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

JUSTUSS POPE, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

PHOENIX TRANSPORTATION, an unknown
business entity; FADI STEPHAN, an individual;
and DOE 1 through and including DOE 10,

Defendants.

Case No: **24STCV06976**

PAGA LAW ENFORCEMENT AND
CLASS ACTION COMPLAINT
[Class Action]

1. Section 203 of the California Labor Code, Continuing Wages
2. Cal. Lab. Code Sections 226.7, 512 and Wage Order 9, Failure to Provide Meal Breaks
3. Cal. Lab. Code Section 226.7 and Wage Order 9, Failure to Provide Rest Breaks
4. Section 226(a) of the California Labor Code, Failure to Provide Pay Stubs
5. Sections 510 and 1194 of the California Labor Code, Failure to Pay Minimum Wage and Overtime
6. Cal. Lab. Code Section 2802, Failure to Reimburse Necessary Expenses
7. Cal. Bus & Prof. Code Section 17200 et seq. – Restitution
8. Cal. Lab. Code § 226(b), Failure to Provide Employment Records
9. Cal. Lab. Code § 1198.5, Failure to Provide Employment Records

10. Civil Penalties, Cal. Lab. Code § 2698 et seq., Labor Code Private Attorneys General Act

11. Wrongful Termination

12. Misclassification

JURY TRIAL DEMANDED

Plaintiff JUSTUSS POPE (“Plaintiff”), by and through his undersigned attorneys, alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff is an individual, who is a resident of the County of Los Angeles, State of California. Plaintiff was a driver for Defendants who was misclassified as an independent contractor, until he was wrongfully terminated for resisting unlawful wage and hour violations.

2. Defendant PHOENIX TRANSPORTATION (“PHOENIX”) is an unknown business entity, which at times relevant herein, conducted business within the County of Los Angeles of the State of California. According to its website, PHOENIX operated a charter bus service throughout California, which regularly chartered buses for use in Los Angeles County.¹

3. Plaintiff is informed and believes that Defendant FADI STEPHAN (“STEPHAN”) is an individual who is the owner, operator and general manager of PHOENIX, with personal liability according to Labor Code section 558.1.

4. Defendants Doe One through and including Doe Ten are sued herein under the provisions of section 474 of the California Code of Civil Procedure. Plaintiff are unaware of the true names, identities or capacities, whether corporate, individual or otherwise, of said fictitiously name defendants, but leave of Court will be prayed to amend this pleading to insert the same herein when finally ascertained. Plaintiff are informed, believes and thereupon alleges that each of the fictitiously named Defendants is an entity, which during the relevant time period maintained a place of business in the County of Los Angeles of the State of California.

¹ <https://phoenixtransportationsf.com> (accessed March 19, 2024).

5. Plaintiff are informed and believes and thereon alleges that, at all times herein mentioned, Defendants, and each of them, were the agents, servants, employees, and/or joint ventures of their co-Defendants as aforesaid, when acting as a principal, were negligent and reckless in the selection and hiring of each and every other Defendants as an agent, servant, employee, corporate officer, and/or joint venture, and that each and every Defendant ratified the acts of the co-Defendants.

6. Venue as to Defendants is proper in this judicial district, pursuant to California Business & Professions Code section 17203 and California Code of Civil Procedure sections 395(a) and 395.5. Defendants maintain an office, transact business, have an agent, or are found in the County of Los Angeles.

7. Emergency Rule 9 as promulgated by the Judicial Council of California on insert date, provides: “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 1, 2020.” The Advisory Committee Comment notes that: “Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of a civil nature”) . . . The rule also applies to statutes of limitations on filing of causes of action in court found in codes other than the Code of Civil Procedure.”

GENERAL ALLEGATIONS

8. This is a class action and PAGA civil action seeking unpaid wages, continuing wages, penalties, damages, and attorneys' fees and costs, including such reasonable reimbursement of fees and costs as may be required by Section 218.5 of the California Labor Code. Further, Plaintiff suffered retaliation and wrongful termination for his resistance to the illegal payroll and discriminatory activities of his employers.

9. Plaintiff was employed by Defendant during the Class Period as a driver, when he was wrongfully terminated.

10. At all relevant times mentioned herein, Wage Order 9 of the California Industrial Welfare Commission applied to Plaintiff and others.

11. In part, Wage Order 9 reflects employer obligations regarding hours and days of work, reporting time pay, records, meal periods and rest periods (obligations which the employer, here, failed to fulfill, both with respect to Plaintiff and others). The Wage Order provides, in relevant part:

3. Hours and Days of Work.

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 1 / 2) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 1 / 2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek; and

(b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

...

7. Records.

(A) Every employer shall keep accurate information with respect to each employee including the following:

(1) Full name, home address, occupation and social security number.

1 (2) Birth date, if under 18 years, and designation as a minor.

2 (3) Time records showing when the employee begins and ends each work period. Meal
3 periods, split shift intervals and total daily hours worked shall also be recorded. Meal
4 periods during which operations cease and authorized rest periods need not be recorded.

5 (4) Total wages paid each payroll period, including value of board, lodging, or other
6 compensation actually furnished to the employee.

7 (5) Total hours worked in the payroll period and applicable rates of pay. This information
8 shall be made readily available to the employee upon reasonable request.

9 (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of
10 the incentive plan formula shall be provided to employees. An accurate Production record
11 shall be maintained by the employer.

12 (B) Every employer shall semimonthly or at the time of each payment of wages furnish
13 each employee, either as a detachable part of the check, draft, or voucher paying the
14 employee's wages, or separately, an itemized statement in writing showing: (1) all
15 deductions; (2) the inclusive dates of the period for which the employee is paid; (3) the
16 name of the employee or the employee's social security number; and (4) the name of the
17 employer, provided all deductions made on written orders of the employee may be
18 aggregated and shown as one item.

19 (C) All required records shall be in the English language and in ink or other indelible
20 form, properly dated, showing month, day and year, and shall be kept on file by the
21 employer for at least three years at the place of employment or at a central location within
22 the State of California. An employee's records shall be available for inspection by the
23 employee upon reasonable request.

24 . . .

25 **11. Meal Periods.**

26 (A) No employer shall employ any person for a work period of more than five (5) hours
27 without a meal period of not less than 30 minutes, except that when a work period of not
28

1 more than six (6) hours will complete the day's work the meal period may be waived by
2 mutual consent of the employer and the employee.

3 (B) An employer may not employ an employee for a work period of more than ten (10)
4 hours per day without providing the employee with a second meal period of not less than
5 30 minutes, except that if the total hours worked is no more than 12 hours, the second
6 meal period may be waived by mutual consent of the employer and the employee only if
7 the first meal period was not waived.

8 (C) Unless the employee is relieved of all duty during a 30 minute meal period, the meal
9 period shall be considered an —on duty meal period and counted as time worked. An “on
10 duty” meal period shall be permitted only when the nature of the work prevents an
11 employee from being relieved of all duty and when by written agreement between the
12 parties an on-the-job paid meal period is agreed to. The written agreement shall state that
13 the employee may, in writing, revoke the agreement at any time.

14 (D) If an employer fails to provide an employee a meal period in accordance with the
15 applicable provisions of this order, the employer shall pay the employee one (1) hour of
16 pay at the employee's regular rate of compensation for each workday that the meal period
17 is not provided.

18 (E) In all places of employment where employees are required to eat on the premises, a
19 suitable place for that purpose shall be designated.

20 (F) The section shall not apply to any public transit bus driver covered by a valid
21 collective bargaining agreement if the agreement expressly provides for meal periods for
22 those employees, final and binding arbitration of disputes concerning application of its
23 meal period provisions, premium wage rates for all overtime hours worked, and regular
24 hourly rate of pay of not less than 30 percent more than the State minimum wage rate.

25 **12. Rest Periods.**

26 (A) Every employer shall authorize and permit all employees to take rest periods, which
27 insofar as practicable shall be in the middle of each work period. The authorized rest
28 period time shall be based on the total hours worked daily at the rate of ten (10) minutes

1 net rest time per four (4) hours or major fraction thereof. However, a rest period need not
2 be authorized for employees whose total daily work time is less than three and one-half
3 (3.5) hours. Authorized rest period time shall be counted as hours worked for which there
4 shall be no deduction from wages.

5 (B) If an employer fails to provide an employee a rest period in accordance with the
6 applicable provisions of this Order, the employer shall pay the employee one (1) hour of
7 pay at the employee's regular rate of compensation for each work day that the rest period
8 is not provided.

9 (C) This section shall not apply to any public transit bus driver covered by a valid
10 collective bargaining agreement if the agreement expressly provides for rest periods for
11 those employees, final and binding arbitration of disputes concerning application of its
12 rest period provisions, premium wage rates for all overtime hours worked, and regular
13 hourly rate of pay of not less than 30 percent more than the State minimum wage rate.

14 12. At all relevant times mentioned herein, section 201 of the California Labor Code
15 provided that "wages earned and unpaid at the time of discharge are due and payable immediately."
16 Cal. Lab. Code § 201. Similarly, section 202 of the California Labor Code provided:

17 If an employee not having a written contract for a definite period quits his or her
18 employment, his or her wages shall become due and payable not later than 72 hours
19 thereafter, unless the employee has given 72 hours previous notice of his or her intention
20 to quit, in which case the employee is entitled to his or her wages at the time of quitting.

21 Id. § 202(a).

22 13. Defendants did not compensate Plaintiff and others as required by sections 201 and/or
23 202 of the California Labor Code, as the "final" paycheck Plaintiff received did not fully compensate
24 Plaintiffs, as Defendants failed to pay all wages due to Plaintiff for hours worked.

25 14. At all times relevant herein, section 204 of the California Labor Code provided in part:
26 All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned
27 by any person in any employment are due and payable twice during each calendar month,
28 on days designated in advance by the employer as the regular paydays. Labor performed

1 between the 1st and 15th days, inclusive, of any calendar month shall be paid for between
2 the 16th and the 26th day of the month during which the labor was performed, and labor
3 performed between the 16th and the last day, inclusive, of any calendar month, shall be
4 paid for between the 1st and 10th day of the following month.

5 Cal. Lab. Code § 204.

6 15. In no event should Plaintiff or others have been paid later than the time periods
7 established by sections 201 or 204 of the California Labor Code, but certain payments to Plaintiff and
8 others were tardy, which leads to penalties under section 203 of the California Labor Code. Further, the
9 Defendants' policy has been to devote insufficient manpower and other resources to the payroll
10 accounting function, with the inevitable result that drivers are routinely paid in tardy fashion, in
11 violation of sections 203 and 204 of the California Labor Code.

12 16. At all relevant times mentioned herein, section 203 of the California Labor Code
13 provided:

14 If an employer willfully fails to pay, without abatement or reduction, in accordance with
15 Sections 201, 201.5, 202 and 202.5, any wages of an employee who is discharged or who
16 quits, the wages of the employee shall continue as a penalty from the due date thereof at
17 the same rate until paid or until action therefore is commence; but the wages shall not
18 continue for more than 30 days.

19 Cal. Lab. Code § 203.

20 17. By failing to pay Plaintiff and others all wages when due at termination, Plaintiff and
21 others are entitled to continuing wages pursuant to section 203 of the California Labor Code.

22 18. At all times relevant herein, section 210 of the California Labor Code provided:
23 In addition to, and entirely independent and apart from, any other penalty provided in this
24 article, every person who fails to pay the wages of each employee as provided in Sections
25 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as
26 follows: (a) For any initial violation, one hundred dollars (\$100) for each failure to pay
27 each employee; (b) For each subsequent violation, or any willful or intentional violation,
28 two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the

1 amount unlawfully withheld.

2 Cal. Lab. Code § 210.

3 19. At all relevant times mentioned herein, section 558.1 of the California Labor Code
4 provided:

5 (a) Any employer or other person acting on behalf of an employer, who violates, or
6 causes to be violated, any provision regulating minimum wages or hours and days of
7 work in any order of the Industrial Welfare Commission, or violates, or causes to be
8 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the
9 employer for such violation.

10 (b) For purposes of this section, the term “other person acting on behalf of an employer”
11 is limited to a natural person who is an owner, director, officer, or managing agent of the
12 employer, and the term “managing agent” has the same meaning as in subdivision (b) of
13 Section 3294 of the Civil Code.

14 (c) Nothing in this section shall be construed to limit the definition of employer under existing
15 law.

16 Code § 558.1. Defendants are the joint employers or other persons acting on behalf of an employer who
17 violated, or caused to be violated the relevant sections of the Code referenced herein.

18 20. At all relevant times mentioned herein, section 558 of the California Labor Code
19 provided:

20 Any employer or other person acting on behalf of an employer who violates, or causes to
21 be violated, a section of this chapter or any provision regulating hours and days of work
22 in any order of the Industrial Welfare Commission shall be subject to a civil penalty as
23 follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for
24 each pay period for which the employee was underpaid in addition to an amount
25 sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred
26 dollars (\$100) for each underpaid employee for each pay period for which the employee
27 was underpaid in addition to an amount sufficient to recover underpaid wages. (3)
28 Wages recovered pursuant to this section shall be paid to the affected employee.

1 Cal. Lab. Code § 558. Defendants are the employers or other persons acting on behalf of an employer
2 who violated, or caused to be violated the relevant sections of the California Labor Code referenced
3 herein.

4 21. At all relevant times mentioned herein, section 512 provided:

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

14 Cal. Lab. Code § 512(a).

15 22. At all relevant times mentioned herein, section 226.7 provided:

16 If an employer fails to provide an employee a meal period or rest period in accordance
17 with an applicable order of the Industrial Welfare Commission, the employer shall pay
18 the employee one additional hour of pay at the employee's regular rate of compensation
19 for each work day that the meal or rest period is not provided.

20 Cal. Lab. Code § 226.7(b).

21 23. During their employment with Defendants, Plaintiff and others were not provided ten-
22 minute rest breaks and thirty-minute meal breaks. Neither Plaintiff nor others were provided the
23 required rest and meal breaks.

24 24. At all relevant times mentioned herein, section 226 of the Code provided:

25 (a) Every employer shall, semimonthly or at the time of each payment of wages, furnish
26 each of their or her employees, either as a detachable part of the check, draft, or voucher
27 paying the employee's wages, or separately when wages are paid by personal check or
28 cash, an itemized statement in writing showing (1) gross wages earned, (2) total hours

1 worked by the employee, except for any employee whose compensation is solely based
2 on a salary and who is exempt from payment of overtime under subdivision (a) of Section
3 515 or any applicable order of the Industrial Welfare Commission, (3) the number of
4 piece rate units earned and any applicable piece rate if the employee is paid on a piece-
5 rate basis, (4) all deductions, provided, that all deductions made on written orders of the
6 employee may be aggregated and shown as one item, (5) net wages earned, (6) the
7 inclusive dates of the period for which the employee is paid, (7) the name of the
8 employee and their or her social security number, except that by January 1, 2008, only
9 the last four digits of their or her social security number or an employee identification
10 number other than a social security number may be shown on the itemized statement, (8)
11 the name and address of the legal entity that is the employer, and (9) all applicable hourly
12 rates in effect during the pay period and the corresponding number of hours worked at
13 each hourly rate by the employee. The deductions made from payments of wages shall
14 be recorded in ink or other indelible form, properly dated, showing the month, day, and
15 year, and a copy of the statement or a record of the deductions shall be kept on file by the
16 employer for at least three years at the place of employment or at a central location within
17 the State of California.

18

19 (e) An employee suffering injury as a result of a knowing and intentional failure by an
20 employer to comply with subdivision (a) is entitled to recover the greater of all actual
21 damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and
22 one hundred dollars (\$100) per employee for each violation in a subsequent pay period,
23 not exceeding an aggregate penalty of four thousand dollars (\$4,000), and is entitled to an
24 award of costs and reasonable attorney's fees.

25

26 (g) An employee may also bring an action for injunctive relief to ensure compliance with
27 this section, and is entitled to an award of costs and reasonable attorney's fees.
28

1 Code § 226. Defendants employed Plaintiff and others as truck drivers, but, in all cases, Defendants
2 failed to provide them with the data required by section 226(a) of the Code. For example, PHOENIX
3 did not specifically identify itself as the employer. All of the foregoing was intentional misconduct of
4 Defendants that injured Plaintiff and others insofar as they were subjected to confusion and deprived of
5 information to which they were legally entitled.

6 25. At all relevant times mentioned herein, section 510 of the California Labor Code
7 provided:

8 Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one
9 workday and any work in excess of 40 hours in any one workweek and the first eight
10 hours worked on the seventh day of work in any one workweek shall be compensated at
11 the rate of at least one and one-half times the regular rate of pay for an employee. Any
12 work in excess of 12 hours in one day shall be compensated at the rate of no less than
13 twice the regular rate of pay for an employee. In addition, any work in excess of eight
14 hours on any seventh day of a workweek shall be compensated at the rate of no less than
15 twice the regular rate of pay of an employee. Nothing in this section requires an
16 employer to combine more than one rate of overtime compensation in order to calculate
17 the amount to be paid to an employee for any hour of overtime work. The requirements
18 of this section do not apply to the payment of overtime compensation to an employee
19 working pursuant to any of the following: (1) An alternative workweek schedule adopted
20 pursuant to Section 511. (2) An alternative workweek schedule adopted pursuant to a
21 collective bargaining agreement pursuant to Section 514.

22 Id. § 510(a).

23 26. In regard to the employment of Plaintiffs, the provisions of subparagraphs (1) and (2) of
24 section 510 of the California Labor Code were inapplicable in that no alternative workweek schedule
25 had been adopted pursuant to section 511 and Plaintiffs' employment was not governed by any
26 collective bargaining agreement.

27 27. At all relevant times mentioned herein, section 1194 of the California Labor Code
28 provided:

1 Notwithstanding any agreement to work for a lesser wage, any employee receiving less
2 than the legal minimum wage or the legal overtime compensation applicable to the
3 employee is entitled to recover in a civil action the unpaid balance of the full amount of
4 this . . . overtime compensation, including interest thereon, reasonable attorney's fees,
5 and costs of suit.

6 Id. § 1194.

7 28. At all relevant times mentioned herein, section 1194.2 of the California Labor Code
8 provided that, "[i]n any action under . . . Section 1194 to recover wages because of the payment of a
9 wage less than the minimum wage fixed by an order of the commission or by statute, an employee shall
10 be entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and
11 interest thereon." Id. § 1194.2.

12 29. Section 1197.1 (a) of the California Labor Code provides:

13 Any employer or other person acting either individually or as an officer, agent, or
14 employee of another person, who pays or causes to be paid to any employee a wage less
15 than the minimum fixed by an order of the commission shall be subject to a civil penalty
16 as follows:

17 (1) For any initial violation that is intentionally committed, one hundred dollars (\$100)
18 for each underpaid employee for each pay period for which the employee is underpaid.

19 (2) For each subsequent violation for the same specific offense, two hundred fifty dollars
20 (\$250) for each underpaid employee for each pay period for which the employee is
21 underpaid regardless of whether the initial violation is intentionally committed.

22 Cal. Lab. Code § 1197.1.

23 30. At all relevant times herein, California Labor Code section 2802 provided, in relevant
24 part:

25 (a) An employer shall indemnify his or her employee for all necessary expenditures or
26 losses incurred by the employee in direct consequence of the discharge of his or duties . .
27 . .

28 (b) All awards made by a court . . . for reimbursement of necessary expenditures under

1 this section shall carry interest at the same rate as judgments in civil actions. Interest
2 shall accrue from the date on which the employee incurred the necessary expenditure or
3 loss.

4 (c) For purposes of this section, the term “necessary expenditures or losses” shall include
5 all reasonable costs, including, but not limited to, attorney’s fees incurred by the
6 employee enforcing rights granted by this section.

7 Cal. Lab. Code § 2802.

8 **CLASS-ACTION ALLEGATIONS**

9 31. Plaintiff brings this action on behalf of himself and all others similarly situated as a class
10 action pursuant to section 382 of the Code of Civil Procedure. Plaintiff seeks to represent a “203 Class”
11 composed of and defined as follows:

12 For the period from three years and 178 days prior to filing of the complaint to date, all persons
13 paid wages on account of services provided for Defendants (such persons are referred to
14 hereafter as “203 Class Members,” and such period is referred to hereafter as the “203 Class
15 Period”) which wages were paid de hors the time requirements of sections 201, 203, and/or 204
16 of the California Labor Code.

17 Plaintiff seeks to represent a “226 Class” composed of and defined as follows:

18 For the period from one year and 178 days prior to filing of the complaint to date, all persons
19 who were issued a wage statement on account of services provided for Defendants (such persons
20 are referred to hereafter as “226 Class Members,” and such period is referred to hereafter as the
21 “226 Class Period”).

22 Plaintiff seeks to represent a “Meal Break Class” composed of and defined as follows:

23 For the period from three years and 178 days prior to filing of the complaint to date, all persons
24 employed by Defendants in hourly or non-exempt positions in California who worked in a shift
25 in excess of five hours (such persons are referred to hereafter as “Meal Break Class Members,”
26 and such period is referred to hereafter as the “Meal Break Class Period”).

27 Plaintiff seeks to represent a “Rest Break Class” composed of and defined as follows:

28 For the period from three years and 178 days prior to filing of the complaint to date, all persons

1 employed by Defendants in hourly or non-exempt positions in California who worked a shift at
2 least three and one-half (3.5) hours (such persons are referred to hereafter as “Rest Break Class
3 Members,” and such period is referred to hereafter as the “Rest Break Class Period”).

4 **A. Numerosity**

5 32. The potential members of each Class as defined are so numerous that joinder of all the
6 members of either Class is impracticable. The number of Class Members is great, but not so great as to
7 make the class unmanageable. It therefore is impractical to join each Class Member as a named
8 plaintiff. Accordingly, utilization of a class action is the most economically feasible means of
9 determining the merits of this litigation.

10 33. Despite the size of the proposed Classes, the Class Members are readily ascertainable
11 through an examination of the records that Defendants are required by law to keep. Likewise, the dollar
12 amount owed to each Class Member is readily ascertainable by an examination of those same records.

13 **B. Commonality**

14 34. There are questions of law and fact common to each Class that predominate over any
15 questions affecting only individual Class Members. These common questions of law and fact include,
16 without limitation:

- 17 a. Whether Defendants failed to pay all wages in a timely fashion in violation of sections
18 201, 203 and/or 204 of the Code.
- 19 b. Whether Defendants’ failure to provide accurate itemized wage statements to each and
20 every employee violates section 226.
- 21 c. Whether Defendants failed to compensate class members when they have not been
22 provided with required meal breaks in violation of sections 226.7, and 512 of the Code.
- 23 d. Whether Defendants failed to compensate class members when they have not been
24 provided with required rest breaks in violation of section 226.7 of the Code.

25 **C. Typicality**

26 35. There is a well-defined community of interest in the questions of law and fact common to
27 the Class Members.

28 36. The claims of the named Plaintiff are typical of the claims of each Class, which claims all

1 arise from the same general operative facts, namely, Defendants did not compensate its employees as
2 required by the Code and applicable Wage Order. Plaintiff and all members of the Classes sustained
3 injuries and damages arising out of and caused by Defendants in violation of laws, regulations that have
4 the force and effect of law, and statutes as alleged herein. Plaintiff has no conflict of interest with the
5 other Class Members and are able to represent the Class Members' interests fairly and adequately.

6 **D. Adequacy of Representation**

7 37. Plaintiff will fairly and adequately represent and protect the interests of the members of
8 each Class. Counsel who represent Plaintiff are competent and experienced in litigation large
9 employment class actions. Neither Plaintiff nor his counsel have any conflict with either Class.

10 **E. Superiority of Class Action**

11 38. A class action is superior to other available means for the fair and efficient adjudication
12 of this controversy. Individual joinder of all Class Members is not practicable, and questions of law and
13 fact common to the Class predominate over any questions affecting only individual members of the
14 Class. Each member of the Class has been damaged and is entitled to recovery by reason of Defendants'
15 illegal policy and/or practice of failing to pay hourly wages, failing to pay overtime wages, failing to
16 provide Class Members rest and meal periods without legal compensation. Class action treatment will
17 allow those similarly situated persons to litigate their claims in the manner that is most efficient and
18 economical for the parties and the judicial system. Plaintiff is unaware of any difficulties that are likely
19 to be construed in the management of this action that would preclude its maintenance as a class action.
20 The disposition of all claims of the members of the Class in a class action, rather than in individual
21 actions, benefits the parties and the Court. The interest of the Class Members in controlling the
22 prosecution of separate claims against Defendants is small when compared with the efficiency of a class
23 action.

24 **FIRST CAUSE OF ACTION**

25 (Continuing Wages, California Labor Code § 201, 203, 204
26 On Behalf of Plaintiff and 203 Class Against All Defendants)

27 39. Plaintiff realleges and incorporate herein by reference the allegations contained in this
28 Complaint as though fully set forth herein.

40. Defendants employed Plaintiff as truck drivers, but neither Plaintiff nor others were

1 compensated properly for their services.

2 41. Defendants' failure to compensate Plaintiff or other class members within the time for
3 which provision is made by section 201 or 204 of the California Labor Code, despite their knowledge of
4 their obligation to do so, was and is "willful" as the word is used in section 203.

5 42. Pursuant to section 203 of the California Labor code, Plaintiff are entitled to continuing
6 wages from Defendants in an amount according to proof, no less than \$50,000. Plaintiff is also entitled
7 to recover costs and reasonable attorneys' fees under section 218.5 of the California Labor Code.

8 **SECOND CAUSE OF ACTION**

9 (Failure to Provide Meal Breaks, Cal. Lab. Code §§ 226.7 and 512 and Wage Order
10 On Behalf of Plaintiff and Meal Break Class Against Defendants)

11 43. Plaintiff incorporate by reference each and every allegation set forth in this Complaint as
12 though fully set forth herein.

13 44. At all times herein relevant, sections 226.7 and 512 of the California Labor Code and
14 IWC Wage Order 9 provided that that employees must receive meal periods of not less than thirty
15 minutes if an employee works for a period of more than five hours and a second thirty minute meal
16 period after no less than six hours after the termination of the preceding meal period. By its failure to
17 provide minimum statutory meal periods to Plaintiff and class members, Defendant willfully violated the
18 provisions of Labor Code sections 226.7 and 512, and IWC Wage Order 9.

19 45. Because Defendants failed to properly provide the proper meal periods, it is liable to
20 Plaintiff for one hour of additional pay at the regular rate of compensation for each workday that the
21 proper meal periods were not provided.

22 46. As a result of the unlawful acts of Defendant, Plaintiff and class members have been
23 deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
24 entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and costs. Plaintiff are
25 entitled to at least \$6,700, not including interest thereon, reasonable attorneys' fees and cost of suit.

26 **THIRD CAUSE OF ACTION**

27 (Failure to Provide Rest Breaks, Cal. Lab. Code § 226.7 and IWC Wage Order)
28 On Behalf of Plaintiff and Rest Break Class Against Defendants)

47. Plaintiff incorporate by reference each and every allegation set forth in this Complaint as

1 though fully set forth herein.

2 48. At all times herein relevant, sections 226.7 of the California Labor Code and IWC Wage
3 Order 9 provided that employees must receive rest periods of at the rate of ten (10) minutes net rest time
4 per four (4) hours or major fraction thereof.

5 49. By its failure to provide required breaks to Plaintiff and class members, Defendant
6 willfully violated the provisions of Labor Code sections 226.7 and IWC Wage Order 9.

7 50. Because Defendant failed to properly provide the proper rest breaks, it is liable to
8 Plaintiff and class members for one hour of additional pay at the regular rate of compensation for each
9 workday that the proper rest breaks were not provided, pursuant to Labor Code section 226.7 and IWC
10 Wage Order 9.

11 51. As a result of the unlawful acts of Defendant, Plaintiff and class members have been
12 deprived of premium wages, and/or other compensation in amounts to be determined at trial, and are
13 entitled to recovery of such amounts, plus interest thereon, attorneys' fees, and costs. Plaintiff are
14 entitled to at least \$13,400, not including interest thereon, reasonable attorneys' fees and cost of suit.

15 **FOURTH CAUSE OF ACTION**

16 (Failure to Provide Information on Pay Stubs, California Labor Code § 226(a)
17 On Behalf of Plaintiff and 226 Class Against All Defendants)

18 52. Plaintiff realleges and incorporate herein by reference the allegations contained in this
19 Complaint as though fully set forth herein.

20 53. Defendants failed to timely provide Plaintiff and other class members with wage
21 statements conforming to the requirements of section 226(a) of the California Labor Code. Defendants
22 employed Plaintiff and others as truck drivers, but, in all cases, Defendants failed to provide them with
23 the data required by section 226(a) of the Code. For example, PHOENIX did not specifically identify
24 itself as the employer or provide all the proper hourly rates. All of the foregoing was intentional
25 misconduct of Defendants that injured Plaintiff and others insofar as they were subjected to confusion
26 and deprived of information to which they were legally entitled.

27 54. Accordingly, Plaintiff and members of the 226 Class are entitled to damages in an
28 amount according to proof and costs and reasonable attorney's fees in accordance with the provisions of

1 California Labor Code section 226(e), all in an amount of at least \$50, in total at least \$125,000.

2 **FIFTH CAUSE OF ACTION**

3 (Damages for Unpaid Minimum Wages and Overtime Compensation,
4 California Labor Code §§ 510 and 1194
5 On Behalf of Plaintiff Against All Defendants)

6 55. Plaintiff realleges and incorporate herein by reference the allegations contained in this
7 Complaint as though fully set forth herein.

8 56. During their employment by Defendants, Plaintiffs, as well as other employees, worked
9 many hours, including overtime, without compensation for work performed, as required by law.

10 57. Plaintiff and other employees are entitled to recover liquidated damages under section
11 1194.2 of the California Labor Code in an amount according to proof. Plaintiff are also entitled to
12 recover costs and reasonable attorneys' fees under section 1194 of the California Labor Code, damages
13 in excess of \$1,000.

14 **SIXTH CAUSE OF ACTION**

15 (Failure to Reimburse Necessary Expenses, Cal. Lab. Code §2802
16 On Behalf of Plaintiff Against Defendants)

17 58. Plaintiff realleges and incorporate herein by reference the allegations contained in this
18 Complaint as though fully set forth herein.

19 59. Plaintiff were required to be reimbursed for necessary expenses, and the failure of
20 Defendant to indemnify Plaintiff for necessary expenditures violates section 2802 of the California
21 Labor Code.

22 60. Accordingly, Plaintiff are entitled to damages in an amount according to proof and costs
23 and reasonable attorney's fees in accordance California Labor Code section 2802(c). Plaintiff is entitled
24 to at least \$1,400, not including interest thereon, reasonable attorneys' fees and cost of suit.

25 **SEVENTH CAUSE OF ACTION**

26 (Unfair Business Practices On Behalf of Plaintiff Against All Defendants)

27 61. Plaintiff realleges and incorporate herein by reference the allegations contained in this
28 Complaint as though fully set forth herein.

62. Business and Professions Code section 17200 et seq. prohibits acts of unfair competition,
including any "unlawful, unfair, or fraudulent business act or practice." Cal. Bus. & Prof. Code

1 § 17200. Plaintiff allege that Defendants have engaged in unfair business practices in California by the
2 above-described failure to pay all accrued minimum wages and overtime in timely fashion to Plaintiff
3 and other employees.

4 63. Defendants' violations of the California wage and hour laws constitute a business
5 practice because Defendants' aforementioned acts and omissions were done repeatedly over a significant
6 period of time, and in a systematic manner, to the detriment of Plaintiff and other employees.

7 64. Defendants have avoided payment of wages and overtime wages required by the
8 California Labor Code, the California Code of Regulations, and the applicable IWC Wage Order.

9 65. As a result of Defendants' unfair and unlawful business practices, under which
10 Defendants operated with insufficient budgets for the payroll accounting function, Defendants have
11 reaped unfair and illegal profits during the relevant time period herein at the expense of Plaintiff and
12 others and members of the public. Defendants should be made to disgorge their ill-gotten gains and to
13 restore them to Plaintiff and other persons.

14 66. Defendants' actions entitle Plaintiff to seek the remedies available under section 17200
15 et seq. Plaintiff seeks full restitution of said amounts from Defendants, as necessary and according to
16 proof, to restore any and all amounts—including interest—withheld, acquired, or converted by
17 Defendants by means of the unfair practices complained of herein. Plaintiffs, on behalf of himself, as
18 well as on behalf of the general public, further seeks attorney's fees and costs pursuant to sections 218.5
19 of the Labor Code and 1021.5 of the Code of Civil Procedure. In addition, Plaintiff seeks the
20 appointment of a receiver as necessary.

21 **EIGHTH CAUSE OF ACTION**

22 (Failure to Provide Employment Records Upon Request Cal. Lab. Code §226(b)
23 On Behalf of Plaintiff Only Against Defendants)

24 67. Plaintiff realleges and incorporate herein by reference the allegations contained in this
25 Complaint as though fully set forth herein.

26 68. Pursuant to Labor Code section 226(b), an employer shall afford current and former
27 employees the right to inspect or copy the records pertaining to that current or former employee, upon
28 reasonable request to the employer.

1 representative action against Defendants to recover the civil penalties due to Plaintiff, other similarly
2 aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699 (a)
3 and (f) including, but not limited to (1) \$50.00 for each initial violation and \$100 for each subsequent
4 violation of Labor Code § 558 per employee per pay period, plus an amount sufficient to recover the
5 unpaid wages and; (2) \$100.00 for each initial violation and \$200 for each subsequent violation per
6 employee per pay period for the following Labor Code violations.

7 77. Plaintiff is “aggrieved employees” under PAGA, as they was employed by Defendant
8 during the applicable statutory period and suffered one or more of the Labor Code Violations set forth
9 herein. Accordingly, they seek to recover on behalf of himself and all other current and former
10 Aggrieved Employees of Defendant, the civil penalties for which provision is made by PAGA, as well
11 as reasonable attorney’s fees and costs.

12 78. Pursuant to section 2699.3(a)(1) of the Labor Code, by certified mail posted on October
13 17, 2023, and then again with an amended letter on or about January 3, 2024, Plaintiff gave written
14 notice to the California Labor and Workforce Development Agency (“LWDA”) of the specific
15 provisions of the Labor Code alleged to have been violated by Defendant, including the theories set
16 forth in this Complaint. Also on that day, Plaintiff gave written notice by certified mail to Defendant of
17 the specific provisions of the Labor Code allegedly violated by Defendant.

18 79. Therefore, after the appropriate passage of time, Plaintiff “may as a matter of right amend
19 [the] existing [C]omplaint to add a cause of action arising under [the Labor Code Private Attorney
20 General Act (“LCPAGA”)].” Cal. Lab. Code § 2699.3(a)(2)(C). PAGA establishes civil penalties for
21 violations of the Labor Code, including the violations alleged in this Complaint.

22 80. Plaintiff notified Defendant and the California Labor and Workforce Development
23 Agency (“LWDA”) via e-mail of Defendants’ violations of the California Labor Code and Plaintiff’s
24 intent to bring a claim for civil penalties under California Labor Code § 2698 et seq. with respect to
25 violations of the California Labor Code identified in Paragraph 20 (e)-(f). Now that sixty-five days have
26 passed from Plaintiff notifying Defendants of these violations, Plaintiff has exhausted his administrative
27 requirements for bringing a claim under the Private Attorneys General Act with respect to these
28 violations.

1 81. Plaintiff seek to recover the PAGA civil penalties through a representative action
2 permitted by PAGA and the California Supreme Court in Arias v. Superior Court, 46 Cal.4th 969
3 (2009). Therefore, class certification of the PAGA claims is not required.

4 82. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
5 Code provisions, which are set forth in more detail below:

6 a. failure to pay overtime wages to Aggrieved Employees in violation of Wage Order No.
7 16 and Labor Code §§ 510, 558, 1194 and 1198;

8 b. failure to pay minimum wages to Aggrieved Employees in violation of Wage Order No.
9 16 and Labor Code §§1182.12, 1194, and 1197;

10 c. failure to provide the Aggrieved Employees with proper meal and rest periods in
11 violation of Wage Order No. 16 and Labor Code § 226.7;

12 d. failure to provide itemized wage statements to Aggrieved Employees in violation of
13 Labor Code §§ 226(a), 1174, and 1174.5;

14 e. failure to reimburse the Aggrieved Employees for purchase of protective footwear under
15 Labor Code § 2802;

16 f. failure to provide prompt payment of wages upon termination and/or resignation of
17 Aggrieved Employees in violation of Labor Code §§ 201.3, 201, 202, 203;

18 g. failure to keep required payroll records in violation of Wage Order No. 16 and Labor
19 Code §§ 1174 and 1174.5;

20 h. failure to promptly pay owed wages in violation of Labor Code §§ 201.3, 204.

21 83. With respect to violations of Labor Code §§ 510, 512, Labor Code § 558 imposes a civil
22 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations for
23 each underpaid employee for each pay period for which the employee was underpaid in addition to an
24 amount sufficient to recover unpaid wages, and one hundred dollars (\$100) for subsequent violations for
25 each underpaid employee for each pay period for which the employee was underpaid in addition to an
26 amount sufficient to recover underpaid wages. Moreover, Plaintiff seeks civil penalties in the amount of
27 unpaid wages owed to Aggrieved Employees pursuant to Labor Code § 558(a)(3).

28 84. With respect to violations of Labor Code § 226(a), Labor Code § 226.3 imposes a civil

1 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
2 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved employee
3 for each subsequent violation of Labor Code § 226(a).

4 85. With respect to violations of Labor Code § 204, Labor Code § 210 imposes a civil
5 penalty of \$100, and for subsequent violations \$200.

6 86. With respect to violations of Labor Code § 1174, Labor Code § 1174.5 imposes a civil
7 penalty of \$500.

8 87. Plaintiff seeks to recover civil penalties pursuant to PAGA for violations of the following
9 Labor Code provisions:

10 **1. Failure to provide payroll records in violation of Code § 226(b).**

11 Employers must afford current and former employees the right to inspect or copy the records
12 pertaining to that current or former employee, upon reasonable request to the employer. Aggrieved
13 Employees have requested but have not been provided with an opportunity to inspect or copy all payroll
14 records within 21 days of request. Upon information and belief, many Aggrieved Employees have
15 requested their payroll records but have not been given access to them pursuant to section 226(b). Code
16 § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for initial
17 violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all Code
18 provisions for which a civil penalty is not specifically provided.

15 **2. Failure to personnel records in violation of Code § 1198.5.**

16 Employers must afford current and former employees the right to inspect or copy the personnel
17 records pertaining to that current or former employee, upon reasonable request to the employer.
18 Aggrieved Employees have requested have not been provided with an opportunity to inspect or copy all
19 personnel records within 30 days of request. Upon information and belief, many Aggrieved Employees
20 have requested their personnel records but have not been given access to them pursuant to section
21 1198.5. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for
22 initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
23 Code provisions for which a civil penalty is not specifically provided.

20 **3. Failure to provide records in violation of Code § 432.**

21 Employers are required to give a copy of any instrument relating to the obtaining or holding of
22 employment, if signed by an employee, upon request. Plaintiffs have requested such documents but
23 have not received them. Upon information and belief, other Aggrieved Employees have requested their
24 signed documents but have not been provided a copy. Code § 2699(f)(2) imposes a civil penalty of \$100
25 per pay period per Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved
26 Employee for subsequent violations for all Code provisions for which a civil penalty is not specifically
27 provided.

25 **4. Failure to timely pay wages during employment in violation of Code §§ 204 and 210.**

26 Aggrieved Employees were not compensated during their employment by the times prescribed
27 by section 204 due to the failure to allocate sufficient resources to the payroll function. The failure of
28 Defendants to make timely payments within the time provided for has been and is “willful” within the
meaning of such word as used in Section 210 of the Code.

Defendants failed to pay Plaintiffs and Aggrieved Employees all wages for a weekly payroll
period within 7 calendar days following the close of the payroll period in violation of Code §§ 204(d)
and 210. Plaintiffs and Aggrieved Employees were paid after the 7th day following the close of the

1 payroll period in violation of these statutes.

2 Accordingly, each Aggrieved Employee who was not timely paid his or her timely wages during
3 their employment is entitled to civil penalties. Code section 210 provides for a penalty of \$100 for each
4 initial violation and \$200 for each subsequent, or willful or intentional violation plus 25 percent of the
5 amount unlawfully withheld.

6
7
8 **5. Failure to pay wages and/or final wages in violation of Code §§ 201.3, 201.5 and 203.**

9 With respect to violations of Code §§ 201.3 and 201.5, the failure of Defendants to make final
10 payments within the time provided for has been and is “willful” within the meaning of such word as
11 used in Section 203 of the Code. Code section 203 provides that if “an employer willfully fails to
12 pay...any wages of an employee who is discharged or who quits, the wages of the employee shall
13 continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is
14 commenced; but the wages shall not continue for more than 30 days.”

15 Here, Plaintiffs and Aggrieved Employees were not timely paid all doubletime wages due upon
16 their separation from Defendants’ employ. As such, Defendants failed to pay Plaintiffs and Aggrieved
17 Employees all wages due as provided by §§ 201.3 and 201.5, and have failed to pay those sums for
18 thirty (30) days thereafter in violation of Code § 203.

19 Accordingly, each Aggrieved Employee who was not timely paid his or her final wages is
20 entitled to civil penalties. Code § 2699(f)(2) imposes a civil penalty of \$100 per pay period per
21 Aggrieved Employee for initial violations, and \$200 per pay period per Aggrieved Employee for
22 subsequent violations for all Code provisions for which a civil penalty is not specifically provided.

23
24 **6. Failure to provide itemized wage statements in violation of Code § 226(a).**

25 Aggrieved Employees have not been provided a wage statement as required by Code section
26 226(a). The foregoing was the intentional misconduct of Defendants that was intended to mislead and
27 injure Aggrieved Employees insofar as they were subjected to confusion and deprived of information to
28 which they were legally entitled.

- a. The wage statements failed to include, among other required information, the “name and address
of the legal entity that is the employer” as it
 - does not reflect the full legal name of the employer
 - misstates that the employer is only a “Client”
- b. The wage statements failed to include, among other required information, “all applicable hourly
rates in effect during the pay period and the corresponding number of hours worked at each
hourly rate by the employee” such as the double time rate.
- c. The wage statements failed to include, among other required information, the “the rate of pay
and the total hours worked for each temporary services assignment”

Section 226(e) provides that any employee who suffers injury as a result of a knowing and
intentional failure by the employer to comply with its obligation to provide wage statements containing
all of the information referenced above is entitled to recover. Section 226.3 provides for a civil penalty
of \$250 per employee per violation in an initial violation and \$1,000 per employee for each violation in
a subsequent violation, for which the employer fails to provide the employee a wage deduction
statement or fails to keep the records required in subdivision (a) of Section 226.

7. Failure to provide sick leave information under Code §§ 245.5 and 246.

Code sections 245.5 and 246(i) provide that “[a]n employer shall provide an employee with
written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer
provides in lieu of sick leave, for use on either the employee’s itemized wage statement described in
Section 226 or in a separate writing provided on the designated pay date with the employee’s payment
of wages.” Here, Defendants have systematically and intentionally failed to set forth the amount of sick
leave available, or paid time off leave an employer provides in lieu of sick leave, on the itemized wage
statements described in Section 226 to Plaintiffs and all Aggrieved Employees.

Code § 248.5(e) provides “equitable relief on behalf of the aggrieved as may be appropriate to
remedy the violation, including reinstatement, backpay, the payment of sick days unlawfully withheld, .

1 . . any person or entity enforcing this article on behalf of the public as provided for under applicable
2 state law shall, upon prevailing, be entitled only to equitable, injunctive, or restitutionary relief, and
reasonable attorney's fees and costs."

3 **8. Failure to furnish information under Code § 2810.5.**

4 Aggrieved Employees were entitled to certain information in writing at the time of hiring
including, among other items, the following:

- 5 a) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary,
piece, commission, or otherwise, including any rates for overtime, as applicable.
- 6 b) The regular payday designated by the employer in accordance with the requirements of this
code.
- 7 c) The name of the employer, including any "doing business as" names used by the employer.
- 8 d) The physical address of the employer's main office or principal place of business, and a
mailing address, if different.
- 9 e) The telephone number of the employer.
- 10 f) The name, address, and telephone number of the employer's workers' compensation
insurance carrier.
- 11 g) That an employee: may accrue and use sick leave; has a right to request and use accrued paid
sick leave; may not be terminated or retaliated against for using or requesting the use of
12 accrued paid sick leave; and has the right to file a complaint against an employer who
retaliates.

13 All Aggrieved Employees were not provided with all of the required information under Section 2810.5.
Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee for
14 initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
Labor Code provisions for which a civil penalty is not specifically provided.

15 **9. Failure to provide proper meal periods under Code § 226.7 and Wage Order § 11.**

16 Aggrieved Employees were not provided with timely meal periods in violation of Code section
226.7 and Applicable Wage Order section 11. For example, Plaintiffs worked over 6 or 12 hours in a
day but were not provided with compliant meal break(s) and were not otherwise compensated.

17 Aggrieved Employees were not permitted to leave the production set for meal periods.

18 Code §§ 226.7, 512 and Section 12 of the Applicable Wage Order require an employer to pay an
additional hour of compensation for each meal period the employer fails to provide. Section 12 requires
that "No employer shall employ any person for a work period of more than six (6) hours without a meal
19 period of not less than thirty (30) minutes, nor more than one (1) hour. Subsequent meal period for all
employees shall be called not later than six (6) hours after the termination of the preceding meal period."
20 Defendants failed to maintain a policy informing all Aggrieved Employees of these rights.

21 Here, Defendants failed to apprise all Aggrieved Employees of their rights associated with meal
periods and failed to provide timely meal periods, often calling for "grace" – a procedure which might
22 provide delay in the commencement of a meal break for certain union members, but not for those like
Plaintiff who were not union members—all with the end result that on such days on which "grace" has
23 been called all non-union crew should be paid an additional hour of compensation. Defendants have had
a consistent policy of: (1) requiring all Aggrieved Employees to take late meal breaks that occurred after
24 the first 6 hours of each shift; (2) required Aggrieved Employees to work shifts over 12 hours without
providing a second meal period of 30 minutes in length; and (3) failed to pay such employees 1 hour of
25 pay at the employees regular rate of compensation for each workday in which a proper meal break was
not provided.

26 Additionally, Defendants maintained a policy of automatically deducting 30 minutes from each
shift that Plaintiffs and the Aggrieved Employees worked. This "auto-deduct" policy was unlawful and
27 did not account for whether the employees took their meal periods, took meal periods late, were
interrupted with work, and/or took meal periods of less than 30 minutes.

28 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all

1 Labor Code provisions for which a civil penalty is not specifically provided.

2 **10. Failure to provide proper rest periods under Code § 226.7 and Wage Order § 12.**

3 All Aggrieved Employees were not provided with timely rest periods in violation of Code
4 section 226.7 and Applicable Wage Order section 12. Aggrieved Employees were not permitted to leave
5 the set of the Production for any purported rest periods. They were required to be available via radio or
6 cell phone at all times. Plaintiffs and Aggrieved Employees were neither informed of nor otherwise
7 provided with compliant rest breaks. Defendants failed to provide all Aggrieved Employees with rest
8 breaks of not less than 10 minutes per 4-hour work period, or major fraction thereof. On a regular and
9 consistent basis, Defendants failed to provide all Aggrieved Employees with a third rest period despite
10 regularly requiring Aggrieved Employees to work over 10 hours. As such, Defendants failed to provide
11 all Aggrieved Employees with compliant rest periods. Further, Plaintiffs and the Aggrieved Employees
12 were not compensated with 1 hour of wages for each missed rest period as required by Code § 226.7.

13 Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
14 for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
15 Code provisions for which a civil penalty is not specifically provided.

16 **11. Failure to reimburse necessary business expenses under Code § 2802.**

17 Aggrieved Employees were not reimbursed for necessary business expenses. Section 2802
18 requires that an employer indemnify his or her employee for all necessary expenditures or losses
19 incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her
20 obedience to the directions of the employer, even though unlawful, unless the employee, at the time of
21 obeying the directions, believed them to be unlawful.

22 Defendants have failed to reimburse Plaintiffs and Aggrieved Employees the cost of using their
23 personal cell phones for business related purposes. Defendants required that Plaintiffs and the Aggrieved
24 Employees be available by cell phone and answer/use their cell phones while working and this was
25 necessary to perform their job duties. These cell phones were not provided by Defendants, and
26 Defendants failed to reimburse Aggrieved Employees for the costs associated with using these personal
27 cell phones. They were also not reimbursed for the provision and use of personal protective equipment
28 and traffic management equipment and supplies necessary to perform their job duties.

Code section 2699(f)(2) imposes a civil penalty of \$100 per pay period per Aggrieved Employee
for initial violations, and \$200 per pay period per Aggrieved Employee for subsequent violations for all
Labor Code provisions for which a civil penalty is not specifically provided.

**12. Failure to pay minimum and overtime wages in violation of Code §§ 510, 515, 558, 1194,
and 1198.**

Both late payment and non-payment of minimum wages violate the state statute requiring the
payment of a minimum hourly wage. The Labor Code requires an employer to compensate its
employees at the minimum wage rate for all hours worked and at a 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.

Here, Plaintiffs and other Aggrieved Employees were not paid at the proper corresponding rate
for all hours worked, including overtime as Plaintiffs were not paid the correct double time rate.

Code § 558 imposes a civil penalty in addition to any other penalty provided by law of \$50 for
initial violations for each underpaid employee for each pay period for which the employee was
underpaid in addition to an amount sufficient to recover unpaid wages, and \$100 for subsequent
violations for each underpaid employee for each pay period for which the employee was underpaid in
addition to an amount sufficient to recover underpaid wages.

13. Failure to keep complete and accurate payroll records.

Defendants failed to keep complete and accurate payroll records relating to Aggrieved
Employees in accordance with Code section 1174(d). Willful failure to maintain accurate and complete
records required by section 1174(d) is subject to a civil penalty of \$500. Cal. Lab. Code § 1174.5.

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14. **Personal Liability of Defendant to be named under Code § 558.**

Defendant was an employer and/or “other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission” as he controlled the payment of wages. Under Code § 558, Defendant is responsible for the civil penalties for violation of minimum wages, overtime wages, meal and rest breaks, and reporting time pay.

Aggrieved Employees are entitled to recover as follows:

(1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages.

(3) Wages recovered pursuant to this section shall be paid to the affected employee.
Cal. Lab. Code § 558(a).

15. **Personal Liability of Defendant to be named under Code § 1197.1**

Defendant was an employer and/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.” Defendant was the CEO of Defendant Fox, and had control over the payment of wages and intentionally caused Aggrieved Employees to be paid less than was required by the Labor Code and the Applicable Wage Order. Defendant is responsible for minimum wage restitution, liquidated damages and Code § 203 penalties. Aggrieved Employees are entitled to recover as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee is underpaid. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(2) For each subsequent violation for the same specific offense, two hundred fifty dollars (\$250) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed. This amount shall be in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203.

(3) Wages, liquidated damages, and any applicable penalties imposed pursuant to Section 203, recovered pursuant to this section shall be paid to the affected employee.
Cal. Lab. Code § 1197.1(a).

88. Labor Code § 2699 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay period, per aggrieved employee for subsequent violations for all Labor Code provisions for which a civil penalty is not specifically provided, including the applicable Wage Order and Labor Code §§ 201, 201.3, 202, 203, 221, 226(a), 226.7, 226.8, 510, 1174, 1182.12, 1194, 1197, 1198, and 2802.

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(Wrongful Discharge in Violation of Public Policy)
(By Plaintiff individually against all Defendants)

90. California has expressed a public policy in protecting employees from discharging an employee based on the exercise of his rights to object to illegal payroll practices. Plaintiff was discharged in violation of this public policy.

(Misclassification Cal. Lab. Code §226.8
On Behalf of Plaintiff Only Against Defendants)

(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.

1 (b) If the Labor and Workforce Development Agency or a court issues a determination
2 that a person or employer has engaged in any of the enumerated violations of subdivision
3 (a), the person or employer shall be subject to a civil penalty of not less than five
4 thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each
5 violation, in addition to any other penalties or fines permitted by law.

6 (c) If the Labor and Workforce Development Agency or a court issues a determination
7 that a person or employer has engaged in any of the enumerated violations of subdivision
8 (a) and the person or employer has engaged in or is engaging in a pattern or practice of
9 these violations, the person or employer shall be subject to a civil penalty of not less than
10 ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000)
11 for each violation, in addition to any other penalties or fines permitted by law.

12 95. Defendants violated Labor Code section 226.8 and are therefore subject to the penalties
13 set forth in the statute.

14 **WHEREFORE**, Plaintiff pray judgment as follows:

15 1. That, under the First Cause of Action, it be adjudged that the failure of Defendants to
16 make timely payments of wages owing to Plaintiff and class members was in violation of sections 201,
17 203 and/or 204 of the Code, and was “willful” as that word is used in section 203 of the Code, and that
18 the Court enter judgment against Defendants in favor of Plaintiff and class members; that judgment be
19 entered in favor of Plaintiff and class members in an amount of at least \$50,000, along with
20 reimbursement of costs and reasonable attorneys’ fees in accordance with the provisions of California
21 Labor Code section 218.5.

22 2. That, under the Second Cause of Action, this Court enter judgment in favor of Plaintiff
23 and class members against Defendants. That judgment be entered in favor of Plaintiff and class
24 members of at least \$6,700, not including interest thereon, reasonable attorneys’ fees and cost of suit.

25 3. That, under the Third Cause of Action, this Court enter judgment in favor of Plaintiff and
26 class members of at least \$13,400, not including interest thereon, reasonable attorneys’ fees and cost of
27 suit.

28 4. That, under the Fourth Cause of Action, the Court enter judgment in favor of Plaintiff and

1 class members and against Defendants; that judgment be entered in favor of Plaintiff and class members
2 in an amount of at least \$125,000, along with reimbursement of costs and reasonable attorneys' fees in
3 accordance with the provisions of California Labor Code section 226(e).

4 5. That, under the Fifth Cause of Action, this Court enter judgment in favor of Plaintiff of at
5 least \$1,658, and of an amount to be established by proof for unpaid liquidated damages, interest
6 thereon, reasonable attorneys' fees and cost of suit pursuant to sections 218.5, 1194, 1194.2, and 1197.1
7 of the Code.

8 6. That, under the Sixth Cause of Action, this Court enter judgment in favor of Plaintiff
9 against Defendant in the amount of damages according to proof of at least \$1,400, interest thereon,
10 reasonable attorneys' fees and cost of suit pursuant to section 2802(c).

11 7. That, with respect to the Seventh Cause of Action, it be adjudged that Defendant's
12 violations of the applicable Wage Order and sections of the California Labor Code, including sections
13 204, 210, 226, 226.7, 512, and 1194 violated section 17200 et seq. of the California Business and
14 Professions Code. Accordingly, Plaintiff request that the Court order Defendant to pay restitution with
15 interest. Finally, Plaintiff request that the Court award Plaintiff reasonable attorneys' fees and costs,
16 pursuant to section 218.5 of the Labor Code and section 1021.5 of the California Code of Civil
17 Procedure.

18 8. That, under the Eighth Cause of Action, the Court enter judgment in favor of Plaintiff and
19 against Defendant. That judgment be entered in favor of Plaintiff for \$750 each and reasonable
20 attorneys' fees.

21 9. That, under the Ninth Cause of Action, the Court enter judgment in favor of Plaintiff and
22 against Defendant. That judgment be entered in favor of Plaintiff \$750 each and for reasonable
23 attorneys' fees.

24 10. That, with respect to the Tenth Claim for Relief, the State of California and Plaintiff be
25 awarded civil penalties, attorneys' fees, and costs according to proof. Plaintiff request civil penalties
26 due to Plaintiff and other similarly aggrieved employees, and the State of California according to proof
27 pursuant to Labor Code §§ 558 and 2699(a) and (f) including, but not limited to: (1) \$50.00 for each
28 initial violation and \$100 for each subsequent violation of Labor Code § 558 per employee per pay

1 period plus an amount sufficient to recover the unpaid wages and; (2) \$100.00 for each initial violation
2 and \$200 for each subsequent violation per employee per pay period for the violations of the Labor
3 Code Sections cited in Labor Code § 2699.5;

4 11. That, with respect to the Eleventh Claim for Relief, it be adjudged that Plaintiff be
5 awarded damages, exemplary and punitive damages, attorneys' fees and costs, all according to proof.

6 12. That, with respect to the Twelfth Claim for Relief, it be adjudged that Plaintiff be award
7 civil penalties, attorneys' fees and costs, all according to proof.

8 13. For prejudgment interest;

9 14. Attorney's fees, costs and expenses of suit;

10 15. Exemplary damages according to proof;

11 16. Injunctive and declaratory relief;

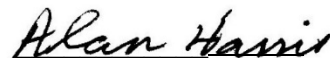
12 17. Accounting and disgorgement of profits;

13 18. For such other and further relief as this Court may deem proper and just.

14 Plaintiff demands a trial by jury as to all counts.

15 DATED: March 20, 2024

HARRIS & RUBLE



Alan Harris
David Garrett
Attorney for Plaintiffs