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Attorney for Plaintiff
Francisco Carrillo Ramirez, individually
and on behalf of all aggrieved employees

SUPERIOR COURT OF CALIFORNIA
COUNTY OF KERN

FRANCISCO CARRILLO RAMIREZ, individually and on behalf of all aggrieved employees,	)	NO. BCV-24-102989
	)	FIRST AMENDED COMPLAINT
Plaintiff,	)	1. Minimum Wage Violations
v.	)	2. Wage Statement Penalties
	)	3. Waiting Time Penalties
WESTERN ROADIES, INC. and DOES 1 to 100,	)	4. Violation of Unfair Competition Law
Defendants.	)	5. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Francisco Carrillo Ramirez, individually and on behalf of all aggrieved employees, is a resident of Los Angeles County.
2. Defendant Western Roadies, Inc. is a California corporation that is based in Kern County, and it operates a trucking company.
3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore uses fictitious names. Plaintiff will amend pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
4. The named and Doe defendants are collectively referred to as "Defendants."
5. 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.

6. Defendants operate transportation and trucking services.

7. Plaintiff worked as a driver from July 2023 to November 2023; therefore Wage Order 9 applies.

8. A driver drives a truck. Defendants operate a trucking company.

9. Plaintiff was paid \$14 per hour, which was below the minimum wage. The wage statements incorrectly listed payment at \$16 per hour.

10. Plaintiff was also promised piece rate compensation of 50 cents per mile but apparently did not receive these piece rate payments since they are not reflected on the wage statements.

11. Plaintiff worked whenever Defendants instructed him to work – truck drivers do not maintain typical work schedules.

12. Plaintiff often spent hours a day for “nonproductive time” which comprised waiting for the trucks to get loaded and unloaded. Plaintiff was under Defendants’ control throughout this time but was not paid for this time.

13. Employees who are supposed to receive piece rate compensation are supposed to receive paid rest and recovery periods, but Plaintiff did not receive them.

14. Plaintiff was not exempt since he did not customarily and regularly exercise discretion and independent judgment.

15. Thus, throughout Plaintiff’s employment, he was not paid at least the minimum wage, was not paid for off the clock work, and did not receive accurate, itemized wage statements.

16. On May 13, 2024 Plaintiff sent Defendant a PAGA notice and uploaded it to the LWDA website; since it has been 65 days Plaintiff may request PAGA penalties.

FIRST CAUSE OF ACTION

Minimum Wage Violations

Against All Defendants

17. Plaintiff incorporates by reference paragraphs 1 to 16 of the amended complaint.

18. Plaintiff was required to work off the clock during nonproductive time.

19. Nonproductive time included waiting for the loading and unloading of the truck. Plaintiff was completely at Defendants' control during the nonproductive time.

20. However, Plaintiff was not fully paid for the nonproductive time since Defendants artificially limited this time to one hour per pay period when it was nearly always much more.

21. This could be a factor of the fact that Defendants did not keep track of Plaintiff's time as required by Labor Code section 1174.

22. Further, Defendants purported to pay Plaintiff a piece rate of 50¢ per mile but the wage statements reflect that payment. Instead, Defendants placed arbitrary numbers of hours on the wage statements that did not reflect hours worked.

23. Next, although the wage statements listed \$16 per hour, in reality Defendants only paid Plaintiff \$14 per hour which is below the minimum wage.

24. Therefore, Plaintiff was not paid for all hours worked and is owed at least the minimum wage and liquidated damages.

25. Plaintiff is entitled to reimbursement for unpaid wages, interest, and statutory attorney fees apply pursuant to Labor Code section 1194 and liquidated damages pursuant to Labor Code section 1194.2.

SECOND CAUSE OF ACTION

Wage Statement Penalties

Against All Defendants

26. Plaintiff incorporates by reference paragraphs 1 to 16 of the amended complaint.

27. Defendants' wage statements violated Labor Code section 226 since they intentionally did not list the work performed off the clock, they listed the wrong hourly rate, and they did not list payments for nonproductive time as required by Labor Code section 226.2(a)(2).

1 28. The remedy for the inaccurate wage statements is wage statement penalties up
2 to \$4,000 and attorney fees.

3
4 THIRD CAUSE OF ACTION

5 Waiting Time Penalties

6 Against All Defendants

7 29. Plaintiff incorporates by reference paragraphs 1 to 16 of the amended
8 complaint.

9 30. Plaintiff was still owed wages including work of the clock, payment below the
10 minimum wage, and not receiving payment for rest and recovery periods, when he
11 stopped working for Defendants and was willfully not paid these wages.

12 31. Therefore, pursuant to Labor Code section 203, Plaintiff is owed the waiting
13 time penalty, which is 30 days of wages.

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15 FOURTH CAUSE OF ACTION

16 Violation of Unfair Competition Law

17 Against All Defendants

18 32. Plaintiff incorporates by reference paragraphs 1 to 16 of the amended
19 complaint.

20 33. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent
21 business practices. This claim is being brought under the unlawful prong of the UCL.

22 34. Defendants violated the Labor Code and IWC Wage Order by not paying all
23 wages due.

24 35. Plaintiff is entitled to restitution for the above.

25 36. Under Code of Civil Procedure 1021.5, Plaintiff is entitled to attorney fees.

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1 FIFTH CAUSE OF ACTION

2 PAGA Penalties

3 Against All Defendants

4 37. Plaintiff incorporates by reference paragraphs 1 to 16 of the amended
5 complaint.

6 38. PAGA permits an aggrieved employee to recover penalties on behalf of
7 himself, other aggrieved employees, and the State of California.

8 39. The PAGA allegations relate to minimum wage violations, wage statement
9 violations, and waiting time penalties.

10 40. As stated above, there are minimum wage violations relate to not getting paid
11 for work off the clock, not receiving payments for rest and recovery periods, and not
12 getting paid at least the minimum wage.

13 41. As stated above, the wage statement violations relate to the wage statements
14 not reflecting the actual amount of time worked, not stating the correct hourly rate,
15 and not listing payments for rest and recovery periods.

16 42. As stated above, the waiting time penalties relate to not receiving all wages
17 that were due when stopping work for Defendants.

18 43. The PAGA penalties for the minimum wage violations are in Labor Code
19 sections 1197.1 and 2699.

20 44. The PAGA penalties for the wage statement penalties are in Labor Code
21 sections 226.3 and 2699.

22 45. The PAGA penalties for the waiting time penalties are in Labor Code 2699.

23 46. Also, Plaintiff is entitled to attorney fees and costs under Section 2699.

24
25 PRAYER

26 First Cause of Action

27 1. Payment of all unpaid wages

28 2. Interest

1 3. Attorney fees and costs

2

3 Second Cause of Action

4 1. Wage statement penalties

5 2. Attorney fees and costs

6 3. Other relief the court deems proper

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8 Third Cause of Action

9 1. Waiting time penalties

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11 Fourth Cause of Action

12 1. Restitution of unpaid wages and premium pay

13 2. Attorney fees

14 3. Other relief the court deems proper

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16 Fifth Cause of Action

17 1. All applicable PAGA penalties

18 2. Attorney fees and costs

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20 Date: November 13, 2024

FRONTIER LAW CENTER

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/s/ Adam Rose

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Attorney for Plaintiff

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Francisco Carrillo Ramirez

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PROOF OF SERVICE

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

On November 14, 2024, I electronically served the following: foregoing document(s) described as set forth below on the interested parties in this action, as follows:

Document(s) Served: First Amended Complaint

Person(s) Served: Kristi Dean
kdean@stonedeanlaw.com
Tara Hattendorf
thattendorf@stonedeanlaw.com
Stone Dean
21052 Oxnard St.
Woodland Hills, CA 91367
For Western Roadies, Inc.

____ (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 to the email addresses above.

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.

Date: November 14, 2024

/s/ Adam Rose