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Attorney for Plaintiff
Jose Gonzalez

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County of Santa Clara,
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Case #23CV426656
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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

JOSE GONZALEZ, on his own behalf and all
similarly situated individuals,

Plaintiff,

v.

SPEC PERSONNEL, LLC, PACE SUPPLY
CORP., and DOES 1 to 100,

Defendants.

) NO. 23CV426656
) CLASS ACTION
)
) FIRST AMENDED COMPLAINT
) 1. Minimum Wage Violations
) 2. Overtime Violations
) 3. Meal Period Violations
) 4. Rest Period Violations
) 5. Wage Statement Penalties
) 6. Waiting Time Penalties
) 7. Violation of Unfair Competition Law
) 8. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Jose Gonzalez is a resident of Santa Clara County.
2. Defendant Spec Personnel, LLC is a Connecticut limited liability company that is headquartered in North Carolina and is authorized to do business in California.
3. Defendant Pace Supply Corp. is a California corporation that is based in Sonoma County.
4. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore use fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
5. The named and Doe defendants are collectively referred to as Defendants.
6. Plaintiffs are informed and believe that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.

1 7. Spec Personnel is a temporary services employer that assigns workers to projects; Plaintiff
2 used the office in Santa Clara.

3 8. Pace Supply is a plumbing supplies distributor with over 20 locations in California.

4 9. Defendants employed Plaintiff and the class members as nonexempt workers; Plaintiff
5 worked as a warehouse associate/driver at Pace Supply's Santa Clara location.

6 10. Plaintiff worked for Defendants from June 2023 to September 2023.

7 11. Defendants were joint employers of the class members since all Defendants exercise control
8 over the class members' working conditions; thus although Plaintiff was initially hired through
9 Spec Personnel, LLC, when he was assigned to work at the Pace Supply location he was also under
10 the control of Pace Supply Corp.

11 12. All Defendants had a policy and practice of violating the following, as demonstrated from
12 Plaintiff's work experience.

13 13. Plaintiff and the class members were not exempt since they did not customarily and
14 regularly exercise discretion and independent judgment.

15 14. Throughout Plaintiff's and the class members' employment, they did not receive compliant
16 meal and rest periods since they were interrupted and had to remain on premises.

17 15. Further, Plaintiff and the class members were not paid for work performed off the clock;
18 Defendants did not keep accurate track of time worked which led to underpayments.

19 16. On November 25, 2023 Plaintiff sent a PAGA letter to Spec Personnel, LLC, and Pace
20 Supply Corp. and uploaded the letter to the LWDA website. Since it has been more than 65 days,
21 Plaintiff may now request PAGA penalties.

22
23 CLASS ACTION ALLEGATIONS

24 17. The class is defined as the following: "All non-exempt employees who worked for
25 Defendants in California as from four years prior to filing the case to the date of certification or
26 judgment, whichever is earlier."

27 18. There is a well-defined community of interest, and the proposed class is ascertainable from
28 Defendants' employment records. Further, the following apply to show the viability of a class

1 action pursuant to Code of Civil Procedure section 382:

- 2 a. Numerosity: The members of the class as defined are so numerous that joinder
3 of all class members is impracticable.
- 4 b. Commonality: This action involves common questions of law and fact to the
5 class because the action focuses on Defendants' systematic course of conduct
6 with respect to violating the Labor Code and IWC Wage Order.
- 7 c. Typicality: The claims are typical of the claims of the class. Plaintiff was
8 subjected to the same violations and seeks the same types of damages,
9 restitution, and other relief on the same as those of the members of the class.
- 10 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
11 protect the interests of the class. Plaintiff understands the obligations as a class
12 representative and is willing and able to fulfill them. Plaintiff's counsel is
13 competent and experienced in litigating large employment class actions and
14 complex litigation matters, including wage and hour cases like this.
- 15 e. Superiority of Class Action: A class action is superior to other available means
16 for efficient adjudication. Class action treatment will allow similarly situated
17 persons to pursue the claims in a manner that is most efficient and economical.

18 19. There are common questions of law and fact including but not limited to:

- 19 a. Whether Defendants did not pay overtime at the correct regular rate in violation
20 of Labor code sections 510 and 1194;
- 21 b. Whether Defendants violated Labor Code sections 510 and 1194 for not paying
22 at least the minimum wage for work off the clock;
- 23 c. Whether Defendants violated Labor Code section 512 and the applicable Wage
24 Order by not providing meal breaks;
- 25 d. Whether Defendants violated the applicable Wage Order for not providing rest
26 breaks;
- 27 e. Whether Defendants violated Labor Code section 226 by providing inaccurate
28 wage statements;

- 1 f. Whether Defendants violated Labor Code section 226.7 by not paying premium
2 pay for missed meal and rest breaks;
3 g. Whether Defendants engaged in unfair competition; and
4 h. The amount of damages, wages, and penalties owed.
5

6 FIRST CAUSE OF ACTION

7 Minimum Wage Violations

8 Against All Defendants

- 9 20. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.
10 21. Plaintiff and the class members were not paid for all hours worked.
11 22. Therefore Plaintiff and the class members are owed payment for unpaid wages and interest.
12 23. Also, statutory attorney fees apply.
13

14 SECOND CAUSE OF ACTION

15 Overtime Violations

16 Against All Defendants

- 17 24. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.
18 25. Plaintiff and the class members were required to work over eight hours in a day and/or 40
19 hours in a week without being compensated for all overtime in violation of Labor Code 510.
20 26. Plaintiff and the class members should have received overtime at the correct regular rate of
21 pay for the overtime work but were not paid overtime at the correct regular rate of pay, since
22 Defendants did not include earned bonuses in the regular rate.
23 27. The remedy for the overtime violations is payment of the unpaid overtime at the correct
24 regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

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1 THIRD CAUSE OF ACTION

2 Meal Period Violations

3 Against All Defendants

4 28. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.

5 29. Pursuant to the applicable Wage Order, every employer shall authorize and permit
6 employees to take meal periods of thirty minutes for every five hours worked.

7 30. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when the employer does
8 not provide an employee with the required meal period, the employer shall pay the employee one
9 hour of pay at the employee's regular rate of compensation for each workday that a rest period is
10 not provided.

11 31. Plaintiff and the class members were denied meal periods as meal periods were either not
12 provided or were on-duty.

13 32. As a result of Defendants' meal period violations, Plaintiff and the class members are
14 entitled to premium pay which is one additional hour of compensation for each missed break at the
15 correct regular rate.

16
17 FOURTH CAUSE OF ACTION

18 Rest Period Violations

19 Against All Defendants

20 33. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.

21 34. Pursuant to the applicable Wage Order every employer shall authorize and permit
22 employees to take rest periods of ten minutes for every four hours worked.

23 35. Pursuant to Labor Code section 226.7(c) and the applicable Wage Order, when the
24 employer does not provide an employee with the required rest period, the employer shall pay the
25 employee one hour of pay at the employee's regular rate of compensation.

26 36. Plaintiff and the class members were denied rest periods as rest periods were not provided
27 or were on-duty.

28 37. As a result of Defendants' rest period violations, Plaintiff and the class members are

1 entitled to premium pay which is one additional hour of compensation for each missed break at the
2 correct regular rate.

3
4 FIFTH CAUSE OF ACTION

5 Wage Statement Penalties

6 Against All Defendants

7 38. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.

8 39. Defendants' wage statements issued to Plaintiff and the class members violated Labor Code
9 section 226 since they intentionally did not list premium pay for missed breaks at the regular rate
10 and overtime at the correct regular rate.

11 40. As a result, Plaintiff and the class members are entitled to wage statement penalties up to
12 \$4,000 each and attorney fees.

13
14 SIXTH CAUSE OF ACTION

15 Waiting Time Penalties

16 Against All Defendants

17 41. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.

18 42. Plaintiff and the class members who no longer work for Defendants were willfully not paid
19 wages that were still owed after they stopped working for Defendants.

20 43. Since Defendants were joint employers of Defendants and wages were still owed when
21 Plaintiff and the class members who no longer work for Defendants were willfully not paid wages
22 that were still owed, Plaintiff and the class members who no longer work for Defendants are owed
23 waiting time penalties under Labor Code section 203, which are 30 days of wages each.

24
25 SEVENTH CAUSE OF ACTION

26 Violation of Unfair Competition Law

27 Against All Defendants

28 44. Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.

1 45. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.
2 46. This claim is being brought under the unlawful prong of the UCL.
3 47. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due,
4 including overtime and premium pay at the correct regular rate.
5 48. Plaintiff and the class members are entitled to restitution for the above.
6 49. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

7
8 EIGHTH CAUSE OF ACTION

9 PAGA Penalties

10 Against All Defendants

11 50 Plaintiff incorporates by reference paragraphs 1 to 19 of the complaint.
12 51. The PAGA allegations relate to unpaid work off the clock, including minimum wage and
13 overtime, meal and rest break violations, wage statement violations, and waiting time penalties.
14 52. The PAGA penalties for the minimum wage violations are in Labor Code 1197.1 and 2699.
15 53. The PAGA penalties for the overtime violations are in Labor Code 558, 1197.1 and 2699.
16 54. The PAGA penalties for the meal break violations are in Labor Code 558 and 2699.
17 55. The PAGA penalties for the rest break violations are in Labor Code 2699.
18 56. The PAGA penalties for the wage statement violations are in Labor Code 226.3 and 2699.
19 57. The PAGA penalties for the waiting time violations are in Labor Code section 2699.
20 58. Also, Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

21
22 PRAYER

23 For All Causes of Action

- 24 1. That the court determine that this action may be maintained as a class action
25 2. That Plaintiffs serve as representatives of the class
26 3. That Counsel for Plaintiffs is appointed as class counsel

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28 ///

1 First Cause of Action

- 2 1. Payment of all unpaid wages
3 2. Interest
4 3. Attorney fees
5 4. Other relief the court deems proper
6

7 Second Cause of Action

- 8 1. Payment of overtime
9 2. Interest
10 3. Attorney fees
11 4. Other relief the court deems proper
12

13 Third Cause of Action

- 14 1. Premium pay at the correct regular rate of pay plus interest
15 2. Other relief the court deems proper
16

17 Fourth Cause of Action

- 18 1. Premium pay at the correct regular rate of pay plus interest
19 2. Other relief the court deems proper
20

21 Fifth Cause of Action

- 22 1. Wage statement penalties
23 2. Attorney fees and costs
24 3. Other relief the court deems proper
25

26 Sixth Cause of Action

- 27 1. Waiting time penalties
28 2. Other relief the court deems proper

- 1 Seventh Cause of Action
2 1. Restitution of unpaid wages and premium pay
3 2. Attorney fees
4 3. Other relief the court deems proper
5

- 6 Eighth Cause of Action
7 1. All applicable PAGA penalties
8 2. Attorney fees and costs
9 3. Other relief the court deems proper
10

11 Date: February 20, 2024

FRONTIER LAW CENTER

12
13 *Adam Rose*

14 _____
15 Adam Rose
16 Attorney for Plaintiff
17 Jose Gonzalez
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PROOF OF SERVICE

My eservice address adam@frontierlawcenter.com. My business address is 23901 Calabasas Road, Suite 1084, Calabasas, California 91302.

On February 20, 2024, I electronically served the foregoing document:

Document(s) Served: **First Amended Complaint**

Person(s) Served: See Service List Attached

____ (BY MAIL) I enclosed a true copy of the above document(s) in a sealed envelope and placed said envelope in the mail at Calabasas, California. The envelope was addressed as above with postage thereon fully prepaid.

____ (BY PERSONAL SERVICE) I personally delivered by hand to the offices of the addressee(s).

X (BY ELECTRONIC MAIL) I emailed the document to the email addresses below.

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

____ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction the service was made.

EXECUTED at Calabasas, California on February 20, 2024.

/s/ Adam Rose
Collette Navasartian

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