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Superior Court of California
County of Los Angeles

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David W. Slayton, Executive Officer / Clerk of Court

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

TIMOTHY WILLIAMS; JACKIE
SAUCEDO AS SUCCESSOR-IN-
INTEREST TO SERGIO SAUCEDO; as
individuals, on behalf of themselves and
others similarly situated

PLAINTIFFS,

v.

MERCURY AIR CARGO, LLC; and DOES
1 thru 50, inclusive,

DEFENDANTS.

CASE NO. 23STCV21753

[Case Assigned for All Purposes to Hon.
William F. Highberger in Dept. 10]

**THIRD AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT**

1. Failure to Pay Wages and/or Overtime Under Labor Code §§ 510, 1194, and 1199
2. Failure to Provide Meal Breaks Pursuant to Labor Code §§ 226.7 and 512
3. Failure to Provide Rest Breaks Pursuant to Labor Code § 226.7
4. Failure to Reimburse Expenses Pursuant

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5. to Labor Code § 2802
6. Violation of Labor Code § 226(a)
7. Penalties Pursuant to Labor Code § 203
8. Penalties Pursuant to Labor Code § 2699,
9. et seq. for violations of Labor Code §§
10. 201, 202, 203, 226(a), 226.7, 510, 512,
11. 1194, 1194.2, 1199, and 2802
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1 Plaintiff TIMOTHY WILLIAMS and JACKIE SAUCEDO AS SUCCESSOR-IN-
2 INTEREST TO SERGIO SAUCEDO, on behalf of themselves, all others similarly situated, and
3 on behalf of the people of the State of California and as “aggrieved employees” under Labor Code
4 Private Attorneys General Act of 2004, § 2699, *et seq.* (hereafter “PAGA”), complains of
5 Defendant MERCURY AIR CARGO, LLC (“Defendant”) and each of them, as follows:

6 **I.**

7 **INTRODUCTION**

8 1. This is a Class and Representative Action, pursuant to Labor Code §2699, *et seq.*,
9 on behalf of the following group of individuals:

10 All current and former non-exempt employees who worked for
11 MERCURY AIR CARGO, LLC, in the State of California between
September 11, 2019 to September 9, 2025. (“Proposed Class”)

12 2. During their employment with Defendants, Plaintiffs were generally scheduled to
13 work from 6:00 a.m. to 1:30 p.m. on Mondays, Thursdays, and Fridays; and from 7:00 a.m.
14 to 2:30 p.m. on Tuesdays and Wednesdays. However, Plaintiffs would often work more than
15 eight (8) hours per day and/or forty (40) hours per week.

16 3. Throughout Plaintiffs’ and the Proposed Class members’ employment with
17 Defendant, Plaintiffs and the Proposed Class were not provided with a full 30 minutes of “net rest”
18 for their meal periods, nor were they always provided with meal periods commencing before the
19 end of the fifth hour of work. Specifically, Plaintiffs were never provided with meal periods that
20 were a full 30 minutes of “net rest” in an area away from the work station that is appropriate for
21 rest, which employers are required by the Wage Order to maintain for their employees to use
22 during their meal and rest periods. Plaintiffs and the Proposed Class could not leave their
23 workstation and begin their meal period until the beginning of their scheduled lunch breaks at
24 10:30 a.m. or 11:30 a.m. depending on their scheduled work hours. Plaintiffs and the Proposed
25 Class were required to be back at their assigned workstation at exactly the conclusion of their 30-
26 minute lunch break, at 11:00 a.m. or 12:00 p.m. depending on their scheduled work hours.
27 Defendant’s managers/supervisors would check at the conclusion of their lunch periods to ensure
28 that all employees had returned from their meal periods on time. Because of the distance between

1 Defendant's breakrooms and employees' workstations, Plaintiffs and the Proposed Class would
2 have to shorten their meal periods by several minutes in order to return to their workstation prior
3 to the conclusion of their meal periods to avoid disciplinary action. Thus, Plaintiffs and the
4 Proposed Class were not provided with full 30-minute meal periods of net rest in an area
5 appropriate for rest away from the workstation. Additionally, Defendant failed to provide Plaintiffs
6 and the Proposed Class with a second duty free full 30 minutes of "net rest" meal period for shifts
7 of over 10.0 hours in violation of California law. Further, on those occasions when Defendant
8 failed to provide a legally complaint meal period to Plaintiffs and the Proposed Class, Defendant
9 failed to always compensate Plaintiffs and the Proposed Class with the required meal period
10 premium for each workday in which they experienced a meal period violation as mandated by
11 Labor Code § 226.7. Moreover, when Defendant failed to provide a meal period, Defendant had a
12 policy and practice of requiring Plaintiffs and the Proposed Class to sign a post-hoc meal period
13 waiver on the day following the missed meal period. As such, Plaintiffs and the Proposed Class
14 did not validly waive the missed meal period and were owed a meal period premium in lieu thereof.

15 4. Plaintiffs and the Proposed Class were also not authorized and permitted to take all
16 legally required and compliant rest periods because Defendant failed to provide at least 10 minutes
17 of "net rest" in an area appropriate for rest away from the workstation. Specifically, as a result of
18 the work demands imposed by Defendant, Defendant did not authorize and permit one rest period
19 for every four hours worked, or major fraction thereof. Similar to their meal periods, Plaintiffs and
20 the Proposed Class were not allowed to leave their workstations until exactly the start of their rest
21 period and must have been back at their workstations at exactly the end of their 10-minute rest
22 period. As a result, Plaintiffs and the Proposed Class were unable to ever take 10 minutes of "net
23 rest" in an area appropriate for rest away from the workstation during their rest period. On those
24 occasions when Plaintiffs and the Proposed Class were not authorized and permitted to take all
25 legally compliant rest periods to which they were entitled, Defendant failed to compensate
26 Plaintiffs and the Proposed Class with the required rest period premium for each workday in which
27 they experienced a rest period violation as mandated by Labor Code § 226.7.

28 5. During Plaintiffs' employment with Defendant, Plaintiffs and the Proposed Class

1 were required to use their personal cellular phones to communicate with other employees,
2 managers/supervisors, and/or customers. Defendant knew or should have known that Plaintiffs and
3 the Proposed Class were necessarily incurring expenses due to the use of their personal cellular
4 phone in the direct discharge of their duties. Yet, despite the necessity of Plaintiffs and the
5 Proposed Class using their personal cellular phones for work activities and Defendant knowing or
6 should have knowing about same, they were never reimbursed for a reasonable portion of their
7 cellular phone expenses by Defendant, as mandated by *Cochran v. Schwan's Home Service, Inc.*
8 (2014) 228 Cal.App.4th 1137.

9 6. As a result of Plaintiffs and the Proposed Class being paid on a piece-
10 rate/commission basis, Defendant failed properly calculate their regular rate of pay for purposes
11 of calculating overtime compensation. As a result, Plaintiffs and the Proposed Class were not
12 properly compensated at one and a half times their regular rate of pay for hours worked in excess
13 of 8 hours per day and/or 40 hours per week, and were therefore deprived of all overtime
14 compensation.

15 7. As a result of Defendant's failure to pay all meal and rest period premium wages,
16 and failure to reimburse for necessary business expenditures, Defendant maintained inaccurate
17 payroll records and issued inaccurate wage statements to Plaintiffs and the Proposed Class.

18 8. As a further result of Defendant's failure to pay all meal and rest period premium
19 wages, and failure to reimburse for necessary business expenditures, Defendant failed to pay all
20 wages to Plaintiff and the Proposed Class at the separation of their employment.

21 9. Plaintiffs, on behalf of themselves and all Proposed Class members bring this action
22 pursuant to Labor Code §§201, 202, 203, 226, 226.7, 512, 1194, 1199, and 2802, and IWC Wage
23 Order 9; and California Code of Regulations, Title 8, Section 11090, seeking unpaid
24 wages/overtime, meal and rest period penalties, unreimbursed expenses, accurate itemized wage
25 statements, other penalties, injunctive and other equitable relief, and reasonable attorneys' fees
26 and costs.

27 10. Plaintiffs, on behalf of themselves and all Aggrieved Employees presently or
28 formerly employed by Defendant during the liability period, brings this action pursuant to Labor

Code §2699, *et seq.* seeking penalties for Defendant's violation of Labor Code §§201, 202, 203, 226, 226.7, 512, 1194, 1199, and 2802; Wage Order 9-2001.

II.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over all causes of action asserted herein pursuant to Article VI, § 10 of the California Constitution and California Code of Civil Procedure § 410.10 by virtue of the fact that this is a civil action in which the matter in controversy, exclusive of interest, exceeds \$25,000, and because each cause of action asserted arises under the laws of the State of California or is subject to adjudication in the courts of the State of California.

12. This Court has personal jurisdiction over Defendant because Defendant has caused injuries in the County of Los Angeles and the State of California through their acts, and by their violation of the California Labor Code and California state common law.

13. Venue as to each Defendant is proper in this judicial district, pursuant to Code of Civil Procedure § 395. Defendant operates within California and does business within Los Angeles County. The unlawful acts alleged herein have a direct effect on Plaintiff and all Aggrieved Employees within the State of California and the county of Los Angeles.

III.

PARTIES

A. PLAINTIFFS

14. Plaintiff TIMOTHY WILLIAMS is a resident of California. Plaintiff was employed by Defendant as a non-exempt employee in California.

15. Plaintiff JACKIE SAUCEDO AS SUCCESSOR-IN-INTEREST TO SERGIO SAUCEDO is a resident of California. Plaintiff was employed by Defendant as a non-exempt employee in California.

16. Upon information and belief, Plaintiffs, the Proposed Class, and the Aggrieved Employees are covered by California Industrial Welfare Commission Occupational Wage Order No. 9-2001 (Title 8 Cal. Code of Regs. § 11090).

17. Plaintiffs and all Proposed Class members, were regularly required to:

- a. Work without being paid all wages and or overtime;
- b. Work without being provided meal periods;
- c. Work without being provided rest periods;
- d. Work without being reimbursed for their out of pocket expenses;
- e. Work without being provided accurate itemized wage statements;

18. Defendant willfully failed to compensate Plaintiffs and all Proposed Class Members for wages at the termination of their employment with Defendant

19. Plaintiffs and all Aggrieved Employees as defined in their amended notice letter to the LWDA are “aggrieved employees” within the meaning of Labor Code § 2699, *et seq.* (see Labor Code §2699(c).)

B. DEFENDANTS

20. Defendant MERCURY AIR CARGO, LLC is believed to be a California corporation operating within the State of California. Defendant’s corporate address is believed to be John F. Kennedy Airport, 151 East Hangar Road, Suite 361 Jamaica, NY 11430. Upon information and belief, Defendant employed Plaintiffs and similarly situated persons as hourly employees within California. Defendant has done and does business throughout the State of California.

21. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 50, inclusive, are currently unknown to Plaintiffs, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiffs are informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

22. Plaintiffs are informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant are legally attributable to the other Defendants.

23. Furthermore, Defendants acted in all respects as the employers or joint employers of the Proposed Class members and aggrieved employees. Defendants, and each of them, exercised control over the wages, hours or working conditions of the Proposed Class members and aggrieved employees, or suffered or permitted the Proposed Class members and aggrieved employees to work, or engaged, thereby creating a common law employment relationship, with the Proposed Class members and aggrieved employees. Therefore, Defendants, and each of them, employed or jointly employed the Proposed Class members and aggrieved employees.

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IV.

FACTUAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

24. Plaintiffs, the Proposed Class, and the Aggrieved Employees are, and at all times pertinent hereto, have been employees of Defendant.

25. Upon information and belief, Plaintiffs and the Aggrieved Employees are covered by California Industrial Welfare Commission Occupational Wage Order No. 9-2001 (Title 8 Cal. Code of Regs. § 11090).

26. On a regular and consistent basis, during their employment with Defendants, Plaintiffs were generally scheduled to work from 6:00 a.m. to 1:30 p.m. on Mondays, Thursdays, and Fridays; and from 7:00 a.m. to 2:30 p.m. on Tuesdays and Wednesdays. However, Plaintiffs would often work more than eight (8) hours per day and/or forty (40) hours per week.

27. On a regular and consistent basis, Plaintiffs and the Proposed Class were not provided with a full 30 minutes of “net rest” for their meal periods, nor were they always provided with meal periods commencing before the end of the fifth hour of work. Specifically, Plaintiffs were never provided with meal periods that were a full 30 minutes of “net rest” in an area away from the work station that is appropriate for rest, which employers are required by the Wage Order to maintain for their employees to use during their meal and rest periods. Plaintiffs and the Proposed Class could not leave their workstation and begin their meal period until the beginning of their scheduled lunch breaks at 10:30 a.m. or 11:30 a.m. depending on their scheduled work hours. Plaintiffs and the Proposed Class were required to be back at their assigned workstation at

1 exactly the conclusion of their 30-minute lunch break, at 11:00 a.m. or 12:00 p.m. depending on
2 their scheduled work hours. Defendant's managers/supervisors would check at the conclusion of
3 their lunch periods to ensure that all employees had returned from their meal periods on time.
4 Because of the distance between Defendant's breakrooms and employees' workstations, Plaintiffs
5 and the Proposed Class would have to shorten their meal periods by several minutes in order to
6 return to their workstation prior to the conclusion of their meal periods to avoid disciplinary action.
7 Thus, Plaintiffs and the Proposed Class were not provided with full 30-minute meal periods of net
8 rest in an area appropriate for rest away from the workstation. Additionally, Defendant failed to
9 provide Plaintiffs and the Proposed Class with a second duty free full 30 minutes of "net rest" meal
10 period for shifts of over 10.0 hours in violation of California law. Further, on those occasions when
11 Defendant failed to provide a legally complaint meal period to Plaintiffs and the Proposed Class,
12 Defendant failed to always compensate Plaintiffs and the Proposed Class with the required meal
13 period premium for each workday in which they experienced a meal period violation as mandated
14 by Labor Code § 226.7. Moreover, when Defendant failed to provide a meal period, Defendant
15 had a policy and practice of requiring Plaintiffs and the Proposed Class to sign a post-hoc meal
16 period waiver on the day following the missed meal period. As such, Plaintiffs and the Proposed
17 Class did not validly waive the missed meal period and were owed a meal period premium in lieu
18 thereof.

19 28. On a regular and consistent basis, Plaintiffs and the Proposed Class were also not
20 authorized and permitted to take all legally required and compliant rest periods because Defendant
21 failed to provide at least 10 minutes of "net rest" in an area appropriate for rest away from the
22 workstation. Specifically, as a result of the work demands imposed by Defendant, Defendant did
23 not authorize and permit one rest period for every four hours worked, or major fraction thereof.
24 Similar to their meal periods, Plaintiffs and the Proposed Class were not allowed to leave their
25 workstations until exactly the start of their rest period and must have been back at their
26 workstations at exactly the end of their 10-minute rest period. As a result, Plaintiffs and the
27 Proposed Class were unable to ever take 10 minutes of "net rest" in an area appropriate for rest
28 away from the workstation during their rest period. On those occasions when Plaintiffs and the

1 Proposed Class were not authorized and permitted to take all legally compliant rest periods to
2 which they were entitled, Defendant failed to compensate Plaintiffs and the Proposed Class with
3 the required rest period premium for each workday in which they experienced a rest period
4 violation as mandated by Labor Code § 226.7.

5 29. On a regular and consistent basis, Plaintiffs and the Proposed Class were required
6 to use their personal cellular phones to communicate with other employees, managers/supervisors,
7 and/or customers. Defendant knew or should have known that Plaintiffs and the Proposed Class
8 were necessarily incurring expenses due to the use of their personal cellular phone in the direct
9 discharge of their duties. Yet, despite the necessity of Plaintiffs and the Proposed Class using their
10 personal cellular phones for work activities and Defendant knowing or should have knowing about
11 same, they were never reimbursed for a reasonable portion of their cellular phone expenses by
12 Defendant, as mandated by *Cochran v. Schwan's Home Service, Inc.* (2014) 228 Cal.App.4th
13 1137.

14 30. As a result of Plaintiffs and the Proposed Class being paid on a piece-
15 rate/commission basis, Defendant failed properly calculate their regular rate of pay for purposes
16 of calculating overtime compensation. As a result, Plaintiffs and the Proposed Class were not
17 properly compensated at one and a half times their regular rate of pay for hours worked in excess
18 of 8 hours per day and/or 40 hours per week, and were therefore deprived of all overtime
19 compensation.

20 31. As a result of Defendant's failure to pay all meal and rest period premium wages,
21 and failure to reimburse for necessary business expenditures, Defendant maintained inaccurate
22 payroll records and issued inaccurate wage statements to Plaintiffs and the Proposed Class.

23 32. As a further result of Defendant's failure to pay all meal and rest period premium
24 wages, and failure to reimburse for necessary business expenditures, Defendant failed to pay all
25 wages to Plaintiff and the Proposed Class at the separation of their employment.

26 33. On a regular and consistent basis, for all Aggrieved Employees employed by
27 Defendant, Defendant has violated Labor Code §2699, *et seq.* by failing to comply with Labor
28 Code §§ 201, 202, 203, 226, 226.7, 512, 1194, 1199, and 2802.

1 V.

2 CLASS ACTION ALLEGATIONS

3 34. Plaintiffs bring this action on behalf of themselves and all others similarly situated
4 as a Class Action pursuant to § 382 of the Code of Civil Procedure. Plaintiffs seek to represent a
5 proposed class composed of and defined as follows:

6 All current and former non-exempt employees who worked for
7 MERCURY AIR CARGO, LLC, in the State of California between
8 September 11, 2019 to September 9, 2025. ("Proposed Class")

9 35. Plaintiffs reserve the right under Rule 3.765(b) of the California Rules of Court to
10 amend or modify the class description with greater specificity, by division into subclasses, or by
11 limitation to particular issues.

12 36. This action has been brought and may properly be maintained as a class action
13 under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined
14 community of interest in the litigation and the Proposed Classes are easily ascertainable.

15 **A. NUMEROSITY**

16 37. The potential members of the Proposed Class as defined are so numerous that
17 joinder of all the members of the Proposed Class is impracticable. While the precise number of
18 proposed Class Members has not been determined at this time, Plaintiffs are informed and believes
19 that Defendant currently employ, and during the relevant time periods employed over 50 members
20 of the Proposed Class.

21 38. Plaintiffs allege that Defendant's employment records would provide information
22 as to the number and location of all Proposed Class members. Joinder of all members of the
23 Proposed Class is not practicable.

24 **B. COMMONALITY**

25 39. There are questions of law and fact common to the Proposed Class that predominate
26 over any questions affecting only individual Proposed Class Members. These common questions
27 of law and fact include, without limitation:

28 a. Whether Defendant failed to pay wages and/or overtime compensation as
required by the Labor Code and Wage Orders under Labor Code §§ 510, 1194, and 1199;

1 b. Whether Defendant violated Labor Code § 226.7 and 512, by failing to
2 inform Plaintiffs and the Proposed Class of their right to take meal periods and by failing to provide
3 required meal periods throughout the term of employment and failing to compensate said
4 employees one (1) hours wages in lieu of meal periods;

5 c. Whether Defendant violated Labor Code § 226.7, by failing to inform
6 Plaintiffs and the Proposed Class of their right to take rest periods and failing to provide required
7 rest periods throughout the term of employment and failing to compensate said employees one (1)
8 hours wages in lieu of rest periods;

9 d. Whether Defendants violated Labor Code § 2802 by failing to reimburse
10 out of pocket expenses for the cost of tools;

11 e. Whether Defendants violated Labor Code § 226(a) by failing to keep
12 accurate records of the hours worked and meal periods and whether Defendant failed to provide
13 an accurate itemized wage statements that reflect all deductions from payment of wages, and the
14 name and address of the employer and accurately report the total hours worked and the applicable
15 rates, for Plaintiffs and the members of the Proposed Class;

16 f. Whether Defendant violated §§ 201-203 of the Labor Code by failing to pay
17 compensation due and owing at the time that any Proposed Class Member's employment with
18 Defendant terminated;

19 **C. TYPICALITY**

20 40. The claims of Plaintiffs are typical of the claims of the Proposed Class. Plaintiffs
21 and all members of the Proposed Class sustained injuries and damages arising out of and caused
22 by Defendant's common course of conduct in violation of laws, regulations that have the force and
23 effect of law, and statutes as alleged herein.

24 **D. ADEQUACY OF REPRESENTATION**

25 41. Plaintiffs will fairly and adequately represent and protect the interests of the
26 members of the proposed Class. Counsel who represent Plaintiffs and the Proposed Class are
27 competent and experienced in litigating large employment class actions.

28 ///

E. SUPERIORITY OF CLASS ACTION

42. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of all Proposed Class Members is not practicable, and questions of law and fact common to the Proposed Class predominate over any questions affecting only individual members of the Proposed Class. Each member of the Proposed Class has been damaged and is entitled to recovery by reason of Defendant's illegal policy and/or practice of failing to pay all wages due, failing to provide meal and rest periods, failing to reimburse expenses, failing to provide accurate itemized wage statements, and failing to pay all wages upon resignation or termination.

43. Class action treatment will allow those similarly situated persons to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

VI.

FIRST CAUSE OF ACTION

PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS

FAILURE TO PAY WAGES AND/OR OVERTIME UNDER

LABOR CODE §§ 510, 1194, AND 1199

44. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and incorporates by reference all previous paragraphs.

45. Labor Code §§ 510, 1194 and 1199 require an employer to compensate its employees at the rate of no less than one and one-half times the regular rate of pay for any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek.

46. Defendant has had a consistent policy of failing to pay wages and/or overtime to all Proposed Class Members when they work more than eight hours in a day or forty hours in a week. Plaintiffs and other Proposed Class Members were not properly compensated for overtime at the appropriate rate of pay.

47. During their employment with Defendants, Plaintiffs were generally scheduled to

1 work from 6:00 a.m. to 1:30 p.m. on Mondays, Thursdays, and Fridays; and from 7:00 a.m.
2 tom2:30 p.m. on Tuesdays and Wednesdays. However, Plaintiffs would often work more than
3 eight (8) hours per day and/or forty (40) hours per week.

4 48. As a result of Plaintiffs and the Proposed Class being paid on a piece-
5 rate/commission basis, Defendant failed properly calculate their regular rate of pay for purposes
6 of calculating overtime compensation. As a result, Plaintiffs and the Proposed Class were not
7 properly compensated at one and a half times their regular rate of pay for hours worked in excess
8 of 8 hours per day and/or 40 hours per week, and were therefore deprived of all overtime
9 compensation.

10 49. By their policy of requiring Plaintiffs and members of the Proposed Class to work
11 in excess of eight (8) hours in a workday and/or forty (40) hours in a workweek without
12 compensating them at the rate of one-half (1 ½) their regular rate of pay, Defendant willfully
13 violated the provisions of Labor Code §§ 510, 1194 and 1199.

14 50. As a result of the unlawful acts of Defendant, Plaintiffs and the Proposed Class
15 Members have been deprived of wages and/or overtime in amounts to be determined at trial, and
16 are entitled to recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and
17 costs.

18 VII.

19 SECOND CAUSE OF ACTION

20 PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS

21 FAILURE TO PROVIDE MEAL PERIODS PURSUANT TO

22 LABOR CODE § 226.7 AND LABOR CODE § 512

23 51. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and
24 incorporates by reference all previous paragraphs.

25 52. Labor Code §§ 226.7 and 512 require an employer to pay an additional hour of
26 compensation for each meal period the employer fails to provide. Employees are entitled to a first
27 meal period of at least thirty (30) minutes for shifts over five (5) hours, to be provided within the
28 first five (5) hours of the shift, and a second meal period of at least thirty (30) minutes for shifts

1 over ten (10) hours. If an employee is entitled to a second meal period, it must be provided after
2 no more than ten (10) hours of work. Defendant failed to maintain a policy informing Plaintiffs
3 and the Proposed Class of these rights.

4 53. Plaintiffs and the Proposed Class consistently worked shifts over five (5) hours.
5 Defendant failed to provide Plaintiffs and the Proposed Class with proper meal periods of not less
6 than thirty (30) minutes as required by the Labor Code during the relevant time period.

7 54. Throughout Plaintiffs' and the Proposed Class members' employment with
8 Defendant, Plaintiffs and the Proposed Class were not provided with a full 30 minutes of "net rest"
9 for their meal periods, nor were they always provided with meal periods commencing before the
10 end of the fifth hour of work. Specifically, Plaintiffs were never provided with meal periods that
11 were a full 30 minutes of "net rest" in an area away from the work station that is appropriate for
12 rest, which employers are required by the Wage Order to maintain for their employees to use
13 during their meal and rest periods. Plaintiffs and the Proposed Class could not leave their
14 workstation and begin their meal period until the beginning of their scheduled lunch breaks at
15 10:30 a.m. or 11:30 a.m. depending on their scheduled work hours. Plaintiffs and the Proposed
16 Class were required to be back at their assigned workstation at exactly the conclusion of their 30-
17 minute lunch break, at 11:00 a.m. or 12:00 p.m. depending on their scheduled work hours.
18 Defendant's managers/supervisors would check at the conclusion of their lunch periods to ensure
19 that all employees had returned from their meal periods on time. Because of the distance between
20 Defendant's breakrooms and employees' workstations, Plaintiffs and the Proposed Class would
21 have to shorten their meal periods by several minutes in order to return to their workstation prior
22 to the conclusion of their meal periods to avoid disciplinary action. Thus, Plaintiffs and the
23 Proposed Class were not provided with full 30-minute meal periods of net rest in an area
24 appropriate for rest away from the workstation. Additionally, Defendant failed to provide Plaintiffs
25 and the Proposed Class with a second duty free full 30 minutes of "net rest" meal period for shifts
26 of over 10.0 hours in violation of California law. Further, on those occasions when Defendant
27 failed to provide a legally complaint meal period to Plaintiffs and the Proposed Class, Defendant
28 failed to always compensate Plaintiffs and the Proposed Class with the required meal period

1 premium for each workday in which they experienced a meal period violation as mandated by
2 Labor Code § 226.7. Moreover, when Defendant failed to provide a meal period, Defendant had a
3 policy and practice of requiring Plaintiffs and the Proposed Class to sign a post-hoc meal period
4 waiver on the day following the missed meal period. As such, Plaintiffs and the Proposed Class
5 did not validly waive the missed meal period and were owed a meal period premium in lieu thereof.

6 55. Pursuant to Labor Code § 226.7, Plaintiff and the Proposed Class are entitled to
7 damages in an amount equal to one (1) hour of wages per missed meal break, per day in a sum to
8 be proven at trial.

9 **VIII.**

10 **THIRD CAUSE OF ACTION**

11 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

12 **FAILURE TO ALLOW REST PERIODS PURSUANT TO**

13 **LABOR CODE § 226.7**

14 56. Plaintiffs, on behalf of themselves and the proposed Class, realleges and
15 incorporates by reference all previous paragraphs.

16 57. Labor Code § 226.7 requires an employer to pay an additional hour (1) of
17 compensation for each rest period the employer fails to provide. Employees are entitled to a paid
18 ten (10) minute rest break for every four (4) hours worked (or major fraction thereof). Defendant
19 failed to maintain a policy informing Plaintiffs and the Proposed Class of this right.

20 58. Plaintiffs and the Proposed Class were also not authorized and permitted to take all
21 legally required and compliant rest periods because Defendant failed to provide at least 10 minutes
22 of “net rest” in an area appropriate for rest away from the workstation. Specifically, as a result of
23 the work demands imposed by Defendant, Defendant did not authorize and permit one rest period
24 for every four hours worked, or major fraction thereof. Similar to their meal periods, Plaintiffs and
25 the Proposed Class were not allowed to leave their workstations until exactly the start of their rest
26 period and must have been back at their workstations at exactly the end of their 10-minute rest
27 period. As a result, Plaintiffs and the Proposed Class were unable to ever take 10 minutes of “net
28 rest” in an area appropriate for rest away from the workstation during their rest period. On those

1 occasions when Plaintiffs and the Proposed Class were not authorized and permitted to take all
2 legally compliant rest periods to which they were entitled, Defendant failed to compensate
3 Plaintiffs and the Proposed Class with the required rest period premium for each workday in which
4 they experienced a rest period violation as mandated by Labor Code § 226.7.

5 59. Pursuant to Labor Code § 226.7, Plaintiffs and the Proposed Class are entitled to
6 damages in an amount equal to one (1) hour of wages per missed rest period, in a sum to be proven
7 at trial.

8 **IX.**

9 **FOURTH CAUSE OF ACTION**

10 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

11 **FAILURE TO REIMBURSE EXPENSES PURSUANT TO**

12 **LABOR CODE § 2802**

13 60. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and
14 incorporates by reference all previous paragraphs.

15 61. Labor Code § 2802 requires employers to indemnify employees for all necessary
16 expenditures incurred by employees in the discharge of their duties.

17 62. During Plaintiffs' employment with Defendant, Plaintiffs and the Proposed Class
18 were required to use their personal cellular phones to communicate with other employees,
19 managers/supervisors, and/or customers. Defendant knew or should have known that Plaintiffs and
20 the Proposed Class were necessarily incurring expenses due to the use of their personal cellular
21 phone in the direct discharge of their duties. Yet, despite the necessity of Plaintiffs and the
22 Proposed Class using their personal cellular phones for work activities and Defendant knowing or
23 should have knowing about same, they were never reimbursed for a reasonable portion of their
24 cellular phone expenses by Defendant, as mandated by *Cochran v. Schwan's Home Service, Inc.*
25 (2014) 228 Cal.App.4th 1137.

26 63. As a result of the unlawful acts of Defendants, Plaintiffs and the Proposed Class
27 have been deprived of reimbursement in the amounts to be determined at trial, and are entitled to
28 recovery of such amounts, plus interest and penalties thereon, attorneys' fees, and costs.

1 **X.**

2 **FIFTH CAUSE OF ACTION**

3 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

4 **VIOLATION OF LABOR CODE § 226(A)**

5 64. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and
6 incorporates by reference all previous paragraphs.

7 65. As a result of Defendant's failure to pay wages as described above, Defendant has
8 failed to include the appropriate rates of pay and the accurate hours worked on itemized wage
9 statements for Plaintiffs and the Proposed Class.

10 66. As a result of Defendant's failure to pay all meal and rest period premium wages,
11 and failure to reimburse for necessary business expenditures, Defendant maintained inaccurate
12 payroll records and issued inaccurate wage statements to Plaintiffs and the Proposed Class.

13 67. Defendants' failure to provide accurate itemized wages statements according to
14 Labor Code § 226(a) was all done on a regular and consistent basis.

15 68. An employee suffering injury as a result of a knowing and intentional failure by an
16 employer to comply with Labor Code § 226(a) is entitled to recover the greater of all actual
17 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred
18 dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an
19 aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and
20 reasonable attorneys' fees.

21 **XI.**

22 **SIXTH CAUSE OF ACTION**

23 **PLAINTIFFS ON BEHALF OF THEMSELVES AND THE PROPOSED CLASS**

24 **WAITING TIME PENALTIES UNDER LABOR CODE § 203**

25 69. Plaintiffs, on behalf of themselves and the Proposed Class, realleges and
26 incorporates by reference all previous paragraphs.

27 70. Numerous members of the Proposed Class including the Plaintiffs are no longer
28 employed by Defendant. They were either fired or quit Defendant's employ.

71. Defendant's failure to pay wages, as alleged above was willful in that Defendant knew wages to be due but failed to pay them, thus entitling Plaintiffs and the Proposed Class to penalties under Labor Code § 203, which provides that an employee's wages shall continue as a penalty until paid for a period of up to thirty (30) days from the time they were due.

72. Defendant has failed to pay Plaintiffs and others a sum certain at the time of termination or within seventy-two (72) hours of their resignation, and have failed to pay those sums for thirty (30) days thereafter. Pursuant to the provisions of Labor Code § 203, Plaintiffs and the Proposed Class are entitled to a penalty in the amount of Plaintiffs' and the Proposed Class Members' daily wage multiplied by thirty (30) days.

XII.

SEVENTH CAUSE OF ACTION

PLAINTIFFS AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS FOR PENALTIES PURSUANT TO LABOR CODE §2699, ET SEQ. FOR VIOLATIONS OF LABOR CODE §§201, 202, 203, 226(A), 226.7, 510, 512, 1194, 1194.2, 1199, AND 2802

73. Plaintiffs reallege and incorporate by reference all previous paragraphs.

74. For at least one (1) year prior to the date of the letter sent to the LWDA and Defendant giving notice of their claim pursuant to PAGA and continuing to the present, Defendant violated Labor Code §§201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802

75. During their employment with Defendants, Plaintiffs were generally scheduled to work from 6:00 a.m. to 1:30 p.m. on Mondays, Thursdays, and Fridays; and from 7:00 a.m. to 2:30 p.m. on Tuesdays and Wednesdays. However, Plaintiffs would often work more than eight (8) hours per day and/or forty (40) hours per week.

76. Throughout Plaintiffs' and the aggrieved employees' employment with Defendant, Plaintiffs and the aggrieved employees were not provided with a full 30 minutes of "net rest" for their meal periods, nor were they always provided with meal periods commencing before the end of the fifth hour of work. Specifically, Plaintiffs were never provided with meal periods that were a full 30 minutes of "net rest" in an area away from the work station that is appropriate for rest, which employers are required by the Wage Order to maintain for their employees to use during

1 their meal and rest periods. Plaintiffs and the aggrieved employees could not leave their
2 workstation and begin their meal period until the beginning of their scheduled lunch breaks at
3 10:30 a.m. or 11:30 a.m. depending on their scheduled work hours. Plaintiffs and the aggrieved
4 employees were required to be back at their assigned workstation at exactly the conclusion of
5 their 30-minute lunch break, at 11:00 a.m. or 12:00 p.m. depending on their scheduled work hours.
6 Defendant's managers/supervisors would check at the conclusion of their lunch periods to ensure
7 that all employees had returned from their meal periods on time. Because of the distance between
8 Defendant's breakrooms and employees' workstations, Plaintiffs and the aggrieved employees
9 would have to shorten their meal periods by several minutes in order to return to their workstation
10 prior to the conclusion of their meal periods to avoid disciplinary action. Thus, Plaintiffs and the
11 aggrieved employees were not provided with full 30-minute meal periods of net rest in an area
12 appropriate for rest away from the workstation. Additionally, Defendant failed to provide
13 Plaintiffs and the aggrieved employees with a second duty free full 30 minutes of "net rest" meal
14 period for shifts of over 10.0 hours in violation of California law. Further, on those occasions
15 when Defendant failed to provide a legally complaint meal period to Plaintiffs and the aggrieved
16 employees, Defendant failed to always compensate Plaintiffs and the aggrieved employees with
17 the required meal period premium for each workday in which they experienced a meal period
18 violation as mandated by Labor Code § 226.7. Moreover, when Defendant failed to provide a
19 meal period, Defendant had a policy and practice of requiring Plaintiffs and the aggrieved
20 employees to sign a post-hoc meal period waiver on the day following the missed meal period.
21 As such, Plaintiffs and the aggrieved employees did not validly waive the missed meal period and
22 were owed a meal period premium in lieu thereof.

23 77. Plaintiffs and the aggrieved employees were also not authorized and permitted to
24 take all legally required and compliant rest periods because Defendant failed to provide at least
25 10 minutes of "net rest" in an area appropriate for rest away from the workstation. Specifically,
26 as a result of the work demands imposed by Defendant, Defendant did not authorize and permit
27 one rest period for every four hours worked, or major fraction thereof. Similar to their meal
28 periods, Plaintiffs and the aggrieved employees were not allowed to leave their workstations until

1 exactly the start of their rest period and must have been back at their workstations at exactly the
2 end of their 10-minute rest period. As a result, Plaintiffs and the aggrieved employees were unable
3 to ever take 10 minutes of “net rest” in an area appropriate for rest away from the workstation
4 during their rest period. On those occasions when Plaintiffs and the aggrieved employees were
5 not authorized and permitted to take all legally compliant rest periods to which they were entitled,
6 Defendant failed to compensate Plaintiffs and the aggrieved employees with the required rest
7 period premium for each workday in which they experienced a rest period violation as mandated
8 by Labor Code § 226.7.

9 78. During Plaintiffs’ employment with Defendant, Plaintiffs and the aggrieved
10 employees were required to use their personal cellular phones to communicate with other
11 employees, managers/supervisors, and/or customers. Defendant knew or should have known that
12 Plaintiffs and the aggrieved employees were necessarily incurring expenses due to the use of their
13 personal cellular phone in the direct discharge of their duties. Yet, despite the necessity of
14 Plaintiffs and the aggrieved employees using their personal cellular phones for work activities
15 and Defendant knowing or should have knowing about same, they were never reimbursed for a
16 reasonable portion of their cellular phone expenses by Defendant, as mandated by *Cochran v.*
17 *Schwan’s Home Service, Inc.* (2014) 228 Cal.App.4th 1137.

18 79. As a result of Plaintiffs and the aggrieved employees being paid on a piece-
19 rate/commission basis, Defendant failed properly calculate their regular rate of pay for purposes
20 of calculating overtime compensation. As a result, Plaintiffs and the aggrieved employees were
21 not properly compensated at one and a half times their regular rate of pay for hours worked in
22 excess of 8 hours per day and/or 40 hours per week, and were therefore deprived of all overtime
23 compensation.

24 80. As a result of Defendant’s failure to pay all meal and rest period premium wages,
25 and failure to reimburse for necessary business expenditures, Defendant maintained inaccurate
26 payroll records and issued inaccurate wage statements to Plaintiffs and the aggrieved employees.

27 81. As a further result of Defendant’s failure to pay all meal and rest period premium
28 wages, and failure to reimburse for necessary business expenditures, Defendant failed to pay all

wages to Plaintiff and the aggrieved employees at the separation of their employment.

82. As a result of the acts alleged above and specifically incorporated herein, Plaintiffs seeks penalties under Labor Code § 2699, et seq. use of Defendant's violation of Labor Code §§201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199, and 2802; Wage Order 9-2001; and California Code of Regulations, Title 8, Section 11090, which call for civil penalties.

83. Plaintiffs brings this representative action on behalf of himself and the State of California as well as a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by Mercury Air Cargo, LLC, in the State of California who worked one or more pay periods since one (1) year prior to the date of Williams' September 11, 2023 notice letter and continuing to the present. T. ("aggrieved employees").

84. In addition to the Labor Code § 2802 claims alleged in detail above, Plaintiff TIMOTHY WILLIAMS also alleges that Defendant violated Labor Code §§ 226 and 1198.5 as the basis for a PAGA claim on behalf of himself only.

85. For at least one (1) year prior to the date of the letter sent to the Labor and Workforce Development Agency and Defendant giving notice of these PAGA claims and continuing to the present, Defendant has violated Labor Code §§ 226 and 1198.5 with respect to Plaintiff TIMOTHY WILLIAMS only.

86. On August 23, 2023, Plaintiff TIMOTHY WILLIAMS mailed to Defendant his first written request to his employer to copy or to receive a copy of his personnel file and payroll records. The letter cited Labor Code §§ 226 and 1198.5. Defendant signed Plaintiff William's certified mail receipt on August 30, 2023, and September 4, 2023.

87. Defendant did not provide the documentation requested by Plaintiff within the statutory time frames.

88. Labor Code § 226(f) provides that "[a] failure by an employer to permit a current or former employee to inspect or copy records within the . . ." statutory time frame ". . . entitles the current or former employee or the Labor Commissioner to recover a seven-hundred-fifty-dollar (\$750) penalty from the employer."

89. Additionally, Labor Code §226(h) permits an employee to bring an action for

1 injunctive relief to ensure compliance Labor Code § 226 and states that employee is entitled to an
2 award of costs and reasonable attorney's fees.

3 90. Labor Code § 1198.5(a) states: "Every current and former employee, or his or her
4 representative, has the right to inspect and receive a copy of the personnel records that the
5 employer maintains relating to the employee's performance or to any grievance concerning the
6 employee."

7 91. Labor Code § 1198.5(k) provides that if an employer fails to permit an inspection
8 or fails to permit an employee to copy personnel records within the times specified, the current or
9 former employee may recover a penalty of seven hundred fifty dollars (\$750) from the employer.

10 92. Additionally, Labor Code § 1198.5(l) permits an employee to bring an action for
11 injunctive relief to obtain compliance with this section and may recover costs and reasonable
12 attorney's fees in such an action.

13 93. As such, Defendant has violated Labor Code §§ 226 and 1198.5 and Plaintiff
14 TIMOTHY WILLIAMS is entitled to production of the documents requested, penalties, and
15 attorney's fees and costs.

16 94. Plaintiff TIMOTHY WILLIAMS is an aggrieved employee within the meaning of
17 PAGA and Defendant has violated Labor Code §§ 226 and 1198.5 with respect to Plaintiff
18 TIMOTHY WILLIAMS only.

19 95. As a result of the acts alleged above, Plaintiff TIMOTHY WILLIAMS, on behalf
20 of himself only, seeks penalties under Labor Code § 2699, et seq. because of Defendant's violation
21 of Labor Code §§ 226 and 1198.5, for which a civil penalty applies under PAGA.

22 96. As a result of the acts alleged above, Plaintiffs seeks penalties under Labor Code §
23 2699, et seq. because of Defendant's violation of Labor Code §§201, 202, 203, 226(a), 226.7, 510,
24 512, 1194, 1194.2, 1199, and 2802, which call for civil penalties.

25 97. For each such penalty, Plaintiffs and the aggrieved employees are entitled to
26 penalties in an amount to be shown at trial, subject to the following formula:

- 27 a. \$100 for the initial violation per employee per pay period.
28 b. \$200 for each subsequent violation per employee per pay period.

98. These penalties shall be allocated seventy-five percent (75%) to the LWDA and twenty-five percent (25%) to the affected employees.

99. Pursuant to Labor Code § 2699.3(a)(1), Plaintiff TIMOTHY WILLIAMS uploaded a notice letter to the LWDA¹ and mailed a letter by certified mail to Defendant's entity address, which is 151 East Hangar Road, Suite 361, Jamaica, NY, 11430, as proscribed by the Code on September 11, 2023, describing Defendant's conduct in violation of Labor Code §§ 226, 1198.5, and 2802 (*see* Exhibit "1.") Plaintiff also obtained an e-filing confirmation from the LWDA confirming receipt of the notice (*see* Exhibit "2").

100. On July 17, 2025, Plaintiffs uploaded an amended notice letter to the LWDA and mailed a letter to Defendant, adding Plaintiff SERGIO SAUCEDO and causes of action for violations of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1194.2, 1199. (*see* Exhibit "3").

101. As no letter evidencing the LWDA's intention to investigate was received by Plaintiffs' Counsel within sixty-five (65) calendar days, Plaintiffs are entitled to commence a civil action as though the LWDA had not chosen to investigate pursuant to Labor Code §2699.3(a)(2)(A). Plaintiffs will also provide the LWDA with a filed-stamped copy of the Third Amended Class and Representative Action Complaint immediately.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for the following relief:

1. For compensatory damages in the amount of unpaid wages and/or overtime not paid to Plaintiffs and each Proposed Class Member from at least four (4) years prior to the filing of this action to the present as may be proven;

2. For compensatory damages in the amount of Plaintiffs' and each Proposed Class Members' hourly wage for each rest period and/or meal period missed or taken late from at least four (4) years prior to the filing of this action to the present as may be proven;

3. For compensatory damages in the amount of Plaintiffs' and each Proposed Class

¹ Plaintiffs electronically filed a PAGA Claim Notice to the LWDA, via the State of California Labor and Workforce Development Agency / Department of Industrial Relations website (<https://dir.tfaforms.net/308>).

Members' unreimbursed out of pocket expenses as a requirement of employment;

4. For penalties pursuant to Labor Code § 226(e) for violation of Labor Code § 226(a) in the amount of fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars (\$4,000);

5. For penalties pursuant to Labor Code § 203 for all employees who were terminated or resigned equal to their daily wage times thirty (30) days;

6. An award of prejudgment and post judgment interest;

a. An order enjoining Defendant and its agents, servants, and employees, and all persons acting under, in concert with, or for it from providing Plaintiff with proper wages and/or overtime, meal periods, rest periods, reimbursed expenses, accurate itemized wage statements, and wages upon termination/resignation pursuant to Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512, 1194, 1199, 2802,;

7. For injunctive relief pursuant to Labor Code §226(a) requiring Defendant to remedy the inaccurate itemized wage statements issued to Plaintiffs and the Class.

8. An award providing for payment of costs of suit;

9. An award of attorneys' fees; and

10. Such other and further relief as this Court may deem proper and just.

WHEREFORE, Plaintiffs seeks judgment against Defendant, and each of them, as follows for Plaintiffs and all aggrieved employees:

b. For penalties and other relief pursuant to Labor Code §2698 *et seq.* for Defendant's violation of Labor Code §§ 201, 202, 203, 226(a), 226.7, 510, 512,, 1194, 1194.2, 1199, and 2802.

c. An award of prejudgment and post judgment interest;

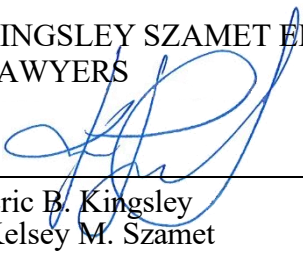
d. An award providing for payment of costs of suit;

e. An award of attorneys' fees; and

f. Such other and further relief as this Court may deem proper and just.

1 DATED: December 29, 2025

KINGSLEY SZAMET EMPLOYMENT
LAWYERS

2
3 By: 

4 Eric B. Kingsley
Kelsey M. Szamet

5 Attorneys for Plaintiffs, Proposed Class and the
6 aggrieved employees
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EXHIBIT "A"

KINGSLEY & KINGSLEY

| L A W Y E R S |

September 11, 2023

LABOR & WORKFORCE DEVELOPMENT AGENCY
Attn. PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612
Via Electronic Submission: <https://dir.tfaforms.net/308>

Mercury Air Cargo, LLC
John F. Kennedy Airport,
151 East Hangar Road, Suite 361
Jamaica, NY 11430
Via Certified Mailing #7022 3330 0002 1335 7427

Re: Timothy Williams v. Mercury Air Cargo, LLC
California Labor Code § 2699 Penalties

Gentlepersons:

This office represents Timothy Williams (“Plaintiff”) and a proposed group of current and former employees working for Mercury Air Cargo, LLC (“Defendant”) in the State of California. The purpose of this letter is to comply with the Private Attorneys General Act of 2004, pursuant to California Labor Code § 2698, *et. seq.* We herein set forth the facts and theories of California Labor Code violations which we allege Defendant engaged in with respect to Plaintiff and all of Defendant’s aggrieved employees.

Plaintiff wishes to bring a representative action on behalf of himself and the State of California as well as on behalf of a group of aggrieved employees defined as: All non-exempt employees who are employed or have been employed by Mercury Air Cargo, LLC, in the State of California who worked one or more pay periods since one (1) year prior to the date of this letter and continuing to the present plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the ‘Emergency Rules Related to COVID-19’. (“aggrieved employees”).

Any limitations period referenced in this letter is extended pursuant to Emergency Rule 9 (a) of the “Emergency Rules Related to COVID-19,” Appendix I to the California Rules of Court, adopted effective April 6, 2020, which provides that the statutes of limitation that exceed 180 days for civil actions are tolled from April 6, 2020 until October 1, 2020 [“Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 16 1, 2020.”] Any reference to the relevant time period or statute of limitations referenced in this letter is extended into the past by the number of days in which this tolling was in effect.

LABOR & WORKFORCE DEVELOPMENT AGENCY

California Labor Code §2699 Penalties

September 11, 2023

Page 2 of 2

Labor Code § 2802 provides that an employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful. Defendant has failed to reimburse Plaintiff and aggrieved employees the cost of using their personal cell phones for business related purposes. Defendant required that Plaintiff and the aggrieved employees be available by cell phone and answer/use their cell phones while working and this was necessary to perform their job duties. Specifically, Plaintiff and the aggrieved employees used their personal cell phones to communicate with Defendant's employees. These cell phones were not provided by Defendant, and Defendant failed to reimburse Plaintiff and the aggrieved employees for the costs associated with using these personal cell phones.

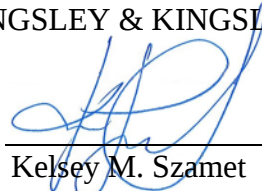
Plaintiff also brings a claim on behalf of herself only for a violation of Labor Code §§226 and 1198.5. Plaintiff requested the right to review her personnel file and her pay records by sending a letter to Defendant. Defendant refused to provide the requested documentation in violation of these statutes. Thus, Plaintiff is an aggrieved employee within the meaning of PAGA and Defendant has violated Labor Code §§ 226 and 1198.5 with respect to Plaintiff only.

Further, under Labor Code § 2699.3(c)(2)(A), Defendant may cure the alleged violations within thirty-three (33) calendar days of the postmark date of this notice and within that period, give notice by certified mail if the alleged violation is cured, including a description of actions taken.

We are constrained to move forward with the filing of this complaint alleging causes of action pursuant to Labor Code §§ 226, 1198.5, and 2802, with or without the PAGA claim. Thus, any action by the LWDA would not resolve the entirety of the case, and the interest of judicial economy will be served by allowing the case to proceed as a cohesive whole.

Very truly yours,

KINGSLEY & KINGSLEY, APC

By: 

Kelsey M. Szamet

KMS/km

Cc: 1. Abramson Labor Group, 11846 Ventura Blvd., Suite 100, Studio City, CA 91604

EXHIBIT "B"



State of California
Labor and Workforce Development Agency /
Department of Industrial Relations

Private Attorneys General Act (PAGA) – Filing

New PAGA Claim Notice

Your Information (Person Who is Filing)

Your First Name *

Kelsey

Your Last Name *

Szamet

Firm Name (if any) *

Kingsley & Kingsley, APC

(Enter "in pro per" if you are representing yourself)

Your Email Address *

kimberly@kingsleykingsley

Your Street Name, Number and Suite/Apt *

16133 Ventura Blvd., Suite 1

Your Mobile Phone Number

8189908300

Your City *

Encino

Your Work Phone Number

Your State *

California

Your Zip/Postal Code *

91436

Plaintiff Information

Plaintiff/Aggrieved Employee Name *

Timothy Williams

Plaintiff/Aggrieved Employee Occupation *

customer service

[Add Additional Plaintiffs](#)

Employer Information

Employer Entity Type

Please select...

Employer Name *

Mercury Air Cargo, LLC

Maximum 80 Character Limit

Employer Street Name, Number and Suite/Apt *

151 East Hangar Road, Suite 361

Employer City *

Jamaica

Employer State *

New York

Employer Zip/Postal Code *

11430

Employer Industry *

Other

Employer Industry for "Other" *

management consulting ai

Add additional defendants

- ☐ Add any entity other than an individual
☐ Add an individual/sole proprietor employer

Notice General Information

Estimated Number of Employees Impacted by Violations *

50

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☐ Overtime
- ☐ Not paid for all hours worked
- ☐ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☐ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☐ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Child Labor – Specify Ages

Provide Details of Other Violation *

Other(Maybe Multiple)

☐ Other Violation

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Filing Fee

A filing fee of \$75 is required to file a new PAGA claim notice.

IFP

☐ I wish to claim In Forma Pauperis and am attaching a Confidential Request to Waive Court Fees (Judicial Council Court Form FW-001) or similar form to this submission.

Billing information

Billing First Name *

Billing Last Name *

Billing Email *

Billing Phone

Billing Street Name, Number and Suite/Apt *

Billing City *

Billing State *

Billing Zip/Postal Code *

Credit Card Type *

Credit Card Number *

CVV Number *

Credit Card Expiration Month *

mm

Credit Card Expiration Year *

yyyy

Notice and Other Attachments

PAGA Claim Notice (must be a .pdf) *

Choose File

LWDA Letter ...Cargo, LLC.pdf

Other Attachment – (if any) (must be a .pdf)

Choose File

No file chosen

[Add Another Attachment](#)

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.

☒ I understand that, if I file, I must comply with the redaction rules consistent with this notice.

[Previous Page](#)[Submit](#)

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Monday, September 11, 2023 9:41 AM
To: Kimberly Madrid
Subject: Thank you for submission of your PAGA Case.

External Email!

9/11/2023

LWDA Case No. LWDA-CM-980768-23
Law Firm : Kingsley & Kingsley, APC
Plaintiff Name : Timothy Williams
Employer: Mercury Air Cargo, LLC
Filing Fee : \$75.00
IFP Claimed : No

Item submitted: Initial PAGA Notice

Thank you for your submission to the Labor and Workforce Development Agency. Please make a note of the LWDA Case No. above as you may need this number for future reference when filing any subsequent documents for this Case.

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of
Labor and Workforce Development Agency

Website:

https://nam10.safelinks.protection.outlook.com/?url=http%3A%2F%2Flabor.ca.gov%2FPrivate_Attorneys_General_Act.htm&data=05%7C01%7Ckimberly%40kingsleykingsley.com%7Cd9b612149cf949894f7308dbb2e5f08f%7C121a7875dbeb4c0fb25c5baf6c6ac7a5%7C1%7C0%7C638300472908100644%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjojV2luMzliLCJBTil6Ik1haWwiLCJXVCi6Mn0%3D%7C3000%7C%7C%7C&sdata=WDSXErh%2BDAAHZGuneXq%2BT3Jele%2BvHIobpcshMPFjt%2F0%3D&reserved=0

From: noreply@salesforce.com on behalf of LWDA DO NOT REPLY
<lwdadonotreply@dir.ca.gov>
Sent: Monday, September 11, 2023 9:42 AM
To: Kimberly Madrid
Subject: State of California - Department of Industrial Relations Customer Receipt / Purchase Confirmation

External Email!

Thank you for your payment.

Order Information

Merchant: State of California - Department of Industrial Relations

Case Number: LWDA-CM-980768-23

Order Number: ORD-000251064

Total:\$75.00

Card Type: XXXXXXXXXX

Date: 9/11/2023

Billing Information

Name: Eric Kingsley

Email: kimberly@kingsleykingsley.com

Billing Address:

16133 Ventura Blvd., Suite 1200

Encino, California

91436

EXHIBIT "C"

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact: Social Security or taxpayer identification numbers; personal addresses, personal telephone numbers, personal email addresses, dates of birth; names of minor children; & financial account numbers. This requirement applies to all documents, including attachments.



Private Attorneys General Act (PAGA) – Filing

Amended PAGA Claim Notice

PAGA Number (LWDA-CM-) : *

Please enter only the numbers after "LWDA-CM-" in the following format, "XXXXXXXX-XX".

[Search for PAGA Case number](#)

Your Information (Attorney or Employee – Whoever is Filing)

Your First Name *

Your Last Name *

Your Email Address *

Your Street Name, Number and Suite/Apt *

Your Mobile Phone Numer

Your City *

Your Work Phone Number

Your State *

Your Zip/Postal Code *

Amended Notice Detail

Please provide the details of the amendments to the original notice. *

- ☒ Adding additional claims
- ☐ Adding additional corporate defendants
- ☐ Adding additional Individual/Sole proprietor defendants
- ☒ Adding additional plaintiffs
- ☐ Other (please specify)

Please enter additional plaintiff names *

[Add Additional Plaintiff Names](#)

Notice Violations – Check All that Apply *

- ☐ Child Labor
- ☐ Misclassification Employee Classified as Contractor
- ☐ Misclassification NonExempt Classified as Exempt
- ☐ Minimum Wage
- ☐ Overtime
- ☐ Not paid for all hours worked
- ☒ Not paid wages due on termination
- ☐ Other Unpaid Wages
- ☐ Tips or Gratuities
- ☒ Payment or Reimbursement of Employee Expenses
- ☐ Improper Form of Payment Including NSF Checks
- ☐ Kickbacks
- ☒ Meal and Rest Breaks
- ☐ Sick Leave
- ☐ Lactation Accommodation (Labor Code 1030–1033)
- ☐ Not providing required time off, other
- ☐ Pay Discrimination on basis of sex, (Labor Code 1197.5)
- ☐ No Wage Statements
- ☒ Improper or Incomplete Wage Statements
- ☐ Other Notice or Posting or Recordkeeping
- ☐ Public Works (Labor Code 1720 – 1815)
- ☐ Apprenticeship (Labor Code 3070 – 3098)
- ☐ Occupational Safety and Health (Labor Code 6300 et seq)
- ☐ No Workers' Compensation
- ☐ Licensing, Registration, or Permit
- ☐ Unfair Immigration Activities
- ☐ Agricultural Labor Relations
- ☐ Industrial Homework
- ☐ Retaliation for Protected Status or Activity (Specify)
- ☒ Other

Child Labor – Specify Ages

Provide Details of Other Violation ***Other(Maybe Multiple)**☐ Other Violation

PAGA Claim Type – Check All that Apply *

PAGA Claim Type – Check All that Apply *

- ☒ Notice asserts one or more Labor Code violations listed in Labor Code 2699.5– not curable subject to 2699.3(a)
- ☐ Notice asserts one or more OSHA violations subject to requirements of 2699.3(b)
- ☐ Includes one or more violations not listed in Labor Code 2699.5 – curable subject to 2699.3(c)

Other PAGA Notices[Search for PAGA Case number](#)

- ☒ I have searched LWDA's database for other PAGA claims filed against the employer(s) named in my Amended PAGA Claim Notice.
- ☐ No, there are no other PAGA claims against the employer(s) named in my Amended PAGA Claim Notice.
- ☒ Yes, other PAGA claims are listed on the website, or I am aware of other PAGA claims against the employer(s) named in my Amended PAGA Claim Notice.

PAGA Notices**LWDA case number(s) of other PAGA Notices: LWDA-CM :****Name of Plaintiff**[Add Additional Notices](#)**Amended Notice****Amended Notice *** Amended LW...ercury Air_.pdf

Other Attachment (if any) (must be a .pdf)

Choose File No file chosen

[Add Another Attachment](#)

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☒ **I understand that, if I file, I must comply with the redaction rules consistent with this notice.**

Should you have questions regarding this online form, please contact PAGAInfo@dir.ca.gov

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reCAPTCHA
Privacy - Terms

reCAPTCHA helps prevent automated form spam.

Previous Page

Submit

Thank you. If you provided an email address with your submission, a confirmation regarding your submission will be emailed to you. Otherwise, you can search for the case to verify that your submission was properly received.

[Click Here](#) to Search Case

From: DIR PAGA Unit <no-reply@formassembly.com>
Sent: Thursday, July 17, 2025 12:25 PM
To: Service
Subject: Thank you for your Amended PAGA Claim Notice Submission.

External Email!

07/17/2025 12:24:31 PM

Thank you for your submission to the Labor and Workforce Development Agency.

Item submitted: Amended PAGA Claim

Please note that a PAGA Notice is not a complaint within the meaning of Division 5 (Labor Code §§6300 et seq.). To file a complaint about workplace safety and health hazards with Cal/OSHA, please visit: <https://www.dir.ca.gov/dosh/complaint.htm>

If you have questions or concerns regarding this submission or your case, please send an email to pagainfo@dir.ca.gov.

DIR PAGA Unit on behalf of Labor and Workforce Development Agency

Website: http://labor.ca.gov/Private_Attorneys_General_Act.htm