

1 Adam Rose (210880)
2 adam@frontierlawcenter.com
3 Manny Starr (319778)
4 manny@frontierlawcenter.com
5 Frontier Law Center
23901 Calabasas Road, #1084
6 Calabasas, CA 91302
Telephone: (818) 914-3433
7 Facsimile: (818) 914-3433

8 Attorney for Plaintiff
9 Edwardo Castellanos

10 UNITED STATES DISTRICT COURT
11 COUNTY OF LOS ANGELES

12 EDUARDO CASTELLANOS, individually
13 and on behalf of all similarly situated
14 individuals,

15 Plaintiff,

16 v.

17 TRIMAC TRANSPORTATION SERVICES
18 (WESTERN), INC. and DOES 1 to 100,

19 Defendants.

NO. 2:23-cv-10508-DMG-SK
CLASS ACTION

FIRST AMENDED COMPLAINT

1. Minimum Wage Violations

2. Wage Statement Penalties

3. Waiting Time Penalties

4. Work Expenditure Violations

5. Violation of Unfair Competition

Law

6. PAGA Penalties

20 PRELIMINARY ALLEGATIONS

21 1. According to Defendant, there is CAFA jurisdiction.

22 2. Plaintiff Edwardo Castellanos is a resident of Los Angeles County.

23 3. Defendant Trimac Transportation Services (Western), Inc. is a Delaware
24 corporation, headquartered in Texas, that is authorized to do business in California.

25 4. Plaintiff does not know the true names and capacities of Does 1 to 100 and
26 therefore uses fictitious names. Plaintiff will amend the complaint pursuant to Code
27 of Civil Procedure section 474 to allege the true names and capacities when
28 ascertained.

5. The named and Doe defendants are collectively referred to as "Defendants."

6. Plaintiff is informed and believes that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.

7. Defendants operate transportation and delivery services out of their terminals in Downey and Hayward.

8. Plaintiff and the class members and aggrieved employees worked as drivers; therefore Wage Order 9 applies.

9. The class members include all persons who worked in nonexempt capacities out of any of the two California facilities within the class period.

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

11. Throughout Plaintiff's and the class members' employment, they were not paid for off-the-clock work, were not reimbursed for work-related purchases, did not receive accurate, itemized wage statements.

12. On November 9, 2023 Plaintiff sent Defendant a PAGA notice and uploaded it to the LWDA website; since it has been more than 65 days Plaintiff may now request PAGA penalties.

CLASS ACTION ALLEGATIONS

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

14. The approximate size of the proposed class is approximately 400.

15. There is a well-defined community of interest, and the proposed class is ascertainable from employment records. Also, the following apply pursuant to Federal Rule of Civil Procedure 23:

a. Numerosity: The members of the class as defined are so numerous that joinder of all class members is impracticable.

b. Commonality: This action involves common questions of law and

1 fact to the class because the action focuses on Defendants'
2 systematic course of conduct with respect to violating the Labor
3 Code and IWC Wage Order.

4 c. Typicality: The claims are typical of the claims of the class. Plaintiff
5 was subjected to the same violations and seeks the same types of
6 damages, restitution, and other relief on the same as those of the
7 members of the class.

8 d. Adequacy of Representation: Plaintiff will fairly and adequately
9 represent and protect the interests of the class. Plaintiff understands
10 the obligations as a class representative and is willing and able to
11 fulfill them. Plaintiff's counsel is competent and experienced in
12 litigating large employment class actions and complex litigation
13 matters, including wage and hour cases like this.

14 e. Superiority of Class Action: A class action is superior to other
15 available means for efficient adjudication. Class action treatment will
16 allow similarly situated persons to pursue the claims in a manner that
17 is most efficient and economical.

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

19 f. Whether Defendants did not pay for all hours worked in violation of
20 Labor Code section 1194;

21 g. Whether Defendants violated Labor Code section 226 by providing
22 inaccurate wage statements;

23 h. Whether Defendants are liable for waiting time penalties;

24 i. Whether Defendants violated Labor Code section 2802 regarding
25 work expenditure reimbursements;

26 j. Whether Defendants engaged in unfair competition; and

27 k. The amount of damages, wages, and penalties owed.

28 17. The case is properly maintainable as a class action under Rule 23(b)(3).

1 18. The contemplated method of notice to the class members is by first class mail.

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FIRST CAUSE OF ACTION

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Minimum Wage Violations

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Against All Defendants

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19. Plaintiff incorporates by reference paragraphs 1 to 18 of the amended
7 complaint.

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20. Plaintiff and the class members were required to work off the clock, and this
9 time should have been paid at least the minimum wage. This claim is not exempt
10 since it is not for overtime.

11

21. Plaintiff and the class members are therefore owed reimbursement for unpaid
12 wages, interest, and statutory attorney fees apply.

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SECOND CAUSE OF ACTION

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Wage Statement Penalties

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Against All Defendants

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22. Plaintiff incorporates by reference paragraphs 1 to 18 of the amended
18 complaint.

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23. Defendants' wage statements issued to Plaintiff and the class members
20 violated Labor Code section 226 since they intentionally did not list the work
21 performed off the clock.

22

24. The remedy is wage statement penalties up to \$4,000 each and attorney fees.

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THIRD CAUSE OF ACTION

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Waiting Time Penalties

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Against All Defendants

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25. Plaintiff incorporates by reference paragraphs 1 to 18 of the amended
28 complaint.

26. Plaintiff and the class members who no longer work for Defendants were still owed wages when they stopped working for Defendants and were willfully not paid these wages.

27. Therefore, pursuant to Labor Code section 203, Plaintiff and the class members who no longer work for Defendants are owed waiting time penalties, which are 30 days of wages each.

FOURTH CAUSE OF ACTION

Work Expenditure Violations

Against All Defendants

28. Plaintiff incorporates by reference paragraphs 1 to 18 of the amended complaint.

29. Labor Code section 2802 provides employers must reimburse employees for work-related expenditures.

30. Plaintiff and the class members made purchases, including tools, for Defendants but were not reimbursed.

31. Plaintiff and the class members are entitled to reimbursement of the expenditures and attorney fees.

FIFTH CAUSE OF ACTION

Violation of Unfair Competition Law

Against All Defendants

32. Plaintiff incorporates by reference paragraphs 1 to 18 of the amended complaint.

33. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

31. This claim is being brought under the unlawful prong of the UCL.

34. Defendants violated the Labor Code and IWC Wage Order by not paying all

1 wages due, and reimbursement of expenditures.

2 35. Plaintiff and the class members are entitled to restitution for the above.

3 36. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney
4 fees.

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6 SIXTH CAUSE OF ACTION

7 PAGA Penalties

8 Against All Defendants

9 37. Plaintiff incorporates paragraphs 1 to 18 of the amended complaint.

10 38. The PAGA allegations relate to the following: 1) unpaid off the clock work, 2)
11 wage statement violations, 3) waiting time violations, and 4) work expenditure
12 reimbursement violations.

13 39. The PAGA penalties for the off the clock work are contained in Labor Code
14 1197.1.

15 40. The PAGA penalties for the wage statement violations are in Labor Code
16 section 226.3.

17 41. The PAGA penalties for the waiting time penalty violations are contained in
18 Labor code 210 and 2699.

19 42. The PAGA penalties for the work expenditure reimbursement violations are
20 contained in Labor Code section 2699.

21 43. Further, Plaintiff is entitled to attorney fees under Labor Code section 2699.

22
23 PRAYER

24 For All Causes of Action

25 1. That the court determine that this action may be maintained as a class action

26 2. That Plaintiff is appointed representative of the class

27 3. That Counsel for Plaintiff are appointed as class counsel

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1 First Cause of Action

2 1. Payment of all unpaid wages

3 2. Interest

4 3. Attorney fees

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6 Second Cause of Action

7 1. Wage statement penalties

8 2. Attorney fees and costs

9 3. Other relief the court deems proper

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11 Third Cause of Action

12 1. Waiting time penalties

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14 Fourth Cause of Action

15 1. Reimbursement of work-related expenditures

16 2. Attorney fees

17 3. Other relief the court deems proper

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19 Fifth Cause of Action

20 1. Restitution of unpaid wages and premium pay

21 2. Attorney fees

22 3. Other relief the court deems proper

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24 Sixth Cause of Action

25 1. All applicable PAGA penalties

26 2. Attorney fees and costs

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1 Date: January 22, 2024

FRONTIER LAW CENTER

2 /s/ Adam Rose

3 Attorney for Plaintiff

4 Edwardo Castellanos

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