

1 THOMAS W. FALVEY (CA BAR NO. 65744)
2 J.D. HENDERSON (CA BAR NO. 235767)
3 THE LAW OFFICES OF THOMAS W. FALVEY
4 301 NORTH LAKE AVENUE, SUITE 800
PASADENA, CALIFORNIA 91101
PHONE: 626/795-0205
FAX: 626/795-3096

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OF ORIGINAL FILED
Los Angeles Superior Court

APR 12 2011

5 STEVEN G. PEARL (CA BAR NO. 163381)
6 LEONARD H. SANSANOWICZ (CA BAR NO. 255729)
7 THE PEARL LAW FIRM, A PROFESSIONAL CORPORATION
8 16133 VENTURA BOULEVARD, SUITE 625
ENCINO, CALIFORNIA 91436-2412
PHONE: 818/995-8300
FAX: 818/995-8301

John A. Clarke, Executive Director/Clerk
By *[Signature]* Deputy
DOROTHY SWAIN

9 ATTORNEYS FOR PLAINTIFF
10 JAMES TYRER, JR., INDIVIDUALLY AND
ON BEHALF OF ALL OTHERS SIMILARLY SITUATED

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES – CENTRAL DISTRICT
13

THE PEARL LAW FIRM

14 JAMES TYRER, JR., INDIVIDUALLY
15 AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

16 Plaintiffs,

17 v.

18 FIRST STUDENT, INC., AND DOES 1
19 THROUGH 100, INCLUSIVE,

20 Defendants.
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Case No. BC459305

Unlimited Civil Case

Class Action Complaint For:

1. Failure to Pay Minimum Wage (Cal. Lab. Code §§ 1194, 1194.2, 1198; IWC Wage Order No. 9-2001);

2. Failure to Furnish Wage And Hour Statements (Cal. Lab. Code § 226);

3. Waiting Time Penalties (Cal. Lab. Code § 203);

4. Unfair Competition (Cal. Bus. & Prof. Code § 17200, et seq.)

5. Breach of Oral Contract

Demand For Jury Trial

1 Plaintiff James Tyrer, Jr. ("Plaintiff"), individually and on behalf of all others similarly situated,
2 alleges:

3 **General Allegations**

4 1. Plaintiff brings this class action and representative action to remedy wage and hour
5 violations by defendants First Student, Inc., and Does 1 Through 100, Inclusive (collectively,
6 "Defendants"), who engaged in a pervasive and unlawful scheme to deprive their employees of the
7 protections granted them by California wage and hour law. Plaintiff brings this action on his own behalf
8 and on behalf of the following class of individuals (the "Class Members"):

9 Plaintiff and all other persons who were employed by Defendants, or any of them, as
10 school bus drivers in the State of California at any time from April 12, 2007, and
11 continuing while this action is pending (the "Class Period").

12 2. During the Class Period, Defendants: (1) failed to pay the Class Members minimum wage
13 for all hours worked; (2) failed to provide the Class Members timely and accurate wage and hour
14 statements; (3) failed to pay the Class Members their earned wages in a timely manner upon separation;
15 (4) violated California's Unfair Competition Law (the "UCL"); and (5) breached the parties' oral
16 employment agreement. The foregoing acts and other acts by Defendants violated provisions of the
17 California Labor Code (the "Code"), including sections 201, 202, 203, 226, 1194, 1994.2, and 1198,
18 violated the applicable Wage Order issued by the Industrial Welfare Commission of the State of
19 California (the "Wage Order"), violated the UCL, and violated the Class Members' rights.

20 3. Venue is proper in this Court because Defendants do substantial business in Los Angeles
21 County and employed Plaintiff and other Class Members in Los Angeles County.

22 **The Parties**

23 4. Plaintiff is, and at all relevant times was, a competent adult residing in Los Angeles
24 County, California.

25 5. Plaintiff is informed and believes and on that basis alleges that defendant First Student,
26 Inc. is, and at all relevant times was, a corporation organized under the laws of the State of California,
27 with its corporate headquarters and principal place of business in Los Angeles County, California.

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1 6. Plaintiff currently is unaware of the true names and capacities of the defendants sued in
2 this action by the fictitious names DOES 1 through 100, inclusive, and therefore sue those defendants
3 by those fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities
4 of such fictitiously named defendants when they are ascertained.

5 7. Plaintiff is informed and believe and on that basis alleges that each defendant sued in this
6 action, including each defendant sued by the fictitious names DOES 1 through 100, inclusive, is
7 responsible in some manner for the occurrences, controversies and damages alleged below.

8 8. Plaintiff is informed and believes and on that basis alleges that there exists, and at all
9 relevant times there has existed, a unity of interest and ownership between DOES 1 through 10, on the
10 one hand, and First Student, Inc., on the other hand, such that any separateness and individuality between
11 them have ceased, and First Student, Inc. is the alter-ego of DOES 1 through 10. Adherence to the
12 fiction of the separate existence of First Student, Inc. as an entity distinct from DOES 1 through 10
13 would permit abuse of any corporate privilege, sanction fraud and promote injustice.

14 **Defendants' Illegal Conduct**

15 9. During the four years preceding the filing of this action, Defendants employed the Class
16 Members as school bus drivers in California. Defendants did not pay the Class Members at least
17 minimum wage for all time during which the Class Members were subject to Defendants' control,
18 including but not limited to all time that the Class Members were suffered or permitted to work, whether
19 or not required to do so. Morillion v. Royal Packing Co. (2000) 22 Cal.4th 575, 578.

20 10. Defendants knowingly and intentionally failed to provide the Class Members with timely
21 and accurate wage and hour statements, in violation of Code section 226 and the Wage Order.

22 11. Defendants willfully failed to pay the Class Members their earned wages in a timely
23 manner upon separation, in violation of Code Section 203.

24 12. Defendants engaged in various acts of unfair competition, as defined in the UCL.

25 13. Defendants violated the terms and conditions of their oral agreements to employ the Class
26 Members.

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Class Action Allegations

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14. The Class Members are so numerous that joinder of each such individual would be impracticable, and the disposition of their claims in a class action, rather than in numerous individual actions, will benefit the parties, the Court, and the interests of justice.

15. There is a well defined community of interest in the questions of law and fact involved affecting all Class Members in that Defendants uniformly treated the Class Members. Common questions of law and fact predominate over questions that affect only individual Class Members. Jaimez v. DAIOHS USA, Inc. (2010) 181 Cal.App.4th 1286, 1299-1300.

16. Plaintiff's claims are typical of those belonging to other Class Members.

17. Plaintiff can adequately represent and protect the interests of all Class Members. Plaintiff's counsel is competent and experienced in litigating class actions based on violations of California law.

First Cause of Action

Failure to Pay Minimum Wage

(Cal. Lab. Code §§ 1194, 1194.2, 1198; IWC Wage Order No. 9-2001)

by Plaintiff Individually and on Behalf of All Class Members Against All Defendants

18. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 18, inclusive, as though set forth fully herein.

19. The Code and the Wage Order provide that an employer must pay a minimum wage to an employee, which is seven dollars and fifty cents (\$7.50) per hour for all hours worked effective January 1, 2007, and eight dollars (\$8.00) per hour for all hours worked effective January 1, 2008.

20. Defendants did not pay the Class Members for all time during which the Class Members were subject to Defendants' control, including but not limited to all time that the Class Members were suffered or permitted to work, whether or not required to do so. Morillion v. Royal Packing Co. (2000) 22 Cal.4th 575, 578.

21. Defendant deprived the Class Members of their rightfully earned minimum wage compensation, including overtime compensation at the minimum wage rate, as a direct and proximate result of Defendants' failure to pay said compensation. Under Code section 1194, the Class Members

1 are entitled to recover such amounts, plus interest thereon, attorney’s fees, and costs.

2 22. In addition, under Code section 1194.2, the Class Members are entitled to recover
3 liquidated damages in an amount equal to the minimum wages unlawfully unpaid, and interest thereon.

4 Second Cause of Action

5 **For Failure to Furnish Timely and Accurate Wage and Hour Statements**

6 **(California Labor Code Section 226)**

7 **by Plaintiff Individually and on Behalf of All Class Members Against All Defendants**

8 23. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 18, inclusive, as
9 though set forth fully herein.

10 24. Code section 226(a) required Defendants, “semimonthly or at the time of each payment
11 of wages,” to furnish the Class Members “an accurate itemized statement in writing” showing gross and
12 net wages earned, total hours worked by the Class Members, rates of pay, and other information.
13 Defendants knowingly and intentionally failed to provide the Class Members with such timely and
14 accurate wage and hour statements.

15 25. The Class Members suffered injury as a result of Defendants’ knowing and intentional
16 failure to provide them with the wage and hour statements required by law.

17 26. Code section 226(c) provides: “An employer who receives a written or oral request to
18 inspect or copy records pursuant to subdivision (b) pertaining to a current or former employee shall
19 comply with the request as soon as practicable, but no later than 21 calendar days from the date of the
20 request.”

21 27. Before he filed this action, Plaintiff wrote a pre-litigation demand letter to Defendants
22 in which he requested they produce: Plaintiff’s check stubs or other wage statements; any documents
23 signed by Plaintiff relating to his employment; and Plaintiff’s personnel file. A true and correct copy
24 of this letter is attached as Exhibit A. Defendants have failed to produce these documents within 21 days
25 of Plaintiff’s written request.

26 28. Under Code section 226, subsections (e) and (f), and based on Defendants’ conduct as
27 alleged herein, the Class Members are entitled to (a) fifty dollars (\$50) for the initial pay period in which
28 a wage and hour statement violation occurred, and one hundred dollars (\$100) per employee for each

1 violation in a subsequent pay period, not exceeding an aggregate penalty of four thousand dollars
2 (\$4,000) per employee; (b) an additional seven-hundred-fifty-dollar (\$750) penalty for Defendants'
3 failure to allow Plaintiff to timely inspect and copy pertinent records; (c) injunctive relief to ensure
4 Defendants' compliance with Code section 226; and (d) an award of costs and reasonable attorney's fees.

5 29. Defendants' conduct also entitles the Class Members to seek preliminary and permanent
6 injunctive relief, including but not limited to an order that Defendants issue wage and hour statements
7 to the Class Members that comply with Code section 226.

8 **Third Cause of Action**

9 **For Waiting Time Penalties**

10 **(California Labor Code Sections 201 through 203)**

11 **by Plaintiff Individually and on Behalf of All Class Members Against All Defendants**

12 30. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 18, inclusive, as
13 though set forth fully herein.

14 31. Defendants wilfully failed to pay the Class Members accrued wages due to them promptly
15 upon separation, as required by Code sections 201 and 202.

16 32. Based on Defendants' conduct as alleged herein, Defendants are liable for statutory
17 penalties pursuant to Code section 203.

18 **Fourth Cause of Action**

19 **For Unfair Competition**

20 **(California Business & Professions Code Section 17200, et seq.)**

21 **by Plaintiff Individually and on behalf of All Class Members and the Public**

22 **Against All Defendants**

23 33. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 18, inclusive, as
24 though set forth fully herein.

25 34. Defendants' violations of the Code and the Wage Order, including Defendants' failure
26 to pay the Class Members their overtime wages and failure to provide the Class Members with timely
27 and accurate wage and hour statements, constitute unfair business practices in violation of the UCL.

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44. The Class Members have suffered damages as a direct and proximate result of Defendants' breach of contract.

WHEREFORE, plaintiff James Tyrer, Jr., individually and on behalf of all others similarly situated, hereby prays that the Court enter judgment in his favor and against defendants First Student, Inc., and Does 1-100, Inclusive, as follows:

- 1. For payment of earned wages, plus interest;
- 2. For statutory penalties pursuant to Code section 226;
- 3. For statutory "waiting time" penalties;
- 4. For preliminary and permanent injunctive relief prohibiting Defendants from continuing the conduct complained of;
- 5. For an order requiring Defendants to make restitution to Plaintiffs in the amounts set forth above;
- 6. For reasonable attorney fees on Plaintiff's First and Second Causes of Action;
- 7. For costs of suit incurred herein; and
- 8. For such further relief as the Court may deem appropriate.

DATED: April 2, 2011

THE PEARL LAW FIRM,
A PROFESSIONAL CORPORATION



By: Steven G. Pearl
Attorneys For Plaintiff James Tyrer, Jr.,
Individually and on Behalf of All Others Similarly Situated

EXHIBIT A

THE PEARL LAW FIRM
A PROFESSIONAL CORPORATION

March 16, 2011

Via Certified Mail, Return Receipt Requested

Linda Burtwistle
President
First Student, Inc.
600 Vine Street, Suite 1400
Cincinnati, OH 45202

Re: Pre-litigation Demand for James Tyrer, Jr.,
Individually and on Behalf of All Others Similarly Situated

Dear Ms. Burtwistle:

James Tyrer, Jr., individually and on behalf of all others similarly situated, has retained our firm and Law Offices of Thomas W. Falvey to look at whether he and his co-workers were paid all required wages while employed by First Student, Inc. I am writing to you in an effort to resolve these issues informally.

Please send us copies of the following: Mr. Tyrer's check stubs or other wage statements (Cal. Labor Code §226); any documents signed by Mr. Tyrer relating to his employment (Cal. Labor Code §432); and Mr. Tyrer's personnel file (Cal. Labor Code §1198.5). We will reimburse you for the cost of copying these documents.

We understand that First Student employed Mr. Tyrer as a bus driver from November 27, 2006, through August 19, 2010. First Student employs many individuals at any given time in positions similar to Mr. Tyrer, subject to the same wage and hour policies.

First Student did not pay Mr. Tyrer and his co-workers for all of their hours of work. First Student based their pay on their clock in and clock out times, roughly from the time they arrived at their vehicles until the time they returned to the First Student lot. First Student did not pay Mr. Tyrer and his co-workers for the time it took him to get their keys from dispatch and walk to their vehicles or for the time it took to walk from the vehicles to return the keys to dispatch.

First Student did not pay Mr. Tyrer and his co-workers to attend all company-required training sessions. First Student did not pay Mr. Tyrer and his co-workers to clean, wash, and gas their busses. First Student did not pay Mr. Tyrer and his co-workers to fill out maintenance reports for service needed on their busses. First Student did not pay Mr. Tyrer and his co-workers to perform myriad other tasks required by First Student.

As a result, Mr. Tyrer and his co-workers are entitled to recover the following:

- Compensation for their unpaid hours (Cal. Lab. Code §§ 510, 1194);
- Penalties for First Student's failure to provide timely and accurate wage and hour statements (Cal. Lab. Code § 226);
- "Waiting time" penalties for First Student's failure to pay all earned wages at the time of separation (Cal. Lab. Code §§ 201-203); and
- Reasonable attorney fees and costs (Cal. Lab. Code §§ 226(c), 1194; Cal. Code Civ. Proc. § 1021.5).

Mr. Tyrer is willing to discuss a pre-litigation resolution of this matter on a class-wide basis. Pre-litigation resolution would encompass a stipulated settlement class of all individuals employed by First Student in California from March, 2007, through the date of preliminary approval of a class settlement. First Student would be required to pay the putative class members their unpaid compensation and to abide by all California and Federal wage and hour laws in the future.

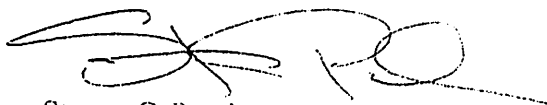
First Student's counsel may contact me directly. If First Student is not represented by counsel with regard to this matter, you or another First Student representative may contact me. If First Student would like to discuss resolution, the parties will need to enter into a tolling agreement to maintain the status quo.

First Student and its agents, attorneys and advisors may not contact our client regarding this matter. Our client has designated our firm as his exclusive representative for purposes of discussing this matter with First Student (Cal. Labor Code § 923). Our client does not want to discuss this matter with First Student or its agents.

If we are not able to resolve this case by the close of business on March 28, 2011, our client will have no choice but to file a lawsuit in Superior Court against Central, seeking all amounts owed, including compensation, interest, penalties, costs, and attorney fees.

I look forward to hearing from you at your earliest convenience.

Sincerely,



Steven G. Pearl

SGP:ns

cc: Thomas W. Falvey, Esq.