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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN BERNARDINO  
SAN BERNARDINO DISTRICT

SEP 30 2021

BY   
JACQUELINE HARNESS, DEPUTY

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
11 **FOR THE COUNTY OF SAN BERNARDINO**

12 STEVEN DELCORSO, individually, and on  
13 behalf of aggrieved employees pursuant to the  
14 Private Attorneys General Act (“PAGA”);

15 Plaintiff,

16 v.

17 ITS TECHNOLOGIES & LOGISTICS, LLC,  
18 an Illinois limited liability company;  
19 CONGLOBAL INDUSTRIES, LLC, a  
20 Delaware limited liability company;  
21 CONGLOBAL TRANSPORT, LLC, a  
22 Delaware limited liability company; and  
23 DOES 1 through 100, inclusive;

24 Defendants.

Case No.: **CIV SB 2128129**

**COMPLAINT FOR CIVIL PENALTIES  
FOR VIOLATION OF LABOR CODE  
§ 2698 et seq. (PRIVATE ATTORNEYS  
GENERAL ACT OF 2004)**



1 Plaintiff Steven DeICorso (“Plaintiff”) hereby submits his Complaint against Defendants  
2 ITS Technologies & Logistics, LLC; Conglobal Industries, LLC; Conglobal Transport, LLC; and  
3 DOES 1 through 100, inclusive; (collectively, “Defendants”), on behalf of himself and other  
4 current and former aggrieved employees of Defendants for penalties as follows:

5 **INTRODUCTION**

6 1. This representative action is brought pursuant to Labor Code § 2698 *et seq.*  
7 (the Private Attorneys General Act of 2004 (“PAGA”)) for Defendants’ violations of Labor Code  
8 §§ 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194,  
9 1197, 1197.1, 1198, 2800 and 2802.

10 2. This Complaint challenges Defendants’ systemic illegal employment  
11 practices resulting in violations of the stated provisions of the Labor Code against the identified  
12 group of employees.

13 3. Plaintiff is informed and believes and thereon alleges Defendants jointly  
14 and severally acted intentionally and with deliberate indifference and conscious disregard to the  
15 rights of all employees in (1) failing to pay all meal period wages and rest break wages, (2) failing  
16 to properly calculate and pay all minimum and overtime wages, (3) failing to provide accurate  
17 wage statements, (4) failing to pay all wages due and owing during employment and upon  
18 termination of employment, and (5) failing to reimburse all necessary business expenses.

19 **JURISDICTION AND VENUE**

20 4. This action is brought pursuant to PAGA. The civil penalties sought by  
21 Plaintiff exceed the minimal jurisdiction limits of the Superior Court and will be established  
22 according to proof at trial.

23 5. This Court has jurisdiction over this action pursuant to California  
24 Constitution, Article VI, Section 10, which grants the Superior Court original jurisdiction in all  
25 causes except those given by statute to other courts. The statutes under which this action is  
26 brought do not specify any other basis for jurisdiction.

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1           **16.**    On July 6, 2021, Plaintiff provided written notice to the LWDA and  
2 Defendants of the specific provisions of the Labor Code she contends were violated, and the  
3 theories supporting his contentions. Plaintiff believes that on or about September 9, 2021, the  
4 sixty-five (65) days' notice period expired, and the LWDA did not take any action to investigate  
5 or prosecute this matter. Attached hereto as **Exhibit 1** and incorporated by reference is a copy of  
6 the written notice to the LWDA. Therefore, Plaintiff exhausted the statutory time period to bring  
7 this action.

8           **17.**    Plaintiff and the other hourly-paid or non-exempt employees are  
9 “aggrieved employees” as defined by California Labor Code § 2699(c) in that they are all current  
10 or former employees of Defendants who worked for Defendants within of State of California at  
11 any time during the period from July 6, 2020 to the present, and one or more of the alleged  
12 violations was committed against them.

13                           **Failure to Pay Minimum and Overtime Wages**

14           **18.**    At all times relevant herein, Defendants were required to compensate their  
15 non-exempt employees minimum wages for all hours worked and overtime wages for all hours  
16 worked in excess of eight (8) hours in a day or forty (40) hours in a workweek, pursuant to the  
17 mandate of Labor Code §§ 510, 1194, 1197, and 1198.

18           **19.**    As a policy and practice, Defendants failed to compensate Plaintiff and  
19 other aggrieved current and former employees for all hours worked, resulting in a failure to pay  
20 all minimum wages and overtime wages, where applicable.

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1                                   **Failure to Provide Meal Periods and Rest Breaks**

2                   **20.**     In accordance with the mandates of Labor Code §§ 226.7 and 512,  
3 Defendants were required to authorize and permit their non-exempt employees to take a 10-  
4 minute rest break for every four (4) hours worked or major fraction thereof, and were further  
5 required to provide their non-exempt employees with a 30-minute meal period for every five (5)  
6 hours worked.

7                   **21.**     As a policy and practice, Defendants failed to provide Plaintiff and other  
8 aggrieved current and former employees with legally-mandated meal periods and rest breaks and  
9 failed to pay proper compensation for this failure.

10                                   **Failure to Timely Pay Wages During Employment**

11                   **22.**     At all times relevant herein, Defendants were required to pay their  
12 employees within a specified time period pursuant to the mandate of Labor Code § 204.

13                   **23.**     As a policy and practice, Defendants failed to pay Plaintiff and other  
14 aggrieved current and former employees all wages due and owing them within the required time  
15 period.

16                                   **Failure to Timely Pay Wages Upon Termination**

17                   **24.**     At all times relevant herein, Defendants were required to pay their  
18 employees all wages owed in a timely fashion at the end of employment pursuant to California  
19 Labor Code §§ 201 to 204.

20                   **25.**     As a result of Defendants’ Labor Code violations alleged above,  
21 Defendants failed to pay Plaintiff and the other aggrieved former employees their final wages  
22 pursuant to Labor Code §§ 201 to 204 and accordingly owe waiting time penalties pursuant to  
23 Labor Code § 203.

24                                   **Failure to Provide Complete and Accurate Wage Statements**

25                   **26.**     At all times relevant herein, Defendants were required to keep *accurate*  
26 records regarding their California employees pursuant to the mandate of Labor Code §§ 226 and  
27 1174.

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# **EXHIBIT 1**

July 6, 2021

**BY U.S. EMAIL/ELECTRONIC SUBMISSION**

PAGAFilings@dir.ca.gov

State of California

Labor & Workforce Development Agency

800 Capitol Mall, MIC-55

Sacramento, California 95814

**RE: ITS TECHNOLOGIES & LOGISTICS, LLC, CONGLOBAL INDUSTRIES, LLC,  
AND CONGLOBAL TRANSPORT, LLC**

Dear Representative:

We have been retained to represent Steven DelCorso against ITS Technologies & Logistics, LLC, ConGlobal Industries, LLC and ConGlobal Transport, LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer and managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code section 558.1, and DOES 11-20<sup>1</sup> for violations of California wage-and-hour laws (hereinafter collectively referred to as "ITS").

Mr. DelCorso is pursuing his California Labor Code section 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA") claim on a representative basis. Therefore, Mr. DelCorso may seek penalties and wages for violations of the Labor Code on behalf of the State of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code section 2699.3.

ITS Technologies & Logistics, LLC is an Illinois limited liability company located at 8205 S. Cass Avenue, Suite 115, Darien, Illinois 60561. ConGlobal Industries, LLC and ConGlobal Transport, LLC are Delaware limited liability companies located at 8205 S. Cass Avenue, Suite 115, Darien, Illinois 60561.

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<sup>1</sup> Mr. DelCorso does not know the true names or capacities, whether individual, partner or corporate, of DOES 1 through 20, inclusive, and for that reason, said DOES are designated under such fictitious names. Mr. DelCorso will amend this notice when the true names and capacities are known. Mr. DelCorso is informed and believes that each DOE was responsible in some way for the matters alleged herein and proximately caused Mr. DelCorso and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

LWDA

July 6, 2021

Page 2 of 7

ITS employed Mr. DelCorso as an hourly-paid non-exempt Hostler Driver within one year of the date of this letter (until in or about January of 2021) in the State of California. ITS directly controlled the wages, hours and working conditions of Mr. DelCorso's employment, including direction, retention, scheduling, supervision, and termination.

The "aggrieved employees" that Mr. DelCorso may seek penalties on behalf of are all current and former hourly-paid or non-exempt employees (whether hired directly or through a staffing agency) of ITS within the State of California.

ITS failed to properly pay its hourly-paid or non-exempt employees for all hours worked, failed to properly provide or compensate minimum and overtime wages and for meal and rest breaks, failed to issue compliant wage statements and failed to reimburse for all necessary business-related costs and expenses, thus resulting in other Labor Code violations as stated below.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state not only for that violation, but for violations affecting other employees as well. Accordingly, Mr. DelCorso has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at ITS, regardless of their classification, job title, locations, or whether they were hired directly or through a staffing agency.

ITS has violated and/or continues to violate, among other provisions of the California Labor Code and applicable wage law, California Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code sections 510, 1194, and 1198 require employers to pay at least minimum wage for all hours worked, pay time-and-a-half, or double time overtime wages, and make it unlawful to work employees for hours longer than eight hours in one day and/or over forty hours in one week without paying the premium overtime rates. During the relevant time period, Mr. DelCorso and other aggrieved employees routinely worked in excess of 8 hours in a day and 40 hours in a week. ITS failed to compensate Mr. DelCorso and other aggrieved employees for all hours worked and performing off-the-clock work, including pre- and post-shift, and during meal breaks. ITS also failed to include non-discretionary bonuses and incentives in aggrieved employees' regular rate of pay for purposes of overtime compensation. Therefore, Mr. DelCorso and other aggrieved employees were entitled to receive certain wages for overtime compensation, but they were not paid for all overtime hours worked.

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California Labor Code section 246 requires that employers provide employees with paid sick leave of not less than one hour per every 30 hours worked. California Labor Code section 246(l) also requires that paid sick leave be paid at a non-exempt employee's regular rate of pay for the workweek in which the employee uses paid sick time or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment. During the relevant time period, ITS failed to pay aggrieved employees with paid sick leave that complied with California Labor Code section 246, by, for example, failing to pay paid sick leave at non-exempt employee's regular rate of pay or at a rate calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

California Labor Code sections 226.7 and 512 require employers to pay an employee one additional hour of pay at the employee's regular rate for each workday that a meal or rest break is not provided. During the relevant time period, ITS routinely required Mr. DelCorso and other aggrieved employees to work through, interrupt, cut short, and/or delay their meal and rest breaks to comply with ITS policies and expectations. Additionally, ITS failed to provide adequate coverage to Mr. DelCorso and other aggrieved employees, so they may be relieved of all work duties and take legally mandated meal and rest breaks. ITS also assigned aggrieved employees to routes with strict delivery deadlines and a high volume of stops such that it was not possible for them to complete their route in a timely manner and take all their meal and rest breaks. Moreover, ITS failed to authorize and permit Mr. DelCorso and other aggrieved employees to take the requisite number of meal and rest breaks, including second meal breaks and third rest breaks, when working shifts exceeding 10 hours in length. Despite these facts, ITS failed to compensate Mr. DelCorso and other aggrieved employees all the premium wages they were owed.

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LWDA

July 6, 2021

Page 4 of 7

California Labor Code section 201 requires that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. California Labor Code section 202 requires that 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. California Labor Code section 203 provides that if an employer willfully fails to pay, without abatement or reduction, in accordance with Labor Code sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any 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. During the relevant time period, ITS failed to pay Mr. DelCorso and other aggrieved employees all wages, including for uncompensated off-the-clock work and premium wages for failing to provide legally mandated meal and rest breaks as explained above, due to them within any time period specified by California Labor Code sections 201 and 203 and therefore is liable under California Labor Code section 203.

California Labor Code section 204 requires that all wages earned by any person in any employment between the 1st and the 15th days, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 16th and the 26th day of the month during which the labor was performed, and that all wages earned by any person in any employment between the 16th and the last day, inclusive, of any calendar month, other than those wages due upon termination of an employee, are due and payable between the 1st and the 10th day of the following month. California Labor Code section 204 also requires that 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. During the relevant time period, ITS failed to pay Mr. DelCorso and other aggrieved employees all wages due to them, including for uncompensated off-the-clock work and premium wages as explained above, within any time period specified by California Labor Code section 204.

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California Labor Code section 226 requires employers to make, keep and provide complete and accurate itemized wage statements to their employees. During the relevant time period, ITS did not provide Mr. DelCorso and other aggrieved employees with complete and accurate itemized wage statements. The wage statements they received from ITS were in violation of California Labor Code section 226(a). The violations include, but are not limited to, the failure to include (1) gross wages earned by Mr. DelCorso and other aggrieved employees, (2) total hours worked by Mr. DelCorso and other aggrieved employees, (3) the number of piece-rate units earned and any applicable piece rate by Mr. DelCorso and other aggrieved employees (4) all deductions for Mr. DelCorso and other aggrieved employees, (5) net wages earned by Mr. DelCorso and other aggrieved employees, (6) the inclusive dates of the period for which Mr. DelCorso and other aggrieved employees are paid, (7) the name of the aggrieved employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by Mr. DelCorso and other aggrieved employees.

California Labor Code section 558 allows recovery of penalties. (a) Any employer or other person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages recovered pursuant to this section shall be paid to the affected employee. Mr. DelCorso and other aggrieved employees have been denied their wages and premium wages and, therefore, are entitled to penalties.

California Labor Code sections 1174(d) requires an employer to 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 with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than two years. During the relevant time period, ITS failed to keep accurate and complete payroll records showing the hours worked daily and the wages paid, to Mr. DelCorso and other aggrieved employees.

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LWDA

July 6, 2021

Page 6 of 7

California Labor Code sections 1194, 1197 and 1197.1 provide the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful. During the relevant time period, ITS did not provide Mr. DelCorso and other aggrieved employees with the minimum wages to which they were entitled despite constructive and actual knowledge of off-the-clock work, including pre- and post-shift and during meal breaks.

California Labor Code sections 2800 and 2802 require an employer to reimburse its employee for all necessary expenditures incurred by the employee in direct consequence of the discharge of his or her job duties or in direct consequence of his or her obedience to the directions of the employer. During their employment, Mr. DelCorso and other aggrieved employees incurred necessary business-related expenses and costs that were not fully reimbursed by ITS, including for purchasing equipment they were required to wear while working such as steel-toed boots, and using their personal cellular phones for GPS and timekeeping and to communicate with dispatch.

We believe that Mr. DelCorso and other current and former California-based hourly-paid or non-exempt employees are entitled to penalties as allowed under California Labor Code section 2698, *et seq.* for violations of Labor Code sections 201, 202, 203, 204, 218.5, 221, 226(a), 226.3, 226.7, 246, 510, 512(a), 558, 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802, and the IWC Wage Orders.

California Labor Code section 2699.3 requires that a claimant send a certified letter to the employer in questions and the California Labor & Workforce Development Agency setting forth the claims, and the basis for the claims, thereby giving the California Labor & Workforce Development Agency an opportunity to investigate the claims and/or take any action it deems appropriate.

The purpose of this letter is to satisfy the requirement created by California Labor code section 2699 prior to seeking penalties allowed by law for the aforementioned statutory violations. We look forward to determining whether California Labor & Workforce Development Agency intends to take any action in reference to these claims. We kindly request that you respond to this notice according to the time frame contemplated by the California Labor Code.

Mr. DelCorso will seek these penalties and wages on his own behalf and on behalf of other similarly situated California-based hourly-paid or non-exempt employees of ITS within one year of the date of this letter, as allowed by law.

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LWDA  
July 6, 2021  
Page 7 of 7

If you have any questions or require additional information, please do not hesitate to contact us. Thank you for your attention to this matter and the noble cause you advance each and every day.

Very truly yours,

**JUSTICE LAW CORPORATION**

A handwritten signature in black ink, appearing to read "D. Han", written in a cursive style.

Douglas Han, Esq.

**CC: (By Certified U.S. Mail Only):**

ITS Technologies and Logistics, LLC, ConGlobal Industries, LLC and ConGlobal Transport, LLC

c/o CSC - Lawyers Incorporation Service

2710 Gateway Oaks Drive, Suite 150N

Sacramento, California 95833

*Agent for Service of Process for* ITS Technologies and Logistics, LLC, ConGlobal Industries, LLC and ConGlobal Transport, LLC