

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: PONY.AI., INC., a Delaware
(**AVISO AL DEMANDADO**): corporation, WMBE PAYROLLING, INC.,
dba TargetCW, a California corporation, and DOES 1
through 10, inclusive

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

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

RECEIVED

2021-02-05 13:47:49

Filed FEB - 5 2021

BRANDON E. RILEY, CLERK

By Judy L. Haley
DEPUTY

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 ó 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 Joaquin
180 E. Weber Avenue
Stockton, California 95202

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: Alex P. Katofsky, Esq.; SBN 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:

(Fecha)

FEB - 5 2021

BRANDON E. RILEY

Clerk, by

(Secretario)

Judy L. Haley

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]



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): Amjad Shehadeh		FOR COURT USE ONLY Electronically Filed Superior Court of California County of San Joaquin 2021-02-05 13:47:49 Clerk: Kristy Kobus Case Management Conference 08/04/2021 08:30 AM in 10C
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN STREET ADDRESS: 180 E. Weber Avenue MAILING ADDRESS: 180 E. Weber Avenue CITY AND ZIP CODE: Stockton, 95202 BRANCH NAME: Stockton Courthouse		
CASE NAME: Shehadeh v. Pony.AI., INC., etc., et al.		
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: STK-CV-UOE-2021-0001055 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 (<i>not specified above</i>) (42) Miscellaneous Civil Petition ☐ Partnership and corporate governance (21) ☐ Other petition (<i>not specified above</i>) (43)
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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 | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (*check all that apply*): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (*specify*): One
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: 2/5/2021

Alex P. Katofsky, Esq.
 (TYPE OR PRINT NAME)

▶ *Alex P. Katofsky*
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result 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.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

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

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Electronically Filed
Superior Court of California
County of San Joaquin
2021-02-05 13:47:49
Clerk: Kristy Kobus

Case Management Conference
08/04/2021 08:30 AM in 10C

STK-CV-UOE-2021-0001055

Attorneys for Plaintiff AMJAD SHEHADEH on behalf of himself and all “aggrieved employees” pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN JOAQUIN

AMJAD SHEHADEH, on behalf of himself
and all “aggrieved employees” pursuant to
Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

PONY.AI., INC., a Delaware corporation,
WMBE PAYROLLING, INC., dba TargetCW,
a California corporation, and DOES 1 through
10, inclusive,

Defendants.

CASE NO:

**REPRESENTATIVE ACTION
COMPLAINT FOR PENALTIES
PURSUANT TO LABOR CODE § 2699(f)
FOR VIOLATIONS OF LABOR CODE
§§ 201, 202, 212, 226(a), 226.7, 510, 1194,
AND 2802, AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF
LABOR CODE §§ 225.5, 226.3, 246, AND
558**

1 Plaintiff AMJAD SHEHADEH (“Plaintiff”), on behalf of himself and others as an “aggrieved
2 employee” under the Labor Code Private Attorneys General Act of 2004, complains of PONY.AI.,
3 INC., a Delaware corporation, WMBE PAYROLLING, INC., a California corporation, d/b/a
4 TARGETCW, and/or any subsidiaries or affiliated companies (hereinafter referred to as
5 “Defendants”), as follows:

6 I.

7 **INTRODUCTION AND FACTUAL BACKGROUND**

8 1. This is a Representative Action, pursuant to Labor Code § 2698 *et seq.*, on behalf of
9 Plaintiff and all non-exempt California employees employed by Defendant PONY.AI, INC. and all
10 non-exempt California employees for whom Defendant WMBE PAYROLLING, INC., d/b/a
11 TARGETCW (“TargetCW”) was the employer of record while they were on engagement with
12 TargetCW’s client PONY.AI, INC. (“Aggrieved Employees”).

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

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

26 b. Failing to pay premium wages to Plaintiff and Aggrieved Employees who were
27 denied rest periods, in violation of Labor Code §§ 226.7 and 558 and IWC Wage Order 9-2001.
28 Plaintiff and all other Aggrieved Employees were routinely not authorized and unable to take an off-

1 duty, 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not
2 paid premium wages of one hour's pay for each missed rest period. This violates Labor Code §§ 226.7
3 and 558 and IWC Wage Order 9-2001;

4 c. Requiring Plaintiff and other Aggrieved Employees to accept bonus wages in
5 the form of gift cards. However, these gift cards were not redeemable for cash, nor payable in cash,
6 on demand, and without discount, as required by Labor Code § 212. Labor Code § 225.5 provides
7 for penalties resulting from Labor Code § 212 violations and these violations are alleged on behalf of
8 Plaintiff and all Aggrieved Employees;

9 d. Failing to provide Plaintiff and other Aggrieved Employees with wage
10 statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and
11 226.3. Plaintiff and other Aggrieved Employees were not paid all overtime and double-time wages
12 due and rest period premium wages due. As such, the wage statements provided by Defendants failed
13 to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total
14 hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of
15 Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period
16 and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226.3;

17 e. Failing to reimburse Plaintiff and other Aggrieved Employees for necessary
18 business expenses incurred in direct consequence of the discharge of their duties, in violation of Labor
19 Code § 2802, including, but not limited to, the use of their personal cellular phones or other mobile
20 device. Labor Code § 2802 states that an employer must indemnify its employees for all necessary
21 expenditures or losses incurred by the employee in direct consequence of the discharge of their duties.
22 Defendants' failure to do so violates this section; and

23 f. Failing to pay Plaintiff and other Aggrieved Employees all wages due at the
24 separation of their employment based on the time frames required by Labor Code §§ 201 and 202.
25 As stated herein, Plaintiff and other Aggrieved Employees were not paid all wages due during the
26 course of their employment and, as a result of this failure, they were not timely paid all wages due at
27 the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of
28 Plaintiff and certain Aggrieved Employees no longer employed by Defendants.

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

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

II.

PARTIES

A. Plaintiff

5. Plaintiff AMJAD SHEHADEH was employed by Defendants from September 2019 through July 2020 as non-exempt employee in the State of California.

B. Defendant

6. Defendant PONY.AI, INC., is a Delaware corporation. Defendant PONY.AI, INC. employed Plaintiff and Aggrieved Employees throughout the State of California.

7. Defendant WMBE PAYROLLING, INC., is a California corporation doing business as TARGETCW. Defendant WMBE PAYROLLING, INC., dba TARGETCW employed Plaintiff and Aggrieved Employees throughout the State of California, including San Joaquin County, California.

8. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

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

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

III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

**PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS
PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR
CODE §§ 201, 202, 212, 226(a), 226.7, 510, 1194, AND 2802, AND PURSUANT TO LABOR
CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 225.5, 226.3, 246, AND 558**

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

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

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

a. Pursuant to Labor Code § 2699(f), \$100 for each initial violation and \$200 for each subsequent violation of Labor Code §§ 201, 202, 212, 226(a), 226.7, 510, 1194, and 2802; and

b. Pursuant to Labor Code § 2699(f), the penalties as authorized by Labor Code §§ 225.5, 226.3, 246, 558, 2699 and any other Labor Code section.

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

15. On September 17, 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)

1 calendar days of September 17, 2020. Plaintiff may therefore commence this action to seek civil
2 penalties pursuant to Labor Code § 2698 *et seq.*

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

5 **IV.**

6 **RELIEF REQUESTED**

7 WHEREFORE, Plaintiff prays for the following relief:

- 8 1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other
9 Aggrieved Employees;
- 10 2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1)
11 and other applicable law;
- 12 3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable
13 law; and
- 14 4. Such other and further relief as this Court may deem just and proper.

15 Dated: February 5, 2021

Respectfully submitted,

16 GAINES & GAINES
17 A Professional Law Corporation

18 By: Daniel F. Gaines
19 DANIEL F. GAINES
20 EVAN S. GAINES
21 Attorneys for Plaintiff
22
23
24
25
26
27
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SUPERIOR COURT OF CALIFORNIA

County of San Joaquin
180 E Weber Avenue
Stockton, CA 95202

NOTICE OF CASE ASSIGNMENT AND NOTICE OF HEARING

Case Number: **STK-CV-UOE-2021-0001055**

A Case Management Conference has been scheduled for your case as indicated below. A copy of this information must be provided with the complaint or petition, and with any cross-complaint that names a new party to the underlying action. Disregard hearing date if that date has expired.

Hearing: Case Management Conference	Date: 08/04/2021	Time: 8:30 AM Department: 10C
JUDGE	COURT LOCATION	PHONE Numbers:
THIS CASE HAS BEEN ASSIGNED TO JUDGE JAYNE LEE IN DEPARTMENT 10C FOR ALL PURPOSES, INCLUDING TRIAL.	Stockton	Stockton: 209-992-5693 Lodi: 209-992-5522

[**X**] ADR & Scheduling Information is available on court website @ sjcourts.org/self-help

1. You must:
 - a. **Serve** all named defendant's and file proofs of service on those defendants with the court Within 60 days of the filing of the complaint. (CRC 3.110)
 - b. **File and serve** a completed Case Management Conference Statement (use of JC form CM-110 is mandatory) at least 15 days before the Case Management Conference.
 - c. **Meet and Confer**, in person or by telephone, to consider each of the issues identified in CRC 3.727 no later than 30 calendar days before the date set for the Case Management Conference. (CRC 3.724)
 - d. **Collection cases** are managed pursuant to CRC 3.740.
2. As of May 4, 2020, all civil hearings scheduled in Departments 10A, 10B, 10C, 10D and 11B will be held remotely by telephone using the court's system until further notice. Requests to appear telephonically for civil hearings in other departments may be made by contacting the Clerks Office. For mandatory telephonic appearance information and instructions visit @ <https://www.sjcourts.org/how-to-appear-remotely-civil/>.
3. If this case was eFiled, the plaintiff/petitioner or their attorney must access their copy of this notice and the issued summons for service from the court's case management system at the following link: cms.sjcourts.org/fullcourtweb/start.do. Disregard hearing date if that date has expired.
4. **Courtesy Copies:** Courtesy copies are required for all Motions for Summary Judgment, Summary Adjudication and for all CEQA cases. Individual Judges/Departments have additional requirements for courtesy copies. Please review this information located on the public website @ <https://www.sjcourts.org/divisions/civil/>.

Visit our website @ www.sjcourts.org for more information regarding civil cases, local rules and forms.

Date: 02/05/2021

Kristy Kobus, Deputy Clerk

NOTICE OF CASE ASSIGNMENT AND NOTICE OF HEARING



Superior Court of California, County of San Joaquin Alternative Dispute Resolution (ADR) Information Packet

The person who files a civil lawsuit (plaintiff) must include the ADR Information Packet with the complaint when serving the defendant. Cross complainants must serve the ADR Information Packet on any new parties named to the action.

The Court *strongly encourages* the parties to use some form of ADR before proceeding to trial. You may choose ADR by:

- *Indicating your preference on Case Management Statement form CM-110;
- *Filing the Stipulation and Order to Participate in Alternative Dispute Resolution (ADR) *local court form Sup Crt 441*; or
- *Agree to ADR at your initial Case Management Conference.

Questions? Call (209) 992-5693 and ask for the ADR Clerk,
email at adr@sjcourts.org or visit the court website at www.sjcourts.org

What is Alternative Dispute Resolution?

Alternative Dispute Resolution (ADR) is the general term applied to a wide variety of dispute resolution processes which are alternatives to lawsuits. Trained impartial persons, called 'neutrals', resolve disputes or help parties resolve disputes without having to go to court. The most common forms of ADR are mediation and arbitration. There are several other types of ADR such as case evaluation, conciliations, settlement conferences, fact finding, mini-trials and summary jury trials. It is important to find the type or types of ADR that are most likely to resolve your dispute.

What are the Advantages of using ADR?

- **Faster** – Litigation can take years to complete but ADR usually takes weeks or months.
- **Cheaper** – Parties can save on attorney's fees and litigation costs.
- **More control and flexibility** – Parties choose the ADR process appropriate for their case.
- **Cooperative and less stressful** – In mediation, parties cooperate to find a mutually agreeable resolution.
- **Preserve Relationships** – A mediator can help you effectively communicate your interests and point of view to the other side. This is an important benefit when you want to preserve a relationship.

What is the Disadvantage of using ADR?

- **You may go to court anyway** – If you cannot resolve your dispute using ADR, you may still have to spend time and money resolving your lawsuit through the courts.
- **Cost** – The neutral may charge a fee for their services.
- **Timelines** – Lawsuits must be brought within specified periods of time, known as statutes of limitation. Parties must be careful not to let a statute of limitations run out while a dispute is in and ADR process.

What ADR options are available?

- **Mediation** – The Civil Mediation Program is a voluntary court-connected program designed to deliver high-quality affordable mediation services to attorneys and litigants in all general civil cases. Mediation gives litigants a voice in settlement decisions and thereby allows them to play a more direct role in managing the outcome of their own case. The Superior Court of California, County of San Joaquin, is pleased to offer this important and valuable option for resolution of litigation.
 - Mediation is an informal, confidential, flexible and non-binding process which a neutral person (mediator) helps the parties to understand the interest of everyone involved, and their practical and legal choices. The mediator does not decide the dispute, but helps the parties communicate so they can try to settle the dispute themselves. **Mediation leaves control of the outcome with the parties.**
 - Mediators are experienced attorneys who have completed a Court-approved formal mediation training program. A copy of the Civil Mediation Program Panelist is available on the court website at www.sjcourts.org
See Local Rule 3-123 for additional Civil Mediation Program information.
- **Arbitration** – A neutral person (arbitrator) hears arguments and evidence from each side and makes a decision (award) to resolve the dispute. Arbitration normally is more informal and much speedier and less expensive than a lawsuit.
 - **Judicial Arbitration Program** (non-binding): The judge can refer a case or the parties can agree to use judicial arbitration. The parties select an arbitrator from a list provided by the court. If the parties cannot agree on an arbitrator, one will be assigned by the court. The arbitrator must send the decision (award of the arbitrator) to the court. The parties have the right to reject the award **and proceed to trial**. See Local Rule 3-122 for additional Judicial Arbitration information.
 - **Private Arbitration** (binding and non-binding): Occurs when parties involved in a dispute either agree or are contractually obligated. This option takes place outside of the courts and is normally binding meaning the arbitrator's decision is final.
- **Additional Information** regarding San Joaquin County Superior Court's ADR programs is available on the Court's website at www.sjcourts.org

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY				
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:					
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:					
<table style="width: 100%;"> <tr> <th colspan="2" style="text-align: center;">CASE MANAGEMENT STATEMENT</th> </tr> <tr> <td style="width: 50%; vertical-align: top;"> (Check one): ☐ UNLIMITED CASE (Amount demanded exceeds \$25,000) </td> <td style="width: 50%; vertical-align: top;"> ☐ LIMITED CASE (Amount demanded is \$25,000 or less) </td> </tr> </table>		CASE MANAGEMENT STATEMENT		(Check one): ☐ UNLIMITED CASE (Amount demanded exceeds \$25,000)	☐ LIMITED CASE (Amount demanded is \$25,000 or less)
CASE MANAGEMENT STATEMENT					
(Check one): ☐ UNLIMITED CASE (Amount demanded exceeds \$25,000)	☐ LIMITED CASE (Amount demanded is \$25,000 or less)				
A CASE MANAGEMENT CONFERENCE is scheduled as follows: Date: _____ Time: _____ Dept.: _____ Div.: _____ Room: _____ Address of court (if different from the address above): ☐ Notice of Intent to Appear by Telephone, by (name):					

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**
 - a. ☐ This statement is submitted by party (name):
 - b. ☐ This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**
 - a. The complaint was filed on (date):
 - b. ☐ The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**
 - a. ☐ All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
 - b. ☐ The following parties named in the complaint or cross-complaint
 - (1) ☐ have not been served (specify names and explain why not):
 - (2) ☐ have been served but have not appeared and have not been dismissed (specify names):
 - (3) ☐ have had a default entered against them (specify names):
 - c. ☐ The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

4. **Description of case**
 - a. Type of case in ☐ complaint ☐ cross-complaint (Describe, including causes of action):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☐ a jury trial ☐ a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a. ☐ The trial has been set for *(date)*:
 b. ☐ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
 c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a. ☐ days *(specify number)*:
 b. ☐ hours *(short causes) (specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial ☐ by the attorney or party listed in the caption ☐ by the following:

- a. Attorney:
 b. Firm:
 c. Address:
 d. Telephone number:
 e. E-mail address:
 f. Fax number:
 g. Party represented:
☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

- a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.
- (1) For parties represented by counsel: Counsel ☐ has ☐ has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.
- (2) For self-represented parties: Party ☐ has ☐ has not reviewed the ADR information package identified in rule 3.221.
- b. **Referral to judicial arbitration or civil action mediation (if available).**
- (1) ☐ This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.
- (2) ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3) ☐ This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	☐	☐ Mediation session not yet scheduled ☐ Mediation session scheduled for (date): ☐ Agreed to complete mediation by (date): ☐ Mediation completed on (date):
(2) Settlement conference	☐	☐ Settlement conference not yet scheduled ☐ Settlement conference scheduled for (date): ☐ Agreed to complete settlement conference by (date): ☐ Settlement conference completed on (date):
(3) Neutral evaluation	☐	☐ Neutral evaluation not yet scheduled ☐ Neutral evaluation scheduled for (date): ☐ Agreed to complete neutral evaluation by (date): ☐ Neutral evaluation completed on (date):
(4) Nonbinding judicial arbitration	☐	☐ Judicial arbitration not yet scheduled ☐ Judicial arbitration scheduled for (date): ☐ Agreed to complete judicial arbitration by (date): ☐ Judicial arbitration completed on (date):
(5) Binding private arbitration	☐	☐ Private arbitration not yet scheduled ☐ Private arbitration scheduled for (date): ☐ Agreed to complete private arbitration by (date): ☐ Private arbitration completed on (date):
(6) Other (<i>specify</i>):	☐	☐ ADR session not yet scheduled ☐ ADR session scheduled for (date): ☐ Agreed to complete ADR session by (date): ☐ ADR completed on (date):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

11. Insurance

- a. ☐ Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: ☐ Yes ☐ No
- c. ☐ Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

☐ Bankruptcy ☐ Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. ☐ There are companion, underlying, or related cases.

(1) Name of case:

(2) Name of court:

(3) Case number:

(4) Status:

☐ Additional cases are described in Attachment 13a.

- b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by (*name party*):

14. Bifurcation

- ☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- ☐ The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. ☐ The party or parties have completed all discovery.

- b. ☐ The following discovery will be completed by the date specified (*describe all anticipated discovery*):

Party

Description

Date

- c. ☐ The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

17. Economic litigation

- a. ☐ This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

18. Other issues

- ☐ The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

19. Meet and confer

- a. ☐ The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

20. 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 case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: EMAIL ADDRESS (Optional): ATTORNEY FOR (Name): FAX NO.:	COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN ☐ LODI Branch 315 W. Elm St. Lodi, CA 95240 ☐ MANTECA Branch 315 E. Center St. Manteca, CA 95336 ☐ TRACY Branch 475 E. 10th St. Tracy, CA 95376 ☐ STOCKTON Branch 222 E. Weber Ave. Stockton, CA 95202	
Plaintiff(s)/Petitioner(s):	
Defendant(s)/Respondent(s):	CASE NUMBER:

STIPULATION AND ORDER TO PARTICIPATE IN ALTERNATIVE DISPUTE RESOLUTION (ADR)

Pursuant to California Rules of Court §3.726 the parties stipulate that all claims pursuant in this action shall be submitted to (select one):

- ☐ Voluntary Mediation
☐ Non-Binding Judicial Arbitration CCP 1141.12
☐ Binding Arbitration (private)

☐ Other (specify):

Case Type: _____

Is the Neutral you selected listed on the Court's Panel of Mediators? ☐ Yes ☐ No

Neutral's name and telephone number: _____ / (_____) _____

Date/Time of ADR Session: _____ / _____ a.m./p.m. **Location of ADR Session:** _____

Identify by name ALL individuals (litigants and attorneys) who will attend the ADR session:

Attorneys signing on behalf of their client(s) have been given the authority to stipulate to ADR. Original signatures required.

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

 Type or print name of ☐ Party without attorney ☐ Attorney for
☐ Plaintiff/Petitioner ☐ Defendant/Respondent

 (Signature)
 Attorney or Party without attorney

IT IS SO ORDERED: Dated: _____

 Judge of the Superior Court

An ADR Review Hearing is scheduled for _____ at _____ a.m/p.m. in Dept. No. _____.

In the event that the case is resolved and a dismissal-entire action, a notice of settlement or judgment is on file 5 days before the hearing, the ADR Hearing will be dropped and all appearances will be excused.