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Electronically FILED by
Superior Court of California,
County of Los Angeles
2/05/2024 12:03 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By Y. Tarasyuk, Deputy Clerk

Attorney for Plaintiff ROBERT CRISP

**THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

24STCV02934

ROBERT CRISP, individually as an
aggrieved employee and on behalf of
other aggrieved employees,

Plaintiff,

vs.

REYES HOLDINGS, LLC, a limited
company, HARBOR DISTRIBUTING,
LLC, a limited liability company; and
DOES 1 through 100, inclusive,

Defendants.

COMPLAINT FOR:

**1. Private Attorney General Act
(California Labor Code § 2698 et
seq. [PAGA]).**

Jury Trial Demanded

1 Plaintiff Robert Crisp ("Plaintiff" or "Crisp") on behalf of himself and all other
2 Aggrieved Employees, as defined below makes the following allegations against the
3 above-named Defendants, and with respect to each allegation, Plaintiff is informed and
4 believes and based thereon alleges as follows:

5 **PARTIES**

6 1. This is an enforcement action under the Labor Code Private Attorneys'
7 General Act of 2004, California Labor Code section 2698, et set., ("PAGA") to recover
8 civil penalties on behalf of Plaintiff, the State of California, and all other similarly
9 aggrieved non-exempt current and former employees of Employer, whether or not such
10 persons were nominally classified as exempt or independent contractors, including,
11 without limitation, employees in the positions entitled "Drivers" (which include truck
12 drivers) and non-driver employees, which include "Sales Account Managers," "Draught
13 Technicians," "Merchandisers," "Warehouse Workers," "Reset
14 Merchandisers/Specialists," and office staff, beginning November 14, 2022, until the
15 date of approval ("Aggrieved Employees").

16 2. At all times herein mentioned, and at the time the cause of action arose,
17 Plaintiff Robert Crisp ("Plaintiff" or "Mr. Crisp") was an individual and resident of the
18 County of Los Angeles, State of California, and was employed by Defendants in the
19 County of Los Angeles.

20 3. At all times mentioned herein Defendant Reyes Holdings, LLC,
21 ("Defendant" or "Reyes Holdings" or collectively as "Defendants"), was, and is, a
22 California limited liability company, doing business in the County of Los Angeles, City of
23 Santa Fe Springs. Defendant Harbor Distributing, LLC, is an Illinois corporation, also
24 doing business in the County of Los Angeles, City of Santa Fe Springs and doing
25 business as Reyes Holdings, LLC. Plaintiff is also informed and believes and based
26 thereon alleges that at all times mentioned herein Defendant Reyes Holdings also does
27 business as Harbor Distributing, LLC. Plaintiff is informed and believes and based
28 thereon alleges that at all times mentioned herein Defendants were his and Aggrieved

1 Employees' employers as defined in the California Labor Code section 1194, the
2 Industrial Welfare Commission's ("IWC") wage order No. 9-2001 of the California Code
3 of Regulations, title 8, section 11040, subdivision 2(H), and in *Martinez v. Combs* (2010)
4 49 Cal. 4th 35, 64.

5 4. Plaintiff is unaware and ignorant of the true names and capacities of
6 Defendants sued herein as Does 1 through 100, inclusive, and for that reason sues said
7 Defendants by such fictitious names. Plaintiff will file and serve an amendment to this
8 complaint alleging the true names and capacities of said fictitiously named Defendants if
9 and when such true names and capacities become known to Plaintiff.

10 5. Plaintiff is informed and believes and based thereon alleges that each of
11 the fictitiously named Defendants is responsible in some manner for, and proximately
12 caused, the harm and damages alleged herein below, and that each of the fictitiously
13 named Defendants was acting as agent for the others. Plaintiff is informed and
14 believes, and based thereon alleges, that each of the Defendants named herein acted
15 as the employee, agent, spouse, partner, alter-ego and/or joint venture of each of the
16 other Defendants named herein and, in doing the acts and in carrying out the wrongful
17 conduct alleged herein, each of said Defendants acted within the scope of said
18 relationship and with the permission, consent and ratification of each of the other
19 Defendants named herein.

20 6. At all times relevant herein, Defendants, and each of them, were
21 employers of Plaintiff as that term is defined and used in California Government Code §
22 12926, et seq., and the California Labor Code, and otherwise were subject to such
23 statutes in connection with their actions alleged herein, and as such, Defendants are
24 prohibited from committing various acts, including wage and hour violations, and other
25 violations of law as alleged herein.

26 7. Whenever in this complaint reference is made to any act, deed, or conduct
27 of Defendant or Defendants, the allegation means that Defendants engaged in the act,
28 deed, or conduct by or through one or more of its officers, directors, managers,

1 supervisors, agents, employees, or representatives acting in the course and scope of
2 their position, and who was actively engaged in the management, direction, control, or
3 transaction of the ordinary business and affairs of Defendants.

4 **RELATIONSHIPS BETWEEN DEFENDANTS**

5 8. Plaintiff is informed and believes and on that basis alleges, that at all
6 relevant times, Defendants, and each of them, including each of said fictitiously named
7 DOE defendants, was a business entity or individual person who owned, controlled, or
8 managed the business for which Plaintiff worked, and who directly exercised control
9 over Plaintiff's hours, working conditions, and who had decision-making responsibility
10 for hiring and firing and establishment and implementation of the illegal practices
11 alleged herein which have damaged Plaintiffs.

12 9. Plaintiff is informed and believes and, on that basis, alleges, that at all
13 relevant times, Defendants, and each of them, were in some fashion, by contract or
14 otherwise, the successor, assignor, indemnitor, guarantor, or third-party beneficiary of
15 one or more of the remaining Defendants, and at all relevant times to Plaintiff's claim
16 alleged herein, was acting within that capacity. Plaintiff further alleges Defendants and
17 each of them, assumed the liabilities of the other defendants, by virtue of the fact that
18 each to some degree, wrongfully received and/or wrongfully benefited from the flow of
19 assets from the other Defendants, to the detriment of Plaintiff. Plaintiff further alleges
20 that by wrongfully receiving and/or benefiting from Defendants' assets, and in the
21 consummation of such transactions, a de facto merger of the Defendants, and each of
22 them, resulted, such that Defendants, and each of them, may be treated as one
23 employer of Plaintiff.

24 10. Plaintiff is informed and believes and on that basis alleges, that at all
25 relevant times mentioned herein, Defendants, and each of them, were the partners,
26 agents, servants, employees, joint venturers or co-conspirators of each other defendant,
27 and that each defendant was acting within the course, scope and authority of such
28 partnership, agency, employment, joint venture or conspiracy, and that each defendant,

1 directly or indirectly, authorized, ratified and approved the acts of the remaining
2 defendants, and each of them.

3 **NOTICE REQUIRED BY THE PRIVATE ATTORNEYS GENERAL ACT [“PAGA”]**

4 11. On November 14, 2023, and more than 65 calendar days before filing this
5 complaint, Plaintiff provided written notice by certified mail to the Labor and Workforce
6 Development Agency and to Defendants of the specific provisions of the California
7 Labor Code that Defendants violated, thereby satisfying the requirements of Labor
8 Code § 2699.3. The Labor and Workforce Development Agency did not notify Plaintiff
9 that it intends to investigate the Labor Code violations that he raised. Accordingly,
10 Plaintiff has taken all steps necessary to exhaust his administrative remedies prior to
11 filing this lawsuit.

12 **JURISDICTION AND VENUE**

13 12. The civil penalties and other applicable legal and equitable relief
14 sought by Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be
15 established according to proof at trial.

16 13. This Court has jurisdiction over this action pursuant to the California
17 Constitution Article VI § 10, which grants the California Superior Court original
18 jurisdiction in all causes except those given by statute to other courts. The California
19 statutes under which this action is brought do not give jurisdiction to any other court.

20 14. This Court has jurisdiction over Defendants because each Defendant is
21 either a resident of California, has sufficient minimum contacts in California, or
22 otherwise intentionally avails itself or himself of the California market so as to render the
23 exercise of jurisdiction over it by the California Courts consistent with traditional notions
24 of fair play and substantial justice. Defendants have done and are doing business
25 throughout California, including by maintaining and operating locations for the provision
26 of services in Los Angeles County. Venue is proper in this Court because one or more
27 of the Defendants resides, transacts business, or has offices in this County and the
28 unlawful acts or omissions alleged herein took place in this County. Specifically, various

1 unlawful practices under the California Labor Code occurred in this County and
2 Defendant Defendants maintain an office, conducts operations, and employs or has
3 employed Plaintiffs from and in this County. The California Superior Court also has
4 jurisdiction in this matter because there is no federal question at issue, as the issues
5 herein are based on California statutes and law, including, without limitation, the Labor
6 Code.

7 **GENERAL ALLEGATIONS**

8 15. Plaintiff worked for Defendants from approximately September 2022
9 through August 11, 2023. Harbor Distributing, LLC, was Mr. Crisp's worksite employer.
10 Harbor Distributing, LLC, was the entity identified as Mr. Crisp's employer on his
11 paystubs. Reyes Holdings, LLC, was Mr. Crisp's joint employer. Reyes Holdings, LLC,
12 exercised control over Mr. Crisp and other Aggrieved Employees regarding the work
13 performed and the manner in which the work was performed, including through various
14 written policies and a mandatory arbitration agreement.

15 16. Throughout his employment with Defendants, Mr. Crisp worked as a
16 non-exempt hourly employee, working as a truck driver as well as a warehouse
17 employee in the "Breakage" department. As a Driver, Mr. Crisp delivered beverages to
18 various customers of Defendants. In this position, Mr. Crisp was initially compensated
19 on an hourly non-exempt basis at the regular rate of \$25 per hour. Beginning in
20 approximately November 2022, Mr. Crisp was compensated on a piece rate basis only
21 while he worked as a truck driver. For some portion of his employment, Mr. Crisp also
22 worked in the Breakage department, along with other warehouse employees, and in this
23 position, Mr. Crisp was classified as a non-exempt employee and compensated at an
24 hourly rate.

25 17. When Mr. Crisp worked as a truck driver, on some occasions, Mr. Crisp
26 worked 14 hours per day, without a meal or rest break. Although Mr. Crisp did
27 not receive legally compliant meal and rest breaks, he was not paid any premium
28 pay. Moreover, any piece-rate compensation was not included in the calculation

1 for the compensation for rest periods for that workweek.

2 18. Throughout Mr. Crisp's entire employment, Mr. Crisp as well as other
3 Aggrieved Employees, were subject to a rounding policy, including for meal breaks. The
4 Defendants had the ability to capture and did capture the exact amount of time worked
5 by Mr. Crisp and other Aggrieved Employees; however, as a result of the rounding
6 policy, Defendants failed to pay for all time worked, in violation of Camp v. Home Depot
7 U.S.A., Inc., No. H049033, 2022 WL 13874360 (Oct. 24, 2022). Additionally, the
8 rounding policy applied to meal breaks, in violation of Donohue v. AMN Services, LLC
9 (2021) 11 Cal.5th 58.

10 19. Mr. Crisp and other Aggrieved Employees were frequently scheduled and
11 directed to work, and arrived to work, for a day's normal shift, but were sent home due
12 to slow business, or too many employees scheduled to work that day. Even though their
13 shifts involuntarily ended after less than half the scheduled or customary shift, Mr. Crisp
14 and Aggrieved Employees were not compensated the legally required reporting time
15 pay.

16 20. Defendants' conduct towards Plaintiff and Aggrieved Employees has been
17 violative of Plaintiffs' and Aggrieved Employees' rights and protections under California
18 Labor Code, as further alleged herein.

19 **FIRST CAUSE OF ACTION**

20 **Private Attorneys General Act**

21 **(California Labor Code § 2698 *et seq.* [PAGA])**

22 **(Against All Defendants)**

23 21. Plaintiff incorporates by reference and realleges every allegation
24 contained above as though fully set forth herein.

25 22. Labor Code § 2698, *et seq.*, Private Attorneys General Act of 2004
26 ("PAGA") violations derived from the various underlying Labor Code and IWC Wage
27 Order claims are brought against Defendants to the provisions of California Labor Code
28 as specified herein.

1 23. PAGA authorizes an aggrieved employee, on behalf of himself or other
2 current or former employees, to bring a civil action to recover civil penalties against his
3 employer pursuant to the procedures specified in Labor Code section 2699.3. Plaintiff
4 is an aggrieved employee within the meaning of the PAGA, and pursuant to the PAGA,
5 Plaintiff is entitled to recover civil penalties on behalf of himself and other similarly
6 aggrieved persons who are, or were employed, by Defendants in the capacity of a
7 Chauffeur beginning January 5, 2017 through the date of approval, and against whom
8 one or more of the alleged violations were committed. If the employee prevails as
9 private attorney general, the employer may be subject to civil penalties, of which the
10 aggrieved employee is entitled to 25 percent. Cal. Lab. Code, § 2699, subd. (h).

11 24. Plaintiff has complied with the procedures for bringing suit under PAGA.
12 Specifically, by letter dated and postmarked November 14, 2023, Plaintiff gave written
13 notice by certified mail to the California Labor & Workforce Development Agency
14 (“LWDA”) and to Defendants of the specific provisions of the California Labor Code
15 alleged to have been violated, including the facts and theories to support the alleged
16 violations. Pursuant to California Labor Code section 2699.3, the LWDA must give
17 written notice by certified mail to the parties that it intends to investigate the alleged
18 violations of the California Labor Code within 65 days of the date of the complainant’s
19 written notice. More than 65 days have passed since the notice and the LWDA did not
20 provide the parties notice that it intended to investigate her claims.

21 25. During the one-year period preceding the filing of Plaintiff’s notice to the
22 LWDA, Defendant violated California Labor Code Sections 203, 204, 226.7, 226, 510,
23 512, 1197, 1198, and sections 3, 5, 11, and 12 of the IWC Wage Order No. 9-2001.

24 26. In this regard, Defendants’ conduct violated the following sections of the
25 California Labor Code, as alleged herein:

26 27. At all times relevant, the IWC Wage Order applicable to Plaintiff’s and
27 Aggrieved Employees’ employment by Defendants provided that employees working for
28 more than eight (8) hours in a day or forty (40) hours in a workweek are entitled to

overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a workweek.

28. Labor Code section 1197 and the applicable Wage Orders require that workers be paid at least the minimum wage for their actual hours worked. Labor Code Section 204 provides: “(a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays.” Labor Code Section 510 provides: “(a) Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.”

29. At all times relevant, Plaintiff and Aggrieved Employees regularly performed non-exempt work, including in excess of 50% of the time in which Plaintiff was working for Defendants, and thus, was subject to the minimum wage and overtime requirements of the applicable IWC Wage Order and the Labor Code.

30. As a matter of policy and practice, Defendants failed to compensate Mr. Crisp and other similarly aggrieved non-exempt hourly employees who were subject to a rounding policy, for all hours worked in excess of eight hours in a workday and 40 hours in a workweek. Defendants utilized a rounding policy to determine the hours paid, regardless of the actual hours worked. Even though Defendants had the ability to capture (and did capture) the actual time worked by the employees, the Defendants only paid based on the rounding policy, and not the actual time worked. Defendants also failed to pay for off-the-clock work incurred as a result of any meal breaks that were

1 not taken when employees worked through their meal periods. Additionally, Defendants
2 failed to include any piece-rate compensation in the calculation for the compensation for
3 rest periods for that workweek, when applicable. Defendants instituted a policy and
4 practice of rounding time, including for meal breaks, and Mr. Crisp and other Aggrieved
5 Employees who were subject to a meal rounding policy sustained violations, yet did not
6 receive premium pay. Accordingly, Mr. Crisp and other Aggrieved Employees are owed
7 unpaid wages, including for overtime worked.

8 31. Under California Labor Code and the applicable IWC Wage Order, Mr.
9 Crisp and other Aggrieved Employees were entitled to lawful meal and rest breaks.
10 Labor Code Section 512 provides: “(a) An employer may not employ an employee for a
11 work period of more than five hours per day without providing the employee with a meal
12 period of not less than 30 minutes, except that if the total work period per day of the
13 employee is no more than six hours, the meal period may be waived by mutual consent
14 of both the employer and employee. An employer may not employ an employee for a
15 work period of more than 10 hours per day without providing the employee with a
16 second meal period of not less than 30 minutes, except that if the total hours worked is
17 no more than 12 hours, the second meal period may be waived by mutual consent of
18 the employer and the employee only if the first meal period was not waived.”

19 32. Labor Code Section 226.7 provides: “(a) No employer shall require any
20 employee to work during any meal or rest period mandated by an applicable order of
21 the Industrial Welfare Commission. (b) If an employer fails to provide an employee a
22 meal period or rest period in accordance with an applicable order of the Industrial
23 Welfare Commission, the employer shall pay the employee one additional hour of pay at
24 the employee's regular rate of compensation for each work day that the meal or rest
25 period is not provided.”

26 33. With regard to employees who worked in the positions entitled “Drivers,”
27 Mr. Crisp and other Aggrieved Employees were classified by the Defendants as U.S.
28 Department of Transportation (DOT)-regulated drivers, regardless of the hours that the

1 drivers worked. A driver is exempt from the requirements of CFR §395.8 and §395.11 if:
2 the driver operates within a 150 air-mile radius of the normal work reporting location,
3 and the driver does not exceed a maximum duty period of 14 hours. Drivers using the
4 short-haul exception in §395.1(e)(1) must report and return to the normal work reporting
5 location within 14 consecutive hours and stay within a 150 air-mile radius of the work
6 reporting location. Mr. Crisp and other Aggrieved Employees worked in the position of
7 “Driver” on many occasions for more than 14 consecutive hours. Despite this, and as a
8 result of the misclassification by the Defendants, the drivers were unable to take meal
9 and rest breaks and did not receive meal or rest break premium pay.

10 34. Moreover, during some period of employment Mr. Crisp worked in the
11 warehouse as a warehouse worker. On those occasions, Mr. Crisp and other
12 Aggrieved Employees who worked at the warehouse were prevented from taking a
13 lawful meal and/or rest break on many occasions, without premium pay, including as a
14 result of the meal rounding policy.

15 35. Mr. Crisp and other Aggrieved Employees were not provided any itemized
16 statements in compliance with various provisions of Labor Code Section 226 for the
17 following reasons: 1) the paystubs do not reflect the accurate amount of gross wages
18 earned and hours worked, as required by Section 226 (a) (1) and (2) (including as a
19 result of any premium payments owed for missed meal and rest periods, improper
20 overtime and double time calculations, and unpaid split shift premiums); 2) the paystubs
21 do not reflect all applicable hourly rates in effect during the pay period with the
22 corresponding number of hours worked by Mr. Crisp, in violation of Section 226 (a) (9);
23 3) the paystubs do not reflect the name and address of all of the legal entities that are
24 the employer, as required by Section 226 (a) (8); among other violations.

25 36. Under the applicable Wage Order, including section [5] of Wage Order No.
26 9-2001: “(A) Each workday an employee is required to report for work and does report,
27 but is not put to work or is furnished less than half said employee’s usual or scheduled
28 day’s work, the employee shall be paid for half the usual or scheduled day’s work, but in

no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage." Labor Code section 1198 makes it unlawful for an employee to work under conditions of labor prohibited by an IWC Wage Order.

37. Mr. Crisp and other Aggrieved Employees were never compensated with the required reporting time pay when they were required to report to work and did report but were not put to work or furnished with at least half their usual or scheduled day's work.

38. During the one-year period preceding the filing of Plaintiff's notice to the LWDA, Defendants violated the Labor Code and IWC Wage Order provisions, as alleged in more detail above.

39. Pursuant to California Labor Code §§ 2699(a) and (f), and 2699.5, and 2699 (g)(1), Plaintiff is entitled to an award of reasonable attorney's fees and costs in connection with his claims for civil penalties. As such, Plaintiff seeks all relief entitled under PAGA for any penalties assessed against Defendants in connection with its Labor Code violations, plus attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an award and judgment against Defendants jointly and severally as follows:

1. For applicable civil penalties, including pursuant to the California Labor Code sections 2699 (a) and/or 2699 (f) and (g), plus costs and attorneys' fees, for violations of the California Labor Code sections alleged herein, in excess of twenty-five thousand dollars (\$25,000);
2. For injunctive and/or declaratory relief on applicable causes of action;
3. For an award of interest, including prejudgment interest, at the legal rate;
4. For costs of suit incurred; and
5. For such other and further relief as the Court deems appropriate.

DEMAND FOR JURY TRIAL

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Plaintiff hereby demands a jury trial in this matter on all matters triable to a jury.

Respectfully submitted,
SOLMER LAW CORPORATION

Dated: 02/05/2024

By: Lilit Solmer
Lilit Solmer
Attorney for Plaintiff ROBERT CRISP