



**INTRODUCTION**

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2           1.       This lawsuit is a class action brought by Plaintiff LONNIE R. SMITH (“Plaintiff”) on  
3 behalf of himself and on behalf of a class comprised of all persons who are, or were, employed by  
4 Defendants EGL EAGLE GLOBAL LOGISTICS, LP (“EGL”), CEVA LOGISTICS U.S., INC.; CEVA  
5 FREIGHT MANAGEMENT INTER-NATIONAL GROUP, INC, and CEVA FREIGHT, LLC  
6 (collectively “Defendants”) as “Freight Forwarders” in the State of California during the relevant time  
7 period described under each cause of action below.

8           2.       Defendants are leading providers of supply chain and logistics services.

9           3.       Plaintiff seeks relief including, but not limited to, unpaid wages, interest, and penalties  
10 based on California *Labor Code* §§ 201-204, 218.6, 226.7, and 1194. In addition, Plaintiff seeks  
11 punitive damages because Defendants acted wilfully and in conscious disregard of the rights of Plaintiff  
12 and members of the class by failing to provide them with meal and rest periods, in violation of  
13 California *Labor Code* §226.7. Plaintiff also seeks actual damages and penalties based upon  
14 Defendants’ failure to maintain and provide each member of the class with an accurate itemized  
15 statement in writing which shows the total hours worked by each employee, pursuant to subsections (a)  
16 and (e) of the California *Labor Code* §226. Plaintiff further seeks restitution and injunctive relief  
17 pursuant to California *Business and Professions Code* §17200 *et seq.* (“UCL”).

18           4.       During the relevant time period, Defendants and Does 1 through 200 (collectively,  
19 “Defendants”), and each of them, acting in concert, agreed to institute a plan, and did institute a plan  
20 pursuant to which Defendants would and did act with malice, oppression, and/or in conscious disregard  
21 for the legal rights of Plaintiff and members of the classes by (1) failing to pay Plaintiff and members  
22 of the class for hours worked including overtime hours, (2) failing to maintain and provide Plaintiff  
23 and each member of the classes with accurate itemized statements reflecting the total hours worked,  
24 and (3) failing to provide meal and rest periods to Plaintiff and members of the classes.

**JURISDICTION AND VENUE**

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26  
27           5.       This Court has jurisdiction over the action pursuant to Code of Civil Procedure §410.10  
28 and pursuant to California Constitution, Article XI, §10.



1 along with the appropriate charging allegations when the same have been ascertained.

2 13. On the basis of information and belief, it is alleged that each of the Defendants  
3 herein was the agent of the others. Each of the Defendants was acting in the scope of its agency at  
4 all relevant times. Each of the Defendants' acts complained of herein was authorized or ratified by  
5 the other Defendants, including EGL or the duly authorized representatives or managing agents of  
6 EGL, in the course and scope of the agency for the benefit of themselves, each other and the benefit  
7 of EGL.

8 **CLASS ACTION ALLEGATIONS – FREIGHT FORWARDER CLASSES**

9 14. Plaintiff brings this action as a class action on behalf of the following defined Class  
10 and Sub-Class:

11 **“Class”:** All persons who have been employed or are currently employed  
12 by Defendants in California as Freight Forwarders during the  
13 time specified under the following causes of action.

14 **“Sub-Class”:** All members of the Plaintiff Class whose employment with  
15 Defendants has terminated, during the time specified under the  
16 following causes of action.

17 15. Plaintiff is informed and believes, and on that basis, alleges that during the relevant  
18 time period, hundreds of Freight Forwarders have been employed by Defendants in the State of  
19 California. Because of the large number of Freight Forwarders that have been employed by  
20 Defendants, the members of the Class and Sub-Class are so numerous that joinder of all members is  
21 impossible and/or impracticable.

22 16. Plaintiff's claims are typical of the members of the Class and Sub-Class. Plaintiff,  
23 like other Freight Forwarders of the Class working for Defendants in California, was subjected to  
24 Defendants' policy and practice of (a) refusing to pay all wages earned, including overtime  
25 compensation, (b) Defendants' policy and practice of refusing to pay all wages earned on designated  
26 regular paydays, (c) Defendants' policy and practice of refusing to maintain and provide accurate  
27 itemized statements, and (d) Defendants' policy and practice of refusing to provide full and timely  
28 meal and rest periods, in violation of California's wage and hour laws. Plaintiff's job duties and

1 claims were and are typical of those of other members of the Class and Sub-Class who worked for  
2 Defendants as Freight Forwarders.

3 17. A class action is superior to other available methods for the fair and efficient  
4 adjudication of this controversy.

5 18. Plaintiff will fairly and adequately protect the interests of the members of the Classes  
6 and has retained counsel who are competent and experienced in both class action and employment  
7 litigation.

8 19. Common questions of law and fact exist as to all members of the Classes and  
9 predominate over any questions solely affecting individual members of the Classes. Among the  
10 questions of law and fact common to the Classes are:

- 11 a) Whether Defendants failed to pay wages owing (including unpaid overtime)  
12 to members of the Class in violation of California *Labor Code* §1194(a);
- 13 b) Whether members of the Class are entitled to payment of interest for  
14 Defendants' nonpayment of wages, pursuant to California *Labor Code*  
15 §218.6;
- 16 c) Whether Defendants violated California *Labor Code* §226 by failing to  
17 provide each member of the Class with accurate itemized statements in  
18 writing which show: (1) total hours worked, and (2) all applicable hourly  
19 rates in effect during the pay period and the corresponding number of hours  
20 worked at each hourly rate by the employee;
- 21 d) Whether Defendants violated California *Labor Code* §226 by failing to  
22 maintain a copy of the above-statement, or a record of deductions, on file for  
23 a period of not less than three years at the Class members' place of  
24 employment or at a central location within the State of California;
- 25 e) Whether Defendants violated California *Labor Code* §204 by failing to pay  
26 all wages owed to members of the Class on designated regular paydays;
- 27 f) Whether Defendants violated *Labor Code* §226.7 by failing to provide meal  
28 and rest periods to members of the Class;

- 1 g) Whether members of the Class are entitled to recover one additional hour of  
2 pay for each work day that a meal or rest period was not provided, pursuant  
3 to *Labor Code* §226.7;
- 4 h) Whether Defendants acted with malice, oppression, and/or in conscious  
5 disregard for the legal rights of Plaintiff and members of the Class in  
6 violating *Labor Code* §226.7, and are liable for punitive damages based on  
7 such actions; and
- 8 i) Whether the members of the Class sustained damages and, if so, the proper  
9 measure of such damages.

10 20. Additional questions of law and fact common to the Sub-Class include:

- 11 a) Whether Defendants failed to promptly and timely pay compensation owing  
12 to members of the Sub-Class upon the termination of their employment, in  
13 violation of California *Labor Code* §§201 and 202;
- 14 b) Whether Defendants are liable to members of the Sub-Class for waiting time  
15 penalties pursuant to California *Labor Code* §203, based upon Defendants'  
16 willful retention of compensation owing to members of the Sub-Class upon  
17 the termination of their employment.

18 21. Plaintiff knows of no difficulty which will be encountered in the management  
19 of this litigation which would preclude its maintenance as a class action.

20 22. The names and addresses of the Class and Sub-Class are available from Defendants.  
21 Notice will be provided to the Class and Sub-Class via first class mail and/or by the use of  
22 techniques and a form of notice similar to those customarily used in class actions.

23  
24 **FIRST CAUSE OF ACTION**

25 **[FAILURE TO PAY OVERTIME COMPENSATION**  
26 **IN VIOLATION OF CALIFORNIA LABOR CODE § 1194(a)**  
27 **ON BEHALF OF PLAINTIFF, THE**  
28 **CLASS, AND SUB-CLASS AGAINST ALL DEFENDANTS]**

23. Plaintiff re-alleges and incorporates herein by reference each and every allegation

1 contained in Paragraphs 1 through 22 herein.

2 24. Plaintiff alleges, based on information and belief, that Defendants employ Freight  
3 Forwarders throughout the State of California. During the relevant time period, Plaintiff and  
4 members of the Class would routinely work in excess of eight hours per day and/or 40 hours per  
5 week without receiving all required overtime compensation by virtue of Defendants; failure to pay  
6 members of the Class for time spent working for Defendants in excess of twelve hours in one day as  
7 a consequence of Defendants' policy of prohibiting Plaintiff and Class members from remaining  
8 "on the clock" in excess of twelve hours per day.

9 25. The laws of the State of California require an employer, such as Defendant, to pay  
10 overtime compensation to all non-exempt employees. Plaintiff and members of the Class are not  
11 exempt from overtime pay requirements under California law.

12 26. Members of the Class are not exempt from the right to receive overtime pay under  
13 California law and are not exempt from the requirement that their employer pay them overtime  
14 compensation under California law. Members of the Class do not presently and have not at any  
15 time during the relevant time period qualified under any exemption from the requirement that their  
16 employer pay overtime compensation under California law. Members of the Class are entitled to be  
17 paid overtime compensation for all overtime hours worked.

18 27. Beginning three years prior to the filing of this lawsuit, Defendants failed and  
19 refused and continue to fail and refuse to pay members of the Class overtime compensation owed to  
20 the members of the Class for all overtime hours worked as required by California wage and hour  
21 laws.

22 28. As a result of the actions of Defendants in failing and refusing to pay overtime  
23 compensation, Plaintiff and members of the Class were damaged by not receiving overtime  
24 compensation which they should have received, but did not receive. Plaintiff and members of the  
25 Class are entitled to compensation for unpaid overtime, together with interest.

26 29. Further, members of the Sub-Class are entitled to penalties under California *Labor*  
27 *Code* §203. California *Labor Code* §201 requires an employer who discharges an employee to pay  
28 compensation due and owing to said employee immediately upon discharge. California *Labor Code*

1 §202 requires an employer to promptly pay compensation due and owing to an employee within 72  
2 hours of that employee's termination of employment by resignation. California *Labor Code* §203  
3 provides that if an employer willfully fails to pay compensation promptly upon discharge or  
4 resignation in a prompt and timely manner as required by California *Labor Code* §§201 and 202,  
5 said employer is liable to said employee for waiting time penalties as described herein.

6 30. Defendants have willfully failed and refused, and continue to willfully fail and  
7 refuse, to promptly and timely pay compensation owed to members of the Sub-Class whose  
8 employment terminated as required under California *Labor Code* §§201-202. As a result,  
9 Defendants are liable to members of the Sub-Class for waiting time penalties under California  
10 *Labor Code* §203, in an amount to be ascertained at trial, together with interest.

11 31. In addition, Plaintiff and members of the Class are entitled to receive an award of  
12 reasonable attorneys' fees and costs pursuant to California *Labor Code* §§ 218.5, 1194, and  
13 California *Code of Civil Procedure* §1021.5.

14  
15 **SECOND CAUSE OF ACTION**

16 **[FAILURE TO PROVIDE ACCURATE ITEMIZED STATEMENTS IN**  
17 **VIOLATION OF CALIFORNIA LABOR CODE §226**  
18 **ON BEHALF OF PLAINTIFF CLASSES, AGAINST ALL DEFENDANTS]**

19 32. Plaintiff hereby incorporates by reference Paragraphs 1 through 31 above as though  
20 fully set forth herein.

21 33. California *Labor Code* §226(a) requires that every employer, semimonthly or at the  
22 time of each payment of wages, provide to each employee either as a detachable part of the check,  
23 draft, or voucher paying the employee's wages, or separately when wages are paid by personal  
24 check or cash, an accurate itemized statement in writing which shows: (1) each employee's gross  
25 wages earned, (2) total hours worked, (3) the number of piece-rate units earned and any applicable  
26 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6)  
27 the inclusive dates for which the employee is paid, (7) the name of the employee and his or her  
28 social security number, (8) the name and address of the legal entity that is the employer, and (9) all  
applicable hourly rates in effect during the pay period and the corresponding number of hours

1 worked at each hourly rate by the employee.

2 34. California *Labor Code* §226(a) further requires that the employer maintain a copy of  
3 the above statement or a record of all deductions on file for a period of not less than three years at  
4 the place of employment, or at a central location within the State of California.

5 35. Beginning one year prior to the filing of this lawsuit, Defendants knowingly and  
6 intentionally failed to provide an accurate itemized statements to each member of the Plaintiff Class  
7 and, further, failed to maintain a copy of said statements or records of deductions on file at  
8 Defendants' place of employment or other central location in California and, therefore, violated  
9 California *Labor Code* §226.

10 36. Plaintiff and members of the Plaintiff Class are each entitled to recover the greater of  
11 actual damages or fifty dollars (\$50) for the initial pay period in which a violation of subsection (a)  
12 of the California *Labor Code* §226 occurs, and one hundred dollars (\$100) for each member of the  
13 Plaintiff Class and for each violation in a subsequent pay period, not exceeding an aggregate penalty  
14 of four thousand dollars (\$4,000) for each member of the Plaintiff Class, and are further entitled to  
15 an award of reasonable attorneys' fees and costs pursuant to California *Labor Code* §226(e) and  
16 California *Code of Civil Procedure* § 1021.5.

17  
18 **THIRD CAUSE OF ACTION**

19 **[FAILURE TO PROVIDE MEAL AND REST PERIODS**  
20 **IN VIOLATION OF CALIFORNIA *LABOR CODE* §226.7**  
21 **ON BEHALF OF THE PLAINTIFF CLASSES, AGAINST ALL DEFENDANTS)**

22 37. Plaintiff re-alleges and incorporates herein by reference each and every allegation  
23 contained in Paragraphs 1 through 36 herein.

24 38. Beginning three years prior to the filing of this lawsuit, Plaintiff and members of the  
25 Plaintiff Classes were not always provided meal and rest periods by Defendants as mandated by  
26 *Labor Code* §226.7.

27 39. Defendants knew or should have known that Plaintiff and members of the Plaintiff  
28 Classes were not being provided with their earned meal and rest periods as required by law. For  
instance, the time cards completed by Plaintiff and members of the Class reflected that Plaintiff and

1 members of the Class routinely worked shifts in excess of ten hours without taking second meal  
2 breaks. Additionally, Plaintiff and members of the Class were routinely prevented by their  
3 workloads and work-related interruptions from taking ten minute rest breaks and thirty minute meal  
4 breaks free from duty. Accordingly, Plaintiff and each member of the Plaintiff Classes are entitled  
5 to one additional hour of pay for each work day that a meal or rest period was not provided during  
6 the relevant time period.

7 40. In addition, members of the Sub-Class are entitled to penalties under California  
8 *Labor Code* §203. California *Labor Code* §201 requires an employer who discharges an employee  
9 to pay compensation due and owing to said employee immediately upon discharge. California  
10 *Labor Code* §202 requires an employer to promptly pay compensation due and owing to an  
11 employee within 72 hours of that employee's termination of employment by resignation. California  
12 *Labor Code* §203 provides that if an employer willfully fails to pay compensation promptly upon  
13 discharge or resignation in a prompt and timely manner as required by California *Labor Code* §§201  
14 and 202, said employer is liable to said employee for waiting time penalties as described herein.

15 41. Further, Plaintiff and members of the Plaintiff Class are entitled to punitive damages  
16 since Defendants wilfully acted with malice, oppression, and/or in conscious disregard for their  
17 legal rights by failing to provide them with full meal and rest periods as required by California law.  
18 Such conduct is in violation of California law and is contrary to public policy regarding the  
19 provision of meal and rest periods.

20 42. In sum, Plaintiff and members of the Plaintiff Classes are owed (a) one additional  
21 hour of pay for each work day that a meal period was not provided during the relevant time period,  
22 pursuant to *Labor Code* §226.7; (b) one additional hour of pay for each work day that a rest break  
23 was not provided during the relevant time period, pursuant to *Labor Code* §226.7; (c) punitive  
24 damages based on Defendants' wilful and conscious disregard of the legal rights of Plaintiff and  
25 members of the Plaintiff Class to take full meal and rest periods; (d) an award of reasonable  
26 attorneys' fees and costs pursuant to California *Code of Civil Procedure* § 1021.5; and (e) interest.  
27 Members of the Subclass are further entitled waiting time penalties under *Labor Code* §226.7.  
28

1 **FOURTH CAUSE OF ACTION**

2 **[UNLAWFUL AND UNFAIR BUSINESS PRACTICE**  
3 **IN VIOLATION OF THE UCL ON BEHALF OF THE PLAINTIFF**  
4 **CLASSES AND AGAINST ALL DEFENDANTS]**

5 43. Plaintiff re-allege and incorporates herein by reference each and every allegation  
6 contained in Paragraphs 1 through 42 herein.

7 44. Beginning four years prior to the filing of this lawsuit, Defendants' conduct, as set  
8 forth above, violates the UCL in the following respects:

- 9 a) Defendants' policies and practices of (1) failing to timely pay overtime  
10 compensation earned to members of the Plaintiff Class, (2) Defendants'  
11 policy and practice of failing to maintain and provide accurate itemized  
12 statements, and (3) Defendants' policies and practices of failing to provide  
13 full meal and rest periods, constitute unlawful business practices by  
14 definition and, thus, violate the UCL; and
- 15 b) Defendants' policies and practices of (1) failing to timely pay overtime  
16 compensation to members of the Plaintiff Class, and (2) Defendants' policy  
17 and practice of failing to maintain and provide accurate itemized constitute  
18 unfair business practices because Defendants' practices are unethical,  
19 unscrupulous, and substantially injurious to consumers. The harm to  
20 Plaintiff, all others similarly situated, and to members of the general public,  
21 outweighs the utility, if any, of Defendants' policy and practice.

22 45. The unlawful and unfair business practices by Defendants, as described above,  
23 present a continuing threat to the public in that Plaintiff and members of the Plaintiff Class  
24 throughout California have suffered and continue to suffer monetary loss as a result of Defendants'  
25 unlawful and unfair acts or practices. In addition, Defendants have been unjustly enriched as a  
26 result of its conduct. Plaintiff, other members of the general public, and members of the Plaintiff  
27 Class have no other adequate remedy of law in that absent equitable relief from the Court,  
28 Defendants are likely to continue to injure members of the Plaintiff Classes, reap unjust

1 enrichment, and harm the public interest, thus engendering a multiplicity of judicial proceedings.

2 46. All members of the Plaintiff Class can be identified by reference to records in the  
3 possession of Defendants. All members of the Plaintiff Class are entitled to restitution of monies  
4 due to them during the relevant time period as a result of said Defendants' unlawful and unfair  
5 conduct, and to injunctive relief.

6 47. If Plaintiff succeeds in enforcing these rights affecting the public interest,  
7 then attorneys' fees may be awarded to Plaintiff and against Defendants because:

- 8 a) A significant benefit has been conferred on the general public; and  
9 b) The necessity and financial burden of enforcement are such to make the  
10 award appropriate.

11  
12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff, on his own behalf and on behalf of the Plaintiff Classes and Sub-  
14 Class, prays for relief and judgment as follows:

15 **First Cause of Action**

- 16 (a) For unpaid wages, including overtime, together with interest;  
17 (b) For waiting time penalties pursuant to *Labor Code* §203;  
18 (c) For reasonable attorneys' fees pursuant to *California Labor Code* §§218.5, 1194(a),  
19 and *Code of Civil Procedure* §1021.5.

20 **Second Cause of Action**

- 21 (d) For penalties pursuant to *California Labor Code* § 226(e).  
22 (e) For reasonable attorneys' fees pursuant to *California Code of Civil Procedure*  
23 §1021.5;

24 **Third Cause of Action**

- 25 (f) For one additional hour of pay for each work day that a meal period was not  
26 provided, pursuant to *Labor Code* §226.7;  
27 (g) For one additional hour of pay for each work day that a rest period was not provided,  
28 pursuant to *Labor Code* §226.7;

- 1 (h) For punitive damages;
- 2 (i) For waiting time penalties pursuant to *Labor Code* §203;
- 3 (j) For reasonable attorneys' fees pursuant to *California Labor Code* §218.5 and *Code*
- 4 *of Civil Procedure* §1021.5; and
- 5 (k) For interest.

6 Fourth Cause of Action

- 7 (l) For restitution and injunctive relief; and
- 8 (m) For reasonable attorneys' fees pursuant to *Code of Civil Procedure* §1021.5.

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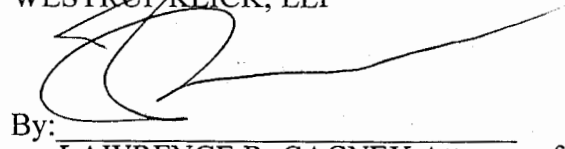
10 For All Causes of Action

- 11 (n) For an order declaring this action to be a class action and certifying the Plaintiff
- 12 Class and Sub-Class as alleged and prayed for herein;
- 13 (o) For costs and expenses of suit incurred herein; and
- 14 (p) For such other and further relief as this Court deems just and proper.

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16 Dated: June 2, 2009

WESTRUP KLICK, LLP



By: LAWRENCE R. CAGNEY Attorneys for  
Plaintiff LONNIE R. SMITH And  
Similarly Situated Persons

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