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8   UNITED STATES DISTRICT COURT FOR THE

9   CENTRAL DISTRICT OF CALIFORNIIA, WESTERN DIVISION

10 ALEX GUERRERO and   )   CASE NO. 2:20-cv-04545
    MANUEL ANTONIO RIOS,   )
11   )   **COMPLAINT FOR DAMAGES AND**
)   **DEMAND FOR JURY TRIAL**
                     Plaintiffs,   )
12   )
         v.   )   1. Failure To Provide Timely, Off-Duty
13   )   Meal Periods [Cal. Labor Code §§
    US FOODS, INC., doing   )   226.7, 512; IWC Wage Order 9, § 11];
14 business as US FOODSERVICE,   )   2. Wrongful Deductions From Wages For
    INC., a Delaware corporation;   )   "On-Duty" Meal Periods;
15 and DOES 1-10, inclusive,   )   3. Failure To Provide Timely, Off-Duty
)   Rest Periods [Cal. Labor Code § 226.7;
16   )   IWC Wage Order 9, § 12];
                     Defendants.   )   4. Uncompensated Mandatory Work Time
17 _____)   [Cal. Labor Code §§ 1182.12, 1194,
                                                 1194.2, 1197; IWC Wage Order 9, § 4];
18   5. Failure to Pay For Work Over Twelve
                                                 Hours at Double Time Rate [Cal. Labor
19   Code § 510; IWC Wage Order 9, § 3];
                                             6. Failure to Pay Minimum Wages [Cal.
20   Labor Code §§ 1182.12, 1194, 1194.2,
                                                 1197; Wage Order 9, § 4];
21   7. Failure To Provide Accurate, Itemized
                                                 Wage Statements [Cal. Labor Code §
22   226; IWC Wage Order 9, § 7];
                                             8. Failure to Pay Wages Due Upon
23   Termination of Employment
                                                 [Labor Code §§ 202, 203];
24   9. Unfair Business Practices [Cal. Bus. &
                                                 Prof. Code § 17200 et seq.]

25

1 Plaintiffs allege:

2

JURISDICTION

3 1.   This court has original jurisdiction under **28 USC § 1332** in that it is a

4

5 civil action between citizens of different states in which the matter in

6 controversy exceeds, exclusive of costs and interest, seventy-five

7 thousand dollars.

8 2.   Plaintiff Alex Guerrero ("Guerrero") is, and at all times relevant was, a

9 citizen of California residing in **Los Angeles County**, California.

10 3.   Plaintiff Manuel Antonio Rios ("Rios") is, and at all times relevant

11 was, a citizen of California residing in **Los Angeles County**,

12 California.

13

14 4.   Defendant U.S. Foods, Inc. (hereafter "U.S. Foods" or "the

15 company"), is, and at all times relevant was, a corporation organized

16 and existing under the laws of **Delaware**, with its principal place of

17 business in Rosemont, **Illinois**.

18

VENUE

19

20 5.   Venue is proper in the Central District of California under **28 USC §**

21 **1391(a)** in that it is a judicial district in which a substantial part of the

22 events or omissions giving rise to the claims occurred.

23 ///

24 ///

25

GENERAL ALLEGATIONS

6.   Plaintiffs are informed and believe and on that basis allege that defendant US Foods is, and at all times mentioned herein was, a nationwide trucking company engaged in mass purchase of food supplies and distribution of the supplies to restaurants and other food service and retail outlets.

7.   Plaintiffs are ignorant of the true names and capacities, whether individual, corporate, or associate, of those defendants fictitiously sued as DOES 1 through 10 inclusive and so plaintiffs sue them by these fictitious names. Plaintiffs are informed and believe and on that basis allege that none of the DOE defendants is a citizen or resident of the State of California, and that each one is in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, plaintiffs will amend this complaint to show their true names and capacities.

8.   Plaintiffs are informed and believe and on that basis allege that at all times herein mentioned, unless otherwise alleged, each of the remaining co-defendants, in doing the things hereinafter alleged, was acting within the course and scope and under the authority of his or

1   her agency, employment, or representative capacity, with the

2   consent of his or her co-defendants.

3   9.   Plaintiff Alex Guerrero has been employed by US Foods as a non-

4   exempt delivery truck driver since September of 2013, operating out

5   of US Foods' La Mirada Distribution Center in La Mirada, Los

6   Angeles County, California. For most of his employment he was

7   working Tuesday through Saturday, delivering food to 12-14

8   restaurants per day. He leaves the hub (distribution center) in the

9   morning with 600-900 cases (formerly as much as 1400) loaded in

10   the trailer by the warehouse crew and does not return until the end of

11   the day. Guerrero is paid an hourly wage, which is subject to an

12   annual increase of 50 cents.

13   10. At all times relevant herein, plaintiff Manuel Rios was employed by

14   US Foods as a non-exempt delivery truck driver, commencing April

15   8, 2013, operating out of US Foods' La Mirada Distribution Center in

16   La Mirada, Los Angeles County, California. For most of his

17   employment he worked the Beverly Hills route. He worked all shifts,

18   generally 12-14 hours per work day, delivering food to 12-14

19   restaurants per day. He left the hub in the morning with up to 1400

20   cases loaded in the trailer by the warehouse crew and did not return

1   until the end of the day. Rios was paid an hourly wage, subject to an

2   annual increase of 50 cents.

FIRST CLAIM: FAILURE TO PROVIDE

TIMELY, OFF-DUTY MEAL PERIODS

[Cal. Labor Code §§ 226.7, 512; IWC Wage Order 9, § 11]

11. Plaintiffs incorporate all allegations set forth previously in this Complaint as though set forth fully herein.

12. On a daily basis for most or all of the statutory period, and pursuant to a consistent company practice and policy, US Foods and Doe Defendants 1-10 knowingly failed to provide plaintiffs or other La Mirada-based drivers with timely, off-duty 30-minute meal periods. Instead, the company actively and forcefully discouraged and prevented the drivers from having any off-duty meal periods in the course of their work day of 12 hours or longer.

13. California Labor Code § 512(a) provides in relevant portion:

> An employer shall not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes… An employer shall not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not

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