

Adam Rose (210880)
adam@frontierlawcenter.com
Manny Starr (319778)
manny@frontierlawcenter.com
FRONTIER LAW CENTER
23901 Calabasas Road, Suite 1084
Calabasas, CA 91302
Telephone: (818) 914-3433
Facsimile: (818) 914-3433

Attorneys for Cesar Menjivar

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MADERA

CESAR MENJIVAR, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

ECARMOVER INC., ECAR LOGISTICS,
LLC, and DOES 1 to 100,

Defendants.

Case No. MCV093840
CLASS ACTION

COMPLAINT

- 1. Failure to Pay All Hours Worked**
- 2. Failure to Reimburse Work-Related Expenses**
- 3. Wage Statement Violations**
- 4. Waiting Time Penalties**
- 5. Violation of the Unfair Competition Law**
- 6. PAGA Penalties**

PARTIES

1. Plaintiff Cesar Menjivar ("Plaintiff") is an a resident of Madera County.
2. Defendants eCarMover Inc., and Ecar Logistics, LLC ("Defendants") are Florida businesses located Hudson, Florida. Defendants are subject to the laws of the State of California because Plaintiff and the class members who worked in California are protected by the Labor Code.
3. Plaintiff is unaware of the true names or capacities of the Does Defendants. Plaintiff will amend to insert the true names and capacities when such information is obtained. Plaintiff is informed and believes, and based on such information and belief alleges, that each of the fictitiously named Doe Defendants participated in some way in the wrongful acts and omissions alleged below.

1 **FACTUAL ALLEGATIONS**

2 4. Plaintiff was employed by Defendants from August 2024 to November 4, 2024 as a
3 commercial truck driver. As stated above, California law applies.

4 5. Defendants failed to provide with compliant rest breaks because Plaintiff was entitled to
5 receive 10 minutes of rest break pay per four hours worked or major fraction thereof, however,
6 Defendant did not pay rest breaks separately. Despite not being provided with compliant rest
7 breaks, Defendant did not pay premium pay for these missed breaks at Plaintiff's rate of pay.

8 6. Defendants failed to pay for all hours worked because Defendant required Plaintiff and the
9 class members to drive beyond permitted DOT hours using "personal conveyance" time, effectively
10 requiring unpaid work time in violation of minimum wage requirements. Further, Plaintiff and the
11 class members were required to perform work such as pre-trip and post-trip inspections, waiting at
12 scale houses, loading and unloading vehicles, completing required DOT paperwork, and waiting for
13 dispatch assignments. This work should have been separately compensated for on an hourly basis.

14 7. Defendants failed to pay Plaintiff and the class members all overtime owed because they
15 were required to perform work off the clock using personal conveyance time when they had
16 exceeded their DOT hours of service limits, so it follows that this time was often overtime.

17 8. Defendants failed to reimburse Plaintiff and the class members for all work-related expenses
18 because they were required to pay for scale house fees on every trip, return flight expenses, and
19 transportation costs to/from airports.

20 9. Defendants failed to provide Plaintiff and the class members with accurate wage statements
21 because the wage statements did not accurately list total wages owed and hours worked.

22 10. Due to Defendants' failure to pay all wages due during employment, Defendants are liable
23 for waiting time penalties.

24
25 **PAGA ALLEGATIONS**

26 11. Pursuant to Labor Code section 2699(a), any provision of the Labor Code which provides
27 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
28 ("LWDA") for violations of the Labor Code may, as an alternative, be recovered through a civil

1 action brought by an aggrieved employee on behalf of himself or herself and other current or former
2 employees pursuant to the procedures outlined in Labor Code section 2699.3.

3 12. Pursuant to Labor Code section 2699.3, an aggrieved employee may pursue a civil action
4 under PAGA after the following requirement have been met:

5 13. On December 20, 2024 Plaintiff provided a PAGA letter to Defendants by online filing to
6 the LWDA and by certified mail to Defendants of the violations.

7 14. Since it has been more than 65 days, Plaintiff may now request PAGA penalties..
8

9 **CLASS ACTION ALLEGATIONS**

10 15. The Class is defined as “All nonexempt employees of Defendants from December 20, 2020
11 through certification.”

12 16. The Waiting Time Subclass is defined as “all former non-exempt employees of Defendants
13 who worked in California who are no longer employed by Defendants.”

14 17. There is a well-defined community of interest in the litigation and the proposed class is
15 ascertainable from Defendants’ employment records.

16 a. Numerosity: The potential members of the class as defined are so numerous that
17 joinder of all class members is impracticable. Plaintiff is informed and believes that
18 Defendants employed more than 40 people during the Class Period.

19 b. Commonality: This action involves common questions of law and fact to the class
20 because the action focuses on Defendants’ systematic course of conduct with respect to the
21 Labor Code and IWC Wage Orders.

22 c. Typicality: Plaintiff’s claims are typical of the claims of the class. Plaintiff was
23 subjected to the same violations and seeks the same types of damages, restitution, and other
24 relief on the same theories and legal grounds as those of the members of the class.

25 d. Adequacy of Representation: Plaintiff will fairly and adequately represent and
26 protect the interests of all members of the class. Plaintiff understands the obligations as a
27 class representative and is willing and able to fulfill them faithfully. Class counsel is
28 competent and experienced in litigating large employment class actions and other complex

litigation matters, including wage and hour cases like this.

e. Superiority of Class Action: A class action is superior to other available means for the fair and efficient adjudication of this controversy. Each class member has been damaged and is entitled to recovery.

f. Public Policy Considerations: Employers violate employment laws every day. Employees are often afraid to assert their rights out of fear of retaliation, and also fearful of bringing actions because they believe employers might damage their future endeavors through negative references and/or other means. Class actions provide the class members who are not named in the complaint with anonymity that allows for vindication of rights while protecting their privacy.

18. There are common questions of law and fact as to the class that predominate over questions affecting only individuals, including but not limited to:

- a. Whether Class Members were paid for all hours worked;
- b. Whether Class Members were paid all minimum and overtime wages owed, including proper calculation of the regular rate of pay;
- c. Whether Class Members were provided with compliant meal breaks or premium pay in lieu thereof;
- d. Whether Class Members were provided with compliant rest breaks or premium pay in lieu thereof;
- e. Whether Class Members were provided with accurate wage statements;
- f. Whether Class Members are owed waiting time penalties;
- g. Whether Defendants engaged in unfair competition; and
- h. The amount of damages, wages, and penalties owed to Plaintiff and the Class.

FIRST CAUSE OF ACTION

Failure to Pay for All Hours Worked

Against All Defendants

19. Plaintiff incorporates by reference the paragraphs above.

1 20. Labor Code sections 558 and 1194 and the Wage Orders require an employer to pay
2 employees minimum wages for all hours worked fewer than eight hours in a day and/or fewer than
3 40 hours in a workweek.

4 21. Defendants failed to pay Plaintiff and the class members for all hours worked.

5 22. Plaintiff and the class members are therefore entitled to recover all unpaid wages, liquidated
6 damages, interest, attorney fees, and costs.

7
8 **SECOND CAUSE OF ACTION**

9 **Failure To Reimburse Work-Related Expenses**

10 **Against All Defendants**

11 23. Plaintiff incorporates by reference the paragraphs above.

12 24. Pursuant to Labor Code section 2802, an employer shall indemnify his or her employee for
13 all necessary expenditures or losses incurred by the employee in direct consequence of the
14 employee's discharge of his or her duties.

15 25. Defendants did not reimburse Plaintiff and the class members for all work-related expenses.

16 26. Plaintiff and the class members are therefore entitled to reimbursement for all work-related
17 expenses, attorney fees, and costs.

18
19 **THIRD CAUSE OF ACTION**

20 **Wage Statement Penalties**

21 **Against All Defendants**

22 27. Plaintiff incorporates by reference the paragraphs above.

23 28. Labor Code section 226(a) requires employers to provide itemized wage statements to its
24 employees that identify accurate information regarding their compensation.

25 29. The wage statements that Defendants issued to Plaintiff and the class members were
26 knowingly and intentionally inaccurate and incomplete.

27 30. Plaintiff and the class members are therefore entitled to the recovery of wage statement
28 penalties, attorney fees, and costs.

1 **FOURTH CAUSE OF ACTION**

2 **Waiting Time Penalties**

3 **Against All Defendants**

4 31. Plaintiff incorporates by reference the paragraphs above.

5 32. Labor Code sections 201 and 202 require that an employer provide an employee with all
6 wages due and payable either: (a) immediately upon termination, or (b) within 3 days of the
7 employee's resignation.

8 33. Labor Code section 203 provides that if an employer willfully fails to pay wages owed in
9 accordance with Labor Code sections 201 or 202, then the wages of the employee continue as a
10 penalty from the due date at the same rate until paid or until an action is commenced, not to exceed
11 thirty days.

12 34. Defendants willfully did not pay Plaintiff and members of the waiting time subclass all
13 wages owed at the conclusion of employment.

14 35. Plaintiff and the waiting time subclass are therefore entitled to waiting time penalties.
15

16 **FIFTH CAUSE OF ACTION**

17 **Violation of the Unfair Competition Law**

18 **Against All Defendants**

19 36. Plaintiff incorporates by reference the paragraphs above.

20 37. Defendants' conduct is unfair competition under the unlawful prong of the UCL.

21 38. Pursuant to Business and Professions Code 17203, Plaintiff is entitled to restitution of all
22 wrongfully withheld wages.

23 39. Plaintiff may recover attorney fees pursuant to Code of Civil Procedure section 1021.5.
24

25 **SIXTH CAUSE OF ACTION**

26 **PAGA Penalties**

27 **Against All Defendants**

28 40. Plaintiff incorporates by reference the above paragraphs.

- 1 41. The PAGA penalties for the unpaid wage violations are contained in Labor Code sections
2 1197.1 and 2699.
- 3 42. The PAGA penalties for the unpaid non-productive time are contained in Labor Code
4 sections 1197.1 and 2699.
- 5 43. The PAGA penalties for the wage statement violations are contained in Labor Code sections
6 226.3 and 2699.
- 7 44. The PAGA penalties for the unreimbursed work expenses are contained in Labor Code
8 section 2699.
- 9 45. The PAGA penalties for the waiting time violations are in Labor Code section 2699.
- 10 46. Plaintiff is also entitled to attorney fees under Labor Code section 2699.

11
12 **PRAYER FOR RELIEF**

13 First Cause of Action for Failure to Pay All Hours Worked

- 14 1. Damages and/or penalties pursuant to Labor Code sections 558, 1194, 1197, and 1197.1
15 2. Liquidated damages
16 3. Interest
17 4. Attorney fees
18 5. Costs
19 6. Other relief the court deems proper
20

21 Second Cause of Action for Failure to Pay Work Related Expenses

- 22 1. Reimbursement of all work-related expenses
23 2. Attorney fees
24 3. Other relief the court deems proper
25

26 Third Cause of Action for Wage Statement Violations

- 27 1. Penalties pursuant to Labor Code section 226
28 2. Attorney fees

1 3. Costs

2 4. Other relief the court deems proper

3
4 Fourth Cause of Action for Waiting Time Penalties

5 1. Penalties pursuant to Labor Code section 203

6
7 Fifth Cause of Action for Violation of the UCL

8 1. Restitution of all wrongfully withheld wages

9 2. Attorney fees

10 3. Other relief the court deems proper

11
12 Sixth Cause of Action for PAGA Penalties

13 1. All applicable PAGA penalties

14 2. Attorney fees and costs

15 3. Other relief the court deems proper

16
17 Date: March 4, 2025

FRONTIER LAW CENTER

18 /s/ Adam Rose

19 Attorney for Plaintiff

20 Cesar Menjivar