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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF RIVERSIDE

JOSEPH HAMMONDS, on behalf of himself and
all others similarly situated,

Plaintiff,

v.

HIGH PERFORMANCE LOGISTICS, LLC, and
DOES 1 through 50, inclusive,

Defendants.

Case No.: **CVRI 2400843**

CLASS ACTION:
COMPLAINT FOR DAMAGES

1. Misclassification of Employees as Independent Contractors: Failure to Pay Overtime Wages §§ 510, 1194, 1197, and Wage Order 9-2001, §3;
2. Misclassification of Employees as Independent Contractors: Failure to Provide Accurate Itemized Wage Statements in Violation of Labor Code §§ 226, 226.3, and 1174;
3. Misclassification of Employees as Independent Contractors: Failure to Pay Wages Upon Termination of Employment in Violation of Labor Code §§ 201, 202, and 203;
4. Misclassification of Employees as Independent Contractors: Failure to Reimburse Necessary Business Expenses in Violation of Labor Code § 2802; and
5. Unfair Business Practices in Violation of Cal. Bus. & Prof Code §§ 17200, *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiff JOSEPH HAMMONDS hereby respectfully alleges and complains as follows:

2 **INTRODUCTION**

3 1. This is a class action brought on behalf of Plaintiff JOSEPH HAMMONDS
4 (hereinafter "Mr. Hammonds" or "Plaintiff") and the class he seeks to represent ("Plaintiff Class"),
5 as defined herein, as all non-exempt employees employed by or formerly employed by Defendant
6 HIGH PERFORMANCE LOGISTICS, LLC, (hereinafter "HPL" or "Defendant"). The Plaintiff
7 Class consists of "all non-exempt employees employed by or formerly employed by HPL as truck
8 drivers within the State of California at the time of the filing of this Complaint." The "Class
9 Period" is defined as the four (4) years prior to the filing of the Complaint through the date final
10 judgment is entered. Plaintiff reserves the right to amend this Complaint to reflect a different
11 "Class Period" as further discovery is conducted.

12 2. Plaintiff individually and on behalf the class he seeks to represent, seek relief
13 against Defendants for misclassifying truck driver employees as independent contractors, such
14 that Defendant failed to apply the wage and hour protections to which Plaintiff and the Plaintiff
15 Class were entitled under the Labor Code and Wage Order 9-2001, resulting in (1) failure to pay
16 all wages due, including overtime wages; (2) failure to provide accurate itemized wage statements
17 upon payment of wages; (3) failure to pay wages of terminated or resigned employees; and (4)
18 failure to reimburse for necessary business expenditures. Plaintiff further seeks equitable
19 remedies in the form of declaratory relief and injunctive relief, and relief under Business and
20 Professions Code section 17200 et seq. for unfair business practices.

21 3. At all relevant times herein, HPL and each Defendant, have consistently
22 maintained and enforced against Plaintiff Class the following unlawful practices and policies as
23 a consequence of improperly designating Plaintiff and Plaintiff Class as independent contractors:
24 (1) failure to pay all wages including overtime wages, (2) failure to provide accurate itemized
25 wage statements, (3) failure to pay wages upon termination of employment, and (4) and unfair
26 business practices.

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4. Plaintiff, JOSEPH HAMMONDS (“Plaintiff”), brings this cause of action against his former employer, Defendant HIGH PERFORMANCE LOGISTICS, LLC, a California Company; and DOES 1 through 50, inclusive, for damages arising out of employers’ violations of the California Labor Code and applicable Industrial Welfare Commission (“IWC”) Wage Orders. Specifically, Plaintiff sues for: (1) failure to pay all wages including overtime wages, (2) failure to provide accurate itemized wage statements, (3) failure to pay wages upon termination of employment, (4) failure to reimburse necessary business expenditures; and (5) and unfair business practices.

PARTIES

The Plaintiff

5. Plaintiff Mr. Hammonds is, and at all times herein mentioned was, a resident of the State of California. Plaintiff was employed by Defendant as a truck driver but improperly designated as an independent contractor from approximately one week during the period of February 2023.

The Defendant

6. Plaintiff is informed and believes, and based thereon alleges, that HIGH PERFORMANCE LOGISTICS, LLC (hereinafter “HPL”), is a California Company doing business in California and employed and/or supervised Plaintiff during the Relevant Employment Period. Plaintiff is informed and believes, and based thereon alleges, that Defendant is conducting business in good standing in the State of California.

7. Plaintiff is not aware of the true names and/or capacities of those entities or individuals sued herein as DOES 1 through 50, inclusive, and therefore sues these Defendants by their fictitious names. Plaintiff will seek leave of this Court to amend this Complaint to insert their true names and/or capacities when the same are ascertained.

8. The above Defendants named herein will be collectively referred to as “Defendant” or “Defendants.”

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1 9. Plaintiff is informed and believes, and based thereon alleges, that at all material
2 times, each of the Defendants were the agents and/or employees of each of the remaining
3 Defendants, and each of them was at all material times acting within the purpose and scope of
4 such agency and employment.

5 10. Plaintiff is informed and believes, and based thereon alleges, that at all material
6 times, one or more of each named and/or unnamed Defendants was in some fashion, by contract
7 or otherwise, the predecessors, affiliates, alter egos, assigns, joint ventures, co-ventures or
8 partners of one or more of the remaining named and /or unnamed Defendants, and as hereinafter
9 alleged, was acting within that capacity.

10 11. Plaintiff is further informed and believes, and on that basis, alleges, that one or
11 more of the remaining named and/or unnamed Defendants are the successors of one or more of
12 the remaining named and/or unnamed Defendants. Such successors are liable for the occurrences,
13 damages and injuries alleged herein to the same extent its predecessors are liable for the alleged
14 occurrences, damages and injuries.

15 12. Plaintiff alleges that Defendants acted as the employers and/or joint employers of
16 Plaintiff, and that they shared control of Plaintiff as an employee, either directly or indirectly.
17 This control included, but was not limited to, the authority to hire and fire, assign work tasks,
18 engage in day-to day supervision of employees, and control over employee records and wages.

19 13. Plaintiff alleges that Defendants were the alter-egos of one or more of the
20 remaining named and/or unnamed Defendants, and as hereinafter alleged, was acting for their
21 own benefit and/or the benefit of one or more of the remaining named and/or unnamed
22 Defendants. Plaintiff alleges that Defendants were acting on behalf of each other in the
23 establishment of, ratification of, and/or execution of the illegal practices and policies as set forth
24 in this pleading. Plaintiff is further informed and believes, and thereon alleges, that all times
25 relevant hereto Defendants had decision making responsibility for, and establishment and
26 execution of, illegal practices and policies for each other and are, therefore, liable on the causes
27 of action herein.

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14. Plaintiff is further informed and believes, and on that basis alleges, that Defendants failed to adhere to corporate and/or legal formalities. Plaintiff is informed and believes, and based thereon alleges, that at all material times, one or more of each unnamed Defendants was in some fashion, by statute, law or otherwise, the agent, agency, branch, department or the like of one or more of the remaining named and/or unnamed Defendants for the acts alleged herein and was acting within that capacity.

15. Plaintiff is further informed, and believes, and on that basis, alleges, that there exists a unity of interest and ownership between Defendants that the individuality and separateness of those Defendants have ceased to exist. The business affairs of Defendants are, and at all times relevant hereto were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in inextricable confusion. Defendants were used as mere shells and conduits for the conduct of certain other Defendants' affairs. The recognition of the separate existence of Defendants would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff. Accordingly, Defendants constitute the alter egos of each other, and the fiction of their separate existence must be disregarded at law and in equity, because such disregard is necessary to avoid fraud and injustice to Plaintiff herein. Unless otherwise specified herein, each DOE defendant was the agent and employee of each Defendant, and in doing the things hereinafter mentioned, were at all times acting within the course and scope of that agency and employment.

JURISDICTION AND VENUE

16. This Court is an appropriate venue for this action under Code of Civil Procedure sections 395 and 395.5 because the acts that give rise to the causes of action alleged herein occurred in the County of Riverside, State of California. Plaintiff hereby designates the County of Riverside, State of California as the place of proper venue.

17. Defendant is a provider of transportation and logistical services. Defendant maintains and operates in Riverside and Monrovia, California. Defendant's drivers run routes which includes various cities in the State of California. This Court has personal jurisdiction over Defendant because Defendant conducts business in the State of California, and a substantial

1 portion of the acts, omissions, events, and transactions constituting the causes of action alleged
2 herein occurred within the State of California, and more specifically, in the County of Riverside
3 and Los Angeles (See Code of Civil Procedure section 410.10).

4 18. This Court has subject matter jurisdiction over the causes of action alleged in this
5 Complaint because the Court is a court of general subject matter jurisdiction and is not otherwise
6 excluded from exercising subject matter jurisdiction over said causes of action.

7 **ADMINISTRATIVE PREREQUISITE**

8 19. Prior to filing this Complaint, on February 14, 2024, Plaintiff gave written notice
9 by electronic filing to the Labor Workforce Development Agency (“LWDA”) and by certified
10 mail to Defendant of the specified provisions alleged to have been violated, including the facts
11 and theories to support the alleged violations as required by Labor Code section 2699.3. Attached
12 hereto as exhibit “A” is a true and correct copy of the notice.

13 20. When the statutory waiting period passes, Plaintiff intends to amend his complaint
14 to include a cause of action under the Labor Code section 2698 et seq., the Private Attorneys
15 General Act of 2004, seeking civil penalties as a result of Defendant’s Labor Code violations
16 described herein.

17 **GENERAL ALLEGATIONS**

18 21. Pursuant to the California Supreme Court’s unanimous decision in *Dynamex*
19 *Operations West, Inc. v. Superior Court* (2018), 4 Cal. 5th 903, in order for an employer’s
20 designation of a worker as an independent contractor rather than an employee subject to the wage
21 and hour protections of the Labor Code and applicable Wage Order, to be legally upheld, the
22 employer must meet the three-prong “ABC” test set forth in *Dynamex*.

23 22. Specifically, the employer must meet all three prongs, which consist of showing:
24 (a) the worker is free from the control and direction of the hiring entity in connection with the
25 performance of the work, both under the contract for the performance of the work and in fact; (b)
26 the worker performs work that is outside the usual course of the hiring entity’s business and (c)
27 the worker is customarily engaged in an independently established trade, occupation, or business
28 of the same nature as the work performed. (*Dynamex* at 956-7, 964.)

23. *California Labor Code* § 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their overtime compensation, including interest thereon, reasonable attorneys' fees, and costs of suit.

24. Further, *Business and Professions Code* § 17203 provides that any person who engages in unfair competition may be enjoined in any court of competent jurisdiction. *Business and Professions Code* § 17204 provides that any person who has suffered actual injury and has lost money or property as a result of the unfair competition may bring an action in a court of competent jurisdiction.

25. During all, or a portion of the Class Period, although improperly designated as independent contractors, Plaintiff and each member of the Plaintiff Class worked for Defendant, in the State of California. Plaintiff and each of the Plaintiff Class members worked in the non-exempt position of truck driver covered under one or more Industrial Welfare Commission (IWC) Wage Orders, and *Labor Code* § 510, and/or other applicable wage orders, regulations and statutes, and each Plaintiff Class member was not subject to an exemption for executive, administrative and professional employees, which imposed obligations on the part of the Defendants to pay Plaintiff and Plaintiff Class members lawful overtime compensation. Plaintiff and Plaintiff Class were covered by one or more Industrial Welfare Commission (IWC) Wage Orders, and *Labor Code* § 226.7 and other applicable wage orders, regulations and statutes which imposed an obligation on the part of the Defendants to pay Plaintiff and Plaintiff Class rest and meal period compensation.

26. During the Class Period, Defendants was obligated to pay Plaintiff and Plaintiff Class Members for all hours worked at the legally mandated rate, including overtime.

27. During the Class Period, Defendants was obligated to pay Plaintiff and Plaintiff Class Members minimum wages and overtime compensation for all hours worked over eight (8) hours of work in one (1) day or forty (40) hours in one (1) week and double-time for hours worked in excess of twelve (12) in one day.

1 28. During the Class Period, Defendants were obligated to reimburse Plaintiffs and
2 Class Members for all reasonable expenditures incurred by Plaintiffs and Class Members for the
3 purpose of fulfilling their job duties, as a result of employer's designation of Plaintiff and Class
4 Members as independent contractors rather than as employees subject to the wage and hour
5 protection. Defendants failed to reimburse Plaintiffs and Class Members for the cost associated
6 with using their personal cellphones outside of work in violation of Labor Code section 2802.

7 29. Defendant is in the business of providing transportation and logistical services;
8 Plaintiff and Plaintiff Class worked as truck drivers, an integral and necessary function of any
9 business providing transportation services to customers.

10 30. Defendant exercised a degree of control over Plaintiff and Plaintiff Class,
11 including but not limited to scheduling of deliveries and pick-ups, the number of deliveries and
12 pick-ups per day, and the manner and extent in which Plaintiff and Plaintiff Class presented
13 themselves to customers and the public as employees of Defendant, including prohibition of
14 decals on vehicles other than Defendant's name or logos.

15 31. Most significantly, the work performed by Plaintiff and Plaintiff Class was wholly
16 within the usual course of Defendant's business.

17 32. Accordingly, Defendant's designation of Plaintiff and Plaintiff Class substantially
18 and unequivocally cannot meet the criteria set forth as the ABC test in *Dynamex*, such that
19 Plaintiff and Plaintiff Class should have been afforded all the wage and hour protections set forth
20 in the Labor Code and Wage Order 9-2001.

21 33. Plaintiff and the Plaintiff Class regularly and frequently drove trucks substantially
22 beyond eight (8) hour per day and thus performed non-exempt work in excess of the maximum
23 regular rate hours set by the IWC in the applicable Wage Orders, regulations or statutes, and
24 therefore entitled the Plaintiff and Plaintiff Class members to overtime compensation at time and
25 a half rate, and when applicable, double time rates as set forth by the applicable Wage Orders,
26 regulations and/or statutes, which Defendant failed to pay because they illegally treated Plaintiff
27 and Plaintiff Class as independent contractors no subject to above wage and hour laws.

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34. Class Members who ended their employment during the Class Period but were not paid the above due compensation for all hours worked, overtime compensation timely upon the termination of their employment as required by *Labor Code* §§ 201-203 and is entitled to penalties as provided by *Labor Code* § 203.

35. As a result of the above-described misclassification and Defendant's resulting failure to pay all wages owed as described herein, Defendant further failed to keep accurate payroll records and failed to provide Plaintiff and Plaintiff Class with complete and accurate wage statements showing the actual hours worked, the correct rate of pay for hours worked and overtime and/or premium wages earned per pay period. This conduct is in violation of Labor Code sections 226 and 1174.

CLASS ALLEGATIONS

36. Plaintiff brings this action on behalf of himself and all other similarly situated persons, as a class action pursuant to California Civil Code of Procedure §382 on behalf of themselves and all other similarly situated persons in the Class, which is composed of and defined as follows: All persons who are employed or have been employed by Defendants in the State of California who, within the four (4) years of the filing of this Complaint, have worked as non-exempt truck drivers and were not paid all lawful wages as regular time, overtime, and double-regular time.

a. All persons who, at the time this Complaint is filed, are employed or have been employed as independent contractor truck drivers by Defendant in the State of California for the three (3) years prior to the filing of this class action to the present and worked as non-exempt truck drivers and have been terminated or resigned, and were entitled to be paid wages owed at the time the employment ended that have not been paid wages pursuant to Labor Code section 203 and are owed restitution for waiting time penalties for unpaid wages;

b. All persons who, at the time this Complaint is filed, are employed or have been employed as independent contractor truck drivers by Defendant in the State of

1 California for the four (4) years prior to the filing of this class action to the present
2 who were entitled to be paid wages for all hours worked, including non-driving
3 time, and were not paid all wages owed, including but not limited to overtime;

4 c. All persons who, at the time this Complaint is filed, are employed or have been
5 employed as independent contractor truck drivers by Defendant in the State of
6 California for the four (4) years prior to the filing of this class action to the present
7 and were entitled to be provided accurate payroll records, but were not provided
8 an accurate payroll record as required under Labor Code 226 and Labor Code
9 Section §1174.

10 d. All persons who, at the time this Complaint is filed, are employed or have been
11 employed as independent contractor truck drivers by Defendant in the State of
12 California for the four (4) years prior to the filing of this class action to the present
13 and were entitled to be reimbursed for necessary business expenditures, but were
14 not reimbursed for necessary business expenditures as required under Labor Code
15 226 and Labor Code Section §1174.

16 e. All persons who, at the time this Complaint is filed, are employed or have been
17 employed as independent contractor truck drivers by Defendant in the State of
18 California for the four (4) years prior to the filing of this class action to the present
19 and were subjected to unlawful and unfair business practices within the meaning
20 of Unfair Competition Law and who suffered injury, including lost money, as a
21 result of Defendants' unlawful and unfair business practices.

22 37. Plaintiff reserves the right under Rule 1855(b), *California Rules of Court*, to
23 amend or modify the Class description with greater specificity or further division into subclasses
24 or limitation to particular issues.

25 38. This action has been brought and may be maintained as a class action pursuant to
26 *Code of Civil Procedure* § 382 because there is a well-defined common interest of many persons
27 and it is impractical to bring them all before the court.

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1 39. This Court should permit this action to be maintained as a class action pursuant to
2 *Code of Civil Procedure* § 382 because:

- 3 (a) The questions of law and fact common to the Class predominate over any
4 question affecting only individual members;
- 5 (b) A class action is superior to any other available method for the fair and
6 efficient adjudication of the claims of the members of the Class;
- 7 (c) The Class is so numerous that it is impractical to bring all member of the
8 Class before the Court;
- 9 (d) Plaintiff and the other members of the Class will not be able to
10 obtain effective and economic legal redress unless the action is maintained as a
11 class action;
- 12 (e) Plaintiff and the other members of the Class will not be able to obtain effective
13 and economic legal redress unless the action is maintained as a class action;
- 14 (f) There is a community of interest in obtaining appropriate legal and equitable relief
15 for the common law and statutory violations and other improprieties and in
16 obtaining adequate compensation for the damages and injuries which Defendants’
17 actions have inflicted upon the Class;
- 18 (g) There is a community of interest in ensuring that the combined assets and
19 available insurance of the Defendant is sufficient to adequately compensate
20 members of the Class for the injuries sustained;
- 21 (h) Without class certification, the prosecution of separate actions by individual
22 members of the Class would create a risk of:
- 23 (1) Inconsistent or varying adjudications with respect to individual members
24 of the Class which would establish incompatible standard of conduct for
25 the Defendant; and/or
- 26 (2) Adjudications with respect to the individual members which would, as a
27 practical matter, be dispositive of the interests of other members not parties
28 to the adjudications, or would substantially impair or impede their ability

to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who is, or may be, responsible Defendant; and

- (i) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the Class as a whole.

FIRST CAUSE OF ACTION

Failure to Pay All Wages Including Overtime

(Cal. Lab. Code §§ 510, 1194, 1197, 8 CCR §11090 (3))

(Plaintiff and the Class Against Defendants)

40. Plaintiff realleges and incorporates by references paragraphs 1 through 20 as if fully alleged herein.

41. Plaintiff seeks relief against Defendant for the failure to pay all wages due in violation of the Labor Code and applicable IWC wage orders.

42. Plaintiff, seeks relief against Defendant for the failure to pay all wages due in violation of Labor Code sections 510, 1194 and applicable IWC wage orders.

43. Labor Code section 510 provides that any work in excess of eight (8) hours in one (1) workday and any work in excess of forty (40) hours in any one (1) workweek shall be compensated at the rate of no less than one and one-half times (1 & ½) the regular rate of pay for an employee. Any work in excess of twelve (12) hours in one (1) day shall be compensated at the rate of no less than twice the regular rate of pay for an employee.

44. Labor Code, section 1194 provides that notwithstanding any agreement to work for a lesser wage, an employee receiving less than the legal minimum wage or the legal overtime compensation is entitled to recover in a civil action the unpaid balance of their minimum wage or overtime compensation, including interest, reasonable attorney's fees and costs of suit.

45. Pursuant to IWC Wage Order 9, section 2(k), "hours worked" includes the time during which an employee is subject to the control of the employer and includes all time the employee is suffered or permitted to work, whether or not required to do so.

46. Defendant willfully violated the Labor Code and applicable IWC wage orders by improperly misclassifying Plaintiff and the Class, sought to exclude them overtime laws and thereby failed to pay Plaintiff and the Class all wages including overtime wages for all time worked.

47. Plaintiff and the Class regularly worked over eight (8) hours per day and forty (40) hours per week. Defendant failed to pay Plaintiff and the Class overtime premium and/or double-time premium for hours worked in excess of eight (8) hours per day and forty (40) hours per week for work performed for the Defendant. As such, Plaintiff seeks overtime and/or double-time compensation which she earned and accrued throughout his employment with Defendant, in an amount according to proof.

48. Additionally, Plaintiff is entitled to attorney's fees and costs, pursuant to Labor Code sections 218.5, 1194 and prejudgment interest pursuant to Labor Code, section 218.6 and Code of Civil Procedure section 3287.

SECOND CAUSE OF ACTION

Failure to Provide Accurate Itemized Wage Statements

(Labor Code §§ 226, 226.3, and 1174)

(Plaintiff and the Class Against Defendants)

49. Plaintiff realleges and incorporates by reference paragraphs 1 through 29 as if fully alleged herein.

50. Labor Code Sections 226, 226.3, 1174 and 1174.5 and applicable IWC Wage Orders provide that employers must keep records and provide employees with itemized wage statements showing total hours worked and each applicable rate of pay in effect during the pay period with the corresponding number of hours worked at each hourly rate.

51. Labor Code section 226, subdivision (a) requires an employer to provide employees—either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when wages are paid by personal check or cash—an accurate itemized wage statement in writing showing “(1) gross wages earned, (2) total hours worked by the employee, (4) all deductions, (5) net wages, (6) the inclusive dates of the period for which the employee is

1 paid, (7) the name of the employee and only the last four digits of his or her social security number
2 or an employee identification number other than a social security number, (8) the name and
3 address of the legal entity that is the employer, and (9) all applicable hourly rates in effect during
4 the pay period and corresponding number of hours worked at each hourly rate by the employee.”

5 52. Labor Code section 226.2(a)(2) requires the itemized statements required by
6 subdivision (a) of section 226 shall, in addition to the other items specified in that subdivision,
7 state the following: total hours of compensable rest and recovery periods, the rate of
8 compensation, and the gross wages paid for those periods during the pay period.

9 53. Moreover, IWC Wage Order No. 9-2001, paragraph 7(a) requires that every
10 employer shall keep accurate information with respect to each employee, including time records
11 showing when each employee begins and ends each work periods, the total daily hours worked
12 by each employee and the total hours worked in each payroll period, and applicable rates of pay.

13 54. Plaintiff and the Class are informed and believe that throughout the course of their
14 employment Defendants, by improperly designating them as independent contractors, sought to
15 exclude them from the legal requirements set forth above, and thereby willfully and intentionally
16 failed to make, keep and/or provide Plaintiff and the Class with records which accurately reflect
17 the hours worked by Plaintiff and the Class, the correct rate of pay, and the total wage owed in
18 a given pay period, including wages in the form of rest and meal period premiums.

19 55. Plaintiff and the Class were injured by Defendant’s failure to provide accurate and
20 complete information as required by Subsections (1) - (9) of Labor Code 226(a) pursuant to
21 Labor Code 226(e)(2)(B)(i) and (iii) in that they were not able to promptly and easily determine
22 from the wage statements alone, without significant effort and/or assistance from experts, the
23 total hours worked, all applicable hourly rates of pay with the corresponding number of hours
24 worked, and the proper gross/net pay due them. Also, Defendant’s failure to comply with Labor
25 Code §226(a) hindered Plaintiff and the Class from determining the amounts of wages actually
26 owed to her without reference to other documents or information, creating significant effort and
27 cost to them.

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1 56. Labor Code section 226(e) provides that if an employer knowingly and
2 intentionally fails to provide a statement itemizing, inter alia, the gross and net wages earned,
3 the total hours worked by the employee and the applicable hourly overtime rates, causing the
4 employee injury, then the employee is entitled to recover the greater of all actual damages or
5 fifty dollars (\$50) for the initial violation and one hundred dollars (\$100) for each subsequent
6 violation, up to four thousand dollars (\$4,000). Plaintiff and the Class are informed and believe
7 that Defendants willfully failed to make or keep accurate records for them.

8 57. Plaintiff and the Class is informed and believes that Defendant's failure to keep
9 accurate payroll records, as described above, violated Labor Code sections 1174, subdivision (d)
10 and 226, subdivision (a), and the applicable IWC Wage Order(s).

11 58. As a result, Defendant is liable to Plaintiff and the Class for penalties in an amount
12 provided by Labor Code §226(e) and reasonable attorneys' fees and costs.

13 **THIRD CAUSE OF ACTION**

14 **Failure to Pay Wages upon Termination of Employment**

15 **(Labor Code §§ 201, 202, and 203)**

16 **(Plaintiff and the Class Against Defendants)**

17 59. Plaintiff and Plaintiff Class re-allege and incorporate by reference, paragraphs 1
18 through 39 as if fully alleged herein.

19 60. Plaintiff and certain members of the Plaintiff Class who ended their employment
20 with Defendants during the Class Period, were entitled to be promptly paid both minimum wage
21 and lawful overtime compensation and other premiums, as required by Labor Code §§ 201-203.
22 By misclassifying them as independent contractors, Defendant sought to exclude Plaintiff and
23 Class from the above legal requirements such that Defendant refused and/or failed to promptly
24 compensate Plaintiff and Plaintiff Class wages owed as a result of their failure to pay Plaintiff
25 and Plaintiff Class overtime compensation and other wages in the form of premium pay for non-
26 compliant rest and meal periods. Pursuant to Labor Code § 203, such Plaintiff and Plaintiff Class
27 seek the payment of penalties pursuant to Labor Code § 203, according to proof.

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68. At all relevant times, Defendant was subject to the California Unfair Trade Practices Act, Business and Professions Code section 17200 et seq., which required them to abide by the Labor Code.

69. By misclassifying Plaintiff and the Class as independent contractors, Defendant excluded Plaintiff and the Class from statutory and regulatory wage and hour protections and thereby engaged in unfair trade practices prohibited Business and Professions Code section 17200 et seq., by committing acts prohibited by applicable Labor Code, which include but are not limited to failing to provide wages in compliance with the California Labor Code, failing to provide meal and rest breaks or compensation in lieu thereof, and failing to pay Plaintiff and the Class all wages due and owing, thus giving Defendant a competitive advantage over other employers and businesses with whom Defendants was in competition with and who were in compliance with the law.

70. As a direct and proximate result of Defendant's violations, Plaintiff's and the Class' rights under the law were violated because she suffered monetary losses. Plaintiff and the Class seek special and general damages, together with injunctive relief to prohibit Defendant from violating the regulations alleged in this complaint, as well as any and all other available remedies.

71. Plaintiff has incurred costs and attorney's fees in bringing this action and seeks to recover them.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

1. For compensatory damages in an amount according to proof;
2. For general damages in an amount according to proof;
3. For penalties in an amount according to proof;
4. Injunctive relief, enjoining Defendants from engaging in the unlawful and unfair business practices complained herein.
5. For declaratory relief, enjoining Defendants' practices as unlawful and unfair business practices within the meaning of Business and Professions Code sections 17200 et seq.,

6. For reasonable attorneys' fees and expenses pursuant to the Labor Code, including but not limited to Labor Code §2699 (g);
7. For costs of the suit herein incurred including but not limited to those pursuant to Labor Code §2699 (g);
8. For restitution of all monies due to Plaintiff and Plaintiff Class, and disgorged profits from the unlawful business practices of Defendants;
9. For civil penalties for each violation of Plaintiff and each Aggrieved Employee as provided by law, including but not limited to, those civil penalties provided by statute, provided by PAGA and for unpaid wages pursuant to Labor Code §558;
10. For such other and further relief as this Court may deem just and proper.

Dated: February 14, 2024

MAHONEY LAW GROUP, APC

By:



Kevin Mahoney, Esq.
John A. Young, Esq.
Attorneys for Plaintiff, JOSEPH HAMMONDS

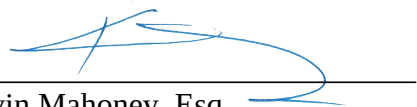
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2 **DEMAND FOR JURY TRIAL**

3 Plaintiff JOSEPH HAMMONDS hereby demands a jury trial on all issues so triable.
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5 Dated: November 30, 2018

MAHONEY LAW GROUP, APC

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7 By:


Kevin Mahoney, Esq.

8 John Young, Esq.

9 Attorneys for Plaintiff, JOSEPH HAMMONDS
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EXHIBIT A



Kevin Mahoney, Esq.
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February 14, 2024

VIA ELECTRONIC FILING

LABOR AND WORKFORCE DEVELOPMENT AGENCY
Attn: PAGA Administrator
<https://dir.tfaforms.net/128>

VIA CERTIFIED MAIL# 7021 0950 0000 9825 0224

Return Receipt Requested

High Performance Logistics, LLC
6250 Sycamore Canyon
Riverside, CA 92507

VIA CERTIFIED MAIL# 7021 0950 0000 9825 0231

Return Receipt Requested

Northwest Registered Agent
Agent for Service for High Performance Logistics, LLC
2108 N. Street, Ste. N
Sacramento, CA 95816

Re: Joseph Hammonds v. High Performance Logistics, LLC, et al

**NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO
LABOR CODE SECTION § 2698 et seq.**

To: California Labor and Workforce Development Agency, High Performance Logistics, LLC.

From: Joseph Hammonds on behalf of himself and aggrieved employees who were subject to the employer's wage and hour policies as set forth below.

Factual Statement

Please note that this firm, Mahoney Law Group, APC, represents the interests of Mr. Joseph Hammonds (hereinafter "Plaintiff" or "Mr. Hammonds"), who intends to file a complaint alleging various Labor Code violations and seeking civil penalties under the Private Attorneys General Act of 2004, Labor Code section 2698 et seq. ("PAGA") on behalf of himself and all other aggrieved employees.

Theories of Labor Code Violations and Remedies

High Performance Logistics, LLC (hereinafter referred to as “Defendant”) is a provider of transportation and logistical services. Mr. Hammonds alleges Defendant violated various sections of the Labor Code including §§ 201, 202, 203, 226, 226.3, 226.7, 510, 512, 1174, 1174.5, 1194, 1197, and 2802 as well as the applicable provisions of Wage Order 9, by failing to provide Mr. Hammonds and all other aggrieved employees all wages for all hours worked including, but not limited to, overtime wages and regular hours.

Defendant improperly designated Mr. Hammonds and similarly aggrieved truck drivers as independent contractors. Consequently, Defendant failed to comply with the wage and hour protections afforded to employees such as Mr. Hammonds and similarly aggrieved employees under the Labor Code and Wage Order 9.

Defendant’s designation of Mr. Hammonds and aggrieved employees as independent contractors is invalid pursuant to the three-prong “ABC test” established by the California Supreme Court in *Dynamex Operations West, Inc. v. Superior Court* (2018), 4 Cal.5th 903. Most evidently, insofar as Defendant is a transportation and logistics services provider, and Plaintiff and aggrieved employees are truck drivers, Defendant’s designation of Plaintiff and aggrieved employees as independent contractors fails the “B” prong – which requires employers to show the worker performs work that is outside the usual course of the hiring entity’s business. (*Dynamex* at 956-7, 964.) Under *Dynamex*, an employer must meet all three prongs of the ABC test to validate an independent contractor relationship.

As the independent contractor designation is invalid, Defendant clearly violated the statutory and regulatory wage protections which are subject to enforcement under PAGA:

Defendant failed to pay Mr. Hammonds and other aggrieved employees for all hours worked at the legally mandated wage rates for all hours worked, including non-productive non-driving time. Specifically, Defendant failed to pay Mr. Hammonds and his co-workers the legally mandated overtime rate for all work performed during their shifts in violation of California law. Mr. Hammonds and similarly aggrieved employees regularly and frequently worked shifts exceeding eight (8) hours per day but Defendant failed to pay the legally required overtime rate for the worked time beyond eight (8) hours as Defendant did not apply overtime law to Plaintiff and similarly aggrieved employees.

Defendant did not keep accurate time records in violation of the Labor Code and Wage Order 16, which is actionable under PAGA. Defendant failed to keep time records accurately reflecting the time Mr. Hammonds and similarly aggrieved employees started their shift, the time they began and ended their meal periods, and the time they ended their shifts. *See* Labor Code §1174 and California Code of Regulations, Title 8, §11090 (7).

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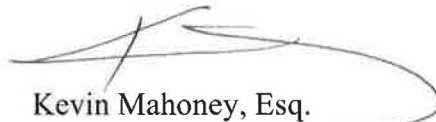
As a result of Defendant' intentional misclassification of Plaintiff and aggrieved employees, Defendant failed to reimburse Plaintiff and aggrieved employees for necessary business expenditures, including but not limited to using his cell phone to conduct Defendant's business. This conduct is in violation of Labor Code § 2802 and is actionable under PAGA.

As a further result of Defendant' failure to pay all wages owed as described herein, Defendant also violated Labor Code §§ 201, 202, and 203, due to its uniform policy, practice and procedure of failing to pay all wages earned to former employees.

As a result of Defendant' failure to pay all wages owed as described herein, Defendant further failed to keep accurate payroll records and failed to provide Mr. Hammonds and other aggrieved employees with complete and accurate wage statements showing the actual hours worked and premium wages earned per pay period. This conduct

Mr. Hammonds will bring his lawsuit on behalf of himself and all other aggrieved employees who were employed by Defendant. Please advise if the LWDA has any objection to my client including PAGA claims in his complaint. We look forward to your response, and please feel free to contact our office if you have any questions, comments or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kevin Mahoney', with a large, sweeping loop at the end.

Kevin Mahoney, Esq.
MAHONEY LAW GROUP, APC