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9 Attorneys for Plaintiff(s),

10 WAHID SHABAZZ-EL, and all others similarly situated

11 (Additional Attorneys for Plaintiff on the Next Page)

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

13 **FOR THE COUNTY OF SAN BERNARDINO**
14 **(UNLIMITED JURISDICTION)**

15 WAHID SHABAZZ-EL, on behalf of himself
16 and all others similarly situated, and the general
17 public, and as an “aggrieved employee” on
18 behalf of other “aggrieved employees” and the
19 State of California under the Labor Code Private
20 Attorneys General Act of 2004,

21 *Plaintiff(s),*

22 vs.

23 GRD TRUCKING INC, a California
24 corporation; HARPAL SINGH, a natural person;
25 and DOES 1–50, inclusive,

26 *Defendant(s).*

Case No.

CLASS ACTION

COMPLAINT FOR:

1. Failure to Pay All Wages Earned for All Hours Worked and Other Compensable Hours at the Correct Rates of Pay (Lab. Code §§ 226.2, 510, 1194, 1197, and 1198);
2. Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
3. Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
4. Wage Statement Penalties (Lab. Code § 226);
5. Waiting Time Penalties (Lab. Code § 203);
6. Unfair Competition (Bus. & Prof. Code §§ 17200, et seq.; and
7. Civil Penalties (Lab. Code §§ 2898, et seq.)

JURY TRIAL DEMANDED



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WAHID SHABAZZ-EL, and all others similarly situated



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1 Plaintiff, Wahid Shabazz-El (hereafter “Plaintiff” or “Shabazz-El”), on behalf of himself
2 and all others similarly situated, the general public, and as an “aggrieved employee” on behalf of
3 other “aggrieved employees” and the State of California under the Labor Code Private Attorneys
4 General Act of 2004, complains and alleges as follows:

5 **I. INTRODUCTION**

6 1. Plaintiff brings this class and representative action for alleged violations of the
7 California Labor Code, Industrial Welfare Commission Order No. 9-2001 (hereafter “the Wage
8 Order”), and the California Business and Professions Code against Defendants GRD Trucking
9 Inc, a California corporation, Harpal Singh, a natural person, and Does 1 through 50, inclusive
10 (collectively “Defendants”).

11 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
12 him and other similarly situated workers for unpaid wages, statutory penalties, interest, and
13 related relief. These claims are based on Defendants’ failures to:

14 (A) Classify the Class Members as employees and not as independent
15 contractors;

16 (B) Pay all wages, including minimum, regular, overtime and doubletime
17 wages, earned for all hours worked at the correct rates of pay;

18 (C) Separately compensate for rest and recovery periods and other non-
19 productive time;

20 (D) Provide all meal periods;

21 (E) Authorize and permit all rest breaks;

22 (F) Pay premium wages for unprovided meal periods;

23 (G) Pay premium wages for unprovided rest breaks;

24 (H) Issue only accurate and complete itemized wage statements;

25 (I) Issue statements of the total hours of rest and recovery periods;

26 (J) Issue statements of sick leave available;

27 (K) Provide signed and complete commission agreements; and

28 (L) Timely pay wages upon termination of employment

Accordingly, Plaintiff now seeks to recover unpaid wages, interest, liquidated damages,



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1 restitution, statutory penalties, attorneys' fees, costs, and related relief through this class action.

2 **II. THE PARTIES**

3 3. Plaintiff Wahid Shabazz-El is a resident of California. At all relevant times,
4 Plaintiff was an "employee" within the meaning of Title 8 California Code of Regulations § 11050
5 and an "aggrieved employee" within the meaning of Labor Code § 2699 (c).

6 4. Defendant GRD Trucking Inc is a corporation organized and existing under the
7 laws of California and also a citizen of California based on Plaintiff's information and belief.

8 5. Defendant Harpal Singh is a natural person and also a citizen of California based
9 on Plaintiff's information and belief.

10 6. Plaintiff is ignorant of the true names, capacities, relationships, and extents of
11 participation in the conduct alleged herein of the Defendants sued as DOES 1-50, inclusive, but
12 is informed and believes and thereon alleges that said Defendants are legally responsible for the
13 wrongful conduct alleged herein and therefore sues these Defendants by such fictitious names.
14 Plaintiff will amend the Complaint to allege the true names and capacities of the DOE Defendants
15 when ascertained.

16 7. Plaintiff is informed and believes and thereon alleges that, at all relevant times
17 herein, all Defendants were the agents, employees and/or servants, masters or employers of the
18 remaining defendants, and in doing the things hereinafter alleged, were acting or failing to act
19 within the course and scope of such agency, employment, direction and control, and with the
20 approval and ratification of each of the other Defendants.

21 8. At all relevant times, in perpetrating the acts and omissions alleged herein,
22 Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack
23 of a practice which resulted in Defendants not compensating Plaintiff and the other Class
24 Members or otherwise complying with their rights in accordance with applicable California labor
25 laws as alleged herein.

26 9. At all relevant times, in perpetrating the acts and omissions alleged herein,
27 Defendants and each of them acted pursuant to and in furtherance of a policy and/or practice, or
28 lack thereof, which resulted in Defendants not paying Plaintiff and other members of the below-



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described class in accordance with applicable laws as alleged herein.

III. CLASS ALLEGATIONS

10. This action has been brought and may be maintained as a class action pursuant to California Code of Civil Procedure section 382 because there is a well-defined community of interest among the persons who comprise the readily ascertainable class defined below and because Plaintiff is unaware of any difficulties likely to be encountered in managing this case as a class action.

11. **Class Definition:** The Class is defined as follows: All persons Defendants employed or otherwise contracted with in California as hourly, non-exempt and workers paid by the load or comparable piece rate, including drivers, individuals performing work comparable to the aforementioned, compensated comparably to the aforementioned, individuals in similar positions, at any time during the period beginning four years prior to the filing of this action and ending on the date that final judgment is entered in this action (“Class” or “Class Members”).

12. **Reservation of Rights:** Pursuant to Rule of Court 3.765(b), Plaintiff reserves the right to amend or modify the class definition with greater specificity, by further division into subclasses and/or by limitation to particular issues.

13. **Numerosity:** The Class Members are so numerous that the individual joinder of each individual Class Member is impractical. While Plaintiff does not currently know the exact number of Class Members, Plaintiff is informed and believes that the actual number exceeds the minimum required for numerosity under California laws.

14. **Commonality and Predominance:** Common questions of law and fact exist as to all Class Members and predominate over any questions which affect only individual Class Members. These questions include, but are not limited to:

A. Whether Defendants failed to pay all wages earned to Class Members for all hours worked at the correct rates of pay, including minimum, regular, overtime, doubletime, meal period premium, rest period premium, rest and recovery, and nonproductive time wages;

B. Whether Defendants failed to provide the Class Members with all meal periods in compliance with California law;

C. Whether Defendants failed to authorize and permit the Class Members to



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1 take all rest periods in compliance with California law;

2 D. Whether Defendants knowingly and intentionally failed to provide the
3 class with accurate and complete itemized wage statements;

4 E. Whether Defendants willfully failed to provide the class with timely final
5 wages;

6 F. Whether Defendants engaged in unfair competition within the meaning of
7 Business and Professions Code sections 17200, et seq., with respect to the Class; and

8 G. Whether Class Members are entitled to restitution of money or property
9 that Defendants may have acquired from them through alleged Labor Code violations.

10 15. **Typicality:** Plaintiff's claims are typical of the other Class Members' claims.
11 Plaintiff is informed and believes and thereon alleges that Defendants have a policy and/or
12 practice, or lack thereof, which resulted in Defendants failing to comply with the California Labor
13 Code, the Wage Order, and the Business and Professions Code.

14 16. **Adequacy of Class Representative:** Plaintiff is an adequate class representative
15 in that he has no interests that are adverse to, or otherwise in conflict with, the interests of absent
16 Class Members. Plaintiff is dedicated to vigorously prosecuting this action on behalf of Class
17 Members. Plaintiff will fairly and adequately represent and protect the interests of Class
18 Members.

19 17. **Adequacy of Class Counsel:** Plaintiff's counsel are adequate class counsel in that
20 they have no known conflicts of interest with Plaintiff or absent Class Members, are experienced
21 in class action litigation, and are dedicated to vigorously prosecuting this action on behalf of
22 Plaintiff and absent Class Members.

23 18. **Superiority:** A class action is vastly superior to other available means for fair and
24 efficient adjudication of Class Members' claims and would be beneficial to the parties and the
25 Court. Class action treatment will allow a number of similarly situated persons to simultaneously
26 and efficiently prosecute their common claims in a single forum without the unnecessary
27 duplication of effort and expense that numerous individual actions would entail. In addition, the
28 monetary amounts due to many individual Class Members are likely to be relatively small and
would thus make it difficult, if not impossible, for individual Class Members to both seek and



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1 obtain relief. Moreover, a class action will serve an important public interest by permitting Class
2 Members to effectively pursue the recovery of monies owed to them. Further, a class action will
3 prevent the potential for inconsistent or contradictory judgments inherent in individual litigation.

4 **IV. STATEMENT OF FACTS**

5 19. IWC Wage Order 9-2001 (“the Wage Order”) applies to “all persons employed in
6 the transportation industry whether paid on a time, piece rate, commission, or other basis” Wage
7 Order, § 1. The Wage Order defines “Transportation Industry” to mean “any industry, business,
8 or establishment operated for the purpose of conveying persons or property from one place to
9 another whether by rail, highway, air, or water, and all operations and services in connection
10 therewith; and also includes storing or warehousing of goods or property, and the repairing,
11 parking, rental, maintenance, or cleaning of vehicles.” Wage Order, § 2(P). At all relevant times
12 during the applicable limitations period, the Defendants, Shabazz-El, and all of the Class
13 Members were covered by the Wage Order because the Defendants operated, and Shabazz-El,
14 and all of the Class Members worked for, one or more establishments operated as operated a
15 motor carrier transportation business. Accordingly, Shabazz-El and all of the other Class
16 Members are entitled to the protections the Wage Order provides.

17 20. On approximately August 15, 2023, the Defendants began to employ Shabazz-El
18 in Bloomington in the position of truck driver. The Defendants continuously employed him in
19 that capacity until on or about March 21, 2024 when his employment ended.

20 21. At all relevant times, the Defendants issued wages to Shabazz-El and all of the
21 other Class Members on an hourly basis and paid them by the load or comparable piece rate. At
22 all relevant times, the Defendants classified Shabazz-El and all of the other Class Members as
23 independent contractors not entitled to the protections of the Labor Code and the Wage Order.

24 22. At all relevant times, the Defendants willfully misclassified Shabazz-El and all of
25 the other Class Members as independent contractors. At all relevant times with regard to Shabazz-
26 El and all of the other Class Members, the Defendants were in the same business, decided when
27 the work was performed, decided where the work was performed, decided how the work was
28 performed, had right to fire without cause, decided what tools and instrumentalities were used,



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1 decided where to purchase equipment and tools, decided where to purchase supplies and
2 materials, decided what equipment and tools to use, decided what supplies and materials to use,
3 closely supervised the work, decided whether there would be assistant workers, decided on the
4 assistant workers, decided pay for assistant workers, gave detailed instructions, trained them for
5 the work, decided the training, gave written work appraisals, gave ongoing training, did not
6 require skill for the work, paid for equipment and tools, paid for supplies and materials,
7 reimbursed for costs and expenses, was primary investor of money in business, set a regular
8 payment schedule, controlled chances for profit and loss, made employees economically
9 dependent, prepared the contract for the work, insured the work, expected relationship of
10 indefinite duration, assigned customers, collected payment from customers, decided the
11 advertising for the work, decided pay rate for work, and only assigned work within usual
12 business's scope. At all relevant times, Shabazz-El and all of the other Class Members were
13 employees of the Defendants. The Defendants engaged, suffered, and permitted them to work.
14 The Defendants knew or should have known their actions of misclassifying Shabazz-El and all of
15 the other Class Members as independent contractors violated California law.

16 23. Harpal Singh knowingly advised the Defendants to misclassify Shabazz-El and all
17 of the other Class Members as independent contractors.

18 24. At all relevant times, the Defendants failed to compensate Shabazz-El and all of
19 the other Class Members for all hours worked at the applicable minimum or regular rates of pay.
20 The Defendants required Shabazz-El and the other Class Members to work through meal periods,
21 and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and
22 portions of their travel time though the Defendants did not pay Shabazz-El and the other Class
23 Members for the time.

24 25. At all relevant times, the Defendants failed to compensate Shabazz-El and all of
25 the other Class Members at the correct rates of pay for all hours worked over eight in a day, over
26 40 in a week, and for the first eight hours of the seventh day of the workweek. The Defendants
27 required Shabazz-El and the other Class Members to work over eight hours per day, over 40 hours
28 per week, and on the seventh day of the same workweek. During such days and weeks, the



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1 Defendants required Shabazz-El and the other Class Members to work through meal periods, and
2 perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and
3 portions of their travel time though the Defendants did not pay Shabazz-El and the other Class
4 Members for the time.

5 26. At all relevant times, the Defendants failed to compensate Shabazz-El and all of
6 the other Class Members at the correct rates of pay for all hours worked over 12 in a day, and all
7 over the first eight of the seventh day of the workweek. The Defendants required Shabazz-El and
8 the other Class Members to work over 12 hours per day and over eight hours on the seventh day
9 of the same workweek. During such days and weeks, the Defendants required Shabazz-El and the
10 other Class Members to work through meal periods, and perform pre- and post-trip inspections,
11 fueling, maintenance, truck washes and cleaning, and portions of their travel time though the
12 Defendants did not pay Shabazz-El and the other Class Members for the time.

13 27. At all relevant times, the Defendants failed to provide Shabazz-El and all of the
14 other Class Members with all timely 30-minute, off-duty meal periods. The Defendants required
15 Shabazz-El and the other Class Members to work through meal periods, though the Defendants
16 did not pay Shabazz-El and the other Class Members for the time or recorded the meal period as
17 taking place within the first five hours of work when the meal period had taken place later. The
18 Defendants also failed to pay premium wages for days on which they failed to provide Shabazz-
19 El and all of the other Class Members with meal periods as required by law.

20 28. At all relevant times, the Defendants failed to authorize and permit Shabazz-El and
21 all of the other Class Members to take ten-minute, off-duty, paid rest breaks every four hours
22 worked or major portion thereof. The Defendants required Shabazz-El and the other Class
23 Members to work through rest breaks and did not pay them for rest time. The Defendants also
24 failed to pay premium wages for days on which they failed to authorize and permit Shabazz-El
25 and all of the other Class Members to take rest breaks as required by law.

26 29. At all relevant times, the Defendants failed to separately compensate Shabazz-El
27 and all of the other Class Members for rest and recovery periods and other nonproductive time,
28 including but not limited to work through meal periods, and perform pre- and post-trip



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1 inspections, fueling, maintenance, truck washes and cleaning, portions of their travel time, and
2 related duties.

3 30. At all relevant times, the Defendants failed to provide paid sick leave to Shabazz-
4 El and all of the other Class Members.

5 31. At all relevant times, the Defendants failed to issue to Shabazz-El and all of the
6 other Class Members complete and accurate wage statements that state all hours worked at the
7 correct rates of pay, and all wages earned. The Defendants knowingly and intentionally failed to
8 state on the wage statements they issued to Shabazz-El and all of the other Class Members the
9 unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all
10 regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period
11 premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, all
12 nonproductive time wages earned, all nonproductive time, all rest and recovery time, all rest and
13 recovery time wages earned, start date of pay period, end date of pay period, gross wages earned,
14 net wages earned, all deductions, name of employee, SSN (last 4 digits) or EEID#, name of
15 employer, address of employer, all hourly rates, all hours work at each rate of pay, and related
16 information.

17 32. At all relevant times, the Defendants failed to provide Shabazz-El and all of the
18 other Class Members with statements of the total hours of compensable rest and recovery periods,
19 the rate of compensation, and the gross and net wages paid for those activities during the pay
20 period.

21 33. At all relevant times, the Defendants failed to provide Shabazz-El and all of the
22 other Class Members with statements of sick leave available, or paid time off in lieu of sick leave.

23 34. At all relevant times, the Defendants required financial patronage from Shabazz-
24 El and all of the other Class Members to allow them to work.

25 35. At all relevant times, the Defendants failed to provide signed and complete
26 commission agreements to Shabazz-El and all of the other Class Members.

27 36. At all relevant times, the Defendants also failed to timely pay Shabazz-El and all
28 of the other Class Members all earned wages as described above during and at the conclusion of



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1 employment.

2 37. At all relevant times, the Defendants failed to maintain accurate employee records
3 of Shabazz-El and all of the other Class Members.

4 38. For the reasons stated herein, Plaintiff alleges that as a result of Defendants'
5 unlawful practices and policies, Plaintiff and the Class Members were:

- 6 A. Not provided with all off duty meal periods;
7 B. Not authorized and permitted to take all rest break periods;
8 C. Not paid one hour's pay for each workday in which Defendants failed to
9 authorize and permit them to take one or more timely rest periods;
10 D. Not paid one hour's pay for each workday in which Defendants failed to
11 provide them with one or more timely meal periods;
12 E. Not paid all wages earned, including, but not limited to, minimum, regular,
13 overtime, and doubletime wages for work performed while clocked out;
14 F. Not provided with accurate and complete wage statements; and
15 G. Not timely paid all earned and unpaid wages at the time their employment
16 ended.

17 **FIRST CAUSE OF ACTION**

18 **FAILURE TO PAY, DEDUCTING, OR WITHHOLDING ALL WAGES AT THE
19 CORRECT RATES**

20 **Lab. Code §§ 226.2, 510, 1194, 1197, and 1198**

21 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

22 39. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

23 40. At all relevant times, Plaintiff and the Class Members have been misclassified as
24 independent contractors not entitled to the protections of both the Labor Code and the Wage
25 Order, though they should have been classified as non-exempt employees entitled to the
26 protections of both the Labor Code and the Wage Order.

27 **A. WILLFUL INDEPENDENT CONTRACTOR MISCLASSIFICATION**

28 41. Labor Code section 226.8 states

- (a) It is unlawful for any person or employer to engage in any of the
following activities:



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(1) Willful misclassification of an individual as an independent contractor.

(2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.

42. “Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.” (*Id.*, § (i)(4).)

43. At all relevant times, Shabazz-El and all of the other Class Members were employees of the Defendants. At all relevant times with regard to Shabazz-El and all of the other Class Members, the Defendants were in the same business, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what tools and instrumentalities were used, decided where to purchase equipment and tools, decided where to purchase supplies and materials, decided what equipment and tools to use, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, decided on the assistant workers, decided pay for assistant workers, gave detailed instructions, trained them for the work, decided the training, gave written work appraisals, gave ongoing training, did not require skill for the work, paid for equipment and tools, paid for supplies and materials, reimbursed for costs and expenses, was primary investor of money in business, set a regular payment schedule, controlled chances for profit and loss, made employees economically dependent, prepared the contract for the work, insured the work, expected relationship of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided pay rate for work, and only assigned work within usual business's scope. The Defendants engaged, suffered, and permitted them to work. The Defendants could terminate Shabazz-El and all of the other Class



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1 Members at will. The Defendants trained Shabazz-El and all of the other Class Members how to
2 perform some or all aspects of their work. The Defendants assigned Shabazz-El and all of the
3 other Class Members the clients they serviced. The Defendants collected payment from the
4 clients. The Defendants paid Shabazz-El and all of the other Class Members a nonnegotiable rate
5 of pay per work activity. The work Shabazz-El and all of the other Class Members performed was
6 wholly within the scope of the Defendants' usual course of business. The Defendants knew or
7 should have known their actions of misclassifying Shabazz-El and all of the other Class Members
8 as independent contractors violated California law.

9 44. The Defendants misclassified Shabazz-El and all of the other Class Members as
10 independent contractors and engaged in a pattern and/or practice of so doing. Through their
11 misclassification of Shabazz-El and every other Class Member, the Defendants have engaged in
12 a pattern and practice of willful misclassification of their employees as independent contractors
13 for their own financial benefit. Each person or entity referenced above collectively as the
14 Defendants advised the others to treat Shabazz-El and all of the other Class Members at issue in
15 this case as independent contractors.

16 45. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
17 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
18 misclassification of Plaintiff and the other Class Members as employees as required by California
19 law.

20 **B. KNOWINGLY ADVISING AN EMPLOYER TO MISCLASSIFY**

21 46. In relevant part, Labor Code section 558.1 states

- 22 (a) Any employer or other person acting on behalf of an employer,
23 who violates, or causes to be violated, any provision regulating
24 minimum wages or hours and days of work in any order of the
25 Industrial Welfare Commission, or violates, or causes to be
26 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
27 held liable as the employer for such violation.
- 28 (b) For purposes of this section, the term "other person acting on
behalf of an employer" is limited to a natural person who is an
owner, director, officer, or managing agent of the employer, and
the term "managing agent" has the same meaning as in subdivision



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(b) of Section 3294 of the Civil Code.

47. At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Class Members, and/or “owner,” “managing agent,” and/or “officer” of the Defendants. Harpal Singh directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Class Members, and caused the violations to the Labor Code and the Wage Order described above.

48. At all relevant times, Shabazz-El and all of the other Class Members were employees of Harpal Singh. Harpal Singh engaged, and suffered and permitted, Shabazz-El and all of the other Class Members to work. Harpal Singh was clearly aware that Shabazz-El and all of the other Class Members worked for the Defendants and had the power to prevent them from working. Harpal Singh also exercised control over Shabazz-El and all of the other Class Members’ wages, hours, and working conditions. Further, Harpal Singh had the right to control and exercised such control over the manner in which Shabazz-El and all of the other Class Members performed their work for Harpal Singh. The services they rendered were at all times an integral part of Harpal Singh’s business. The relationship between Shabazz-El and all of the other Class Members, on one hand, and Harpal Singh, on the other, was terminable at will without cause. Despite these circumstances, Harpal Singh willfully advised the Defendants to misclassify Shabazz-El and all of the other Class Members as independent contractors and misclassified Shabazz-El and all of the other Class Members as independent contractors. Harpal Singh has engaged in a pattern and/or practice of doing so.

49. Labor Code § 2753 provides for joint and several liability for a person who “knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual.” Harpal Singh is and was, at relevant times, an owner, director, officer, or managing agent of the Defendants and violated or caused to be violated the provisions regulating the misclassification of employees as independent contractors. Harpal Singh knowingly advised the Defendants to treat Shabazz-El and all of the other Class Members as independent contractors and not employees. Therefore, Harpal Singh is individually liable for misclassification and the penalties recited below.



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1 **C. FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED AT**
2 **THE CORRECT RATES OF PAY**

3 50. Section 2 of the Wage Order defines “hours worked” as “the time during which an
4 employee is subject to the control of an employer, and includes all the time the employee is
5 suffered or permitted to work, whether or not required to do so.”

6 51. Section 3 of the Wage Order states:

7 The following overtime provisions are applicable to employees 18 years of age or
8 over and to employees 16 or 17 years of age who are not required by law to attend
9 school and are not otherwise prohibited by law from engaging in the subject work.
10 Such employees shall not be employed more than eight (8) hours in any workday
11 or more than 40 in a workweek unless the employee receives one and one half
12 (1½) times such employee’s regular rate of pay for all hours worked over 40 hours
13 in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment
14 beyond eight (8) hours in any workday or more than six (6) days in any workweek
15 is permissible provided the employee is compensated for such overtime at not less
16 than:

- 17 (a) One and one-half (1½) times the employee’s regular rate of pay for all
18 hours worked in excess of eight (8) hours up to and including twelve (12)
19 hours in any workday, and for the first eight (8) hours worked on the
20 seventh (7th) consecutive day of work in a workweek;
- 21 (b) Double the employee’s regular rate of pay for all hours worked in excess
22 of 12 hours in any workday and for all hours worked in excess of eight (8)
23 hours on the seventh (7th) consecutive day of work in a workweek. The
24 overtime rate of compensation required to be paid to a nonexempt full-
25 time salaried employee shall be computed by using the employee’s regular
26 hourly salary as one fortieth (1/40) of the employee’s weekly salary.

27 52. Section 4 of the Wage Order requires an employer to pay non-exempt employees
28 at least the minimum wage set forth therein for all hours worked, which consists of all hours that
an employer has actual or constructive knowledge that employees are working.

53. Labor Code section 510 states:

Eight hours of labor constitutes a day’s work. Any work in excess of eight hours
in one workday and any work in excess of 40 hours in any one workweek and the
first eight hours worked on the seventh day of work 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. Any work in excess of 12 hours in one day shall be



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1 compensated at the rate of no less than twice the regular rate of pay for an
2 employee. In addition, any work in excess of eight hours on any seventh day of a
3 workweek shall be compensated at the rate of no less than twice the regular rate of
4 pay of an employee. Nothing in this section requires an employer to combine more
than one rate of overtime compensation in order to calculate the amount to be paid
to an employee for any hour of overtime work.

5 54. Labor Code section 1194 invalidates any agreement between an employer and an
6 employee to work for less than the minimum wage required under the applicable Wage Order.

7 55. Labor Code section 1197 makes it unlawful for an employer to pay an employee
8 less than the minimum wage required under the applicable Wage Order for all hours worked
9 during a payroll period.

10 56. Labor Code section 1198 makes it unlawful for an employer to employ an
11 employee under conditions that violate the Wage Order.

12 57. In conjunction, these provisions of the Labor Code require employers to pay non-
13 exempt employees no less than their agreed-upon or statutorily mandated wage rates for all hours
14 worked, including unrecorded hours when the employer knew or reasonably should have known
15 that employees were working during those hours. (See *Morillion v. Royal Packing Co.* (2000) 22
16 Cal.4th 575, 585.)

17 58. At all relevant times during the applicable limitations period, Defendants failed to
18 compensate Plaintiff and the Class Members for all hours worked, including, but not limited to
19 minimum, regular, overtime and doubletime wages for all minimum, regular, overtime and
20 doubletime hours, respectively, that they worked at the correct rates of pay.

21 59. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
22 Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants'
23 failure to compensate Plaintiff and the other Class Members for all hours worked at the correct
24 rates of pay as required by California law.

25 **D. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
26 **LABOR CODE**

27 60. In relevant part, Labor Code section 558.1 states:

28 (a) Any employer or other person acting on behalf of an employer,



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who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Class Members, and/or “owner,” “managing agent,” and/or “officer” of the Defendants and the other employers identified above. Harpal Singh directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Class Members, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Class Members, Shabazz-El seeks an award of unpaid wages, interest, restitution, statutory penalties, liquidated damages, attorneys’ fees, costs, and related relief against Harpal Singh that is the same as the award of against the other Defendants on the same grounds for which Plaintiff seeks against the Defendants.

E. FAILURE TO PAY FOR REST AND RECOVERY PERIODS AND OTHER NONPRODUCTIVE TIME

61. In relevant part, Labor Code section 226.2 states

- (a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:

- (1) Employees shall be compensated for rest and recovery periods and other nonproductive time separate from any piece-rate compensation.

...

- (3) (A) Employees shall be compensated for rest and recovery periods at a regular hourly rate that is no less than the higher of:

- (i) An average hourly rate determined by



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dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours worked during the workweek, exclusive of rest and recovery periods.

(ii) The applicable minimum wage.

62. At all relevant times during the applicable limitations period, the Defendants failed to separately compensate Shabazz-El and all of the other Class Members for rest and recovery periods and other nonproductive time, including but not limited to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time, and related duties.

63. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to pay Plaintiff and the other Class Members for rest and recovery periods and other nonproductive time as required by California law.

F. FAILURE TO PROVIDE SICK LEAVE

64. Labor Code section 233 states

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

65. Labor Code section 246(a)(1) states

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

66. Labor Code section 246.5 states

(a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health



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condition of, or preventive care for, an employee or an employee's family member.

...

(c) (1) An employer shall not deny an employee the right to use accrued sick days ...

67. The Defendants failed to provide Shabazz-El and all of the other Class Members with paid sick leave.

68. Plaintiff is informed and believes and thereon alleges that, at all relevant times, Defendants maintained a policy and/or practice, or lack thereof, which resulted in Defendants' failure to pay Plaintiff and the other Class Members sick leave as required by California law.

SECOND CAUSE OF ACTION

FAILURE TO PROVIDE MEAL PERIODS

Lab. Code §§ 226.7 and 512

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

69. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

70. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

71. In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

72. In relevant part, In relevant part, California Labor Code § 512 states:

An employer shall 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee.

An employer shall not employ an employee for a work period of



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more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

73. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) 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 and the employee.
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.
- (C) Unless the 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. An "on duty" meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal 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 meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

74. In relevant part, California Labor Code § 226.7 states:



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1 (b) An employer shall not require an employee to work during
2 a meal or rest period mandated pursuant to an applicable
3 statute, or applicable regulation, standard, or order of the
4 Industrial Welfare Commission, the Occupational Safety
and Health Standards Board, or the Division of
Occupational Safety and Health.

5 (c) If an employer fails to provide an employee a meal period
6 or rest period in accordance with a state law, including, but
7 not limited to, an applicable statute or applicable
8 regulation, standard, or order of the Industrial Welfare
9 Commission, the Occupational Safety and Health
10 Standards Board, or the Division of Occupational Safety
11 and Health, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

12 75. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff and the
13 Class Members were entitled to uninterrupted meal periods of at least 30 minutes for each day
14 they worked five or more hours. Pursuant to California Labor Code § 512, they were also entitled
15 to a second 30-minute meal period when they worked more than 10 hours in a workday.

16 76. Defendants intentionally failed to provide Plaintiff and the Class Members with
17 all required 30-minute duty free meal periods in accordance with the Wage Order. The Defendants
18 required Shabazz-El and the other Class Members to work through meal periods, though the
19 Defendants did not pay Shabazz-El and the other Class Members for the time or recorded the
20 meal period as taking place within the first five hours of work when the meal period had taken
21 place later.

22 77. At all relevant times, Defendants failed to provide Plaintiff and the Class Members
23 with all timely rest and meal periods. Defendants denied Plaintiff and the other Class Members
24 their 30-minute off-duty meal period within the first five hours of work. Furthermore, Defendants
25 failed to pay premium wages for days on which they failed to provide Plaintiff and the other Class
26 Members with timely meal periods.

27 78. Plaintiff is informed and believes and thereon alleges that, at all relevant times
28 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy



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1 which resulted in Defendants not providing the and the Class Members with all off-duty meal
2 periods required by California law.

3 79. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
4 suffered damages in amounts subject to proof to the extent they were not paid additional wages
5 owed for all meal periods not provided to them.

6 80. By reason of the above, Plaintiff and the Class Members are entitled to premium
7 wages for workdays in which one or more meal periods were not provided to them pursuant to
8 California Labor Code § 226.7.

9 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
10 **LABOR CODE**

11 81. In relevant part, Labor Code section 558.1 states:

12 (c) Any employer or other person acting on behalf of an employer,
13 who violates, or causes to be violated, any provision regulating
14 minimum wages or hours and days of work in any order of the
15 Industrial Welfare Commission, or violates, or causes to be
16 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
17 held liable as the employer for such violation.

18 (d) For purposes of this section, the term "other person acting on
19 behalf of an employer" is limited to a natural person who is an
20 owner, director, officer, or managing agent of the employer, and
21 the term "managing agent" has the same meaning as in subdivision
22 (b) of Section 3294 of the Civil Code.

23 At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Class
24 Members, and/or "owner," "managing agent," and/or "officer" of the Defendants and the other
25 employers identified above. Harpal Singh directly or indirectly, or through an agent or other
26 person, employed and exercised control over the wages, hours, and/or working conditions of the
27 Class Members, and caused the violations to the Labor Code and the Wage Order described above.
28 On behalf of himself and all of the other Class Members, Shabazz-El seeks an award of unpaid
wages, interest, restitution, statutory penalties, liquidated damages, attorneys' fees, costs, and
related relief against Harpal Singh that is the same as the award of against the other Defendants
on the same grounds for which Plaintiff seeks against the Defendants.



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THIRD CAUSE OF ACTION
FAILURE TO AUTHORIZE AND PERMIT REST BREAKS
Lab. Code § 226.7

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

82. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

83. At all relevant times during the applicable limitations period, Plaintiff and the Class Members have been employees of Defendants and entitled to the benefits and protections of California Labor Code §§ 226.7 and 1198, and the Wage Order.

84. In relevant part, California Labor Code § 1198 states:

The maximum hours of work and the standard conditions of labor fixed by the commission shall be the maximum hours of work and the standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.

85. In relevant part, Section 12 of the Wage Order states:

Rest Periods:

(A) 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.

(B) If an employer fails to provide an employee 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.

86. In relevant part, California Labor Code § 226.7 states:

(b) An employer shall not require an employee to work during



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1 a meal or rest period mandated pursuant to an applicable
2 statute, or applicable regulation, standard, or order of the
3 Industrial Welfare Commission, the Occupational Safety
4 and Health Standards Board, or the Division of
Occupational Safety and Health.

5 (c) If an employer fails to provide an employee a meal period
6 or rest period in accordance with a state law, including, but
7 not limited to, an applicable statute or applicable
8 regulation, standard, or order of the Industrial Welfare
9 Commission, the Occupational Safety and Health
10 Standards Board, or the Division of Occupational Safety
and Health, the employer shall pay the employee one
additional hour of pay at the employee's regular rate of
compensation for each work day that the meal or rest
period is not provided.

11 87. Pursuant to the Wage Order, Plaintiff and the Class Members were entitled to be
12 authorized and permitted to take net rest breaks of at least ten minutes for each four-hour period
13 of work, or major fraction thereof.

14 88. Defendants intentionally failed to authorize and permit Plaintiff and the Class
15 Members to take all 10-minute rest periods free from any work duties in accordance with the
16 Wage Order. The Defendants required Shabazz-El and the other Class Members to work through
17 rest breaks and did not pay them for rest time.

18 89. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
19 Class Members to take all timely rest periods. Furthermore, Defendants failed to pay premium
20 wages to Plaintiff and the Class Members for days on which they failed to authorize and permit
21 Plaintiff and the other Class Members to take timely rest periods.

22 90. At all relevant times, Defendants failed to authorize and permit Plaintiff and the
23 Class Members to take ten-minute, paid, duty-free rest breaks every four hours worked or major
24 fraction thereof. Defendants did not seek an exemption from the rest period protections of the
25 Wage Order from the California Division of Labor Standards Enforcement. Moreover,
26 Defendants failed to pay Plaintiff and the Class Members premium wages on workdays they failed
27 to authorize and permit them to take 10-minute rest periods every four hours worked or major
28 fraction thereof.



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1 91. Plaintiff is informed and believes and thereon alleges that, at all relevant times
2 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
3 which resulted in Defendants not authorizing and permitting Plaintiff and the Class Members to
4 take all rest breaks required by California law.

5 92. Defendants failed to provide Plaintiff with all required rest breaks in accordance
6 with the Wage Order. Plaintiff is informed and believes and thereon alleges that, at relevant times
7 within the applicable limitations period, Defendants had a policy, practice, or a lack of a policy
8 which resulted in Defendants not providing the Class Members with all rest breaks required by
9 California law.

10 93. Defendants failed to pay Plaintiff the additional wages required by California
11 Labor Code § 226.7 for all rest breaks not provided to him. Plaintiff is informed and believes and
12 thereon alleges that, at relevant times within the applicable limitations period, Defendants have
13 maintained a policy, practice, or a lack of a policy which resulted in Defendants not providing the
14 Class Members with additional wages for all rest breaks not provided to them as required by
15 California Labor Code § 226.7.

16 94. As a result of Defendants' unlawful conduct, Plaintiff and the Class Members have
17 suffered damages in amounts subject to proof to the extent they were not paid additional wages
18 owed for all rest breaks not provided to them.

19 95. By reason of the above, Plaintiff and the Class Members are entitled to premium
20 wages for workdays in which one or more rest breaks were not provided to them pursuant to
21 California Labor Code § 226.7.

22 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
23 **LABOR CODE**

24 96. In relevant part, Labor Code section 558.1 states:

- 25 (a) Any employer or other person acting on behalf of an employer,
26 who violates, or causes to be violated, any provision regulating
27 minimum wages or hours and days of work in any order of the
28 Industrial Welfare Commission, or violates, or causes to be
violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
held liable as the employer for such violation.



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(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Class Members, and/or “owner,” “managing agent,” and/or “officer” of the Defendants and the other employers identified above. Harpal Singh directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Class Members, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Class Members, Shabazz-El seeks an award of unpaid wages, interest, restitution, statutory penalties, liquidated damages, attorneys’ fees, costs, and related relief against Harpal Singh that is the same as the award of against the other Defendants on the same grounds for which Plaintiff seeks against the Defendants.

FOURTH CAUSE OF ACTION

FAILURE TO ISSUE ACCURATE AND COMPLETE WAGE STATEMENTS

Lab. Code §§ 226 and 226.2

(By Plaintiff, on behalf of himself and the Class, against all Defendants)

A. FAILURE TO PROVIDE ACCURATE AND COMPLETE WRITTEN WAGE STATEMENTS

97. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

98. Pursuant to California Labor Code § 226(a), Plaintiff and the Class Members were entitled to receive, semi-monthly or at the time of each payment of wages, an accurate itemized statement showing:

A. Gross wages earned;

B. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;

C. The number of piece rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis;



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1 D. All deductions, provided that all deductions made on written orders of the
2 Employee may be aggregated and shown as one item;

3 E. Net wages earned;

4 F. The inclusive dates of the period for which the employee is paid;

5 G. The name of the employee and his or her social security number, except
6 that by January 1, 2008, only the last four digits of his or her social security number or an
7 employee identification number other than a social security number may be shown on the itemized
8 statement;

9 H. The name and address of the legal entity that is the employer; and

10 I. All applicable hourly rates in effect during the pay period and the
11 corresponding number of hours worked at each hourly rate by the employee.

12 99. Pursuant to California Labor Code § 226, an employee is deemed to suffer injury
13 if the employer fails to provide a wage statement. Also, an employee is deemed to suffer injury if
14 the employer fails to provide accurate and complete information as required by California Labor
15 Code § 226(a) and the employee cannot “promptly and easily determine” from the wage statement
16 alone one or more of the following:

17 A. The amount of the gross wages or net wages paid to the employee during
18 the pay period or any of the other information required to be provided on the itemized wage
19 statement pursuant to California Labor Code § 226(a);

20 B. Which deductions the employer made from gross wages to determine the
21 net wages paid to the employee during the pay period;

22 C. The name and address of the employer and, if the employer is a farm labor
23 contractor, as defined in subdivision (b) of Section 1682 of the California Labor Code, the name
24 and address of the legal entity that secured the services of the employer during the pay period;

25 D. The name of the employee and only the last four digits of his or her social
26 security number or an employee identification number other than a social security number; and

27 E. The number of piece-rate units earned and the piece rate.

28 100. “Promptly and easily determine,” as stated in California Labor Code § 226(e),
means a reasonable person would be able to readily ascertain the information without reference
to other documents or information.



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101. Similarly, section 6(B) of the Wage Order states

Every employer who has control over wages, hours, or working conditions shall semimonthly or at the time of each payment of wages furnish each employee an itemized statement in writing showing:

- (1) all deductions;
- (2) the inclusive dates of the period for which the employee is paid;
- (3) the name of the employee or the employee's social security number; and
- (4) the name of the employer, provided all deductions made on written orders of the employee may be aggregated and shown as one item. (See Labor Code Section 226.)

This information shall be furnished either separately or as a detachable part of the check, draft, or voucher paying the employee's wages.

102. As alleged herein, at all relevant times during the applicable limitations period, Defendants violated California Labor Code section 226 because they did not properly and accurately itemize each employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the employee and other requirements of California Labor Code section 226. Defendants failed to state in the wage statements they issued to Plaintiff and the other Class Members all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). Defendants knowingly and intentionally did not issue 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, statements to Plaintiff and the Class Members that state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, all nonproductive time wages earned, all nonproductive time, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employee, SSN (last 4 digits) or EEID#, name of employer, address of employer, all hourly



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1 rates, and all hours work at each rate of pay.

2 103. Defendants' failure to provide Plaintiff and the other Class Members with accurate
3 wage statements was knowing and intentional. Defendants had the ability to provide Plaintiff and
4 the other Class Members with accurate wage statements but intentionally provided wage
5 statements that Defendants knew were not accurate.

6 104. As a result of being provided with inaccurate wage statements by Defendants,
7 Plaintiff and the other Class Members have suffered injury. Their legal rights to receive accurate
8 wage statements were violated and they were misled about the amount of wages they had actually
9 earned and were owed. In addition, the absence of accurate information on their wage statements
10 prevented immediate challenges to Defendants' unlawful pay practices, has required discovery
11 and mathematical computations to determine the amounts of wages owed, has caused difficulty
12 and expense in attempting to reconstruct time and pay records and/or has led to the submission of
13 inaccurate information about wages to state and federal government agencies. Further, Plaintiff
14 and the other Class Members were not able to ascertain from the wage statements whether
15 Defendants complied with their obligations under California Labor Code section 226(a).

16 **B. FAILURE TO PROVIDE NOTICE OF AVAILABLE SICK LEAVE**

17 105. Labor Code § 246 states

18 An employer shall provide an employee with written notice that sets forth the
19 amount of paid sick leave available, or paid time off leave an employer provides
20 in lieu of sick leave, for use on either the employee's itemized wage statement
21 described in Section 226 or in a separate writing provided on the designated pay
date with the employee's payment of wages.

22 Lab.Code § 246(h) (effective July 1, 2015). As a matter of policy and practice, the Defendants
23 failed to provide Shabazz-El and all of the other Class Members with an itemized wage statement
24 or separate writing that set forth the amount of paid sick leave available.

25 106. Pursuant to California Labor Code § 226(e), Plaintiffs and the other Class
26 Members are entitled to recover the greater of actual damages, or penalties of fifty dollars (\$50)
27 for the initial pay period in which a violation of California Labor Code § 226(a) occurred and one
28 hundred dollars for each violation of California Labor Code § 226(a) in a subsequent pay period,



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not to exceed an aggregate penalty of four thousand dollars (\$4,000) per Class Member, and are also entitled to an award of costs and reasonable attorneys' fees.

C. FAILURE TO PROVIDE WAGE STATEMENTS WITH REST AND RECOVERY TIME

107. Labor Code section 226.2 states

(a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:

...

(2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

(A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

108. As a matter of policy and practice, the Defendants failed to provide Shabazz-El and all of the other Class Members with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those activities during the pay period.

D. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE LABOR CODE

109. In relevant part, Labor Code section 558.1 states:

(a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

(b) For purposes of this section, the term "other person acting on behalf of an employer" is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term "managing agent" has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.



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1 At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Class
2 Members, and/or “owner,” “managing agent,” and/or “officer” of the Defendants and the other
3 employers identified above. Harpal Singh directly or indirectly, or through an agent or other
4 person, employed and exercised control over the wages, hours, and/or working conditions of the
5 Class Members, and caused the violations to the Labor Code and the Wage Order described above.
6 On behalf of himself and all of the other Class Members, Shabazz-El seeks an award of unpaid
7 wages, interest, restitution, statutory penalties, liquidated damages, attorneys’ fees, costs, and
8 related relief against Harpal Singh that is the same as the award of against the other Defendants
9 on the same grounds for which Plaintiff seeks against the Defendants.

10 **FIFTH CAUSE OF ACTION**

11 **WILLFUL FAILURE TO TIMELY PAY FINAL WAGES**

12 **Lab. Code §§ 201, 202, and 203**

13 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

14 110. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

15 111. At all relevant times during the applicable limitations period, Plaintiffs and the
16 Class have been non-exempt employees of Defendants and entitled to the benefits and protections
17 of California Labor Code §§ 201, 202, and 203, and the Wage Order.

18 112. Labor Code § 201 provides that all earned and unpaid wages of an employee who
19 is discharged are due and payable immediately at the time of discharge.

20 113. Labor Code § 202 provides that all earned and unpaid wages of an employee who
21 quits after providing at least 72-hours notice before quitting are due and payable at the time of
22 quitting and that all earned and unpaid wages of an employee who quits without providing at least
23 72-hours notice before quitting are due and payable within 72 hours.

24 114. The Defendants failed to pay Shabazz-El and all of the other Class Members
25 whose employment ended all of the earned but unpaid wages described above by the conclusion
26 of their employment with Shabazz-El, including minimum wages, regular wages, overtime wages,
27 doubletime wages, unprovided meal period premium wages, unprovided rest break premium
28 wages, deducted wages, nonproductive time, rest and recovery time, and related compensation.



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1 115. By failing to pay such earned wages to Plaintiff and the Class Members,
2 Defendants failed to timely pay them all earned and unpaid wages in violation of Labor Code
3 § 201 or § 202.

4 116. Plaintiff is informed and believes that Defendants' failures to timely pay Plaintiff
5 and the Class Members all of their earned and unpaid wages (described above) have been willful
6 in that, at all relevant times, Defendants have deliberately maintained policies and practices that
7 violate the requirements of the Labor Code and the Wage Order, even though at all relevant times,
8 they have had the ability to comply with those legal requirements.

9 117. Pursuant to Labor Code § 203, Plaintiffs seeks waiting time penalties on behalf of
10 themselves and the Class, in amounts subject to proof not to exceed 30 days of waiting time
11 penalties for each Class Member.

12 **A. PERSON ACTING ON BEHALF OF EMPLOYERS WHO VIOLATES THE**
13 **LABOR CODE**

14 118. In relevant part, Labor Code section 558.1 states:

- 15 (a) Any employer or other person acting on behalf of an employer,
16 who violates, or causes to be violated, any provision regulating
17 minimum wages or hours and days of work in any order of the
18 Industrial Welfare Commission, or violates, or causes to be
19 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be
20 held liable as the employer for such violation.
- 21 (b) For purposes of this section, the term "other person acting on
22 behalf of an employer" is limited to a natural person who is an
23 owner, director, officer, or managing agent of the employer, and
24 the term "managing agent" has the same meaning as in subdivision
25 (b) of Section 3294 of the Civil Code.

26 119. At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the
27 other Class Members, and/or "owner," "managing agent," and/or "officer" of the Defendants and
28 the other employers identified above. Harpal Singh directly or indirectly, or through an agent or
other person, employed and exercised control over the wages, hours, and/or working conditions
of the Class Members, and caused the violations to the Labor Code and the Wage Order described
above. On behalf of himself and all of the other Class Members, Shabazz-El seeks an award of



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1 unpaid wages, interest, restitution, statutory penalties, liquidated damages, attorneys' fees, costs,
2 and related relief against Harpal Singh that is the same as the award of against the other
3 Defendants on the same grounds for which Plaintiff seeks against the Defendants.

4 **SIXTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

6 **Bus. & Prof. Code §§ 17200, *et seq.***

7 **(By Plaintiff, on behalf of himself and the Class, against all Defendants)**

8 120. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 121. At all relevant times during the applicable limitations period, Plaintiff and the
10 Class Members have been employees of Defendants and entitled to the benefits and protections
11 of the Business and Professions Code §§ 17200, *et seq.*

12 122. The unlawful conduct of Defendants alleged herein amount to and constitutes
13 unfair competition within the meaning of California Business & Professions Code §§ 17200, *et*
14 *seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have unfairly
15 gained a competitive advantage over other comparable companies doing business in California
16 that comply with their legal obligations to compensate employees for all earned wages.

17 123. As a result of Defendants' unfair competition as alleged herein, Plaintiff and the
18 Class Members have suffered injuries in fact and lost money or property. Plaintiff and the Class
19 Members were deprived of minimum wages, regular wages, overtime wages, doubletime wages,
20 unprovided meal period premium wages, unprovided rest break premium wages, nonproductive
21 time wages, rest and recovery time wages, sick leave wages, and comparable money and property.

22 124. Pursuant to California Business & Professions Code § 17203, Plaintiff and the
23 Class Members are entitled to restitution of all monies rightfully belonging to them that
24 Defendants did not pay them or otherwise retained by means of their unlawful and unfair business
25 practices.

26 125. Plaintiff and the Class Members are entitled to reasonable attorneys' fees in
27 connection with their unfair competition claims pursuant to California Code of Civil Procedure §
28 1021.5, the substantial benefit doctrine and/or the common fund doctrine.



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SEVENTH CAUSE OF ACTION

CIVIL PENALTIES

Lab.Code §§ 2698, *et seq.*

**(By Plaintiff, on behalf of himself, the Aggrieved Employees, and the State of California,
against all Defendants)**

126. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

127. The “Aggrieved Employees” are all members of the Class defined above who Defendants employed during the period beginning September 27, 2023, and ending on the date that final judgment is entered in this action.

128. Labor Code § 204 states

(a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. ...

(b) (1) Notwithstanding any other provision of this section, all wages earned for labor in excess of the normal work period shall be paid no later than the payday for the next regular payroll period.

(2) An employer is in compliance with the requirements of subdivision (a) of Section 226 relating to total hours worked by the employee, if hours worked in excess of the normal work period during the current pay period are itemized as corrections on the paystub for the next regular pay period. Any corrections set out in a subsequently issued paystub shall state the inclusive dates of the pay period for which the employer is correcting its initial report of hours worked.

(c) However, when employees are covered by a collective bargaining agreement that provides different pay arrangements, those arrangements shall apply to the covered employees.

(d) The requirements of this section shall be deemed satisfied by the payment of wages for weekly, biweekly, or semimonthly payroll if the wages are paid not more than seven calendar days following the close of the payroll period.



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1 129. Defendants paid wages to employees on regular intervals. Defendants, however,
2 failed to pay Plaintiff on such intervals for all wages earned and all hours worked. On information
3 and belief, Plaintiff alleges that Defendants also failed to pay the Aggrieved Employees on such
4 intervals for all wages earned and all hours worked.

5 130. During the applicable time period, Defendants violated California Labor Code §§
6 201, 202, 203, 204, 226, 226.2, 226.7, 226.8, 233, 246, 246.5, 510, 512, 1174, 1194, 1197, 1198,
7 2750.3, and 2753.

8 131. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
9 behalf of themselves and other current or former employees, to bring a civil action to recover civil
10 penalties pursuant to the procedures specified in California Labor Code § 2699.3.

11 132. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff, the State, and the
12 Aggrieved Employees, are entitled to recover civil penalties for each of the Defendants' violations
13 of California Labor Code §§ 201, 202, 203, 204, 226, 226.2, 226.7, 226.8, 233, 246, 246.5, 510,
14 512, 1174, 1194, 1197, 1198, 2750.3, and 2753 during the applicable limitations period in the
15 following amounts:

16 A. For violations of California Labor Code § 204, one hundred dollars
17 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
18 (\$200.00) for each Aggrieved Employee for each subsequent, willful or intentional violation
19 (penalty amounts established by California Labor Code § 210);

20 B. For violations of California Labor Code § 226(a), two hundred fifty dollars
21 (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars (\$1,000.00)
22 for each Aggrieved Employee for each subsequent violation (penalty amounts established by
23 California Labor Code § 226.3);

24 C. For violations of California Labor Code § 226.8, twenty-five thousand
25 dollars (\$25,000.00) for each Aggrieved Employee for each violation (penalty amounts
26 established by California Labor Code § 226.8);

27 D. For violations of California Labor Code §§ 510 and 512, fifty dollars
28 (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars (\$100.00) for



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1 each Aggrieved Employee for each subsequent violation, per pay period (penalty amounts
2 established by California Labor Code § 558);

3 E. For violations of California Labor Code § 1174, five hundred dollars
4 (\$500.00) for each Aggrieved Employee for each violation of Labor Code § 1174 (penalty
5 amounts established by Labor Code § 1174.5);

6 F. For violations of California Labor Code § 1197, one hundred dollars
7 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two hundred
8 fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation, per pay period
9 (regardless of whether the initial violations were intentionally committed) (penalty amounts
10 established by California Labor Code § 1197.1);

11 G. For violations of California Labor Code §§ 201, 202, 203, 226, 226.2,
12 226.7, 233, 246, 246.5, 1194, 1198, 2750.3, and 2753, one hundred dollars (\$100.00) for each
13 Aggrieved Employee per pay period for each initial violation and two hundred dollars (\$200.00)
14 for each Aggrieved Employee per pay period for each subsequent violation (penalty amounts
15 established by California Labor Code § 2699(f)(2)).

16 133. Plaintiff has complied with the procedures for bringing suit specified in California
17 Labor Code § 2699.3. By letter dated September 27, 2024, Plaintiff filed written notice online
18 with the Labor and Workforce Development Agency (“LWDA”) and gave written notice by
19 certified mail to Defendants of the specific provisions of the California Labor Code alleged to
20 have been violated, including the facts and theories to support the alleged violations. A true and
21 correct copy of the notice to the LWDA dated September 27, 2024 is attached as Exhibit A.
22 Plaintiff submitted his LWDA notice with a fee in the amount of \$75.00. The LWDA has failed
23 to take action in response within 65 calendar days of the date of Plaintiff’s notice, but Plaintiff
24 anticipates that the LWDA will provide written notice to Plaintiff informing him that it does not
25 intend to investigate these allegations.

26 134. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
27 Employees are entitled to an award of civil penalties, reasonable attorney’s fees and costs in
28 connection with their claims for civil penalties.



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1 **V. PRAYER FOR RELIEF**

2 135. WHEREFORE, Plaintiff, on behalf of himself and the Class Members, prays for
3 relief and judgment against Defendants as follows:

4 A. An order that the action be certified as a class action with respect to
5 Plaintiff's claims for violations of California law;

6 B. An order that Plaintiff be appointed class representative;

7 C. An order that counsel for Plaintiff be appointed class counsel;

8 D. Unpaid wages, including minimum, regular, overtime, double-time,
9 missed meal period, missed rest period, nonproductive time, and rest and recovery time wages;

10 E. Liquidated damages;

11 F. Statutory penalties, including waiting time penalties;

12 G. Civil penalties;

13 H. Restitution;

14 I. Declaratory relief;

15 J. Actual damages;

16 K. Pre-judgment interest;

17 L. Costs of suit;

18 M. Reasonable attorneys' fees; and

19 N. Such other relief as the Court deems just and proper.

20 **VI. DEMAND FOR JURY TRIAL**

21 Plaintiff, on behalf of himself and all other Class Members, hereby demands a jury trial
22 on all issues so triable.

23 Respectfully submitted,

24 THE SPIVAK LAW FIRM

25 Dated: December 2, 2024

26 By:

David Spivak

27 DAVID G. SPIVAK,
28 Attorney for Plaintiff(s), WAHID
SHABAZZ-EL, and all others similarly
situated



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EXHIBIT A



THE SPIVAK LAW FIRM

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SENT BY ELECTRONIC SUBMISSION, CERTIFIED MAIL, AND EMAIL

September 27, 2024

Attn: PAGA Administrator
Labor and Workforce Development Agency
Attn: PAGA Administrator
<http://dir.tflaforms.net>
Via Electronic Submission

Re: Wahid Shabazz-El / GRD Trucking

To Whom It May Concern:

Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code sections 2698, *et seq.*, Dr. Wahid Shabazz-El (hereafter “Shabazz-El” or “Complainant”) provides notice that GRD Trucking Inc., Harpal Singh, and related entities (collectively “the GRD Trucking Employers” or “the Employers”) violated his rights and those of all other individuals the GRD Trucking Employers have employed or otherwise contracted with in California as hourly, non-exempt and workers paid by the load, including drivers, individuals performing work comparable to the aforementioned, and individuals in similar positions (hereafter the “Aggrieved Employees”) under Labor Code sections 201, 202, 203, 204, 226, 226.2, 226.7, 226.8, 233, 246, 246.5, 510, 512, 1174, 1194, 1197, 1198, 2750.3, 2753, and related Labor Code provisions. On behalf of himself and all other Aggrieved Employees, Shabazz-El hereby provides this notice to the Labor & Workforce Development Agency and the GRD Trucking Employers and their agents and representatives.

At all relevant times, the GRD Trucking Employers have employed persons, conducted business, and engaged in illegal payroll practices and policies, throughout California. Shabazz-El and all of the other Aggrieved Employees are “employees” within the meaning of Industrial Welfare Commission Order No. 9-2001 (hereafter “the Wage Order”) section 2, subdivision (F) and “Aggrieved Employees” within the meaning of Labor Code section 2699(c).

Statement of Facts

On approximately August 15, 2023, the GRD Trucking Employers began to employ Shabazz-El in Bloomington in the position of truck driver. The GRD Trucking Employers continuously employed him in that capacity until on or about March 21, 2024 when his employment ended, though they misclassified him as an independent contractor.

At all relevant times, the GRD Trucking Employers issued wages to Shabazz-El and all of the other Aggrieved Employees on a weekly basis and paid them by the load on some occasions and by the hour on others. At all relevant times, the GRD Trucking Employers classified Shabazz-El and all of the other Aggrieved Employees as independent contractors not entitled to the protections of the Labor Code and the Wage Order.

The GRD Trucking Employers willfully misclassified Shabazz-El and all of the other Aggrieved Employees as independent contractors. At all relevant times with regard to Shabazz-El and all of the other Aggrieved Employees, the GRD Trucking Employers were in the same business, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what tools and instrumentalities were used, decided where to purchase equipment and tools, decided where to purchase supplies and materials, decided what equipment and tools to use, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, decided on the assistant workers, decided pay for assistant workers, gave detailed instructions, trained them for the work, decided the training, gave written work appraisals, gave ongoing training, did not require skill for the work, paid for equipment and tools, paid for supplies and materials, reimbursed for costs and expenses, was primary investor of money in business, set a regular payment schedule, controlled chances for profit and loss, made employees economically dependent, prepared the contract for the work, insured the work, expected relationship of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided pay rate for work, and only assigned work within their usual business's scope. At all relevant times, Shabazz-El and all of the other Aggrieved Employees were employees of the GRD Trucking Employers. The GRD Trucking Employers engaged, suffered, and permitted them to work. The GRD Trucking Employers knew or should have known their actions of misclassifying Shabazz-El and all of the other Aggrieved Employees as

independent contractors violated California law. Harpal Singh knowingly advised the GRD Trucking Employers to misclassify Shabazz-El and all of the other Aggrieved Employees as independent contractors.

The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees for all hours worked at the applicable minimum or regular rates of pay. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over eight in a day, over 40 in a week, and for the first eight hours of the seventh day of the workweek. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work over eight hours per day, over 40 hours per week, and on the seventh day of the same workweek. During such days and weeks, the GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees at the correct rates of pay for all hours worked over 12 in a day, and all over the first eight of the seventh day of the workweek. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work over 12 hours per day and over eight hours on the seventh day of the same workweek. During such days and weeks, the GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

At all relevant times, the GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with all timely 30-minute, off-duty meal periods. The GRD Trucking Employers required Shabazz-El and the other Aggrieved

Employees to work through meal periods, though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time or recorded the meal period as taking place within the first five hours of work when the meal period had taken place later. The GRD Trucking Employers also failed to pay premium wages for days on which failed to provide Shabazz-El and all of the other Aggrieved Employees with meal periods as required by law.

At all relevant times, the GRD Trucking Employers failed to authorize and permit Shabazz-El and all of the other Aggrieved Employees to take ten-minute, off-duty, paid rest breaks every four hours worked or major portion thereof. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through rest breaks and did not pay them for rest time. The GRD Trucking Employers also failed to pay premium wages for days on which failed to authorize and permit Shabazz-El and all of the other Aggrieved Employees to take rest breaks as required by law.

The GRD Trucking Employers failed to separately compensate Shabazz-El and all of the other Aggrieved Employees for rest and recovery periods and other nonproductive time, including but not limited to transportation time, pre-trip and post-trip inspections, washing and cleaning the vehicle, fueling time, maintenance time and related duties.

The GRD Trucking Employers failed to provide paid sick leave to Shabazz-El and all of the other Aggrieved Employees.

The GRD Trucking Employers unlawfully deducted wages belonging to Shabazz-El and all of the other Aggrieved Employees. The GRD Trucking Employers deducted hours that Shabazz-El and the other Aggrieved Employees spent in on-duty meal periods.

At all relevant times, the GRD Trucking Employers failed to issue to Shabazz-El and all of the other Aggrieved Employees complete and accurate wage statements that state all hours worked at the correct rates of pay, and all wages earned. The GRD Trucking Employers knowingly and intentionally failed to state on the wage statements they issued to Shabazz-El and all of the other Aggrieved Employees the unpaid wages discussed above. The wage statements fail to state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, all nonproductive time wages earned, all nonproductive time, all rest and

recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employee, SSN (last 4 digits) or EEID#, name of employer, address of employer, all hourly rates, all hours work at each rate of pay, and other required information.

The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross and net wages paid for those activities during the pay period.

The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave.

The GRD Trucking Employers also failed to timely pay Shabazz-El and all of the other Aggrieved Employees all earned wages as described above during and at the conclusion of employment.

The GRD Trucking Employers failed to maintain accurate employee records of Shabazz-El and all of the other Aggrieved Employees.

For the reasons stated herein, Shabazz-El alleges the following violations of the Labor Code and the Wage Order on behalf of himself and all of the other Aggrieved Employees:

- (a) The GRD Trucking Employers willfully misclassified Shabazz-El and all of the other Aggrieved Employees as independent contractors;
- (b) Harpal Singh knowingly advised the GRD Trucking Employers to misclassify Shabazz-El and all of the other Aggrieved Employees as independent contractors;
- (c) The GRD Trucking Employers failed to pay Shabazz-El and all of the other Aggrieved Employees all wages earned for all hours worked at the correct rates of pay, including minimum, regular, overtime, and doubletime wages;

- (d) The GRD Trucking Employers failed to separately compensate Shabazz-El and all of the other Aggrieved Employees for rest and recovery periods and other nonproductive time;
- (e) The GRD Trucking Employers failed to provide paid sick leave to Shabazz-El and all of the other Aggrieved Employees;
- (f) The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees all meal periods in compliance with California law;
- (g) The GRD Trucking Employers failed to authorize and permit Shabazz-El and all of the other Aggrieved Employees to take rest breaks in compliance with California law;
- (h) The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees at one hour's pay for each day in which the GRD Trucking Employers failed to provide them with one or more meal periods as required by law;
- (i) The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees at one hour's pay for each day in which the GRD Trucking Employers failed to authorize and permit them to take one or more rest breaks as required by law;
- (j) The GRD Trucking Employers required Shabazz-El and all of the other Aggrieved Employees to obtain and pay for preemployment medical or physical examinations as a condition of employment;
- (k) The GRD Trucking Employers failed to indemnify Shabazz-El and all of the other Aggrieved Employees for all necessary business expenditures incurred during the discharge of their duties;
- (l) The GRD Trucking Employers unlawfully deducted wages belonging to Shabazz-El and all of the other Aggrieved Employees;

- (m) The GRD Trucking Employers knowingly and intentionally failed to provide Shabazz-El and all of the other Aggrieved Employees with accurate and complete wage statements;
- (n) The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period;
- (o) The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with statements of sick leave available, or paid time off in lieu of sick leave;
- (p) The GRD Trucking Employers willfully failed to timely pay Shabazz-El and all of the other Aggrieved Employees all earned and unpaid wages during their employment with the GRD Trucking Employers and when their employment ended; and
- (q) The GRD Trucking Employers failed to maintain accurate employment records pertaining to Shabazz-El and all of the other Aggrieved Employees.

Accordingly, Shabazz-El now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees based on the GRD Trucking Employers' alleged violations of the Labor Code and the Wage Order.

The Wage Order

The Wage Order applies to "all persons employed in the transportation industry whether paid on a time, piece rate, commission, or other basis." Wage Order, § 1. The Wage Order defines "Transportation Industry" to mean, "any industry, business, or establishment operated for the purpose of conveying persons or property from one place to another whether by rail, highway, air, or water, and all operations and services in connection therewith; and also includes storing or warehousing of goods or property, and the repairing, parking, rental, maintenance, or cleaning of vehicles." Wage Order, § 2(P). At all relevant times during the applicable limitations period, the GRD Trucking Employers, Shabazz-El, and all of the Aggrieved Employees were covered by the Wage

Order because the GRD Trucking Employers operated, and Shabazz-El, and all of the Aggrieved Employees worked for, one or more establishments operated as a motor carrier transportation business. Accordingly, Shabazz-El and all of the other Aggrieved Employees are entitled to the protections the Wage Order provides.

Willful Independent Contractor Misclassification
(Lab. Code § 226.8)

Labor Code section 226.8 states:

- (a) It is unlawful for any person or employer to engage in any of the following activities:
 - (1) Willful misclassification of an individual as an independent contractor.
 - (2) Charging an individual who has been willfully misclassified as an independent contractor a fee, or making any deductions from compensation, for any purpose, including for goods, materials, space rental, services, government licenses, repairs, equipment maintenance, or fines arising from the individual's employment where any of the acts described in this paragraph would have violated the law if the individual had not been misclassified.
- (b) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a), the person or employer shall be subject to a civil penalty of not less than five thousand dollars (\$5,000) and not more than fifteen thousand dollars (\$15,000) for each violation, in addition to any other penalties or fines permitted by law.
- (c) If the Labor and Workforce Development Agency or a court issues a determination that a person or employer has engaged in any of the enumerated violations of subdivision (a) and the person or employer has engaged in or is engaging in a pattern or practice of

these violations, the person or employer shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than twenty-five thousand dollars (\$25,000) for each violation, in addition to any other penalties or fines permitted by law.

“Willful misclassification means avoiding employee status for an individual by voluntarily and knowingly misclassifying that individual as an independent contractor.” (*Id.*, § (i)(4).)

At all relevant times, Shabazz-El and all of the other Aggrieved Employees were employees of the GRD Trucking Employers. At all relevant times with regard to Shabazz-El and all of the other Aggrieved Employees, the GRD Trucking Employers were in the same business, decided when the work was performed, decided where the work was performed, decided how the work was performed, had right to fire without cause, decided what tools and instrumentalities were used, decided where to purchase equipment and tools, decided where to purchase supplies and materials, decided what equipment and tools to use, decided what supplies and materials to use, closely supervised the work, decided whether there would be assistant workers, decided on the assistant workers, decided pay for assistant workers, gave detailed instructions, trained them for the work, decided the training, gave written work appraisals, gave ongoing training, did not require skill for the work, paid for equipment and tools, paid for supplies and materials, reimbursed for costs and expenses, was primary investor of money in business, set a regular payment schedule, controlled chances for profit and loss, made employees economically dependent, prepared the contract for the work, insured the work, expected relationship of indefinite duration, assigned customers, collected payment from customers, decided the advertising for the work, decided pay rate for work, only assigned work within usual business's scope. The GRD Trucking Employers engaged, suffered, and permitted them to work. The GRD Trucking Employers could terminate Shabazz-El and all of the other Aggrieved Employees at will. The GRD Trucking Employers trained Shabazz-El and all of the other Aggrieved Employees how to perform some or all aspects of their work. The GRD Trucking Employers assigned Shabazz-El and all of the other Aggrieved Employees the clients they serviced. The GRD Trucking Employers collected payment from the clients. The GRD Trucking Employers paid Shabazz-El and all of the other Aggrieved Employees a nonnegotiable rate of pay per work activity. The work Shabazz-El and all of the other Aggrieved Employees performed was wholly within the scope of the GRD Trucking

Employers' usual course of business. The GRD Trucking Employers knew or should have known their actions of misclassifying Shabazz-El and all of the other Aggrieved Employees as independent contractors violated California law.

The GRD Trucking Employers misclassified Shabazz-El and all of the other Aggrieved Employees as independent contractors and engaged in a pattern and/or practice of so doing. Through his misclassification of Shabazz-El and every other Aggrieved Employee, the GRD Trucking Employers have engaged in a pattern and practice of willful misclassification of their employees as independent contractors for their own financial benefit. Each person or entity referenced above collectively as the GRD Trucking Employers advised the others to treat Shabazz-El and all of the other Aggrieved Employees at issue in this case as independent contractors. Accordingly, Shabazz-El seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$25,000.00 for each aggrieved employee for each violation of Labor Code section 226.8 as part of a pattern or practice in addition to any other penalties or fines permitted by law (penalties set by Labor Code section 226.8(c)); or alternatively,
2. \$15,000.00 for each aggrieved employee for each violation of Labor Code section 226.8 in addition to any other penalties or fines permitted by law (penalties set by Labor Code section 226.8(b)).

Knowingly Advising an Employer to Misclassify
(Labor Code §§ 558.1 and 2750.3)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
- (b) For purposes of this section, the term "other person acting on

behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Aggrieved Employees, and/or “owner,” “managing agent,” and/or “officer” of the GRD Trucking Employers. Harpal Singh directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above.

At all relevant times, Shabazz-El and all of the other Aggrieved Employees were employees of Harpal Singh. Harpal Singh engaged, and suffered and permitted, Shabazz-El and all of the other Aggrieved Employees to work. Harpal Singh was clearly aware that Shabazz-El and all of the other Aggrieved Employees worked for the GRD Trucking Employers and had the power to prevent them from working. Harpal Singh also exercised control over Shabazz-El and all of the other Aggrieved Employees’ wages, hours, and working conditions. Further, Harpal Singh had the right to control and exercised such control over the manner in which Shabazz-El and all of the other Aggrieved Employees performed their work for Harpal Singh. The services they rendered were at all times an integral part of Harpal Singh’s business. The relationship between Shabazz-El and all of the other Aggrieved Employees, on one hand, and Harpal Singh, on the other, was terminable at will without cause. Despite these circumstances, Harpal Singh willfully advised the GRD Trucking Employers to misclassify Shabazz-El and all of the other Aggrieved Employees as independent contractors and misclassified Shabazz-El and all of the other Aggrieved Employees as independent contractors. Harpal Singh has engaged in a pattern and/or practice of doing so.

Labor Code § 2753 provides for joint and several liability for a person who “knowingly advises an employer to treat an individual as an independent contractor to avoid employee status for that individual.” Harpal Singh is and was, at relevant times, an owner, director, officer, or managing agent of the GRD Trucking Employers and violated or caused to be violated the provisions regulating the misclassification of employees as independent contractors. Harpal Singh knowingly advised the GRD Trucking Employers to treat Shabazz-El and all of the other Aggrieved Employees as

independent contractors and not employees. Therefore, Harpal Singh is individually liable for misclassification and the penalties recited below.

Failure To Pay Wages For All Hours Worked At The Correct
Rates of Pay
(Lab. Code §§ 510, 1194, 1197, and 1198)

Under Labor Code section 1197, “The minimum wage for employees fixed by the commission is the minimum wage to be paid to employees, and the payment of a less wage than the minimum so fixed is unlawful.”

In relevant part, section 2(H) of the Wage Order states,

“Hours worked” means 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[.]

In relevant part, Labor Code section 1194 states:

- (a) Notwithstanding any agreement to work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of this minimum wage or overtime compensation, including interest thereon, reasonable attorney’s fees, and costs of suit.

In relevant part, Labor Code section 510 states:

Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work 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. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee.

In relevant part, Section 3 of the Wage Order states:

The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 in a workweek unless the employee receives one and one half (1½) times such employee's regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day's work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

- (a) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek;
- (b) Double the employee's regular rate of pay for all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek. The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one fortieth (1/40) of the employee's weekly salary.

Labor Code § 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

In conjunction, these provisions of the Labor Code require employers to pay employees no less than their agreed-upon or statutorily mandated wage rates for all hours worked, including hours spent working "off-the-clock" (before punching in or after punching out on a time clock) when the employer knew or reasonably should have known that employees were working during those hours. *Morillion v. Royal Packing Co.* (2000) 22 Cal.4th 575, 585.

The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections,

fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work over eight hours per day, over 40 hours per week, and on the seventh day of the same workweek. During such days and weeks, the GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work over 12 hours per day and over eight hours on the seventh day of the same workweek. During such days and weeks, the GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, and perform pre- and post-trip inspections, fueling, maintenance, truck washes and cleaning, and portions of their travel time though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time.

At all relevant times during the applicable limitations period, the GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees for all hours worked, including, but not limited to minimum, regular, overtime, and doubletime wages for all hours they worked at the correct rates of pay. Accordingly, Shabazz-El now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

1. \$50 for each aggrieved employee for each initial violation of Labor Code § 510, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code § 558);
2. \$100 for each aggrieved employee for each initial violation of Labor Code § 1194, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2));

3. \$100 for each underpaid aggrieved employee for each initial violation of Labor Code § 1197, and \$250 for each underpaid aggrieved employee for each subsequent violation per pay period (regardless of whether the initial violations were intentionally committed), in addition to an amount sufficient to recover underpaid wages, liquidated damages pursuant to Section 1194.2, and any applicable penalties imposed pursuant to Section 203 (penalties set by Labor Code § 1197.1) and
4. \$100 for each aggrieved employee for each initial violation of Labor Code § 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code § 2699(f)(2)).

Failure to Pay for Rest and Recovery Periods and Other Nonproductive Time
(Lab. Code § 226.2)

In relevant part, Labor Code section 226.2 states,

- (a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:
 - (1) Employees shall be compensated for rest and recovery periods and other nonproductive time separate from any piece-rate compensation.
 - ...
 - (3) (A) Employees shall be compensated for rest and recovery periods at a regular hourly rate that is no less than the higher of:
 - (i) An average hourly rate determined by dividing the total compensation for the workweek, exclusive of compensation for rest and recovery periods and any premium compensation for overtime, by the total hours

worked during the workweek, exclusive of rest and recovery periods.

- (ii) The applicable minimum wage.

At all relevant times during the applicable limitations period, the GRD Trucking Employers failed to separately compensate Shabazz-El and all of the other Aggrieved Employees for rest and recovery periods and other nonproductive time, including but not limited to transportation time, pre-trip and post-trip inspections, washing and cleaning the vehicle, fueling time, maintenance time and related duties. Accordingly, Shabazz-El seeks civil penalties on behalf of himself and all of the other Aggrieved Employees \$100 for each aggrieved employee for each initial violation of Labor Code section 226.2, subdivisions (a)(1) and (a)(4) and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure To Provide Sick Leave
(Labor Code §§ 233, 246, and 246.5)

Labor Code section 233 states,

Any employer who provides sick leave for employees shall permit an employee to use in any calendar year the employee's accrued and available sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section 246.5.

Labor Code section 246(a)(1) states,

An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section.

Labor Code section 246.5 states,

- (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

- (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

...

- (c) (1) An employer shall not deny an employee the right to use accrued sick days ...

The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with paid sick leave. Accordingly, Shabazz-El now seeks civil penalties for these Labor Code violations that the GRD Trucking Employers have committed against him and all of the other Aggrieved Employees as follows:

1. For violations of Labor Code section 233, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 233 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 233 occurred (penalties set by Labor Code section 2699(f)(2));
2. For violations of Labor Code section 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246 occurred (penalties set by Labor Code section 2699(f)(2)); and
3. For violations of Labor Code section 246.5, \$100 per aggrieved employee for each of the pay periods in which initial violations of section 246.5 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of section 246.5 occurred (penalties set by Labor Code section 2699(f)(2)).

Failure to Provide Meal Periods
(Lab. Code §§ 226.7, 512, and 1198)

In relevant part, section 2(H) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states, “The employment of any employee ... under conditions of labor prohibited by the [Wage Order] is unlawful.”

In relevant part, Labor Code section 512 states:

An 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, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

In relevant part, section 11 of the Wage Order states:

Meal Periods:

- (A) 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 and the employee.
- (B) An employer may not employ an employee for a work period of more than ten (10) hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

- (C) Unless the 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. An “on duty” meal period shall be permitted only when the nature of the work prevents an employee from being relieved of all duty and when by written agreement between the parties an on-the-job paid meal period is agreed to. The written agreement shall state that the employee may, in writing, revoke the agreement at any time.
- (D) If an employer fails to provide an employee a meal 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 meal period is not provided.
- (E) In all places of employment where employees are required to eat on the premises, a suitable place for that purpose shall be designated.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

At all relevant times, the GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with all timely meal periods. The GRD Trucking Employers denied Shabazz-El and all of the other Aggrieved Employees their 30-minute off-duty meal period within the first five hours of work. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through meal periods, though the GRD Trucking Employers did not pay Shabazz-El and the other Aggrieved Employees for the time or recorded the meal period as taking place within the first five hours of work when the meal period had taken place later. Furthermore, the GRD Trucking Employers failed to pay premium wages for days on which they failed to provide Shabazz-El and all of the other Aggrieved Employees with timely meal periods. Accordingly, Shabazz-El now seeks civil penalties for these Labor Code violations that the GRD Trucking Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2));
2. \$50 for each aggrieved employee for each initial violation of Labor Code section 512, and \$100 for each aggrieved employee for each subsequent violation, per pay period in addition to an amount sufficient to recover underpaid wages (penalties set by Labor Code section 558); and
3. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Authorize and Permit Rest Periods
(Lab. Code §§ 226.7 & 1198)

Section 2(H) of the Wage Order states,

“Hours worked” means 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.

In relevant part, Labor Code section 1198 states,

The employment of any employee . . . under conditions of labor prohibited by the [Wage Order] is unlawful.

Section 12 of the Wage Order provides, in relevant part:

Rest Periods:

- (A) 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.
- (B) If an employer fails to provide an employee 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.

In addition, Labor Code section 226.7 states:

- (b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.
- (c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard,

or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

The GRD Trucking Employers failed to authorize and permit Shabazz-El and all of the other Aggrieved Employees to take ten-minute, paid, duty-free rest breaks every four hours worked or major fraction thereof. The GRD Trucking Employers did not seek an exemption from the rest period protections of the Wage Order from the California Division of Labor Standards Enforcement. The GRD Trucking Employers required Shabazz-El and the other Aggrieved Employees to work through rest breaks and did not pay them for rest time. Moreover, the GRD Trucking Employers failed to pay Shabazz-El and all of the other Aggrieved Employees premium wages on workdays the GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with 10-minute rest periods every four hours worked or major fraction thereof. Accordingly, Shabazz-El now seeks civil penalties for these Labor Code violations that the GRD Trucking Employers have committed against him and all of the other Aggrieved Employees as follows:

1. \$100 for each aggrieved employee for each initial violation of Labor Code section 226.7, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)); and
2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Unlawful Deductions
(Lab. Code § 221)

Under Labor Code § 221, "It shall be unlawful for any employer to collect or receive from an employee any part of wages theretofore paid by said employer to said employee." The GRD Trucking Employers deducted wages from the wages earned by Shabazz-El and all of the other Aggrieved Employees for in violation of Labor Code

§ 221. Accordingly, Shabazz-El seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code § 221, and \$200 for each aggrieved employee for each subsequent violation, or any willful or intentional violation of Labor Code § 221, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code § 225.5).

Failure to Provide Accurate Wage Statements
(Lab. Code § 226)

Labor Code section 226(a) requires an employer to provide an employee, either semi-monthly or at the time of each wage payment, with an accurate and itemized written wage statement that shows:

1. Gross wages earned;
2. Total hours worked by the employee, except for any employee whose compensation is solely based on a salary and who is exempt from payment of overtime under subdivision (a) of Section 515 or any applicable order of the Industrial Welfare Commission;
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 his or her social security number, except that by January 1, 2008, only the last four digits of his or her social security number or an employee identification number other than a social security number may be shown on the itemized statement;
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.

At all relevant times during the applicable limitations period, the GRD Trucking Employers violated Labor Code section 226 because they did not properly, completely, and accurately itemize each Aggrieved Employee's gross wages earned, net wages earned, the total hours worked, the corresponding number of hours worked at each rate by the Aggrieved Employee and other requirements of Labor Code section 226. The GRD Trucking Employers failed to state in the wage statements they issued to Shabazz-El and all of the other Aggrieved Employees all their hours worked and wages earned, including, but not limited to, regular and overtime wages for work they performed off-the-clock after clocking-out (as described above). The GRD Trucking Employers knowingly and intentionally failed to state on the wage statements they issued to Shabazz-El and all of the other Aggrieved Employees the earned but unpaid wages described above. The wage statements do not state all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, all nonproductive time wages earned, all nonproductive time, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employee, social security number (last 4 digits) or employee identification number, name of employer, address of employer, all hourly rates, all hours work at each rate of pay, and other required information. Accordingly, Shabazz-El seeks civil penalties for the Labor Code violations that the GRD Trucking Employers have committed against him and all of the other Aggrieved Employees as follows: \$250 for each aggrieved employee for each initial violation of Labor Code section 226(a), and \$1,000 for each aggrieved employee for each subsequent violation (penalties set by Labor Code section 226.3).

Failure To Provide Notice of Available Sick Leave
(Labor Code § 246)

Labor Code § 246 states,

An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages.

Lab.Code § 246(h) (effective July 1, 2015). The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with an itemized wage statement or separate writing that set forth the amount of paid sick leave available. Accordingly, Shabazz-El seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows: For violations of Labor Code § 246, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 246 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 246 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Provide Wage Statements with Rest and Recovery Time
(Lab. Code § 226.2)

Labor Code section 226.2 states,

- (a) For employees compensated on a piece-rate basis during a pay period, the following shall apply for that pay period:

...

- (2) The itemized statement required by subdivision (a) of Section 226 shall, in addition to the other items specified in that subdivision, separately state the following, to which the provisions of Section 226 shall also be applicable:

- (A) The total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay period.

Labor Code section 2699.3(c) allows employers the chance to "cure" violations of provisions not listed under 2699.5 within 33 days of the postmark date of the aggrieved

employee's written notice to the LWDA. Section 226.2 is not a provision listed under 2699.5.

Labor Code section 2699(d) states,

For purposes of this part, "cure" means that the employer abates each violation alleged by any aggrieved employee, the employer is in compliance with the underlying statutes as specified in the notice required by this part, and any aggrieved employee is made whole.

Labor Code section 2699.3(c)(B)(ii) limits this right to once in a 12-month period. After the employer cures the violation, it must give written notice, along with a description of actions taken, by certified mail to the aggrieved employee or representative and the agency within the 33-day period.

The GRD Trucking Employers failed to provide Shabazz-El and all of the other Aggrieved Employees with statements of the total hours of compensable rest and recovery periods, the rate of compensation, and the gross wages paid for those activities during the pay period. Accordingly, Shabazz-El now seeks civil penalties on behalf of himself and all of the other Aggrieved Employees \$100 for each aggrieved employee for each initial violation of Labor Code section 226.2, and \$200 for each aggrieved employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Failure to Timely Pay Wages During Employment
(Lab. Code § 204)

Labor Code section 204 states all wages (other than those mentioned in Labor Code sections 201 and 202) earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed between the 1st and 15th days, inclusive, of any calendar month shall be paid for between the 16th and the 26th day of the month during which the labor was performed, and labor performed between the 16th and the last day, inclusive, of any calendar month, shall be paid for between the 1st and 10th day of the following month. In addition, all wages for work performed in excess of the normal work period must be paid by no later than the following regular payday.

The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees for wages earned, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, deducted wages, nonproductive time, rest and recovery time, and related compensation, at the intervals stated above. As a result, the GRD Trucking Employers failed to timely pay all earned wages due during employment within the time periods set by Labor Code section 204. Accordingly, Shabazz-El now seeks civil penalties for the Labor Code violations that the GRD Trucking Employers have committed against him and all of the other Aggrieved Employees as follows: \$100 for each aggrieved employee for each initial violation of Labor Code section 204, and \$200 for each aggrieved employee for each subsequent violation, plus 25% of the amount unlawfully withheld from each aggrieved employee (penalties set by Labor Code section 210).

Failure to Timely Pay Wages Upon Termination of Employment
(Lab. Code §§ 201, 202, and 203)

Under Labor Code § 201, if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Under § 202, if an employee not having a written contract for a definite period quits his or her employment, his or her wages shall become due and payable not later than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Notwithstanding any other provision of law, an employee who quits without providing a 72-hour notice shall be entitled to receive payment by mail if he or she so requests and designates a mailing address. *Id.* The date of the mailing shall constitute the date of payment for purposes of the requirement to provide payment within 72 hours of the notice of quitting. *Id.*

Under Labor Code § 203, if an employer willfully fails to pay without abatement or reduction, in accordance with §§ 201 and 202, the wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

The GRD Trucking Employers failed to pay Shabazz-El and all of the other Aggrieved Employees whose employment ended all of the earned but unpaid wages described

above by the conclusion of their employment with Shabazz-El, including minimum wages, regular wages, overtime wages, doubletime wages, unprovided meal period premium wages, unprovided rest break premium wages, deducted wages, nonproductive time, rest and recovery time and related compensation. Additionally, the GRD Trucking Employers failed to issue to Shabazz-El and all of the other Aggrieved Employees whose employment ended their final paychecks until the next regular pay day following the termination. By failing to pay Shabazz-El and all of the other Aggrieved Employees as set forth above at the end of employment, the GRD Trucking Employers are liable for violations of Labor Code §§ 201, 202, and 203. Accordingly, on behalf of himself and all of the other Aggrieved Employees, Shabazz-El seeks civil penalties from the GRD Trucking Employers as follows:

1. For violations of Labor Code § 201, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 201 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 201 occurred (penalties set by Labor Code § 2699(f)(2));
2. For violations of Labor Code § 202, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 202 occurred, and \$200 per aggrieved employee per pay period in which subsequent violations of § 202 occurred (penalties set by Labor Code § 2699(f)(2)); and
3. For violations of Labor Code § 203, \$100 per aggrieved employee for each of the pay periods in which initial violations of § 203 occurred, and \$200 for per aggrieved employee per pay period in which subsequent violations of § 203 occurred (penalties set by Labor Code § 2699(f)(2)).

Failure to Maintain Accurate Employment Records
(Lab. Code §§ 1174 & 1198)

Labor Code section 1174, which also pertains to recordkeeping, states:

Every person employing labor in this state shall:

...

- (c) Keep a record showing the names and addresses of all employees employed and the ages of all minors.
- (d) Keep, 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 to, and the number of piece-rate units earned by and any applicable piece rate paid to, employees employed at the respective plants or establishments. These records shall be kept in accordance with rules established for this purpose by the commission, but in any case shall be kept on file for not less than three years. An employer shall not prohibit an employee from maintaining a personal record of hours worked, or, if paid on a piece-rate basis, piece-rate units earned.

Labor Code section 1174.5 states:

Any person employing labor who willfully fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records required by subdivision (d) of Section 1174, or to allow any member of the commission or employees of the division to inspect records pursuant to subdivision (b) of Section 1174, shall be subject to a civil penalty of five hundred dollars (\$500).

Section 7 of Wage Order states,

(A) Every employer shall keep accurate information with respect to each employee including the following:

- (1) Full name, home address, occupation and social security number.
- (2) Birth date, if under 18 years, and designation as a minor.
- (3) Time records showing when the employee begins and ends each work period. Meal periods, split shift intervals and total daily hours worked shall also be recorded. Meal periods

during which operations cease and authorized rest periods need not be recorded.

- (4) Total wages paid each payroll period, including value of board, lodging, or other compensation actually furnished to the Employee.
- (5) Total hours worked in the payroll period and applicable rates of pay. This information shall be made readily available to the employee upon reasonable request.
- (6) When a piece rate or incentive plan is in operation, piece rates or an explanation of the incentive plan formula shall be provided to employees. An accurate production record shall be maintained by the employer.

Labor Code section 1198 prohibits employers from employing their employees under conditions prohibited by the Wage Order.

The GRD Trucking Employers failed to compensate Shabazz-El and all of the other Aggrieved Employees for all hours worked at the correct rates of pay, including all minimum wages earned, all regular wages earned, all overtime wages earned, all doubletime wages earned, all meal period premium wages earned, all rest break premium wages earned, all unlawfully deducted wages, all nonproductive time wages earned, all nonproductive time, all rest and recovery time, all rest and recovery time wages earned, start date of pay period, end date of pay period, gross wages earned, net wages earned, all deductions, name of employee, SSN (last 4 digits) or EEID#, name of employer, address of employer, all hourly rates, all hours work at each rate of pay and related information. As a result, the GRD Trucking Employers have failed to accurately maintain all records required by section 1174 and the Wage Order, including but not limited to Shabazz-El and all of the other Aggrieved Employees' total hours worked, total wages paid, and applicable hourly rates during each payroll period. Accordingly, Shabazz-El seeks civil penalties on behalf of himself and all of the other Aggrieved Employees as follows:

- 1. \$500 for each aggrieved employee for each violation of Labor Code section 1174 (penalties set by Labor Code section 1174.5); and

2. \$100 for each aggrieved employee for each initial violation of Labor Code section 1198, and \$200 for each Aggrieved Employee for each subsequent violation, per pay period (penalties set by Labor Code section 2699(f)(2)).

Person Acting on Behalf of Employers who Violates Labor Code
(Labor Code § 558.1)

In relevant part, Labor Code section 558.1 states:

- (a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.
- (b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

At all relevant times, Harpal Singh was an employer of Shabazz-El and all of the other Aggrieved Employees, and/or “owner,” “managing agent,” and/or “officer” of the GRD Trucking Employers and the other employers identified above. Harpal Singh directly or indirectly, or through an agent or other person, employed and exercised control over the wages, hours, and/or working conditions of the Aggrieved Employees, and caused the violations to the Labor Code and the Wage Order described above. On behalf of himself and all of the other Aggrieved Employees, Shabazz-El seeks the same civil penalties against Harpal Singh on the same grounds for which he seeks civil penalties against the GRD Trucking Employers.

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LWDA / The GRD Trucking Employers
Re: Wahid Shabazz-El
September 27, 2024
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Conclusion

As noted above, this letter constitutes the required notice under the Labor Code Private Attorneys General Act of 2004. Please be advised that Wahid Shabazz-El will seek both reasonable attorneys' fees and costs under Labor Code section 2699(g)(1) in a civil action should the LWDA decline to pursue this matter. This letter also serves as a formal notice under the catalyst theory and Code of Civil Procedure section 1021.5 to resolve this matter before litigation.

Sincerely,



David Glenn Spivak Esq.
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cc: Dr. Wahid Shabazz-El
Mr. Walter L. Haines, Esq.

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