

DESAI LAW FIRM, P.C.

Aashish Y. Desai, Esq. (SBN 187394)
Adrianne De Castro, Esq. (SBN 238930)
3200 Bristol St., Suite 650
Costa Mesa, California 92626
Telephone: (949) 614-5830
Facsimile: (949) 271-4190
aashish@desai-law.com
adrianne@desai-law.com

Attorneys for Plaintiff and all aggrieved employees

Mara D. Curtis (SBN 268869)
Brittany M. Hernandez (SBN 299044)
Tanner J. Hendershot (SBN 346841)
REED SMITH LLP
355 South Grand Avenue, Suite 2900
Los Angeles, CA 90071-1514
Telephone: +1 213 457 8000
Facsimile: +1 213 457 8080
Email: mcurtis@reedsmith.com
bmhernandez@reedsmith.com
thendershot@reedsmith.com

Attorneys for Defendant
RYDER LAST MILE, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF ORANGE – CIVIL COMPLEX CENTER

EUDIER LEAÑO on behalf of himself and all
others similarly situated,

PLAINTIFFS,

v.

RYDER LAST MILE, INC., a Florida Company,
and DOES 1-10, inclusive,

DEFENDANTS.

Case No. 30-2024-01405201-CU-OE-CXC

[Assigned for all purposes to the Honorable
Melissa R. McCormick, Department CXC104]

**STIPULATION TO DISMISS AND STRIKE
MISSED MEAL AND REST PERIODS
ALLEGATIONS; ORDER THEREON**

Complaint Filed: June 6, 2024
Trial Date: None

1 Plaintiff Eudier Leño (“Plaintiff”) and Defendant Ryder Last Mile, Inc. (“Ryder”) (together,
2 the “Parties”), by and through their undersigned counsel, hereby enter into the below stipulation with
3 reference to the following facts:

4 WHEREAS, on August 7, 2024, Ryder’s counsel emailed Plaintiff’s counsel, pursuant to
5 Code of Civil Procedure Section 430.41, to meet and confer regarding Ryder’s intention to file its
6 Demurrer to Plaintiff’s Complaint;

7 WHEREAS, within Ryder’s August 7, 2024 email, Ryder’s counsel raised multiple bases for
8 its demurrer, including, as relevant here, that Plaintiff’s claims for penalties for missed meal periods
9 and/or rest periods are preempted under the FMCSA and Department of Transportation regulations
10 covering commercial vehicle drivers;

11 WHEREAS, on August 7, 2024, the Parties agreed to hold a meet and confer conference on
12 August 12, 2024 at 3:00 p.m. to discuss the bases for Ryder’s demurrer;

13 WHEREAS, on August 12, 2024, at 3:00 p.m., the Parties held a meet and confer phone
14 conference regarding the bases for Ryder’s demurrer;

15 WHEREAS, the Parties agreed that California’s meal and rest period laws are preempted
16 under the FMCSA;

17 WHEREAS, Plaintiff’s counsel agreed to stipulate to dismiss Plaintiff’s claims for penalties
18 under PAGA for missed meal periods and/or meal period premiums, as well as his claims for
19 penalties under PAGA for missed rest periods and/or rest period premiums, as preempted under the
20 Federal Motor Carrier Safety Administration and Department of Transportation regulations;

21 IT IS HEREBY JOINTLY STIPULATED AND AGREED, by and between the Parties
22 through their respective counsel of record that:

23 1. The following sections of Plaintiff’s PAGA cause of the action, to the extent
24 predicated on missed meal periods and/or meal period premiums, should be stricken from the
25 Complaint and dismissed with prejudice, as follows:

26 a. Complaint, Paragraph 10: “. . . failure to provide meal and rest breaks . . .”
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- 1 b. Complaint, Paragraph 20: “Drivers’ tight schedules also means that they do not
2 have an opportunity to stop and take compliant meal and rest breaks, nor does
3 Ryder build these into drivers’ schedules.”
- 4 c. Complaint, Paragraph 21 “. . . any meal or rest break premiums.”
- 5 d. Complaint, Paragraph 22: “. . . provide them meal and rest breaks . . .”
- 6 e. Complaint, Paragraph 31: “**Unlawful Failure to Provide Uninterrupted Off-**
7 **Duty Meal and Rest Periods.** Drivers were regularly compelled to work in
8 excess of five and ten hours a day without being afforded at least half-hour meal
9 periods in which they were completely relieved of all duties as required by Labor
10 Code §§ 226.7, 512, and 558. The drivers were also regularly permitted and
11 compelled to work over a four-hour period (or a major fraction thereof) without
12 Ryder authorizing and permitting them to take paid ten-minute rest periods in
13 which they were completely relieved of all their duties as required by Labor
14 Code § 226.7.”
- 15 f. Complaint, Paragraph 32: “Ryder required its drivers to adhere to its tight and
16 demanding route schedules which sometimes include assembly and appliance
17 installation. Therefore, drivers rarely if ever had the opportunity to take an
18 uninterrupted meal or rest break. Rather drivers would simply eat on the road or
19 miss meal and rest breaks entirely. Because Ryder misclassified its drivers as
20 independent contractors, it also did not keep records or missed meal and rest
21 breaks and did not pay its driver premiums for meal and rest breaks.”
- 22 g. Complaint, Paragraph 34: “. . . meal and rest break premiums, . . .”
- 23 h. Complaint, Paragraph 37: “Plaintiffs, on behalf of himself and all aggrieved
24 employees presently or formerly employed by Defendant during the liability
25 period, bring this representative action pursuant to Labor Code §2699, *et seq.*
26 seeking penalties for Defendant’s violation of Labor Code §§ 201-203, 204 . . .
27 558” to the extent Plaintiff’s claim for penalties under those Code sections relates
28 to his meal period claim.

- i. Complaint, Paragraph 43: “Ryder also violates Labor Code §§ 226.7, 512, and 558 by failing to authorize and permit its drivers to take at least half-hour meal periods in which they were completely relieved of all duties. Drivers were also regularly permitted and compelled to work over a four-hour period (or a major fraction thereof) without Ryder authorizing and permitting them to take paid ten-minute rest periods in which they were completely relieved of all their duties as required by Labor Code § 226.7.”
- j. Complaint, Paragraph 45: “. . . meal and rest break premiums,”
- k. Complaint, Paragraph 46: “. . . meal and rest break period”

2. The following sections of Plaintiff’s PAGA cause of the action, to the extent predicated on claims for missed rest periods and/or rest period premiums, should be stricken from the Complaint and dismissed with prejudice, as follows:

- a. Complaint, Paragraph 10: “. . . failure to provide meal and rest breaks”
- b. Complaint, Paragraph 20: “Drivers’ tight schedules also means that they do not have an opportunity to stop and take compliant meal and rest breaks, nor does Ryder build these into drivers’ schedules.”
- c. Complaint, Paragraph 21 “. . . any meal or rest break premiums.”
- d. Complaint, Paragraph 22: “. . . provide them meal and rest breaks”
- e. Complaint, Paragraph 31: “**Unlawful Failure to Provide Uninterrupted Off-Duty Meal and Rest Periods.** Drivers were regularly compelled to work in excess of five and ten hours a day without being afforded at least half-hour meal periods in which they were completely relieved of all duties as required by Labor Code §§ 226.7, 512, and 558. The drivers were also regularly permitted and compelled to work over a four-hour period (or a major fraction thereof) without Ryder authorizing and permitting them to take paid ten-minute rest periods in which they were completely relieved of all their duties as required by Labor Code § 226.7.”

- 1 f. Complaint, Paragraph 32: “Ryder required its drivers to adhere to its tight and
2 demanding route schedules which sometimes include assembly and appliance
3 installation. Therefore, drivers rarely if ever had the opportunity to take an
4 uninterrupted meal or rest break. Rather drivers would simply eat on the road or
5 miss meal and rest breaks entirely. Because Ryder misclassified its drivers as
6 independent contractors, it also did not keep records or missed meal and rest
7 breaks and did not pay its driver premiums for meal and rest breaks.”
- 8 g. Complaint, Paragraph 34: “. . . meal and rest break premiums,”
- 9 h. Complaint, Paragraph 37: “Plaintiffs, on behalf of himself and all aggrieved
10 employees presently or formerly employed by Defendant during the liability
11 period, bring this representative action pursuant to Labor Code §2699, *et seq.*
12 seeking penalties for Defendant’s violation of Labor Code §§ 201-203, 204 . . .
13 558” to the extent Plaintiff’s claim for penalties under those Code sections relates
14 to his meal and rest period claim.
- 15 i. Complaint, Paragraph 43: “Ryder also violates Labor Code §§ 226.7, 512, and
16 558 by failing to authorize and permit its drivers to take at least half-hour meal
17 periods in which they were completely relieved of all duties. Drivers were also
18 regularly permitted and compelled to work over a four-hour period (or a major
19 fraction thereof) without Ryder authorizing and permitting them to take paid ten-
20 minute rest periods in which they were completely relieved of all their duties as
21 required by Labor Code § 226.7.”
- 22 j. Complaint, Paragraph 45: “. . . meal and rest break premiums,”
- 23 k. Complaint, Paragraph 46: “. . . meal and rest break period pay”
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1 **IT IS SO STIPULATED.**

2 Dated: August 23, 2024

DESAI LAW FIRM, P.C.

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By: /s/ Adrianne DeCastro (as authorized on 8/22/24)
Aashish Y. Desai
Adrianne DeCastro
Attorneys for Plaintiff and the other aggrieved
employees

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9 Dated: August 23, 2024

REED SMITH LLP

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By:


Mara D. Curtis
Brittany M. Hernandez
Tanner J. Hendershot
Attorneys for Defendant(s)
RYDER LAST MILE, INC.

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ORDER

Based on the Parties' above stipulation and good cause appearing, the court orders as follows:

1. The following sections of Plaintiff's First Cause of Action for PAGA penalties, to the extent predicated on allegations for missed meal periods and/or meal period premiums, are stricken from the Complaint dismissed with prejudice, as follows:

- a. Complaint, Paragraph 10: "... failure to provide meal and rest breaks ..."
- b. Complaint, Paragraph 20: "Drivers' tight schedules also means that they do not have an opportunity to stop and take compliant meal and rest breaks, nor does Ryder build these into drivers' schedules."
- c. Complaint, Paragraph 21 "... any meal or rest break premiums."
- d. Complaint, Paragraph 22: "... provide them meal and rest breaks ..."
- e. Complaint, Paragraph 31: "**Unlawful Failure to Provide Uninterrupted Off-Duty Meal and Rest Periods.** Drivers were regularly compelled to work in excess of five and ten hours a day without being afforded at least half-hour meal periods in which they were completely relieved of all duties as required by Labor Code §§ 226.7, 512, and 558. The drivers were also regularly permitted and compelled to work over a four-hour period (or a major fraction thereof) without Ryder authorizing and permitting them to take paid ten-minute rest periods in which they were completely relieved of all their duties as required by Labor Code § 226.7."
- f. Complaint, Paragraph 32: "Ryder required its drivers to adhere to its tight and demanding route schedules which sometimes include assembly and appliance installation. Therefore, drivers rarely if ever had the opportunity to take an uninterrupted meal or rest break. Rather drivers would simply eat on the road or miss meal and rest breaks entirely. Because Ryder misclassified its drivers as independent contractors, it also did not keep records or missed meal and rest breaks and did not pay its driver premiums for meal and rest breaks."

- g. Complaint, Paragraph 34: “. . . meal and rest break premiums,”
- h. Complaint, Paragraph 37: “Plaintiffs, on behalf of himself and all aggrieved employees presently or formerly employed by Defendant during the liability period, bring this representative action pursuant to Labor Code §2699, *et seq.* seeking penalties for Defendant’s violation of Labor Code §§ 201-203, 204 . . . 558” to the extent Plaintiff’s claim for penalties under those Code sections relates to his meal period claim.
- i. Complaint, Paragraph 43: “Ryder also violates Labor Code §§ 226.7, 512, and 558 by failing to authorize and permit its drivers to take at least half-hour meal periods in which they were completely relieved of all duties. Drivers were also regularly permitted and compelled to work over a four-hour period (or a major fraction thereof) without Ryder authorizing and permitting them to take paid ten-minute rest periods in which they were completely relieved of all their duties as required by Labor Code § 226.7.”
- j. Complaint, Paragraph 45: “. . . meal and rest break premiums,”
- k. Complaint, Paragraph 46: “. . . meal and rest break period pay”; and

2. The following sections of Plaintiff’s First Cause of Action for PAGA penalties, to the extent predicated on allegations for missed rest periods and/or rest period premiums, are stricken from the Complaint and dismissed with prejudice, as follows:

- a. Complaint, Paragraph 10: “. . . failure to provide meal and rest breaks”
- b. Complaint, Paragraph 20: “Drivers’ tight schedules also means that they do not have an opportunity to stop and take compliant meal and rest breaks, nor does Ryder build these into drivers’ schedules.”
- c. Complaint, Paragraph 21 “. . . any meal or rest break premiums.”
- d. Complaint, Paragraph 22: “. . . provide them meal and rest breaks”
- e. Complaint, Paragraph 31: “**Unlawful Failure to Provide Uninterrupted Off-Duty Meal and Rest Periods.** Drivers were regularly compelled to work in excess of five and ten hours a day without being afforded at least half-hour meal

1 periods in which they were completely relieved of all duties as required by Labor
2 Code §§ 226.7, 512, and 558. The drivers were also regularly permitted and
3 compelled to work over a four-hour period (or a major fraction thereof) without
4 Ryder authorizing and permitting them to take paid ten-minute rest periods in
5 which they were completely relieved of all their duties as required by Labor
6 Code § 226.7.”

7 f. Complaint, Paragraph 32: “Ryder required its drivers to adhere to its tight and
8 demanding route schedules which sometimes include assembly and appliance
9 installation. Therefore, drivers rarely if ever had the opportunity to take an
10 uninterrupted meal or rest break. Rather drivers would simply eat on the road or
11 miss meal and rest breaks entirely. Because Ryder misclassified its drivers as
12 independent contractors, it also did not keep records or missed meal and rest
13 breaks and did not pay its driver premiums for meal and rest breaks.”

14 g. Complaint, Paragraph 34: “. . . meal and rest break premiums,”

15 h. Complaint, Paragraph 37: “Plaintiffs, on behalf of himself and all aggrieved
16 employees presently or formerly employed by Defendant during the liability
17 period, bring this representative action pursuant to Labor Code §2699, *et seq.*
18 seeking penalties for Defendant’s violation of Labor Code §§ 201-203, 204 . . .
19 558” to the extent Plaintiff’s claim for penalties under those Code sections relates
20 to his meal and rest period claim.

21 i. Complaint, Paragraph 43: “Ryder also violates Labor Code §§ 226.7, 512, and
22 558 by failing to authorize and permit its drivers to take at least half-hour meal
23 periods in which they were completely relieved of all duties. Drivers were also
24 regularly permitted and compelled to work over a four-hour period (or a major
25 fraction thereof) without Ryder authorizing and permitting them to take paid ten-
26 minute rest periods in which they were completely relieved of all their duties as
27 required by Labor Code § 226.7.”
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- j. Complaint, Paragraph 45: “. . . meal and rest break premiums,”
- k. Complaint, Paragraph 46: “. . . meal and rest break period pay”

IT IS SO ORDERED.

Dated: August 23, 2024



Melissa R. McCormick
JUDGE OF THE SUPERIOR COURT

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