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Electronically FILED by
Superior Court of California,
County of Los Angeles
12/18/2023 12:56 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Ayala, Deputy Clerk

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

JOSE BONITO, as an individual and on behalf
of all others similarly situated,

Plaintiff,

vs.

BYD COACH & BUS LLC, a California
Limited Liability Company; BYD MOTORS
LLC, a California Limited Liability Company;
BYD MOTORS, INC., a California
Corporation; and DOES 1 through 100,

Defendants.

Case No.: **23STCV30810**

**REPRESENTATIVE ACTION
COMPLAINT:**

**(1) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698 *et seq.*)**

1 Plaintiff Jose Bonito (“Plaintiff”) on behalf of himself and all others similarly situated,
2 hereby brings this Representative Action Complaint against Defendants BYD Coach & Bus LLC.,
3 a California Limited Liability Company, BYD Motors LLC, a California Limited Liability
4 Company, BYD Motors, Inc., a California Corporation, and DOES 1 to 100, inclusive
5 (collectively “Defendants”), and on information and belief alleges as follows:

6 **JURISDICTION**

7 1. Plaintiff, on behalf of himself and all similarly aggrieved employees, hereby brings
8 this representative action for recovery of civil penalties under Labor Code § 2698 *et seq.* This
9 Court has jurisdiction over Defendants’ violations of the California Labor Code because the
10 amount in controversy exceeds this Court's jurisdictional minimum.

11 **VENUE**

12 2. Venue is proper in this judicial district pursuant to California Code of Civil
13 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
14 occurred in the County of Los Angeles. Defendants transact business within the County of Los
15 Angeles and/or otherwise are found within the County of Los Angeles, and Defendants are within
16 the jurisdiction of this Court for purposes of service of process.

17 **PARTIES**

18 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
19 Plaintiff was and currently is, a California resident. During the statute of limitations periods,
20 Plaintiff was employed by Defendants as a non-exempt employee.

21 4. Plaintiff is informed and believes, and based thereon alleges, that during the one
22 year preceding the filing of this Representative Action Complaint and continuing to the present,
23 Defendants did (and do) business by manufacturing battery-electric buses and coaches within Los
24 Angeles County and the State of California, and employed Plaintiff and other, similarly-situated
25 non-exempt employees to perform work within Los Angeles County and the State of California.
26 Defendants, therefore, were (and are) doing business in Los Angeles County and the State of
27 California. *See Crestwood Behavioral Health, Inc. v. Superior Court of Alameda County* (2021)

60 Cal.App.5th 1069 (holding that venue is proper in a PAGA representative action “in any county in which an aggrieved employee worked and Labor Code violations allegedly occurred”)

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Representative Action Complaint when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the aggrieved employees to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and the aggrieved employees (as defined herein).

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and the aggrieved employees, (as defined herein).

REPRESENTATIVE ACTION ALLEGATIONS

9. Defendants manufacture battery-electric buses and coaches in Lancaster, California. Plaintiff was employed by Defendants as a non-exempt “Autobody Tech” from approximately September 2021 to April 2023. Plaintiff’s primary job duties included performing body work and fiberglass on newly manufactured buses. Unless otherwise specified, all factual allegations contained below occurred during Plaintiff’s employment with Defendants.

10. Defendants systematically failed to compensate Plaintiff and other non-exempt employees for all hours actually worked, resulting in unpaid minimum wages and overtime wages. Specifically, after arriving at the facility in the morning, Plaintiff was required to don personal protective equipment (“PPE”) including a respirator, gloves, and safety glasses. Plaintiff was also required to inspect his station each morning before commencing work. This inspection process included cleaning the area and blowing any remaining fiberglass and dust off the work service. Once completed, Plaintiff then had to navigate to the timeclock before he was able to clock in each morning. As a result of these unlawful timekeeping practices, Plaintiff and other non-exempt employees were not credited with all hours actually worked and were not paid all minimum and overtime wages earned.

11. Defendants failed to provide Plaintiff and other non-exempt employees with all legally-compliant meal periods due to Defendants’ unlawful meal period policies/practices that failed to provide timely, duty-free 30-minute first meal periods commencing before the end of the fifth hour of work. Plaintiff began his shift as early as 5:00 a.m. each day. However, Defendant regularly failed to provide Plaintiff and other non-exempt employees with a 30-minute uninterrupted meal period before 10:00 a.m. (the fifth hour of work) due to lack of coverage and the time sensitive nature of working with paint. Defendants also failed to provide a second 30-minute meal period to Plaintiff and other non-exempt employees when they worked shifts in excess of 10.0 hours. On occasions when Plaintiff and other non-exempt employees were not provided with all lawful meal periods to which they were entitled, Defendants failed to pay Plaintiff and other non-exempt employees an additional hour of premium pay at their respective regular rates of pay for each workday in which a meal period violation occurred, as required by

1 Labor Code § 226.7. Upon information and belief, during at least a portion of the relevant time
2 period, Defendants failed to maintain pay codes for the payment of meal period premium
3 payments as required by Labor Code § 226.7.

4 12. California law requires that an employer provide 10 minutes of “net rest” to
5 employees for rest periods, and “the rest period begins when the employee reaches an area away
6 from the workstation that is appropriate for rest.” *See Vaquero v. Stoneledge Furniture LLC*, 9
7 Cal.App.5th at 111-112 (citing DLSE Manual § 45.3.3 for this proposition) Upon information
8 and belief, Defendants’ break room was located multiple minutes away from Plaintiff and other
9 non-exempt employees area of work. Because Defendants only authorized exactly 10 minutes per
10 rest break, Plaintiff and other non-exempt employees were not provided adequate time to travel
11 to the break room and utilize the full 10 minutes before being required to travel back to their
12 workstation. This policy also applied to meal periods in the context of Defendants failure to
13 provide 30 minutes of “net rest.” Additionally, because Plaintiff and other non-exempt employees
14 wore PPE while working, they did not have adequate time to remove the PPE and travel to the
15 break room during rest breaks. This led to Plaintiff and other non-exempt employees being “tied”
16 to their workstation during breaks. As a result, Defendants exercised some control over rest
17 periods, rendering them unlawful. *See Augustus v. ABM Security Svcs.* (2016) 2 Cal.5th 257, 260
18 (“[d]uring required rest periods, employers must relieve their employees of all duties and
19 relinquish any control over how employees spend their break time.”) On occasions when Plaintiff
20 and other non-exempt employees were not authorized and permitted to take all legally-compliant
21 rest periods to which they were entitled, Defendants failed to compensate Plaintiff and other non-
22 exempt employees with an additional hour of premium pay at their respective regular rates of pay
23 for each workday in which a rest period violation occurred, as required by Labor Code § 226.7.
24 Upon information and belief, during at least a portion of the relevant time period, Defendants
25 failed to maintain pay codes for the payment of rest period premium payments as required by
26 Labor Code § 226.7.

27 13. As a result of Defendants’ failure to pay all overtime wages, minimum wages, and
28 meal and rest period premium wages owed, Defendants also maintained inaccurate payroll

1 records, issued inaccurate wage statements to Plaintiff and other non-exempt employees, and
2 failed to pay all final wages owed to Plaintiff and other non-exempt employees upon their
3 respective separations from employment.

4 14. Based on the foregoing, Plaintiff seeks to represent himself and all aggrieved
5 employees, as defined by Labor Code § 2699(c), which includes all of Defendants' non-exempt
6 employees who worked in California from October 12, 2022 through the present.

7 **FIRST CAUSE OF ACTION**

8 **PRIVATE ATTORNEYS GENERAL ACT**

9 **(AGAINST ALL DEFENDANTS)**

10 15. Plaintiff re-alleges and incorporates all prior paragraphs as fully set forth herein.

11 16. Defendants have committed several Labor Code violations against Plaintiff and
12 other similarly aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of
13 Labor Code § 2698 *et seq.*, and acting on behalf of himself and other similarly aggrieved
14 employees, brings this representative action against Defendants to recover the civil penalties due
15 to Plaintiff, other similarly aggrieved employees, and the State of California according to proof
16 pursuant to Labor Code § 2699 including, but not limited to: (1) \$100.00 for each initial violation
17 and \$200 for each subsequent violation or willful or intentional violation pursuant to Labor
18 Code § 210 for each failure to pay each employee; (2) \$50.00 for each initial violation and \$100
19 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; (3)
20 \$100.00 for each initial violation and \$250.00 for each subsequent violation pursuant to Labor
21 Code § 1197.1 per employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00
22 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period;
23 and/or (5) \$100.00 for each initial violation and \$200 for each subsequent violation per employee
24 per pay period for those violations of the Labor Code for which no civil penalty is specifically
25 provided, based on the following Labor Code violations:

- 26 a. Failing to pay Plaintiff and other aggrieved employees the statutory minimum
27 wage for all hours worked in violation of Labor Code §§ 204, 1182.12, 1194,
28 1194.2, 1197, and 1198;

- b. Failing to pay Plaintiff and other aggrieved employees all earned overtime compensation in violation of Labor Code §§ 204, 510, 558, 1194, and 1198;
- c. Failing to provide Plaintiff and other aggrieved employees all legally required meal periods, and failure to pay meal period premium wages to Plaintiff and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 512, 558, and 1198;
- d. Failing to authorize and permit Plaintiff and other aggrieved employees to take all lawful rest periods to which they are entitled, and failing to pay rest period premium wages to Plaintiff and other aggrieved employees at their regular rate of pay, in violation of Labor Code §§ 226.7, 516, 558;
- e. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements, in violation of Labor Code § 226;
- f. Failing to timely pay final wages to Plaintiff and other aggrieved employees in violation of Labor Code §§ 201-203;
- g. Failing to pay Plaintiff and other aggrieved employees all earned wages at least twice during each calendar month, in violation of Labor Code § 204; and
- h. Failing to maintain accurate records on behalf of Plaintiff and other aggrieved employees, in violation of Labor Code §§ 558 and 1174.

17. On October 12, 2023, Plaintiff notified Defendants via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via electronic submission of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to violations of the California Labor Code identified above. Now that sixty-five days have passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

18. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other similarly aggrieved employees, and to assess and

1 collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and
2 costs, which he is entitled to receive under California Labor Code § 2699.

3 **PRAYER**

4 WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf
5 this suit is brought against Defendants, as follows:

6 1. Upon the First Cause of Action, for civil penalties due to Plaintiff, other similarly
7 aggrieved employees, and the State of California according to proof pursuant to Labor
8 Code § 2699 including, but not limited to: (1) \$100.00 for each initial violation and \$200 for each
9 subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each
10 failure to pay each employee; (2) \$50.00 for each initial violation and \$100 for each subsequent
11 violation pursuant to Labor Code § 558 per employee per pay period; (3) \$100.00 for each initial
12 violation and \$250.00 for each subsequent violation pursuant to Labor Code § 1197.1 per
13 employee per pay period; (4) \$250.00 for each initial violation and \$1,000.00 for each subsequent
14 violation pursuant to Labor Code § 226.3 per employee per pay period; and/or (5) \$100.00 for
15 each initial violation and \$200 for each subsequent violation per employee per pay period for
16 those violations of the Labor Code for which no civil penalty is specifically provided, based on
17 the following Labor Code violations.

18 2. On all causes of action, for attorneys' fees and costs as provided by Labor
19 Code § 2699 and Code of Civil Procedure § 1021.5; and

20 3. For such other and further relief the Court may deem just and proper.

21
22 Dated: December 18, 2023

Respectfully submitted,
HAINES LAW GROUP, APC

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24 By:



25 Fletcher W. Schmidt
26 Attorney for Plaintiff
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