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County of Imperial
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Attorneys for Plaintiff Salat Mohamed,
on behalf of himself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF IMPERIAL

SALAT MOHAMED, on behalf of himself and
all “aggrieved employees” pursuant to Labor
Code § 2698 *et seq.*,

Plaintiff,

v.

CARGO SOLUTIONS EXPRESS INC., a
California corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO: ECU003919

**REPRESENTATIVE ACTION COMPLAINT
FOR PENALTIES PURSUANT TO LABOR
CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 510,
512, 1174, 1174.5, AND 1194 AND PURSUANT
TO LABOR CODE § 2699(a) FOR
VIOLATIONS OF LABOR CODE §§ 226.3,
226.8, AND 558**

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

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other persons improperly classified as independent contractors rather than non-exempt
9 employees (“Aggrieved Employees”).

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

14 a. Voluntarily and knowingly misclassifying Plaintiff and other Aggrieved
15 Employees as independent contractors, instead of non-exempt employees, in violation of
16 Labor Code § 226.8. Defendants controlled their wages, hours and working conditions.
17 Defendants controlled their rate of pay. Defendants also controlled the routes Plaintiff and
18 Aggrieved Employees are assigned and the time they must arrive to pick up a load. Defendants
19 provided them with a set schedule in which to perform their jobs, thereby controlling
20 Aggrieved Employees’ working hours. Defendants also controlled their working conditions—
21 including, among other things, requiring Aggrieved Employees to use Defendants’ trucks for
22 specific routes that they cannot decline. As Defendants had control over Aggrieved
23 Employees’ wages, hours and working conditions, Aggrieved Employees were improperly
24 classified as independent contractors and instead should have been classified as non-exempt
25 employees;

26 b. Failing to pay Plaintiff and other Aggrieved Employees all overtime wages due
27 during the course of employment, in violation of Labor Code §§ 510, 558, and 1194. Plaintiff
28 and Aggrieved Employees were paid piece-rate wages of 50 cents per mile driven. However,

1 Plaintiff and other Aggrieved Employees were not paid for non-productive time when they
2 were not driving for which no piece rate was associated, or for their rest periods, even though
3 they were under the control of Defendants and entitled to be paid at least the minimum wage
4 for all hours worked. This violates Labor Code §§ 510, 558, and 1194. Defendants also failed
5 to track the hours worked by Plaintiff and Aggrieved Employees, in violation of Labor Code
6 §§ 1174 and 1174.5;

7
8 c. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
9 were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 9-
10 2001. Plaintiff and Aggrieved Employees were routinely unable to take a 10-minute rest
11 period for every four (4) hours of work or major fraction thereof, but were not paid premium
12 wages of one hour's pay for each missed rest period. When Plaintiff and Aggrieved Employees
13 were able to take a rest period, they were oftentimes on-duty as they would be required to
14 assist customers even if they were on their rest period, in violation of Labor Code § 226.7 and
15 IWC Wage Order No. 9-2001, and all rest periods were impermissibly uncompensated and
16 off-the-clock, as discussed above;

17
18 d. Failing to pay premium wages to Plaintiff and other Aggrieved Employees who
19 were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558 and IWC
20 Wage Order 9-2001. Plaintiff and Aggrieved Employees were routinely denied, and not
21 authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift
22 worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal
23 period for every shift worked that exceeded ten hours, but were not paid premium wages of
24 one hour's pay for each missed first or second meal period. When Plaintiff and Aggrieved
25 Employees were able to take a meal period, they were cut short, late or Plaintiff and Aggrieved
26 Employees would have to work through them. Defendants also failed to maintain accurate
27 meal period records showing the start and stop time of meal periods. This violates Labor Code
28 §§ 226.7, 510, 512, 558, 1174, 1174.5, and 1194 and IWC Wage Order 9-2001;

1 e. Failing to issue Plaintiff and all other Aggrieved Employees itemized wage
2 statements altogether, in violation of Labor Code §§ 226(a) and 226.3. As such, they did not
3 receive wage statements that accurately set forth all gross wages earned, in violation of Labor
4 Code §§ 226(a)(1) and 226.3, the total hours worked, in violation of Labor Code §§ 226(a)(2)
5 and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, all
6 deductions, in violation of Labor Code §§ 226(a)(4) and 226.3, the inclusive dates of the pay
7 period, in violation of Labor Code §§ 226(a)(6) and 226.3, an employee identification number
8 or the last four digits of employees' social security numbers, in violation of Labor Code §§
9 226(a)(7) and 226.3, the name and an address of the legal entity that is the employer, in
10 violation of Labor Code §§ 226(a)(8) and 226.3, and all hourly rates in effect during the pay
11 period and the corresponding number of hours worked, in violation of Labor Code §§
12 226(a)(9) and 226.3; and
13

14 f. Failing to pay Plaintiff and other Aggrieved Employees all wages due at the
15 separation of their employment based on the time frames required by Labor Code §§ 201-203.
16 As stated above, Plaintiff and other Aggrieved Employees were not paid all wages due during
17 the course of their employment and, as a result of this failure, they were not timely paid all
18 wages due at the separation of their employment. This violates Labor Code §§ 201-203 and is
19 alleged on behalf of Plaintiff and certain Aggrieved Employees no longer employed by
20 Defendants.
21

22 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
23 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

24 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395
25 because Defendants employed Plaintiff and other Aggrieved Employees throughout California,
26 including Imperial County, California.

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II.
PARTIES

A. Plaintiff

5. Plaintiff SALAT MOHAMED was employed by Defendants from August 2023 through September 2024 as a non-exempt employee in Imperial County, California.

B. Defendant

6. Defendant CARGO SOLUTIONS EXPRESS INC. is a California corporation, that employed Plaintiff and Aggrieved Employees throughout California, including Imperial County, California.

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

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

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

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III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF
LABOR CODE §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, AND 1194 AND
PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 226.3, 226.8, AND 558**

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

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

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

- a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512, 1174, 1174.5, and 1194; and
- b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 226.3, 226.8, and 558.

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

14. On November 15, 2024, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of November 15, 2024. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

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

V.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code §§ 2699(g)(1) and other applicable law; and

4. Such other and further relief as this Court may deem just and proper.

Dated: January 21, 2025

Respectfully submitted,

~~GAINES LAW CORPORATION~~

By:

EVAN S. GAINES
Attorneys for Plaintiff