

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT: US AIR CONDITIONING DISTRIBUTORS,
(AVISO AL DEMANDADO): LLC, a Delaware limited liability
company, and DOES 1 through 10, inclusive**

**YOU ARE BEING SUED BY PLAINTIFF: TONY RAMOS, on behalf of
(LO ESTÁ DEMANDANDO EL DEMANDANTE): himself and all
"aggrieved employees" pursuant to Labor Code § 2698 et
seq.**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 18 2020

LaShondra Richardson

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):
Superior Court of California, County of San Bernardino
247 West Third Street
San Bernardino, California 92415-0210

CASE NUMBER
CIV DS 2013269

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq. # 202754
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gaines & Gaines, APLC
27200 Agoura Road, Suite 101, Calabasas, CA 91301

818-703-8985

DATE:

JUN 18 2020

(Fecha)

Clerk, by
(Secretario)

LaShondra Richardson, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

Copy

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Alex P. Katofsky, Esq.

SBN: 202754

Gaines & Gaines, APLC

27200 Agoura Road, Suite 101, Calabasas, CA 91301

TELEPHONE NO.: 818-703-8985

FAX NO.: 818-703-8984

ATTORNEY FOR (Name): Tony Ramos

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

STREET ADDRESS: 247 West Third Street

MAILING ADDRESS: 247 West Third Street

CITY AND ZIP CODE: San Bernardino, 92415-0210

BRANCH NAME: San Bernardino District - Civil Division

CASE NAME: Ramos v. US Air Conditioning Distributors, LLC, et al.

FOR COURT USE ONLY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 18 2020

LaShondra Richardson

CIVIL CASE COVER SHEET

☒ **Unlimited**
(Amount demanded exceeds \$25,000)
 ☐ **Limited**
(Amount demanded is \$25,000 or less)

Complex Case Designation

☐ **Counter**
☐ **Joinder**
Filed with first appearance by defendant
(Cal. Rules of Court, rule 3.402)

CASE NUMBER:

CIV DS 2013269

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

- ☐
- Auto (22)
-
- ☐
- Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- ☐
- Asbestos (04)
-
- ☐
- Product liability (24)
-
- ☐
- Medical malpractice (45)
-
- ☐
- Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

- ☐
- Business tort/unfair business practice (07)
-
- ☐
- Civil rights (08)
-
- ☐
- Defamation (13)
-
- ☐
- Fraud (16)
-
- ☐
- Intellectual property (19)
-
- ☐
- Professional negligence (25)
-
- ☐
- Other non-PI/PD/WD tort (35)

Employment

- ☐
- Wrongful termination (36)
-
- ☒
- Other employment (15)

Contract

- ☐
- Breach of contract/warranty (06)
-
- ☐
- Rule 3.740 collections (09)
-
- ☐
- Other collections (09)
-
- ☐
- Insurance coverage (18)
-
- ☐
- Other contract (37)

Real Property

- ☐
- Eminent domain/inverse condemnation (14)
-
- ☐
- Wrongful eviction (33)
-
- ☐
- Other real property (26)

Unlawful Detainer

- ☐
- Commercial (31)
-
- ☐
- Residential (32)
-
- ☐
- Drugs (38)

Judicial Review

- ☐
- Asset forfeiture (05)
-
- ☐
- Petition re: arbitration award (11)
-
- ☐
- Writ of mandate (02)
-
- ☐
- Other judicial review (39)

Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)

- ☐
- Antitrust/Trade regulation (03)
-
- ☐
- Construction defect (10)
-
- ☐
- Mass tort (40)
-
- ☐
- Securities litigation (28)
-
- ☐
- Environmental/Toxic tort (30)
-
- ☐
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

- ☐
- Enforcement of judgment (20)

Miscellaneous Civil Complaint

- ☐
- RICO (27)
-
- ☐
- Other complaint (not specified above) (42)

Miscellaneous Civil Petition

- ☐
- Partnership and corporate governance (21)
-
- ☐
- Other petition (not specified above) (43)

2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. ☐ Large number of separately represented parties
- b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. ☐ Substantial amount of documentary evidence
- d. ☐ Large number of witnesses
- e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. ☐ Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary

4. Number of causes of action (specify): One (1)

5. This case ☐ is ☒ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 6/17/2020

Alex P. Katofsky, Esq.

(TYPE OR PRINT NAME)

NOTICE

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

• Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed in sanctions).

• File this cover sheet in addition to any cover sheet required by local court rule.

• If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.

• Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (not asbestos or toxic/environmental) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (not civil harassment) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (not medical or legal)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (not unlawful detainer or wrongful eviction)
Contract/Warranty Breach—Seller
Plaintiff (not fraud or negligence)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (not provisionally complex) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (not eminent domain, landlord/tenant, or foreclosure)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (arising from provisionally complex case type listed above) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (non-domestic relations)
Sister State Judgment
Administrative Agency Award (not unpaid taxes)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (not specified above) (42)
Declaratory Relief Only
Injunctive Relief Only (non-harassment)
Mechanics Lien
Other Commercial Complaint Case (non-tort/non-complex)
Other Civil Complaint (non-tort/non-complex)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (not specified above) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Ramos

Case No. **CIV DS 2013269**

VS.

CERTIFICATE OF ASSIGNMENT

US Air Conditioning Distributors, LLC, et al.

B9 FAX

A civil action or proceeding presented for filing must be accompanied by this Certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the San Bernardino- Civil District of the Superior Court under Rule 131 and General Order of this court for the checked reason:

☒ General

☐ Collection

Nature of Action

Ground

- ☐ 1. Adoption
- ☐ 2. Conservator
- ☐ 3. Contract
- ☐ 4. Equity
- ☐ 5. Eminent Domain
- ☐ 6. Family Law
- ☐ 7. Guardianship
- ☐ 8. Harassment
- ☐ 9. Mandate
- ☐ 10. Name Change
- ☐ 11. Personal Injury
- ☐ 12. Personal Property
- ☐ 13. Probate
- ☐ 14. Prohibition
- ☐ 15. Review
- ☐ 16. Title to Real Property
- ☐ 17. Transferred Action
- ☐ 18. Unlawful Detainer
- ☐ 19. Domestic Violence
- ☐ 20. Other
- ☒ 21. THIS FILING WOULD

- Petitioner resides within the district
- Petitioner or conservatee resides within the district.
- Performance in the district is expressly provided for.
- The cause of action arose within the district.
- The property is located within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- Petitioner or ward resides within the district or has property within the district.
- Plaintiff, defendant, petitioner or respondent resides within the district.
- The defendant functions wholly within the district.
- The petitioner resides within the district.
- The injury occurred within the district.
- The property is located within the district.
- Decedent resided or resides within or had property within the district.
- The defendant functions wholly within the district.
- The defendant functions wholly within the district.
- The property is located within the district.
- The lower court is located within the district.
- The property is located within the district.
- The petitioner, defendant, plaintiff or respondent resides within the district.

NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designed district is:

US Air Conditioning Distributors, LLC
NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR

17615 Catalpa St
ADDRESS

Hesperia
CITY

California
STATE

92345
ZIP CODE

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on 6/17/2020 at Calabasas, CA California.

Alex P. Katoisky
Signature of Attorney/Party

1 DANIEL F. GAINES, ESQ. SBN 251488
daniel@gaineslawfirm.com
2 ALEX P. KATOFISKY, ESQ. SBN 202754
alex@gaineslawfirm.com
3 EVAN S. GAINES, ESQ. SBN 287668
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6 Facsimile: (818) 703-8984

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUN 18 2020



LaShondra Richardson

7 Attorneys for Plaintiff Tony Ramos, on behalf of himself and all "aggrieved employees" pursuant to
8 Labor Code § 2698 *et seq.*

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**

11 TONY RAMOS, on behalf of himself and all
12 "aggrieved employees" pursuant to Labor
Code § 2698 *et seq.*,

13 Plaintiffs,

14 v.

15 US AIR CONDITIONING DISTRIBUTORS,
16 LLC, a Delaware limited liability company,
and DOES 1 through 10, inclusive,

17 Defendants.

CASE NO: **CIV DS 2013269**

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 226(a), 226.7, 510, 512, AND
1194 AND PURSUANT TO LABOR CODE
§ 2699(a) FOR VIOLATIONS OF LABOR
CODE §§ 226.3, 246, 558 AND 1024.5**

DEMAND FOR JURY TRIAL

89 FAX

1 Plaintiff TONY RAMOS ("Plaintiff"), on behalf of himself and others as an "aggrieved
2 employee" under the Labor Code Private Attorneys General Act of 2004, complains of US AIR
3 CONDITIONING DISTRIBUTORS, LLC, a Delaware limited liability company, and/or any
4 subsidiaries or affiliated companies (hereinafter referred to as "Defendants"), as follows:

5 **I.**

6 **INTRODUCTION AND FACTUAL BACKGROUND**

7 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
8 Plaintiff and other California employees who currently work or formerly worked for Defendants
9 ("Aggrieved Employees").

10 2. For at least one (1) year prior to the filing of this action and at least one (1) year prior
11 to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to
12 Labor Code § 2698 *et seq.*, and continuing to the present (the "liability period"), Defendants have had
13 consistent policies of:

14 a. Failing to properly compute Spiff wages and other non-base hourly wages
15 earned by Plaintiff and other non-exempt Aggrieved Employees into their regular rate of pay for
16 purposes of paying them overtime at the correct rates, in violation of Labor Code §§ 510, 558 and
17 1194. Defendants failed to properly blend these non-base wages and instead paid Plaintiff and other
18 non-exempt Aggrieved Employees overtime based *only* on the base hourly rate of pay, thus depriving
19 Plaintiff and other non-exempt Aggrieved Employees of all overtime and double time wages earned.
20 Defendants also failed to blend Spiff wages and other non-base hourly base hourly wages earned by
21 Plaintiff and other non-exempt Aggrieved Employees into their sick pay rate yielding an
22 underpayment, in violation of Labor Code §§ 246, 510, 558 and 1194;

23 b. Failing to pay all minimum and overtime wages earned during the course of
24 employment, in violation of Labor Code §§ 510, 558 and 1194, when it rounded down the hours
25 reflected on Plaintiff's and other non-exempt Aggrieved Employees' time records to pay fewer hours
26 than were actually worked. On a weekly basis, this rounding deprived Plaintiff and other non-exempt
27 Aggrieved Employees of significant hours worked. These failures to pay all minimum and overtime
28 wages due constitute violations of Labor Code §§ 510, 558 and 1194;

1 c. Failing to pay premium wages to Plaintiff and non-exempt Aggrieved
2 Employees who were denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC
3 Wage Order 5-2001. Plaintiff and all other non-exempt Aggrieved Employees were routinely not
4 authorized and unable to take a 10-minute rest period for every four (4) hours of work or major
5 fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period.
6 When they were able to take a rest period, they were oftentimes late, cut short, interrupted, or on-
7 duty, in violation Labor Code §§ 226.7 and 558 and IWC Wage Order No. 4-2001;

8 d. Failing to pay Plaintiff and all other non-exempt Aggrieved Employees
9 premium wages for missed meal periods, in violation of Labor Code §§ 226.7, 512 and 558 and IWC
10 Wage Order 5-2001. Plaintiff and other non-exempt Aggrieved Employees were routinely denied,
11 and not authorized to take, an uninterrupted, 30-minute meal period for every shift worked over five
12 hours in duration, and a second 30-minute meal period for every shift worked over ten hours in
13 duration, but were not paid premium wages of one hour's pay for each missed meal period. When
14 they did receive a meal period, it was routinely provided after the fifth hour of work. Defendants
15 would also regularly require Plaintiff other non-exempt Aggrieved Employees to clock out for their
16 meal periods, but continue working, without any compensation. This violates Labor Code §§ 226.7,
17 510, 512, 558, and 1194 and IWC Wage Order 4-2001;

18 e. Failing to provide Plaintiff and non-exempt Aggrieved Employees with wage
19 statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and
20 226.3. Plaintiff and other non-exempt Aggrieved Employees were not paid all minimum and overtime
21 wages due and meal and rest period premium wages due. As such, the wage statements provided by
22 Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1)
23 and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned,
24 in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the
25 pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9)
26 and 226.3;

27 f Requiring Plaintiff to process a background check even though his job title and
28 classification did not provide for any form of background check, in violation of the Fair Credit

1 Reporting Act and Labor Code § 1024.5. Plaintiff was employed as a non-exempt employee working
2 customer service counter sales. He was not employed as a manager in any capacity, nor did he fit into
3 the enumerated positions allowing for a background check pursuant to Labor Code § 1024.5. As such,
4 he was not required to undergo a background check in coordination with his employment. Plaintiff
5 alleges this claim on behalf of himself and all other Aggrieved Employees; and

6 g. Failing to timely pay Plaintiff and non-exempt Aggrieved Employees all wages
7 due at the separation of their employment based on the time frames required by Labor Code §§ 201
8 and 202. As stated above, Plaintiff and non-exempt Aggrieved Employees were not paid all wages
9 due and, as a result of this failure, they were not timely paid all wages due at the separation of their
10 employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and other non-
11 exempt Aggrieved Employees who have ended their employment with Defendant.

12 3. Plaintiff, on behalf of himself and all Aggrieved Employees pursuant to Labor Code §
13 2698 *et seq.*, seeks civil penalties for Defendants' violations of the California Labor Code.

14 4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395.
15 The Labor Code violations alleged against Defendants herein arose in San Bernardino County,
16 California.

17 II.

18 PARTIES

19 A. Plaintiff

20 5. Plaintiff TONY RAMOS was employed by Defendants from April 2014 through
21 October 2019 as a non-exempt employee in San Bernardino County, California.

22 B. Defendant

23 6. Defendant US AIR CONDITIONING DISTRIBUTORS, LLC, is a Delaware limited
24 liability company Defendant. US AIR CONDITIONING DISTRIBUTORS, LLC employed Plaintiff
25 and Aggrieved Employees throughout the State of California, including San Bernardino County,
26 California.

27 7. The true names and capacities, whether individual, corporate, associate, or otherwise,
28 of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who

1 therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is
2 informed and believes, and based thereon alleges, that each of the Defendants designated herein as a
3 DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will
4 seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants
5 designated hereinafter as DOES when such identities become known.

6 8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted
7 in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme,
8 business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally
9 attributable to the other Defendants.

10 9. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting
11 on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more
12 provisions of the California Labor Code as alleged herein.

13 III.

14 CAUSES OF ACTION

15 FIRST CAUSE OF ACTION

16 **PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS**
17 **PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR**
18 **CODE §§ 201, 202, 226(a), 226.7, 510, 512, AND 1194 AND PURSUANT TO LABOR CODE**
19 **§ 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 226.3, 246, 558 AND 1024.5**

20 10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set
21 forth herein.

22 11. As a result of the acts alleged above, including the Labor Code violations set forth in
23 paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

24 12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to
25 penalties and other relief in an amount to be shown at the time of trial subject to the following formula:

- 26 a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for
27 each subsequent violation of Labor Code §§ 201, 202, 226(a), 226.7, 510, 512,
28 and 1194; and

b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code §§ 226.3, 246, 558 and 1024.5.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On April 8, 2020, Plaintiff sent a letter, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq.* Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of April 8, 2020. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees he seeks to represent request relief as described below.

IV.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

4. Such other and further relief as this Court may deem just and proper.

Dated: June 17, 2020

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: 

DANIEL F. GAINES
EVAN S. GAINES
Attorneys for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a trial of his claims by jury to the extent authorized by law.

3 Dated: June 17, 2020

Respectfully submitted,

4 GAINES & GAINES
5 A Professional Law Corporation

6
7 By: 

8 DANIEL F. GAINES
9 EVAN S. GAINES
10 Attorneys for Plaintiff

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

San Bernardino District - Civil
247 West Third Street

San Bernardino, CA. 924150210

CASE NO: CIVDS2013269

GAINES & GAINES, APLC
27200 AGOURA ROAD
STE 101
CALABASAS CA 91301

NOTICE OF TRIAL SETTING CONFERENCE

IN RE: RAMOS-V-US AIR CONDITIONING

THIS CASE HAS BEEN ASSIGNED TO: JOHN M PACHECO IN DEPARTMENT S31
FOR ALL PURPOSES.

Notice is hereby given that the above-entitled case has been set for
Trial Setting Conference at the court located at 247 West Third Street
SAN BERNARDINO, CA 92415-0210.

HEARING DATE: 12/18/20 at 9:00 in Dept. S31

The Trial Setting Conference will be held in chambers without the
appearance of the parties -except for good cause shown. (see Emergency
Local Rule 411.1).

Parties shall file and serve no later than 15 days prior to the trial
setting conference the mandatory Initial Trial Setting Conference
Statement form (local for #13-09001-360) included with this notice.
Prior to the date of the initial trial setting conference, the court
may entertain a written stipulation by all appearing parties to con-
tinue the initial trial setting conference if filed at least 30 days
prior to the conference.

DATE: 07/17/20 Nancy Eberhardt, Court Executive Officer
By: LASHONDRA RICHARDSON

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San
Bernardino at the above listed address. I am not a party to this
action and on the date and place shown below, I served a copy of the
above listed notice:

() Enclosed in a sealed envelope mailed to the interested party
addressed above, for collection and mailing this date, following
standard Court practices.

(X) Enclosed in a sealed envelope, first class postage prepaid in the
U.S. mail at the location shown above, mailed to the interested party
and addressed as shown above, or as shown on the attached listing.

() A copy of this notice was given to the filing party at the counter
() A copy of this notice was placed in the bin located at this office

and identified as the location for the above law firm's collection of file stamped documents.

Date of Mailing: 07/17/20

I declare under penalty of perjury that the foregoing is true and correct. Executed on 07/17/20 at San Bernardino, CA

BY: LASHONDRA RICHARDSON

civ-ntsc-20130417

NAME AND ADDRESS OF ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ TELEPHONE NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____ FAX NO. (Optional): _____	STATE BAR NUMBER: _____ TRIAL SETTING CONFERENCE DATE: _____ UNLIMITED CASE: _____ LIMITED CASE: _____	Reserved for Clerk's File Stamp CASE NUMBER CIV DS 2013269
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO		
COURTHOUSE ADDRESS: _____		
PLAINTIFF: _____		
DEFENDANT: _____		
INITIAL TRIAL SETTING CONFERENCE STATEMENT		

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided. This document must be filed and served at least 15 days prior to the trial setting conference date.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name): _____
 - b. ☐ This statement is submitted jointly by parties (names): _____
2. **Service of Complaint** on all parties has ☐ has not ☐ been completed.
3. **Service of Cross-Complaint** on all parties has ☐ has not ☐ been completed.
4. **Description of case** in Complaint: _____
5. **Description of case** in Cross-Complaint: _____
6. Has all discovery been completed: Yes ☐ No ☐ Date discovery anticipated to be completed: _____
7. Do you agree to mediation? Yes ☐ No ☐ Please check type agreed to: Private: ☐ Court-sponsored: ☐
8. **Related cases, consolidation, and coordination:** Please attach a Notice of Related Case.
☐ A motion to ☐ consolidate ☐ coordinate will be filed by (name of party): _____
9. **Trial dates requested:** Yes ☐ No ☐ Available dates: _____ Time estimate: _____
10. **Other issues:**
☐ The following additional matters are requested to be considered by the Court: _____
11. **Meet and Confer:**
☐ The parties represent that they have met and conferred on all subjects required by California Rules of Court, Rule 3.724.
☐ The parties have entered into the following stipulation(s): _____
12. **Total number of pages attached (if any):** _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the Initial Trial Setting Conference, including the written authority of the party where required.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)