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FILED
CLERK, U.S. DISTRICT COURT
JAN 11 2013
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

EVERARDO CARRILLO; FERNANDO CHAVEZ; ERIC FLORES; JOSE MARTINEZ ARCEO; JUAN CHAVEZ; ARMANDO ESQUIVEL; GUADALUPE RANGEL MENDOZA; and JOSE ENRIQUE TRUJILLO-VERGARA, for themselves and all others similarly situated and the general public, Plaintiffs, v. SCHNEIDER LOGISTICS, INC.; SCHNEIDER LOGISTICS TRANS-LOADING AND DISTRIBUTION, INC.; PREMIER WAREHOUSING VENTURES, LLC; ROGERS-PREMIER UNLOADING SERVICES, LLC; IMPACT LOGISTICS, INC., WALMART STORES, INC., and DOES ~~2~~-15, 1- Defendants.	Case No. CV 11-8557 CAS (DTBx) THIRD AMENDED CLASS, COLLECTIVE, AND REPRESENTATIVE ACTION COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF, DAMAGES, RESTITUTION, AND CIVIL PENALTIES (1) FEDERAL FAIR LABOR STANDARDS ACT; (2) CALIFORNIA LABOR CODE, CALIFORNIA WAGE ORDERS; (3) CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT, CALIFORNIA UNFAIR COMPETITION LAW DEMAND FOR JURY TRIAL

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Plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez Arceo, Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara, on their own behalf, on behalf of the general public, and on behalf of all similarly situated warehouse workers employed in Riverside County, California, by defendants Walmart Stores, Inc. ("Walmart"), Schneider Logistics, Inc. ("Schneider Logistics"); Schneider Logistics Transloading and Distribution Inc. ("Schneider Transloading," which includes its predecessor American Port Services, Inc., and, collectively with Schneider Logistics, "Schneider"); Premier Warehousing Ventures, LLC ("Premier Warehousing"); Rogers-Premier Unloading Services, LLC ("Premier Unloading," and, collectively with Premier Warehousing, "Premier"), Impact Logistics, Inc. ("Impact"), and Does 2-15, allege as follows:

INTRODUCTION

1. This is a class, collective, and representative action brought under federal and California law by eight individual warehouse workers, and over 200 other similarly situated warehouse workers who filed consents to sue pursuant to 29 U.S.C. §216(b), whom defendants have forced to work long hours, under oppressive workplace conditions, for legally inadequate pay, in defendants' Inland Empire warehouses located in Eastvale (formerly Mira Loma), California ("the Mira Loma warehouses"). Plaintiffs bring this action on behalf of themselves, others similarly situated, and the general public to recover the wages that defendants stole from them – and are continuing to steal – in violation of federal and California law. Plaintiffs also seek redress for other consequences of defendants' unlawful conduct and conspiracies, including defendants' wrongful scheme to hide and then cover up the extent of their wrongdoing by failing to keep mandatory payroll records, falsifying records of hours worked and compensation owed, and concealing, denying and/or misrepresenting to the workers the amount of their earnings and on what basis these earnings were calculated.

2. Like hundreds of other similarly situated warehouse workers whom defendants employed during the applicable limitations period, plaintiffs spend their workdays performing strenuous, unskilled physical labor in an environment where the temperature often exceeds 90 degrees, filling orders, labeling boxes, sweeping and cleaning warehouse facilities, breaking down pallet supports, and lifting boxes on and off semi-trailer truck containers destined for Walmart distribution centers and Walmart stores throughout the United States. Most of the warehouse workers are immigrants; many do not speak English fluently; and large numbers of them have no formal education beyond middle school.

3. At all relevant times, defendant Walmart has been the owner and/or lessee of the Mira Loma warehouses; the owner of all the equipment used by, as well as the goods unloaded and loaded by, plaintiffs and other workers in those warehouses; and the sole customer of those warehouses. Although Walmart has hired contractors, like defendant Schneider, to operate the Mira Loma warehouses on its behalf and as its agent, at all relevant times, Walmart has directed and controlled the warehouse operations, including the material terms and conditions of employment of plaintiffs and all other similarly situated warehouse workers.

4. Defendants Impact and Premier are warehouse service contractors that supply warehouse workers to warehouse operators like Schneider and warehouse owners like Walmart. Defendant Impact first started supplying warehouse workers to perform manual labor at the Mira Loma warehouses in or about 2001. When defendant Schneider assumed operations of the Mira Loma warehouses in or about 2006, Walmart and Schneider chose to continue contracting with Impact to supply warehouse workers. In or about 2009, Schneider began contracting with defendant Premier to supply additional warehouse workers, with Walmart's knowledge and approval; while continuing to contract with defendant Impact.

PARTIES

5. Plaintiff Everardo Carrillo is an unskilled warehouse worker who applied for employment as a warehouse worker and was employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses from approximately November 2009 to approximately November 2010.

6. Plaintiff Fernando Chavez is an unskilled warehouse worker who applied for employment as a warehouse worker and was employed by defendants Walmart, Premier, Schneider and Does 2-5 to work at one or more of the Mira Loma warehouses from October 2010 to June 2011.

7. Plaintiff Eric Flores is an unskilled warehouse worker who applied for employment as a warehouse worker and has been employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses since October 2010.

8. Plaintiff Jose Martinez Arceo is an unskilled warehouse worker who applied for employment as a warehouse worker and has been employed by defendants Premier, Schneider, Walmart, and Does 2-5 to work at one or more of the Mira Loma warehouses since October 2009.

9. Each of the four plaintiffs identified immediately above brings this lawsuit on his own behalf, on behalf of all similarly situated warehouse workers employed by defendants, and on behalf of all aggrieved employees and the general public pursuant to California Labor Code §2698 et seq. and California Business & Professions Code §17200 et seq. The proposed class that these four plaintiffs seek to represent includes all individuals employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time during the applicable limitations periods, who were initially hired to perform that work by Premier ("Schneider-Premier class").

10. Plaintiffs Eric Flores and Jose Martinez Arceo also seek to represent a subclass that includes all individuals who were initially hired by Premier and

employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time from November 18, 2011– when Premier announced that all then-employed Schneider-Premier class members would be terminated on February 24, 2012 – through February 25, 2012 – when Premier stopped operating at the Mira Loma warehouses ("Schneider-Premier Mass Retaliation subclass").

11. Plaintiff Juan Chavez was an unskilled warehouse worker who applied to Impact for employment as a warehouse worker and was employed by Impact, Schneider, Walmart, and Does 6-10 to work at one or more of the Mira Loma warehouses from September 2011 to in or about December 2011.

12. Plaintiff Armando Esquivel is an unskilled warehouse worker who applied to Impact for employment as a warehouse worker and was employed by Impact, Walmart, and Does 6-10 to work at one or more of the Mira Loma warehouses for approximately seven years, from 2004 to January 2011, and was also employed by Schneider from in or about 2006, when Schneider began operating in the Mira Loma warehouses, until January 2011.

13. Plaintiff Guadalupe Rangel Mendoza is an unskilled warehouse worker who applied to Impact for employment as a warehouse worker and has been employed by Impact, Walmart, and Does 6-10 to work at one or more of the Mira Loma warehouses since March 2005, and has also been employed by Schneider since Schneider began operating in the Mira Loma warehouses in or about 2006.

14. Plaintiff Jose Enrique Trujillo-Vergara is an unskilled warehouse worker who applied to Impact for employment as a warehouse worker and has been employed by Impact, Walmart, and Does 6-10 to work at one or more of the Mira Loma warehouses since January 2003, and has also been employed by Schneider since Schneider began operating in the Mira Loma warehouses in or about 2006.

15. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara each brings this lawsuit on his own behalf, on

behalf of all similarly situated warehouse workers employed by defendants, and on behalf of all aggrieved employees and the general public pursuant to California Labor Code §2698 et seq. and California Business & Professions Code §17200 et seq. The proposed class that these four named plaintiffs seek to represent includes all individuals employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time during the applicable limitations periods, who were initially hired to perform that work by Impact ("Impact class").

16. Plaintiffs Armando Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara also seek to represent a subclass that includes all individuals employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time before Schneider assumed operations of those warehouses and during the applicable limitations periods, who were initially hired to perform that work by Impact ("Pre-Schneider Impact subclass").

17. Plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, and Jose Enrique Trujillo-Vergara also each seek to represent a subclass that includes all individuals employed as warehouse workers at one or more of defendants' Inland Empire warehouses in Eastvale (formerly Mira Loma), California, at any time after Schneider assumed operations of those warehouses and during the applicable limitations periods, who were initially hired to perform that work by Impact ("Schneider-Impact subclass").

18. In addition to the eight named plaintiffs, each of whom filed an individual Consent to Sue under 29 U.S.C. §216(b), over 200 other similarly situated warehouse workers have also filed Consents to Sue in this action.

19. Defendant Schneider Logistics, Inc. is a Wisconsin corporation that operates in California and other states, principally operating warehouses and providing warehouse and trucking related services on behalf of Walmart and other

customers. At all relevant times, defendant Schneider Logistics has done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

20. Defendant Schneider Logistics Transloading and Distribution, Inc. is a Wisconsin corporation that operates in California and other states, principally operating warehouses and providing warehouse and trucking related services on behalf of Walmart and other customers. Schneider Transloading includes its predecessor American Port Services, which began operating the Mira Loma warehouses for defendant Walmart and as its agent in or about early 2006. Schneider Transloading is and American Port Services was, from about 2005 through in or about 2005 or 2006, a wholly owned subsidiary of Schneider Logistics. At all relevant times, defendant Schneider Transloading has done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

21. Defendant Schneider is independently liable for all of the violations alleged herein on behalf of the Schneider-Premier class, the Schneider-Premier Mass Retaliation subclass, and the Schneider-Impact subclass. Schneider is also jointly and severally liable for all of those violations, along with Walmart, Premier and Impact, as the joint employer of the plaintiff warehouse workers hired by Impact and by Premier respectively; as a co-conspirator with Walmart, Impact and Premier; as an aider and abetter of the violations committed by Walmart, Impact and Premier; and as a principal on whose behalf Impact and Premier were acting as agents in committing the violations alleged herein.

22. Defendant Premier Warehousing Ventures, LLC, is a North Carolina corporation that operates in California and other states, providing a range of warehouse services, including but not limited to freight loading, unloading, pallet repair, and cleaning services, and that provides employees to work in Schneider Logistics' warehouses and other warehouses in California. At all relevant times,

defendant Premier Warehousing has done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

23. Defendant Rogers-Premier Unloading Services, LLC, is a North Carolina corporation that operates in California and other states, providing a range of warehouse services, including but not limited to freight loading and unloading, pallet repair, and cleaning services, and that provides employees to work in Schneider Logistics' warehouses and other warehouses in California. Premier Unloading is a subsidiary of defendant Premier Warehousing, and is owned by defendant Premier Warehousing and Rogers Unloading Services, Inc. At all relevant times, defendant Premier Unloading has done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

24. Defendant Premier is independently liable for all of the violations alleged herein on behalf of the Schneider-Premier class and the Schneider-Premier Mass Retaliation subclass. Premier is also jointly and severally liable for all of those violations, along with Schneider, Walmart, and Does 2-5 and Does 11-15, as the joint employer of the plaintiff warehouse workers hired by Premier; as a co-conspirator with Schneider, Walmart, and Does 2-5 and Does 11-15; as an aider and abetter of the violations committed by Schneider, Walmart, and Does 2-5 and Does 11-15; and as an agent that has committed the violations alleged herein on behalf of Schneider, Walmart, and Does 2-5 and Does 11-15.

25. Defendant Impact Logistics, Inc., is a Tennessee corporation that operates in California and other states, providing a range of warehouse services, including but not limited to freight loading, unloading, pallet repair, and cleaning services, and that provides employees to work in Schneider Logistics' warehouses and other warehouses in California. At all relevant times, defendant Impact Logistics, Inc. has

done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

26. Defendant Impact is independently liable for all of the violations alleged herein on behalf of the Impact class, the Pre-Schneider Impact subclass, and the Schneider-Impact subclass. Impact is also jointly and severally liable for all of those violations, along with Schneider, Walmart, and Does 6-15, as the joint employer of the plaintiff warehouse workers hired by Impact; as a co-conspirator with Schneider, Walmart, and Does 6-15; as an aider and abetter of the violations committed by Schneider, Walmart, and Does 6-15; and as an agent that has committed the violations alleged herein on behalf of Schneider, Walmart, and Does 6-15.

27. Defendant Walmart Stores, Inc. is an Arkansas corporation that operates in California and other states, principally operating large retail stores and overseeing and operating, both directly and indirectly, an extensive supply network of trucking and warehouse operations that provide a regular flow of goods to its retail stores and distribution centers. At all relevant times, defendant Walmart has done business in California and committed the unlawful acts alleged in this Complaint in the Eastern Division of the Central District of California.

28. Defendant Walmart is independently liable for all of the violations alleged herein on behalf of the Schneider-Premier class, including the Schneider-Premier Mass Retaliation subclass, and the Impact class, including the Pre-Schneider Impact subclass and the Schneider-Impact subclass. Walmart is also jointly and severally liable for all of those violations, along with Schneider, Premier and Impact, as the joint employer of the plaintiff warehouse workers directly hired by Impact and by Premier respectively; as a co-conspirator with Schneider, Impact and Premier; as an aider and abetter of the violations committed by Schneider, Impact and Premier; and as the principal on whose behalf Schneider, Impact and/or Premier are and were acting as agents in committing the violations alleged herein. Walmart is also liable for all of the alleged harms caused to the Schneider-Premier class and the Schneider-

Impact subclass because Walmart was negligent in selecting, hiring, retaining, supervising, and/or otherwise controlling Schneider as its warehouse operator, as it knew or should have know that the workplace violations alleged herein were a direct and foreseeable consequence of its selection of Schneider as the operator of its Mira Loma warehouses, and its failure to require Schneider, through contract terms, oversight, and economic incentives, to ensure compliance with the state and federal laws alleged herein to have been violated.

29. The true names and capacities, whether individual, corporate, associate, or otherwise, of defendants sued herein as Does 1 through 15, inclusive, are currently unknown to plaintiffs, who therefore sue such defendants by such fictitious names. Plaintiffs are informed and believe, and on that basis allege, that each of the defendants designated herein as a Doe defendant is legally responsible in some manner for the unlawful acts and omissions alleged herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true names and capacities of the defendants designated hereinafter as Doe defendants when such defendants' identities become known.

30. Defendants Premier, Schneider, Walmart, and Does 2-5 at all relevant times have been employers covered by the Fair Labor Standards Act, the California Labor Code, and California Industrial Welfare Commission ("IWC") Wage Order No. 9-2001. Those defendants, together with their co-conspirators, Does 11-15, are jointly and severally responsible for all violations alleged herein. Together, Premier, Schneider, Walmart, and Does 2-5 have jointly employed throughout the limitations period, plaintiffs Everardo Carrillo, Fernando Chavez, Eric Flores, Jose Martinez Arceo, and hundreds of other similarly situated warehouse workers, jointly dictating material terms and conditions of those workers' employment and jointly controlling material aspects of the employment relationship.

31. Defendants Impact, Schneider, Walmart, and Does 6-10 at all relevant times have been employers covered by the Fair Labor Standards Act, the California

Labor Code, and IWC Wage Order No. 9-2001. Defendants Impact, Walmart, and Does 6-10, together with their co-conspirators, Does 11-15, are jointly and severally responsible for all violations alleged herein. Defendant Schneider, together with defendants Impact, Walmart, and Does 6-15, is jointly and severally responsible for all violations alleged herein, from the time that Schneider assumed operations of the Mira Loma warehouses to the present. Impact, Walmart, and Does 6-10 have jointly employed plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and hundreds of other similarly situated warehouse workers, jointly dictating material terms and conditions of those workers' employment and jointly controlling material aspects of the employment relationship, throughout the limitations period. From the time that Schneider assumed operations of the Mira Loma warehouses to the present, together with Impact, Walmart, and Does 6-10, Schneider has jointly employed plaintiffs Juan Chavez, Armando Esquivel, Guadalupe Rangel Mendoza, Jose Enrique Trujillo-Vergara, and hundreds of other similarly situated warehouse workers, jointly dictating material terms and conditions of those workers' employment and jointly controlling material aspects of the employment relationship.

32. Defendants Schneider, Walmart, and Does 2-15 are also jointly and severally liable for the violations alleged herein because they have aided and abetted Premier and Impact in the commission of those violations, and/or because Premier and Impact have committed those violations as agents of Schneider, Walmart, and Does 2-15.

JURISDICTION AND VENUE

33. This action arises under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §201 et seq., and several California statutes and other provisions of law. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331. This Court has supplemental jurisdiction over the state law claims under 28 U.S.C. §1367, because all state law claims derive from a common nucleus of operative fact

and are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

34. Venue is proper in this judicial district pursuant to 29 U.S.C. §1391(b) and (c). Venue is proper in this division because: the Court has personal jurisdiction over the parties; one or more defendants may be found within this district and division; one or more defendants resides within this district and division and all defendants reside within this State; and a substantial part of the events or omissions giving rise to plaintiffs' claims occurred within this district and division.

GENERAL FACTUAL ALLEGATIONS

A. Plaintiffs Hired by Premier and Jointly Employed by Defendants

35. Plaintiff Carrillo obtained his job with defendants after being referred by another employee of Schneider, who told him to present himself for work at a specific time and date on or about the first week of November 2009 at one of the Mira Loma warehouses. Upon arriving at that warehouse at the appointed time, Carrillo was directed by the security guard on duty to speak to Jose Rivas, an employee of defendant Premier. Defendant Premier has conducted in the warehouse lunchroom its business relating to its joint employment with Schneider and Walmart of plaintiffs and similarly situated warehouse workers.

36. Plaintiffs Fernando Chavez, Flores, and Martinez also obtained their jobs by presenting themselves at one of the Mira Loma warehouses where they spoke to an employee of defendant Premier. These plaintiffs' applications, hiring, and orientation were also processed on the premises of one of the Mira Loma warehouses.

37. The paychecks of all four of these plaintiffs and members of the Schneider-Premier class have borne the name of "Premier Warehousing Ventures, LLC," but these plaintiffs and class members were directed by, and their work was supervised throughout the period of their employment by, employees of Premier, employees of Schneider, employees of Walmart, and, on information and belief,