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10 *Attorneys for Plaintiff*
THE PEOPLE OF THE STATE OF CALIFORNIA
11 *ex rel. EDMUND G. BROWN JR., as Attorney*
General of the State of California

12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

14 THE PEOPLE OF THE STATE OF
15 CALIFORNIA ex rel. EDMUND G. BROWN
16 JR., as Attorney General of the State of
California,,
17

Plaintiff,

18 v.

19 PACIFICA TRUCKS, LLC, a limited liability
20 corporation and DOES I through 50, inclusive,
21

Defendants.

Case No.

**COMPLAINT FOR INJUNCTIVE RELIEF
AND CIVIL PENALTIES**
(Business & Professions Code sections 17200
et seq.)

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23 Plaintiff, the People of the State of California, by and through Edmund G. Brown Jr., as Attorney
24 General of the State of California, is informed and believes, and on such information and belief
25 alleges:

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1 **INTRODUCTION**

2 1. This action is brought by Plaintiff, the People of the State of California, ex rel.
3 Edmund G. Brown Jr., Attorney General of the State of California, against Defendant Pacifica
4 Trucks LLC (Pacifica), a southern California fleet operator, to stop Pacifica from engaging in
5 unfair competition. Pacifica has engaged in a pattern and practice of violating state and federal
6 law by misclassifying truck drivers working for it as independent contractors rather than as
7 employees. By misclassifying the drivers as independent contractors, Pacifica has illegally
8 lowered its cost of doing business by failing to pay state employment-related taxes, failing to
9 contribute to Social Security and Medicare, and failing to provide employee drivers with W-2
10 forms. Pacifica’s unlawful conduct not only harms law-abiding transportation companies, but
11 also injures its employees and the taxpayers of California. This action seeks to compel Pacifica to
12 cease engaging in unfair competition and to pay applicable penalties.

13 **PARTIES**

14 2. Plaintiff Edmund G. Brown Jr. is the Attorney General of the State of California
15 and is the chief law officer of the State. (Cal. Const., art. V, § 13.) The Attorney General is
16 empowered by the California Constitution to take whatever action is necessary to ensure that the
17 laws of the State are uniformly and adequately enforced. He is statutorily authorized to bring
18 actions in the name of the People of the State of California to enforce California’s statutes
19 governing unfair competition. (Bus. & Prof. Code, § 17204.)

20 3. Defendant Pacifica is a limited liability company doing business in the State of
21 California, including in the county of Los Angeles. Pacifica is a fleet operator, owning eight to
22 ten trucks. It hires truck drivers to transport cargo from the Ports of Los Angeles and Long
23 Beach.

24 4. The true names and capacities of defendants sued in the complaint under the
25 fictitious names DOES 1 through 50, inclusive, presently are unknown to plaintiff, who therefore
26 sues such defendants by such fictitious names. Plaintiff will seek to amend this complaint to
27 allege the true names of DOES 1 through 50 when the same have been ascertained. Plaintiff is
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1 informed and believes, and based thereon alleges, that each of the fictitiously named defendants
2 participated in some or part of the acts alleged herein.

3 5. Whenever reference is made in this complaint to any act of Pacifica, such
4 allegations shall mean that Pacifica through its agents, employees, or representatives, performed
5 or authorized such acts while they were acting within the actual or ostensible scope of their
6 authority.

7 6. Whenever reference is made in this complaint to any act of the defendants,
8 including those named herein as Doe defendants, such allegations shall mean that each defendant
9 and/or Doe defendant acted individually and jointly with the other defendants, including the Doe
10 defendants, named in this complaint.

11 **FIRST CAUSE OF ACTION**

12 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

13 **(UNFAIR COMPETITION)**

14 (Against All Defendants)

15 7. The People re-allege and incorporate by reference paragraphs 1 through 6 of this
16 complaint as if set fully herein.

17 8. The People allege that defendants have absolute control over their truck drivers.
18 Driving trucks defendants own, the drivers work exclusively for defendants. Without the use of
19 defendants' trucks, their drivers cannot work. Defendants pay for all business expenses including
20 liability and cargo insurance, operating expenses for the trucks, e.g. gas, repairs, and parking fees.
21 Defendants' truck drivers do not have their own Department of Transportation permit and instead
22 rely on Defendants' to ensure proper authorization to drive their trucks.

23 9. The People allege that Defendants' pay their drivers without taking deductions for
24 taxes, social Security, Medicare, or state disability and issue for the employee drivers federal tax
25 form 1099 instead of a W-2.

26 10. Defendants do not contribute to the unemployment insurance fund for their driver
27 employees, and do not contribute to funds for their employee drivers' Social Security, Medicare
28 and state disability.

1 11 The People allege that Defendants have misclassified their workers to avoid
2 paying state payroll taxes.

3 12. Defendants do not provide their employee drivers with a written record of the
4 employee drivers hours worked, hourly rate, and social security number.

5 13. Defendants have violated and continue to violate Business and Professions Code
6 section 17200, et seq. by engaging in acts of unfair competition including, but not limited to, the
7 following:

8 a. failing to pay Unemployment Insurance taxes as required by
9 Unemployment Insurance Code section 976;

10 b. failing to pay Employment Training Fund taxes as required by
11 Unemployment Insurance Code section 976.6;

12 c. failing to withhold State Disability Insurance taxes as required by
13 Unemployment Insurance Code section 984;

14 d. failing to withhold State income taxes as required by Unemployment
15 Insurance Code section 13020;

16 e. failing to provide employees with itemized written statements as required
17 by Labor Code section 226, and.

18 f. failing to provide employees with federal W-2 forms.

19 **PRAYER FOR RELIEF**

20 WHEREFORE, the People pray for the following relief:

21 1. Pursuant to Business and Professions Code section 17203, that defendants, their
22 successors, agents, representatives, employees and all persons who act in concert with defendants
23 be permanently enjoined from engaging in unfair competition as defined in Business and
24 Professions Code section 17200, including, but not limited to, acts and practices alleged in this
25 complaint;

26 2. Pursuant to Business and Professions Code section 17206, that the Court assess a
27 civil penalty of two thousand five hundred dollars (\$2,500) against Defendants for each violation
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1 of Business and Professions Code section 17200, the total amount being no less than \$50,000.00
2 and restitution in the amount proven at trial;

3 3. That the People recover their costs of suit; and

4 4. Such other and further relief that the Court deems appropriate and just.

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6 Dated: November 19, 2009

Respectfully Submitted,

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EDMUND G. BROWN JR.
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JON M. ICHINAGA
Supervising Deputy Attorney General
CAROLYN LA
Deputy Attorney General

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