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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF ALAMEDA**

10 KENNETH MURRAY, individually, and on
11 behalf of other aggrieved employees pursuant to
12 the California Private Attorneys General Act;

13 Plaintiff,

14 vs.

15 NEW WORLD VAN LINES OF SAN
16 FRANCISCO, a California corporation; NEW
17 WORLD VAN LINES, an unknown business
18 entity; and DOES 1 through 100, inclusive,

19 Defendants.

Case No.: RG21102247

**FIRST AMENDED COMPLAINT FOR
ENFORCEMENT UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT, CALIFORNIA LABOR CODE §
2698, ET SEQ.**

Violation of California Labor Code § 2698,
et seq. (California Labor Code Private
Attorneys General Act of 2004)

DEMAND FOR JURY TRIAL

1 COMES NOW, Plaintiff KENNETH MURRAY (“Plaintiff”), individually, and on
2 behalf of other aggrieved employees pursuant to the California Private Attorneys General Act,
3 and alleges as follows:

4 **JURISDICTION AND VENUE**

5 1. This representative action is brought pursuant to the California Labor Code
6 section 2698, et seq. The civil penalties sought by Plaintiff exceed the minimal jurisdiction
7 limits of the Superior Court and will be established according to proof at trial.

8 2. This Court has jurisdiction over this action pursuant to the California
9 Constitution, Article VI, Section 10, which grants the superior court “original jurisdiction in all
10 other causes” except those given by statute to other courts. The statutes under which this
11 action is brought do not specify any other basis for jurisdiction.

12 3. This Court has jurisdiction over Defendants because, upon information and
13 belief, each Defendant is a citizen of California, has sufficient minimum contacts in California,
14 or otherwise intentionally avails itself of the California market so as to render the exercise of
15 jurisdiction over it by the California courts consistent with traditional notions of fair play and
16 substantial justice.

17 4. Venue is proper in this Court because, upon information and belief, each
18 Defendant maintains offices, has agents, and/or transacts business in the State of California,
19 including the County of Alameda.

20 **PARTIES**

21 5. Plaintiff KENNETH MURRAY is an individual residing in the State of
22 California.

23 6. Defendants NEW WORLD VAN LINES OF SAN FRANCISCO and NEW
24 WORLD VAN LINES, at all times herein mentioned, was and is, upon information and belief,
25 an employer whose employees are engaged throughout the State of California, including the
26 County of Alameda.

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1 7. At all relevant times, Defendants NEW WORLD VAN LINES OF SAN
2 FRANCISCO and NEW WORLD VAN LINES were the “employer” of Plaintiff within the
3 meaning of all applicable state laws and statutes.

4 8. At all times herein relevant, NEW WORLD VAN LINES OF SAN
5 FRANCISCO, NEW WORLD VAN LINES, and DOES 1 through 100, and each of them, were
6 the agents, partners, joint venturers, joint employers, representatives, servants, employees,
7 successors-in-interest, co-conspirators and assigns, each of the other, and at all times relevant
8 hereto were acting within the course and scope of their authority as such agents, partners, joint
9 venturers, representatives, servants, employees, successors, co-conspirators and/or assigns, and
10 all acts or omissions alleged herein were duly committed with the ratification, knowledge,
11 permission, encouragement, authorization and/or consent of each defendant designated as a
12 DOE herein.

13 9. The true names and capacities, whether corporate, associate, individual or
14 otherwise, of defendants DOES 1 through 100, inclusive, are unknown to Plaintiff who sues
15 said defendants by such fictitious names. Plaintiff is informed and believes, and based on that
16 information and belief alleges, that each of the defendants designated as a DOE is legally
17 responsible for the events and happenings referred to in this Complaint, and unlawfully caused
18 the injuries and damages to Plaintiff as alleged in this Complaint. Plaintiff will seek leave of
19 court to amend this Complaint to show the true names and capacities when the same have been
20 ascertained.

21 10. NEW WORLD VAN LINES OF SAN FRANCISCO, NEW WORLD VAN
22 LINES, and DOES 1 through 100 will hereinafter collectively be referred to as “Defendants.”

23 11. Plaintiff further alleges that Defendants including the unknown defendants
24 identified as DOES, directly or indirectly controlled or affected the working conditions, wages,
25 working hours, and conditions of employment of Plaintiff and the other aggrieved employees
26 so as to make each of said Defendants employers and employers liable under the statutory
27 provisions set forth herein.

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PAGA ALLEGATIONS

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2 12. At all times herein set forth, California Private Attorneys General Act
3 (“PAGA”) was applicable to Plaintiff’s employment by Defendants.

4 13. At all times herein set forth, PAGA provides that any provision of law under the
5 California Labor Code that provides for a civil penalty to be assessed and collected by the
6 LWDA for violations of the California Labor Code may, as an alternative, be recovered
7 through a civil action brought by an aggrieved employee on behalf of herself and other current
8 or former employees pursuant to procedures outlined in California Labor Code section 2699.3.

9 14. Pursuant to PAGA, a civil action under PAGA may be brought by an “aggrieved
10 employee,” who is any person that was employed by the alleged violator and against whom
11 one or more of the alleged violations was committed.

12 15. Plaintiff was employed by Defendants and the alleged violations were
13 committed against her during her time of employment and she is, therefore, an aggrieved
14 employee. Plaintiff and the other employees are “aggrieved employees” as defined by
15 California Labor Code section 2699(c) in that they are all current or former employees of
16 Defendants, and one or more of the alleged violations were committed against them.

17 16. Pursuant to California Labor Code sections 2699.3 and 2699.5, an aggrieved
18 employee, including Plaintiff, may pursue a civil action arising under PAGA after the
19 following requirements have been met:

20 b. The aggrieved employee shall give written notice by online submission
21 (hereinafter “Employee’s Notice”) to the LWDA and by U.S. Certified
22 Mail the employer of the specific provisions of the California Labor
23 Code alleged to have been violated, including the facts and theories to
24 support the alleged violations.

25 b. The LWDA shall provide notice (hereinafter “LWDA Notice”) to the
26 employer and the aggrieved employee by certified mail that it does not
27 intend to investigate the alleged violation within sixty (60) calendar days
28 of the postmark date of the Employee’s Notice. Upon receipt of the

1 LWDA Notice, or if the LWDA Notice is not provided within sixty-five
2 (65) calendar days of the postmark date of the Employee’s Notice, the
3 aggrieved employee may commence a civil action pursuant to California
4 Labor Code section 2699 to recover civil penalties in addition to any
5 other penalties to which the employee may be entitled.

6 17. On April 5, 2021, Plaintiff provided an amended written notice by U.S. Certified
7 Mail to the LWDA and to Defendants NEW WORLD VAN LINES OF SAN FRANCISCO
8 and NEW WORLD VAN LINES A of the specific provisions of the California Labor Code
9 alleged to have been violated, including the facts and theories to support the alleged violations.
10 Plaintiff has not received an LWDA Notice within sixty-five (65) calendar days of the date of
11 submission of Plaintiff’s Notice.

12 18. Therefore, Plaintiff has satisfied the administrative prerequisites under
13 California Labor Code section 2699.3(a) to recover civil penalties against Defendants for
14 violations of California Labor Code sections 201, 202, 203, 204, 221, 224, 226(a), 226.2,
15 226.7, 510, 512(a), 1174(d), 1194, 1197, 1197.1, 1198, 2800 and 2802.

16 **GENERAL ALLEGATIONS**

17 19. At all relevant times set forth herein, Defendants employed Plaintiff and other
18 aggrieved employees, including but not limited to (a) all current and former hourly-paid or
19 non-exempt individuals who were employed by any of the Defendants within the State of
20 California (“aggrieved employees subgroup A”), and (b) all current and former piece-rate
21 employees who worked for Defendants within the State of California (“aggrieved employees
22 subgroup B”)(collectively with subgroup A as “aggrieved employees”).

23 20. Defendants, jointly and severally, employed Plaintiff as an hourly-paid and
24 piece-rate paid non-exempt employee from approximately March 2015 to approximately April
25 2020 in the State of California.

26 21. Defendants hired Plaintiff and the other aggrieved employees in and failed to
27 compensate them for all hours worked, missed meal periods or rest breaks.

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1 22. Defendants had the authority to hire and terminate Plaintiff and the other
2 aggrieved employees, to set work rules and conditions governing Plaintiff's and the other
3 aggrieved employees' employment, and to supervise their daily employment activities.

4 23. Defendants exercised sufficient authority over the terms and conditions of
5 Plaintiff's and the other aggrieved employees' employment for them to be joint employers of
6 Plaintiff and the other aggrieved employees.

7 24. Defendants directly hired and paid wages and benefits to Plaintiff and the other
8 aggrieved employees.

9 25. Plaintiff is informed and believes, and based thereon alleges, that Plaintiff and
10 the other aggrieved employees worked over eight (8) hours in a day, and/or forty (40) hours in
11 a week during their employment with Defendants.

12 26. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
14 receive certain wages for overtime compensation and that they were not receiving wages for
15 overtime compensation.

16 27. Plaintiff is informed and believes, and based thereon alleges, that Defendants
17 failed to provide Plaintiff and the other aggrieved employees the required rest and meal periods
18 during the relevant time period as required under the applicable Industrial Welfare
19 Commission ("IWC") Wage Orders and thus they are entitled to any and all applicable
20 penalties.

21 28. Plaintiff is informed and believes, and based thereon alleges, that Defendants
22 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
23 receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other
24 aggrieved employee's regular rate of pay when a meal period was missed, and they did not
25 receive all meal periods or payment of one additional hour of pay at Plaintiff's and the other
26 aggrieved employee's regular rate of pay when a meal period was missed.

27 29. Plaintiff is informed and believes, and based thereon alleges, that Defendants
28 knew or should have known that Plaintiff and the other aggrieved employees were entitled to

1 receive all rest periods or payment of one additional hour of pay at Plaintiff's regular rate of
2 pay when a rest period was missed, and they did not receive all rest periods or payment of one
3 additional hour of pay at Plaintiff's and the other aggrieved employees' regular rate of pay
4 when a rest period was missed.

5 30. Plaintiff is informed and believes, and based thereon alleges, when Defendants
6 paid Plaintiff and other aggrieved employees on a piece-rate basis, it failed to separately
7 compensate them for rest and recovery time and/or other nonproductive time.

8 31. Plaintiff is informed and believes, and based thereon alleges, that Defendants
9 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
10 receive at least minimum wages for compensation and that they were not receiving at least
11 minimum wages for all hours worked.

12 32. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that the aggrieved employees were entitled to receive all wages
14 owed to them upon discharge or resignation, including overtime wages and meal and rest
15 period premiums, and they did not, in fact, receive all such wages owed to them at the time of
16 their discharge.

17 33. Plaintiff is informed and believes, and based thereon alleges, that Defendants
18 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
19 receive all wages owed to them during their employment. Plaintiff and the other aggrieved
20 employees did not receive payment of all wages, including overtime wages and meal and rest
21 period premiums, within any time permissible under California Labor Code section 204.

22 34. Plaintiff is informed and believes, and based thereon alleges, that Defendants
23 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
24 receive complete and accurate wage statements in accordance with California law, but, in fact,
25 they did not receive complete and accurate wage statements from Defendants. The
26 deficiencies included, *inter alia*, the failure to include the total number of hours worked by
27 Plaintiff and the other aggrieved employees.

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1 35. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 knew or should have known that Defendants had to keep complete and accurate payroll records
3 for Plaintiff and the other aggrieved employees in accordance with California law, but, in fact,
4 did not keep complete and accurate payroll records.

5 36. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 offered, promised, and paid Plaintiff and the other aggrieved employees a wage as
7 compensation for their labor but then subjected that compensation to unanticipated
8 and unlawful deductions without express written authorization.

9 37. Plaintiff is informed and believes, and based thereon alleges, that Defendants
10 knew or should have known that Plaintiff and the other aggrieved employees were entitled to
11 reimbursement for necessary business-related expenses and costs.

12 38. Plaintiff is informed and believes, and based thereon alleges, that Defendants
13 knew or should have known that they had a duty to compensate Plaintiff and the other
14 aggrieved employees pursuant to California law, and that Defendants had the financial ability
15 to pay such compensation, but willfully, knowingly, and intentionally failed to do so, and
16 falsely represented to Plaintiff and the other aggrieved employees that they were properly
17 denied wages, all in order to increase Defendants' profits.

18 39. At all material times set forth herein, Defendants failed to pay overtime wages
19 to Plaintiff and the other aggrieved employees. Plaintiff and the other aggrieved employees
20 were required to work more than eight (8) hours per day and/or forty (40) hours per week
21 without overtime compensation.

22 40. At all material times set forth herein, Defendants failed to provide uninterrupted
23 meal and rest periods to Plaintiff and the other aggrieved employees.

24 41. At all material times set forth herein, when Defendants paid Plaintiff and other
25 aggrieved employees on a piece-rate basis, it failed to separately compensate them for rest and
26 recovery time and/or other nonproductive time.

27 42. At all material times set forth herein, Defendants failed to pay Plaintiff and the
28 other aggrieved employees at least minimum wages for all hours worked.

1 43. At all material times set forth herein, Defendants failed to pay the aggrieved
2 employees all wages owed to them upon discharge or resignation.

3 44. At all material times set forth herein, Defendants failed to pay Plaintiff and the
4 other aggrieved employees' wages within any time permissible under California law,
5 including, *inter alia*, California Labor Code section 204.

6 45. At all material times set forth herein, Defendants failed to provide complete and
7 accurate wage statements to Plaintiff and the other aggrieved employees.

8 46. At all material times set forth herein, Defendants failed to keep complete and
9 accurate payroll records for Plaintiff and the other aggrieved employees.

10 47. At all material times set forth herein, Defendants offered, promised, and paid
11 Plaintiff and all other aggrieved employees a wage as compensation for their labor but then
12 subjected that compensation to unanticipated and unlawful deductions without express written
13 authorization.

14 48. At all material times set forth herein, Defendants failed to reimburse Plaintiff
15 and the other aggrieved employees for necessary business-related expenses and costs.

16 49. At all material times set forth herein, Defendants failed to properly compensate
17 Plaintiff and the other aggrieved employees pursuant to California law in order to increase
18 Defendants' profits.

19 50. California Labor Code section 218 states that nothing in Article 1 of the Labor
20 Code shall limit the right of any wage claimant to "sue directly . . . for any wages or penalty
21 due to him [or her] under this article."

22 **FIRST CAUSE OF ACTION**

23 **Violation of California Labor Code § 2698, et seq.**

24 **(Against NEW WORLD VAN LINES OF SAN FRANCISCO,**

25 **NEW WORLD VAN LINES, and DOES 1 through 100)**

26 51. Plaintiff incorporates by reference the allegations contained in paragraphs 1
27 through 50, and each and every part thereof with the same force and effect as though fully set
28 forth herein.

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Failure to Compensate Non-Productive Time

Defendants’ failure to compensate Plaintiff and the other aggrieved employees for non-productive time is in violation of the applicable IWC Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code section 226.2.

Failure to Pay Minimum Wages

58. Defendants’ failure to pay legally required minimum wages to Plaintiff and the other aggrieved employees is in violation of the Wage Orders and constitutes unlawful or unfair activity prohibited by California Labor Code sections 1194, 1197 and 1197.1.

Failure to Timely Pay Wages Upon Termination

59. Defendants’ failure to timely pay wages to Plaintiff and the other aggrieved employees upon termination in accordance with Labor Code sections 201 and 202 constitutes unlawful and/or unfair activity prohibited by California Labor Code sections 201 and 202.

Failure to Timely Pay Wages During Employment

60. Defendants’ failure to timely pay wages to Plaintiff and the other aggrieved employees during employment in accordance with Labor Code section 204 constitutes unlawful and/or unfair activity prohibited by California Labor Code section 204.

Failure to Provide Complete and Accurate Wage Statements

61. Defendants’ failure to provide complete and accurate wage statements to Plaintiff and the other aggrieved employees in accordance with Labor Code section 226(a) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 226(a).

Failure to Keep Complete and Accurate Payroll Records

62. Defendants’ failure to keep complete and accurate payroll records relating to Plaintiff and the other aggrieved employees in accordance with California Labor Code section 1174(d) constitutes unlawful and/or unfair activity prohibited by California Labor Code section 1174(d).

Failure to Reimburse Necessary Business-Related Expenses and Costs

63. Defendants’ failure to reimburse Plaintiff and the other aggrieved employees for necessary business-related expenses and costs in accordance with California Labor Code

1 sections 2800 and 2802 constitutes unlawful and/or unfair activity prohibited by California
2 Labor Code sections 2800 and 2802.

3 **Unlawful Deductions**

4 64. Defendants' deduction of fees from Plaintiff's and the other aggrieved
5 employees' wages is in violation of the applicable IWC Wage Orders and constitutes
6 unlawful or unfair activity prohibited by California Labor Code sections 221 and 224.

7 65. Pursuant to California Labor Code section 2699, Plaintiff, individually, and on
8 behalf of all aggrieved employees, requests and is entitled to recover from Defendants and
9 each of them, business expenses, unpaid wages, and/or untimely wages according to proof,
10 interest, attorneys' fees and costs pursuant to California Labor Code section 218.5, as well as
11 all statutory penalties against Defendants, and each of them, including but not limited to:

- 12 a. Penalties under California Labor Code section 2699 in the amount of a
13 hundred dollars (\$100) for each aggrieved employee per pay period for the
14 initial violation, and two hundred dollars (\$200) for each aggrieved
15 employee per pay period for each subsequent violation;
- 16 b. Penalties under California Code of Regulations Title 8 section 11010, et
17 seq. in the amount of fifty dollars (\$50) for each aggrieved employee per
18 pay period for the initial violation, and one hundred dollars (\$100) for
19 each aggrieved employee per pay period for each subsequent violation;
- 20 c. Penalties under California Labor Code section 210 in addition to, and
21 entirely independent and apart from, any other penalty provided in the
22 California Labor Code in the amount of a hundred dollars (\$100) for each
23 aggrieved employee per pay period for the initial violation, and two
24 hundred dollars (\$200) for each aggrieved employee per pay period for
25 each subsequent violation; and
- 26 d. Any and all additional penalties and sums as provided by the California
27 Labor Code and/or other statutes.

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[X] STATE

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 15, 2021, at Glendale, California.



Celenia Ramos