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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN BERNARDINO

JOSEPH STEVENS, on behalf of himself
and all others similarly situated and
aggrieved,

Plaintiff,

v.

GOSHARE INC., a Delaware Corporation;
and DOES 1 Through 10, inclusive,

Defendants.

Case No. **CIV SB 2428568**

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT**

- 1. FAILURE TO PAY MINIMUM WAGES**
- 2. FAILURE TO REIMBURSE BUSINESS EXPENSES**
- 3. VIOLATION OF THE UNFAIR COMPETITION LAW**
- 4. MISCLASSIFICATION UNDER THE CODIFIED "ABC TEST" UNDER PAGA**
- 5. WILLFUL MISCLASSIFICATION UNDER PAGA**
- 6. FAILURE TO PAY MINIMUM WAGES UNDER PAGA**
- 7. FAILURE TO PAY OVERTIME WAGES UNDER PAGA**
- 8. FAILURE TO PROVIDE MEAL PERIODS UNDER PAGA**

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- 9. FAILURE TO PROVIDE REST PERIODS UNDER PAGA**
- 10. FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS UNDER PAGA**
- 11. FAILURE TO MAINTAIN ACCURATE RECORDS UNDER PAGA**
- 12. FAILURE TO REIMBURSE BUSINESS-RELATED EXPENSES UNDER PAGA**
- DEMAND FOR JURY TRIAL**

NATURE OF CLAIM

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2 1. Plaintiff JOSEPH STEVENS (“Plaintiff”) brings this action on behalf of himself
3 and a proposed Class of all California drivers working for Defendants GOSHARE INC. and Does
4 1 through 10 (collectively, “Defendants”), alleging Defendants’ unlawful policies denied, and
5 continue to deny, them the wages and benefits to which they are lawfully entitled.

6 2. Plaintiff seeks—for himself and the putative class—unpaid minimum wages,
7 liquidated damages, expense reimbursements, equitable relief, prejudgment interest, reasonable
8 attorneys’ fees and costs, and any other relief this Court deems proper, pursuant to Labor Code
9 sections 218, 218.5, 218.6, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, and 2804; the
10 “Minimum Wages” section of Industrial Welfare Commission (“IWC”) Wage Order 9-2001; and
11 Business and Professions Code sections 17200, *et seq.*

12 3. Plaintiff also brings a Representative Action under the Private Attorneys General
13 Act of 2004 (“PAGA”), Labor Code sections 2698, *et seq.*, but solely on behalf of all other
14 aggrieved employees employed by Defendants in the State of California, for civil penalties
15 pursuant to the PAGA for Defendants’ willful misclassification of aggrieved employees as
16 independent contractors resulting in Defendants’ failure to pay minimum and overtime wages,
17 provide off-duty meal and rest periods, provide reimbursement for costs and expenses, provide
18 compliant wage statements, and maintain accurate records, under Labor Code sections 226, 226.7,
19 226.8, 510, 512, 1174, 1194, 1198, 1199, 2750.3, and 2802. Plaintiff is not suing in his individual
20 capacity for PAGA civil penalties and does not seek any redress or remedy for his individual
21 PAGA claims. Plaintiff is proceeding in this PAGA action solely on behalf of the State of
22 California for all aggrieved employees of Defendants, including himself. *See Balderas v. Fresh*
23 *Start Harvesting, Inc.* (2024) 101 Cal.App.5th 533, 538.

24 4. Plaintiff exhausted the notice requirement by filing a complaint with the Labor and
25 Workforce Development Agency (“LWDA”) in his letter dated June 16, 2024, as required under
26 the California Labor Code Private Attorneys General Act (“PAGA”). The LWDA did not assume
27 jurisdiction over the applicable penalty claims alleged; therefore, Plaintiff has exhausted the
28 procedural requirement under the PAGA to pursue any and all penalty claims as provided under

1 the PAGA.

2 **PARTIES**

3 5. Plaintiff JOSEPH STEVENS is a resident of Moreno Valley, California. Plaintiff
4 worked for Defendants as a driver between approximately December 20, 2022 and August 31,
5 2023 in the California counties of San Bernardino and Riverside.

6 6. Defendant GOSHARE INC. (“GoShare”) is a Delaware corporation doing
7 business in California, including within the County of San Bernardino. GoShare is a courier
8 business which advertises itself as a way to “connect[] you with background checked delivery
9 professionals on demand for help with last mile delivery, middle mile delivery and moving
10 services. From pallets to furniture and parcels, if you need something delivered or moved, we’ve
11 got you covered. Our nationwide network of more than 40,000 box trucks, cargo vans, pickup
12 trucks and sedans are available to help you the same day or you can schedule in advance. Get a
13 free estimate before you book on our website or by downloading our highly rated mobile apps on
14 iPhone and Android. Business customers can integrate GoShare using our Delivery API.” “We
15 Make Delivery & Moving Easy,” GoShare, <https://goshare.co> (last accessed September 24, 2024).

16 7. Does 1 through 10, inclusive, are persons or entities whose true names and
17 identities are now unknown to Plaintiff, and who are sued by such fictitious names. Plaintiff will
18 amend this complaint to allege their true names and capacities when known. Plaintiff is informed
19 and believes each Doe defendant is the agent, representative, or parent or subsidiary corporation
20 of Defendant GoShare, is responsible in some manner for the occurrences, events, transactions,
21 and injuries alleged, and that harm suffered by Plaintiff and the proposed Class was proximately
22 caused by them in addition to GoShare.

23 **JURISDICTION AND VENUE**

24 8. Venue as to each Defendant is proper in this judicial district. Code of Civil
25 Procedure § 395. Defendants conduct business in San Bernardino County, California and are
26 within the jurisdiction of this Court for service of process purposes. The unlawful acts alleged
27 have a direct effect on Plaintiff and other similarly-situated and aggrieved employees within the
28 State of California and San Bernardino County. Plaintiff worked for Defendants as a driver within

San Bernardino County.

9. No federal question is raised as the issues herein are based solely on California statutes and law, including the Labor Code, IWC Wage Orders, and the Code of Civil Procedure. The Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), does not apply, or in the alternative, exceptions for local case or controversy under the CAFA do apply and prohibit removal of this action to federal court. Based on his rate of pay, Plaintiff’s individual claims do not meet the necessary amount in controversy to implicate traditional jurisdiction under 28 U.S.C. § 1332(a) or jurisdiction under the CAFA.

10. Further, as a representative action under the PAGA, the matter is not subject to removal under 28 U.S.C. §§ 1332(a)-(d) as PAGA civil penalty actions are not subject to federal jurisdiction.

FACTUAL ALLEGATIONS

11. At all relevant times, Plaintiff, Class Members, and aggrieved employees (collectively “GoShare drivers”) worked for Defendants in California, and Defendants conducted business in California.

12. Plaintiff applied to work for GoShare online in late 2022. As part of his application, GoShare required Plaintiff to attest he was driving a vehicle with “a model year of 2002 or newer” and to “provide clear images of the front, back, and sides of the vehicle” and “proof of insurance and registration.” See *GoShare*, “Does My Vehicle Qualify for GoShare?”, February 26, 2021, <https://goshare.co/does-my-vehicle-qualify-for-goshare/>. Plaintiff’s application was accepted, and he worked for GoShare from approximately December 20, 2022 through August 31, 2023. As a driver for GoShare, Plaintiff would accept assignments through the GoShare application, which he was required to download on his personal cell phone. After accepting a GoShare assignment, Plaintiff was required to drive his personal vehicle from his home in Riverside to a warehouse in San Bernardino to retrieve his assigned packages, which he would then deliver to GoShare customers throughout Riverside and San Bernardino. As a GoShare driver, Plaintiff was required to use his personal cell phone to accept assignments, get technical support from GoShare, and to clarify where packages were located within the San

1 Bernardino warehouse. Defendants classified Plaintiff as an independent contractor, paying him
2 a flat rate for assignments and not reimbursing him for any work-related expenses, including cell
3 phone and vehicle-related expenses.

4 13. Defendants classified GoShare drivers as independent contractors, issued them
5 1099 tax forms for their earnings, and did not withhold wages for employee-side taxes or pay
6 employer-side taxes, including those for Social Security, Medicare, Federal Unemployment,
7 California Unemployment, and Employment Tax Training.

8 14. Defendants willfully misclassified drivers as independent contractors, when they
9 were actually employees under the “ABC Test” of AB 5, codified at Labor Code section 2750.3.
10 Specifically, under the ABC Test, GoShare drivers: under prong A, were not free from
11 Defendants’ control, as Defendants instructed them where and how to pick up and drop off
12 packages; under prong B, did work for Defendants in Defendants’ usual course of business, as
13 they delivered packages for a package delivery company; and, under prong C, were not engaged
14 in an independently established business of the same nature as Defendants’ business. By
15 “avoiding employee status for an individual by voluntarily and knowingly misclassifying that
16 individual as an independent contractor” Defendants violated Labor Code section 226.8(i)(4). As
17 a result of Defendants’ misclassification, Defendants failed to afford GoShare drivers all
18 protections to which they were entitled, as specified below.

19 15. Defendants paid GoShare drivers by assignment, rather than by hours worked. In
20 addition, Defendants failed to accurately record hours worked or edited hours recorded to
21 inaccurately reflect hours worked by GoShare drivers. As such, in some instances, Defendants
22 did not pay all minimum wages, for regular hours worked, and overtime wages, for hours worked
23 over eight per day or forty per week, as required under California law.

24 16. Defendants maintained no policy as to the provision of meal and rest periods or
25 premiums in lieu of them. As such, GoShare drivers were not provided meal and rest periods
26 when their hours worked entitled them to these breaks. Nor were GoShare drivers provided
27 premium wages when work demands required them to forgo these breaks.

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17. Defendants did not reimburse GoShare drivers for work-related expenses, including but not limited to, cell phone expenses and vehicle-related expenses, including mileage reimbursement.

18. Defendants did not furnish accurate, itemized wage statements to GoShare drivers reflecting the information required under Labor Code section 226(a), including total hours worked, net and gross wages earned, and hours worked at each rate.

19. Defendants failed to keep accurate records of the hours GoShare drivers worked each day. Defendants did not record the actual hours GoShare drivers worked each day and failed to accurately record regular hours, overtime hours, and meal periods. Neither did Defendants record meal or rest period premiums that should have been paid.

CLASS ACTION ALLEGATIONS

20. Plaintiff seeks to represent a Class defined as:

Class

All California GoShare drivers at any time during the four years before the filing of this Complaint through the date of trial.

21. Plaintiff seeks to certify a subclass defined as:

“Minimum Wages Subclass”

All Class Members who were not paid at least minimum wages for some time worked or spent under Defendants’ control.

22. Plaintiff seeks to certify a subclass defined as:

“Expense Reimbursement Subclass I”

All Class Members who used their personal cell phones for work-related purposes for Defendants.

23. Plaintiff seeks to certify a subclass defined as:

“Expense Reimbursement Subclass II”

All Class Members who used their personal vehicles for work-related purposes for Defendants.

24. Plaintiff seeks to certify a subclass defined as:

“UCL Subclass”

All Class and Subclass Members who were subject to Defendants’ unlawful or unfair business acts or practices.

25. Plaintiff reserves the right to amend or modify the Class description, including by division into subclasses or limitation to particular issues. California Rule of Court 3.765(b).

1 26. **Commonality**: This action has been brought and may be maintained as a class
2 action pursuant to Code of Civil Procedure section 382 because there is a well-defined common
3 interest of many persons and it is impractical to bring them all before the court.

4 27. **Ascertainable Class**: The proposed Class and Subclasses are ascertainable
5 because they can be identified and located using Defendants' payroll and personnel records.

6 28. **Numerosity**: The potential members of the Class and Subclasses as defined are so
7 numerous that joinder of all members would be unfeasible and impractical. The disposition of
8 their claims through this class action will benefit the parties and this Court. The number of
9 members of the Class and Subclasses is unknown to Plaintiff, but is estimated to be at least 100
10 individuals. The number and identity of members can be readily ascertained using Defendants'
11 records.

12 29. **Typicality**: The claims of Plaintiff are typical of the claims of all members of the
13 Class and Subclasses because all members of the Class and Subclasses sustained similar injuries
14 and damages caused by Defendants' common course of conduct in violation of law.

15 30. **Adequacy**: Plaintiff is an adequate representative of the Class and Subclasses, will
16 fairly protect the interests of the Class and Subclass Members and has no interests antagonistic to
17 them, and will vigorously pursue this suit. Plaintiff's attorneys are competent, skilled, and
18 experienced in litigating large employment law class actions.

19 31. **Superiority**: A class action is superior to other available means for the fair and
20 efficient adjudication of this controversy. Individual joinder of all Class Members is not
21 practicable, and questions of law and fact common to the Class predominate over questions
22 affecting only individual Class Members. A Class action will allow those similarly situated to
23 litigate their claims in the most efficient and economical manner for the parties and the judicial
24 system. Plaintiff is unaware of any difficulties likely to be encountered in the management of this
25 action that precludes its maintenance as a class action.

26 32. The predominating common questions of law and fact include:

- 27 a. Whether Defendants misclassified the Class and Subclass Members as
28 independent contractors;

- b. Whether Defendants have a policy and practice of paying less than minimum wages for all time worked or under Defendants' control;
- c. Whether Defendants have a policy or practice of failing to reimburse business expenses;
- d. Whether Defendants violated Sections 17200, *et seq.* of the Business and Professions Code; and
- e. Whether the Class and Subclasses are entitled to equitable relief pursuant to Business and Professions Code, sections 17200, *et seq.*

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Failure to Pay Minimum Wages

Labor Code §§ 218, 218.5, 218.6, 1194 and 1194.2, 1197, 1197.1, 1198, 1199 and the "Minimum Wages" section of Wage Order 9-2001

[By Plaintiff and each Minimum Wages Subclass Member]

33. Plaintiff incorporates the preceding paragraphs of this Complaint.

34. Labor Code section 218 provides, in pertinent part, that "[n]othing in this article [California Labor Code, Division 2, Part 1, Chapter 1 – Payment of Wages, Article 1] shall limit the right of any wage claimant to sue directly or through an assignee for any wages or penalty due to them under this article."

35. Labor Code sections 1194, 1197, and 1197.1 provide for payment of not less than a minimum wage to employees, and make the payment of a lesser wage unlawful.

36. The Minimum Wages Section of Wage Order 9-2001 sets out the minimum wages which must be paid to employees by applicable year.

37. By failing to pay at least minimum wages for all hours worked or under Defendants' control, Defendants violated the Labor Code and Wage Order 9-2001. Further, to the extent Defendants' failure to pay employer-side taxes resulted in Plaintiff and Class Members being required to pay these taxes, Defendants deprived Plaintiff and similarly-situated employees of minimum wages.

38. Labor Code section 1194.2 provides for liquidated damages equal to unlawfully unpaid minimum wages, with interest.

39. Defendants' unlawful acts deprived Plaintiff and the Minimum Wages Subclass of minimum wages in amounts to be determined at trial, and they are entitled to recover these wages, liquidated damages, interest, attorneys' fees, and costs to the fullest extent permissible pursuant to Labor Code sections 218, 218.5, 218.6, and 1194(a).

SECOND CAUSE OF ACTION
Failure to Reimburse Business Expenses
Labor Code §§ 2802 and 2804

[By Plaintiff and each Expense Reimbursement I and II Subclass Member]

40. Plaintiff incorporates the preceding paragraphs of this Complaint.

41. An employer must reimburse its employees for "all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer...." Labor Code § 2802. This right to reimbursement may not be waived. Labor Code § 2804.

42. By failing to reimburse Plaintiff and Class Members for their reasonable business expenses, including for personal cell phones and personal vehicle use (including mileage-related expenses and car insurance), Defendants violated Labor Code section 2802.

43. Defendants' unlawful acts deprived Plaintiff and Expense Reimbursement Subclasses I and II of expense reimbursements in amounts to be determined at trial, and they are entitled to recover these amounts, along with interest, attorneys' fees, and costs.

THIRD CAUSE OF ACTION
Violation of the Unfair Competition Law
Bus. & Prof. Code §§ 17200, *et seq.*
[By Plaintiff and each UCL Subclass Member]

44. Plaintiff incorporates the preceding paragraphs of this Complaint.

45. The California Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code sections 17200, *et seq.*, defines unfair competition to include any "unlawful," "unfair," or "fraudulent" business act or practice. Cal. Bus. & Prof. Code § 17200.

46. Defendants' conduct was unlawful because Defendants violated Labor Code sections 1194 (minimum wages) and 2802 (expense reimbursement) and the Minimum Wages section of Wage Order 9-2001 and (2) unfair because Defendants denied GoShare drivers lawfully

1 earned wages and expense reimbursements to which they were entitled.

2 47. As a result of Defendants' unlawful and unfair conduct, Plaintiff and Class
3 Members suffered injury in fact.

4 48. Plaintiff and Class Members seek declaratory and injunctive relief, restitution, and
5 other appropriate equitable relief. Cal. Bus. & Prof. Code §§ 17203, 17204.

6 49. Pursuant to California Code of Civil Procedure section 1021.5, Plaintiff and Class
7 Members are entitled to recover reasonable attorneys' fees, costs, and expenses incurred in
8 bringing this action.

9 50. This cause of action is brought as a cumulative remedy and is intended as an
10 alternative remedy for restitution for Plaintiff, and each Subclass Member, for the four (4)-year
11 period before the filing of this Complaint, and as the primary remedy during the fourth year before
12 the filing of this Complaint. Business and Professions Code § 17205.

13 **FOURTH CAUSE OF ACTION**
14 **Misclassification Under the Codified "ABC Test" Under PAGA**
15 **[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]**

16 51. Plaintiff incorporates the preceding paragraphs of this Complaint.

17 52. Labor Code sections 2698 and 2699 (The California Private Attorneys General
18 Act of 2004, or "PAGA"), expressly establish that any provision of the California Labor Code
19 which provides for a civil penalty to be assessed and collected by The Labor and Workforce
20 Development Agency ("LWDA"), or any of its departments, divisions, commissions, boards,
21 agencies or employees for a violation of the California Labor Code, may be recovered through a
22 civil action brought by an aggrieved employee on behalf of other current or former employees.

23 53. Whenever the LWDA, or any of its departments, divisions, commissions, boards,
24 agencies or employees has discretion to assess a civil penalty, a fact-finder in a civil action is
25 authorized to exercise the same discretion, subject to the same limitations and conditions, to assess
26 a civil penalty.

27 54. Plaintiff is an "aggrieved employee" as defined by Labor Code section 2699,
28 because he is an employee of Defendant, and one or more of the Labor Code violations was
committed against him.

1 55. Plaintiff complied with the notice requirements of Labor Code section
2 2699.3(a)(1) prior to commencing this action. As of today, the LWDA has not responded to
3 Plaintiff's notice.

4 56. Plaintiff brings this PAGA action solely on behalf of all other aggrieved
5 employees employed by Defendants in the State of California, for civil penalties pursuant to the
6 PAGA for Defendants' misclassification of aggrieved employees as independent contractors
7 resulting in violations alleged. Plaintiff is not suing in his individual capacity. He is proceeding
8 in this action solely under the PAGA, on behalf of the State of California for all aggrieved
9 employees of Defendants, which include himself, but does not seek any redress or remedy for any
10 of his individual PAGA claims. See *Balderas, supra*, 101 Cal.App.5th at p. 538.

11 57. Assembly Bill 5 (AB 5) is a California law that went into effect on January 1,
12 2020. It codifies the ABC test, which came from the California Supreme Court's decision in
13 *Dynamex Operations West, Inc. v. Superior Court of Los Angeles* (2018) 4 Cal.5th 903. This
14 decision determines whether workers are employees or independent contractors. Under the ABC
15 test, codified in § 2750.3 of the Labor Code, a worker is considered an employee and not an
16 independent contractor unless the hiring entity demonstrates that all three of the following
17 conditions are satisfied: (A) The worker is free from the control and direction of the hiring entity
18 in connection with the performance of the work, both under the contract for the performance of
19 the work and in fact; (B) The worker performs work that is outside the usual course of the hiring
20 entity's business; and (C) The worker is customarily engaged in an independently established
21 trade, occupation, or business of the same nature as that involved in the work performed. A
22 violation of AB 5 would occur if a company is treating a worker as an independent contractor,
23 but the relationship fails to meet all three of these criteria.

24 58. Defendants misclassified GoShare drivers under the ABC test because: (A)
25 Defendants specify the type of car GoShare drivers must drive and insurance they must maintain,
26 and dictate how they deliver packages to GoShare's clients; (B) GoShare drivers deliver packages
27 within Defendants' package delivery company; and (C) GoShare drivers do not operate their own
28 independent delivery businesses.

59. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys' fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

FIFTH CAUSE OF ACTION
Willful Misclassification Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]

60. Plaintiff incorporates the preceding paragraphs of this Complaint.

61. "Willful misclassification" is defined as "avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor." Labor Code § 226.8(i)(4).

62. Defendants' misclassification of GoShare drivers as independent contractors, described above, was willful because it was voluntarily and knowingly done.

63. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys' fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

SIXTH CAUSE OF ACTION
Failure to Pay Minimum Wages Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]

64. Plaintiff incorporates the preceding paragraphs of this Complaint.

65. By failing to pay at least minimum wages for all hours worked or under Defendants' control, Defendants violated the Labor Code and Wage Order 9-2001. Further, to the extent Defendants' failure to pay employer-side taxes resulted in Plaintiff and other aggrieved employees being required to pay these taxes, Defendants deprived Plaintiff and other aggrieved employees of minimum wages.

66. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys' fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

SEVENTH CAUSE OF ACTION
Failure to Pay Overtime Wages Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]

67. Plaintiff incorporates the preceding paragraphs of this Complaint.

68. Labor Code section 510 and the Hours and Days of Work section of Wage Order 9-2001 provide that employees in California shall not be employed more than eight hours in any workday or forty hours in a workweek unless they receive additional compensation beyond their regular wages in amounts specified by law. Specifically, Labor Code section 510(a) requires that: “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek...shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.”

69. Labor Code section 1194 establishes an employee’s right to recover unpaid overtime compensation, and interest thereon, together with costs of suit and attorneys’ fees.

70. Labor Code section 1198 makes employment of an employee for longer hours than the IWC set or under conditions the IWC prohibits unlawful.

71. By failing to pay aggrieved employees one and one-half times’ their regular rate of pay for hours worked over eight per day or forty per week, Defendants violated Labor Code sections 510, 1194, and 1198 and the Hours and Days of Work section of Wage Order 9-2001.

72. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

EIGHTH CAUSE OF ACTION
Failure to Provide Meal Periods Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]

73. Plaintiff incorporates the preceding paragraphs of this Complaint.

74. The Meal Periods section of Wage Order 9-2001 provides, in pertinent part: “No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day’s work the meal period may be waived by mutual consent of the employer

1 and the employee.”

2 75. Labor Code section 512(a) provides, in pertinent part: “An employer may not
3 employ an employee for a work period of more than five hours per day without providing the
4 employee with a meal period of not less than 30 minutes, except that if the total work period per
5 day of the employee is no more than six hours, the meal period may be waived by mutual consent
6 of both the employer and employee. An employer may not employ an employee for a work period
7 of more than 10 hours per day without providing the employee with a second meal period of not
8 less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second
9 meal period may be waived by mutual consent of the employer and the employee only if the first
10 meal period was not waived.”

11 76. By failing to: provide duty-free meal periods of at least thirty (30) minutes for
12 shifts of five hours or more, which began before the end of the fifth hour of work; provide second
13 duty-free meal periods of at least thirty (30) minutes for shifts of ten hours or more, which began
14 before the tenth hour of work; and pay premium wages of one (1) hour of pay at employees’
15 regular rate of compensation for each workday a meal period was not provided, Defendants
16 willfully violated the provisions of Labor Code sections 226.7 and 512, and the “Meal Periods”
17 section of Wage Order 9-2001.

18 77. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil
19 penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and
20 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and
21 costs pursuant to Labor Code section 2699, and any other applicable statutes. Plaintiff is not suing
22 in his individual capacity. He is proceeding in this action solely under the PAGA, on behalf of
23 the State of California for all aggrieved employees of Defendants, which include himself, but
24 does not seek any redress or remedy for any of his individual PAGA claims. See Balderas, supra,
25 101 Cal.App.5th at p. 538.

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NINTH CAUSE OF ACTION
Failure to Provide Rest Periods Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]

78. Plaintiff incorporates the preceding paragraphs of this Complaint.

79. California Labor Code section 226.7(b) provides: “An employer shall not require an employee to work during a meal or rest period mandated pursuant to an applicable order of the Industrial Welfare Commission.”

80. The Rest Periods section of Wage Order 9-2001 provides, in pertinent part: “Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages... If an employer fails to provide an employee with a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee’s regular rate of compensation for each workday that the rest period is not provided.”

81. By failing to authorize and permit aggrieved employees a paid rest period of at least ten (10) minutes for every four (4) hours or major fraction worked per day, and by failing to provide premium wages at the regular rate of compensation when not permitted or authorized, Defendants willfully violated the provisions of Labor Code section 226.7 and the “Rest Period” section of Wage Order 9-2001.

82. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

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TENTH CAUSE OF ACTION

**Failure to Provide Accurate, Itemized Wage Statements Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]**

83. Plaintiff incorporates the preceding paragraphs of this Complaint.

84. California Labor Code section 226(a) provides: “[e]very employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when 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 [...], (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, [...], (8) the name and address of the legal entity that is 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....”

85. By failing to provide aggrieved employees wage statements including total hours worked, net and gross wages earned, and hours worked at each rate, Defendants violated Labor Code section 226(a).

86. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and costs pursuant to Labor Code section 2699, and any other applicable statutes.

ELEVENTH CAUSE OF ACTION

**Failure to Maintain Accurate Records Under PAGA
[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]**

87. Plaintiff incorporates the preceding paragraphs of this Complaint.

88. Labor Code section 1174(d) provides: “Every person employing **labor** in this state shall...(k)eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid

1 to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees
2 employed at the respective plants or establishments. These records shall be kept in accordance
3 with rules established for this purpose by the commission, but in any case shall be kept on file for
4 not less than three years. An employer shall not prohibit an employee from maintaining a personal
5 record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.”

6 89. Labor Code section 1174.5 provides: “Any person employing **labor** who willfully
7 fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete
8 records required by subdivision (d) of Section 1174, or to allow any member of the commission
9 or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall
10 be subject to a civil penalty of five hundred dollars (\$500).” [Emphasis added.]

11 90. By failing to maintain accurate records of the hours worked daily by and wages
12 paid to aggrieved employees, Defendants violated Labor Code section 1174(d).

13 91. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil
14 penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and
15 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and
16 costs pursuant to Labor Code section 2699, and any other applicable statutes.

17 **TWELFTH CAUSE OF ACTION**

18 **Failure to Reimburse Business-Related Expenses Under PAGA**
19 **[Cal. Lab. Code §§ 2698 and 2699, *et. seq.*]**

20 92. Plaintiff incorporates the preceding paragraphs of this Complaint.

21 93. By failing to reimburse aggrieved employees for their reasonable business
22 expenses, including for personal cell phones and personal vehicle use (including mileage-related
23 expenses and car insurance), Defendants violated Labor Code section 2802.

24 94. Plaintiff, on behalf of the LWDA and all aggrieved employees, seeks civil
25 penalties pursuant to the PAGA, with 75% of all recovered penalties allocated to the LWDA and
26 25% to the aggrieved employees. Plaintiff also seeks reasonable attorneys’ fees, expenses and
27 costs pursuant to Labor Code section 2699, and any other applicable statutes.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief on behalf of himself and the Class against Defendants:

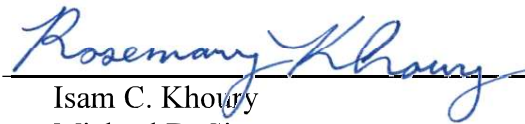
1. Certification of this action as a class action and appointment of Plaintiff and Plaintiff's counsel to represent the Class;
2. Provision of class notice to Class Members as defined above;
3. A declaratory judgment that Defendants knowingly and intentionally violated:
 - a. California Labor Law by misclassifying Class and Subclass Members as independent contractors.
 - b. California Labor Code section 1194 by failing to pay minimum wages;
 - c. California Labor Code section 2802 by failing to reimburse business expenses; and
 - d. California Business and Professions Code sections 17200, *et seq.* by engaging in unlawful or unfair business practices;
4. That Defendants be permanently enjoined from engaging in the unlawful or unfair acts and practices alleged;
5. An order requiring Defendants to pay restitution of all amounts owed to Plaintiff and Class Members pursuant to California Business and Professions Code section 17203;
6. That this action be maintained as a Representative Action under the PAGA, and Plaintiff and his counsel be provided with the enforcement capability of the DLSE;
7. For civil penalties as permitted by Labor Code section 2699 for unpaid minimum and overtime wages owed pursuant to Labor Code sections 510 and 1194, according to proof;
8. For civil penalties as permitted by Labor Code section 2699 for unpaid meal period premiums earned pursuant to Labor Code sections 226.7 and 512, according to proof;
9. For civil penalties as permitted by Labor Code section 2699 for unpaid rest period premiums earned pursuant to Labor Code section 226.7, according to proof;
10. For civil penalties as permitted by Labor Code section 2699, for inaccurate itemized wage statements pursuant to Labor Code section 226, according to proof;

11. For civil penalties as permitted by Labor Code section 2699 or 1174.5, for failure to maintain accurate records pursuant to Labor Code section 1174, according to proof;
12. For civil penalties as permitted by Labor Code section 2699 for unreimbursed business expenses pursuant to Labor Code section 2802, according to proof;
13. For civil penalties under Labor Code section 226.8 for engaging in a pattern and practice of intentionally classifying employees as independent contractors;
14. Compensatory damages according to proof;
15. Statutory damages under the Labor Code;
16. Liquidated damages under the Labor Code;
17. Pre-judgment interest on all sums collected;
18. Reasonable attorneys' fees and costs, pursuant to California Code of Civil Procedure section 1021.5, the California Labor Code, the PAGA, or other applicable law; and
19. Such other relief as the Court may deem appropriate.

COHELAN KHOURY & SINGER
HAMNER LAW OFFICES, APLC

Dated: October 3, 2024

By:



Isam C. Khoury
Michael D. Singer
Rosemary C. Khoury

Attorneys for Plaintiff JOSEPH STEVENS, on behalf of himself and all others similarly situated and aggrieved

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial of all claims triable as of right by jury.

COHELAN KHOURY & SINGER
HAMNER LAW OFFICES, APLC

Dated: October 3, 2024

By:



Isam C. Khoury
Michael D. Singer
Rosemary C. Khoury

Attorneys for Plaintiff JOSEPH STEVENS, on behalf of himself and all others similarly situated and aggrieved