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8 Attorneys for Plaintiff Arthur Seals,
9 on behalf of himself and all “aggrieved employees”
10 pursuant to Labor Code § 2698 *et seq.*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **FOR THE COUNTY OF SANTA CLARA**

13 ARTHUR SEALS, on behalf of himself and all
14 “aggrieved employees” pursuant to Labor
15 Code § 2698 *et seq.*,

16 Plaintiff,

17 v.

18 LIFEMOVES, a California nonprofit
19 corporation, and DOES 1 through 10,
20 inclusive,

21 Defendants.

CASE NO: 24CV445868

**REPRESENTATIVE ACTION COMPLAINT
FOR PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF LABOR
CODE §§ 201, 202, 226(a), 226.7, 227.3, 246, 510,
512, 1194, AND 2802 AND PURSUANT TO
LABOR CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3 AND 558**

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Clerk of Court
Superior Court of CA,
County of Santa Clara
24CV445868
Reviewed By: L. Ayala

1 Plaintiff ARTHUR SEALS (“Plaintiff”), on behalf of himself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of LIFEMOVES,
3 a California nonprofit corporation, and any subsidiaries or affiliated companies (hereinafter referred
4 to as “Defendants”) as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other non-exempt California employees who currently work or formerly worked for
9 Defendants (“Aggrieved Employees”).

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the “liability period”), Defendants have had
13 consistent policies of:

14 a. Failing to properly compute bonuses, commissions, and/or other non-base
15 hourly wages (including “Graveyard Shift” and “Swing Shift”) earned by Plaintiff and other
16 Aggrieved Employees into their regular rate of pay for purposes of paying them meal and rest
17 period premiums, overtime wages, vacation wages, and sick pay wages at the correct rates, in
18 violation of Labor Code §§ 226.7, 227.3, 246, 510, 512, 558, and 1194. Defendant pays
19 Plaintiff and other Aggrieved Employees bonuses, commissions, and/or other non-base hourly
20 wages (including “Graveyard Shift” and “Swing Shift”); however, Defendant fails to properly
21 blend these forms of pay, and instead pays Plaintiff and other Aggrieved Employees meal and
22 rest period premiums, overtime wages, vacation wages, and sick pay wages based only on the
23 base hourly rate of pay, thus depriving Plaintiff and other Aggrieved Employees of all meal
24 and rest period premiums, overtime wages, vacation wages, and sick pay wages earned. This
25 violates Labor Code §§ 226.7, 227.3, 246, 510, 512, 558, and 1194;

26 b. Failing to pay all minimum and overtime wages earned during the course of
27 employment, in violation of Labor Code §§ 510, 558, and 1194. Defendant requires Plaintiff
28 and Aggrieved Employees to be on on-call, but they are never paid for this on-call time. An

1 employer is obligated to pay the wages of an hourly employee for all time that the employee
2 is under the control of the employer, and this includes all the time the employee is suffered or
3 permitted to work, whether or not required to do so. When Plaintiff and other Aggrieved
4 Employees are on-call, they are under the control of Defendant, and are required to swiftly
5 respond to Defendant after being contacted. Accordingly, Plaintiff and Aggrieved Employees
6 should have been compensated for all hours worked, including time spent on-call, but
7 Defendant failed to do so. Defendants also fail to compensate Plaintiff and Aggrieved
8 Employees for time spent driving between work locations. These instances deprives Plaintiff
9 and other Aggrieved Employees of significant hours worked and wages due, and constitute
10 violations of Labor Code §§ 510, 558, and 1194 and IWC Wage Order 4-2001;

11
12 c. Failing to pay correct premium wages to Plaintiff and other Aggrieved
13 Employees who are denied proper meal periods, in violation of Labor Code §§ 226.7, 512,
14 and 558, and IWC Wage Order 4-2001. Plaintiff and other Aggrieved Employees are routinely
15 denied, and not authorized to take, a timely, uninterrupted, 30-minute meal period for every
16 shift worked that exceeds five hours, or a second timely, uninterrupted, 30-minute meal period
17 for every shift worked that exceeds ten hours, but are not paid premium wages of one hour's
18 pay at the proper rate of pay for each missed first or second meal period. When they would
19 receive a meal period, it would typically be late, short, or on-duty. This violates Labor Code
20 §§ 226.7, 512, and 558, and IWC Wage Order 4-2001 and is alleged on behalf of Plaintiff and
21 all Aggrieved Employees;

22
23 d. Failing to pay correct premium wages to Plaintiff and other Aggrieved
24 Employees who are denied rest periods, in violation of Labor Code § 226.7 and IWC Wage
25 Order No. 4-2001. Plaintiff and other Aggrieved Employees are routinely unable to take a 10-
26 minute rest period for every four (4) hours of work or major fraction thereof, but are not paid
27 premium wages of one hour's pay for each missed rest period. Plaintiff is simply denied and
28 not authorized to take his legally entitled rest periods and was never paid premium wages for

missed rest periods. Furthermore, he is also impermissibly restricted from leaving the work premises during his rest periods. This violates Labor Code § 226.7 and IWC Wage Order No. 4-2001 and is alleged on behalf of Plaintiff and all Aggrieved Employees;

e. Failing to reimburse Plaintiff and other Aggrieved Employees for necessary business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor Code § 2802, including, but not limited to, cellular phone expenses. Specifically, Plaintiff and Aggrieved Employees are required to use their cellular phone to clock in and out for their shifts. Labor Code § 2802 states that an employer must indemnify its employees for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of their duties. These instances violate Labor Code § 2802;

f. Failing to provide Plaintiff and other Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Plaintiff and other Aggrieved Employees are not paid all wages due, as stated above. As such, the wage statements provided by Defendant fail to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3; and

g. Failing to pay certain Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of certain Aggrieved Employees no longer employed by Defendants.

3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395. The Labor Code violations alleged against Defendants herein arose in Santa Clara County, California.

III.

PARTIES

A. Plaintiff

5. Plaintiff ARTHUR SEALS has been employed by Defendants since April 2023 in Santa Clara County, California.

B. Defendant

6. Defendant LIFEMOVES is a California nonprofit corporation that employed Plaintiff and Aggrieved Employees in Santa Clara County, California.

7. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendants, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendants is legally attributable to the other Defendants.

9. The Defendants named herein as DOE 1 through DOE 10 are and are persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

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IV.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§201, 202, 226(a), 226.7, 227.3, 246, 510, 512, 1194, AND 2802 AND PURSUANT
TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3 AND 558**

10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 227.3, 246, 510, 512, 1194, and 2802; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3 and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On June 18, 2024, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of June 18, 2024. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as described below.

V.

RELIEF REQUESTED

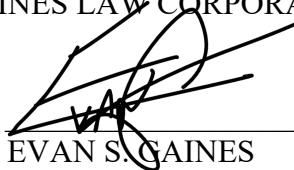
WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;
2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;
3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other applicable law; and
4. Such other and further relief as this Court may deem just and proper.

Dated: August 23, 2024

Respectfully submitted,

GAINES LAW CORPORATION

By: 

EVAN S. GAINES
Attorneys for Plaintiff