
24 periods, or occupational health and safety laws in the Labor Code or division standards, or for failure
25 to meet a quota that has not been disclosed to the employee pursuant to Section 2101.”

26 49. California Labor Code §2100 applies to any non-exempt, hourly employee such as
27 Plaintiff and the other aggrieved employees who work at Defendant’s distribution and logistics
28 centers in the State of California. Defendant operates warehouse distribution centers throughout the

1 State of California, including Chino, California, as well as other locations throughout the State of
2 California.

3 50. Defendant is an employer which directly or indirectly, or through an agent or any
4 other person, including through the services of a third-party employer, temporary service, or staffing
5 agency or similar entity, of 100 or more employees at a single warehouse distribution center or 1,000
6 or more employees at one or more warehouse distribution centers in the state. For purposes of this
7 definition, all employees of an employer's commonly controlled group, as that term is defined
8 in Section 25105 of the Revenue and Taxation Code, shall be counted in determining the number of
9 employees employed at a single warehouse distribution center or at one or more warehouse
10 distribution centers in the state. See, California Labor Code §2100(f).

11 51. Defendant further operates warehouse distribution centers in California and its
12 operations are defined by or fall under any of the North American Industry Classification System
13 Codes, in particular Code 493110 (General Warehousing and Storage, and 423/424 (Merchant
14 Wholesales – Durable and Non-Durable Goods.). See, California Labor Code §2100.i.1.(a-d).

15 52. Defendant, is required to provide to each employee, upon hire, or within 30 days of
16 the effective date of this part, a written description of each quota to which the employee is subject,
17 including the quantified number of tasks to be performed or materials to be produced or handled,
18 within the defined time period, and any potential adverse employment action that could result from
19 failure to meet the quota. California Labor Code §2101. On August 29, 2023, Plaintiff requested
20 quota information on Defendant failed within thirty (30) days to provide any type of description to
21 Plaintiff and the other aggrieved employees of each quota (including detailed metrics regarding
22 Defendant's quota requirements) applicable to them in compliance with California Labor Code
23 §2100.

24 53. Further, Labor Code §2102 provides, an employee shall not be required to meet a
25 quota that prevents compliance with meal or rest periods, use of bathroom facilities, including
26 reasonable travel time to and from bathroom facilities, or occupational health and safety laws in the
27 Labor Code or division standards. An employer shall not take adverse employment action against an
28 employee for failure to meet a quota that does not allow a worker to comply with meal and rest

1 periods, or occupational health and safety laws in the Labor Code or division standards, or for failure
2 to meet a quota that has not been disclosed to the employee pursuant to Section 2101.

3 54. Defendant failed to provide Plaintiff and the other aggrieved employees with written
4 or oral information regarding quotas applicable to them and implemented quotas preventing
5 compliance with meal and rest periods, the use of bathroom facilities, including reasonable travel
6 time to and from bathroom facilities and other occupational health and safety law violations yet to be
7 discovered.

8 55. Plaintiff, on behalf of himself and the other aggrieved employees, is aware that
9 Defendant implemented quotas which caused a violation of their rights to a meal or rest periods,
10 prevented them from using the restroom facilities or required them to violate any occupational health
11 and safety laws in the Labor Code or division standards. For instance, Plaintiff was unable to use the
12 restroom facilities of Defendant during working hours and was only allowed to use the facilities
13 during his own time.

14 56. On August 29, 2023, Plaintiff, on behalf of the other aggrieved employees, requested
15 that Defendant provide a written description of each quota applicable to Plaintiff and the other
16 aggrieved employees to which they were and are subjected to and copies of the aggrieved employees
17 work speed data within the past ninety (90) days of the request. See, Labor Code §2104(a)(1-3).
18 Defendant had twenty-one (21) days to respond to this request but failed to provide information
19 relating to quotas applied to Plaintiff or any other aggrieved employees. See, Labor Code §2104(b).
20 As a result of Defendant's failure to comply with Labor Code §2100, et seq., Defendant is subject to
21 PAGA penalties pursuant to Labor Code §2109.

22 **FIRST CAUSE OF ACTION**

23 **VIOLATION OF THE PRIVATE ATTORNEYS GENERAL ACT**

24 **[Cal. Lab. Code § 2698 *et seq.*]**

25 **(On Behalf of Plaintiff and the Aggrieved Employees Against Defendant)**

26 57. Plaintiff incorporates herein by specific reference, as though fully set forth, the
27 allegations in paragraphs 1 through 56 above.

28 58. Plaintiff is an "aggrieved employee" within the meaning of California Labor Code §

1 2699(c), and a proper representative to bring a civil action on behalf of himself and other aggrieved
2 employees pursuant to the procedures specified in California Labor Code § 2699.3, because Plaintiff
3 was employed by Defendant and one or more of the alleged California Labor Code violations was
4 committed against Plaintiff during the statute of limitations period.

5 59. Plaintiff seeks to recover civil penalties through a representative action permitted by
6 PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.4th 969. Thus, class
7 certification is not required.

8 60. Pursuant to California Labor Code §§ 2698-2699.5, Plaintiff seeks to recover civil
9 penalties from Defendant in a representative action for the violations set forth above, including but not
10 limited to, violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 246, 510, 512, 1174,
11 1194 and for the violations of the applicable IWC Wage Order alleged above.

12 61. Pursuant to California Labor Code § 2699(a), Plaintiff seeks to recover civil penalties
13 against Defendant for violations of California Labor Code provisions for which a civil penalty is
14 specifically provided, including but not limited to, the following:

15 a. Pursuant to California Labor Code § 210, for violations of California Labor
16 Code § 204, Defendant is subject to a civil penalty in the amount of one
17 hundred dollars (\$100) for the initial violation for each failure to pay each
18 employee, and two hundred dollars (\$200) per employee for violations in
19 subsequent pay periods.

20 b. Pursuant to California Labor Code § 1174.5, for violations of California Labor
21 Code § 1174(d), Defendant is subject to a civil penalty of five hundred dollars
22 (\$500).

23 62. California Labor Code § 2699(f) provides that for all California Labor Code violations
24 for which a civil penalty is not specifically provided, the following civil penalties are established: one
25 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two
26 hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

27 63. Plaintiff seeks to recover such civil penalties under California Labor Code § 2699(f) for
28 Defendant's violations of California Labor Code provisions for which a civil penalty is not specifically

1 provided, including but not limited to, California Labor Code §§ 201, 202, 203, 204, 226.7, 1197,
2 1024.5, and for the violations of the applicable IWC Wage Order alleged above.

3 64. All civil penalties sought and recovered under this action will be allocated as follows:
4 seventy-five (75) percent to the State of California and twenty-five (25) percent to Plaintiff and
5 aggrieved employees.

6 65. Plaintiff additionally seeks reasonable attorneys' fees and costs pursuant to California
7 Labor Code § 2699(g)(1) and California Code of Civil Procedure § 1021.5.

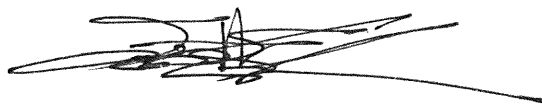
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, individually and on behalf of all other aggrieved employees, prays
10 for relief against Defendant, as follows:

- 11 1. For civil penalties according to proof;
12 2. For reasonable attorneys' fees and costs pursuant to California Labor Code § 2699(g),
13 California Code of Civil Procedure § 1021.5, and/or any other applicable provisions providing for
14 attorneys' fees and costs; and
15 3. For such further relief that the Court may deem just and proper.

16 DATED: November 3, 2023

THE LAW OFFICE OF SCOTT ERNEST WHEELER

17
18 By: 

19 Scott E. Wheeler
20 Justin A. Wheeler

21 *Attorneys for Plaintiff and the other aggrieved*
22 *employees*
23
24
25
26
27
28

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am an employee in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 250 West First Street, Suite 216, Claremont, California 91711.

On November 3, 2023, I served the foregoing documents, described as

**FIRST AMENDED COMPLAINT FOR VIOLATION OF THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004 ("PAGA")**

on all interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Robert A. Hufnagel, Esq.
Stephen A. Bonkowski, Esq.
RESNICK & LOUIS, P.C.
800 N. Haven Ave., Suite 430
Ontario, California 91764
Email: rhufnagel@rlattorneys.com
sbonkowski@rlattorneys.com

Attorneys for Defendant,
BLACKROCK LOGISTICS, INC.

(BY PERSONAL SERVICE) I placed such documents in a sealed envelope and caused such envelope to be personally delivered to the party at the above listed address.

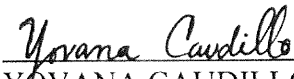
 X
(BY U.S. MAIL) I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Claremont, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation postage meter date is more than one day after date of deposit for mailing in affidavit.

(BY FACSIMILE) I sent such document via facsimile mail to the number(s) noted above.

(BY ELECTRONIC MAIL) I sent such document via electronic mail to the electronic mail address(es) noted above.

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

Executed on November 3, 2023 at Claremont, California.



YOVANA CAUDILLO