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David W. Slayton,
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By J. Nunez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

GERRY BENITEZ, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

TRANSDEV ALTERNATIVE
SERVICES, INC., a Delaware
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: **24STCV16474**

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

1 Plaintiff Gerry Benitez (“Plaintiff”) hereby submits this representative action complaint
2 (“Complaint”) against Defendant Transdev Alternative Services, Inc. (“Defendant”) and Does 1
3 through 50 (collectively, “Defendants”), as an individual and on behalf of all other similarly
4 situated current and former employees of Defendants for penalties for violations of the California
5 Labor Code as follows:

6 **INTRODUCTION**

7 1. This Complaint is within the Court’s jurisdiction under California Labor Code §§
8 201, 202, 203, 226, 246, and 2698, *et seq.*, and the applicable Industrial Welfare Commission
9 (“IWC”) Wage Orders.

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code and the applicable IWC Wage Orders against individuals
12 who worked for Defendants.

13 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants,
14 jointly and severally, have acted intentionally and with deliberate indifference and conscious
15 disregard to the rights of all employees by failing to pay sick pay at the regular rate of pay,
16 failing to pay all wages due at termination, and failing to provide accurate itemized wage
17 statements.

18 **JURISDICTION AND VENUE**

19 4. The Court has jurisdiction over the violations of the California Labor Code §§
20 201, 202, 203, 226, 246, and 2698, *et seq.*, and the applicable IWC Wage Orders.

21 5. Venue is proper in Los Angeles County because Plaintiff worked for Defendants
22 in Los Angeles County, California.

23 **PARTIES**

24 6. Plaintiff was employed by Defendants as a Waymo Recovery Assistant from in or
25 about November 2022 to on or about February 26, 2024. During his employment with
26 Defendants, Plaintiff worked as an hourly, non-exempt employee.

27 7. Plaintiff was and is the victims of the policies, practices, and customs of
28 Defendant complained of in this action in ways that have deprived him of the rights guaranteed

1 by California Labor Code §§ 201, 202, 203, 226, 246, and 2698, *et seq.*, and the applicable IWC
2 Wage Orders.

3 8. Plaintiff is informed and believes, and based thereon alleges, that Defendant was
4 and is a Delaware corporation, in the business of private and public transport operations the
5 United States, including in Los Angeles County, California.

6 9. Plaintiff is informed and believes, and based thereon alleges, that at all times
7 herein mentioned Does 1 through 50, are and were corporations, business entities, individuals,
8 and partnerships, licensed to do business and actually doing business in the State of California.
9 As such, and based upon all the facts and circumstances incident to Defendants' business,
10 Defendants are subject to the California Labor Code.

11 10. Plaintiff does not know the true names or capacities, whether individual, partner,
12 or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason,
13 said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
14 complaint when the true names and capacities are known. Plaintiff is informed and believes and
15 based thereon alleges that each of said fictitious defendants was responsible in some way for the
16 matters alleged herein and proximately caused Plaintiff and members of the general public and
17 aggrieved employees to be subject to the illegal employment practices, wrongs, and injuries
18 complained of herein.

19 11. At all times herein mentioned, each defendant participated in the doing of the acts
20 hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants,
21 and each of them, were the agents, servants, and employees of each of the other defendants, as
22 well as the agents of all Defendants, and at all times herein mentioned, were acting within the
23 course and scope of said agency and employment.

24 12. Plaintiff is informed and believes, and based thereon alleges, that at all times
25 material hereto, each of the Defendants named herein was the agent, employee, alter ego, and/or
26 joint venturer of, or working in concert with each of the other co-Defendants and was acting
27 within the course and scope of such agency, employment, joint venture, or concerted activity. To
28 the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the

1 remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting
2 Defendants.

3 13. At all times herein mentioned, Defendants, and each of them, were members of,
4 and engaged in, a joint venture, partnership, and common enterprise, and acting within the course
5 and scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

6 14. At all times herein mentioned, the acts and omissions of various Defendants, and
7 each of them, concurred and contributed to the various acts and omissions of each and all of the
8 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
9 herein mentioned, Defendants, and each of them, ratified each and every act or omission
10 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
11 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
12 damages as herein alleged.

13 **FIRST CAUSE OF ACTION**

14 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

15 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

16 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
17 though fully set forth herein.

18 16. Plaintiff brings this cause of action as a proxy for the State of California and in
19 this capacity, seeks penalties on behalf of all aggrieved employees from April 23, 2023, through
20 the present, for Defendants' violations of Labor Code §§ 201, 202, 203, 226, and 246, arising
21 from Defendants' policy and practice of failing to pay sick pay at the regular rate of pay, failing
22 to pay all wages due at separation of employment, and failing to provide accurate itemized wage
23 statements.

24 17. Plaintiff and aggrieved employees regularly earned non-discretionary
25 remuneration, including without limitation, premium incentive pay. During periods when
26 Plaintiff and aggrieved employees were paid sick pay and earned non-discretionary
27 remuneration, Defendants failed to pay sick pay at the correct regular rate of pay. Specifically,
28 during periods where Plaintiff and aggrieved employees earned non-discretionary remuneration,

1 thus increasing the regular rate of pay, Plaintiff and aggrieved employees were paid sick pay at
2 the base rate of pay, rather than the higher regular rate of pay that incorporates the non-
3 discretionary remuneration into the calculation of the regular rate. Thus, Plaintiff and aggrieved
4 employees are owed additional sick pay based on the correct, higher regular rate of pay.

5 18. In addition, Defendants failed to pay Plaintiff and aggrieved employees all wages
6 owed upon separation of employment in violation of Labor Code §§ 201-203. At the separation
7 of their employment, Plaintiff and aggrieved employees were not paid all final wages owed,
8 including the underpaid sick pay wages owed.

9 19. Finally, Defendants failed to provide accurate itemized wage statements to
10 Plaintiff and aggrieved employees. Specifically, as a result of the underpayment of sick pay, the
11 wage statements issued to Plaintiff and aggrieved employees failed to identify accurate hourly
12 rates of pay and gross and net wages earned.

13 20. On or about April 23, 2024, Plaintiff sent written notice to the California Labor
14 and Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code §§
15 201, 202, 203, 226, and 246, pursuant to Labor Code § 2698, *et seq.*, the Private Attorneys
16 General Act (“PAGA”). As of the date of the filing of this Complaint, the LWDA has yet to
17 provide notice to Plaintiff as to whether it intends to investigate the Labor Code violations set
18 forth in Plaintiff’s written notice. In addition to the LWDA, Plaintiff also sent his written notice
19 to Defendant via certified mail pursuant to Labor Code § 2699.3.

20 21. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and all
21 applicable civil penalties for Defendants’ violations of Labor Code §§ 201, 202, 203, 226, and
22 246 for the time period described above, on behalf of himself and other aggrieved employees.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff prays for judgment for himself and all others on whose behalf
25 this suit is brought against Defendants, jointly and severally, as follows:

26 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
27 the PAGA and California Labor Code § 226.3, and for costs and attorneys’ fees;

28 2. On all causes of action, for attorneys’ fees and costs as provided by California

1 Labor Code § 2699 and California Code of Civil Procedure § 1021.5; and

2 3. For such other and further relief as the Court may deem just and proper.

3
4 DATED: July 2, 2024

DIVERSITY LAW GROUP, P.C.

5
6 By: 

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