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Individually, on behalf of others similarly situated, and as a Representative of the LWDA

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **IN AND FOR THE COUNTY OF ALAMEDA**

13 JASMINE MILLER, on behalf of herself, all  
14 others similarly situated, and as a representative  
of the LWDA,

15 Plaintiff,

16 v.

17 AMAZON.COM SERVICES LLC, formerly  
18 known as AMAZON.COM, LLC, a Delaware  
Limited Liability Company; AMAZON  
19 LOGISTICS, INC., a Delaware Limited Liability  
20 Company; and DOES 1 through 500, inclusive,

21 Defendants.

Case No. RG17856888

**[Proposed] THIRD AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT FOR DAMAGES, RESTITUTION, AND CIVIL PENALTIES UNDER CALIFORNIA'S PRIVATE ATTORNEYS GENERAL ACT OF 2004 ("PAGA") FOR:**

- 22 (1) Failure To Pay Regular Pay/Min. Wages in Violation of Labor Code §§ 510, 558.1, 1194, 1194.2, 1197 & IWC Wage Order 9-2001, § 4;
- 23 (2) Failure To Pay Overtime Premium Pay in Violation of Labor Code §§ 510, 558, 558.1, 1194, 1194.2 & IWC Wage Order 9-2001, § 3;
- 24 (3) Failure To Provide Meal Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 11;
- 25 (4) Failure to Provide Rest Periods or Compensation in Lieu Thereof in Violation of Labor Code §§ 218.5, 218.6, 226.7, 512, 558.1 and IWC Wage Order 9-2001, § 12;
- 26 (5) Failure To Reimburse For Necessary Expenditures in Violation of Labor Code §§ 510,
- 27
- 28

1 558.1, 2802 and IWC Wage Order 9-2001, §§ 8-  
2 9;

3 (6) Willful Failure to Provide Accurate Itemized  
4 Wage Statements in Violation of Labor Code §§  
5 226(a), 226.3, 558.1, 1174;

6 (7) Failure to Timely Pay Wages Owed for  
7 Separated Employees in Violation of Labor Code  
8 §§ 201-204, 210, 2926, 2927;

9 (8) Failure to Comply with Client Employer  
10 Obligations for Subcontractors in Violation of  
11 Labor Code §§ 2810, *et seq.*;

12 (9) Unlawful and Deceptive Business Practices in  
13 Violation of Business & Professions Code §§  
14 17200, *et seq.*

15 (10) PAGA Penalties For Failure To Pay Overtime  
16 Premium Pay;

17 (11) PAGA Penalties For Failure To Pay Meal  
18 Period Premium Pay;

19 (12) PAGA Penalties For Failure To Pay Rest Period  
20 Premium Pay;

21 (13) PAGA Penalties For Failure To Reimburse For  
22 Necessary Business Expenditures;

23 (14) PAGA Penalties For Failure To Provide  
24 Accurate Wage Statements And Payroll Records;

25 (15) PAGA Penalties For Failure To Timely Pay  
26 Wages Owed;

27 (16) PAGA Penalties For Violation Of Client-  
28 Employer/Subcontractor Obligations

1 Plaintiff Jasmine Miller, as a proposed Class Representative under California Code of Civil  
2 Procedure section 382, as a Representative of the State of California’s Labor and Workforce Development  
3 Agency (“LWDA”) and/or the Department of Labor Standards Enforcement (“DLSE”), and as a  
4 representative for other aggrieved employees, alleges against Defendants Amazon.com Services LLC,  
5 formerly known as Amazon.com, LLC, a Delaware Limited Liability Company registered to do business in  
6 the State of California; Amazon Logistics, Inc., a Delaware Limited Liability Company registered to do  
7 business in the State of California (hereinafter “Amazon”); and DOES 1 through 500, inclusive (hereinafter  
8 collectively “Joint Employer Defendants”) the following facts, based upon her own personal knowledge, or  
9 where there is no personal knowledge, upon information, belief, and the investigation of her counsel, as  
10 follows:

11 **I. INTRODUCTION**

12 1. Plaintiff brings this matter as a proposed Class Action individually and on behalf of all others  
13 similarly situated who work, or have worked, for the Joint Employer Defendants within the State of  
14 California at any time during the proposed Class Period, as defined herein. Plaintiff seeks damages,  
15 restitution, disgorgement, pre- and post-judgment interest, applicable statutory penalties, attorneys’ fees,  
16 costs of suit, and any further equitable relief this Court may deem just and proper, under, *inter alia*,  
17 California Labor Code sections 218.5, 218.6, 226, 226.3, 226.7, 226.8, 510, 512, 558, 558.1, 1174, 1174.5,  
18 1194, 1194.2, 1197, 1197.1, 1198, 1400-1404, 2802, 2804, as well as Cal. Code Regs. tit. 8, section 11090  
19 (Industrial Welfare Commission (“IWC”) Wage Order No. 9-2001).

20 2. During all, or a portion, of the one-year period prior to Plaintiff Jasmine Miller (“Plaintiff”  
21 or “Ms. Miller”) filing notice of her claims with California’s Labor and Workforce Development Agency  
22 (“LWDA”) (the “applicable statutory period”), Defendant Amazon.com Services LLC, formerly known as  
23 Amazon.com, LLC, Amazon Logistics, Inc., and DOES 1-500, inclusive (collectively, “Joint Employer  
24 Defendants”), willfully, knowingly, and systematically denied Plaintiff and current and former aggrieved  
25 employees, as defined herein, wages for all hours worked, including minimum and regular wages; proper  
26 overtime premium pay for overtime hours worked; lawful off-duty uninterrupted thirty-minute meal periods  
27 when the nature of work performed did not prevent lawful off-duty meal periods, or where the nature of  
28 work that prevented off-duty meal periods was attributable solely to the Joint Employer Defendants’

1 insufficient staffing model; lawful uninterrupted ten-minute rest periods; premium pay for denied lawful  
2 off-duty meal and rest periods; reimbursement for necessary expenditures incurred; timely payment of  
3 wages earned each pay period and upon cessation of employment; and accurate itemized wage statements,  
4 all of which, individually and cumulatively, resulted in liability for payment of all civil penalties recoverable  
5 by the Department of Labor Standards Enforcement (“DLSE”) and/or the LWDA and/or an action by the  
6 California Labor Commissioner.

7 3. Plaintiff brings this Representative Action on behalf of herself and all other aggrieved  
8 employees who worked in California during the applicable statutory period as permitted by the Private  
9 Attorneys General Act (“PAGA”), California Labor Code sections 2698, *et seq.*

10 4. Through this Representative Action, Plaintiff, on behalf of herself and all other aggrieved  
11 “messenger,” “courier,” “delivery driver,” and/or other similar designation(s) (“Delivery Drivers”), seeks  
12 civil penalties, reasonable attorneys’ fees, and costs of suit pursuant to California’s Private Attorneys  
13 General Act of 2004 (“PAGA”), Cal. Lab. Code sections 2698, *et seq.*

## 14 II. JURISDICTION AND VENUE

15 5. Pursuant to Article VI, section 10 of the California Constitution, subject matter jurisdiction  
16 is proper in the Superior Court of California, county of Alameda.

17 6. This Court also has jurisdiction over this action for damages, restitution, disgorgement,  
18 injunctive relief, penalties, attorneys’ fees, costs, and equitable relief pursuant to, among other provisions,  
19 Cal. Lab. Code sections 201-204, 210, 218.5, 218.6, 226, 226.3, 226.7, 226.8, 510, 512, 558, 558.1, 1174,  
20 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698, *et seq.*, 2753, 2802, 2804, 2810, 2926, 2927, and 3357;  
21 Cal. Code Regs. tit. 8, section 11090 (IWC Wage Order No. 9-2001); and Cal. Bus. & Prof. Code sections  
22 17200, *et seq.*

23 7. The amount in controversy under this Complaint exceeds the jurisdictional minimal  
24 jurisdictional limit of this Court, and the claims asserted in this Complaint are within the subject-matter  
25 jurisdiction of this Court.

26 8. This Court has personal jurisdiction over the Joint Employer Defendants because they are  
27 associations, corporations, business entities, and/or persons that are based in, authorized, and/or registered  
28 to conduct, and in fact do conduct, substantial business, and employ, or employed, individuals in the State

1 of California, County of Alameda.

2 9. Defendants Amazon.com Services LLC, formerly known as Amazon.com, LLC, Amazon  
3 Logistics, Inc., and other out-of-state participants can be brought before this Court pursuant to California's  
4 "long-arm" jurisdictional statute, Cal. Civ. Proc. Code section 410.10, as a result of Defendant Amazon's  
5 substantial, continuous, and systematic contacts with this State, and because Defendant Amazon has  
6 purposely availed itself of the benefits, laws, and privileges of conducting business within the State of  
7 California.

8 10. Pursuant to California Code of Civil Procedure sections 395 and 395.5, venue as to the Joint  
9 Employer Defendants is proper in this Court because all material acts, obligations, and/or liabilities upon  
10 which this Complaint is based upon originated and/or occurred substantially in the County of Alameda and  
11 because the Joint Employer Defendants conduct substantial business, hold significant contacts, own and  
12 operate business facilities, and employ, or employed, persons (including Plaintiff and those she seeks to  
13 represent) within the County of Alameda and surrounding California counties.

14 11. Based on information and belief, Plaintiff alleges that this entire action arises solely under  
15 California statutes and law, including the Labor Code, IWC Wage Orders, Code of Civil Procedure, Civil  
16 Code, and Business and Professions Code. Plaintiff further alleges, upon information and belief, that no  
17 federal question is raised and that the federal Class Action Fairness Act ("CAFA"), 28 U.S.C. section  
18 1332(d), does not apply, or in the alternative, that exceptions for local case or controversy under CAFA do  
19 apply - both of which prohibit removal of this action to federal court. Plaintiff further alleges that her  
20 individual damages are less than \$75,000.00.

### 21 **III. PARTIES**

22 12. Plaintiff Jasmine Miller, a natural person, is, and at all times mentioned herein was, a resident  
23 and citizen of the State of California. During the applicable statutory periods, Ms. Miller was directly  
24 employed by A-1 Express Delivery Service, Inc. dba 1-800 COURIER as a Delivery Driver, providing  
25 package pick-up and delivery services exclusively for Amazon and alleges she was under Amazon's  
26 direction and control in all material aspects of her job. Miller brings this action as a proposed Class Action  
27 under Code of Civil Procedure section 382 and as a Representative action under the California Private  
28 Attorneys General Act ("PAGA"), Labor Code sections 2698, *et seq.*

1           13.     During all or a portion of the proposed Class Period, Plaintiff alleges that she was a delivery  
2 driver that was jointly employed by Amazon.com, LLC and a defunct bankrupted entity known as A-1  
3 Express, dba 1-800 Courier. Shortly before this action was commenced, A-1 Express Delivery Service, Inc.  
4 dba 1-800 Courier filed for Chapter 7 Bankruptcy and is now completely dissolved and a defunct entity.  
5 However, Plaintiff is informed and believes that Greenwich Logistics, LLC thereafter purchased the assets  
6 of A-1 Express Delivery Service, Inc. dba 1-800 Courier and continued operating 1-800 Courier, including  
7 continuing to employ non-exempt delivery drivers in California who made Amazon deliveries under a  
8 subsequent contract executed between Greenwich Logistics, LLC dba 1-800 Courier and Amazon Logistics,  
9 Inc.

10           14.     Amazon Logistics, Inc. is an active Delaware limited liability company authorized to conduct  
11 business in the State of California (Cal. Entity No.C3567542 ) with its principal place of business and  
12 headquarters in Seattle, Washington. Amazon.com Services LLC, formerly known as Amazon.com, LLC,  
13 is an active Delaware limited liability company authorized to conduct business in the State of California  
14 (Cal. Entity No. 202001010303) with its principal place of business and headquarters in Seattle,  
15 Washington.

16           15.     The true names and capabilities, whether individual, corporate, associate, or otherwise, of  
17 the Doe Defendants 1 through 500 (“Doe Defendants”), are currently unknown to Plaintiff, and Plaintiff  
18 therefore sues these Doe Defendants by such fictitious names pursuant to California Code of Civil Procedure  
19 section 474. Plaintiff will seek leave to amend this Complaint to show their true names and capacities when  
20 the same has been ascertained.

21           16.     Plaintiff is informed and believes, and based thereon alleges, that each of the Joint Employer  
22 Defendants (including the Doe Defendants) were, or are, in some way or manner, responsible and liable to  
23 Plaintiff and other similarly-situated and aggrieved Delivery Drivers for the events, happenings, and  
24 circumstances hereinafter set forth in the body of this Complaint, and directly and proximately caused  
25 Plaintiff and other similarly-situated and aggrieved Delivery Drivers to be subject to the unlawful  
26 employment and business practices and resulting civil penalties. Plaintiff is informed and believes, and  
27 based thereon alleges, that said Joint Employer Defendants may be further responsible for payment of  
28 PAGA penalties on alternative theories of liability not specifically addressed herein, including, but not

1 limited to, Joint Employment or doctrines related to ostensible agency which may be discovered.

2 17. Plaintiff is informed and believes, and based thereon alleges, that the Joint Employer  
3 Defendants (including the Doe Defendants), and each of them, were, and are, an owner, co-owner, agent,  
4 representative, partner, and/or alter ego of its co-defendants, or otherwise acted, and continue to act, on  
5 behalf of each and every remaining Joint Employer Defendant and, in doing the things hereinafter alleged,  
6 were, at all times material hereto, acting within the course and scope of its authorities as an owner, co-  
7 owner, agent, representative, partner, and/or alter ego of its co-Defendants, with the full knowledge,  
8 permission, consent, and authorization of each and every remaining Defendant, each co-Defendant having  
9 ratified or promoted the acts of the other co-Defendants, such that each of them are jointly and severally  
10 liable to Plaintiff and other similarly-situated and aggrieved Delivery Drivers. Plaintiff is further informed  
11 and believes, and based thereon alleges, that at all material times alleged herein, the Joint Employer  
12 Defendants, and each of them, were members of, and engaged in, a joint enterprise, partnership, and/or  
13 common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture,  
14 partnership, and/or common enterprise.

15 18. Plaintiff is informed and believes, and based thereon alleges, that at all material times herein  
16 mentioned, the Joint Employer Defendants (including the Doe Defendants), and each of them, aided and  
17 abetted the acts and omissions of each and every one of the other Joint Employer Defendants, and are thereby  
18 directly and proximately responsible for civil penalties as alleged herein.

19 19. Plaintiff is informed and believes, and based thereon alleges, that each Joint Employer  
20 Defendant (including the Doe Defendants), directly or indirectly, or through agents or other persons,  
21 employed Plaintiff and other similarly-situated and aggrieved Delivery Drivers, and exercised control over  
22 their wages, hours, and working conditions. Plaintiff is further informed and believes, and based thereon  
23 alleges, that each Joint Employer Defendant acted in all respects pertinent to this action as the agent of the  
24 other Joint Employer Defendants, carried out a joint scheme, business plan, or policy in all respects pertinent  
25 hereto, and the acts of each Joint Employer Defendant is legally attributable to the other Joint Employer  
26 Defendants. The Joint Employer Defendants, and each of them, jointly managed, operated, and controlled  
27 all aspects of the manner and means of employee work and were joint employers of Plaintiff and other  
28 similarly-situated and aggrieved Delivery Drivers under California law, and liable for civil penalties arising

1 from illicit wage and hour practices alleged herein.

2 20. By this Complaint, Plaintiff also brings this case as a Representative Action, seeking civil  
3 penalties for the State of California in a representative capacity, as provided by the Private Attorneys  
4 General Act of 2004 (“PAGA”) to the extent permitted by law. True and correct copies of the Notice  
5 correspondence dated September 7, 2016 and Amended Notice Correspondence dated March 30, 2017  
6 showing compliance with California Labor Code section 2699.3 are attached hereto as **Exhibit 1**, and  
7 demonstrate that Plaintiff is an aggrieved employee with standing to bring a representative action on behalf  
8 of the State of California’s Labor and Workforce Development Agency (“LWDA”) and as a private attorney  
9 general. No notice of cure by Defendant Amazon was provided, and no notice of investigation was received  
10 from the LWDA in the statutorily prescribed time period since the mailing of the original Notice.  
11 Accordingly, Plaintiff files this action as a “Representative Action” as provided by California’s Code of  
12 Civil Procedure, as specifically permitted and authorized by California Labor Code section 2699.3. There  
13 has been no cure by Defendant Amazon.

14 21. In the separate, but not necessarily mutually exclusive alternative theory of liability, Joint  
15 Employer Defendants, and each them, violated labor contracting laws pursuant to Cal. Labor Code sections  
16 2810-2810.3, such that Amazon was, at all times and in addition to a “joint employer,” also a “client  
17 employer” such that it is liable for the failures on the part of any “labor contractors” who failed to pay wages  
18 due in violation of California law. Appropriate Notice has been provided to Amazon pursuant to Cal. Labor  
19 Code section 2810.3(d), a true and correct copy of which is attached hereto as **Exhibit 2** (the enclosures to  
20 the notice are being omitted as they are submitted as a separate exhibit herein), and expressly incorporated  
21 into this Complaint by this reference.

22 **IV. GENERAL ALLEGATIONS**

23 22. During all, or a portion, of the applicable statutory periods, Plaintiff and each of the similarly-  
24 situated and aggrieved Delivery Drivers she seeks to represent were employed by A-1 Express Delivery  
25 Service, Inc., dba 1-800 Courier and Greenwich Logistics, LLC dba 1-800 Courier and the Joint Employer  
26 Defendants in the State of California, providing delivery services for Amazon Logistics, Inc. Plaintiff and  
27 other similarly-situated and aggrieved Delivery Drivers suffered legally cognizable harm due to the Joint  
28 Employer Defendants’ unlawful employment policies and practices, and have standing to bring this case as



1 a representative for other current and former similarly-situated and aggrieved employees.

2 23. Expressly included in this proposed Class and PAGA action are all persons who are  
3 employed or have been employed as W-2 hourly non-exempt employees by A-1 Express Delivery Service,  
4 Inc. dba 1-800 Courier and Greenwich Logistics, LLC dba 1-800 Courier who provided services as Delivery  
5 Drivers pursuant to contracts between A-1 Express Delivery Service, Inc. dba 1-800 Courier and Amazon  
6 Logistics, Inc., and Greenwich Logistics, LLC dba 1-800 and Amazon Logistics, Inc., to deliver goods to  
7 Amazon customers in the State of California during the Class and PAGA periods. Expressly excluded from  
8 the proposed Plaintiff Class or group of PAGA-related “aggrieved employees” in this action are the  
9 following categories of natural persons within the applicable limitations period:

10 Any W-2, hourly, non-exempt employees in California employed by any entities  
11 other than A-1 Express Delivery Service, Inc. dba 1-800 Courier and Greenwich  
12 Logistics, LLC dba 1-800 Courier who provided services as Delivery Drivers  
13 pursuant to a contract between another entity and Amazon Logistics, Inc. during the  
14 proposed Class Period and/or PAGA Period; and (1) Any natural persons residing  
15 in the State of California during the proposed Class Period and/or PAGA Period who  
independently contracted directly with Amazon Logistics, Inc. to make Amazon  
deliveries and who were not designated as “employees” of any subcontracting  
business entity.

16 24. From approximately April 2016 until her termination in or around July 2016, Ms. Miller was  
17 employed by A-1 Express Delivery Service, Inc. dba 1-800 Courier and the Joint Employer Defendants as  
18 an hourly paid local Delivery Driver in the State of California. Like other hourly paid Delivery Drivers  
19 subject to the same payment and working conditions, policies, practices, and procedures, Ms. Miller was  
20 assigned to an account to provide package pick-up and delivery services for Amazon out of Amazon’s  
21 hub/terminal warehouse located at 990 Beecher Street in San Leandro, California 94577. At all times, Ms.  
22 Miller was subject to both the control of her direct employer, Amazon, and of the contracting principal A-  
23 1 Express Delivery Service, Inc. dba 1-800 Courier, who, as Plaintiff alleges, is a secondary employer or  
24 “joint employer” under California law who had power to direct and control work duties and activities, as  
25 defined under applicable Industrial Welfare Commission Wage Order 9.

26 **Failure to Pay Proper Overtime Premium Pay**

27 25. During the applicable statutory periods, the Joint Employer Defendants routinely denied  
28 Plaintiff and other similarly-situated and aggrieved Delivery Drivers proper overtime premium

1 compensation for hours worked in excess of eight hours per day, forty hours per week, and/or hours worked  
2 on the seventh consecutive day in a work week.

3 26. While working for the Joint Employer Defendants, Ms. Miller worked full-time—typically,  
4 ten to twelve or more hours per day (including overtime), five days per week—and was required to complete  
5 all pick-ups, deliveries, and other work-related duties before being permitted to end her workday. Ms. Miller  
6 was compensated for her services at a regular hourly pay rate of approximately \$15.00 per hour.

7 27. During her employment with the Joint Employer Defendants, Ms. Miller’s clock-in/clock-  
8 out times, as well as meal periods taken (if any), were logged and tracked through a downloaded application  
9 (“app.”) on her personal cell phone called “iSolved Time.”

10 28. All persons considered “similarly-situated and aggrieved employees” in this action also were  
11 subject to the following directives from Amazon as outlined in Amazon’s “Delivery Associate Participant  
12 Guide” procedures, wherein a true and correct copy of said document is attached as **Exhibit 3** and is  
13 expressly incorporated herein as if set in full by this reference.

14 29. Upon information and belief, despite regularly working more than eight hours in a workday  
15 and/or forty hours in a workweek, Ms. Miller was not properly compensated overtime premium pay for all  
16 overtime hours worked during the applicable statutory period. Because Ms. Miller’s access to her iSolved  
17 phone app. account with respect to the Joint Employer Defendants was disabled upon her termination, she  
18 is currently precluded from reviewing her time sheets and wage statements in order to determine the extent  
19 of unpaid overtime premium compensation, as well as potential unpaid compensation for regular hours  
20 worked.

21 **Failure to Provide Lawful Off-Duty Meal and Rest Periods, as well as Corresponding Premium Pay**  
22 **for Denied Lawful Meal and Rest Periods**

23 30. Throughout the applicable statutory periods, the Joint Employer Defendants routinely denied  
24 Plaintiff and other similarly-situated and aggrieved Delivery Drivers lawful unpaid off-duty thirty-minute  
25 meal periods within the first five hours of work for shifts lasting more than six hours, and/or second off-  
26 duty meal periods for shifts lasting ten or more hours in a single workday. The Joint Employer Defendants  
27 also routinely denied Plaintiff and other similarly-situated and aggrieved Delivery Drivers lawful paid off-  
28 duty ten-minute rest periods for every four hours worked, or major fraction thereof, for shifts lasting more

1 than three and one-half hours in a single workday.

2 31. Specifically, the Joint Employer Defendants regularly denied Plaintiff and other similarly-  
3 situated and aggrieved Delivery Drivers mandated lawful uninterrupted meal and rest periods by, *inter alia*,  
4 scheduling them for numerous time-consuming deliveries and lengthy delivery routes that prevented them  
5 from completing their daily deliveries if uninterrupted off-duty meal and rest periods were taken. Because  
6 Plaintiff and other similarly-situated and aggrieved Delivery Drivers were required to complete all daily  
7 pick-ups, deliveries, and other work-related duties before ending their shifts, they typically had no time to  
8 take lawful uninterrupted meal and rest periods if they were to complete their required duties. If Plaintiff or  
9 other similarly-situated and aggrieved Delivery Drivers ever failed to complete all scheduled daily  
10 deliveries, they would be subject to potential discipline up to and including termination, contract  
11 cancellation, and/or non-renewal of contracts. In fact, Ms. Miller has been reprimanded on several occasions  
12 during her employment with the Joint Employer Defendants for working “too slow,” including verbal  
13 warnings and even an unpaid suspension. Thus, Plaintiff and other similarly-situated and aggrieved Delivery  
14 Drivers were routinely discouraged and prevented from taking uninterrupted meal and rest periods in order  
15 to complete deliveries and avoid the imposition of potential disciplinary measures.

16 32. Even on the rare occasion Ms. Miller was provided meal and/or rest periods of some sort  
17 during the applicable statutory periods, those periods were typically “on-duty” and subject to management  
18 control and continuance of work-related duties.

19 33. The nature of their work did not, and does not, prevent aggrieved Delivery Drivers (such as  
20 Plaintiff) from taking lawful uninterrupted off-duty meal and rest periods, and thus any off-duty meal period  
21 waiver or on-duty meal period agreement entered into with Plaintiff or similarly-situated and aggrieved  
22 Delivery Drivers, if any, is unenforceable. To the contrary, any inability to take off-duty uninterrupted meal  
23 and rest periods is attributable solely to the Joint Employer Defendants’ own insufficient staffing models,  
24 rather than the general nature of the work performed by similarly-situated and aggrieved Delivery Drivers.

25 34. Throughout the applicable statutory periods, the Joint Employer Defendants systematically  
26 denied Plaintiff and other similarly-situated and aggrieved Delivery Drivers proper premium pay at the rate  
27 of one hour of their regular pay rates for each workday they were deprived of an off-duty unpaid thirty-  
28 minute meal period as is required by California Labor Code section 226.7.

1           35.     Likewise, the Joint Employer Defendants also systematically denied Plaintiff and other  
2 similarly-situated and aggrieved Delivery Drivers proper premium pay at the rate of one hour of their regular  
3 pay rates for each workday they were deprived of lawful uninterrupted paid rest periods by California Labor  
4 Code sections 226.7 and 512.

5           36.     As a consequence for these violations, the Joint Employer Defendants are liable for civil  
6 penalties arising under California Labor Code section 2699 for each initial and subsequent violation per pay  
7 period for failing to provide compliant meal and rest periods to each aggrieved employee during the  
8 applicable limitations period, predicated upon violations of California Labor Code sections 226.7 and 512.

9                           **Failure to Reimburse for Necessary Expenditures Incurred**

10           37.     During the applicable statutory periods, the Joint Employer Defendants routinely denied  
11 Plaintiff and other similarly-situated and aggrieved Delivery Drivers reimbursement for necessary  
12 expenditures incurred as a direct consequence and requirement of performing their job duties.

13           38.     While working for the Joint Employer Defendants, Plaintiff and other similarly-situated and  
14 aggrieved Delivery Drivers were required to, and did, personally pay for several expenses that are necessary  
15 to their performance of work-related duties, without reimbursement.

16           39.     Plaintiff and other similarly-situated and aggrieved Delivery Drivers were also required to  
17 carry and use their personal cell phones for recording hours worked through the iSolved Time app.,  
18 scheduling purposes, receiving orders to re-deliver packages, taking pictures of damaged packages or non-  
19 functioning scanners, and maintaining communication with dispatch and the warehouse, as well as  
20 customers—all without any reimbursement of any kind. As a result, the Joint Employer Defendants are  
21 liable for civil penalties arising under California Labor Code section 2699 for each initial and subsequent  
22 violation per pay period for failing to provide reimbursement of required business expenditures to each  
23 similarly-situated and aggrieved employee during the applicable statutory periods, predicated upon  
24 violations of California Labor Code section 2802.

25                           **Failure to Provide Accurate Wage Statements and Maintain Accurate Payroll Records**

26           40.     During the applicable statutory periods, the Joint Employer Defendants routinely failed to  
27 provide Plaintiff and other similarly-situated and aggrieved Delivery Drivers accurate itemized wage  
28 statements. Specifically, the wage statements provided by the Joint Employer Defendants failed to

1 accurately list all hours worked by Plaintiff and other similarly-situated and aggrieved Delivery Drivers, as  
2 well as all wages earned—including, but not limited to, overtime pay and premium pay for denied lawful  
3 meal and rest periods—and reimbursement for necessary expenditures incurred. As such, the wage  
4 statements Plaintiff and other similarly-situated and aggrieved Delivery Drivers were provided inaccurately  
5 reflected their actual gross wages and/or net wages earned each pay period. Because of these inaccurate  
6 wage statements, Plaintiff and other similarly-situated and aggrieved Delivery Drivers were never aware of  
7 what their true wages should have been and how they were calculated. Accordingly, the Joint Employer  
8 Defendants are liable for civil penalties arising under California Labor Code section 226.3 for each initial  
9 and subsequent violation per pay period for each similarly-situated and aggrieved employee in the  
10 applicable statutory periods.

11 **Failure to Timely Pay Wages Owed Each Pay Period and Upon Cessation of Employment**

12 41. As alleged above, during the applicable statutory periods, Plaintiff and other similarly-  
13 situated and aggrieved Delivery Drivers were not provided all earned compensation owed them each and  
14 every pay period because the Joint Employer Defendants regularly failed to provide them overtime premium  
15 wages earned, premium wages for denied lawful off-duty meal and rest periods, and reimbursement for  
16 necessary expenditures incurred. Similarly, and consequently, Plaintiff (and other Delivery Drivers no  
17 longer working for the Joint Employer Defendants) were not paid all wages owed for services rendered  
18 upon cessation of employment with the Joint Employer Defendants. Accordingly, the Joint Employer  
19 Defendants are liable for civil penalties payable to the LWDA under the PAGA in the manner proscribed  
20 by Labor Code sections 2699 and 2699.3, as amended, predicated upon violations of California Labor Code  
21 sections 201-203, and/or alternatively, civil penalties arising for each violation as proscribed in Labor Code  
22 section 210.

23 **V. CLASS ALLEGATIONS**

24 42. Plaintiff brings this class action on behalf of herself and all Members of the Class (“Class”),  
25 initially defined as:

26 **Plaintiff Class:** All persons who are employed or have been employed as W-2  
27 hourly non-exempt employees by A-1 Express Delivery Service, Inc. dba 1-800  
28 Courier and Greenwich Logistics, LLC dba 1-800 Courier who provided services  
as Delivery Drivers pursuant to contracts between A-1 Express Delivery Service,  
Inc. dba 1-800 Courier and Amazon Logistics, Inc., and Greenwich Logistics, LLC

1 dba 1-800 Courier and Amazon Logistics, Inc., to deliver goods to Amazon  
2 customers in the State of California during the class period.

3 **Exclusions from Plaintiff Class:** The “Plaintiff Class” definition expressly  
4 excludes the following individuals and/or natural persons:

5 (1) Any W-2, hourly non-exempt employees in California employed by any entities  
6 other than A-1 Express Delivery Service, Inc. dba 1-800 Courier and Greenwich  
7 Logistics, LLC dba 1-800 Courier who provided services as Delivery Drivers  
8 pursuant to a contract between another entity and Amazon Logistics, Inc. during  
9 the proposed Class Period and/or PAGA period; and;

10 (2) Any natural persons residing in the State of California during the proposed Class  
11 Period who independently contracted directly with Amazon Logistics, Inc. to make  
12 Amazon deliveries and who were not designated as “employees” of any  
13 subcontracting business entity.

14 43. Plaintiff also alleges and will seek to certify the following subclasses, defined as follows:

15 **Subclass One (“The Minimum Wage Subclass”):** All members of the Plaintiff  
16 Class who were not compensated for all hours worked or under the Joint Employer  
17 Defendants’ control at the applicable minimum wage as required by Labor Code §§  
18 1194-1194.2 and IWC Wage Order 9-2001, § 4.

19 **Subclass Two (“The Overtime Subclass”):** All members of the Plaintiff Class  
20 who were not compensated for all hours worked or under the Joint Employer  
21 Defendants’ control in excess of eight hours per day and/or forty hours per week as  
22 required by Labor Code §§ 510, 1194, and IWC Wage Order 9-2001, § 3.

23 **Subclass Three-A (“The Meal Period Subclass”):** All members of the Plaintiff  
24 Class who were subject to the Joint Employer Defendants’ policy of failing to  
25 provide unpaid 30-minute uninterrupted and duty-free meal periods or one hour of  
26 pay at the employee’s regular rate of pay in lieu thereof as required by Labor Code  
27 §§ 226.7, 510, and IWC Wage Order 9-2001, § 11.

28 **Subclass Three-B (“The Second Meal Period Subclass”):** All members of the  
Plaintiff Class who worked a shift of ten hours or more and were subject to the  
Joint Employer Defendants’ policy of failing to provide a second 30-minute meal  
period or one hour of pay at the employee’s regular rate of pay in lieu thereof as  
required by Labor Code §§ 226.7, 510, and IWC Wage Order 9-2001, § 11.

**Subclass Four (“The Rest Period Subclass”):** All members of the Plaintiff Class  
who worked qualifying shifts but were not provided 10-minute paid rest periods for  
every four hours worked (or major fraction thereof), and who were not paid one  
hour of pay at the employee’s regular rate of compensation in lieu thereof as  
required by Labor Code § 226.7 and IWC Wage Order 9-2001, § 12.

**Subclass Five (“The Expense Reimbursement Subclass”):** All members of the  
Plaintiff Class who incurred reasonable and necessary expenses on behalf of the  
Joint Employer Defendants, and who were subject to a policy and practice wherein  
such expenses were not be reimbursed as required by Labor Code § 2802 and IWC

1 Wage Order 9-2001, §§ 8-9.

2 **Subclass Six (“The Wage Statement Subclass”)**: All members of the Plaintiff  
3 Class who, within the applicable limitations period, were not provided accurate  
4 itemized wage statements showing all hours worked and applicable rates of pay as  
5 required by Labor Code §§ 226(a)(1)-(9).

6 **Subclass Seven (“The Waiting Time Subclass”)**: All members of the Plaintiff  
7 Class who, within the applicable limitations period, either voluntarily or  
8 involuntarily separated from their employment and were not timely paid all wages  
9 due as required by Labor Code § 203.

10 **Subclass Eight (“The Labor Contractor Subclass”)**: All members of the  
11 Plaintiff Class who were employed by Client Employers and/or Labor Contractors  
12 and for whom all wages due were not paid during the applicable limitations period  
13 as required by Labor Code §§ 2810-2810.3

14 **Subclass Nine (“The UCL Subclass”)**: All members of the Plaintiff Class who  
15 are owed restitution if it is found that the Joint Employer Defendants, more likely  
16 than not, engaged in unlawful, deceptive, and/or unfair business acts and/or  
17 practices pursuant to Business & Professions Code § 17200.

18 44. Plaintiff reserves the right to amend, alter and modify the proposed Plaintiff Class and  
19 Subclass definitions in a manner that conforms to proof. Plaintiff reserves the right to amend or modify the  
20 Plaintiff Class definition with greater specificity or further division into subclasses or limitation to particular  
21 issues as discovery and the orders of this Court warrant.

22 45. This action is being brought as a class action pursuant to California Code of Civil Procedure  
23 section 382 because there is a well-defined community of interest and the proposed Plaintiff Class is easily  
24 ascertainable. Further, a class action is appropriate because the Joint Employer Defendants have acted, or  
25 refused to act, on grounds generally applicable to the Plaintiff Class, making class-wide relief appropriate.

26 **Commonality**

27 46. This action may be brought as a class action because common questions of law and fact  
28 predominate over any issues solely affecting the individual Plaintiff or Plaintiff Class Members, including,  
but not limited to:

- 29 i. Whether the Joint Employer Defendants violated the California Labor Code and  
30 applicable Wage Order by failing to compensate Plaintiff and Plaintiff Class  
31 Members mandated minimum wages and/or regular pay for regular hours worked;
- 32 ii. Whether the Joint Employer Defendants are liable for damages, interest, restitution,  
33 statutory penalties, attorneys’ fees, and/or costs for failing to compensate Plaintiff  
34 and Plaintiff Class Members mandated minimum wages and/or regular pay;

- 1           iii.    Whether the Joint Employer Defendants violated the California Labor Code and  
2           applicable Wage Order by failing to properly compensate Plaintiff and Plaintiff Class  
3           Members mandated overtime premium pay for hours worked in excess of eight (8)  
4           hours in a workday, forty (40) hours in a workweek, and/or hours worked on the  
5           seventh consecutive day in a workweek;
- 6           iv.    Whether the Joint Employer Defendants are liable for damages, interest, restitution,  
7           statutory penalties, attorneys' fees, and/or costs for failing to properly compensate  
8           Plaintiff and Plaintiff Class Members mandated overtime wages;
- 9           v.     Whether the Joint Employer Defendants violated the California Labor Code and  
10          applicable Wage Order by failing to provide Plaintiff and Plaintiff Class Members  
11          lawful thirty (30)-minute uninterrupted meal periods within the first five (5) hours of  
12          work in any workday lasting more than six (6) hours, and by failing to compensate  
13          Plaintiff and Plaintiff Class Members one hour of premium pay at their regular hourly  
14          pay rates for each workday a lawful meal period was not provided;
- 15          vi.   Whether the Joint Employer Defendants are liable for damages, interest, restitution,  
16          statutory penalties, attorneys' fees, and/or costs for failing to compensate Plaintiff  
17          and Plaintiff Class Members one hour of premium pay at their regular hourly pay  
18          rates for each workday a lawful meal period was not provided;
- 19          vii.  Whether the Joint Employer Defendants violated the California Labor Code and  
20          applicable Wage Order by failing to provide Plaintiff and Plaintiff Class Members  
21          lawful ten (10)-minute uninterrupted rest breaks for every four (4) hour period of  
22          work in any workday, or major fraction thereof, and by failing to compensate Plaintiff  
23          and Plaintiff Class Members one hour of premium pay at their regular hourly pay  
24          rates for each workday a lawful rest period was not provided;
- 25          viii. Whether the Joint Employer Defendants are liable for damages, interest, restitution,  
26          statutory penalties, attorneys' fees, and/or costs for failing to compensate Plaintiff  
27          and Plaintiff Class Members one hour of premium pay at their regular hourly pay  
28          rates for each workday a lawful rest period was not provided;
- ix.   Whether the Joint Employer Defendants violated the California Labor Code and  
          applicable Wage Order by failing to provide Plaintiff and Plaintiff Class Members  
          accurate itemized wage statements;
- x.    Whether the Joint Employer Defendants are liable for damages, interest, restitution,  
          statutory penalties, attorneys' fees, and/or costs for failing to provide Plaintiff and  
          Plaintiff Class Members accurate itemized wage statements;
- xi.   Whether the Joint Employer Defendants violated the California Labor Code and  
          applicable Wage Order by failing to keep accurate payroll records concerning  
          Plaintiff and Plaintiff Class Members;
- xii.  Whether the Joint Employer Defendants are liable for statutory penalties for failing  
          to keep accurate payroll records concerning Plaintiff and Plaintiff Class Members;
- xiii. Whether the Joint Employer Defendants violated the California Labor Code and  
          applicable Wage Order by failing to promptly pay Plaintiff and Plaintiff Class  
          Members all wages owed each pay period;
- xiv.  Whether the Joint Employer Defendants are liable for penalties for failing to  
          promptly pay Plaintiff and Plaintiff Class Members all wages owed each pay period;



- 1           xv.     Whether the Joint Employer Defendants are liable for waiting time penalties and  
2           statutory penalties for failing to promptly pay Plaintiff and Plaintiff Class Members  
3           who no longer work for the Joint Employer Defendants all wages owed upon their  
4           cessation of employment;  
5           xvi.     Whether the Joint Employer Defendants violated the California Labor Code and  
6           applicable Wage Order by failing to indemnify/reimburse Plaintiff and Plaintiff Class  
7           Members for necessary expenditures incurred while discharging their duties and/or  
8           obeying the direction of their employer;  
9           xvii.    Whether the Joint Employer Defendants violated Labor Contracting and Client  
10           Employer obligations for adequate compensation under Labor Code sections 2810,  
11           *et seq.*;  
12           xviii.   Whether the Joint Employer Defendants violated California Business and Professions  
13           Code sections 17200, *et seq.* by engaging in unfair, unlawful, and/or fraudulent  
14           business practices.

15  
16     **Numerosity**

17           47.     This Plaintiff Class consists of likely over 100 individuals currently or formerly employed  
18           by the Joint Employer Defendants throughout California within the proposed Class Period. The members  
19           of the Plaintiff Class are so numerous that joinder of each Plaintiff Class Member is impracticable, if not  
20           impossible. As such, a class action is the only available method for the fair and efficient adjudication of this  
21           controversy.

22     **Ascertainability**

23           48.     Plaintiff Class Members can easily be identified by an examination and analysis of employee  
24           records and payroll records that the Joint Employer Defendants are required by law to maintain, among  
25           other records within the Joint Employer Defendants' possession, custody, or control.<sup>1</sup>

26     **Typicality**

27           49.     Plaintiff's claims are typical of the claims of each Plaintiff Class Member in that all claims  
28           result from the Joint Employer Defendants' uniform application of unlawful employment practices, as  
29           alleged herein. Moreover, Plaintiff's claims are typical of the claims of each Plaintiff Class Member because  
30           each have sustained damages arising out of, and caused by, the Joint Employer Defendants' common course  
31           of unlawful conduct, as alleged herein. As such, Plaintiff has the same interest in this matter as all members

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<sup>1</sup> "Every person employing labor in this state shall: . . . (c) Keep a record showing the names and addresses of all employees employed . . . . [and] (d) Keep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records . . . . These records shall be kept . . . on file for not less than three years." Cal. Lab. Code § 1174; *see also* Section 7 of IWC Wage Order No. 9-2001.

1 of the Plaintiff Class, and has no interests antagonistic to the interests of other Plaintiff Class Members.

2 **Superiority**

3 50. This action is brought as a class action because this method is superior for the fair and  
4 efficient adjudication of the controversy. The amount of damages suffered by individual Plaintiff Class  
5 Members, while not inconsequential, makes individual actions impracticable given the expenses and  
6 burdens associated with seeking individual relief, as each individual Plaintiff Class Member may lack the  
7 resources to undergo the burden and expense of individual prosecution of the complex and extensive  
8 litigation necessary to establish the Joint Employer Defendants' liability. A class action is the only  
9 practicable method by which the Plaintiff and Plaintiff Class Members can achieve redress from the Joint  
10 Employer Defendants and prevent the Joint Employer Defendants from unjustly benefitting from their  
11 common course of unlawful conduct, as alleged herein. The prosecution of individual actions would present  
12 a risk of inconsistent judgments, even though each Plaintiff Class Member has an effectively identical claim  
13 of right against the Joint Employer Defendants. Inconsistent judgments could be dispositive to the interests  
14 of other Plaintiff Class Members who are not parties to the individual adjudication and/or may substantially  
15 impede their ability to adequately protect their interests. If separate actions were brought, or are required to  
16 be brought, by individual Plaintiff Class Members, the resulting multiplicity of lawsuits would cause an  
17 undue hardship and burden on the parties and the judicial system. In contrast, the class action device presents  
18 far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and  
19 comprehensive supervision by a single court on the issue of the Joint Employer Defendants' liability. Class  
20 treatment of the liability issues will ensure that all claims and claimants are before this Court for consistent  
21 adjudication of the liability issues.

22 **Adequacy**

23 51. Plaintiff is an adequate representative of the Plaintiff Class. Plaintiff's claims are typical of  
24 those of the Plaintiff Class. Plaintiff and Plaintiff Class Members have no unique claims, have no conflicts  
25 of interest, and share the same interests in the litigation of this matter. Plaintiff retained competent counsel  
26 experienced in employment law and the prosecution of complex class actions, and are committed to the  
27 vigorous prosecution of this action. Further, Plaintiff's counsel have the ability and willingness to commit  
28 significant resources to the prosecution of this matter. Accordingly, Plaintiff is an adequate representative

1 of the Plaintiff Class, and will fairly and adequately protect the interests of the Plaintiff Class with the help  
2 of experienced and knowledgeable retained counsel.

3 **VI. CAUSES OF ACTION**

4 **First Cause of Action**

5 **Failure to Provide Regular Pay/Minimum Wages**  
6 **Cal. Lab. Code §§ 1194, 1194.2, 1197, 1197.1; Cal. Code Regs. tit. 8, § 11090**  
7 **(By Plaintiff and members of the “Minimum Wage Subclass” as against all Defendants)**

8 52. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
9 Complaint with the same force and effect, and further alleges as follows:

10 53. California Labor Code section 1194(a) provides: “Notwithstanding any agreement to work  
11 for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime  
12 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the  
13 full amount of this minimum or overtime compensation, including interest thereon, reasonable attorneys’  
14 fees and costs of suit.”

15 54. California Labor Code section 1194.2 provides: “In any action under Section 98, 1193.6, or  
16 1194 to recover wages because of the payment of a wage less than the minimum wage fixed by an order of  
17 the commission or by statute, an employee shall be entitled to recover liquidated damages in an amount  
18 equal to the wages unlawfully unpaid and interest thereon. Nothing in this subdivision shall be construed to  
19 authorize the recovery of liquidated damages for failure to pay overtime compensation.”

20 55. California Labor Code section 1197 provides: “The minimum wage for employees fixed by  
21 the commission is the minimum wage to be paid to employees, and the payment of a less wage than the  
22 minimum so fixed is unlawful.”

23 56. California Labor Code section 1197.1 provides in pertinent part:

24 (a) Any employer or other person acting either individually or as an officer, agent,  
25 or employee of another person, who pays or causes to be paid to any employee a  
26 wage less than the minimum fixed by an order of the commission shall be subject  
27 to a civil penalty, restitution of wages, and liquidated damages payable to the  
28 employee, as follows:

(1) For any initial violation that is intentionally committed, one hundred dollars  
(\$100) for each underpaid employee for each pay period for which the  
employee is underpaid. This amount shall be in addition to an amount sufficient  
to recover underpaid wages and liquidated damages pursuant to Section 1194.2.

1 (2) For each subsequent violation for the same specific offense, two hundred  
2 fifty dollars (\$250) for each underpaid employee for each pay period for which  
3 the employee is underpaid regardless of whether the initial violation is  
4 intentionally committed. This amount shall be in addition to an amount  
5 sufficient to recover underpaid wages and liquidated damages pursuant to  
6 Section 1194.2.

7 (3) Wages and liquidated damages recovered pursuant to this section shall be  
8 paid to the affected employee . . . .

9 57. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
10 (“IWC”) provides the maximum hours of work and standard conditions of labor for California employees.

11 58. Section 4 of IWC Wage Order No. 9-2001 provides in pertinent part:

12 (A) Every employer shall pay to each employee wages not less than nine dollars  
13 (\$9.00) per hour for all hours worked, effective July 1, 2014, and not less than ten  
14 dollars (\$10.00) per hour for all hours worked, effective January 1, 2016 . . . .

15 (B) Every employer shall pay to each employee, on the established payday for the  
16 period involved, not less than the applicable minimum wage for all hours worked  
17 in the payroll period, whether the remuneration is measured by time, piece,  
18 commission, or otherwise.

19 59. Section 2(H) of IWC Wage Order No. 9-2001 defines “hours worked” as “the time during  
20 which an employee is subject to the control of an employer, and includes all the time the employee is  
21 suffered or permitted to work, whether or not required to do so.”

22 60. The minimum wage in California for labor performed between January 1, 2008 and July 1,  
23 2014 was \$8.00 per hour.

24 61. The minimum wage in California for labor performed between July 1, 2014 and January 1,  
25 2016 was \$9.00 per hour.

26 62. The minimum wage in California for labor performed on or after January 1, 2016 is \$10.00  
27 per hour.

28 63. In general, claims for unpaid regular/minimum and overtime wages must be filed within  
three years of the date the wages were earned. Cal. Civ. Proc. Code § 338. However, a cause of action under  
California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), as alleged herein, extends  
the statute of limitations by an additional year, effectively giving employees up to four years to file a wage  
claim in court. See Cal. Bus. & Prof. Code § 17208.

64. Plaintiff and Plaintiff Class Members did not enter into legally binding agreements with the

1 Joint Employer Defendants to work for a lesser wage.

2 65. The Joint Employer Defendants' conduct, as alleged herein, violates the aforementioned  
3 regulations because throughout the Class Period, the Joint Employer Defendants failed to compensate  
4 Plaintiff and Plaintiff Class Members for all regular hours worked.

5 66. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and Plaintiff  
6 Class Members regular pay/minimum wages for regular hours worked by, inter alia, requiring them to attend  
7 unpaid company meetings and training programs, as well as work extended hours in order to complete their  
8 mandated job duties, but only compensating them for a set number of hours.

9 67. As a direct and proximate result of the Joint Employer Defendants' unlawful acts, as alleged  
10 herein, Plaintiff and Plaintiff Class Members have been deprived, and continue to be deprived, of regular  
11 pay and mandated minimum wages for regular hours worked in amounts to be determined according to  
12 proof.

13 68. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
14 the unpaid balance of the full amount of deprived wages, pre- and post-judgment interest, applicable  
15 penalties, attorneys' fees, costs of suit, and any further equitable relief this Court may deem just and proper.  
16 See Cal. Lab. Code §§ 1194 and 1197.1; see also, Cal. Civ. Proc. Code § 1021.5. Plaintiff and Plaintiff Class  
17 Members are also entitled to, and hereby seek, liquidated damages. See Cal. Lab. Code §§ 1194.2 and  
18 1197.1.

19 **Second Cause of Action**

20 **Failure to Provide Overtime Premium Pay**

21 **Cal. Lab. Code §§ 1194, 1194.2; Cal. Code Regs. tit. 8, § 11090**

22 **(On behalf of Plaintiff and Members of "The Overtime Subclass" as against all Defendants)**

23 69. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
24 Complaint with the same force and effect, and further alleges as follows:

25 70. California Labor Code section 1194 provides: "Notwithstanding any agreement to work for  
26 a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime compensation  
27 applicable to the employee is entitled to recover in a civil action the unpaid balance of the full amount of  
28 this minimum or overtime compensation, including interest thereon, reasonable attorneys' fees and costs of  
suit."

1           71. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
2 provides the maximum hours of work and standard conditions of labor for California employees.

3           72. Section 3(A) of IWC Wage Order No. 9-2001 provides in pertinent part:

4           . . . employees shall not be employed more than eight (8) hours in any workday or  
5 more than 40 hours in any workweek unless the employee receives one and one-  
6 half (1 1/2) times such employee's regular rate of pay for all hours worked over 40  
7 hours in the workweek. Eight (8) hours of labor constitutes a day's work.  
8 Employment beyond eight (8) hours in any workday or more than six (6) days in  
9 any workweek is permissible provided the employee is compensated for such  
10 overtime at not less than:

11           (a) One and one-half (11/2) times the employee's regular rate of pay for all  
12 hours worked in excess of eight (8) hours up to and including 12 hours in any  
13 workday, and for the first eight (8) hours worked on the seventh (7th)  
14 consecutive day of work in a workweek; and

15           (b) Double the employee's regular rate of pay for all hours worked in excess of  
16 12 hours in any workday and for all hours worked in excess of eight (8) hours  
17 on the seventh (7th) consecutive day of work in a workweek.

18           (c) The overtime rate of compensation required to be paid to a nonexempt full-  
19 time salaried employee shall be computed by using the employee's regular  
20 hourly salary as one-fortieth (1/40) of the employee's weekly salary.

21           73. Section 2(H) of IWC Wage Order No. 9-2001 defines "hours worked" as "the time during  
22 which an employee is subject to the control of an employer, and includes all the time the employee is  
23 suffered or permitted to work, whether or not required to do so."

24           74. In general, claims for unpaid regular/minimum and overtime wages must be filed within  
25 three years of the date the wages were earned. Cal. Civ. Proc. Code § 338. However, a cause of action under  
26 California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), alleged herein, extends  
27 the statute of limitations by an additional year, effectively giving employees up to four years to file a wage  
28 claim in court. See Cal. Bus. & Prof. Code § 17208.

          75. The Joint Employer Defendants conduct, as alleged herein, violates the aforementioned  
regulations because the Joint Employer Defendants failed to properly compensate Plaintiff and Plaintiff  
Class Members applicable overtime premium pay for hours worked in excess of eight (8) hours per workday,  
forty (40) hours per workweek, and/or hours worked on the seventh consecutive day in a workweek.

          76. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and Plaintiff  
Class Members proper overtime premium compensation for overtime hours worked by, inter alia, requiring

1 them to work extended hours in order to complete their job duties, but only compensating them for a set  
2 number of hours.

3 77. As a direct and proximate result of the Joint Employer Defendants' unlawful acts, as alleged  
4 in detail herein, Plaintiff and Plaintiff Class Members have been deprived, and continue to be deprived, of  
5 proper overtime premium pay for overtime hours worked in amounts to be determined according to proof.

6 78. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
7 the unpaid balance of the full amount of deprived overtime premium pay earned for overtime hours worked,  
8 pre- and post-judgment interest, applicable penalties, attorneys' fees, costs of suit, and any further equitable  
9 relief this Court may deem just and proper. See Cal. Lab. Code § 1194; see also, Cal. Civ. Proc. Code §  
10 1021.5.

11 **Third Cause of Action**

12 **Failure to Provide Meal Periods and/or Meal Period Premium Pay**  
13 **Cal. Lab. Code §§ 218.5, 218.6, 226.7, 512,; Cal. Code Regs. tit. 8, § 11090**  
14 **(On behalf of Plaintiff and Members of the "Meal Period Subclass" and "Second Meal Period**  
15 **Subclass" as against all Defendants)**

16 79. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
17 Complaint with the same force and effect, and further alleges as follows:

18 80. California Labor Code section 512 provides:

19 An employer may not employ an employee for a work period of more than five  
20 hours per day without providing the employee with a meal period of not less than  
21 30 minutes, except that if the total work period per day of the employee is no more  
22 than six hours, the meal period may be waived by mutual consent of both the  
23 employer and employee. An employer may not employ an employee for a work  
24 period of more than 10 hours per day without providing the employee with a second  
25 meal period of not less than 30 minutes, except that if the total hours worked is no  
26 more than 12 hours, the second meal period may be waived by mutual consent of  
27 the employer and the employee only if the first meal period was not waived.

28 81. California Labor Code section 226.7 provides in pertinent part:

(a) 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 . . . .

(b) 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 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

1 period is not provided.

2 82. Pursuant to California Labor Code section 558.1:

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

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

12 (c) Nothing in this section shall be construed to limit the definition of employer  
13 under existing law.

14 83. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
15 provides the maximum hours of work and standard conditions of labor for California employees.

16 84. Section 11 of IWC Wage Order No. 9-2001 provides in pertinent part:

17 (A) No employer shall employ any person for a work period of more than five (5)  
18 hours without a meal period of not less than 30 minutes, except that when a work  
19 period of not more than six (6) hours will complete the day’s work the meal period  
20 may be waived by mutual consent of the employer and the employee.

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

26 (C) Unless the employee is relieved of all duty during a 30 minute meal period, the  
27 meal period shall be considered an “on duty” meal period and counted as time  
28 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.

85. California Labor Code section 218.5 provides in pertinent part:

(a) In any action brought for the nonpayment of wages, fringe benefits, or health  
and welfare or pension fund contributions, the court shall award reasonable  
attorney’s fees and costs to the prevailing party if any party to the action requests  
attorney’s fees and costs upon the initiation of the action. However, if the



1 prevailing party in the court action is not an employee, attorney's fees and costs  
2 shall be awarded pursuant to this section only if the court finds that the employee  
brought the court action in bad faith . . . .

3 (b) This section does not apply to any cause of action for which attorney's fees are  
recoverable under Section 1194.

4 86. California Labor Code section 218.6 provides in pertinent part: "In any action brought for  
5 the nonpayment of wages, the court shall award interest on all due and unpaid wages at the rate of interest  
6 specified in subdivision (b) of Section 3289 of the Civil Code [10 percent per annum], which shall accrue  
7 from the date that the wages were due and payable . . . ."

8 87. In general, claims for payments under California Labor Code section 226.7 for missed meal  
9 and rest period violations must be filed within three years. Cal. Civ. Proc. Code § 338. However, a cause of  
10 action under California's Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), alleged  
11 herein, extends the statute of limitations by an additional year, effectively giving employees up to four years  
12 to file a wage claim in court. See Cal. Bus. & Prof. Code § 17208.

13 88. Premium pay for denied lawful meal and rest periods is considered a "wage" rather than a  
14 penalty. See *Murphy v. Kenneth Cole Prods., Inc.* (2007) 40 Cal. 4th 1094, 1114.

15 89. The Joint Employer Defendants' conduct throughout the Class Period, as alleged in more  
16 detail herein, violates the aforementioned regulations because the Joint Employer Defendants failed to  
17 properly provide Plaintiff and Plaintiff Class Members lawful unpaid off-duty thirty-minute meal periods,  
18 free from management control, as well as the corresponding required premium pay wages for denied meal  
19 periods.

20 90. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and Plaintiff  
21 Class Members lawful off-duty meal periods throughout the Class Period by, inter alia, scheduling them for  
22 numerous time-consuming deliveries and lengthy delivery routes, and requiring them to complete all daily  
23 pick-ups, deliveries, and other work-related duties, which typically left them no time to take lawful  
24 uninterrupted meal periods in order to complete their required duties. Even when they were provided meal  
25 periods of some form during the Class Period, those periods were typically on-duty, subject to management  
26 control and continuance of work-related duties.

27 91. Plaintiff and Plaintiff Class Members did not enter into legally binding written agreements  
28 with the Joint Employer Defendants agreeing to "on-duty" meal periods, nor does the nature of their work

1 prevent them from being relieved of all duties during meal periods, as off-duty meal periods could be  
2 provided without affecting, damaging, or destroying the performance of their work. To the contrary, any  
3 inability to take uninterrupted off-duty meal periods was, and is, attributable solely to the Joint Employer  
4 Defendants' own insufficient staffing models, rather than the general nature of the work performed by  
5 Delivery Drivers such as Plaintiff and Plaintiff Class Members. Plaintiff is informed and believes, and based  
6 thereon alleges, that all Plaintiff Class Members have substantially similar job responsibilities.

7 92. Relatedly, despite failing to provide Plaintiff and Plaintiff Class Members lawful  
8 uninterrupted off-duty meal periods throughout the Class Period, the Joint Employer Defendants also  
9 systematically denied Plaintiff and Plaintiff Class Members proper premium pay at the rate of one hour of  
10 pay at their regular pay rates for each workday they were denied an unpaid off-duty thirty-minute meal  
11 period.

12 93. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
13 an amount equal to one hour of their hourly pay rates per missed off-duty meal period, in addition to pre-  
14 and post-judgment interest, applicable penalties, attorneys' fees, costs of suit, and any further equitable  
15 relief this Court may deem just and proper. See Cal. Lab. Code §§ 226.7, 218.5, 218.6.; see also, Cal. Civ.  
16 Proc. Code § 1021.5.

#### 17 **Fourth Cause of Action**

##### 18 **Failure to Provide Rest Periods and Rest Period Premium Pay** 19 **Cal. Lab. Code §§ 226.7, 218.5, 218.6, 512.; Cal. Code Regs. tit. 8, § 11090** **(On behalf of Plaintiff and Members of the "Rest Period Subclass" as against all Defendants)**

20 94. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
21 Complaint with the same force and effect, and further alleges as follows:

22 95. California Labor Code section 226.7 provides in pertinent part:

23 (a) An employer shall not require an employee to work during a meal or rest or  
24 recovery period mandated pursuant to an applicable statute, or applicable  
regulation, standard, or order of the Industrial Welfare Commission . . . .

25 (b) If an employer fails to provide an employee a meal or rest or recovery period in  
26 accordance with a state law, including, but not limited to, an applicable statute or  
27 applicable regulation, standard, or order of the Industrial Welfare Commission, . . .  
28 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.

1 96. Pursuant to California Labor Code section 558.1:

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

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

11 (c) Nothing in this section shall be construed to limit the definition of employer  
12 under existing law.

13 97. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
14 provides the maximum hours of work and standard conditions of labor for California employees.

15 98. Sections 12(A) and 12(B) of IWC Wage Order No. 9-2001 provide:

16 (A) Every employer shall authorize and permit all employees to take rest periods,  
17 which in so far as practicable shall be in the middle of each work period. The  
18 authorized rest period time shall be based on the total hours worked daily at the rate  
19 of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
20 However, a rest period need not be authorized for employees whose total daily work  
21 time is less than three and one-half (3 1/2) hours. Authorized rest period time shall  
22 be counted as hours worked for which there shall be no deduction from wages.

23 (B) If an employer fails to provide an employee a rest period in accordance with  
24 the applicable provisions of this order, the employer shall pay the employee one (1)  
25 hour of pay at the employee’s regular rate of compensation for each workday that  
26 the rest period is not provided.

27 99. California Labor Code section 218.5 provides in pertinent part:

28 (a) In any action brought for the nonpayment of wages, fringe benefits, or health  
and welfare or pension fund contributions, the court shall award reasonable  
attorney’s fees and costs to the prevailing party if any party to the action requests  
attorney’s fees and costs upon the initiation of the action. However, if the  
prevailing party in the court action is not an employee, attorney’s fees and costs  
shall be awarded pursuant to this section only if the court finds that the employee  
brought the court action in bad faith . . . .

(b) This section does not apply to any cause of action for which attorney’s fees are  
recoverable under Section 1194.

100. California Labor Code section 218.6 provides in pertinent part: “In any action brought for  
the nonpayment of wages, the court shall award interest on all due and unpaid wages at the rate of interest  
specified in subdivision (b) of Section 3289 of the Civil Code [10 percent per annum], which shall accrue

1 from the date that the wages were due and payable . . . .”

2 101. In general, claims for payments under California Labor Code section 226.7 for missed rest  
3 period violations must be filed within three years. Cal. Civ. Proc. Code § 338. However, a cause of action  
4 under California’s Unfair Competition Law (Cal. Bus. & Prof. Code §§ 17200, *et seq.*), as alleged herein,  
5 extends the statute of limitations by an additional year, effectively giving employees up to four years to file  
6 a wage claim in court. See Cal. Bus. & Prof. Code § 17208.

7 102. Premium pay for denied meal and rest periods is considered a “wage” rather than a penalty.  
8 See *Murphy, supra*, 40 Cal. 4th at p. 1114.

9 103. The Joint Employer Defendants’ conduct throughout the Class Period, as alleged in further  
10 detail herein, violates the aforementioned regulations because the Joint Employer Defendants failed to  
11 properly provide Plaintiff and Plaintiff Class Members lawful uninterrupted off-duty ten-minute rest periods  
12 per four hours of work, or major fraction thereof, free from management control, as well as the  
13 corresponding required premium pay for denied rest periods.

14 104. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and Plaintiff  
15 Class Members lawful paid off-duty rest periods throughout the Class Period by, inter alia, scheduling them  
16 for numerous time-consuming deliveries and lengthy delivery routes, and requiring them to complete all  
17 daily pick-ups, deliveries, and other work-related duties, which typically left them no time to take  
18 uninterrupted rest periods in order to complete their required duties. Even when they were provided rest  
19 periods of some form during the Class Period, those rest periods were typically on duty, subject to  
20 management control and continuance of work-related duties.

21 105. Relatedly, despite failing to provide Plaintiff and Plaintiff Class Members lawful paid off-  
22 duty rest periods, the Joint Employer Defendants also systematically denied Plaintiff and Plaintiff Class  
23 Members proper premium compensation at the rate of one hour of pay at their regular rates of compensation  
24 for each workday they were denied an off-duty paid ten-minute rest period.

25 106. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
26 an amount equal to one hour of their hourly pay rates per missed rest period, in addition to pre- and post-  
27 judgment interest, applicable penalties, attorneys’ fees and costs, and any further equitable relief this Court  
28 may deem just and proper. See Cal. Lab. Code §§ 226.7, 558.1, 218.5, and 218.6; see also, Cal. Civ. Proc.

1 Code § 1021.5.

2 **Fifth Cause of Action**

3 **Failure to Reimburse for Necessary Expenditures Incurred**

4 **Cal. Lab. Code §§ 2802, 510, 558.1; Cal. Code Regs. tit. 8, § 11090**

5 **(On behalf of Plaintiff and Members of the “Expense Reimbursement Subclass” as against all**  
6 **Defendants)**

7 107. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
8 Complaint with the same force and effect, and further alleges as follows:

9 108. California Labor Code section 2802 provides:

10 (a) An employer shall indemnify his or her employee for all necessary expenditures  
11 or losses incurred by the employee in direct consequence of the discharge of his or  
12 her duties, or of his or her obedience to the directions of the employer, even though  
13 unlawful, unless the employee, at the time of obeying the directions, believed them  
14 to be unlawful.

15 (b) All awards made by a court or by the Division of Labor Standards Enforcement  
16 for reimbursement of necessary expenditures under this section shall carry interest  
17 at the same rate as judgments in civil actions. Interest shall accrue from the date  
18 on which the employee incurred the necessary expenditure or loss.

19 (c) For purposes of this section, the term “necessary expenditures or losses” shall  
20 include all reasonable costs, including, but not limited to, attorney’s fees incurred  
21 by the employee enforcing the rights granted by this section.

22 109. California Labor Code section 2804 mandates that this statutory right cannot be waived.

23 110. Pursuant to California Labor Code section 558.1:

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

(c) Nothing in this section shall be construed to limit the definition of employer  
under existing law.

111. Section 9 of IWC Wage Order No. 9 provides in pertinent part:

(A) When uniforms are required by the employer to be worn by the employee as a  
condition of employment, such uniforms shall be provided and maintained by the  
employer. The term “uniform” includes wearing apparel and accessories of  
distinctive design or color.

1 (B) When tools or equipment are required by the employer or are necessary to the  
2 performance of a job, such tools and equipment shall be provided and maintained  
3 by the employer, except that an employee whose wages are at least two (2) times  
4 the minimum wage provided herein may be required to provide and maintain hand  
5 tools and equipment customarily required by the trade or craft. This subsection (B)  
6 shall not apply to apprentices regularly indentured under the State Division of  
7 Apprenticeship Standards.

8 112. Pursuant to California Labor Code sections 510(b) and 2802, employees required to travel  
9 between worksites during the workday must be compensated for time spent traveling and for expenses of  
10 traveling.

11 113. Because an employer's liability under California Labor Code section 2802 is "a liability  
12 created by statute," in general claims for unreimbursed necessary expenditures under California Labor Code  
13 section 2802 must be filed within three years of the date the employee accrues the expense. Cal. Code Civ.  
14 Proc. § 338(a). However, a cause of action under California's Unfair Competition Law (Cal. Bus. & Prof.  
15 Code §§ 17200, *et seq.*), as alleged herein, extends the statute of limitations by an additional year, effectively  
16 giving employees up to four years to file a claim in court for restoration of money or property acquired by  
17 means of unfair competition. See Cal. Bus. & Prof. Code §§ 17203 and 17208.

18 114. As alleged in more detail above, the Joint Employer Defendants violated the above statutes  
19 throughout the Class Period by uniformly denying Plaintiff and Plaintiff Class Members reimbursement for  
20 necessary expenditures incurred in direct consequence of discharging their duties and/or obeying the  
21 directions of the Joint Employer Defendants, including, *inter alia*, work uniform-related items, and  
22 necessary tools, personal communication devices, supplies and other expenditures directly related to  
23 driving, parking and delivering packages, without any reimbursement from the Joint Employer Defendants.

24 115. As a direct and proximate result of the Joint Employer Defendants' failure to provide  
25 reimbursement for necessary expenditures incurred throughout the Class Period, Plaintiff and Plaintiff Class  
26 Members suffered, and continue to suffer, substantial losses related to such unreimbursed expenditures,  
27 including, but not limited to, the use and enjoyment of monies owed, lost interest on monies owed, and  
28 attorneys' fees and costs incurred to enforce their rights.

116. In failing to provide Plaintiff and Plaintiff Class Members reimbursement for necessary  
expenditures incurred, the Joint Employer Defendants derived, and continue to derive, an unjust and  
inequitable economic benefit at the expense of Plaintiff and Plaintiff Class Members.

1 117. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
2 an amount equal to incurred necessary expenditures, pre- and post-judgment interest, applicable penalties,  
3 attorneys' fees and costs, and any further equitable relief this Court may deem just and proper. See Cal. Lab.  
4 Code §§ 2802 and 558.1; see also, Cal. Civ. Proc. Code § 1021.5.

5 **Sixth Cause of Action**

6 **Failure to Provide Accurate Wage Statements & Keep Accurate Payroll Records**

7 **Cal. Lab. Code §§ 226(a), 226.3, 558.1, 1174; Cal. Code Regs. tit. 8, § 11090**

8 **(On behalf of Plaintiff and Members of the "Wage Statement Subclass" as against all Defendants)**

9 118. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
10 Complaint with the same force and effect, and further alleges as follows:

11 119. California Labor Code section 226 provides in pertinent part:

12 (a) Every employer shall, semimonthly or at the time of each payment of wages,  
13 furnish each of his or her employees, either as a detachable part of the check, draft,  
14 or voucher paying the employee's wages, or separately when wages are paid by  
15 personal check or cash, an accurate itemized statement in writing showing (1) gross  
16 wages earned, (2) total hours worked by the employee, except for any employee  
17 whose compensation is solely based on a salary and who is exempt from payment  
18 of overtime under subdivision (a) of Section 515 or any applicable order of the  
19 Industrial Welfare Commission, (3) the number of piece-rate units earned and any  
20 applicable piece rate if the employee is paid on a piece-rate basis . . . (9) all  
21 applicable hourly rates in effect during the pay period and the corresponding  
22 number of hours worked at each hourly rate by the employee

23 . . . .

24 (e)(1) An employee suffering injury as a result of a knowing and intentional failure  
25 by an employer to comply with subdivision (a) is entitled to recover the greater of  
26 all actual damages or fifty dollars (\$50) for the initial pay period in which a  
27 violation occurs and one hundred dollars (\$100) per employee for each violation in  
28 a subsequent pay period, not exceeding an aggregate penalty of four thousand  
dollars (\$4,000), and is entitled to an award of costs and reasonable attorney's fees.

(e)(2)(B) An employee is deemed to suffer injury for purposes of this subdivision  
if the employer fails to provide accurate and complete information as required by  
any one or more of items (1) to (9), inclusive, of subdivision (a) and the employee  
cannot promptly and easily determine from the wage statement alone one or more  
of the following:

. . . .

(i) The amount of the gross wages or net wages paid to the employee during the  
pay period or any of the other information required to be provided on the itemized  
wage statement . . . .

120. The purpose of California Labor Code section 226 is to ensure the employees are able to

1 determine whether or not they are being paid their wages in accordance with California law. Under section  
2 226(h), “[a]n employee may also bring an action for injunctive relief to ensure compliance with this section,  
3 and is entitled to an award of costs and reasonable attorney’s fees.”

4 121. Further, California Labor Code section 1174 provides:

5 Every person employing labor in this state shall . . . .

6 (d) Keep, at a central location in the state or at the plants or establishments at which  
7 employees are employed, payroll records showing the hours worked daily by and  
8 the wages paid to, and the number of piece-rate units earned by and any applicable  
9 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.

10 122. California Labor Code section 1174.5 provides: “Any person employing labor who willfully  
11 fails to maintain the records required by subdivision (c) of Section 1174 or accurate and complete records  
12 required by subdivision (d) of Section 1174 . . . shall be subject to a civil penalty of five hundred dollars  
13 (\$500).”

14 123. Pursuant to California Labor Code section 558.1:

15 (a) Any employer or other person acting on behalf of an employer, who violates, or  
16 causes to be violated, any provision regulating minimum wages or hours and days  
17 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.

18 (b) For purposes of this section, the term “other person acting on behalf of an  
19 employer” is limited to a natural person who is an owner, director, officer, or  
20 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.

21 (c) Nothing in this section shall be construed to limit the definition of employer  
under existing law.

22 124. In general, claims for penalties under California Labor Code section 226 for violations of the  
23 itemized wage statement requirements must be filed within one year, unless tolled. Cal. Civ. Proc. Code §  
24 340(a).

25 125. As alleged in more detail above, the Joint Employer Defendants violated the above statutes  
26 by failing to provide Plaintiff and Plaintiff Class Members accurate itemized wage statements during the  
27 Class Period, which accurately accounted for all hours worked and premium pay owed. None of the wage  
28 statements provided to Plaintiff and Plaintiff Class Members accurately reflected all employer names and



1 addresses, hours worked, overtime hours worked, regular hourly rates, overtime hourly rates, and/or actual  
2 gross wages and net wages earned, for the reasons detailed herein. Additionally, the Joint Employer  
3 Defendants also failed to account for premium wages owed as a result of denying Plaintiff and Plaintiff  
4 Class Members lawful meal and rest periods, and for necessary expenditures incurred, as alleged above.

5 126. Because they were not aware of what their true wages should have been and how they were  
6 calculated, Plaintiff and Plaintiff Class Members suffered economic loss in the form of lower wages and  
7 lost compensation, and have suffered injury by being denied accurate itemized wage statements pursuant to  
8 California Labor Code section 226(e)(2)(A).

9 127. Throughout the Class Period, the Joint Employer Defendants also failed, and continue to fail,  
10 to maintain accurate payroll records showing the hours worked daily by, and the wages paid to, Plaintiff  
11 and Plaintiff Class Members. None of the Joint Employer Defendants' payroll records pertaining to Plaintiff  
12 and Plaintiff Class Members accurately reflect all employer names and addresses, regular hours worked,  
13 overtime hours worked, regular hourly rates, overtime hourly rates, actual gross wages and net wages  
14 earned, meal periods, premium wages owed for denied lawful meal and rest periods, and necessary  
15 expenditures incurred.

16 128. As a direct and proximate result of the Joint Employer Defendants' failure to maintain  
17 accurate payroll records, Plaintiff and Plaintiff Class Members have suffered actual economic harm, as they  
18 have been precluded from accurately monitoring their number of hours worked, and thus inhibited from  
19 seeking all wages owed, including, but not limited to, minimum wage for all hours worked, earned overtime  
20 pay, and premium pay for denied meal and rest periods.

21 129. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
22 damages, pre- and post-judgment interest, applicable penalties, attorneys' fees, costs of suit, and any further  
23 equitable relief this Court may deem just and proper. See Cal. Lab. Code §§ 226(e), 558.1, and 1174.5; see  
24 also, Cal. Civ. Proc. Code § 1021.5.

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1 **Seventh Cause of Action**

2 **Failure to Timely Pay Wages Owed**

3 **Cal. Lab. Code §§ 201-204, 210, 2926, 2927; Cal. Code Regs. tit. 8, § 11090**

4 **(On behalf of Plaintiff and Members of the “Waiting Time Pay Subclass” as against all Defendants)**

5 130. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
6 Complaint with the same force and effect, and further alleges as follows:

7 131. Pursuant to California Labor Code section 2926, “[a]n employee who is not employed for a  
8 specified term and who is dismissed by his employer is entitled to compensation for services rendered up to  
9 the time of such dismissal.”

10 132. Pursuant to California Labor Code section 2927, “[a]n employee who is not employed for a  
11 specified term and who quits the service of his employer is entitled to compensation for services rendered  
12 up to the time of such quitting.”

13 133. Pursuant to California Labor Code section 201, “[i]f an employer discharges an employee  
14 the wages earned and unpaid at the time of discharge are due and payable immediately.”

15 134. California Labor Code section 202 provides: “If an employee not having a written contract  
16 for a definite period quits his or her employment, his or her wages shall become due and payable not later  
17 than 72 hours thereafter, unless the employee has given 72 hours previous notice of his or her intention to  
18 quit, in which case the employee is entitled to his or her wages at the time of quitting.”

19 135. California Labor Code section 203(a) provides:

20 If an employer willfully fails to pay, without abatement or reduction, in accordance  
21 with Sections 201, 201.3, 201.5, 202, and 205.5, any wages of an employee who is  
22 discharged or who quits, the wages of the employee shall continue as a penalty from  
23 the due date thereof at the same rate until paid or until an action therefor is  
24 commenced; but the wages shall not continue for more than 30 days. An employee  
25 who secretes or absents himself or herself to avoid payment to him or her, or who  
26 refuses to receive the payment when fully tendered to him or her, including any  
27 penalty then accrued under this section, is not entitled to any benefit under this  
28 section for the time during which he or she so avoids payment.

136. California Labor Code section 204 provides:

(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

1 during which the labor was performed, and labor performed between the 16th and  
2 the last day, inclusive, of any calendar month, shall be paid for between the 1st and  
3 10th day of the following month.

3 137. California Labor Code section 210 provides:

4 (a) In addition to, and entirely independent and apart from, any other penalty  
5 provided in this article, every person who fails to pay the wages of each employee  
6 as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5,  
7 shall be subject to a civil penalty as follows:

7 (1) For any initial violation, one hundred dollars (\$100) for each failure to pay  
8 each employee.

8 (2) For each subsequent violation, or any willful or intentional violation, two  
9 hundred dollars (\$200) for each failure to pay each employee, plus 25 percent  
10 of the amount unlawfully withheld.

10 (b) The penalty shall be recovered by the Labor Commissioner as part of a hearing  
11 held to recover unpaid wages and penalties pursuant to this chapter or in an  
12 independent civil action. The action shall be brought in the name of the people of  
13 the State of California and the Labor Commissioner and the attorneys thereof may  
14 proceed and act for and on behalf of the people in bringing these actions. Twelve  
15 and one-half percent of the penalty recovered shall be paid into a fund within the  
16 Labor and Workforce Development Agency dedicated to educating employers  
17 about state labor laws, and the remainder shall be paid into the State Treasury to  
18 the credit of the General Fund.

16 138. Section 20 of IWC Order No. 9 provides in pertinent part:

17 (A) In addition to any other civil penalties provided by law, any employer or any  
18 other person acting on behalf of the employer who violates, or causes to be violated,  
19 the provisions of this order, shall be subject to the civil penalty of:

19 (1) Initial Violation — \$50.00 for each underpaid employee for each pay period  
20 during which the employee was underpaid in addition to the amount which is  
21 sufficient to recover unpaid wages.

21 (2) Subsequent Violations — \$100.00 for each underpaid employee for each  
22 pay period during which the employee was underpaid in addition to an amount  
23 which is sufficient to recover unpaid wages.

23 (3) The affected employee shall receive payment of all wages recovered.

24 139. In general, claims for waiting time penalties under California Labor Code section 203 must  
25 be filed within three years of the termination. Cal. Lab. Code § 203.

26 140. The Joint Employer Defendants violated the above statutes by failing to promptly pay  
27 Plaintiff and Plaintiff Class Members all earned wages due each and every pay period, immediately upon  
28 termination, and/or within 72 hours upon resignation.

1 141. During the Class Period, the Joint Employer Defendants violated, and continue to violate  
2 Section 20 of IWC Wage Order No. 9 by failing to compensate Plaintiff and Plaintiff Class Members regular  
3 pay and minimum wages, overtime premium wages, premium pay for denied meal and rest periods (wages),  
4 reimbursement for incurred necessary expenditures, and other wages due to Plaintiff and Plaintiff Class  
5 Members each pay period, as alleged in more detail herein.

6 142. Further, the Joint Employer Defendants violated, and continue to violate, California Labor  
7 Code sections 210, 202, 2926, and 2927 by failing to compensate former employees (including Plaintiff and  
8 Plaintiff Class Members no longer working for the Joint Employer Defendants) for services rendered up to  
9 the time of dismissal or quitting.

10 143. In addition, Plaintiff was not paid all wages owed upon termination of employment.  
11 Although California Labor Code sections 202 and 2927 require an employer to pay an employee within 72  
12 hours all compensation for services rendered up to the time of quitting, Plaintiff has still not been provided  
13 with all final pay for all wages due and owing, including premium and overtime pay, in an amount according  
14 to proof.

15 144. Accordingly, Plaintiff and Plaintiff Class Members are entitled to recover, and hereby seek,  
16 applicable penalties, attorneys' fees, costs of suit, and any further equitable relief this Court may deem just  
17 and proper. See Cal. Lab. Code §§ 210 and 218.6; see also, Cal. Civ. Proc. Code § 1021.5; Cal. Code Regs.  
18 tit. 8, § 11090. Plaintiff and Plaintiff Class Members who no longer work for the Joint Employer Defendants  
19 are further entitled to, and hereby seek, waiting-time penalties in amounts equal to thirty times their  
20 respective daily wages. See Cal. Lab. Code § 203.

21 **Eighth Cause of Action**  
22 **Failure to Provide Adequate Contracting Compensation in Violation of**  
23 **Labor Code § 2810(a)**  
24 **(On behalf of Plaintiff and Members of "The Labor Contracting Subclass" as against all**  
25 **Defendants)**

26 145. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
27 Complaint with the same force and effect, and further alleges as follows:

28 146. While Plaintiff contends that under the circumstances of joint control the Plaintiff Class is  
deemed jointly employed by Amazon.com LLC and Amazon Logistics, Inc., who provided, directed and  
controlled all major aspects of job duties, procedures and responsibilities, including assignments of position,

1 direct supervision of job and work performed and following policies implemented and directed by all the  
2 Joint Employer Defendants, in the alternative to being subject to joint employment, Plaintiff alleges that the  
3 Joint Employer Defendants, and each them, entered into subcontracting labor arrangements that each and  
4 the other knew or should have known provided insufficient consideration for the subcontracting entities  
5 with DOES 1-500 and did not provide them with the ability to (1) pay for all hours worked, (2) pay minimum  
6 wages and/or overtime wages as required by law and alleged above, (3) failure to provide wage statements  
7 or accurate wage statements, (4) failure to comply with all timing requirements for pay, both to current and  
8 former employees and (5) failure to pay for all reasonable and necessary work expenditures.

9 147. Plaintiff fully complied with Labor Code section 2810.3 Notice requirements as shown in  
10 attached **Exhibit 2**, which was sent on March 30, 2017, and therefore has exhausted all such requirements  
11 to proceed under Labor Code sections 2810, *et seq.* Based on information and belief, Plaintiff alleges that  
12 none of the Joint Employer Defendants are entitled to any exemption or exclusion from coverage under the  
13 statute and that in fact, the labor contracting protections are directly applicable to delivery drivers in a  
14 subcontractor or labor contracting setting.

15 148. Labor Code section 2810(a) provides that “[a] person entity may not enter into a contract or  
16 agreement for labor or services with ...[a] security guard contractor where the person or entity knows or  
17 should know that the contract or agreement does not include funds sufficient to allow the contractor to  
18 comply with all applicable local, state and federal laws or regulations governing the labor or services to be  
19 provided.”

20 149. Based on information and belief, Plaintiff alleges that the Joint Employer Defendants failed  
21 to comply with Labor Code section 2810(a) and that at no time did the Joint Employer Defendants in their  
22 contracts or agreements make any effort to comply with the facts and requirements to be entitled to any  
23 presumption that the contracts and/or agreements complied with safe harbor provisions of Labor Code  
24 section 2810(b) or the conditions necessary as required by Labor Code sections 2810(d)(1)-(10).

25 150. As a direct and proximate result of the Joint Employer Defendants’ collective failure to  
26 comply with the Labor Contracting statute, Plaintiff and the proposed “Labor Contractor Subclass” suffered  
27 loss of wages and were not reimbursed expenses in an amount according to proof.

28 151. Further, as permitted by Labor Code section 2810(g)(1), Plaintiff and the “Labor Contracting

1 Subclass” are aggrieved employees and are entitled, after notice, to file an action to recover the “greater of  
2 all his or her actual damages or two hundred and fifty dollars (\$250) per employee per violation for an initial  
3 violation and one thousand dollars (\$1,000) per employee for each subsequent violation, and upon  
4 prevailing in an action brought pursuant to this section, may recovers costs and reasonable attorney’s fees.”

5 **Ninth Cause of Action**

6 **Violation of California’s Unfair Competition Law**  
7 **Cal. Bus. & Prof. Code §§ 17200, et seq.**  
8 **(On behalf of Plaintiff and Class Members)**

9 152. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
10 Complaint with the same force and effect, and further alleges as follows:

11 153. Pursuant to California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code sections  
12 17200, *et seq.*, “specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in  
13 a case of unfair competition.” Cal. Bus. & Prof. Code § 17202.

14 154. “[U]nfair competition shall mean and include any unlawful, unfair or fraudulent business act  
15 or practice.” Cal. Bus. & Prof. Code § 17200.

16 155. “[T]he term person shall mean and include natural persons, corporations, firms, partnerships,  
17 joint stock companies, associations and other organizations of persons.” Cal. Bus. & Prof. Code § 17201.

18 156. California Business & Professions Code section 17203 authorizes injunctive, declaratory,  
19 and/or other equitable relief with respect to unfair competition as follows:

20 Any person who engages, has engaged, or proposes to engage in unfair competition  
21 may be enjoined in any court of competent jurisdiction. The court may make such  
22 orders or judgments, including the appointment of a receiver, as may be necessary  
23 to prevent the use or employment by any person of any practice which constitutes  
24 unfair competition, as defined in this chapter, or as may be necessary to restore to  
25 any person in interest any money or property, real or personal, which may have  
26 been required by means of such unfair competition.

27 157. An action to enforce any cause of action under the UCL must be commenced within four  
28 years after the cause of action accrued. Cal. Bus. & Prof. Code § 17208.

158. California Labor Code section 90.5(a) declares: “It is the policy of this state to vigorously  
enforce minimum labor standards in order to ensure employees are not required or permitted to work under  
substandard unlawful conditions or for employers that have not secured the payment of compensation, and  
to protect employers who comply with the law from those who attempt to gain a competitive advantage at

1 the expense of their workers by failing to comply with minimum labor standards.”

2 159. The Joint Employer Defendants’ acts and practices, as alleged in detail herein, also constitute  
3 “unfair” business acts and practices within the meaning of the UCL in that the Joint Employer Defendants’  
4 conduct is substantially injurious to employees, offends public policy, and is immoral, unethical, oppressive,  
5 and unscrupulous, as the gravity of the conduct outweighs any alleged benefits attributable to such conduct.  
6 Such conduct is ongoing and continues to this date. The Joint Employer Defendants had, and have,  
7 reasonable alternatives to them, such as complying with all governing wage and hour laws.

8 160. By and through the business acts and practices as alleged herein, the Joint Employer  
9 Defendants unjustly obtained valuable property, money, and services from Plaintiff and Plaintiff Class  
10 Members, forcing them to work under substandard conditions and depriving them of valuable rights and  
11 benefits guaranteed by law, all to their detriment and to the unjust benefit of the Joint Employer Defendants,  
12 so as to allow the Joint Employer Defendants to gain an unfair competitive advantage over law-abiding  
13 employers and competitors. Plaintiff and Plaintiff Class Members lost money and/or property as a result of  
14 the Joint Employer Defendants’ unfair, unlawful, and/or fraudulent business practices, as alleged herein,  
15 including, but not limited to, lost wages and interest, unreimbursed necessary expenditures, and attorneys’  
16 fees and costs incurred to enforce their rights.

17 **Tenth Cause of Action**

18 **Violation of California’s Private Attorneys General Act of 2004 (“PAGA”)**  
19 **Cal. Labor Code §§ 2698, *et seq.***  
20 **Civil Penalties for Failure to Provide Overtime Premium Pay**  
21 **Cal. Labor Code §§ 510, 558, 2698, *et seq.*; Cal. Code Regs. tit. 8, § 11090**

22 161. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
23 Complaint with the same force and effect, and further alleges as follows:

24 162. The Private Attorneys General Act of 2004 (“PAGA”) provides that:

25 ...an aggrieved employee may recover the civil penalty described in subdivision (f)  
26 in a civil action pursuant to the procedures specified in Section 2699.3 filed on  
27 behalf of himself or herself and other current or former employees against whom  
28 one or more of the alleged violations was committed. Any employee who prevails  
in any action shall be entitled to an award of reasonable attorney’s fees and costs.  
Nothing in this part shall operate to limit an employee’s right to pursue or recover  
other remedies available under state or federal law, either separately or concurrently  
with an action taken under this part.

1 Cal. Lab. Code § 2699(g)(1).

2 163. Plaintiff Jasmine Miller is an “aggrieved employee” under the PAGA, as she was employed  
3 by the Joint Employer Defendants during the applicable statutory period and suffered one or more of the  
4 California Labor Code violations set forth herein. Accordingly, Plaintiff seeks to recover on behalf of herself  
5 and all other current and former aggrieved Delivery Drivers, as defined above, the civil penalties provided  
6 by the PAGA, plus reasonable attorneys’ fees and costs.

7 164. Plaintiff, by virtue of the Notice correspondence dated September 7, 2016 and Amended  
8 Notice Correspondence dated March 30, 2017 attached hereto as **Exhibit 1**, has satisfied all prerequisites to  
9 serve as a representative of the general public to enforce California’s labor laws, including without  
10 limitation, the penalty provisions identified in California Labor Code section 2699.5. Because the LWDA  
11 took no steps within the applicable time period required to intervene, and because Defendant Amazon took  
12 no corrective actions to remedy the allegations set forth above, Plaintiff, as a representative of the people of  
13 the State of California, will seek, and hereby does seek, any and all civil penalties otherwise capable of  
14 being collected by the Labor Commission and/or the Department of Labor Standards Enforcement  
15 (“DLSE”).

16 165. Any civil penalties recovered herein will be distributed in accordance with the PAGA, with  
17 at least 75% of the penalties recovered being reimbursed to the State of California and the LWDA, where  
18 applicable. *See* Cal. Lab. Code § 2699(i).

19 166. Specifically, Plaintiff seeks to recover civil penalties pursuant to the PAGA that arise from  
20 the policies, practices and business acts of the Joint Employer Defendants to the extent provided by law as  
21 a Representative Action, including reasonable attorneys’ fees and costs. All remedies sought by this action  
22 are expressly limited to only the penalty recovery as permitted by the Private Attorneys General Act of 2004  
23 and do not seek any class or individual recovery other than as allowed for civil penalties arising under Labor  
24 Code sections 558(a)(1)-(3).

25 167. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to provide  
26 Plaintiff and other aggrieved Delivery Drivers proper overtime premium pay for overtime hours worked  
27 during the applicable statutory period.

28 ///



1 168. California Labor Code section 510 provides:

2 Any work in excess of eight hours in one workday and any work in excess of 40  
3 hours in any one workweek and the first eight hours worked on the seventh day of  
4 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.

5 169. California Labor Code section 558 provides in pertinent part:

6 (a) Any employer or other person acting on behalf of an employer who violates, or  
7 causes to be violated, a section of this chapter or any provision regulating hours and  
8 days of work in any order of the Industrial Welfare Commission shall be subject to  
a civil penalty as follows:

9 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee  
10 for each pay period for which the employee was underpaid in addition to an  
amount sufficient to recover underpaid wages.

11 (2) For each subsequent violation, one hundred dollars (\$100) for each  
12 underpaid employee for each pay period for which the employee was  
underpaid in addition to an amount sufficient to recover underpaid wages.

13 (3) Wages recovered pursuant to this section shall be paid to the affected  
14 employee . . . .

15 (c) The civil penalties provided for in this section are in addition to any other civil  
or criminal penalty provided by law.

16 170. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
17 (“IWC”) provides the maximum hours of work and standard conditions of labor for California employees.

18 171. Section 3(A) of IWC Wage Order No. 9-2001 provides in pertinent part:

19 . . . employees shall not be employed more than eight (8) hours in any workday or  
20 more than 40 hours in any workweek unless the employee receives one and one-  
21 half (1 1/2) times such employee’s regular rate of pay for all hours worked over 40  
22 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:

23 (a) One and one-half (1 1/2) times the employee’s regular rate of pay for all  
24 hours worked in excess of eight (8) hours up to and including 12 hours in  
25 any workday, and for the first eight (8) hours worked on the seventh (7th)  
consecutive day of work in a workweek; and

26 (b) Double the employee’s regular rate of pay for all hours worked in excess  
27 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.

28 (c) 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.

....

172. Section 2(H) of IWC Wage Order No. 9-2001 defines "hours worked" as "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."

173. The Joint Employer Defendants' conduct, as alleged herein, violates the aforementioned regulations because the Joint Employer Defendants failed to properly compensate Plaintiff and other aggrieved Delivery Drivers applicable overtime premium pay for hours worked in excess of eight hours per workday, forty hours per workweek, and/or hours worked on the seventh consecutive day in a workweek.

174. As a direct and proximate result of the Joint Employer Defendants' unlawful acts, as alleged in detail herein, Plaintiff and other aggrieved Delivery Drivers have been deprived, and continue to be deprived, of proper overtime premium pay for overtime hours worked.

175. As such, the Joint Employer Defendants are liable for PAGA penalties resulting from their failure to provide Plaintiff and other aggrieved Delivery Drivers proper overtime premium pay for overtime hours worked. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this Representative Action, all civil penalties provided by California Labor Code sections 1194.1, 1197.1, 510, 558, and 2699.5, as well as attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1).

176. All remedies sought by this action are expressly limited to only the penalty recovery as permitted by the Private Attorneys General Act of 2004 and do not seek any class or individual recovery other than as allowed for the civil penalties arising under Labor Code sections 558(a)(1)-(3).

**Eleventh Cause of Action**

**Violation of California's Private Attorneys General Act of 2004 ("PAGA")**

**Cal. Labor Code §§ 2698, et seq.**

**Civil Penalties for Failure to Provide Meal Periods and/or Meal Period Premium Pay**

**Cal. Labor Code §§ 226.7, 512, 558; Cal. Code Regs. tit. 8, § 11090**

177. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this Complaint with the same force and effect, and further alleges as follows:

178. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to provide Plaintiff and other aggrieved Delivery Drivers lawful off-duty unpaid meal periods, as well as corresponding

1 premium pay for denied meal periods, during the applicable statutory period.

2 179. California Labor Code section 512 provides:

3 An employer may not employ an employee for a work period of more than five  
4 hours per day without providing the employee with a meal period of not less than  
5 30 minutes, except that if the total work period per day of the employee is no more  
6 than six hours, the meal period may be waived by mutual consent of both the  
7 employer and employee. An employer may not employ an employee for a work  
8 period of more than 10 hours per day without providing the employee with a second  
9 meal period of not less than 30 minutes, except that if the total hours worked is no  
10 more than 12 hours, the second meal period may be waived by mutual consent of  
11 the employer and the employee only if the first meal period was not waived.

9 180. California Labor Code section 226.7 provides in pertinent part:

10 (a) An employer shall not require an employee to work during a meal or rest or  
11 recovery period mandated pursuant to an applicable statute, or applicable  
12 regulation, standard, or order of the Industrial Welfare Commission . . . .

12 (b) If an employer fails to provide an employee a meal or rest or recovery period in  
13 accordance with a state law, including, but not limited to, an applicable statute or  
14 applicable regulation, standard, or order of the Industrial Welfare Commission, . . .  
15 the employer shall pay the employee one additional hour of pay at the employee's  
16 regular rate of compensation for each workday that the meal or rest or recovery  
17 period is not provided.

16 181. California Labor Code section 558 provides in pertinent part:

17 (a) Any employer or other person acting on behalf of an employer who violates, or  
18 causes to be violated, a section of this chapter or any provision regulating hours and  
19 days of work in any order of the Industrial Welfare Commission shall be subject to  
20 a civil penalty as follows:

20 (1) For any initial violation, fifty dollars (\$50) for each underpaid employee  
21 for each pay period for which the employee was underpaid in addition to an  
22 amount sufficient to recover underpaid wages.

22 (2) For each subsequent violation, one hundred dollars (\$100) for each  
23 underpaid employee for each pay period for which the employee was  
24 underpaid in addition to an amount sufficient to recover underpaid wages.

24 (3) Wages recovered pursuant to this section shall be paid to the affected  
25 employee . . . .

25 (c) The civil penalties provided for in this section are in addition to any other civil  
26 or criminal penalty provided by law.

27 182. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
28 provides the maximum hours of work and standard conditions of labor for California employees.

1 183. Section 11 of IWC Wage Order No. 9-2001 provides in pertinent part:

2 (A) No employer shall employ any person for a work period of more than five (5)  
3 hours without a meal period of not less than 30 minutes, except that when a work  
4 period of not more than six (6) hours will complete the day's work the meal period  
5 may be waived by mutual consent of the employer and the employee.

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

11 (C) Unless the employee is relieved of all duty during a 30 minute meal period, the  
12 meal period shall be considered an "on duty" meal period and counted as time  
13 worked. An "on duty" meal period shall be permitted only when the nature of the  
14 work prevents an employee from being relieved of all duty and when by written  
15 agreement between the parties an on-the job paid meal period is agreed to. The  
16 written agreement shall state that the employee may, in writing, revoke the  
17 agreement at any time.

18 (D) If an employer fails to provide an employee a meal period in accordance with  
19 the applicable provisions of this order, the employer shall pay the employee one (1)  
20 hour of pay at the employee's regular rate of compensation for each workday that  
21 the meal period is not provided.

22 184. Premium pay for denied lawful meal and rest periods is considered a "wage" rather than a  
23 penalty. *See Murphy, supra*, 40 Cal. 4th at p. 1114.

24 185. The Joint Employer Defendants' conduct throughout the applicable statutory period, as  
25 alleged in more detail herein, violates the aforementioned regulations because the Joint Employer  
26 Defendants failed to properly provide Plaintiff and other aggrieved Delivery Drivers lawful unpaid off-duty  
27 thirty-minute meal periods, free from management control, as well as the corresponding required premium  
28 pay wages for denied meal periods.

186. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and other  
aggrieved Delivery Drivers lawful off-duty meal periods throughout the applicable statutory period by, *inter*  
*alia*, scheduling them for numerous time-consuming deliveries and lengthy delivery routes, and requiring  
them to complete all daily pick-ups, deliveries, and other work-related duties, which typically left them no  
time to take lawful uninterrupted meal periods in order to complete their required duties. Even when they  
were provided meal periods of some form during the applicable statutory period, those meal periods were  
typically on-duty, subject to management control and continuance of work-related duties.

1 187. Upon information and belief, Plaintiff and other aggrieved Delivery Drivers did not enter  
2 into legally binding written agreements with Defendant agreeing to “on-duty” meal periods, or waiving  
3 “off-duty” meal periods. Nor does the nature of their work prevent Delivery Drivers from being relieved of  
4 all duties during meal periods, as off-duty meal periods could be provided without affecting, damaging, or  
5 destroying the performance of their work. To the contrary, any inability to take uninterrupted off-duty meal  
6 periods was, and is, attributable solely to the Joint Employer Defendants’ own insufficient staffing models,  
7 rather than the general nature of the work performed by Plaintiff and other aggrieved Delivery Drivers.

8 188. Plaintiff is informed and believes, and based thereon alleges, that all other aggrieved  
9 Delivery Drivers have substantially similar job responsibilities.

10 189. Relatedly, despite failing to provide Plaintiff and other aggrieved Delivery Drivers lawful  
11 uninterrupted off-duty meal periods throughout the applicable statutory period, the Joint Employer  
12 Defendants also systematically denied Plaintiff and other aggrieved Delivery Drivers proper premium pay  
13 at the rate of one hour of pay at their regular pay rates for each workday they were denied an unpaid off-  
14 duty thirty-minute meal period.

15 190. As such, the Joint Employer Defendants are liable for PAGA penalties resulting from their  
16 failure to provide Plaintiff and other aggrieved Delivery Drivers lawful meal periods and the corresponding  
17 meal period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this  
18 Representative Action, all civil penalties provided by California Labor Code sections 226.7, 512, and 558,  
19 as well as attorneys’ fees and costs pursuant to California Labor Code section 2699(g)(1).

20 191. All remedies sought by this action are expressly limited to only the penalty recovery as  
21 permitted by the Private Attorneys General Act of 2004 and do not seek any class or individual recovery  
22 other than as allowed for the civil penalties arising under Labor Code sections 558(a)(1)-(3).

23 **Twelfth Cause of Action**

24 **Violation of California’s Private Attorneys General Act of 2004 (“PAGA”)**  
25 **Cal. Labor Code §§ 2698, et seq.**  
26 **Civil Penalties for Failure to Provide Rest Periods and Rest Period Premium Pay**  
**Cal. Labor Code §§ 226.7, 558; Cal. Code Regs. tit. 8, § 11090**

27 192. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
28 Complaint with the same force and effect, and further alleges as follows:

1 193. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to provide  
2 Plaintiff and other aggrieved Delivery Drivers lawful paid off-duty rest periods, as well as corresponding  
3 premium pay for denied rest periods, during the applicable statutory period.

4 194. California Labor Code section 226.7 provides in pertinent part:

5 (a) An employer shall not require an employee to work during a meal or rest or  
6 recovery period mandated pursuant to an applicable statute, or applicable  
7 regulation, standard, or order of the Industrial Welfare Commission . . . .

8 (b) If an employer fails to provide an employee a meal or rest or recovery period in  
9 accordance with a state law, including, but not limited to, an applicable statute or  
10 applicable regulation, standard, or order of the Industrial Welfare Commission, . . .  
11 the employer shall pay the employee one additional hour of pay at the employee's  
12 regular rate of compensation for each workday that the meal or rest or recovery  
13 period is not provided.

14 . . . .

15 195. Pursuant to California Labor Code section 1198, the Industrial Welfare Commission  
16 provides the maximum hours of work and standard conditions of labor for California employees.

17 196. Sections 12(A) and 12(B) of IWC Wage Order No. 9-2001 provide:

18 (A) Every employer shall authorize and permit all employees to take rest periods,  
19 which in so far as practicable shall be in the middle of each work period. The  
20 authorized rest period time shall be based on the total hours worked daily at the rate  
21 of ten (10) minutes net rest time per four (4) hours or major fraction thereof.  
22 However, a rest period need not be authorized for employees whose total daily work  
23 time is less than three and one-half (3 1/2) hours. Authorized rest period time shall  
24 be counted as hours worked for which there shall be no deduction from wages.

25 (B) If an employer fails to provide an employee a rest period in accordance with  
26 the applicable provisions of this order, the employer shall pay the employee one (1)  
27 hour of pay at the employee's regular rate of compensation for each workday that  
28 the rest period is not provided.

. . . .

197. California Labor Code section 558 provides in pertinent part:

(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

1 underpaid employee for each pay period for which the employee was  
2 underpaid in addition to an amount sufficient to recover underpaid wages.

3 . . . .

4 (c) The civil penalties provided for in this section are in addition to any other civil or criminal  
5 penalty provided by law.

6 198. Aggrieved employees can recover penalties for denied rest periods under the PAGA, as the  
7 civil penalty under California Labor Code section 558 applies to “any provision regulating hours and days  
8 of work in any order” of the IWC, including the rest period requirement. *See Thurman v. Bayshore Transit*  
9 *Mgmt., Inc.* (2012) 203 Cal. App. 4th 1112, 1153.

10 199. Premium pay for denied meal and rest periods is considered a “wage” rather than a penalty.  
11 *See Murphy, supra*, 40 Cal. 4th at p. 1114.

12 200. The Joint Employer Defendants’ conduct throughout the applicable statutory period, as  
13 alleged in further detail herein, violates the aforementioned regulations because the Joint Employer  
14 Defendants failed to properly provide Plaintiff and other aggrieved Delivery Drivers lawful uninterrupted  
15 off-duty ten-minute rest periods per four hours of work, or major fraction thereof, free from management  
16 control, as well as the corresponding required premium pay for denied rest periods.

17 201. As alleged in more detail above, the Joint Employer Defendants denied Plaintiff and other  
18 aggrieved Delivery Drivers lawful paid off-duty rest periods throughout the applicable statutory period by,  
19 *inter alia*, scheduling them for numerous time-consuming deliveries and lengthy delivery routes, and  
20 requiring them to complete all daily pick-ups, deliveries, and other work-related duties, which typically left  
21 them no time to take uninterrupted rest periods in order to complete their required duties. Even when they  
22 were provided rest periods of some form during the applicable statutory period, those rest periods were  
23 typically on-duty, subject to management control and continuance of work-related duties.

24 202. Relatedly, despite failing to provide Plaintiff and other aggrieved Delivery Drivers lawful  
25 paid off-duty rest periods, the Joint Employer Defendants also systematically denied Plaintiff and other  
26 aggrieved Delivery Drivers proper premium compensation at the rate of one hour of pay at their regular  
27 rates of compensation for each workday they were denied an off-duty paid ten-minute rest period.

28 203. As such, the Joint Employer Defendants are liable for PAGA penalties resulting from their  
failure to provide Plaintiff and other aggrieved Delivery Drivers lawful rest periods and the corresponding

1 rest period premium pay. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this  
2 Representative Action, all civil penalties provided by California Labor Code sections 226.7, 512, and 558,  
3 as well as attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1).

4 204. All remedies sought by this action are expressly limited to only the penalty recovery as  
5 permitted by the Private Attorneys General Act of 2004 and do not seek any class or individual recovery  
6 other than as allowed for the civil penalties arising under Labor Code sections 558(a)(1)-(3).

7 **Thirteenth Cause of Action**

8 **Violation of California's Private Attorneys General Act of 2004 ("PAGA")**  
9 **Cal. Labor Code §§ 2698, et seq.**  
10 **Civil Penalties for Failure to Reimburse for Necessary Expenditures Incurred**  
11 **Cal. Labor Code §§ 2802; Cal. Code Regs. tit. 8, § 11090**

12 205. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
13 Complaint with the same force and effect, and further alleges as follows:

14 206. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to reimburse  
15 Plaintiff and other aggrieved Delivery Drivers for necessary expenditures incurred during the applicable  
16 statutory period.

17 207. California Labor Code section 2802 provides:

18 (a) An employer shall indemnify his or her employee for all necessary expenditures  
19 or losses incurred by the employee in direct consequence of the discharge of his or  
20 her duties, or of his or her obedience to the directions of the employer, even though  
21 unlawful, unless the employee, at the time of obeying the directions, believed them  
22 to be unlawful.

23 (b) All awards made by a court or by the Division of Labor Standards Enforcement  
24 for reimbursement of necessary expenditures under this section shall carry interest  
25 at the same rate as judgments in civil actions. Interest shall accrue from the date  
26 on which the employee incurred the necessary expenditure or loss.

27 (c) For purposes of this section, the term "necessary expenditures or losses" shall  
28 include all reasonable costs, including, but not limited to, attorney's fees incurred  
by the employee enforcing the rights granted by this section.

208. California Labor Code section 2804 mandates that this statutory right cannot be waived.

209. Section 9 of IWC Wage Order No. 9 provides in pertinent part:

(A) When uniforms are required by the employer to be worn by the employee as a  
condition of employment, such uniforms shall be provided and maintained by the  
employer. The term "uniform" includes wearing apparel and accessories of  
distinctive design or color.



1 (B) When tools or equipment are required by the employer or are necessary to the  
2 performance of a job, such tools and equipment shall be provided and maintained  
3 by the employer, except that an employee whose wages are at least two (2) times  
4 the minimum wage provided herein may be required to provide and maintain hand  
5 tools and equipment customarily required by the  
6 trade or craft. This subsection (B) shall not apply to apprentices regularly  
7 indentured under the State Division of Apprenticeship Standards.

8 . . . .

9 210. California Labor Code section 2699(f) provides in pertinent part:

10 For all provisions of this code except those for which a civil penalty is specifically  
11 provided, there is established a civil penalty for a violation of these provisions, as  
12 follows: . . . .

13 (2) If, at the time of the alleged violation, the person employs one or more  
14 employees, the civil penalty is one hundred dollars (\$100) for each aggrieved  
15 employee per pay period for the initial violation and two hundred dollars (\$200) for  
16 each aggrieved employee per pay period for each subsequent violation.

17 211. Aggrieved employees are entitled to pursue civil penalties under the PAGA for violations of  
18 California Labor Code section 2802. *See* Cal. Lab. Code § 2699.5.

19 212. Because there is no established civil penalty for violations of California Labor Code section  
20 2802, California Labor Code section 2699(f)(2) provides the appropriate civil penalties because the Joint  
21 Employer Defendants employed more than one employee during the applicable statutory period, and still  
22 employ more than one person.

23 213. As alleged in more detail above, the Joint Employer Defendants violated the above statutes  
24 throughout the applicable statutory period by uniformly denying Plaintiff and other aggrieved Delivery  
25 Drivers reimbursement for necessary expenditures incurred in direct consequence of discharging their duties  
26 and/or obeying the directions of the Joint Employer Defendants, including, *inter alia*, necessary tools,  
27 personal communication devices, supplies and other expenditures directly related to driving, parking and  
28 delivering packages, without any reimbursement from Defendants.

21 214. As a direct and proximate result of the Joint Employer Defendants' failure to provide  
22 reimbursement for necessary expenditures incurred throughout the applicable statutory period, Plaintiff and  
23 other aggrieved Delivery Drivers suffered, and continue to suffer, substantial losses related to such  
24 unreimbursed expenditures, including, but not limited to, the use and enjoyment of monies owed, lost  
25 interest on monies owed, and attorneys' fees and costs incurred to enforce their rights.

1 215. In failing to provide Plaintiff and other aggrieved Delivery Drivers reimbursement for  
2 necessary expenditures incurred, the Joint Employer Defendants derived, and continue to derive, an unjust  
3 and inequitable economic benefit at the expense of Plaintiff and other aggrieved Delivery Drivers.

4 216. As such, the Joint Employer Defendants are liable for PAGA penalties resulting from their  
5 failure to reimburse Plaintiff and other aggrieved Delivery Drivers for necessary expenditures incurred.  
6 Accordingly, Plaintiff is entitled to recover, and hereby seeks through this Representative Action, all civil  
7 penalties provided by California Labor Code sections 2802, 2699(f)(2), and 2699.5, as well as attorneys'  
8 fees and costs pursuant to California Labor Code section 2699(g)(1).

9 **Fourteenth Cause of Action**

10 **Violation of California's Private Attorneys General Act of 2004 ("PAGA")**

11 **Cal. Labor Code §§ 2698, *et seq.***

12 **Civil Penalties for Failure to Provide Accurate Wage Statements and Maintain Required Payroll  
Records**

13 **Cal. Labor Code §§ 226(a), 226.3; §§ 1174, 1174.5**

14 217. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
15 Complaint with the same force and effect, and further alleges as follows:

16 218. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to provide  
17 Plaintiff and other aggrieved Delivery Drivers accurate itemized wage statements during the applicable  
18 statutory period.

19 219. California Labor Code section 226(a) provides in pertinent part:

20 (a) Every employer shall, semimonthly or at the time of each payment of wages,  
21 furnish each of his or her employees, either as a detachable part of the check, draft,  
22 or voucher paying the employee's wages, or separately when wages are paid by  
23 personal check or cash, an accurate itemized statement in writing showing (1) gross  
24 wages earned, (2) total hours worked by the employee, except for any employee  
25 whose compensation is solely based on a salary and who is exempt from payment  
26 of overtime under subdivision (a) of Section 515 or any applicable order of the  
27 Industrial Welfare Commission, (3) the number of piece-rate units earned and any  
28 applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions,  
provided that all deductions made on written orders of the employee may be  
aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of  
the period for which the employee is paid, (7) the name of the employee and only  
the last four digits of his or her social security number 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, if the employer is a farm labor contractor, as defined  
in subdivision (b) of Section 1682, the name and address of the legal entity that  
secured the services of the employer, and (9) all applicable hourly rates in effect  
during the pay period and the corresponding number of hours worked at each hourly

1 rate by the employee . . . .

2 220. Similarly, Section 7(B) of IWC Wage Order No. 9-2001 provides:

3 (B) Every employer shall semimonthly or at the time of each payment of wages  
4 furnish each employee, either as a detachable part of the check, draft, or voucher  
5 paying the employee's wages, or separately, an itemized statement in writing  
6 showing: (1) all deductions; (2) the inclusive dates of the period for which the  
7 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.

8 221. As alleged in more detail above, the Joint Employer Defendants violated the above statutes  
9 by failing to provide Plaintiff and other aggrieved Delivery Drivers accurate itemized wage statements  
10 during the applicable statutory period, which accurately accounted for all hours worked and premium pay  
11 owed. The wage statements provided to Plaintiff and other aggrieved Delivery Drivers fail to accurately  
12 reflect all overtime hours worked, overtime hourly rates, and/or actual gross wages and net wages earned,  
13 for the reasons detailed herein. Additionally, the Joint Employer Defendants also failed to account for  
14 premium wages owed as a result of denying Plaintiff and other aggrieved Delivery Drivers lawful meal and  
15 rest periods, and for necessary expenditures incurred, as alleged above.

16 222. California Labor Code section 226.3 provides:

17 Any employer who violates subdivision (a) of Section 226 shall be subject to a civil  
18 penalty in the amount of two hundred fifty dollars (\$250) per employee per  
19 violation in an initial citation and one thousand dollars (\$1,000) per employee for  
20 each violation in a subsequent citation, for which the employer fails to provide the  
21 employee a wage deduction statement or fails to keep the records required in  
22 subdivision (a) of Section 226. The civil penalties provided for in this section are  
in addition to any other penalty provided by law. In enforcing this section, the Labor  
Commissioner shall take into consideration whether the violation was inadvertent,  
and in his or her discretion, may decide not to penalize an employer for a first  
violation when that violation was due to a clerical error or inadvertent mistake.

23 223. Plaintiff also seeks civil penalties against the Joint Employer Defendants for failure to  
24 maintain accurate payroll records during the applicable statutory period.

25 224. California Labor Code section 1174 provides in pertinent part:

26 Every person employing labor in this state shall . . . .

27 (d) Keep, at a central location in the state or at the plants or establishments at which  
28 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

1 piece rate paid to, employees employed at the respective plants or establishments.  
2 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.

3 225. Similarly, Sections 7(A) and (C) of IWC Wage Order No. 9-2001 provide:

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

5 (1) Full name, home address, occupation and social security number.

6 (2) Birth date, if under 18 years, and designation as a minor.

7 (3) Time records showing when the employee begins and ends each work  
8 period. Meal periods, split shift intervals and total daily hours worked shall  
also be recorded. Meal periods during which operations cease and  
9 authorized rest periods need not be recorded.

10 (4) Total wages paid each payroll period, including value of board, lodging,  
or other compensation actually furnished to the employee.

11 (5) Total hours worked in the payroll period and applicable rates of pay.  
12 This information shall be made readily available to the employee upon  
reasonable request.

13 (6) When a piece rate or incentive plan is in operation, piece rates or an  
14 explanation of the incentive plan formula shall be provided to employees.  
An accurate production record shall be maintained by the employer.

15 . . .

16 (C) All required records shall be in the English language and in ink or other  
indelible form, properly dated, showing month, day and year, and shall be kept on  
17 file by the employer for at least three years at the place of employment or at a central  
location within the State of California. An employee's records shall be available for  
18 inspection by the employee upon reasonable request.

19 226. California Labor Code section 1174.5 provides:

20 Any person employing labor who willfully fails to maintain the records required by  
21 subdivision (c) of Section 1174 or accurate and complete records required by  
22 subdivision (d) of Section 1174 . . . shall be subject to a civil penalty of five hundred  
dollars (\$500).

23 227. As alleged in more detail above, the Joint Employer Defendants violated the above statutes  
24 by failing to maintain accurate payroll records showing the hours worked daily by, and the wages paid to,  
25 Plaintiff and other aggrieved Delivery Drivers. The Joint Employer Defendants' payroll records pertaining  
26 to Plaintiff and other aggrieved Delivery Drivers fail to accurately reflect all overtime hours worked,  
27 overtime hourly rates, actual gross wages and net wages earned, meal periods, premium wages owed for  
28 denied lawful meal and rest periods, and necessary expenditures incurred.

1 228. As such, the Joint Employer Defendants are liable for PAGA penalties resulting from their  
2 failure to provide Plaintiff and other aggrieved Delivery Drivers accurate itemized wages statements during  
3 the applicable statutory period. Accordingly, Plaintiff is entitled to recover, and hereby seeks through this  
4 representative action, all civil penalties provided by California Labor Code sections 226 and 226.3, as well  
5 as attorneys' fees and costs pursuant to California Labor Code section 2699(g)(1).

6 **Fifteenth Cause of Action**

7 **Violation of California's Private Attorneys General Act of 2004 ("PAGA")**  
8 **Cal. Labor Code §§ 2698, et seq.**  
9 **Civil Penalties for Failure to Timely Pay Wages Owed**  
10 **Cal. Labor Code §§ 201-204, 210, 2926, 2927; Cal. Code Regs. tit. 8, § 11090**

11 229. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
12 Complaint with the same force and effect, and further allege as follows:

13 230. Plaintiff seeks civil penalties against the Joint Employer Defendants for failure to timely pay  
14 Plaintiff and other aggrieved Delivery Drivers all wages owed during the applicable statutory period.

15 231. Pursuant to California Labor Code section 2926, "[a]n employee who is not employed for a  
16 specified term and who is dismissed by his employer is entitled to compensation for services rendered up to  
17 the time of such dismissal."

18 232. Pursuant to California Labor Code section 2927, "[a]n employee who is not employed for a  
19 specified term and who quits the service of his employer is entitled to compensation for services rendered  
20 up to the time of such quitting."

21 233. Pursuant to California Labor Code section 201, "[i]f an employer discharges an employee  
22 the wages earned and unpaid at the time of discharge are due and payable immediately."

23 234. California Labor Code section 202 provides:

24 If an employee not having a written contract for a definite period quits his or her  
25 employment, his or her wages shall become due and payable not later than 72 hours  
26 thereafter, unless the employee has given 72 hours previous notice of his or her  
27 intention to quit, in which case the employee is entitled to his or her wages at the  
28 time of quitting.

235. California Labor Code section 203(a) provides:

If an employer willfully fails to pay, without abatement or reduction, in accordance  
with Sections 201, 201.3, 201.5, 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

1 the due date thereof at the same rate until paid or until an action therefor is  
2 commenced; but the wages shall not continue for more than 30 days. An employee  
3 who secretes or absents himself or herself to avoid payment to him or her, or who  
4 refuses to receive the payment when fully tendered to him or her, including any  
penalty then accrued under this section, is not entitled to any benefit under this  
section for the time during which he or she so avoids payment.

5 236. California Labor Code section 204 provides:

6 (a) All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or  
7 204.2, earned by any person in any employment are due and payable twice during  
8 each calendar month, on days designated in advance by the employer as the regular  
9 paydays. Labor performed between the 1st and 15th days, inclusive, of any  
10 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.

11 237. California Labor Code section 210 provides:

12 (a) In addition to, and entirely independent and apart from, any other penalty  
13 provided in this article, every person who fails to pay the wages of each employee  
14 as provided in Sections 201.3, 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5,  
shall be subject to a civil penalty as follows:

15 (1) For any initial violation, one hundred dollars (\$100) for each failure to  
pay each employee.

16 (2) For each subsequent violation, or any willful or intentional violation,  
17 two hundred dollars (\$200) for each failure to pay each employee, plus 25  
percent of the amount unlawfully withheld.

18 (b) The penalty shall be recovered by the Labor Commissioner as part of a hearing  
19 held to recover unpaid wages and penalties pursuant to this chapter or in an  
20 independent civil action. The action shall be brought in the name of the people of  
21 the State of California and the Labor Commissioner and the attorneys thereof may  
22 proceed and act for and on behalf of the people in bringing these actions. Twelve  
23 and one-half percent of the penalty recovered shall be paid into a fund within the  
Labor and Workforce Development Agency dedicated to educating employers  
about state labor laws, and the remainder shall be paid into the State Treasury to  
the credit of the General Fund.

24 238. Section 20 of IWC Order No. 9 provides in pertinent part:

25 (A) In addition to any other civil penalties provided by law, any employer or any  
26 other person acting on behalf of the employer who violates, or causes to be violated,  
the provisions of this order, shall be subject to the civil penalty of:

27 (1) Initial Violation — \$50.00 for each underpaid employee for each pay period  
28 during which the employee was underpaid in addition to the amount which is  
sufficient to recover unpaid wages.

1 (2) Subsequent Violations — \$100.00 for each underpaid employee for each  
2 pay period during which the employee was underpaid in addition to an amount  
3 which is sufficient to recover unpaid wages.

4 (3) The affected employee shall receive payment of all wages recovered.

5 239. The Joint Employer Defendants violated the above statutes by failing to promptly pay  
6 Plaintiff and other aggrieved Delivery Drivers all earned wages due each and every pay period, as well as  
7 immediately upon termination and/or within 72 hours upon resignation.

8 240. During the applicable statutory period, the Joint Employer Defendants violated, and continue  
9 to violate, California Labor Code section 204 and Section 20 of IWC Wage Order No. 9 by failing to  
10 compensate Plaintiff and other aggrieved Delivery Drivers overtime premium wages for overtime hours  
11 worked, premium pay for denied off-duty meal and rest periods (wages), reimbursement for incurred  
12 necessary expenditures, and other wages due to Plaintiff and other aggrieved Delivery Drivers each pay  
13 period, as alleged in more detail herein.

14 241. Further, the Joint Employer Defendants violated, and continue to violate, California Labor  
15 Code sections 210, 202, 2926, and 2927 by failing to compensate former employees (including Plaintiff and  
16 other aggrieved Delivery Drivers no longer working for the Joint Employer Defendants) for services  
17 rendered up to the time of dismissal or quitting.

18 242. As such, the Joint Employer Defendant are liable for PAGA penalties resulting from their  
19 failure to timely pay Plaintiff and other aggrieved Delivery Drivers all wages owed each and every pay  
20 period, and upon cessation of employment. Accordingly, Plaintiff is entitled to recover, and hereby seeks  
21 through this Representative Action, all civil penalties provided by California Labor Code section 210 and  
22 IWC Order No. 9, section 20, as well as attorneys' fees and costs pursuant to California Labor Code section  
23 2699(g)(1).

24 **Sixteenth Cause of Action**

25 **Violation of California's Private Attorneys General Act of 2004 ("PAGA")**  
26 **Cal. Labor Code §§ 2698, et seq.**  
27 **Civil Penalties for Violation of Client-Employer/Subcontractor Obligations**  
28 **Cal. Labor Code §§ 2698, et seq. and 2810**

29 243. Plaintiff re-alleges and incorporates by reference each and every allegation set forth in this  
30 Complaint with the same force and effect, and further allege as follows:

1           244. While Plaintiff contends that under the circumstances of joint control the Delivery Drivers  
2 are deemed jointly employed by Amazon.com LLC and Amazon Logistics, Inc. who provided, directed and  
3 controlled all major aspects of job duties, procedures and responsibilities, including assignments of position,  
4 direct supervision of job and work performed and following policies implemented and directed by all the  
5 Joint Employer Defendants, in the alternative to being subject to joint employment, Plaintiff alleges that the  
6 Joint Employer Defendants, and each them, entered into subcontracting labor arrangements that each and  
7 the other knew or should have known provided insufficient consideration for the subcontracting entities  
8 with DOES 1-500 and did not provide them with the ability to (1) pay minimum wages and/or overtime  
9 wages as required by law and alleged above, (2) failure to pay meal and rest period premiums, (3) failure to  
10 pay for all reasonable and necessary work expenditures, (4) failure to provide wage statements or accurate  
11 wage statements, and (5) comply with all timing requirements for pay, both to current and former  
12 employees.

13           245. Plaintiff fully complied with Labor Code section 2810.3 Notice requirements as shown in  
14 **Exhibit 2** attached hereto, which was sent on March 30, 2017, and therefore has exhausted all such  
15 requirements to proceed under Labor Code sections 2810, *et seq.* Based on information and belief, Plaintiff  
16 alleges that none of the Joint Employer Defendants are entitled to any exemption or exclusion from coverage  
17 under the statute and that in fact, the labor contracting protections are directly applicable to delivery drivers  
18 in a subcontractor or labor contracting setting.

19           246. Labor Code section 2810(a) provides that “A person entity may not enter into a contract or  
20 agreement for labor or services with ...[a] warehouse contractor where the person or entity knows or should  
21 know that the contract or agreement does not include funds sufficient to allow the contractor to comply with  
22 all applicable local, state and federal laws or regulations governing the labor or services to be provided.”

23           247. Based on information and belief, Plaintiff alleges that the Joint Employer Defendants failed  
24 to comply with Labor Code section 2810(a) and that at no time did the Joint Employer Defendants in their  
25 contracts or agreements make any effort to comply with the facts and requirements to be entitled to any  
26 presumption that the contracts and/or agreements complied with safe harbor provisions of Labor Code  
27 section 2810(b) or the conditions necessary as required by Labor Code sections 2810(d)(1)-(10).

28           248. As a direct and proximate result of the Joint Employer Defendants’ collective failure to



1 comply with the Labor Contracting statute, Plaintiff and other aggrieved Delivery Drivers suffered loss of  
2 wages and were not reimbursed expenses in an amount according to proof.

3 249. Further, as permitted by Labor Code section 2810(g)(1), Plaintiff and other Delivery Drivers  
4 are aggrieved employees and are entitled, after notice, to file an action to recover the “greater of all his or  
5 her actual damages or two hundred and fifty dollars (\$250) per employee per violation for an initial violation  
6 and one thousand dollars (\$1,000) per employee for each subsequent violation, and upon prevailing in an  
7 action brought pursuant to this section, may recovers costs and reasonable attorney’s fees.”

8 250. As such, the Joint Employer Defendants are liable, jointly and severally, for PAGA penalties  
9 resulting from their failure to pay Plaintiff and other aggrieved Delivery Drivers all wages. Accordingly,  
10 Plaintiff is entitled to recover, and hereby seeks through this Representative Action, all civil penalties  
11 provided by California Labor Code section 2810, as well as attorneys’ fees and costs pursuant to California  
12 Labor Code section 2699(g)(1).

13 251. All remedies sought by this action are expressly limited to only the penalty recovery as  
14 permitted by the Private Attorneys General Act of 2004 and Plaintiff does not seek any class or individual  
15 recovery other than as allowed for the underpayment of wages as part of the penalty arising under Labor  
16 Code sections 558(a)(1)-(3) and 1197.1(a)(1)-(3).

## 17 **VII. PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, individually and on behalf of all other current and former similarly-  
19 situated and aggrieved employees, prays for judgment against the Joint Employer Defendants, as follows:

20 1. Maintenance of this claim as a class action pursuant to Code of Civil Procedure section 382  
21 and as a Representative Action under the PAGA, and providing Plaintiff and her counsel with all enforcement  
22 capability as if this action had been instituted by the Department of Labor Standards Enforcement (“DLSE”);

23 2. For recovery of damages, wages, restitution and all statutory and civil penalties for unpaid  
24 hourly and overtime wages for the applicable statutory period as permitted by Labor Code sections 558(a)(3),  
25 1194.2-1197.1, and 2699.3, , in an amount according to proof;

26 3. For recovery of damages, wages, restitution and all statutory and civil penalties during the  
27 applicable limitations periods for non-compliant meal and rest periods and failure to pay one-hour  
28 “premiums” to Plaintiff and other similarly-situated and aggrieved employees Labor Code sections 558(a)(3),

1 226.7, 512, and 2699.3;

2 4. For recovery of damages, restitution, and all statutory and civil penalties as permitted by  
3 Labor Code sections 2699(f)(2), 2699.5, and 2802 for failing to reimburse necessary business expenses,  
4 predicated upon violations of Labor Code section 2802;

5 5. For recovery of statutory and civil penalties as permitted by Labor Code sections 226(a) and  
6 226.3 for failing to provide accurate itemized wage statements, in an amount to be assessed and according to  
7 proof;

8 6. For recovery of civil penalties pursuant to Labor Code section 2699(f)(2) where a statutory  
9 civil penalty is not provided, for failing to comply with Labor Code sections 201-203 and 1197, or the greater  
10 of civil penalties as provided by Labor Code section 210, in an amount determined per violation an in an  
11 amount according to proof;

12 8. For recovery of civil penalties pursuant to Cal. Labor sections 2810, *et seq.*, and Cal. Labor  
13 Code section 2699(f)(2) where a statutory civil penalty is not provided,;

14 9. For the UCL Subclass, to recover all restitution for minimum wages, overtime wages, meal  
15 and rest period premiums and any other form of wages, including but not limited to reasonable and necessary  
16 business expenses, that were not paid to members of the “UCL Subclass” during the Class Period as a result  
17 of the Joint Employer Defendants’ unfair, illegal or deceptive conduct. Said restitution may be calculated in  
18 accordance with California Business and Professions Code sections 17203 and 17204, including trial of UCL  
19 claims by the Court in equity seeking restitution before legal claims, in an amount according to proof

20 10. Pre-Judgment and Post-Judgment interest, to the extent and if permitted by law;

21 11. Attorneys’ fees and costs of suit, including expert fees and fees, pursuant to Labor Code  
22 sections 218.5, 1194, 1404, 2699(g)(1), and 2802-2804, as well as other applicable law, including California  
23 Civil Code section 1021.5;

24 ///

25 ///

26 ///

27 ///

28 ///

1           12.     Such other relief as this Court deems necessary, just, equitable and proper.

2  
3 Dated: \_\_\_\_, 2021

**LAW OFFICES OF RONALD A. MARRON, APLC  
COHELAN KHOURY & SINGER**

4  
5 By: \_\_\_\_\_

6 J. Jason Hill

7 Attorneys for Plaintiff JASMINE MILLER, individually, on  
8 behalf of others similarly situated and as a Representative of  
9 the LWDA

10  
**VIII. DEMAND FOR JURY TRIAL**

11 Plaintiff hereby requests a jury trial on all causes of action, claims, and issues so triable.

12 Dated: \_\_\_\_, 2021

**LAW OFFICES OF RONALD A. MARRON, APLC  
COHELAN KHOURY & SINGER**

13 By: \_\_\_\_\_

14 J. Jason Hill

15 Attorneys for Plaintiff JASMINE MILLER, individually, on  
16 behalf of others similarly situated and as a Representative of  
17 the LWDA  
18  
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# **EXHIBIT 1**

# COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

TIMOTHY D. COHELAN, APLC\*  
ISAM C. KHOURY, APC  
DIANA M. KHOURY, APC  
MICHAEL D. SINGER, APLC\*

(\*Also admitted in the District of Columbia)  
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JEFF GERACI Δ  
J. JASON HILL †  
JANINE R. MENCHENNET

(† Also admitted in Illinois)  
(Δ Of Counsel)

March 30, 2017

## ***AMENDED NOTICE OF LABOR CODE VIOLATIONS PURSUANT TO CAL. LABOR CODE SECTION 2699.3***

### **NOTICE VIA ONLINE SUBMISSION (<https://dir.tfaforms.net/128>)**

California Labor and Workforce Development Agency ("LWDA")

### **NOTICE VIA CERTIFIED U.S. MAIL (Return Receipt requested)**

Amazon.com LLC  
c/o CSC – Lawyers Incorporating Service  
Registered Agent for Service of Process  
2710 Gateway Oaks Dr., Ste. 150N  
Sacramento, CA 95833

**Re: Jasmine Miller, on behalf of herself and all "aggrieved" hourly paid California-based employees of AMAZON.COM LLC, a Delaware Limited Liability Company;**

***AMENDED* Notice pursuant to California Labor Code sections 2698, *et seq.*, the Private Attorneys General Act of 2004 ("PAGA")**

**LWDA Case No.: LWDA-CM-157245-16**

Dear PAGA Administrator:

Our office, along with the Law Offices of Ronald A. Marron, APLC, has been retained to represent Jasmine Miller (hereinafter "Claimant"), who is a former joint employee of AMAZON.COM LLC, a Delaware limited liability company (hereinafter "Employers"), in connection with a representative action under California's Private Attorneys General Act of 2004 ("PAGA"), Cal. Labor Code §§ 2698, *et seq.*, regarding violations of applicable employment laws.

Please allow this to serve as an Amendment to the initial PAGA Notice submitted on September 7, 2016, LWDA Case No.: LWDA-CM-157245-16. Specifically, in addition to the allegations, facts, and theories set forth in the prior PAGA Notice Letter (attached and incorporated herein), Claimant also seeks to pursue recovery of civil penalties against the Employers under Cal. Labor Code §§ 2810-2810.3 for "client employer" and "labor contractor" liability for failure to pay wages.

***Amended Factual and Legal Basis for PAGA Violations for Recovery of Civil Penalties***

In addition to the facts and theories outlined in the prior PAGA Notice of September 7, 2016, Claimant contends and alleges that both Employers in this case violated Cal. Labor Code §§ 2810-2810.3, and failed to pay wages due. The sections provide, in pertinent part:

2810. (a) A person or entity shall not enter into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, security guard, or warehouse contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, state, and federal laws or regulations governing the labor or services to be provided.

.....

(h) The phrase “construction, farm labor, garment, janitorial, security guard, or warehouse contractor” includes any person, as defined in this code, whether or not licensed, who is acting in the capacity of a construction, farm labor, garment, janitorial, security guard, or warehouse contractor.

.....

(j) For the purposes of this section, “warehouse” means a facility the primary operation of which is the storage or distribution of general merchandise, refrigerated goods, or other products.

Section 2810.3 (a) provides in pertinent part:

(1) (A) “Client employer” means a business entity, regardless of its form, that obtains or is provided workers to perform labor within its usual course of business from a labor contractor.

.....

(2) “Labor” has the same meaning provided by Section 200.

(3) “Labor contractor” means an individual or entity that supplies, either with or without a contract, a client employer with workers to perform labor within the client employer’s usual course of business.

.....

(b) A client employer shall share with a labor contractor all civil legal responsibility and civil liability for all workers supplied by that labor contractor for both of the following:

(1) The payment of wages.

(2) Failure to secure valid workers’ compensation coverage as required by Section 3700.....

.....

(d) At least 30 days prior to filing a civil action against a client employer for violations covered by this section, a worker or his or her representative shall notify the client employer of violations under subdivision (b).

.....

(m) A waiver of this section is contrary to public policy, and is void and unenforceable.

.....

(p) This section shall not be interpreted to impose liability on the following:

(1) A client employer that is not a motor carrier of property based solely on the employer's use of a third-party motor carrier of property with interstate or intrastate operating authority to ship or receive freight.

(2) A client employer that is a motor carrier of property subcontracting with, or otherwise engaging, another motor carrier of property to provide transportation services using its own employees and commercial motor vehicles, as defined in Section 34601 of the Vehicle Code.

(3) A client employer that is not a household goods carrier based solely on the employer's use of a third-party household goods carrier permitted by the Public Utilities Commission pursuant to Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code to move household goods.

(4) A client employer that is a household goods carrier permitted by the Public Utilities Commission pursuant to Chapter 7 (commencing with Section 5101) of Division 2 of the Public Utilities Code subcontracting with, or otherwise engaging, another permitted household goods carrier to provide transportation of household goods using its own employees and motor vehicles, as defined in Section 5108 of the Public Utilities Code.

(5) A client employer that is a cable operator as defined by Section 5830 of the Public Utilities Code, a direct-to-home satellite service provider, or a telephone corporation as defined by Section 234 of the Public Utilities Code, based upon its contracting with a company to build, install, maintain, or perform repair work utilizing the employees and vehicles of the contractor if the name of the contractor is visible on employee uniforms and vehicles.

(6) A motor club holding a certificate of authority issued pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code when it contracts with third parties to provide motor club services utilizing the employees and vehicles of the third-party contractor if the name of the contractor is visible on the contractor's vehicles.

Furthermore, Wage Order 9, applicable to Claimant, provides:

(G) "Employer" means any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person.

(P) "Transportation Industry" means 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

The DLSE Guidelines (<http://www.dir.ca.gov/dlse/WhichIWCOrderClassifications.pdf>) provide:

“A business is classified according to the main purpose of the business except in IWC Order 5 (see section below on Incidental Housekeeping Activities). Large businesses may conduct a variety of operations and it may appear initially that different industry orders could apply. However, when those operations are part of the main business, only one order will apply.

**Example:**

A business’s main purpose is operating a warehouse and incidental thereto employs a separate sales staff to sell goods. IWC Order 9 covers this operation even though sales are covered under IWC Order 7 because the main purpose of the business is to operate a warehouse.”

Here is a list of examples of covered industries and occupations under Wage Order 9 by DLSE:

- Courier service...
- Moving and storage warehousing (of commodities moved)
- Parcel delivery service
- Storage and moving warehouse (of commodities moved)
- Transportation companies
- Warehousing and storage (of commodities moved)

The DLSE also provides the following:

Note: Many kinds of industries employ people to operate and maintain vehicles and warehouses; transportation companies under Order 9 have that as their main purpose. A hotel employee who drives a van is under Order 5; a mechanic employed by a retail chain is under Order 7; a mini-storage facility not connected with a transportation firm is under Order 5; the building of vehicles, including ships, is under Order 1; a farm employee who delivers farm products to the first point of distribution is under Order 14, but a trucking company which is in the business of trucking mostly farm products is under Order 9; employees who balance and align tires are under Order 9, if their employer is in the business of providing that service but under Order 7 if their employer is basically in the business of selling tires.

Here, at all times relevant within the applicable limitations period, Claimant, as an alternative to being jointly employed by Amazon.com LLC and other subcontractors as a warehouse associate and local parcel delivery driver operating in the State of California, and for purposes of this allegation, contends that Amazon.com LLC was the “client employer.” The labor contractor is now defunct. At all times, Ms. Miller’s work was directed and controlled by Amazon.com, LLC.

During Claimant’s tenure with the “client employer” and “labor contractor,” wages were not paid, including meal and rest period premiums, and overtime pay, and labor was sometimes provided



Re: Amazon.com LLC  
Amended PAGA Notice to the LWDA  
March 30, 2017  
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off-the-clock without payment of the required minimum wage. Claimant is informed and believes that Amazon.com LLC, as "client employer," failed to comply with all material aspects of Cal. Labor Code §§ 2810-2810.3, and is liable for unpaid wages and civil penalties of its labor contractors. Amazon.com, LLC engages in a pattern and practice of utilizing subcontractors for local delivery driver needs and knows, or should have known, that many of the operations of the contractors blatantly fail to comply with California law and are undercapitalized to do so.

Based on information and belief, Claimant does not qualify for any exemption from the Labor Contracting Act as outlined by Cal. Labor Code § 2810.3(p)(1)-(6), and was at all times a person for whom the Labor Contracting statute was intended to protect by the California Legislature. For herself and other aggrieved employees of labor contractors for whom Amazon.com LLC was the "client employer," Claimant will seek recovery of PAGA civil penalties pursuant to Cal. Labor Code § 2699 in an amount assessed per violation for each aggrieved employee for each workweek within the applicable limitations period. Further, to the extent permitted by the PAGA, Claimant will seek, and Employers are liable for, the civil penalty for "underpaid wages" as specifically authorized by Cal. Labor Code section 558(a). PAGA specifically authorizes recovery of civil penalties through a representative action, inclusive of penalties in Cal. Labor Code § 558, which states:

(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.

Claimant intends to file and/or amend a PAGA Representative Action in an appropriate California Superior Court alleging the aforementioned violations within 65 days of this Amended Notice. Claimant awaits notice from the LWDA as to whether it intends to pursue the matter, or whether the Employers will elect to cure remedies.

Sincerely,  
**COHELAN KHOURY & SINGER**  
**LAW OFFICES OF RONALD A. MARRON**

  
J. Jason Hill, Esq.

Enclosure: PAGA Notice Dated September 7, 2016

Re: Amazon.com LLC  
Amended PAGA Notice to the LWDA  
March 30, 2017  
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cc: Via Email Only

LAW OFFICES OF RONALD A. MARRON, APLC  
Ronald A. Marron, Esq.  
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September 7, 2016

**NOTICE VIA: ONLINE SUBMISSION (PAGAfilings@dir.ca.gov)**

**PAYMENT VIA: CERTIFIED U.S. MAIL (receipt acknowledgment with signature requested)**

Department of Industrial Relations  
Accounting Unit  
455 Golden Gate Avenue, 10th Floor  
San Francisco, California 94102

**VIA: CERTIFIED U.S. MAIL (receipt acknowledgment with signature requested)**

A-1 Express Delivery Service, Inc. d/b/a 1800-Courier, Inc.  
c/o C T Corporation System  
Registered Agent for Service of Process  
818 West Seventh St., Ste. 930  
Los Angeles, California 90017

Amazon.com, LLC  
410 Terry Ave. N.  
Seattle, WA 98109

Amazon.com, LLC  
c/o CSC -- Lawyers Incorporating Service  
Registered Agent for Service of Process  
2710 Gateway Oaks Dr., Ste 150N  
Sacramento, California 95833

**RE: *Jasmine Miller v. A-1 Express Delivery Service, Inc. d/b/a 1800-Courier, Inc., et al.***

Dear PAGA Administrator:

The Law Offices of Ronald A. Marron, APLC, along with Cohelan Khoury & Singer, have been retained to represent Jasmine Miller ("Ms. Miller") in her potential action against A-1 Express Delivery Service, Inc. d/b/a 1800-Courier, Inc. and Amazon.com, LLC (collectively, "Defendants"), individually and on behalf of all other similarly aggrieved Delivery Drivers (our "client"). Pursuant to California Labor Code section 2699.3, this letter constitutes written notice of Defendants' Labor Code violations, and of our client's intent to recover statutory penalties under California's Private Attorney General Act of 2004

("PAGA"). Cal. Lab. Code §§ 2698, *et seq.* A copy of this letter is also being sent to Defendants via certified mail at the addresses listed above.

Founded in or about 1997, A-1 Express Delivery Service, Inc. d/b/a 1800-Courier, Inc. ("1800-Courier") is a self-proclaimed nationwide leader in same day delivery and logistics solutions for companies across the country, registered to do business in the state of California (Cal. Entity No.: C3578576) with its national headquarters located in Atlanta, Georgia. Specifically, 1-800 Courier offers a wide range of same-day messenger, courier, logistics, and distribution services for more than 1500 active customers, consisting of small local firms to large national corporations (including Fortune 500 companies). 1-800 Courier also offers local and nationwide courier and delivery, scheduled delivery, bike messenger, emergency/expedited delivery, congressional line standing, visa and passport application, next flight out, freight/trucking, less than truck load, and local freight services; and white glove, live animal, and medical/specimen delivery services. According to its website, "1-800 Courier delivers almost anything, anyplace and anytime - FAST! 24/7, all 365 days of the year."<sup>1</sup> In 2007, Mark McCurry and Lon Fancher (co-founders of A-1 Express Delivery Services, Inc.) acquired the rights to [www.1-800courier.com](http://www.1-800courier.com) and used that platform to market to national businesses which require a nationwide footprint.

Amazon.com, Inc.—the largest internet-based retailer in the United States—is a publically traded American electronic commerce and cloud computing company (NASDAQ: AMZN) incorporated under the laws of the state of Delaware, with its company headquarters located in Seattle, Washington. Amazon.com Inc. is licensed to do business, and does significant business, in the state of California under the name Amazon.com LLC (Cal. Entity No.: 201227310095). Amazon.com, LLC is hereinafter referred to as "Amazon."

From approximately April 2016 through July 2016, Ms. Miller was employed with 1800-Courier as a Delivery Driver, providing package pick-up and delivery services exclusively for Amazon out of Amazon's hub/terminal warehouse located at 990 Beecher Street in San Leandro, California 94577.

### **Willful Misclassification**

Ms. Miller was jointly employed by 1800-Courier and Amazon from approximately April 2016 until her termination in or around July 2016. Although any person rendering service for another is generally presumed to be an employee (*see* California Labor Code section 3357), Amazon willfully and knowingly misclassified Ms. Miller and other Delivery Drivers as independent contractors, in violation of California Labor Code section 226.8. However, Ms. Miller was actually a joint employee of both 1800-Courier and Amazon rather than an independent contractor because, *inter alia*: Amazon had control or the right to control Ms. Miller's work and the manner and means in which it was performed; retained pervasive control over the business operation as a whole; had the power to discipline and fire Ms. Miller and other Delivery Drivers; exercised control over their work hours and pay structures; provided training and resources needed to perform Amazon's work; and because Ms. Miller and other Delivery Drivers performed work that is part of the regular business of Amazon.

Concerning the level of control over Delivery Drivers' work, Amazon (in conjunction with 1800-Courier) assigns the routes/locations Delivery Drivers are assigned to, as well as the workload and number of deliveries to be completed each day. And, Delivery Drivers must deliver each package within a specific

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<sup>1</sup> <http://www.1-800courier.com/about.asp> (last visited September 7, 2016)

window of time, negotiated by Amazon and its customers. Ms. Miller and other Delivery Drivers work out of an assigned Amazon hub or warehouse, to which they are required to report to and complete pre-delivery duties before commencing their daily deliveries. Delivery Drivers must also adhere to Amazon's company policies and procedures, such as those related to customer service and interaction; background and criminal history qualifications; honesty standards; driving and delivery standards; work uniforms and personal appearance; drug, alcohol, and tobacco use; workplace harassment; weapons and dangerous materials; progressive discipline; and concessions (undelivered packages, damaged packages, lost and stolen packages, etc.); among others. And, all Delivery Drivers must meet Amazon's safety and training requirements. Moreover, Amazon requires Delivery Drivers, including Ms. Miller, to comply with strict uniform requirements, which includes, among other items, a company shirt affixed with the Amazon logo, an Amazon hat, black pants, black shoes, and a safety vest. Delivery Drivers are also required to drive company vehicles affixed with an Amazon logo decal for pick-up and delivery services. Finally, Amazon has the power to train, discipline, and fire Delivery Drivers (or terminate their contracts). Indeed, Ms. Miller and other Delivery Drivers dealt with Amazon supervisory employees on a regular basis and routinely had to comply with their orders and directions, including those relating to, *inter alia*, the amount of time allotted for pick-ups and deliveries, concessions, and pre-delivery duties.

Regarding control over work hours and schedules, although Amazon does not expressly dictate working hours, it structures Delivery Drivers workloads to ensure that they work approximately 10 to 12 hours each workday, and also sets Delivery Drivers' delivery routes, schedules, and deadlines. Failure to comply with these imposed schedules and deadlines subjects Delivery Drivers, such as Ms. Miller, to potential disciplinary measures, up to and including termination, contract cancellation, and/or non-renewal of contracts.

Concerning control over wages and compensation, Amazon uses independent contractors rather than employees to avoid the wage and hour regulations and protections afforded to employees and keep costs down. Delivery Drivers' compensation structures are dependent upon the value of contracts between Amazon and 1800-Courier. Amazon also unilaterally determines, among others, customer delivery fees, charges (i.e., waiting time charges), discount rates, refunds and guarantees, and liability and cargo insurance limits.

In regards to training, Amazon provides Delivery Drivers with training (i.e., training for safety, mobile delivery software systems, time efficiency, accident prevention, concessions, etc.). In addition to company training, Amazon also provides its Delivery Drivers with many of the tools necessary to perform their work-related duties, including, but not limited to: distribution hubs, terminals, and/or warehouses to work out of; marked Amazon vehicles; handheld scanners preloaded with package and customer information; certain work uniform-related items (i.e., Amazon company shirts and hats); delivery management system software, GPS tools, and turn by turn directions; route and delivery schedules; customer payment systems; shipping package options; and other resources. To compliment these services and tools, Amazon also provides its customers with access to online messenger system services, customer service and support call centers, online and telephone payment and processing services, online shipment tracking and monitoring services, shipment status notifications, and more.

Finally, our client's work is part of the regular business of 1800-Courier and Amazon (package pick-up and delivery services), both of which retained pervasive control over the joint business operation as a whole, and jointly benefitted financially therefrom. Despite these restrictions, Amazon knowingly and

willfully misclassified Ms. Miller and other Delivery Drivers as independent contractors in order to avoid the costs associated with the rights afforded to employees under federal and California law—all to Amazon's benefit.

Accordingly, Amazon is liable to our client for civil penalties for the period of time in which it willfully misclassified Ms. Miller and other Deliver Drivers as independent contractors rather than employees. *See* Cal. Labor Code §§ 226.8, 3357.

### **Failure to Pay Overtime Premium Pay**

During her employment with 1800-Courier and Amazon, Ms. Miller worked full-time—typically, approximately 10 to 12 or more hours per day, including overtime, five days per week—commencing at approximately 8 a.m. or earlier each morning. Ms. Miller earned a fixed regular hourly pay rate of \$15.00 per hour. Her clock-in/clock-out times, as well as meal periods (if any), were logged and tracked through an app. on her personal cell phone (iSolved Time, from the makers of TimeForce). However, upon information and belief, despite regularly working more than 8 hours in a workday and/or 40 hours in a workweek, Ms. Miller and other Delivery Drivers were denied proper overtime premium compensation for overtime hours worked. Because Ms. Miller no longer has access to her iSolved phone app. account, she is effectively precluded from reviewing her time sheets and wage statements in order to determine the extent of unpaid overtime premium compensation, as well as potential unpaid compensation for regular hours worked.

Accordingly, by failing to provide proper overtime premium compensation for overtime hours worked, Defendants are jointly liable to our client for the full amount of overtime premium pay owed, plus interest, reasonable attorneys' fees, costs of suit, and civil penalties. Cal. Lab. Code §§ 510, 558, 1194, 1198; *see also* IWC Wage Order No. 9-2001 § 3.

### **Failure to Provide Premium Pay for Denied Lawful Meal and Rest Periods**

During her employment with Defendants, our client was regularly denied a lawful uninterrupted thirty-minute meal period for work periods of more than five hours in a day, and a second uninterrupted meal period for work periods of more than 10 hours in a day—in violation of California Labor Code sections 512 and 1198, as well as section 11 of IWC Wage Order No. 9-2001. Our client was also denied one hour of premium pay at her regular hourly pay rate for each workday a lawful meal period was not provided, in violation of California Labor Code section 226.7 and section 11 of IWC Wage Order No. 9-2001. In addition to lawful meal periods, our client was also regularly denied lawful uninterrupted ten-minute rest breaks for every four hours worked, as well as one hour of premium pay at her regular hourly pay rate for each workday a lawful rest break was not provided, in violation of California Labor Code sections 226.7 and 1198, as well as section 12 of IWC Wage Order No. 9-2001.

Specifically, Defendants denied Ms. Miller and other Delivery Drivers mandated lawful uninterrupted meal and rest periods by, *inter alia*, scheduling them for numerous time-consuming deliveries and lengthy delivery routes that prevented them from completing their daily deliveries if meal and rest periods were taken. If Ms. Miller failed to complete all scheduled daily deliveries, she would be subject to discipline (i.e., verbal warnings, write-ups, etc.), up to and including termination, contract cancellation, and/or non-renewal of contracts. In fact, Ms. Miller has been reprimanded on several occasions for working "too slow," including verbal warnings and even an unpaid suspension. Thus, Ms. Miller was routinely prevented from taking uninterrupted meal and rest periods in order to complete her deliveries and avoid

such potential disciplinary measures. Even on the rare occasion our client was provided meal and/or rest periods of some sort, they were typically on-duty and subject to management control and continuance of work-related duties. In fact, there were instances in which Ms. Miller spoke with dispatch at the warehouse while working during her breaks. To the best of her recollection, Ms. Miller never signed any on-duty meal period agreement or off-duty meal period waiver. And if she did, such agreements were not voluntary, in that they were a condition of employment and non-negotiable; nor enforceable, in that the nature of work did not prevent our client from being provided uninterrupted meal periods. Any circumstances that would have prevented our client from taking uninterrupted meal periods was due solely to insufficient staffing models, rather than the general nature of the work, implicating further potential violations of California Labor Code sections 2810, *et seq.* by both Defendants.

Accordingly, Defendants are jointly liable to our client for premium pay for denied meal and rest periods, civil penalties, reasonable attorneys' fees and costs, and interest pursuant to California Labor Code sections 226.7, 558, 218.5, 218.6, and 2810, *et seq.*, as well as IWC Wage Order No. 9-2001 §§ 11 and 12, as made applicable through California Labor Code section 1198.

#### **Failure to Reimburse for Necessary Expenditures Incurred**

While working for Defendants, Ms. Miller and other Delivery Drivers were required to, and did, personally pay for several expenses that are necessary to their performance and work-related duties, without reimbursement. For instance, as part of its work uniform policy, Defendants required our client and other Delivery Drivers to wear a company shirt with the Amazon logo affixed, and Amazon hat, a safety vest, black pants, and black shoes; but only provided the shirt, hat, and vest, thereby requiring our client to personally pay for the other necessary work uniform-related items on several occasions. *See* IWC Wage Order No. 9-2001 § 9 (Uniforms and Equipment). Ms. Miller was also required to carry and use her personal cell phone for recording her hours worked through the iSolved Time app., scheduling purposes, receiving orders to re-deliver packages, taking pictures of damaged packages or non-functioning scanners, and maintaining communication with dispatch and the warehouse, as well as customers—all without any reimbursement of *any* kind.

Accordingly, Defendants are jointly liable under California Labor Code sections 2802, 2804, and 510 for failing to reimburse our client for all necessary expenditures incurred in direct consequence of the discharge of work duties and/or obedience to employer directions, including attorneys' fees and costs incurred to enforce her rights.

#### **Failure to Provide Accurate Itemized Wage Statements and Maintain Accurate Payroll Records**

1800-Courier provided Ms. Miller wage statements through the iSolved Time app. every two weeks. Likewise, Ms. Miller was compensated for her work hours every two weeks via direct deposit. However, as a result of Defendants' unlawful employment practices, as alleged herein, the paystubs/wage statements provided to Ms. Miller and other Delivery Drivers failed to accurately list all employers (i.e., Amazon), total hours worked, regular pay, overtime pay, and premium wages for denied lawful meal and rest periods,<sup>2</sup> as well as reimbursement for necessary incurred expenditures. Consequently, the wage statements/paystubs our client received failed to accurately reflect all employers, actual gross wages earned, and actual net wages earned. Because of these inaccurate paystubs, our client was never aware of what all true wages should have

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<sup>2</sup> Premium pay for denied meal periods and rest breaks is considered a "wage" rather than a penalty. *See Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094 (2007).

been and how they were calculated, and suffered injury as a result. *See* Cal. Lab. Code § 226(e)(2). Similarly, for the same reasons, Defendants also failed to promptly pay Ms. Miller all wages owed each pay period, and upon conclusion of her employment. As such, Defendants are jointly liable to our client for violations of California Labor Code sections 226 and 226.3, as well as waiting time penalties at our client's average daily wages for up to 30 days under California Labor Code section 203. Similarly, because Defendants' payroll records are inaccurate, they are also jointly liable to our client for failing to maintain accurate payroll records in violation of California Labor Code sections 1174 and 1174.5.

#### **Failure to Promptly Pay Wages Owed**

Because Defendants failed to provide compensation for all regular wages earned, overtime premium pay, premium wages for denied meal and rest periods, and reimbursement for necessary expenditures incurred, Ms. Miller and other similarly situated Delivery Drivers were not provided all earned compensation owed them each and every pay period. Likewise, for these same reasons, Ms. Miller was not promptly paid all wages upon her termination of employment. *See* Cal. Lab. Code §§ 201-206, 210, and 2696-2697. As such, Defendants are further jointly liable to our client for waiting time penalties for failing to timely pay all wages upon cessation of employment, at the average daily wage for up to 30 days. *See* Cal. Lab. Code § 203.

#### **Conclusion**

In sum, Defendants' unlawful employment practices, as described in detail above, implicate violations of numerous California Labor Code sections, as well as IWC Wage Order 9-2001. Pursuant to California Labor Code sections 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198, it is unlawful for a California employer to suffer or permit an employee to work without paying wages for all hours worked, as required by IWC Wage Order 9-2001. The payment for premium pay for overtime hours worked is mandated by California Labor Code sections 510, 558, 1174.5, and 1194. Meal and rest periods are governed by California Labor Code sections 226.7, 512, 218.5, 218.6, and 1198. California Labor Code sections 226, 226.3, 1174, and 1174.5 require that employers provide employees with accurate itemized wage statements, and maintain accurate payroll records. The prompt payment of wages owed is governed by California Labor Code sections 200-206, 210, 2926, and 2927. Further, employers are required to reimburse/indemnify employees for necessary expenditures incurred under California Labor Code sections 510, 2802, and 2804. In addition to the above, Defendants' employment practices implicate potential violations of numerous other California Labor Code sections, including, but not limited to, the following: California Labor Code sections 206.5; 219; 221; 223; 226.8; 227.3; 351; 432; 432.5; 512; 554; 1198.5; 2441; 2800; 2804; 2810, *et seq.*; 2698, *et seq.*; and 3357.

Accordingly, our client respectfully requests that the Labor and Workforce Development Agency ("LWDA") initiate enforcement with respect to the aforementioned violations. If the LWDA declines to pursue enforcement, our client will pursue these claims for statutory penalties on behalf of herself and all other current and former employees similarly situated. If you have any questions or concerns regarding the above, please do not hesitate to contact our offices. Thank you for your time and consideration of this matter.

Sincerely,

/s/ William B. Richards, Jr.  
William B. Richards, Jr.



Notice Letter Pursuant to Cal. Labor. Code §§ 2698, *et seq.*  
September 7, 2016

*bill@consumersadvocates.com*

**LAW OFFICES OF RONALD A. MARRON, APLC**

Ronald A. Marron

*ron@consumersadvocates.com*

Skye Resendes

*skye@consumersadvocates.com*

**cc (VIA EMAIL):**

**COHELAN KHOURY & SINGER**

Jason Hill

*jhill@ckslaw.com*

Michael Singer

*msinger@ckslaw.com*

605 C Street, Ste. 200

San Diego, California 92101

Tel: (619) 595-3001

Fax: (619) 595-3000

# **EXHIBIT 2**

# COHELAN KHOURY & SINGER

A PARTNERSHIP OF PROFESSIONAL LAW CORPORATIONS

TIMOTHY D. COHELAN, APLC\*  
ISAM C. KHOURY, APC  
DIANA M. KHOURY, APC  
MICHAEL D. SINGER, APLC•

(\*Also admitted in the District of Columbia)  
(•Also admitted in Colorado)

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JEFF GERACI Δ  
J. JASON HILL†  
JANINE R. MENHENNET

(† Also admitted in Illinois)  
(Δ Of Counsel)

March 30, 2017

**VIA CERTIFIED U.S. MAIL (Return Receipt requested)**

Amazon.com LLC  
c/o CSC – Lawyers Incorporating Service  
Registered Agent for Service of Process  
2710 Gateway Oaks Dr., Ste. 150N  
Sacramento, CA 95833

**Re: NOTICE OF LIABILITY PURSUANT TO CAL. LABOR CODE § 2810 FOR  
ILLEGAL LABOR CONTRACTING BY A CLIENT EMPLOYER**

Dear Employers of Jasmine Miller:

Our office, along with the Law Offices of Ronald A. Marron, APLC, has been retained to represent Jasmine Miller (hereinafter "Claimant"), who is a former joint employee of AMAZON.COM LLC, a Delaware Limited Liability Company, and an Amazon.com LLC subcontractor that is now defunct (hereinafter "Employers"), in connection with a proposed class and representative action under California's Private Attorneys General Act of 2004 ("PAGA"), Cal. Labor Code §§ 2698, *et seq.*, regarding violations of applicable employment laws.

Please allow this to serve as required notice to inform you that our client, Jasmine Miller, was engaged by a "client employer" and/or "labor contractor" who failed to comply with Cal. Labor Code §§ 2810.3(b)(1) and/or (b)(2) in the failure to pay all wages due.

The specific factual basis for the claim is set forth in the attached notices to the California Labor and Workforce Development Agency (LWDA Case No.: LWDA-CM-157245-16) and are expressly incorporated herein by this reference.

Please contact the undersigned with any questions.

Sincerely,  
**COHELAN KHOURY & SINGER  
LAW OFFICES OF RONALD A. MARRON**

J. Jason Hill, Esq.

Enclosures: PAGA Notice Dated September 7, 2016  
Amended PAGA Notice Dated March 30, 2017

Re: Amazon.com LLC  
Notice Pursuant to Labor Code § 2810.3(d)  
March 30, 2017  
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cc: Via Email Only

LAW OFFICES OF RONALD A. MARRON, APLC  
Ronald A. Marron, Esq.  
*ron@consumersadvocates.com*  
William B. Richards, Jr., Esq.  
*bill@consumersadvocates.com*  
651 Arroyo Drive  
San Diego, CA 92103

# **EXHIBIT 3**

# amazonlogistics learning

## Delivery Associate Participant Guide

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## Delivery Associate Course Agenda

### Topic List

**Kick-off**

**Terminology**

**Delivery Process Overview**

**Safety**

**8 Keys to a Perfect Delivery**

**Label Deep Dive**

**Containerization**

**Device Overview**

**Different Delivery Situations**

**Navigating Your Route**

**Package Obstacle Course**

**Returning to the Station**

**Knowledge Check**



## Safety – Job Aid

### Yard Safety

The yard is a busy place that has a high chance to have a lot of safety risks and equipment damage.

### What is a yard?

The yard is where delivery vehicles transition from driving to the loading docks to where trucks are parked.

### **Example:**

Trucks are loaded, and are backing in and driving out for delivery. There are also DAs walking to their trucks. Vehicles and personnel must be visible to each other.

### How can I be safe in the yard?

- All Delivery Associates shall enter and exit the yard, facility, and dock using designated entrances, exits, and walkways.
- An ANSI Class 2 reflective vest is required to be worn when entering the truck yard.
- Observe posted speed limits, traffic patterns, stop signs, crosswalks, and other traffic rules.
- Vehicles are to be operated with the headlights and flashers on at all times.
- Maintain a safe following distance. Adjust the following distance as yard traffic or weather conditions dictate. Never "tailgate" or "bunch" units. Slow down when approaching crosswalks or blind corners.
- Do not impede access to any emergency equipment (i.e., fire hydrants, risers, etc.).
- Seat belts must be worn at all times in vehicles.
- Always remove ignition keys and doors locked when departing vehicle.
- Maintain three points of contact when entering and exiting your vehicle. Look before you step.
- Back up slowly and cautiously; never back up from the blind side.
- Only authorized vehicles are permitted within the yard.
- Employees, vendors, and contractors must park in designated areas.
- When in the yard, do not wear hoods or any item(s) that interfere with peripheral vision. Safety glasses or goggles, rain gear, and cold-weather gear may be worn during inclement weather.
- Smoking is only permitted in designated areas.

## Safe Lifting

Good body mechanics protects your body; especially your back, neck, shoulders, wrists and knees from pain and injury.

- Plan your lift
- Wide stance
- Use legs – bend knees
- Get help when needed and coordinate lifting\*
- Keep back straight
- Tighten Stomach
- Weight close to body
- Avoid twisting

## Texting

### No Texting

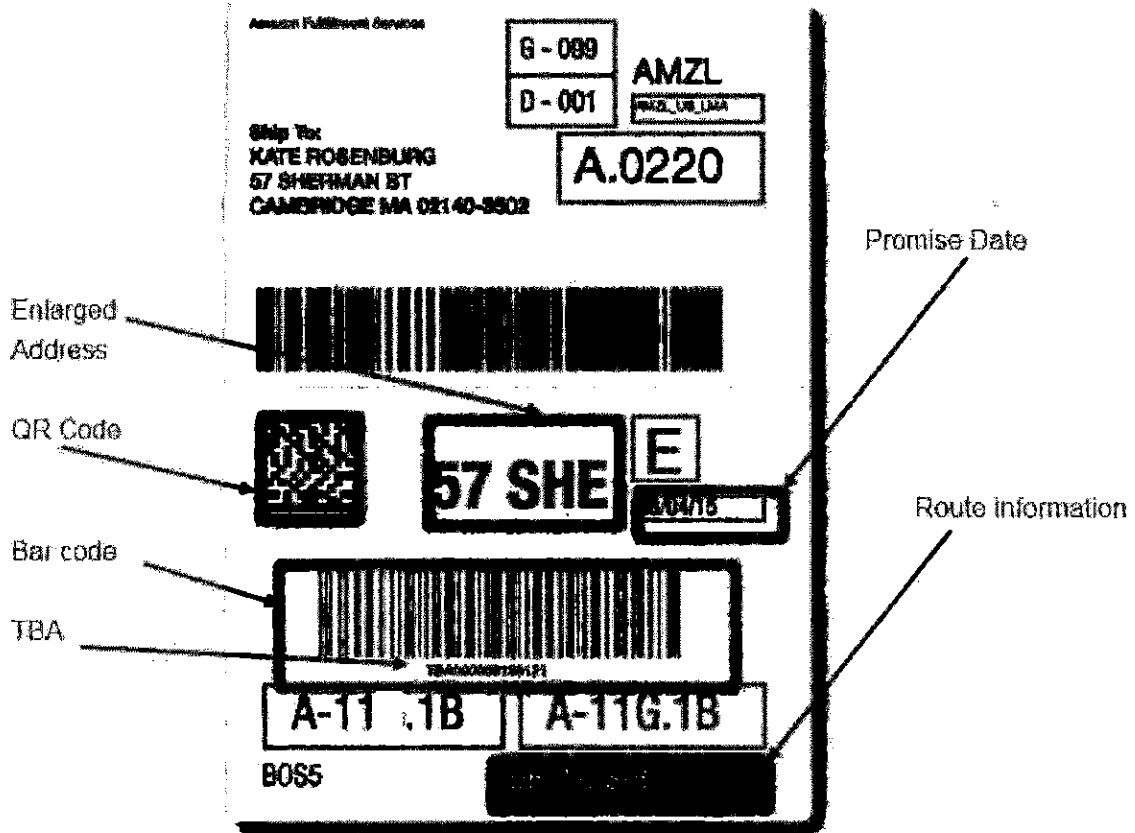
Texting the customer from any device is not allowed. To reach a customer, call the customer using your TC55. If you have any questions about your route or packages call TOC.

## Securing Your Vehicle

### At EVERY stop

- The keychain lanyards that will now be required part of the uniform standard. You must ensure that the key chain is attached to the vehicles keys, and your belt loop at all times, even while operating the vehicle.

# Label Deep Dive – Shipping Label



## Label Deep Dive – Exception Codes

### Exception Codes

<b>Unable to Locate</b>	<b>UTL-DATE</b>	The address cannot be found
<b>Unable to Access</b>	<b>UTA-DATE</b>	Missing gate code and is not listed in Rabbit
<b>Business Closed</b>	<b>BC-DATE, Business Hours + Days</b>	Business is not open
<b>No Secure Location</b>	<b>NSL-DATE</b>	No safe place for the package
<b>Out of Time</b>	<b>OOT-DATE</b>	Shift has ended
<b>DaMaged</b>	<b>DM-DATE</b>	Package is visibly damaged
<b>ReJected</b>	<b>RJD-DATE</b>	Customer doesn't want the package
<b>Customer rejected Future Delivery Date</b>	<b>FDD-DATE, DATE of re-attempt</b>	Customer requested that the package delivered the next day
<b>MISSort</b>	<b>MSS-DATE</b>	An extra shipment not assigned to the route

### Marking the Delivery Attempt Label - Sample

1st Delivery Attempt	2nd Delivery Attempt	3rd Delivery Attempt
NSL 11/18		

## 8 Keys to a Perfect Delivery - Job Aid

### Overview:

Concessions cost Amazon hundreds of thousands of dollars each month. Avoiding concessions by following the Keys to Perfect Delivery will make our customers and your managers happy about your performance as a Delivery Associate.

### What is a concession?

A concession is a refund, free replacement, or account credit linked to a delivery error.

#### **Example:**

You deliver a package to Larry's home and leave the package by his front door. You mark in Rabbit – Delivered – Front Door and continue on your route. Larry gets a text at work telling him his package is waiting for him at home. Larry gets home and there is no package. Larry, then calls Amazon customer care and reports the missing package.

This is considered, Delivered, Not Received (DNR), and reported to your Delivery Service Provider (DSP).

### Follow the 8 Keys to a Perfect Delivery

1. Make sure you are at the correct address: Don't risk a concession
2. Knock on the door and ring the bell between 8am – 8pm
3. Deliver to the customer's front door when it is permitted and secure
4. Scan the package at the point of delivery (not from your vehicle)
5. When delivering to the customer directly, verify the customer's name
6. Be courteous and respectful to customers and other carriers
7. Follow the customer's delivery instructions when secure and safe
8. Never deliver to a USPS mailbox or Post Office

## Device Overview – Job Aid

### Overview

The TC55 device is a vital piece of equipment for you during every step of delivering a package. Rabbit is the software application that runs the TC55.

### What are the TC55 and Rabbit?

The TC55 device is the hand-held device and Rabbit is the software that will log your mileage, keep track of the status of every one of your packages, and navigate for you throughout your route.

#### **Example:**

Suppose you have 120 packages to deliver on your route. Rather than giving you a list of packages and addresses your Dispatcher will give you a TC55 with Rabbit installed on it.

The device will:

- Tell you how to get to your first stop and which packages get delivered there.
- Keep track of all packages delivered and the reasons that any undelivered packages could not be delivered.

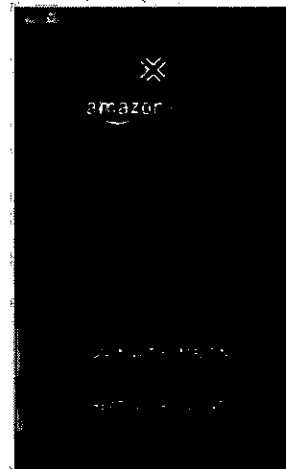
### How will I use the TC55 and Rabbit successfully?

Here are some of the TC55's basic functions:

- Turn on the device
- Open App
  - Tap the **Rabbit App** Icon
  - Tap Sign In with Amazon

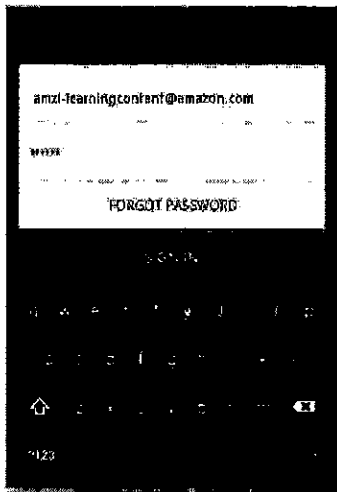


- Sign In
  - Enter your email address
  - Enter your Password

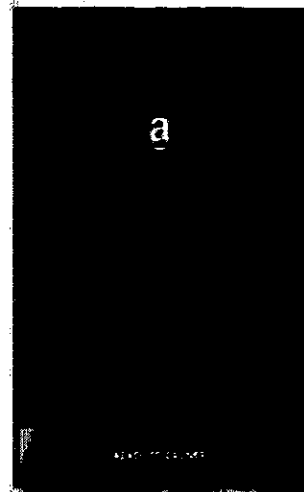


- Menu
  - Tap **Menu** located in upper left hand corner anytime to

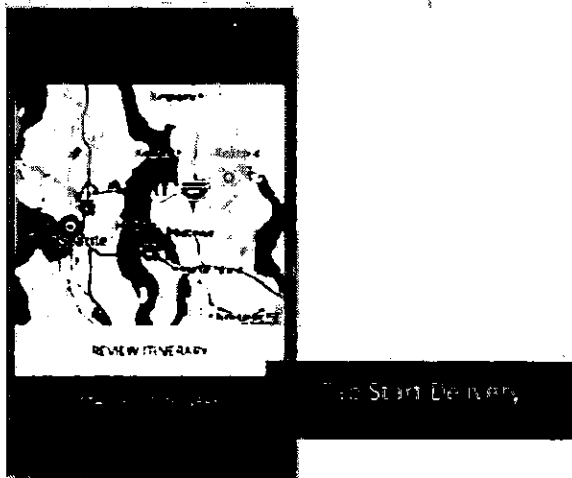
- Tap Sign In



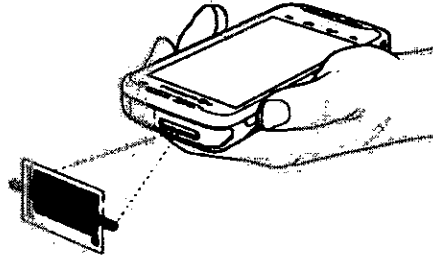
access settings, help or to provide feedback



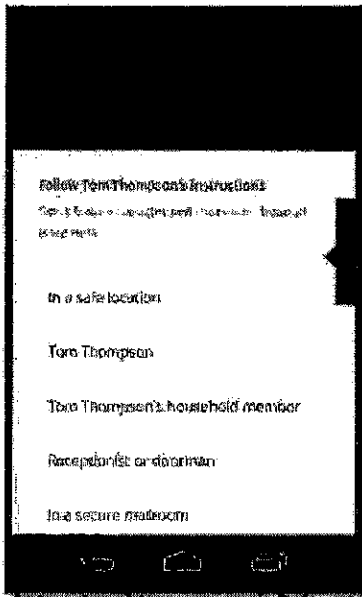
- Keeping the TC55 safe:
  - Place the TC55 in the vehicle holster to keep it from rolling around while you are driving, and to keep it visible for navigation.
  - Place the TC55 on belt holster when out of the vehicle so it is not dropped, and "Delivered" status can be marked at the location.
- Start navigation
  - Use the **Start First Delivery** button



- Scan Packages
  - The Programmable Button scans packages.



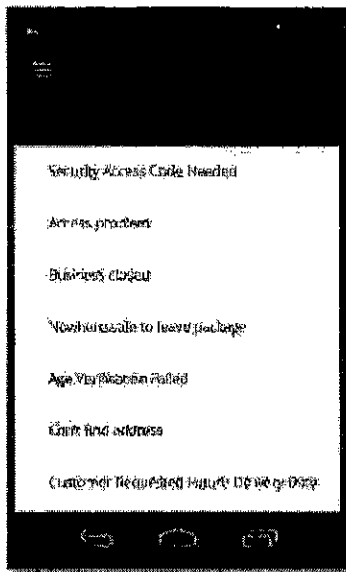
- Select Delivery Location – Customer, Front Desk, Unattended Options



Select where you left the package



- **Unable to Deliver** – Select the correct reason for not delivering



**Bottom line:**

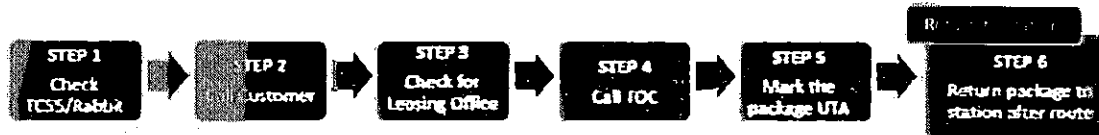
- Always call your dispatcher if you have a problem with the TC55.
- If you are having problems with the route or with your packages, call TOC.

## Different Delivery Situations – Job Aid

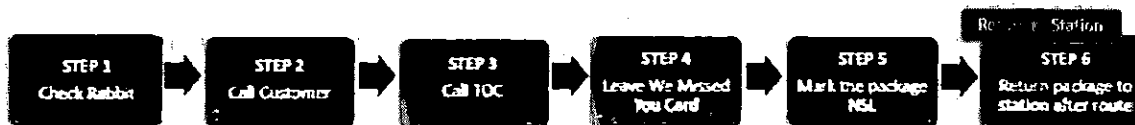
### Unable to Locate Residence Workflow



### Unable to Access Residence Workflow



### No Secure Location Workflow



## We Missed You Cards

When leaving the package in a secure location, write the following on the We Missed You card to alert the customer where you left their package.

The following information should be written on the card:

1. Date
2. Customer name
3. Tracking number
4. Package left at the following location:  
(write details about the location of the package)

**WE MISSED YOU**

1 Date: \_\_\_\_\_ 2

Customer Name: \_\_\_\_\_

Package tracking number: \_\_\_\_\_

3

Package left at following location: \_\_\_\_\_

4

**What happens next?**  
We attempt to deliver your package today but could not find someone to receive it. After three attempts we will return your package to the sender.

1st attempt

2nd attempt

Final Attempt - Package returned to sender

When there is no secure location to leave the package, write the following on the We Missed You card:

The following information should be written on the card:

1. Date
2. Customer name
3. Tracking number
4. What happens next?  
(mark the attempt box)

**WE MISSED YOU**

1 Date: \_\_\_\_\_ 2

Customer Name: \_\_\_\_\_

Package tracking number: \_\_\_\_\_

3

Package left at following location: \_\_\_\_\_

4

**What happens next?**  
We attempt to deliver your package today but could not find someone to receive it. After three attempts we will return your package to the sender.

1st attempt

2nd attempt

Final Attempt - Package returned to sender

1st Delivery Attempt	2nd Delivery Attempt	3rd Delivery Attempt

On the Delivery Attempt Label place write the code NSL, the date.

When a business is closed, write the following on the card:

The following information should be written on the card:

1. Date
2. Customer name
3. Tracking number
4. What happens next?  
(mark the attempt box)

**WE MISSED YOU**

1 Date: \_\_\_\_\_ 2

Customer Name: \_\_\_\_\_

3 Package tracking number: \_\_\_\_\_

Package left at following location: \_\_\_\_\_

4 What happens next?  
We attempt to deliver your package today but could not find someone to receive it. After three attempts we will return your package to the sender.

1st attempt  
 2nd attempt  
 Final Attempt - Package returned to sender

1st Delivery Attempt	2nd Delivery Attempt	3rd Delivery Attempt
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

On the Delivery Attempt Label place write the code BC, the date and the business hours.

## Who to Call When – Visor Card

### Overview

One way to work more efficiently is to know when to ask for help and whom to call. The visor card lists whom to call for some common types of situations. Another common need is getting access information from customers, and knowing what to do if you cannot get information.

### How can the visor card help?

- To find whom to call in certain common situations:
- A script you should use when you calling the customer

### Who to call when

#### Contact

##### Customer

#### When to Call

- Unable to locate customer's residence: See *Unable to Locate Script*
- Unable to access customer's residence: See *Unable to Access Script*
- No Secure Location: See *No Secure Location Script*

#### TOC

- Unable to Access
- Unable to Locate
- No Secure Location
- Geo Code Problems
- Missorts (extra package)

#### Dispatcher

- TC55 or Rabbit Troubleshooting
- Vehicle Issues
- Running behind

## UNABLE TO LOCATE SCRIPT:

---

### What do you do or say when you call the customer because you are unable to locate the residence?

1. Call the customer only between 8am and 8pm.
  - a. When the customer answers, say: **"Hello this is *Your Name* with an Amazon Delivery for *Customer Name*. I'm currently at *Your Location* and I'm having issues locating your address. Can you please assist me with directions?"**  
**IMPORTANT:** If the customer provides directions, add it into Rabbit for future deliveries.
  - b. If the customer refuses for any reason, say: **"That's not a problem, would you like for me to return the package to the center? Otherwise, I will continue to locate the address through our dispatch team. Thank you for your time."**
  - c. If the customer does not know directions, say: **"That's not a problem. I will continue to locate the address through our dispatch team. Thank you for your time"**
2. If the customer does not pick up the phone, **do not leave a voice message.**
  - a. Call your TOC for assistance. They may be able to provide you with additional information.
  - b. Ask someone for directions.
3. If you still cannot locate the address:
  - a. Mark as **Unable to Deliver > Can't Find Address** in Rabbit.
  - b. Write **UTL and the date** in the appropriate label attempt box.
  - c. Return the package to the station at the end of your route.

**Note:** If the customer is requesting additional assistance refer them to Customer Service Line **1-877-252-2701**

## UNABLE TO ACCESS SCRIPT:

---

### What do you do or say when you call the customer because you are unable to access the customer's residence?

1. Call the customer only between 8am and 8pm.
  - a. When the customer answers, say: **"Hello this is *Your Name*, with an Amazon Delivery for *Customer Name*. I'm currently having issues getting to your door because I don't have the code. Can you please assist me with gaining access?"**  
**IMPORTANT:** If the customer provides the access code, add it into Rabbit for future deliveries.
  - b. If the customer refuses for any reason, say: **"That's not a problem, would you like for me to return the package to the center? Otherwise, I can attempt to gain access and reattempt delivery tomorrow. Thank you for your time."**
  - c. If the customer does not know the access code, say: **"That's not a problem. I will attempt to gain access and reattempt delivery tomorrow."**

2. If the customer does not pick up the phone, **do not leave a voice message.**
  - a. Look to see if there is a Leasing Office onsite. You may be able to leave the package there.
  - b. Call TOC for assistance. They may be able to help you gain access.
3. If you still cannot access the property:
  - a. Mark as **Unable to Deliver > Security Access Code Needed** in Rabbit.
  - b. Write **UTA and the date** on the Attempted Delivery label.
  - c. Return the package to the station at the end of your route.

**Note:** If the customer is requesting additional assistance refer them to Customer Service Line **1-877-252-2701**

#### NO SECURE LOCATION SCRIPT:

---

**What do you do or say when call the customer because you cannot find a secure location for the package?**

1. Call the customer only between 8am and 8pm.
  - a. When the customer answers, say: **"Hello this is *Your Name* with an Amazon Delivery for *Customer Name*. I'm currently at *Your Location* and I'm having issues finding a secure location for your package. Is there a place I can leave your package that is secure?"**

**IMPORTANT:** If the customer provides a secure location, add it into Rabbit for future deliveries.
  - b. If the customer does have a secure location, say: **"That's not a problem. I we will attempt again tomorrow (for residence) or next business day (for commercial building)."**
2. If the customer does not pick up the phone, **do not leave a voice message.**
3. Call TOC for assistance. They may be able to provide you with additional information.
4. If there is no secure location:
  - a. Mark as **Unable to Deliver > Nowhere Safe to leave the package** in Rabbit.
  - b. Write **NSL and the date** on the Attempted Delivery label.
  - c. Return the package to the station at the end of your route.

**Note:** If the customer is requesting additional assistance refer them to Customer Service Line **1-877-252-2701**

## What should I do if...

I can't find the customer's location?

1. Call the customer and ask for a cross street.
2. Call TOC and provide him/her with the TBA # and address.

I don't have an access code?

Call the customer and reference your visor card. If the customer does not answer, call TOC.

I am not going to make all of my deliveries in time?

Call your dispatcher to arrange for help.



## Returning to the Station - Job Aid

### Overview:

Returning to the station, and debriefing, can be a very quick process. But you have to have all your information and equipment ready.

### What is debriefing?

Debriefing is when you check out with an AMZL Shift Manager at the end of day to give them statuses of all of your returns. You will visit your DSP BEFORE going to debrief with the AMZL Shift Leader.

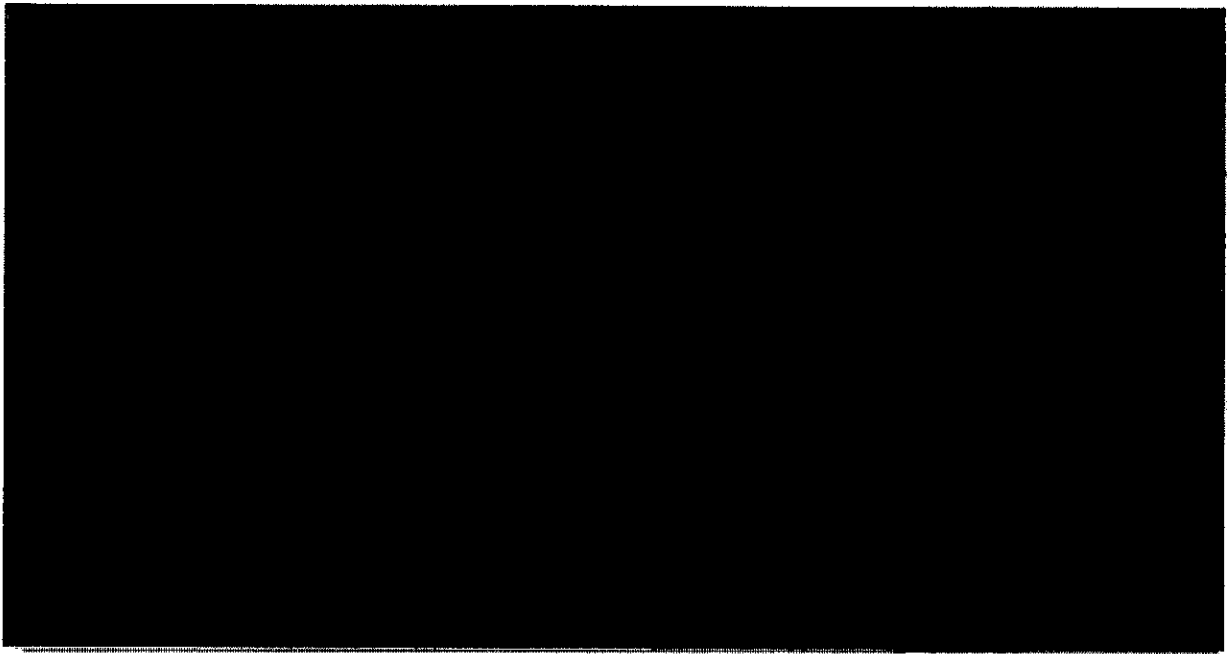
### How can I sequence debriefing successfully?

Here are some great ways to help yourself successfully perform your debrief:

- Check in with your dispatcher to discuss Return To Station (RTS) issues
- Things to Bring:
  - TC55
  - Any return packages
    - Scan and place into re-inject rack



REDACTED



A series of horizontal lines for writing, with some faint, illegible markings on the right side.