

08/28/2024

By: Jessica Sroufe Deputy

Nazo Koulloukian, SBN 263809
nazo@koullaw.com
Hilary Silvia, Of Counsel, SBN 237993
Hilary@koullaw.com
KOUL LAW FIRM, APC
3435 Wilshire Blvd., Suite 1710
Los Angeles, CA 90010
Telephone: (213) 761-5484
Facsimile: (818) 561-3938

Sahag Majarian, Esq. SBN 146621
Garen Majarian, Esq. SBN 334104
garen@majarianlawgroup.com
MAJARIAN LAW GROUP, APC
18250 Ventura Blvd.
Tarzana, CA 91356
Telephone: (818) 609-0807
Facsimile: (818) 609-0892

Attorneys for Plaintiff,
TERESO CORTEZ on behalf of
themselves, all aggrieved employees, and the State
of California as a Private Attorneys General

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

TERESO CORTEZ, an individual, on behalf of) Case No.: **24CV017105**
themselves, all aggrieved employees, and the)
State of California as a Private Attorneys)
General,)

Plaintiff,

REPRESENTATIVE ACTION

vs.

**Violation of the Private Attorneys General
Act of 2004, Cal. Labor Code §2698 *et seq.***

YUSEN LOGISTICS (AMERICAS) INC., a)
New York corporation, SIMPLIFIED LABOR)
STAFFING SOLUTIONS, INC., a California)
corporation, ELIAS & COMPANY)
MANAGEMENT, INC., a California)
corporation, and DOES 1-50, inclusive,)

Defendants.

1 Plaintiff TERESO CORTEZ brings this PAGA representative action complaint on behalf
2 of themselves, all aggrieved employees, and the State of California as a Private Attorneys General,
3 and alleges as follows:

4 NATURE OF THE ACTION

5 1. Plaintiff TERESO CORTEZ worked as an employee for Defendants YUSEN
6 LOGISTICS (AMERICAS) INC., SIMPLIFIED LABOR STAFFING SOLUTIONS, INC., and
7 ELIAS & COMPANY MANAGEMENT, INC., and Does 1-50 (collectively “Defendants”).
8 Plaintiff TERESO CORTEZ worked for Defendants from 2022 through September of 2023 in
9 Yusen’s Carson and Wilmington, California, facilities. Plaintiff brings this action pursuant to the
10 Private Attorneys General Act of 2004 (“PAGA”), Cal. Labor Code §2698 *et seq.*, on a
11 representative basis. All current and former hourly, nonexempt employees of Defendants within
12 one year of serving notice on the LWDA to the present are aggrieved employees.

13 2. Defendants failed to comply with California Labor Code requirements due to erroneous,
14 willful and intentional employment practices and policies. Plaintiff brings this representative
15 action on behalf of themselves, all other similarly situated aggrieved employees, and the State of
16 California, based upon the claims articulated below. Plaintiff provided notice of their claims
17 pursuant to §2698 *et seq.*, to the Labor and Workforce and Development Agency (“LWDA”) as
18 illustrated by the attached Exhibit, the content of which is expressly incorporated herein. The
19 LWDA has not provided any notice to Plaintiff following the exhaustion of the 65-day notice
20 period required by 2699.3(a)(2)(B). Accordingly, Plaintiff now brings this Complaint for civil
21 penalties under the Private Attorneys General Act (“PAGA”), Labor Code §2698 *et seq.*

22 3. Defendants have had a consistent policy and/or practice of: (1) failing to pay for all hours
23 worked, including overtime hours worked; (2) failing to pay wages owed twice per month; (3)
24 failing to pay minimum wage; (4) failing to pay reporting time pay; (5) failing to provide rest
25 breaks; (6) failing to provide uninterrupted meal breaks; (7) failing to provide safe working
26 conditions; (8) failing to pay wages due upon termination; (9) failing to provide accurate itemized
27 wage statements. Defendants are therefore liable for civil penalties under the Cal. Labor Code,
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1 including the Private Attorney General Act (“PAGA”), Labor Code §2698 *et seq.*, as described
2 more fully herein.

3 **THE PARTIES**

4 4. Plaintiff TERESO CORTEZ is a resident of the State of California and worked as an
5 employee for Defendants from 2022 through September of 2023 in Yusen’s Carson and
6 Wilmington, California, facilities.

7 5. Defendant YUSEN LOGISTICS (AMERICAS) INC., is a New York corporation
8 authorized to do business and doing business in California with the capacity to sue and to be sued,
9 and doing business, in the county of Sacramento, State of California.

10 6. Defendant SIMPLIFIED LABOR STAFFING SOLUTIONS, INC., is a California
11 corporation authorized to do business and doing business in California with the capacity to sue and
12 to be sued, and doing business, in the county of Sacramento, State of California.

13 7. Defendant ELIAS & COMPANY MANAGEMENT, INC. is a California corporation
14 authorized to do business and doing business in California with the capacity to sue and to be sued,
15 and doing business, in the county of Sacramento, State of California.

16 8. Plaintiff is unaware of the true names, capacities, relationships, and extent of
17 participation in the conduct alleged herein, of the Defendants sued as DOES 1 through 50, but is
18 informed and believes and thereon alleges that said Defendants are legally responsible for the
19 wrongful conduct alleged herein and therefore sues Defendants by such fictitious names, Plaintiff
20 will amend this complaint when their true names and capabilities are ascertained.

21 9. Plaintiff is informed and believes and thereon alleges that each Defendants, directly or
22 indirectly, or through agents or other persons, employed Plaintiff and other aggrieved employees
23 of the representative class, and exercised control over their wages, hours, and working conditions.
24 Plaintiff is informed and believes and thereon allege that each Defendants acted in all respects
25 pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business
26 plan or policy in all respects pertinent hereto, and the acts of each Defendants are legally
27 attributable to the other Defendants.
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1 **Failure to Pay For All Hours Worked, Including Overtime Hours Worked**

2 (Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 246, 510, 511, 558,
3 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Orders)

4 18. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
5 incorporate said paragraphs herein by reference.

6 19. The Wage Orders define “hours worked” as “the time during which an employee is
7 subject to the control of an including all the time the employee is suffered or permitted to work,
8 whether or not required to do so.”

9 20. Pursuant to Labor Code §200(a) “‘Wages’ includes all amounts for labor performed by
10 employees of every description, whether the amount is fixed or ascertained by the standard of time,
11 task, piece, commission basis, or other method of calculation.”

12 21. Plaintiff and aggrieved employees frequently worked off the clock and were routinely
13 subjected to periods wherein they were under the Defendants’ control but not compensated for
14 their time. Plaintiff and aggrieved employees were required to walk long distances to the time
15 clocks from the entrances and when they arrived at the timeclocks, they had to join a line behind
16 numerous other employees who came on shift at the same time resulting in required long lines to
17 clock in for work. Plaintiff and their coworkers were required to join the line prior to their shift
18 start times and to clock back in from meal periods because there were often be dozens of employees
19 waiting in line. This time spent walking and waiting in required lines was required by Defendants
20 prior to each shift and when clocking back in for lunch, and was essential and required before
21 employees could begin and/or resume working on the clock. Defendants also unlawfully alter
22 Plaintiff’s and Aggrieved Employees’ time records.

23 22. As a result of the violations described herein, employees worked off the clock and were
24 not paid for all hours worked, including overtime at the employees’ regular rate of pay. Defendants
25 are liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

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1 for all time worked as required by the Applicable Wage Orders. Pursuant to the Applicable Wage
2 Orders “hours worked” include “the time during which an employee is subject to the control of an
3 employer, and includes all the time the employee is suffered or permitted to work, whether or not
4 required to do so.”

5 29. During the applicable recovery period, Aggrieved Employees were suffered, permitted,
6 and required to perform work by Defendants for which they received no pay.

7 30. The aforementioned acts by Defendants were undertaken with the intention of
8 depriving Aggrieved Employees of their earned wages. As a result of these ongoing violations,
9 Defendants are liable for, among other things, civil penalties pursuant to Labor Code §§ 558 &
10 2698 et seq.

11 **Failure to Pay Reporting Time Pay**

12 (Cal. Labor Code §§218.6, 226; Wage Orders)

13 31. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
14 incorporate said paragraphs herein by reference.

15 32. The IWC Wage Order requires employers to pay half of the employee’s “usual or
16 scheduled day’s work,” and in no event less than two (2) hours pay on each instance the employer
17 requires an employee to report to work, as set forth fully below:

18 33. 5. Reporting Time Pay

19 A. Each workday an employee is required to report for work and does
20 report, but is not put to work or is furnished less than half said employee's usual
21 or scheduled day's work, the employee shall be paid for half the usual or
22 scheduled day's work, but in no event for less than two (2) hours nor more than
23 four (4) hours, at the employee's regular rate of pay, which shall not be less than
24 the minimum wage.

25 34. Plaintiff and other Aggrieved Employees were sometimes required to report to work
26 for their usual and scheduled 8-hour shifts, but were provided less than half of their usual or
27 scheduled day’s shift. In these instances, Defendants failed to pay reporting time wages.
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1 35. As a result of these violations, Defendants are liable for civil penalties pursuant to Cal.
2 Labor Code §558 and §2698 *et. Seq.*

3 **Failure to Provide Rest Breaks**

4 (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq*)

5 36. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
6 incorporate said paragraphs herein by reference.

7 37. Defendants have failed to maintain a compliant rest period policy and practice that
8 provides its employees with off-duty rest periods as required by California law.

9 38. Plaintiff report noncompliant rest breaks resulting from the extensive time it took for
10 them and their coworkers to commute from their workstations to the break room and back to their
11 workstations within the 10 minutes allowed break time. This walk time substantially cut into and
12 decreased the actual amount of time employees were relieved of all duties, therefore making breaks
13 under 10 minutes. Rest breaks were also often late, short, and sometimes interrupted.

14 39. Rest periods were often either less than ten minutes, not provided, interrupted or late,
15 “on duty”, or not scheduled before and after a meal period for shifts greater than six hours, as
16 prescribed by California law because Defendants: (1) did not account for all hours worked that
17 were unaccounted for on their timecard; (2) did not adequately inform and train employees about
18 their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not
19 adequately inform and train employees about when, where and how to take timely and
20 uninterrupted ten-minute rest breaks; (4) because Defendants did not staff enough people to
21 schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at
22 various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a
23 lawfully compliant rest break policy.

24 40. Defendants did not authorize or permit all of its hourly employees to take at least a ten
25 minute rest period in which they were relieved of all duties, for every 4 hours of work, or major
26 fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks
27 were missed Defendants failed to pay the 1-hour penalty, as required. Because Defendants violated
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1 the Wage Order, Defendants are liable under Labor Code §1198. As a result of these violations,
2 Defendants are liable for civil penalties pursuant to Cal. Labor Code §2698 *et. Seq.*

3 **Failure to Provide Uninterrupted Meal Breaks**

4 (Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*)

5 41. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
6 incorporate said paragraphs herein by reference.

7 42. During Plaintiff's employment, Defendants failed to maintain a compliant meal period
8 policy and practice. Defendants failed to provide all of its hourly employees with their right to take
9 an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not
10 employ an employee for a work period of more than five hours per day without providing the
11 employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o
12 employer shall require an employee to work during any meal... period mandated by an applicable
13 order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in
14 pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the
15 meal period shall be considered an 'on duty' meal period and counted as time worked." Labor
16 Code 1198 states that any violation of a wage order is a violation of the Labor Code.

17 43. Plaintiff and Aggrieved Employees received short meal breaks as a result of the time
18 they were required to wait in line to clock in. Plaintiff and aggrieved employees were required to
19 join the lines before their 30 minute meal period ended otherwise they would be late. Plaintiff and
20 aggrieved employees also had short and missed meal breaks and Defendants failed to pay meal
21 premiums when these violations occurred.

22 44. Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because
23 Defendants: (1) did not account for all hours worked that were unaccounted for on their timecard;
24 (2) did not adequately inform and train employees about their rights to meal periods and premium
25 payments for non-compliant meal periods; (3) did not adequately inform and train employees about
26 when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because
27 Defendants did not staff enough people to schedule all timely and uninterrupted thirty-minute meal
28 periods; and/or (5) because management at various levels, affecting all hourly, non-exempt

1 employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Plaintiff
2 and aggrieved employees were not paid a premium payment, paid as an hour's wage when meal
3 periods were not given to them in compliance with California law

4 **Failure to Provide Safe Working Conditions – Excessive Heat**

5 (Cal. Labor Code §1198, Wage Order)

6 45. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
7 incorporate said paragraphs herein by reference.

8 46. Plaintiff experienced excessive heat in each facility they worked in. Defendants'
9 workplaces would get unsafely hot. Defendants did not have proper climate control or ventilation.
10 Plaintiff and their coworkers worked in unbearable heat and.

11 47. Wage Order 1 ¶15 requires:

12 A. The temperature maintained in each work area shall provide
13 reasonable comfort consistent with industry-wide standards for the nature of the
14 process and the work performed.

15 B. If excessive heat or humidity is created by the work process, the
16 employer shall take all feasible means to reduce such excessive heat or humidity
17 to a degree providing reasonable comfort.

18 48. Labor Code § 1198 makes it unlawful to employ employee in conditions prohibited by
19 the wage order. By violating the wage order, Defendants are liable for civil penalties pursuant to
20 §2698 *et. Seq.*

21 **Failure to Pay Wages Due Upon Termination**

22 (Cal. Lab. Code §§201, 202, 203 and 2698 *et seq.*)

23 49. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
24 incorporate said paragraphs herein by reference.

25 50. An employee who is discharged must be paid all of his or her wages, including accrued
26 vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set
27 forth above, Defendants knowingly and willfully failed to pay all compensation due and owing to
28 Plaintiff at the time employment terminated.

51. Defendants willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Plaintiff and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Defendants are liable for civil penalties pursuant to Cal. Lab. Code § 2698 et. Seq.

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

(Cal. Labor Code §§ 226, 1174, 1174.5 2699 *et seq*)

52. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and incorporate said paragraphs herein by reference.

53. Defendants knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Plaintiff and Aggrieved Employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Plaintiff and Aggrieved Employees, and the records maintained by Defendants, have not accurately reflected actual total hours worked, gross wages earned, including pay for all hours worked and the accurate rate of pay for all hours worked, and overtime pay, and pay for meal and rest period premium wages.

54. In addition, wage statements issued to employees of Elias and Yusen failed to state the correct legal name of the entity that is the employer. Wage statements state “Elias & Co. Staffing” although no entity by that name is registered to do business in California. The true legal name is Elias & Company Management, Inc., which does not appear on wage statements.

55. §226 (a) requires:

A. An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all

1 deductions, provided that all deductions made on written orders of the employee
2 may be aggregated and shown as one item, (5) net wages earned, (6) the
3 inclusive dates of the period for which the employee is paid, (7) the name of the
4 employee and only the last four digits of his or her social security number or an
5 employee identification number other than a social security number, (8) the
6 name and address of the legal entity that is the employer and, if the employer is
7 a farm labor contractor, as defined in subdivision (b) of Section 1682, the name
8 and address of the legal entity that secured the services of the employer, and (9)
9 all applicable hourly rates in effect during the pay period and the corresponding
10 number of hours worked at each hourly rate by the employee...

11 56. Such failures called injury to Plaintiff and others, by, among other things, impeding
12 them from knowing the total hours worked and the amount of wages to which they are and were
13 entitled. Defendants knowingly and intentionally failed to accurately itemize the correct gross
14 wages earned, net wages earned, meal and rest premium pay, and total hours worked. Defendants
15 are liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

16 **FIRST CAUSE OF ACTION**

17 **Against Defendants for Violation of the Private Attorneys General Act (“PAGA”)**

18 **(California Labor Code §2698 *et seq.*)**

19 57. Plaintiff reasserts and realleges all preceding paragraphs as if fully set forth and
20 incorporate said paragraphs herein by reference.

21 58. Plaintiff is an “aggrieved employee” under PAGA, as they were employed by
22 Defendants during the applicable statutory period and suffered one or more of the Labor Code
23 violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of themselves and all
24 other current and former aggrieved employees of Defendants, the civil penalties provided by
25 PAGA, plus reasonable attorneys’ fees and costs.

26 59. Plaintiff seeks to recover the PAGA civil penalties through a representative action
27 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46 Cal.
28 4th 969. Therefore, class certification of the PAGA claims brought herein is not required.

1 60. Plaintiff seeks civil penalties pursuant to PAGA for violations of the following Labor
2 Code provisions:

- 3 a. Failure to Pay For All Hours Worked, Including Overtime Hours Worked (Cal.
4 Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 246, 510, 511,
5 558, 1194, 1197, 1197.1, 1198, 2698 et seq., Wage Orders);
- 6 b. Failure to Pay All Wages Owed Twice Per Month (Cal. Lab. Code §§204, 210, and
7 2698 et seq.);
- 8 c. Failure to Pay Minimum Wage (Cal. Labor Code §§ 200, 218.5, 226, 558, 1194,
9 1194.2, 1197, 1197.2, 1198, 1199, 2698 et seq.);
- 10 d. Failure to Pay Reporting Time Pay (Cal. Labor Code §§218.6, 226; Wage Orders);
- 11 e. Failure to Provide Rest Breaks (Cal. Labor Code §§226, 226.7, 512, 558, 1198,
12 2698 et seq.);
- 13 f. Failure to Provide Uninterrupted Meal Breaks (Cal. Labor Code §§226, 226.7, 512,
14 558, 1198, 2699 et seq.);
- 15 g. Failure to Provide Safe Working Conditions – Excessive Heat (Cal. Labor Code
16 §1198, Wage Order);
- 17 h. Failure to Pay Wages Due Upon Termination (Cal. Lab. Code §§201, 202, 203 and
18 2698 et seq.);
- 19 i. Failure to Provide Accurate Itemized Wage Statements & Violation of Record
20 Keeping Requirements (Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*).

21 61. With respect to violations of Labor Code §226(a), Labor Code §226.3 imposes a civil
22 penalty in addition to any other penalty provided by law of two hundred fifty dollars (\$250) per
23 aggrieved employee for the first violation, and one thousand dollars (\$1,000) per aggrieved
24 employee for each subsequent violation of Labor Code §226(a).

25 62. With respect to violations of Labor Code §512, Labor Code §558 imposes a civil
26 penalty in addition to any other penalty provided by law of fifty dollars (\$50) for initial violations
27 for each underpaid employee for each pay period for which the employee was underpaid, and one
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1 hundred dollars (\$100) for subsequent violations for each underpaid employee for each pay period
2 for which the employee was underpaid.

3 63. Labor Code §2698 *et seq.* imposes a civil penalty of one hundred dollars (\$100) per
4 pay period, per aggrieved employee for initial violations, and two hundred dollars (\$200) per pay
5 period, per aggrieved employee for subsequent violations for all Labor Code provisions for which
6 a civil penalty is not specifically provided.

7 64. Plaintiff and the other current and former employees of Defendants are aggrieved
8 employees. They were or are employed by Defendants, and each of them, and the violations alleged
9 herein were committed against them. Plaintiff brings this action on behalf of themselves and all
10 other current and former aggrieved employees.

11 65. At the time of each violation, Defendants employed one or more employees.

12 66. As a result of the aforesaid wrongful and illegal conduct of Defendants, and each of
13 them, Plaintiff and aggrieved employees are entitled to civil penalties in an amount to be
14 determined at trial, pre-judgment interest, costs and attorneys' fees.

15 67. Plaintiff has complied with all procedural requirements of Labor Code §2699.3 prior
16 to filing this Complaint. By the Notice attached as Exhibit 1, submitted online to the Labor and
17 Workforce Development Agency ("LWDA") and served by certified mail upon Defendants,
18 Plaintiff through counsel notified the LWDA and Defendants of the specific Labor Code
19 provisions that Defendants have violated. The LWDA did not respond to Plaintiff's Notice within
20 the statutory timeframe, and Plaintiff has therefore exhausted administrative remedies. Pursuant to
21 Labor Code §2699.3, Plaintiff may now pursue their PAGA claims in this action on behalf of
22 aggrieved employees and the State of California.

23 **PRAYER FOR RELIEF**

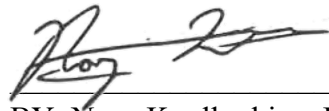
24 WHEREFORE, Plaintiff, individually and on behalf of the aggrieved employees, prays for
25 judgement against Defendants as follows:

26 1. An award of civil penalties pursuant to PAGA and the Cal. Labor Code in an amount to be
27 determined at trial, but at least the jurisdictional amount of this Court;

2. An award of reasonable attorneys' fees and costs pursuant to California Labor Code §2699(g) and/or other applicable law;
3. For civil penalties as provided under Labor Code §§226.3 and 558, and/or other applicable law;
4. Pre-judgement and post-judgement interest as provided by law; and
5. Such other and further relief that the Court may deem just and proper.

DATED: August 27, 2024

KOUL LAW FIRM

A handwritten signature in black ink, appearing to read 'Nazo Koulloukian', is written over a horizontal line.

BY: Nazo Koulloukian, Esq.
Attorneys for Plaintiff TERESO CORTEZ, and all
aggrieved employees

EXHIBIT 1



Nazo@Koullaw.com

P (213) 761 – 5484

F (818) 561 – 3938

3435 WILSHIRE BLVD

SUITE 1710

LOS ANGELES, CA 90010

www.koullaw.com

June 21, 2024

Via E-filing:

California Labor & Workforce
Development Agency
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

Via Certified U.S. Mail:

Yusen Logistics (Americas) Inc.
300 Lighting Way, 5th Floor
Secaucus, NJ 07094

Simplified Labor Staffing Solutions, Inc.
2250 W. Dominguez Street
Carson, CA 90810

Yusen Logistics (Americas) Inc.
c/o CSC Lawyers Incorporating Service
2710 Gateway Oaks Drive
Sacramento, CA 95833

Elias & Company Management, Inc.
720 N. Archibald Avenue, Ste C
Ontario, CA 91764

Re: PAGA Notice Pursuant to California Labor Code §2699
 Claimants: Tereso Cortez and Cesar Abraham Contreras
 Employers: Yusen Logistics (Americas) Inc., Simplified Labor Staffing Solutions,
 Inc., Elias & Company Management, Inc.

Dear Sir or Madam:

Claimants and aggrieved employees Tereso Cortez and Cesar Abraham Contreras have retained Nazo Koulloukian, Esq. of Koul Law Firm, APC, and Sahag Majarian, II, and Garen Majarian of Majarian Law Group, APC, to represent them, and all other aggrieved employees in California, for wage and hour claims against former employers, Yusen Logistics (Americas) Inc. (“Yusen”), Simplified Labor Staffing Solutions, Inc. (“Simplified”), and Elias & Company Management, Inc. (“Elias”) (hereafter collectively referred to as “Employers”).

Claimant Tereso Cortez worked for Yusen and Simplified, a staffing agency, from 2022 through September of 2023 in Yusen’s Carson and Wilmington, California, facilities.

Claimant Cesar Abraham Contreras worked for Yusen and Elias, a staffing agency, from October 2023 until January 2024 in Yusen’s Downey, California, facility

Claimants bring this action against the above employers, including the staffing agencies and their client employer, pursuant to Labor Code Section 2810.3. This PAGA Notice letter shall also serve as notice, pursuant to subdivision 6 (d) of Section 2810.3, that Claimants, on behalf of themselves and similarly situated employees, will file a civil action against all employers named above in accordance with Labor Code Section 2810.3, subdivision 6 (b-f), which provide:

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers' compensation coverage as required by Section 3700.

Employers violated, and/or has caused to be violated, several Labor Code provisions and is therefore liable for civil penalties under Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged below or permit Claimants to seek civil penalties under the Private Attorney General Act ("PAGA"), Labor Code § 2698 *et seq.*, on behalf of the Labor and Workforce and development Agency ("LWDA") and the State of California in a representative action. This letter will serve as notice of these allegations pursuant to Labor Code § 2699.3. Based on information and belief, Employers continue to commit all the violations alleged herein.

Claimants allege herein the specific provisions of California law that Employer has violated, requiring this Notice, including but not limited to: California Labor Code sections 201-203, 204, 208, 210, 216, 221-223, 226, 226.2, 226.7, 227, 245-248.6, 432, 432.5, 432.6, 432.7, 510, 512, 558, 558.1, 1024.5, 1174, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2802, 2810.5, additional code sections cited below herein, and all applicable Wage Orders.

Failure to Pay For All Hours Worked, Including Overtime Hours Worked

Cal. Labor Code §§200, 204, 206, 206.5, 210, 216, 218, 218.6, 221, 223, 246, 510, 511, 558, 1194, 1197, 1197.1, 1198, 2698 *et seq.*, Wage Orders

The Wage Orders define "hours worked" as "the time during which an employee is subject to the control of an including all the time the employee is suffered or permitted to work, whether or not required to do so."

Pursuant to Labor Code §200(a) "'Wages' includes all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation."

Claimants and aggrieved employees frequently worked off the clock and were routinely subjected to periods wherein they were under the Employers' control but not compensated for their time. Employees were required to walk long distances to the time clocks from the entrances and when they arrived at the timeclocks, they had to join a line behind numerous other employees who came on shift at the same time resulting in required long lines to clock in for work. Claimants and their coworkers were required to join the line prior to their shift start times and to clock back in from meal periods because there were often be dozens of employees waiting in line. This time spent walking and waiting in required lines was required by Employer prior to each shift and when clocking back in for lunch, and was essential and required before employees could begin and/or resume working on the clock. Employers also unlawfully alter Claimants' and Aggrieved Employees' time records.

As a result of the violations described herein, employees worked off the clock and were not paid for all hours worked, including overtime at the employees' regular rate of pay. Employers are liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Failure to Pay All Wages Owed Twice Per Month

Cal. Lab. Code §§204, 210, and 2698 *et seq.*

Employers were required to pay Claimants and aggrieved employees all wages earned twice during each calendar month pursuant to Labor Code §204(a). Employers failed to pay all wages earned to employees as a result of the unlawful employment policies and practices discussed herein. As a result of these practices, employees were underpaid for hours worked, including overtime, premium, and penalty wages, and this underpayment resulted in a failure to pay all wages owed twice per month. Due to this failure, Employers are liable under Labor Code §210 for failure to pay wages as required by law.

Failure to Pay Minimum Wage

Cal. Labor Code §§ 200, 218.5, 226, 558, 1194, 1194.2, 1197, 1197.2, 1198, 1199, 2698 *et seq.*

Pursuant to Labor Code §§ 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the proper minimum wage for all time worked as required by the Applicable Wage Orders. Pursuant to the Applicable Wage Orders "hours worked" include "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

During the applicable recovery period, Aggrieved Employees were suffered, permitted, and required to perform work by Employer for which they received no pay.

The aforementioned acts by Employers were undertaken with the intention of depriving Aggrieved Employees of their earned wages. As a result of these ongoing violations, Employers are liable for, among other things, civil penalties pursuant to Labor Code §§ 558 & 2698 *et seq.*

Failure to Pay Reporting Time Pay

Cal. Labor Code §§218.6, 226; Wage Orders

The IWC Wage Order requires employers to pay half of the employee's "usual or scheduled day's work," and in no event less than two (2) hours pay on each instance the employer requires an employee to report to work, as set forth fully below:

5. Reporting Time Pay

(A) Each workday an employee is required to report for work and does report, but is not put to work or is furnished less than half said employee's usual or scheduled day's work, the employee shall be paid for half the usual or scheduled day's work, but in no event for less than two (2) hours nor more than four (4) hours, at the employee's regular rate of pay, which shall not be less than the minimum wage.

Claimants and other Aggrieved Employees were sometimes required to report to work for their usual and scheduled 8-hour shifts, but were provided less than half of their usual or scheduled day's shift. In these instances, Employers failed to pay reporting time wages.

As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §558 and §2698 *et. seq.*

Failure to Provide Rest Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2698 *et seq.*

Employer has failed to maintain a compliant rest period policy and practice that provides its employees with off-duty rest periods as required by California law.

Claimants reports noncompliant rest breaks resulting from the extensive time it took for them and their coworkers to commute from their workstations to the break room and back to their workstations within the 10 minutes allowed break time. This walk time substantially cut into and decreased the actual amount of time employees were relieved of all duties, therefore making breaks under 10 minutes. Rest breaks were also often late, short, and sometimes interrupted.

Rest periods were often either less than ten minutes, not provided, interrupted or late, "on duty", or not scheduled before and after a meal period for shifts greater than six hours, as prescribed by California law because Employers: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to rest breaks and premium payments for non-compliant rest breaks; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted ten-minute rest breaks; (4) because Employers did not staff enough people to schedule all timely and uninterrupted ten-minute rest breaks; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant rest break policy.

Employers did not authorize or permit all of its hourly employees to take at least a ten minute rest period in which they were relieved of all duties, for every 4 hours of work, or major fraction thereof, as required by Cal. Lab. Code §226.7, §512 and the Wage Orders. When breaks were missed Employers failed to pay the 1-hour penalty, as required. Because Employers violated the Wage Order, Employer is liable under Labor Code §1198. As a result of these violations, Employers are liable for civil penalties pursuant to Cal. Labor Code §2698 *et. seq.*

Failure to Provide Uninterrupted Meal Breaks

Cal. Labor Code §§226, 226.7, 512, 558, 1198, 2699 *et seq.*

During Claimants' employment, Employers failed to maintain a compliant meal period policy and practice. Employers failed to provide all of its hourly employees with their right to take an off-duty unpaid 30-minute meal period. Labor Code §512 provides, "[a]n employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes..." Labor Code §226.7(a) provides, "[n]o employer shall require an employee to work during any meal... period mandated by an applicable order of the Industrial Welfare Commission." Paragraph 11(A) of the Wage Orders provides, in pertinent part, "[u]nless an employee is relieved of all duty during a 30-minute meal period, the meal period shall be considered an 'on duty' meal period and counted as time worked." Labor Code 1198 states that any violation of a wage order is a violation of the Labor Code.

Claimants and Aggrieved Employees received short meal breaks as a result of the time they were required to wait in line to clock in. Employees were required to join the lines before their 30 minute meal period ended otherwise they would be late. Employees also had short and missed meal breaks and Employers failed to pay meal premiums when these violations occurred.

Full, uninterrupted, off-duty, thirty-minute meal periods were not provided because Employers: (1) did not account for all hours worked that were unaccounted for on their timecard; (2) did not adequately inform and train employees about their rights to meal periods and premium payments for non-compliant meal periods; (3) did not adequately inform and train employees about when, where and how to take timely and uninterrupted thirty-minute meal periods; (4) because Employer did not staff enough people to schedule all timely and uninterrupted thirty-minute meal periods; and/or (5) because management at various levels, affecting all hourly, non-exempt employees, refused to offer, permit, or enforce a lawfully compliant meal period policy. Employees were not paid a premium payment, paid as an hour's wage when meal periods were not given to them in compliance with California law.

Failure to Provide Safe Working Conditions – Excessive Heat

Cal. Labor Code §1198, Wage Order

Claimants experienced excessive heat in each facility they worked in. Employers' workplaces would get unsafely hot. Employers did not have proper climate control or ventilation. Claimants and their coworkers worked in unbearable heat and.

Wage Order 1 ¶15 requires:

(A) The temperature maintained in each work area shall provide reasonable comfort consistent with industry-wide standards for the nature of the process and the work performed.

(B) If excessive heat or humidity is created by the work process, the employer shall take all feasible means to reduce such excessive heat or humidity to a degree providing reasonable comfort.

Labor Code § 1198 makes it unlawful to employ employee in conditions prohibited by the wage order. By violating the wage order, Employer is liable for civil penalties pursuant to §2698 *et. seq.*

Failure to Pay Wages Due Upon Termination

Cal. Lab. Code §§201, 202, 203 and 2698 *et seq.*

An employee who is discharged must be paid all of his or her wages, including accrued vacation, immediately at the time of termination. (Labor Code Sections 201 and 227.3.) As set forth above, Employers knowingly and willfully failed to pay all compensation due and owing to Claimants at the time employment terminated.

Employers willfully failed to pay employees who are no longer employed by it all compensation due upon termination of employment as required by Cal. Lab. Code §§201 and 202. Claimants and similarly situated individuals are now entitled to recover up to thirty (30) days pay as waiting time under the terms of §203. Moreover, Employers are liable for civil penalties pursuant to Cal. Lab. Code § 2698 *et. seq.*

Failure to Provide Accurate Itemized Wage Statements & Violation of Record Keeping Requirements

Cal. Labor Code §§ 226, 1174, 1174.5, 2699 *et seq.*

Employers knowingly and intentionally failed to provide timely, accurate, itemized wage statements to Claimants and Aggrieved Employees in accordance with Labor Code §§ 226 and keep accurate records as required by §1174(d). The statements provided to Claimants and Aggrieved Employees, and the records maintained by Employers, have not accurately reflected actual total hours worked, gross wages earned, including pay for all hours worked and the accurate

rate of pay for all hours worked, and overtime pay, and pay for meal and rest period premium wages.

In addition, wage statements issued to employees of Elias and Yusen failed to state the correct legal name of the entity that is the employer. Wage statements state “Elias & Co. Staffing” although no entity by that name is registered to do business in California. The true legal name is Elias & Company Management, Inc., which does not appear on wage statements.

§226 (a) requires:

An employer, semimonthly or at the time of each payment of wages, shall furnish to his or her employee, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately if wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, except as provided in subdivision (j), (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and, if the employer is a farm labor contractor, as defined in subdivision (b) of Section 1682, the name and address of the legal entity that secured the services of the employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee...

Such failures called injury to Claimants and others, by, among other things, impeding them from knowing the total hours worked and the amount of wages to which they are and were entitled. Employers knowingly and intentionally failed to accurately itemize the correct gross wages earned, net wages earned, meal and rest premium pay, and total hours worked. Employers are liable for civil penalties pursuant to Labor Code § 2698 *et seq.*

Conclusion

Employers have violated a number of California wage and hour laws. Claimants respectfully request that the agency investigate the above allegations and hereby provide notice of the allegations pursuant to PAGA's provisions. Alternatively, Claimants request that the agency inform them if it does not intend to investigate these violations so that they may pursue the claims as a representative action in civil court.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Koulloukian', with a long horizontal flourish extending to the right.

Nazo Koulloukian, Esq.
Attorney for Claimants