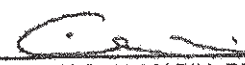


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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 12 2024

BY 
GLORIA MARIN, DEPUTY

Attorneys for Plaintiff CARMEN L. GALINDO RAMIREZ,
on behalf of himself and current and former aggrieved employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN BERNARDINO**

CARMEN L. GALINDO RAMIREZ, on behalf
of himself and current and former aggrieved
employees

Plaintiff,

vs.

DJ TRANS, INC; and DOES 1 to 100, inclusive,
Defendants.

Case No.: **CIV SB 2408628**

PAGA ACTION

**PLAINTIFF CARMEN L. GALINDO
RAMIREZ'S COMPLAINT FOR:**

- CIVIL PENALTIES PURSUANT
TO THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004
("PAGA"), LABOR CODE
SECTIONS 2698, ET SEQ.**

COMES NOW Plaintiff CARMEN L. GALINDO RAMIREZ ("Plaintiff"), who alleges
and complains against Defendants DJ TRANS, INC; and DOES 1 to 100, inclusive (collectively
"Defendants") as follows:

I. INTRODUCTION

1. This is a Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*
("PAGA") representative action brought by Plaintiff on behalf of the State of California, himself
and other current and former aggrieved employees of Defendants who worked as hourly non-
exempt employees in California during the relevant time period seeking civil penalties associated
with Defendants' violation of the Labor Code based on Defendants' failure to pay wages for all

1 hours worked at minimum wage, statutory penalties for failure to provide accurate wage
2 statements, statutory waiting time penalties in the form of continuation wages for failure to timely
3 pay employees all wages due upon separation of employment. Plaintiff seeks on a representative
4 basis, following notice to the Labor and Workforce Development Agency, civil penalties,
5 reasonable attorneys' fees pursuant to Labor Code section 2699(g)(1) and costs brought on behalf
6 of Plaintiff, the State of California, and others aggrieved.

7 **II. JURISDICTION AND VENUE**

8 2. This Court has jurisdiction over the claims of Plaintiff and all other current and
9 former aggrieved California-based hourly non-exempt employees because Plaintiff's lawsuit seeks
10 civil penalties on behalf of himself, all other current and former aggrieved California-based hourly
11 non-exempt employees, and the State of California in excess of twenty-five thousand dollars
12 (\$25,000); Defendants employed Plaintiff and all other current and former aggrieved California-
13 based hourly non-exempt employees; and the injuries to Plaintiff and all other current and former
14 aggrieved California-based hourly non-exempt employees occurred in locations throughout
15 California, including but not limited to San Bernardino County at 14411 S. Euclid Avenue,
16 Ontario, California 91762.

17 **III. PARTIES**

18 3. Plaintiff brings this action as a representative of the Labor and Workforce
19 Development Agency on behalf of himself and other current and former employees subject to
20 violations of the Labor Code. The named Plaintiff and the persons on whose behalf this action is
21 filed include current, former and/or future employees of Defendants who work, worked, or will
22 work for Defendants as direct employees as well as temporary employees employed through temp
23 agencies as hourly non-exempt employees in California. At all times mentioned herein, the
24 currently named Plaintiff is and was domiciled and a resident and citizen of California and was
25 employed by Defendants in an hourly position at Defendants' location in Ontario from
26 approximately March 27, 2023, until the present.

27 4. Plaintiff is informed and believes and thereon alleges that Defendant DJ TRANS,
28 INC is authorized to do business within the State of California and is doing business in the State of

1 California and/or that Defendants DOES 1-50 are, and at all times relevant hereto were persons
2 acting on behalf of Defendant DJ TRANS, INC in the establishment of, or ratification of, the
3 aforementioned illegal wage and hour practices or policies. Defendant DJ TRANS, INC operates
4 in San Bernardino County and employed Plaintiff and aggrieved employees in San Bernardino
5 County, including but not limited to, at 14411 S. Euclid Avenue, Ontario, California 91762.

6 5. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1
7 through 50 are corporations, or are other business entities or organizations of a nature unknown to
8 Plaintiff that employed Plaintiff and aggrieved California non-exempt employees, permitted
9 Plaintiff and aggrieved employees to work, and exercised control over the wages, hours and
10 working conditions of employment of Plaintiff and aggrieved employees.

11 6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 51
12 through 100 are individuals unknown to Plaintiff. Each of the individual defendants is sued
13 individually and in his or her capacity as an agent, shareholder, owner, representative, manager,
14 supervisor, independent contractor and/or employee of each defendant who violated or caused to
15 be violated the minimum wage and overtime provisions of the Labor Code and/or any provision of
16 the Industrial Welfare Commission's wage orders regulating hours and days of work.

17 7. Plaintiff is unaware of the true names of Defendants DOES 1 through 100. Plaintiff
18 sues said defendants by said fictitious names, and will amend this complaint when the true names
19 and capacities are ascertained or when such facts pertaining to liability are ascertained, or as
20 permitted by law or by the Court. Plaintiff is informed and believes that each of the fictitiously
21 named defendants is in some manner responsible for the events and allegations set forth in this
22 complaint.

23 8. Plaintiff makes the allegations in this complaint without any admission that, as to
24 any particular allegation, Plaintiff bears the burden of pleading, proving, or persuading and
25 Plaintiff reserves all of Plaintiff's right to plead in the alternative.

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1 **FIRST CAUSE OF ACTION**

2 **CIVIL PENALTIES PURSUANT TO THE PRIVATE ATTORNEYS GENERAL ACT OF**
3 **2004, LABOR CODE SECTIONS 2698, ET SEQ.**

4 **(Against all Defendants by Plaintiff)**

5 9. Plaintiff incorporates all paragraphs above as though fully set forth herein.

6 10. During Plaintiff's employment and continuing through the present, Plaintiff alleges
7 Defendants violated Labor Code sections 201, 202, 203, 204, 226, 1194, 1197, and the applicable
8 Wage Orders.

9 11. Specifically, Defendants have committed the following violations of California
10 Labor Code:

11 12. **Failure to pay wages for all hours worked at the legal minimum wage:**
12 Defendants employed many of their employees, including Plaintiff, as hourly non-exempt
13 employees. In California, an employer is required to pay hourly employees for all "hours worked,"
14 which includes all time that an employee is under control of the employer and all time the
15 employee is suffered and permitted to work. This includes the time an employee spends, either
16 directly or indirectly, performing services which inure to the benefit of the employer.

17 13. Labor Code sections 1194 and 1197 require an employer to compensate employees
18 for all "hours worked" at least at a minimum wage rate of pay as established by the IWC and the
19 Wage Orders.

20 14. In this case, Plaintiff and other current and former aggrieved California-based
21 hourly non-exempt employees worked more minutes per shift than Defendants credited them with
22 having worked. Specifically, Defendants failed to pay Plaintiff and other current and former
23 aggrieved California-based hourly non-exempt employees all wages at the applicable minimum
24 wage for all hours worked due to Defendants' policies, practices, and/or procedures including, but
25 not limited to,

26 (a) Failure to pay Plaintiff and other current and former aggrieved California-based
27 hourly non-exempt employees who were paid pursuant an activity-based compensation system,
28 non-driving hours they worked including, but not limited to, hours worked performing pre and

1 post trip inspections, waiting to load, loading, and unloading.

2 15. Therefore, Defendants suffered, permitted, and required Plaintiff and other current
3 and former aggrieved California-based hourly non-exempt employees to be subject to Defendants'
4 control without paying wages for that time. This resulted in Plaintiff and other current and former
5 aggrieved California-based hourly non-exempt employees working time for which they were not
6 compensated any wages, in violation of Labor Code sections 1194 and 1197 and the applicable
7 Wage Order.

8 16. **Failure to timely pay earned wages during employment:** In California, wages
9 must be paid at least twice during each calendar month on days designated in advance by the
10 employer as regular paydays, subject to some exceptions. Labor Code section 204(a). Wages
11 earned between the 1st and 15th days, inclusive, of any calendar month must be paid between the
12 16th and the 26th day of that month and wages earned between the 16th and the last day,
13 inclusive, of any calendar month must be paid between the 1st and 10th day of the following
14 month. *Id.* Other payroll periods such as those that are weekly, biweekly, or semimonthly, must be
15 paid within seven (7) calendar days following the close of the payroll period in which wages were
16 earned. Labor Code section 204(d).

17 17. As a derivative of Plaintiff's claims above, Plaintiff alleges that Defendants failed
18 to timely pay Plaintiff's and other current and former aggrieved California-based hourly non-
19 exempt employees' earned wages (including minimum wages), in violation of Labor Code section
20 204. Defendants' aforementioned policies, practices, and/or procedures resulted in their failure to
21 pay Plaintiff's and other current and former aggrieved California-based hourly non-exempt
22 employees' their earned wages within the applicable time frames outlined in Labor Code section
23 204.

24 18. **Secret payment of lower wages than designated by statute:** Labor Code section
25 223 provides that, where any statute or contract requires an employer to maintain the designated
26 wage scale, it shall be unlawful to secretly pay a lower wage while purporting to pay the wage
27 designated by statute or contract. By engaging in the unlawful conduct alleged herein, including
28 by failing to: pay overtime wages at the applicable legal overtime rate, meal break premiums and

1 lawful sick pay at the employees' regular rate of pay, as established by Labor Code sections 226.7,
2 246, 510, 1194 and sections 11 and 12 of the applicable IWC Wage Orders, as incorporated by
3 Labor Code section 1198, the Defendant secretly paid a lower wage than designated by statute
4 while purporting to pay the wages designated by statute, in violation of Labor Code section 223.

5 **19. Failure to provide complete and accurate wage statements:** Labor Code section
6 226, subdivision (a). Labor Code section 226(a) provides, *inter alia*, that, upon paying an
7 employee his or her wages, the employer must "furnish each of his or her employees ... an
8 itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the
9 employee, except for any employee whose compensation is solely based on a salary and who is
10 exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of
11 the Industrial Welfare Commission, (3) the number of piece-rate units earned and any applicable
12 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided, that all
13 deductions made on written orders of the employee may be aggregated and shown as one item, (5)
14 net wages earned, (6) the inclusive dates of the pay period for which the employee is paid, (7) the
15 name of the employee and his or her social security number, (8) the name and address of the legal
16 entity that is the employer, and (9) all applicable hourly rates in effect during the pay period and
17 the corresponding number of hours worked at each hourly rate by the employee."

18 **20.** As a derivative of Plaintiff's allegations above, Defendants' failure to pay Plaintiff
19 and other current and former aggrieved California-based hourly non-exempt employees all wages
20 earned (including minimum wages) rendered Plaintiff's and other current and former aggrieved
21 California-based hourly non-exempt employees' wage statements inaccurate, in violation of Labor
22 Code section 226(a)(1, 2, 5 & 9).

23 **21. Failure to pay employees all wages due at time of termination/resignation:** An
24 employer is required to pay all unpaid wages timely after an employee's employment ends. The
25 wages are due immediately upon termination (Labor Code section 201) or within seventy-two (72)
26 hours of resignation (Labor Code section 202).

27 **22.** As a derivative of Plaintiff's allegations above, because Defendants failed to pay
28 Plaintiff and other current and former aggrieved California-based hourly non-exempt employees

1 all their earned wages (including minimum wages), Defendants failed to pay those employees
2 timely after each employee's termination and/or resignation, in violation of Labor Code sections
3 201, 202, and 203.

4 23. Labor Code sections 2699, subdivisions (a) and (g) authorize an aggrieved
5 employee, on behalf of himself or herself and other current or former employees, to bring a civil
6 action to recover civil penalties against all Defendants pursuant to the procedures specified in
7 Labor Code section 2699.3.

8 24. Plaintiff has complied with the procedures for bringing suit specified in Labor
9 Code section 2699.3. On February 6, 2024, Plaintiff filed a PAGA Claim Notice with the LWDA
10 and provided notice to Defendants by certified mail which provided notice of the specific
11 provisions of the Labor Code alleged to have been violated, including the facts and theories to
12 support the violations alleged.

13 25. Pursuant to Labor Code section 2699.3, the LWDA must give written notice by
14 certified mail to the parties that it intends to investigate the alleged violations of the Labor Code
15 within 60 days of the date of the complainant's written notice. The LWDA failed to provide the
16 parties notice within 60 days of the date of Plaintiff's PAGA Claim Notice that the LWDA intends
17 to investigate Plaintiff's claims.

18 26. Pursuant to Labor Code sections 2699(a) and (f), Plaintiff is entitled to recover civil
19 penalties for Defendants' violations of Labor Code sections 201, 202, 203, 204, 226, 1194, and
20 1197., During Plaintiff's employment and continuing through the present, preceding Plaintiff
21 sending the initial PAGA Claim Notice to the LWDA to the present, in the following amounts:

22 a. For violations of Labor Code sections 201, 202, 203, and 226(a); one
23 hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and
24 two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent
25 violation [penalty amounts established by Labor Code section 2699(f)(2)].

26 b. For violations of Labor Code section 226(a), alternatively, two hundred
27 fifty dollars (\$250) for each employee for each pay period for the initial violation, and for each
28 subsequent violation, one thousand dollars (\$1000) for each underpaid employee for each pay

period [penalty amounts established by Labor Code section 226.3].

c. For violations of Labor Code section 204, one hundred dollars (\$100) for each failure to pay each employee in any initial violation, and for each subsequent violation, or any willful or intentional violation, two hundred dollars (\$200) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld [penalty amounts established by Labor Code section 210].

27. Pursuant to Labor Code section 2699(g), Plaintiff is entitled to an award of reasonable attorneys' fees and costs in connection with his claims for civil penalties.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF, ON BEHALF OF HIMSELF AND ON OTHER AGGRIEVED EMPLOYEES, PRAYS AS FOLLOWS:

ON THE FIRST CAUSE OF ACTION:

1. That Defendants be found to have violated the provisions of the Labor Code and the IWC Wages Orders as to the Plaintiff and aggrieved employees;

2. For any and all legally applicable penalties during the relevant statute of limitations subject to any permissible tolling, including but not limited to those recoverable under the California Labor Code, including but not limited to sections 210, 225.5, 226.3, 558, 2699(f);

3. For attorneys' fees and costs of suit, including but not limited to those recoverable under California Labor Code section 2699(g); and

4. For such and other further relief, in law and/or equity, as the Court deems just or appropriate.

Dated: April 12, 2024

Respectfully submitted,
LAVI & EBRAHIMIAN, LLP

By:



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