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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ALAMEDA

FRANCISCO GONGORA, LUIS ANGEL DIAZ, and JUAN CARLOS ARTEAGA, individually, and on behalf of other members of the general public similarly situated and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act,

Plaintiffs,

vs.

DC LOGISTICS, LLC, a Delaware limited liability company; PIER ENTERPRISES, INC., a California corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No.: 23CV049652

[Assigned for All Purposes to the Hon. Patrick McKinney, Dept. 18]

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

1. **Failure to Timely Pay Earned Wages (Labor Code §§ 204, 210);**
2. **Failure to Pay Minimum and Straight Time Wages (Labor Code §§ 204, 1194, 1194.2, 1197);**
3. **Failure to Pay Overtime Compensation (Labor Code §§ 510, 1194, 1198);**
4. **Failure to Provide Meal Periods (Labor Code §§ 512, 226.7);**
5. **Failure to Authorize and Permit Rest Periods (Labor Code § 226.7);**
6. **Failure to Provide Accurate Wage Statements (Labor Code § 226);**
7. **Waiting Time Penalties (Labor Code §§ 201-203);**
8. **Failure to Reimburse Business Expenses (Labor Code § 2802);**
9. **Failure to Produce Requested Employment Records (Labor Code §§ 226, 1198.5);**
10. **Violations of the Private Attorneys General Act of 2004 (Labor Code § 2698, et seq.); and**
11. **Unfair Business Practices (Business and Professions Code § 17200, et seq.).**

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LUIS ANGEL DIAZ and JUAN CARLOS ARTEAGA

Plaintiffs FRANCISCO GONGORA, LUIS ANGEL DIAZ, and JUAN CARLOS ARTEAGA (collectively "Plaintiffs"), by their undersigned attorneys, individually, and on behalf of other members of the general public similarly situated, and on behalf of other aggrieved employees pursuant to the California Private Attorneys General Act ("PAGA"), allege as follows:

JURISDICTION AND VENUE

1. The Superior Court of the State of California, for the County of Alameda, has jurisdiction over this case due to the fact that many of the alleged violations of (a) California Labor Code (i.e. Lab. Code §§ 200, et seq.), (b) California Business and Professions Code §17200, et seq. and (c) related common law occurred in the County of Alameda.

2. Venue is proper in the Superior Court of the State of California, for the County of Alameda pursuant to Code of Civil Procedure §§ 395 and 395.5 because at least some of the acts complained herein occurred in the County of Alameda, including but not limited to, 2968 Alvarado Street, Unit A, San Leandro, CA 94577.

PARTIES

3. Plaintiff, Francisco Gongora, is, and at all relevant times was, a resident of the State of California, County of Alameda.

4. Plaintiff Luis Angel Diaz is, and at all relevant times was, a resident of the State of California, County of Alameda.

5. Plaintiff Juan Carlos Arteaga is, and at all relevant times was, a resident of the State of California, County of Riverside.

6. Plaintiffs are informed and believe, and based thereon allege, that Defendant DC Logistics, LLC ("DC Logistics") is, and at all relevant times was, a limited liability company organized and existing under the laws of the state of Delaware, registered and qualified to do business in the state of California, with its principal place of business located at 4685 Pier Enterprise Way, Jurupa Valley, California 91752.

7. Plaintiffs are ignorant of the true names and capacities of the defendants sued herein as DOES 1 through 50, inclusive, and therefore sues these defendants by such fictitious names. Plaintiffs will amend this Complaint to allege the true names and capacities of said

defendants when ascertained. Plaintiffs are informed and believe, and based thereon allege, that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that Plaintiffs' damages as herein alleged were proximately caused by said defendants. (DC Logistics, LLC and DOES 1 through 50 shall collectively herein be referred to as "Defendants").

8. Unless otherwise alleged in this Complaint, Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants sued herein was, at all relevant times hereto, the employer, owner, principal, franchisee, proxy, agent, employee, supervisor, representative, manager, managing agent, joint employer, and/or alter ego of the remaining Defendants, and was acting, at least in part, within the course and scope of such employment and agency, with express and implied permission, consent, and knowledge. The above Defendants, managing agents, and supervisors aided, abetted, condoned, permitted, willfully ignored, approved, authorized, and/or ratified the unlawful acts described herein, and each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to all Defendants.

CLASS ACTION ALLEGATIONS

9. Class Period. The acts complained of herein have occurred, are presently occurring, and are expected to continue occurring, within the time period from four (4) years preceding the filing of the Complaint herein, up to and through the time of trial for this matter.

10. Class Definition. The Class that Plaintiffs represent is comprised of: All current and former non-exempt employees who worked for DC Logistics and/or Pier Enterprises, Inc. in California at any time from November 2, 2019, through the present (the "Class Period").

11. Pursuant to Code of Civil Procedure section 382, this action qualifies as a class action because there is a well-defined community of interest in the litigation, and the proposed Class is easily ascertainable.

12. Plaintiffs reserve the right under the California Rules of Court, Rule 1855, subdivision (b), to amend or modify the class description with greater specificity or further division into subclasses or limitation to particular issues.

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13. Numerosity. Plaintiffs are informed, believe, and thereon allege that the potential membership in the Class is so numerous that joinder of all members is impractical. Moreover, the disposition of the claims of the Class in a single action will provide substantial benefits to all parties and the Court. While the exact number of Class members is presently unknown to Plaintiffs, Plaintiffs estimate membership in the Class to exceed 400. The exact number and specific identities of the members of the Class may be readily ascertained through inspection of Defendants' business records.

14. Commonality. There are numerous questions of law or fact common to Plaintiffs and the Class members. These questions include, but are not limited to, the following:

a. Whether Defendants failed to pay the Class for all hours worked, including minimum, straight time, and overtime wages;

b. Whether Defendants failed to provide the Class with legally compliant meal periods or pay meal period premium wages;

c. Whether Defendants failed to provide the Class with legally compliant rest periods or pay rest period premium wages;

d. Whether Defendants failed to provide the Class with accurate wage statements;

e. Whether Defendants failed to timely provide the Class with final wages;

f. Whether Defendants failed to indemnify the Class for expenditures;

g. Whether Defendants failed to timely produce requested employment records; and

h. Whether Defendant violated Business & Professions Code §§ 17200, et. seq., as a result of their illegal conduct as described above.

15. Typicality. The claims of the representative Plaintiffs are typical of the claims of the Class. Plaintiffs were employees of Defendants and are members of the proposed Class. Plaintiffs' claims, like the claims of the Class, arise out of the same common course of conduct by Defendants and is based on the same legal and remedial theories.

16. Adequacy. Plaintiffs will fairly and adequately protect the interests of the Class. Plaintiffs have retained competent and capable attorneys who are experienced in class action litigation, including employment law. Plaintiffs and their counsel are committed to prosecuting

this action vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiffs nor their counsel have interests that are contrary to or that conflict with those of the proposed Class.

17. Predominance. Defendants have engaged in a common course of wage and hour violations toward Plaintiffs and members of the Class in that Defendants willfully failed to provide legally compliant duty-free meal periods, failed to provide legally compliant duty-free rest periods, failed to provide all wages, failed to provide accurate itemized wage statements, failed to provide all wages due at the time of separation, and failed to provide the reimbursement of ordinary business expenses. The common issues arising from this conduct that affect Plaintiffs and members of the Class predominate over any individual issues. Adjudication of these common issues in a single action has important and desirable advantages of judicial economy.

18. Superiority. A class action is superior to other available means for the fair and efficient adjudication of this controversy since individual joinder of all members of the Class is impracticable. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single form simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Furthermore, the cost to the court system of adjudication of such individualized litigation would be substantial. Individualized litigation could also present the potential for inconsistent or contradictory judgments.

SUMMARY OF FACTUAL ALLEGATIONS

19. Defendants have engaged in, and continue to engage in, a common course of wage and hour violations against their current and former employees in the State of California.

20. Plaintiff Gongora worked as a non-exempt hourly forklift operator and/or dock worker for Defendants in San Leandro, California from in or around June 2022 to on or about July 24, 2023. Plaintiff Diaz worked for Defendants as a non-exempt employee from approximately January 2023 to approximately September 2023. Plaintiff Arteaga worked for Defendants as a non-exempt employee from approximately February 2024 to approximately May 2024.

21. Plaintiffs are informed, believe, and thereon allege that Defendant DC Logistics is a transportation and logistics company which offers truckload services, warehousing, and custom logistics solutions for a variety of companies.

22. Plaintiffs are informed, believe, and thereon allege that Defendants failed to pay their hourly employees at an overtime rate, despite their hourly employees often working in excess of ten (10) or twelve (12) hours per day and in excess of forty (40) hours per week. Defendants' hourly employees were only ever paid at their regular rate of pay regardless of the hours worked.

23. When Plaintiff Gongora complained to Defendants about the lack of overtime pay at the appropriate rate, his concerns were never addressed. Defendants simply told Plaintiff Gongora that they "didn't have to" pay him at an overtime rate for his overtime work. As a result, neither Plaintiffs nor any of Defendants' non-exempt hourly employees were *ever* paid at the appropriate overtime rate for *any* of their regularly performed overtime hours of work.

24. Defendants also failed to provide their non-exempt hourly employees with full, timely, off-duty meal and rest periods or premium compensation in lieu thereof. Defendants' hourly employees, including Plaintiffs, regularly failed to take a second meal period when working in excess of ten (10) and/or twelve (12) hours per day. Defendants' hourly employees, including Plaintiffs, also regularly failed to take a second or third rest period, despite regularly working in excess of ten (10) and/or twelve (12) hours per day.

25. When Plaintiffs and other hourly employees were taking a meal and/or rest period, they were often interrupted by trucks arriving at the facility. When a truck would arrive at the facility, Defendants' hourly employees were expected to immediately begin to help unload and/or attend to the trucks as they arrived, even when they were taking a meal and/or rest period. As a result, Plaintiffs and other non-exempt hourly employees regularly failed to take full, timely, off-duty meal and rest periods. Defendants' non-exempt hourly employees did not receive premium compensation for their late, short, interrupted, or missed meal and/or rest periods. Plaintiffs and other non-exempt hourly employees were not required to sign any form of a meal period waiver. Further, Plaintiffs, the aggrieved employees, and the putative class members failed to receive all

owed minimum, regular, and/or overtime pay for the work they completed during their meal and/or rest periods.

26. Plaintiffs and Defendants' other non-exempt hourly employees also regularly incurred business expenses that went unreimbursed. Plaintiffs and other hourly employees were required to buy steel-toed work boots with their own money. Good quality work boots would cost the employees a substantial amount of money and would have to be re-purchased every few months due to wear and tear.

27. Plaintiffs and other non-exempt hourly employees were also required to use their personal cell phones for work every day, including receiving calls from supervisors and taking pictures of arriving trucks to note any damage. The hourly employees were expected to pay the entirety of their personal cell phone costs.

28. Plaintiffs and other hourly employees additionally had to use their personal vehicles for work when trucks would break down. The employees would be forced to pick up other employees from the broken down truck, drop them off at a mechanic shop, and return back to Defendants' facility using their personal vehicles. These non-exempt hourly employees were expected to pay the entirety of the costs for their cars, including gas.

29. Despite regularly incurring all of these business expenses, Defendants failed to reimburse their non-exempt hourly employees. When Plaintiffs, the aggrieved employees, and the putative class members requested reimbursement, Defendants would refuse to do so.

30. As a result of these violations, Defendants maintained inaccurate records of, *inter alia*, hours worked; issued inaccurate itemized wage statements; and failed to pay all final wages due to Plaintiffs and other former employees at termination of employment.

31. Plaintiffs Diaz and Arteaga made requests for their payroll and personnel files, and Defendants failed to timely produce them, in violation of Labor Code §§ 226 and 1198.5.

32. Defendant DC Logistics, Inc., as a transportation logistics company, employs non-exempt hourly workers who are subject to Industrial Welfare Commission ("IWC") Wage Order No. 9-2001, which governs non-exempt hourly employees in the transportation industry, and Labor Code section 515.

FIRST CAUSE OF ACTION

(Failure to Timely Pay Earned Wages in Violation of Labor Code Sections 204 and 210)

(By Plaintiffs against Defendants and DOES 1-50)

33. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

34. Labor Code section 204 provides, in pertinent part:

> All wages, other than those mentioned in Section 201, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. … Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

35. Labor Code section 210 provides, in pertinent part:

> …every person who fails to pay the wages of each employee as provided in Sections 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows: (a) For any initial violation, one hundred dollars ($100) for each failure to pay each employee. (b) For each subsequent violation, or any willful or intentional violation, two hundred dollars ($200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

36. As set forth herein, Plaintiffs and the putative class members regularly worked more than eight (8) hours in a day, and more than forty (40) hours in a week. However, Plaintiffs and the putative class members did not receive overtime pay at the applicable overtime rate(s) for all of their overtime hours worked. Rather, Plaintiffs and the putative class members were only paid at their standard hourly rate. Further, Plaintiffs and the putative class members regularly had their meal and/or rest periods interrupted with work, and they would fail to receive pay for the work they were expected to complete during their meal periods while off-the-clock.

37. At all relevant times herein, Defendants had a pattern and practice of failing to pay Plaintiffs and the putative class members for all wages earned on the regular payday for each pay period in which these amounts first became due and payable, as required by Labor Code section 204. Plaintiffs and the putative class members are entitled to, and thereby request, the unpaid balance of the full amount of wages earned and currently owed.

38. Pursuant to Labor Code section 218, Plaintiffs and the putative class members are entitled to, and thereby request, the unpaid balance of the full amount of wages earned and currently owed.

39. Pursuant to Labor Code section 218.6, Plaintiffs and the putative class members request prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

40. Pursuant to Labor Code section 210, Plaintiffs and the putative class members are entitled to, and thereby request, penalties of $100.00 for the initial violation, and $200.00 for each subsequent violation, plus twenty-five percent (25%) of the amount unlawfully withheld.

41. Plaintiffs and the putative class members have incurred and will continue to incur expenses for attorneys' fees and costs in prosecuting this action. Pursuant to Labor Code section 218.5, Plaintiffs and the class members request an award of reasonable attorneys' fees and costs.

SECOND CAUSE OF ACTION

(Failure to Pay Minimum and Straight Time Wages in Violation of Labor Code Sections 1197 and 1194)

(By Plaintiffs against Defendants and DOES 1-50)

42. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

43. Labor Code section 1197 provides, in pertinent part: "The minimum wage for employees fixed by the commission or by any state or local law, is the minimum wage to be paid to employees, and the payment of a lower wage than the minimum so fixed is unlawful."

44. At all relevant times herein, Defendants had a pattern and practice of failing to pay Plaintiffs and the putative class members minimum wages as required by Labor Code section 1197. As alleged herein, Plaintiffs and the putative class members regularly had their meal periods interrupted with work, and they would fail to receive pay for the work they complete during their meal periods while off-the-clock. As a result, Defendants failed to pay Plaintiffs and the putative class members minimum wages and/or straight time wages for all hours worked.

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45. Labor Code section 1194, subdivision (a) states:

> …any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to an employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees, and costs of suit.

46. Labor Code section 1194.2, subdivision (a) states

> …to recover wages because of the payment of a wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

47. Labor Code section 1197.1, subdivision (a) states

> Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission, shall be subject to a civil penalty, restitution of wages, liquidated damages payable to the employee, and any applicable penalties imposed pursuant to Section 203...

48. Under the aforementioned Wage Order, statutes and regulations, Plaintiffs and the putative class members are entitled to and thereby request the unpaid balance of the full amount of minimum wages owed for all work performed during the relevant time period, in an amount to be determined at trial.

49. Pursuant to Labor Code sections 218.6 and 1194, subdivision (a), Plaintiffs and the putative class members request prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

50. Plaintiffs and the putative class members have incurred and will continue to incur expenses for attorneys' fees and costs in prosecuting this action. Pursuant to Labor Code sections 218.5 and 1194, subdivision (a), Plaintiffs and the class members request an award of reasonable attorneys' fees and costs.

THIRD CAUSE OF ACTION

(Failure to Pay Overtime Compensation in Violation of Labor Code Sections 510 and 1194)

(By Plaintiffs against Defendants and DOES 1-50)

51. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

52. IWC Wage Order No. 9-2001, which regulates the wages, hours, and working conditions of transportation employees, was applicable and controlled Plaintiffs' employment with Defendants.

53. At all relevant times herein, Plaintiffs and the putative class members were non-exempt employees, were paid an hourly rate, and were not primarily engaged in duties that meet any of the tests for exemption.

54. Labor Code section 510, subdivision (a) states:

> Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

55. As alleged herein, Plaintiffs and the putative class members regularly worked more than eight (8) hours in a workday and more than forty (40) hours in a workweek. However, Plaintiffs and the putative class members failed to receive overtime pay at the applicable overtime rate for all of their overtime hours worked. Rather, Plaintiffs and the putative class members were only ever paid at their standard hourly rate.

56. Defendants had a pattern and practice of failing to compensate Plaintiffs and the putative class members for all overtime hours worked with premium overtime pay as required under the aforementioned labor regulations, pay which remains outstanding as of the date of this Complaint.

57. Labor Code section 1194, subdivision (a) states: "Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to an employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney's fees and costs of suit."

58. Under the aforementioned Wage Order, statutes and regulations, Plaintiffs and the putative class members are entitled to and thereby request one and one-half times and/or double their regular rate of pay for overtime work performed, in an amount to be determined at trial.

59. Pursuant to Labor Code sections 218.6 and 1194, subdivision (a), Plaintiffs and the putative class members request prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

60. Plaintiffs and the putative class members have incurred and will continue to incur expenses for attorneys' fees and costs in prosecuting this action. Pursuant to Labor Code sections 218.5 and 1194, subdivision (a), Plaintiffs and the class members request an award of reasonable attorneys' fees and costs.

FOURTH CAUSE OF ACTION

(Failure to Provide Meal Periods in Violation of Labor Code Sections 226.7 and 512)

(By Plaintiffs against Defendants and DOES 1-50)

61. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

62. Defendants had a pattern and practice of failing to provide Plaintiffs and the putative class members with thirty (30) minute "duty free" meal periods as required by Labor Code sections 226.7 and 512, and Section 10 of IWC Wage Order No. 9-2001.

63. Labor Code section 512, subdivision (a) states:

> 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

64. Pursuant to Section 11 of IWC Wage Order No. 9-2001, in order for an "on duty" meal period to be permissible, the nature of the work done by Plaintiffs and the putative class members must have prevented them from being relieved of all duties relating to their work for such employers and Plaintiffs and the putative class members must consent in writing to the "on duty" meal period.

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65. As alleged herein above, Plaintiffs and the putative class members regularly did not receive a second meal period when working in excess of ten (10) and/or twelve (12) hours. Plaintiffs and the putative class members also did not receive their first meal period prior to their 5th hour of work.

66. When Plaintiffs and the putative class members would be able to take a meal period, they were often interrupted by trucks arriving at the facility, upon which they were expected to immediately begin to help unload and/or attend to. As a result, Plaintiffs and the putative class members regularly failed to take full, timely, off-duty meal periods. Plaintiffs and the putative class members did not receive premium compensation for their late, short, interrupted, or missed meal periods.

67. Plaintiffs and the putative class members did not consent in writing to an "on duty meal period". Furthermore, the nature of the work that the putative class members did was not such that they were prevented from being relieved of all duties. Despite said requirements of IWC Wage Order No. 9-2001and Labor Code sections 512 and 226.7, Plaintiffs and the putative class members were not provided with full, timely, uninterrupted meal periods and were not relieved of all duties during their workdays during the Employment Period. Neither did Plaintiffs or the putative class members receive appropriate premium compensation in lieu of receiving required meal periods.

68. There is no applicable exemption that would permit Defendants to fail or refuse to provide Plaintiffs and the putative class members with the required meal periods.

69. Under the aforementioned Wage Order, statutes and regulations, Plaintiffs, the aggrieved employees, and the putative class members are entitled to, and thereby request one hour of pay at their regular rate of pay for each workday that a meal period was not provided consistent with applicable law, in an amount to be determined at trial.

70. Pursuant to Labor Code § 218.6, Plaintiffs and the putative class members request prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

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71. Plaintiffs and the putative class members have incurred and will continue to incur expenses for attorneys' fees and costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiffs and the class members request an award of reasonable attorneys' fees and costs.

FIFTH CAUSE OF ACTION

(Failure to Provide Rest Periods in Violation of Labor Code Section 226.7)

(By Plaintiffs against Defendants and DOES 1-50)

72. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

73. Section 12 of IWC Wage Order No. 9-2001, provides, in pertinent part:

> (A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.
> (B) If an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the rest period is not provided.

74. At all relevant times hereto, Defendants had a pattern and practice of failing to comply with Section 12 of IWC Wage Order No. 9-2001, by failing to authorize and permit Plaintiffs and the putative class members to take required rest periods. As alleged herein above, Defendants failed to provide Plaintiffs and the putative class members with full, timely, off-duty rest periods or premium compensation in lieu thereof.

75. When Plaintiffs and the putative class members were taking a rest period, they were often interrupted by trucks arriving at the facility. When a truck would arrive at the facility, Plaintiffs and the putative class members were expected to immediately begin to help unload and/or attend to the trucks as they arrived, even when they were taking a rest period. As a result, Plaintiffs and the putative class members regularly failed to take full, timely, off-duty rest periods. Plaintiffs and the putative class members did not receive premium compensation for their late, short, interrupted, or missed rest periods.

76. Defendants further violated this Wage Order and Labor Code section 226.7 by failing to pay Plaintiffs and the putative class members who were not authorized or permitted to take rest periods as required under these orders, an additional one hour of compensation at their regular rate of pay for each day they were not authorized or permitted to take a required rest period. Neither did Plaintiffs or the putative class members receive appropriate premium compensation in lieu of receiving required rest periods.

77. Under the aforementioned Wage Order, statutes and regulations, Plaintiffs, the aggrieved employees, and the putative class members are entitled to, and hereby request one hour of pay at their regular rate of pay for each workday that a rest period was not provided consistent with applicable law, in an amount to be determined at trial.

78. Pursuant to Labor Code § 218.6, Plaintiffs and the putative class members request prejudgment interest at the legal rate of ten percent (10.00%) per annum on all unpaid wages from the date such wages were due.

79. Plaintiffs and the putative class members have incurred and will continue to incur expenses for attorneys' fees and costs in prosecuting this action. Pursuant to Labor Code § 218.5, Plaintiffs and the class members request an award of reasonable attorneys' fees and costs.

SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements in Violation of Labor Code Section 226)

(By Plaintiffs against Defendants and DOES 1-50)

80. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

81. In violation of Labor Code section 226, subdivision (a), Defendants had a pattern and practice of failing to provide Plaintiffs and the putative class members with accurate itemized written statements showing each of the following: gross wages earned, total hours worked by the employee, all deductions, net wages earned, inclusive dates of the period for which the employee is paid, last four digits of the social security number or employee identification number, address of the legal entity that is the employer, and all applicable rates of pay. These itemized wage statements are required to be kept on file by the employer for at least three years at the place of

employment. (Lab. Code § 226, subd. (a).)

82. As alleged herein above, Plaintiffs and the putative class members regularly worked more than eight (8) hours in a day, and more than forty (40) hours in a week. However, Plaintiffs and the putative class members did not receive overtime pay at the applicable overtime rate for all of their overtime hours worked. Rather, Plaintiffs and the putative class members were only ever paid at their standard hourly rate. Further, Plaintiffs and the putative class members regularly had their meal periods interrupted with work, and did not receive pay for the work they completed during their meal and/or rest periods. Hence, the wage statements provided to Plaintiffs and the putative class members were inaccurate as they failed to account for all overtime pay, all regular pay, and all hours worked.

83. As a result of Defendants' willful failure to provide Plaintiffs and the putative class members with accurate wage statements as required by Labor Code section 226, subdivision (a), Plaintiffs and the putative class members were deprived of documentation helpful for verifying and calculating the amount of wages owed. Thus, Plaintiffs and the putative class members have been damaged because they will be required to expend more time and expense in proving their claims for unpaid wages, unpaid overtime compensation, and calculating the premium payments owed for meal and rest period violations.

84. Pursuant to Labor Code section 226, subdivision (e), Plaintiffs, the aggrieved employees, and the putative class members are entitled to, and request penalties of $50.00 for the initial violation and $100.00 for each subsequent violation, not exceeding an aggregate penalty of $4,000.00.

SEVENTH CAUSE OF ACTION

(Waiting Time Penalties in Violation of Labor Code Sections 201 and 203)

(By Plaintiffs against Defendants and DOES 1-50)

85. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

86. Plaintiffs are informed and believe and based thereon allege that Defendants knew California law required Plaintiffs and the putative class members be paid wages for all hours

worked at their hourly rate of pay, that they be paid an overtime premium for all overtime hours worked, and that they be paid an additional hour a pay for each day that a meal and/or rest period was not provided. Despite having the financial ability to pay, Defendants intentionally refused to pay Plaintiffs and the putative class members their lawfully earned compensation.

87. Defendants willfully failed to pay Plaintiffs and the putative class members all wages due, without abatement or reduction, upon the respective termination of their employment as required by Labor Code section 201. As alleged herein above, payment for Plaintiffs and the putative class members' unpaid regular and overtime wages as described herein above remains outstanding to the date of this Complaint.

88. Labor Code section 203 states that an employee's wage shall continue as a penalty at the same rate until paid or for a period of up to thirty days from the time they were due, whichever period is shorter.

89. Pursuant to Labor Code section 203, Plaintiffs and the putative class members are entitled to, and request waiting time penalties according to proof at time of trial but believed to be in excess of the jurisdiction of this Court.

90. Plaintiffs and the putative class members further seek an award of reasonable attorneys' fees and costs, consistent with Labor Code section 218.5.

EIGHTH CAUSE OF ACTION

(Failure to Reimburse Business Expenditures in Violation of Labor Code Section 2802)

(By Plaintiffs against Defendants and DOES 1-50)

91. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

92. At all times herein, Labor Code section 2802, subdivision (a) required Defendants to "indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of [the employee's] duties, or of [the employee's] obedience to the directions of the employer…"

93. As alleged herein above, in violation of Labor Code section 2802, Plaintiffs and the putative class members were required to pay expenses incurred in the discharge of their duties

for Defendants, including steel-toed boots, personal cell phone use, and personal vehicle use. These expenses are, and were, necessarily incurred by Plaintiffs and the putative class members in the discharge of their duties and in carrying out Defendants' principal business. During Plaintiffs' and the putative class members' employment, Defendants had a policy and practice of not reimbursing them for expenses incurred in carrying out their business.

94. As a proximate result of Defendants' conduct, Plaintiffs and the putative class members have suffered monetary loss and been deprived of their property in the form of unreimbursed expenses in an amount according to proof.

95. Therefore, Plaintiffs and the putative class members are entitled to recover the costs of the business expenses as well as attorneys' fees, costs, and interest pursuant to Labor Code sections 218.5, 218.6, and 2802, subdivision (c), for pursuit of this action.

NINTH CAUSE OF ACTION

(Failure to Produce Employment Records)

(By Plaintiffs Diaz and Arteaga Against Defendants and DOES 1-50)

96. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

97. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request.

98. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or his or her representative, has the right to inspect and receive a copy of the personnel records that the employer maintains relating to the employee's performance or to any grievance concerning the employee. Under this statute, upon written request from a current or former employee or his or her representative, an employer must make the contents of those personnel records available for inspection or provide a copy of the personnel records to the current or former employee, or his or her representative, not later than thirty (30) calendar days from the date the

employer receives the written request, subject to some limited exceptions. Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars ($750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

99. As set forth above, Plaintiffs and the Class are current and former employees of Defendants.

100. Plaintiffs Diaz and Arteaga sent a written request through counsel to Defendants for their payroll records, timecards, and personnel records. However, Plaintiffs Diaz and Arteaga did not timely receive the requested records.

101. Defendants violated California Labor Code §§ 226, and 1198.5 by failing to timely produce the required records requested by Plaintiffs Diaz and Arteaga.

102. On information and belief, Defendants' failure to timely provide Plaintiffs Diaz and Arteaga with their requested employment records is not an isolated incident but was instead consistent with Defendants' practice that applied to Plaintiffs Diaz and Arteaga and the Class, or some of them.

103. Pursuant to California Labor Code § 1198.5, Plaintiffs Diaz and Arteaga and the Class are entitled to a penalty of seven hundred fifty dollars ($750) from Defendants, injunctive relief in the form of compliance with section 1198.5, and attorneys' fees and costs.

104. Pursuant to California Labor Code § 226, Plaintiffs Diaz and Arteaga and the Class are entitled to a penalty of seven hundred fifty dollars ($750) from Defendants, injunctive relief in the form of compliance with section 226, and attorneys' fees and costs.

TENTH CAUSE OF ACTION

(Violations of the Private Attorneys General Act of 2004, Labor Code Section 2698, et seq.)

(By Plaintiffs Against Defendants and DOES 1-50)

105. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

106. The California Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, et seq., permits an "aggrieved employee" to bring a lawsuit on behalf of himself and other current and former employees to address an employer's violations of the California

Labor Code.

107. Labor Code section 2699, subdivision (f) states in pertinent part:

> For all provisions of this code except those for which a civil penalty is specifically provided, there is established a civil penalty for a violation of these provisions, as follows: …
> (2) If, at the time of the alleged violation, the person employes one or more employees, the civil penalty is one hundred dollars ($100) for each aggrieved employee per pay period for the initial violation and two hundred dollars ($200) for each aggrieved employee per pay period for each subsequent violation.

108. Here, and as set forth herein above, Defendants have violated Labor Code sections 201-203, 204, 210, 226, 226.7, 432, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 1198.5, 2802, and 2804 by failing to, *inter alia*, pay for all wages, overtime, meal and rest period premium compensation, and business expenses owed to aggrieved employees.

109. Plaintiffs are aggrieved employees in that they did not receive all wages owed to them as described herein, including regular pay, overtime compensation, premium compensation in lieu of receiving duty-free rest and meal periods, and reimbursement of business expenses.

110. Plaintiffs have complied with the PAGA notice provision set forth in Labor Code section 2699.3, subdivision (a). On August 25, 2023, Plaintiff Gongora submitted a letter online to the Labor and Workforce Development Agency ("LWDA") and sent the letter via certified mail to Defendants. A true and correct copy of this letter is attached hereto as **Exhibit A** and incorporated herein by reference. As of this date, the LWDA, pursuant to Labor Code section 2699.3, subdivision (a), has not yet notified the parties whether it intends to investigate the allegations and whether the LWDA will take the required statutory action. Plaintiff Gongora waited the requisite minimum sixty-five (65) days without receiving a response from the LWDA of its intent to investigate before commencing this PAGA action.

111. On June 20, 2024, Plaintiffs Diaz and Arteaga submitted a letter online to the LWDA and sent the letter via certified mail to DC Logistics. A true and correct copy of this letter is attached hereto as **Exhibit B** and incorporated herein by reference. On September 16, 2024, Plaintiffs Diaz and Arteaga submitted an amended letter online to the LWDA and sent the amended letter via certified mail to Defendants. As of this date, the LWDA, pursuant to Labor

Code section 2699.3, subdivision (a), has not yet notified the parties whether it intends to investigate the allegations and whether the LWDA will take the required statutory action. Plaintiffs Diaz and Arteaga waited the requisite minimum sixty-five (65) days without receiving a response from the LWDA of its intent to investigate before commencing this PAGA action.

112. To the extent that any violation alleged herein does not carry penalties under Labor Code section 2699, subdivision (a), Plaintiffs seek penalties pursuant to Labor Code section 2699, subdivision (f), for Plaintiffs and other aggrieved employees they seek to represent for each pay period in which he or she was aggrieved, in the amounts established by Labor Code section 2699, subdivision (f).

113. Plaintiffs and other aggrieved employees seek penalties based upon the factual allegations of this Complaint, on behalf of themselves, all other aggrieved employees, and the State as provided by Labor Code section 2699, subdivision (i).

114. Defendants are liable to Plaintiffs, other aggrieved employees, and the State for the civil penalties set forth in this Complaint, with interest thereon. Plaintiffs are also entitled to an award of attorneys' fees and costs, as set forth below.

ELEVENTH CAUSE OF ACTION

(Unfair Business Practices in Violation of Business and Professions Code Section 17200, et seq.)

(By Plaintiffs against Defendants and DOES 1-50)

115. Plaintiffs allege and incorporate herein by this reference each and every allegation set forth in all previous paragraphs of this Complaint.

116. Defendants' acts constitute a continuing and ongoing unlawful, unfair, and fraudulent activity prohibited by the Unfair Competition Law ("UCL") and justify the issuance of an injunction, restitution, and other equitable relief pursuant to Business and Professions Code section 17203.

117. Labor Code section 90.5, subdivision (a) states that it is the public policy of California to vigorously enforce minimum labor standards to ensure employees are not required to work under substandard and unlawful conditions, and to protect employers who comply with

the law from those who attempt to gain competitive advantage at the expense of their workers by failing to comply with minimum labor standards.

118. Labor Code section 1198 renders unlawful any violation or any Labor Code or Wage Order provisions. As set forth herein, Defendants violated a number of Labor Code sections and various provisions IWC Wage Order No. 9-2001.

119. By violating the aforementioned statutes and regulations, including, but not limited to, Labor Code sections 201-203, 204, 210, 226, 226.7, 432, 510, 512, 516, 1174, 1182.12, 1194, 1194.2, 1197, 1198, 2698, 2802, and 2804 and sections of IWC Wage Order No. 9-2001, as alleged above, the acts of Defendants constitute unfair and unlawful business practice pursuant to Labor Code section 1198, and within the meaning of Business and Professions Code section 17200, et seq., including, but not limited to, (i) the failure to pay earned wages, (ii) failure to pay earned overtime wages, (iii) failure to timely pay all earned wages upon discharge, (iv) failure to provide legally compliant meal periods, or premium compensation in lieu thereof, (v) failure to provide legally compliant rest periods, or premium compensation in lieu thereof, (vi) failure to issue accurate wage statements, and (vii) failure to reimburse business expenses incurred.

120. Defendants' violations of sections of the Labor Code as alleged above constitute an unfair business practice because these were done repeatedly over a significant period of time and in a systematic manner to the detriment of Plaintiffs, the aggrieved employees, and the putative class members. All of the foregoing harmed Plaintiffs, the aggrieved employees, and the putative class members and continues to harm them.

121. Defendants' course of conduct, act, and practice in violation of the California laws mentioned herein above constitutes separate and independent unfair business practices and violations of Business and Professions Code section 17200, et seq.

122. Pursuant to Business and Professions Code section 17200, et seq., Plaintiffs, the aggrieved employees, and the putative class members seek restitution of all unlawfully withheld earned wages, and equitable relief in the form of disgorged profits from Defendants' unlawful acts, for a period beginning from four (4) years prior to the filing of this action until judgment, all in an amount according to proof at time of trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants, jointly and severally, as follows:

UNDER THE FIRST CAUSE OF ACTION

(Failure to Timely Pay Earned Wages)

1. For compensatory, consequential, general, and special damages for all unpaid wages, subject to proof;
2. For civil penalties in an amount according to proof at trial, and consistent with Labor Code section 210;
3. For interest on all due and unpaid wages pursuant to Labor Code section 218.6;
4. For attorneys' fees and costs pursuant to Labor Code section 218.5;
5. For costs of suit incurred herein; and
6. For such other relief that the Court may deem just and proper.

UNDER THE SECOND CAUSE OF ACTION

(Failure to Pay Minimum Wages)

1. For compensatory, consequential, general, and special damages for all unpaid wages, subject to proof;
2. For interest on all due and unpaid wages pursuant to Labor Code sections 218.6 and 1194, subdivision (a);
3. For liquidated damages pursuant to Labor Code section 1194.2, subdivision (a);
4. For attorneys' fees and costs pursuant to Labor Code section 218.5;
5. For costs of suit incurred herein; and
6. For such other relief that the Court may deem just and proper.

UNDER THE THIRD CAUSE OF ACTION

(Failure to Pay Overtime Compensation)

1. For compensatory, consequential, general, and special damages for all unpaid overtime wages, subject to proof;
2. For interest on all due and unpaid wages pursuant to Labor Code sections 218.6 and

1194, subdivision (a);

3. For attorneys' fees and costs pursuant to Labor Code sections 218.5 and 1194, subdivision (a);
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court may deem just and proper.

UNDER THE FOURTH CAUSE OF ACTION

(Failure to Provide Meal Periods)

1. For one (1) hour of premium pay for each missed meal period that was not provided, subject to proof;
2. For interest on all due and unpaid wages pursuant to Labor Code section 218.6;
3. For attorneys' fees and costs pursuant to Labor Code section 218.5;
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court may deem just and proper.

UNDER THE FIFTH CAUSE OF ACTION

(Failure to Provide Rest Periods)

1. For one (1) hour of premium pay for each missed rest period that was not provided, subject to proof;
2. For interest on all due and unpaid wages pursuant to Labor Code section 218.6;
3. For attorneys' fees and costs pursuant to Labor Code section 218.5;
4. For costs of suit incurred herein; and
5. For such other and further relief that the Court may deem just and proper.

UNDER THE SIXTH CAUSE OF ACTION

(Failure to Provide Accurate Wage Statements)

1. For the assessment of actual damages or a statutory penalty in an amount not to exceed Four Thousand Dollars ($4,000), subject to proof and consistent with Labor Code section 226, subdivision (e);
2. For attorneys' fees and costs pursuant to Labor Code section 226, subdivision (e);
3. For costs of suit incurred herein; and

4. For such other and further relief that the Court may deem just and proper.

UNDER THE SEVENTH CAUSE OF ACTION

(Waiting Time Penalties)

1. For waiting time penalties pursuant to Labor Code section 203;
2. For attorneys' fees and costs pursuant to Labor Code section 218.5;
3. For costs of suit incurred herein; and
4. For such other and further relief that the Court may deem just and proper.

UNDER THE EIGHTH CAUSE OF ACTION

(Failure to Reimburse Business Expenses)

1. For reimbursement for all expenditures permitted under Labor Code section 2802, including all available penalties;
2. For interest on all unpaid and owed reimbursement of expenditures pursuant to Labor Code section 2802, subdivision (b);
3. For attorneys' fees and costs pursuant to Labor Code section 2802, subdivision (c);
4. For costs of suit incurred; and
5. For such further relief that the Court determines to be just and proper.

UNDER THE NINTH CAUSE OF ACTION

(Failure to Produce Employment Records)

1. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 226 and 1198.5 by willfully failing to produce employment records;
2. For statutory penalties pursuant to California Labor Code §§ 226(f) and 1198.5(k);
3. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h) and 1198.5(l);
4. For reasonable attorneys' fees and for costs of suit incurred herein; and
5. For such other and further relief as the Court may deem equitable and appropriate.

UNDER THE TENTH CAUSE OF ACTION

(Violations of the Private Attorneys General Act of 2004)

1. For civil penalties pursuant to the Private Attorneys General Act of 2004, Labor Code

section 2698, et seq.;

2. For reasonable attorneys' fees and costs pursuant to Labor Code section 2699, subdivision (g).

UNDER THE ELEVENTH CAUSE OF ACTION

(Unfair Business Practices)

1. For restitution of all unpaid wages and monies due to Plaintiffs and the disgorgement of profits from the unlawful business practices of Defendants, subject to proof;
2. Interest according to law;
3. For costs of suit incurred herein; and
4. For such other and further relief that the Court may deem just and proper.

Date: December 11, 2025

MARQUEE LAW GROUP, APC

____

Gary S. Brotman
Attorneys for Plaintiff FRANCISCO GONGORA

Date: December 11, 2025

WILSHIRE LAW FIRM, PLC

____

John G. Yslas
Jeffrey C. Bils
Attorneys for Plaintiffs LUIS ANGEL DIAZ and JUAN CARLOS ARTEAGA

DEMAND FOR JURY TRIAL

PLAINTIFFS hereby demand a jury trial with respect to all issues triable in the Complaint.

Date: December 11, 2025

MARQUEE LAW GROUP, APC

Gary S. Brotman
Attorneys for Plaintiff FRANCISCO GONGORA

Date: December 11, 2025

WILSHIRE LAW FIRM

John G. Yslas
Jeffrey C. Bils
Attorneys for Plaintiffs LUIS ANGEL DIAZ and JUAN CARLOS ARTEAGA

PROOF OF SERVICE

I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 9100 Wilshire Boulevard, Suite 445, East Tower, Beverly Hills, California 90212.

On December 18, 2025 I served the foregoing document(s) described as:

FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT

on all interested parties in this action by transmitting a true copy of the document(s) described above, addressed as follows:

SEE ATTACHED SERVICE LIST

( ) **BY MAIL** as follows: I am "readily familiar" with the firm's practice of collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date in the United States mail at Beverly Hills, California.

( ) **BY PERSONAL SERVICE:** I caused to be delivered such envelope by hand to the above addressee(s).

( ) **BY OVERNIGHT COURIER:** I am "readily familiar" with the firm's practice of collecting and processing overnight deliveries, which includes depositing such packages in a receptacle used exclusively for overnight deliveries. The packages were deposited before the regular pickup time and marked accordingly for delivery the next business day.

(X) **BY ELECTRONIC TRANSMISSION:** Participants in this case were served electronically to the address of the recipient(s) as set forth below. I am readily familiar with the Code of Civil Procedure and California Rules of Court for electronic service and this document/these documents were duly served electronically in accordance with said rules and regulations on the date stated above, and the transmission was reported as complete and without error.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 18, 2025 at Beverly Hills, California.

Kimberly Gomez Garcia

Kimberly Gomez Garcia

SERVICE LIST:

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