

DIVERSITY LAW GROUP, P.C.

Larry W. Lee (State Bar No. 228175)

lwlee@diversitylaw.com

Simon L. Yang (State Bar No. 260286)

sly@diversitylaw.com

515 South Figueroa Street, Suite 1250

Los Angeles, California 90071

Telephone: (213) 488-6555

Facsimile (213) 488-6554

THE CARTER LAW FIRM

Roger R. Carter (State Bar No. 140196)

roger@carterlawfirm.net

23 Corporate Plaza Drive, Suite 150

Newport Beach, California 92660

Telephone: (888) 914-6900

Facsimile (949) 629-2501

THE PHELPS LAW GROUP

Marc H. Phelps (State Bar No. 237036)

marc@phelpslawgroup.com

23 Corporate Plaza Drive, Suite 150

Newport Beach, California 92660

Telephone: (949) 409-1211

Facsimile (949) 629-2501

Attorneys for Plaintiff, the Class, and Aggrieved Employees

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE

TARA JOY, as a private attorney general
and as an individual and on behalf of all
others similarly situated,

Plaintiffs,

vs.

CONTROL AIR ENTERPRISES LLC, a
Delaware limited liability company;
CONTROL AIR CONDITIONING CORP.,
a California corporation; and DOES 1
through 50, inclusive,

Defendants.

Case No.: 30-2020-01155488-CU-OE-CXC

**CLASS AND REPRESENTATIVE ACTION
COMPLAINT FOR:**

**(1) VIOLATION OF LAB. CODE § 226(a);
(2) VIOLATION OF LAB. CODE §§ 2698 *ET
SEQ.***

DEMAND OVER \$25,000.00

Assigned for all purposes to: Judge Glenda Sanders

Dept: CX101

On behalf of herself and other similarly situated current and former employees of Defendants, and as a proxy for the State of California, Plaintiff, Tara Joy, submits this Class and Representative Action Complaint against Defendants Control Air Enterprises LLC, Control Air Conditioning Corp., and Does 1 through 50 (collectively, “Defendants”).

INTRODUCTION

1. This class and representative action challenges systemic illegal employment practices resulting in violations of the California Labor Code against individuals who worked for Defendants. The Complaint seeks penalties and other relief for Defendants’ violations of Labor Code section 226(a).¹

2. Plaintiff is informed and believes that Defendants have jointly and severally acted intentionally and with deliberate indifference and conscious disregard to the rights of employees by failing to provide accurate and complete wage statements. Specifically, Plaintiff and other employees were provided wage statements that failed to list Defendants’ legal name and address. Rather, the wage statements simply identified the name as “CAE Non Union PR” and without any address for the employer. Defendants thus violate Section 226(a).

3. Plaintiff is informed and believes that Defendants have engaged in, among other things, a system of willful violations of the Labor Code by creating and maintaining policies, practices, and customs that knowingly deny its employees the above stated rights and benefits.

JURISDICTION AND VENUE

4. The Complaint seeks relief in excess of \$25,000.00. The Court has jurisdiction of Defendants’ violations of Section 226(a).

5. Venue is proper. Defendants are located in Orange County. Plaintiff worked for Defendants in Anaheim, California.

PARTIES

6. Plaintiff began working for Defendants in or about October of 2014. Throughout her employment in Defendants’ HR & Risk management Department, Plaintiff was provided

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

1 wage statements that failed to list Defendants' legal name and address. Rather, the wage
2 statements simply identified the name as "CAE Non Union PR" and without any address for the
3 employer. Plaintiff is a victim of the policies, practices, and customs of Defendants complained
4 of in this action in ways that have deprived her of the rights guaranteed by the Labor Code.

5 7. Plaintiff is informed and believes that Defendant Control Air Enterprises LLC
6 was and is a Delaware limited liability company and that Defendant Control Air Conditioning
7 Corp. was and is a California corporation. Plaintiff is informed and believes that at all times
8 herein mentioned named defendants and Does 1 through 50, are and were corporations, business
9 entities, individuals, or partnerships that are and were licensed to do business and actually doing
10 business in the State of California. Based upon all the facts and circumstances incident to
11 Defendants' business, Defendants are subject to Section 226(a).

12 8. Plaintiff does not know the true names or capacities of the defendants sued herein
13 as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said
14 defendants are sued under such fictitious names. Plaintiff prays for leave to amend this
15 Complaint when the true names and capacities are known. Plaintiff is informed and believes that
16 each of said fictitious defendants was responsible in some way for the matters alleged herein and
17 proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

18 9. At all times herein mentioned, each of said Defendants participated in the doing
19 of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees
20 of each of the other Defendants, as well as the agents of all Defendants, and were acting within
21 the course and scope of said agency and employment.

22 10. Plaintiff is informed and believes that at all times material hereto, each of said
23 Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert
24 with, each of the other Defendants and was acting within the course and scope of such agency,
25 employment, joint venture, or concerted activity. To the extent said acts, conduct, or omissions
26 were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified
27 said acts, conduct, or omissions of the acting Defendants.

1 11. Plaintiff is informed and believes that at all times material hereto each of the
2 Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in
3 proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within
4 the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

5 **CLASS ACTION ALLEGATIONS**

6 12. **Definition:** Pursuant to Code of Civil Procedure section 382. Plaintiff seeks class
7 certification of all current and former employees of Defendants in the State of California since
8 April 6, 2019.

9 13. **Numerosity and Ascertainability:** The members of the Class are so numerous
10 that joinder of all members would be impractical, if not impossible. The identities of the
11 members of the Class are readily ascertainable by review of Defendants' records, including
12 payroll records. Defendants violated Section 226(a) by failing to provide accurate and complete
13 wage statements that listed Defendants' legal name and address.

14 14. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
15 steps to represent fairly and adequately the interests of the Class defined above. Plaintiff's
16 attorneys are ready, willing, and able to fully and adequately represent Plaintiff and the Class.
17 Plaintiff's attorneys have prosecuted and settled wage-and-hour class actions in the past and
18 continue to litigate numerous wage-and-hour class actions currently pending in California state
19 and federal courts.

20 15. **Common Question of Law and Fact:** There are predominant common questions
21 of law and fact and a community of interest amongst the claims of Plaintiff and of the Class.
22 Plaintiff is informed and believes that Defendants uniformly administer a corporate policy and
23 practice of failing to provide accurate and complete wage statements that listed Defendants' legal
24 name and address and instead showed "CAE Non Union PR" without any address for the
25 employer, in violation of Section 226(a).

26 16. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the
27 Class in that Plaintiff suffered the alleged harms in a similar and typical manner as other
28 members of the Class suffered. As with other members of the Class, Plaintiff was provided wage

1 statements that failed to list Defendants' legal name and address and instead showed "CAE Non
2 Union PR" without any address for the employer. Plaintiff thus is a member of the Class and has
3 suffered the alleged violations of the Labor Code.

4 17. The Labor Code is broadly remedial in nature. Its laws serve an important public
5 interest in establishing minimum working conditions and requirements in California. These labor
6 standards protect employees from onerous terms and conditions of employment or exploitation
7 by employers who have superior economic and bargaining power.

8 18. The nature of this action and the format of laws available to Plaintiff and
9 members of the Class make the class action format a particularly efficient and appropriate
10 procedure to redress the wrongs alleged herein. If each employee were required to file an
11 individual lawsuit, the corporate Defendants would necessarily gain an unconscionable
12 advantage since they would be able to exploit and overwhelm the limited resources of each
13 individual plaintiff with their vastly superior financial and legal resources. Requiring each
14 member of the Class to pursue an individual remedy would also discourage the assertion of
15 lawful claims by employees who would be disinclined to file an action against their former or
16 current employer for real and justifiable fear of retaliation and permanent damage to their careers
17 at their current or subsequent employment.

18 19. The prosecution of separate actions by individual members of the Class, even if
19 possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect
20 to individual members of the Class that would establish potentially incompatible standards of
21 conduct for Defendants, or (b) adjudications with respect to individual members of the Class that
22 would, as a practical matter, be dispositive of, or substantially impair or impede the ability to
23 protect, the interests of other members of the Class not parties to the adjudications. Further, the
24 claims of the individual members of the Class are not sufficiently large to warrant vigorous
25 individual prosecution considering the concomitant costs and expenses.

26 20. Defendants' pattern, practice, and uniform administration of corporate policy in
27 violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern
28 will establish the rights of Plaintiff and the Class to recover applicable penalties, reasonable

attorneys' fees, and costs of suit, pursuant to Section 226 and Code of Civil Procedure section 1021.5.

FIRST CAUSE OF ACTION

Violation of Labor Code § 226(a)

(By Plaintiff and the Class Against All Defendants)

21. The preceding paragraphs are re-alleged and incorporated by this reference.

22. Section 226(a) requires employers to provide itemized wage statements to its employees that show accurate information, including without limitation, the name and address of the legal entity that is the employer.

23. Defendants fail to provide accurate and complete itemized wage statements to Plaintiff and the Class in violation of Section 226(a). Plaintiff and other employees were provided wage statements that failed to list Defendants' legal name and address. Rather, the wage statements simply identified the name as "CAE Non Union PR" and without any address for the employer. Defendants thus violate Section 226(a).

24. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiff and the Class to recover applicable penalties pursuant to Section 226, attorneys' fees, and costs of suit.

SECOND CAUSE OF ACTION

Violation of Labor Code §§ 2698 *Et Seq.*

(By Plaintiff and Aggrieved Employees Against All Defendants)

25. The preceding paragraphs are re-alleged and incorporated by this reference.

26. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698 *et seq.* ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this capacity, Plaintiff seeks penalties for Defendants' violations of Section 226(a) committed since April 6, 2019, against all aggrieved employees. Under Section 2699(c), Plaintiff is an "aggrieved employee," as one or more of the alleged violations was committed against Plaintiff as an employee of Defendants.

27. As stated herein, Defendants violate Section 226(a) by failing to provide accurate itemized wage statements to Plaintiff and other aggrieved employees, who were provided wage statements that failed to list Defendants' legal name and address and instead showed "CAE Non Union PR" without any address for the employer.

28. On or about July 29, 2020, Plaintiff sent written notice to the Labor & Workforce Development Agency (“LWDA”) of specific facts and theories for Defendants’ violations of Section 226(a). Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

29. As such, pursuant to Section 2699(a) and (f), Plaintiff seeks recovery of all applicable civil penalties for Defendants' violations of Sections 226(a) against all aggrieved employees for the period described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action for penalties pursuant to Section 226, and for costs and attorneys' fees;
5. Upon the Second Cause of Action for penalties according to proof pursuant to Sections 226.3 and 2698 *et seq.*, and for costs and attorneys' fees;
6. Upon each cause of action for attorneys' fees and costs as provided by Sections 226 and 2699, and Code of Civil Procedure section 1021.5; and
7. For such other and further relief that the Court may deem just and proper.

DATED: August 17, 2020

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee

Simon L. Yang

Attorneys for Plaintiff, the Class, and Aggrieved
Employees