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SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN JOAQUIN

MERCEL HARRIS-LIMAS, an individual,
on his own behalf and on behalf of the
Labor and Workforce Development Agency;

Plaintiff,

v.

TACKLE TECHNOLOGY, INC., a
corporation; OCSANNA SEROPYAN, an
individual; and DOES 1-100, inclusive,

Defendants.

Case No.: STK-CV-UOE-2022-0005804

FIRST AMENDED COMPLAINT

1. SEX HARASSMENT
2. RETALIATION
3. DISABILITY DISCRIMINATION (BY ASSOCIATION)
4. FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION
5. FAILURE TO PAY OVERTIME AT CORRECT RATE
6. FAILURE TO PAY SICK LEAVE AT CORRECT RATE
7. FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS
8. FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT
9. PRIVATE ATTORNEYS GENERAL ACT

Plaintiff Mercel Harris-Limas brings this action against Tackle Technology, Inc., a corporation; Ocsanna Peropyan, an individual; and Does 1 through 100, for violations of the Government Code and the Labor Code.

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PARTIES

1. Mercel Harris-Limas (“Harris-Limas” or “Plaintiff”) at all times relevant herein was employed in San Joaquin County, California and was an “employee” as defined by the California Labor Code. Harris-Limas is a citizen of California.

2. Tackle Technology, Inc. (“TTI”) is a California corporation formed under the laws of California and, at all times relevant herein, was an “employer” as defined by the Government Code and the Labor Code.

3. Ocsanna Seropyan (“Seropyan”) is an individual and a citizen of California, and was Harris-Limas’ supervisor as defined by Government Code section 12926(t).

4. TTI, Seropyan, and Does 1-100 are collectively referred to as Defendants.

5. Plaintiff is not aware of the true names and capacities of the Defendants sued herein as Does 1 through 100, whether individual, corporate, associate, or otherwise and therefore sues such Defendants by these fictitious names. Plaintiff will amend this Complaint to allege their true names and capacities when ascertained. Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously named Defendants is responsible in some manner for the occurrences herein alleged and that Plaintiff’s injuries and damages herein alleged were legally caused by such Defendants. Unless otherwise indicated, each Defendant was acting within the course and scope of said agency and/or employment, with the knowledge and/or consent of said co-Defendant.

6. Plaintiff is informed and believes and thereupon alleges that at all times mentioned herein, each of the Defendants, including each Doe Defendant, was acting as the agent, servant, employee, partner and/or joint venturer of and was acting in concert with each of the remaining Defendants, including each Doe Defendant, in doing the things herein alleged, while at all times acting within the course and scope of such agency, service, employment partnership, joint venture and/or concert of action. Each Defendant, in doing the acts alleged herein, was acting both individually and within the course and scope of such agency and/or employment, with the knowledge and/or consent of the remaining Defendants.

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7. Venue is proper in this Court because the unlawful acts alleged herein took place in San Joaquin County and Harris-Limas's place of employment with Defendants was, at all times relevant herein, located within San Joaquin County. With regard to the First through Eighth Causes of Action, Harris-Limas hereby demands a jury trial.

8. Harris-Limas was hired by TTI on or around February 16, 2021, as a cashier at the Fisherman's Warehouse store (a retailer of fishing supplies) in Manteca, California.

9. At all times throughout his employment with TTI, Harris-Limas was properly classified as an hourly, nonexempt employee, eligible for overtime.

10. Also, at all times during his employment with TTI, Harris-Limas performed his job duties with competence and received no write-ups on his work performance (indeed, he was quickly promoted to Assistant Manager).

11. Within a couple months of his hire, Harris-Limas was subjected to a hostile work environment. The manager of the store, Seropyan, frequently made offensive, vulgar comments to Harris-Limas about her menstrual cycle. For example, she frequently told Harris-Limas about whether she was menstruating and where she was in her cycle.

12. Harris-Limas was offended by Seropyan's comments, which occurred multiple times per month.

13. In or around January 2022, Harris-Limas complained to TTI (through Chelsea Wasulko [“Wasulko”], Regional Manager) about Seropyan’s inappropriate comments; Wasulko said she would look into it but never told Harris-Limas as to what, if anything, was done in response to his complaint.

14. On April 8, 2022, Harris-Limas had to leave work early to drive his uncle to a doctor's appointment. Harris-Limas' uncle suffers from a brain injury that limits major life activities and, as a result, needs living assistance from family members. (Harris-Limas previously told Seropyan about his uncle and his injury and limitations on at least one occasion.) Harris-Limas asked Seropyan if he could

1 leave before the end of his shift to take his uncle to the doctor; Seropyan said yes. Harris-Limas clocked
2 out at about 3:27 p.m. and left work.

3 15. On April 13, 2022, Harris-Limas was informed that he was terminated because he
4 supposedly “inaccurately reported” his work hours by failing to clock out on April 8, 2022. However, the
5 stated reason for Harris-Limas’ termination was pretextual because it was abjectly false—he *did* clock
6 out on April 8, 2022, and he did not falsely report his work hours.

7 16. In reality, Harris-Limas was terminated because he complained about what he reasonably
8 and in good faith contended was harassment and a hostile work environment, and because of his
9 association with a physically and mentally disabled person.

10 17. On June 13, 2022, Harris-Limas filed a complaint with the California Department of Fair
11 Employment and Housing and was issued a right-to-sue notice that same day. (**Exhibit 1.**) The
12 complaint was later amended to add Seropyan as a respondent. (**Exhibit 2.**)

13 18. Additionally, Harris-Limas’ was denied certain rights and protections under the Labor
14 Code.

15 19. Though Harris-Limas frequently worked overtime, TTI failed to pay that earned overtime
16 at 1.5 times the “regular rate of pay”, as required by the Labor Code. In addition to his base hourly pay,
17 Harris-Limas frequently earned nondiscretionary bonuses for meeting monthly sales goals. (**Exhibit 3.**)
18 However, when it came time for TTI to calculate and pay Harris-Limas’ earned overtime, it merely took
19 his base hourly rate and multiplied that by 1.5, ignoring the value of earned nondiscretionary bonuses.
20 (See Division of Labor Standards Enforcement Policies and Interpretations Manual, § 49.) By failing to
21 pay earned overtime at 1.5 times the regular rate of pay, TTI violated Labor Code section 510.

22 20. TTI also failed to pay Harris-Limas paid sick days at the appropriate rate. As with his
23 overtime, when Harris-Limas took paid sick days, TTI paid that sick leave at only his base hourly rate,
24 and failed to account for the value of earned nondiscretionary bonuses. (Exhibit 1, *supra*; see also Lab.
25 Code, § 246, subd. (l) [sick pay shall be paid at the regular rate of pay].) Accordingly, TTI violated
26 Labor Code sections 233 and 246.

1 21. Because of the underpayment of overtime and paid sick leave, *supra*, the itemized wage
2 statements furnished to Harris-Limas failed to accurately show the gross wages earned, the net wages
3 earned, and all applicable hourly rates in effect during the pay period and the corresponding number of
4 hours worked at each rate, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

5 22. At no point since the severance of Harris-Limas' employment did TTI pay him the full
6 balance of unpaid overtime and paid sick days, *supra*. Accordingly, TTI violated Labor Code sections
7 201 and 202.

8 23. The foregoing list of misconduct is a partial list only, and set forth by way of example.

9 24. On May 6, 2022, Harris-Limas provided written notice to the Labor and Workforce
10 Development Agency ("LWDA") and TTI regarding the specific provisions of the Labor Code alleged to
11 have been violated, including the facts and theories to support those alleged violations. (**Exhibit 4.**)

12 25. As of the filing of this Complaint, more than 65 calendar days after Harris-Limas' initial
13 written notice, the LWDA has not provided written notice that it intends to investigate any of Harris-
14 Limas' allegations as set forth above. Accordingly, Harris-Limas has satisfied the administrative
15 prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil penalties against
16 Defendants, in addition to other remedies, for violations of the California Labor Code.

17 **FIRST CAUSE OF ACTION**

18 **SEX HARASSMENT**

19 **(Gov. Code, § 12940, subd. (j))**

20 **Against Defendants**

21 26. Plaintiff hereby realleges and incorporates by reference each and every paragraph set
22 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
23 allegations of this cause of action.

24 27. The Fair Employment and Housing Act ("FEHA") explicitly prohibits any employer or
25 any other person from harassing an employee because of sex/gender. (Gov. Code, § 12940, subd. (j).)
26 The FEHA also provides that harassment by an employee, other than an agent or supervisor, shall be
27 unlawful if the entity, or its agents or supervisor, knows or should have known of the conduct and fails to
28 take immediate and appropriate corrective action. (*Id.*) Furthermore, an employee of an entity is also

1 personally liable for any prohibited harassment that is perpetrated by that employee, regardless of
2 whether the employer or covered entity knows or should have known of the conduct and fails to take
3 immediate corrective action. (Gov. Code § 12940, subd. (j)(3).)

4 28. TTI was at all times relevant herein Plaintiff's employer pursuant to Government Code
5 sections 12926, subdivision (d) and 12940, subdivision (j)(4) and was therefore barred from harassing its
6 employees in violation of Government Code section 12940, subdivision (j).

7 29. Seropyan was TTI's employee pursuant to Government Code section 12926 and was
8 therefore barred from harassing fellow employees in violation of Government Code section 12940,
9 subdivision (j).

10 30. Nevertheless, as set forth above, Defendants harassed Plaintiff's in violation of
11 Government Code section 12940(j).

12 31. Defendants' conduct, as set forth above, created an abusive and hostile working
13 environment in violation of Government Code section 12940, subdivision (j). Defendants, and each of
14 them and/or their agents/employees, harassed Plaintiff and/or failed to take immediate and appropriate
15 corrective action. The harassment was sufficiently pervasive and severe as to alter the conditions of
16 Plaintiff's employment and to create a hostile or abusive work environment.

17 32. Defendants' actions towards Plaintiff were committed or ratified by Defendants, and/or
18 their managing agents and/or employees in an oppressive, fraudulent, and malicious manner in order to
19 injure or damage Plaintiff, thereby justifying an award of punitive damages.

20 33. Wherefore, Plaintiff requests relief as hereafter provided.

21 **SECOND CAUSE OF ACTION**
22 **RETALIATION**
23 **(Gov. Code, § 12940, subd. (h))**
24 **Against TTI and Does 1-100**

25 34. Plaintiff hereby realleges and incorporates by reference each paragraph above as though
26 fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of
27 action.

35. The FEHA explicitly prohibits an employer from retaliating against an employee because the employee has opposed any practices forbidden by the FEHA or because the employee has filed a complaint, testified or assisted in any proceeding under the FEHA. (Gov. Code, § 12940, subd. (h).)

36. Nevertheless, as set forth above, Defendants retaliated against Plaintiff in violation of Government Code section 12940, subdivision (h).

37. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

38. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter provided.

THIRD CAUSE OF ACTION
DISABILITY DISCRIMINATION (BY ASSOCIATION)
(Gov. Code, § 12940(a))
Against TTI and Does 1-100

39. Plaintiff hereby realleges and incorporates by reference each and every paragraph set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

40. The Fair Employment and Housing Act (“FEHA”) explicitly prohibits an employer from refusing to hire or employ a person, discharging a person from employment, or discriminating against such person in compensation or in terms, conditions or privileges of employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. Gov. Code § 12940(a). "Race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics. Gov. Code § 12926(n).

41. At all times relevant herein mentioned, Plaintiff was qualified for the position held with Defendants.

1 42. Defendants were, at all times material herein, Plaintiff's employer pursuant to
2 Government Code section 12926(d) and were therefore barred from discriminating in its employment
3 decisions in violation of Government Code section 12940(a).

4 43. Nevertheless, as set forth above, Defendants discriminated against Plaintiff based on
5 disability, perceived disability, and perceived future disability, in violation of Government Code section
6 12940(a).

7 44. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or
8 managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in
9 order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

10 45. The acts taken toward Plaintiff were carried out by and/or ratified by Defendants and/or
11 managing agents/employees of Defendants acting in an oppressive, fraudulent and malicious manner in
12 order to injure or damage Plaintiff, thereby justifying an award of punitive damages.

13 46. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
14 provided.

15 **FOURTH CAUSE OF ACTION**
16 **FAILURE TO PREVENT DISCRIMINATION, HARASSMENT, AND RETALIATION**
17 **(Gov. Code, § 12940(k))**
 Against TTI and Does 1-100

18 30. Plaintiff hereby realleges and incorporates by reference each and every allegation set
19 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
20 allegations of this cause of action.

21 31. The FEHA requires an employer to "take all reasonable steps necessary to prevent
22 discrimination and harassment from occurring." Gov. Code § 12940(k).

23 32. Nevertheless, as set forth above, Defendants failed to prevent the discrimination,
24 harassment, and retaliation against Plaintiff.

25 33. Defendants' actions towards Plaintiff were committed by Defendants, their officers,
26 directors, and/or managing agents, and/or employees in an oppressive, fraudulent, and malicious
27

1 manner, and ratified by Defendants, in order to injure or damage Plaintiff, thereby justifying an award of
2 punitive damages.

3 34. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages
4 and requests relief as hereafter provided.

5 **FIFTH CAUSE OF ACTION**
6 **FAILURE TO PAY OVERTIME AT CORRECT RATE**
7 **(Lab. Code, § 510)**
8 **Against TTI and Does 1-100**

9 47. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth
10 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of
11 this cause of action.

12 48. Pursuant to California Labor Code section 510, any work in excess of eight hours in one
13 workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on
14 the seventh day of work in any one workweek shall be compensated at the rate of no less than one and
15 one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall
16 be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any
17 work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no
18 less than twice the regular rate of pay of an employee.

19 49. Pursuant to Labor Code section 1198 and the applicable IWC Wage Order(s), it is
20 unlawful to employ persons without compensating them at a rate of pay either time-and-one-half or two-
21 times that person's regular rate of pay, depending upon the number of hours worked by the person on a
22 daily or weekly basis.

23 50. The "regular rate of pay" includes all remuneration for employment paid to the employee and
24 includes, but is not limited to, hourly earnings, salary, piece work earnings, commissions, non-discretionary
25 bonuses, and the value of meals and lodging. (See 29 U.S.C. § 207(e); DLSE Enforcement Policies and
26 Interpretations Manual Section 49.)
27
28

1 51. During the relevant time period, Plaintiff regularly and/or consistently worked in excess
2 of eight hours per day, in excess of forty hours per workweek, in excess of six days per workweek, and
3 in excess of twelve hours per day.

4 52. During the relevant time period, Defendants intentionally and willfully failed to pay
5 overtime wages owed to Plaintiff.

6 53. Pursuant to California Labor Code section 1194(a), notwithstanding any agreement to
7 work for a lesser wage, any employee receiving less than the legal minimum wage or the legal overtime
8 compensation applicable to the employee is entitled to recover in a civil action the unpaid balance of the
9 full amount of this minimum wage or overtime compensation, including interest thereon, reasonable
10 attorney's fees, and costs of suit.

11 54. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of
12 an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours
13 and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be
14 violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such
15 violation.

16 55. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
17 provided.

18 **SIXTH CAUSE OF ACTION**
19 **FAILURE TO PAY SICK LEAVE AT CORRECT RATE**
20 **(Labor Code, §§ 218, 233, 246 *et seq.*)**
 Against TTI and Does 1-100

21 56. Plaintiff hereby reallege and incorporate by reference each and every allegation set forth
22 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of
23 this cause of action.

24 57. Labor Code section 246(l) requires that employers pay sick time pay to non-exempt
25 employees at that employee's "regular rate of pay."

26 58. The "regular rate of pay" includes all remuneration for employment paid to the employee
27 and includes, but is not limited to, hourly earnings, salary, piece work earnings, commissions, non-

1 discretionary bonuses, and the value of meals and lodging. DLSE Enforcement Policies and
2 Interpretations Manual Section 49.

3 59. During the relevant time period, Defendants failed to include commissions, non-
4 discretionary bonuses and/or other items of compensation when determining the “regular rate of pay” for
5 Plaintiff and their other non-exempt employees for purposes of sick time pay.

6 60. According to the California Supreme Court, sick pay is a form of wages. *Murphy v.*
7 *Kenneth Cole Productions* (2007) 40 Cal.4th 1094, 1103.

8 61. Labor Code section 233 provides that “any employer who provides sick leave for
9 employees shall permit an employee to use in any calendar year the employee's accrued and available
10 sick leave entitlement, in an amount not less than the sick leave that would be accrued during six months
11 at the employee's then current rate of entitlement, for the reasons specified in subdivision (a) of Section
12 246.5.”

13 62. During the relevant time period, Defendants intentionally and willfully failed to pay
14 Plaintiff sick pay at the rate of pay required by law. Accordingly, Plaintiff did not receive the full
15 amount of paid sick time that he was entitled to receive by law, and was therefore denied the right to use
16 sick leave within the meaning of Labor Code sections 233(a) and (c).

17 63. Any employer who violates Labor Code section 233 is liable to employees for the greater
18 of one days’ pay or actual damages, reasonable equitable relief, and reasonable attorneys’ fees and costs.
19 Labor Code §233(d), (e).

20 64. Further, Labor Code section 218 authorizes a private right of action to recover unpaid
21 wages.

22 65. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
23 provided.

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SEVENTH CAUSE OF ACTION
FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS
(Lab. Code, §§ 226, subd. (a))
Against TTI and Does 1-100

66. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of this cause of action.

67. Pursuant to Labor Code section 226, subdivision (a), “every employer shall, semimonthly or at the time of each payment of wages, furnish each of his or her employees, either as a detachable part of the check, draft, or voucher paying the employee’s wages, or separately when the wages are paid by personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee . . ., (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number, (8) the name and address of the legal entity that is the employer . . ., (9) all applicable hourly rates in effect during the pay period and corresponding number of hours worked at each hourly rate by the employee and, if the employer is a temporary services employer . . ., the rate of pay and the total hours worked for each temporary services assignment.”

68. An employee suffering injury as a result of the knowing and intentional failure by an employer to comply with Labor Code section 226, subdivision (a) is entitled to recover the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay period, not to exceed the aggregate penalty of four thousand dollars (\$4,000), and is entitled to an award of costs and reasonable attorney’s fees. (Lab. Code, § 226, subd. (e)(1).)

69. An employee is deemed to suffer injury if the employer fails to provide a wage statement or if the employer fails to provide accurate and complete information as required by any one or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and easily determine

1 from the wage statement alone, i) the amount of gross/net wages paid to the employee during the pay
2 period or any of the other information required to be provided pursuant to Labor Code section 226,
3 subdivision (a)(2)-(4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name and
4 address of the employer and iv) the name of the employee and the last four digits of his or her social
5 security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A) and (B)(i)-
6 (iv).) “Promptly and easily determine” means a reasonable person would be able to readily ascertain the
7 information without reference to other documents or information. (Lab. Code, § 226, subd. (e)(2)(C).)

8 70. Additionally, Labor Code section 226.2, subdivision (a)(2) provides that, for piece-rate
9 employees, their itemized wage statement must show (1) the total hours of compensable rest and
10 recovery periods, the rate of compensation, and the gross wages paid for those periods during the pay
11 period; and (2) the total hours of nonproductive time, the rate of compensation, and the gross wages paid
12 for that time during the pay period.

13 71. During the relevant time period, Defendants intentionally and willfully failed to furnish
14 accurate itemized wage statements in violation of Labor Code sections 226, subdivision (a) and 226.2,
15 subdivision (a)(2).

16 72. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of an
17 employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and
18 days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated,
19 Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

20 73. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereinafter
21 provided.

22 **EIGHTH CAUSE OF ACTION**
23 **FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT**
24 **(Lab. Code, § 201)**
Against TTI and Does 1-100

25 74. Plaintiff hereby realleges and incorporates by reference each and every allegation set
26 forth above as though fully set forth herein, except as said paragraphs are inconsistent with the
27 allegations of this cause of action.

1 75. Labor Code section 201 requires an employer to pay an employee all wages earned and
2 unpaid at the time the employer discharges the employee. Labor Code section 202 requires an employer
3 to pay the employee all wages due no later than 72 hours after the employee quits his employment.

4 76. Labor Code section 203 provides: "If an employer willfully fails to pay, without
5 abatement or reduction, in accordance with Sections 201, 201.5, 202, and 205.5, any wages of an
6 employee who is discharged or who quits, the wages of the employee shall continue as a penalty from
7 the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages
8 shall not continue for more than 30 days".

9 77. During the relevant time period, Defendants failed to pay Plaintiff all earned but unpaid
10 wages upon cessation of employment.

11 78. Pursuant to Labor Code section 558.1, any employer or other person acting on behalf of an
12 employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and
13 days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated,
14 Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

15 79. Wherefore, Plaintiff has been injured as set forth above and requests relief as hereafter
16 provided.

17 **NINTH CAUSE OF ACTION**
18 **PRIVATE ATTORNEYS GENERAL ACT**
19 **(Lab. Code, § 2698 *et seq.*)**
 Against TTI and Does 1-100

20 80. Plaintiff hereby realleges and incorporates by reference each and every allegation set forth
21 above as though fully set forth herein, except as said paragraphs are inconsistent with the allegations of
22 this cause of action.

23 81. Pursuant to Labor Code section 2699, subdivision (a), any provision of the Labor Code
24 which provides for a civil penalty to be assessed and collected by the LWDA for violations of the Labor
25 Code may, as an alternative, be recovered through a civil action brought by an aggrieved employee on
26 behalf of himself or herself and other current or former employees pursuant to the procedures outlined in
27 Labor Code section 2699.3.

82. Plaintiff was employed by Defendants and the alleged violations were committed against her during her time of employment. Plaintiff is therefore an aggrieved employee as defined by Labor Code section 2699, subdivision (c). Other current and former employees are also aggrieved employees in that one or more of the alleged violations were also committed against them during their time of employment with Defendants.

83. Pursuant to Labor Code section 2699, subdivision (f), the civil penalty recoverable in a PAGA action is that which is provided for by the Labor Code or, where no civil penalty is specifically provided, one hundred dollars (\$100) for each aggrieved employee per pay period for the initial violation and two hundred dollars (\$200) for each aggrieved employee per pay period for each subsequent violation.

84. Pursuant to California Labor Code section 2699, subdivision (g), an aggrieved employee may recover the civil penalty on behalf of himself or herself and other current or former employees against whom one or more of the alleged violations was committed. Furthermore, any employee who prevails in any such action shall be entitled to an award of reasonable attorney's fees and costs.

85. Pursuant to the PAGA, Harris-Limas seeks to recover civil penalties against Defendants for violations of the Labor Code.

86. Wherefore, Plaintiff and other employees (current and former) have been aggrieved and Plaintiff, on behalf of the Labor and Workforce Development Agency, requests relief as hereafter provided.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays judgment against Defendants as follows:

As to the First through Fourth Causes of Action:

1. For compensatory, special, and general damages;
2. For punitive and/or exemplary damages;
3. For injunctive relief;
4. For statutory attorneys' fees and costs, including but not limited to those available under Government Code section 12965, subdivision (b);

5. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including but not limited to that available under Civil Code sections 3287, subdivision (a) and 3289, subdivision (b); and
6. For all other and further relief as the court deems just and proper.

As to the Fifth through Eighth Causes of Action:

1. For unpaid wages, including rest and meal premiums;
2. That this Court award injunctive relief, including that available under Labor Code section 226(h);
3. That this Court award statutory penalties including, but not limited to, those available under Labor Code sections 203 and 226(e);
4. That this Court award statutory attorneys' fees and costs, including those available under Labor Code sections 218.5 and 226, subdivision (e)(1), as well as Code of Civil Procedure section 1021.5;
5. That this Court award prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
6. That this Court award such other and further relief as the court deems just and proper.

As to the Ninth Cause of Action:

1. For civil penalties, including but not limited to those available under Labor Code sections 226.3, 558, and 2699(f);
2. For injunctive relief;
3. For statutory attorneys' fees and costs, including but not limited to those available under Labor Code section 2699(g);
4. For prejudgment and post-judgment interest according to any applicable provision of law or as otherwise permitted by law, including those available under Civil Code sections 3287(a) and 3289(b); and
5. For such other and further relief as the court deems just and proper.

1 **DATED:** August 3, 2022

MAYALL HURLEY P.C.



2
3 By _____

JOHN P. BRISCOE

Attorneys for Plaintiff

MERCEL HARRIS-LIMAS

EXHIBIT 1



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 13, 2022

John Briscoe
2453 Grand Canal Blvd.
Stockton, California 95207

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202206-17281313
Right to Sue: Harris-Limas / Tackle Technology, Inc.

Dear John Briscoe:

Attached is a copy of your complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq. Also attached is a copy of your Notice of Case Closure and Right to Sue.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You must serve the complaint separately, to all named respondents. Please refer to the attached Notice of Case Closure and Right to Sue for information regarding filing a private lawsuit in the State of California. A courtesy "Notice of Filing of Discrimination Complaint" is attached for your convenience.

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 13, 2022

RE: **Notice of Filing of Discrimination Complaint**
DFEH Matter Number: 202206-17281313
Right to Sue: Harris-Limas / Tackle Technology, Inc.

To All Respondent(s):

Enclosed is a copy of a complaint of discrimination that has been filed with the Department of Fair Employment and Housing (DFEH) in accordance with Government Code section 12960. This constitutes service of the complaint pursuant to Government Code section 12962. The complainant has requested an authorization to file a lawsuit. A copy of the Notice of Case Closure and Right to Sue is enclosed for your records.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. You may contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.

Please refer to the attached complaint for a list of all respondent(s) and their contact information.

No response to DFEH is requested or required.

Sincerely,



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

Department of Fair Employment and Housing



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

June 13, 2022

Mercel Harris-Limas

RE: **Notice of Case Closure and Right to Sue**
DFEH Matter Number: 202206-17281313
Right to Sue: Harris-Limas / Tackle Technology, Inc.

Dear Mercel Harris-Limas:

This letter informs you that the above-referenced complaint filed with the Department of Fair Employment and Housing (DFEH) has been closed effective June 13, 2022 because an immediate Right to Sue notice was requested.

This letter is also your Right to Sue notice. According to Government Code section 12965, subdivision (b), a civil action may be brought under the provisions of the Fair Employment and Housing Act against the person, employer, labor organization or employment agency named in the above-referenced complaint. The civil action must be filed within one year from the date of this letter.

This matter may qualify for DFEH's Small Employer Family Leave Mediation Pilot Program. Under this program, established under Government Code section 12945.21, a small employer with 5 -19 employees, charged with violation of the California Family Rights Act, Government Code section 12945.2, has the right to participate in DFEH's free mediation program. Under this program both the employee requesting an immediate right to sue and the employer charged with the violation may request that all parties participate in DFEH's free mediation program. The employee is required to contact the Department's Dispute Resolution Division prior to filing a civil action and must also indicate whether they are requesting mediation. The employee is prohibited from filing a civil action unless the Department does not initiate mediation within the time period specified in section 12945.21, subdivision (b) (4), or until the mediation is complete or is unsuccessful. The employee's statute of limitations to file a civil action, including for all related claims not arising under section 12945.2, is tolled from the date the employee contacts the Department regarding the intent to pursue legal action until the mediation is complete or is unsuccessful. Contact DFEH's Small Employer Family Leave Mediation Pilot Program by emailing DRDOnlineRequests@dfeh.ca.gov and include the DFEH matter number indicated on the Right to Sue notice.



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

To obtain a federal Right to Sue notice, you must contact the U.S. Equal Employment Opportunity Commission (EEOC) to file a complaint within 30 days of receipt of this DFEH Notice of Case Closure or within 300 days of the alleged discriminatory act, whichever is earlier.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Mercel Harris-Limas

DFEH No. 202206-17281313

Complainant,

vs.

Tackle Technology, Inc.
4708 Roseville Rd., Suite 114
North Highlands, CA 95660

Respondents

1. Respondent **Tackle Technology, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant **Mercel Harris-Limas**, resides in the City of , State of .

3. Complainant alleges that on or about **April 13, 2022**, respondent took the following adverse actions:

Complainant was harassed because of complainant's sex/gender, sexual harassment-hostile environment.

Complainant was discriminated against because of complainant's sex/gender, disability (physical or mental), sexual harassment- hostile environment, association with a member of a protected class, family care or medical leave (cfra) and as a result of the discrimination was terminated, other, denied family care or medical leave (cfra).

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, participated as a witness in a discrimination or harassment complaint, requested or used family care or medical leave (cfra) and as a result was terminated, other, denied family care or medical leave (cfra).

Additional Complaint Details: Complainant was hired by Respondent on or around February 16, 2021 as a cashier at Respondent's Fisherman Warehouse store in Manteca, California. At all times throughout his employment with Respondent, Complainant performed his job duties with competence and received no write-ups on his work performance (indeed, Complainant was quickly promoted to Assistant Manager). Within a couple of months of his hire, Complainant began to suffer from a hostile work environment. The manager, Ocsanna Seropyan, frequently made offensive, vulgar comments to Complainant about her menstrual cycle. For example, she would frequently tell Complainant about whether she was menstruating and where she was in her cycle. Complainant was offended by these comments, which occurred multiple times per month. In or around January 2022, Complainant complained to Respondent (through Chelsea Wasulko, Regional Manager) about Ms. Seropyan's inappropriate comments; Ms. Wasulko told Complainant that she would look into it but she never advised Complainant as to what, if anything, was done in response to his complaint. On April 8, 2022, Complainant had to leave work early to drive his uncle to a doctor's appointment. Complainant's uncle suffers from a brain injury that limits major life activities and, as a result, needs living assistance from family members (Complainant had told Ms. Seropyan about his uncle and his injury and limitations, on at least one occasion). Complainant asked Ms. Seropyan if he could leave before the end of his shift to take his uncle to the doctor; Ms. Seropyan said yes. Complainant clocked out at about 3:27 p.m. and left work. On April 13, 2022, Complainant was informed that he was terminated because he supposedly "inaccurately reported" his work hours by failing to clock out on April 8, 2022. However, the stated reason for Complainant's termination was pretextual because it was abjectly false--Complainant did clock out on April 8, 2022, and he did not falsely report his work hours. In reality, Complainant was terminated because he had complained about what he reasonably and in good faith contended was harassment and a hostile work environment, and because of his association with a physically and mentally disabled person. Respondent failed to prevent the foregoing, which is a partial list only and set forth by way of mere example.

1 VERIFICATION

2 I, **John P. Briscoe**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On June 13, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Lodi, California**
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EXHIBIT 2



DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

KEVIN KISH, DIRECTOR

2218 Kausen Drive, Suite 100 | Elk Grove | CA | 95758
(800) 884-1684 (Voice) | (800) 700-2320 (TTY) | California's Relay Service at 711
<http://www.dfeh.ca.gov> | Email: contact.center@dfeh.ca.gov

John Briscoe
2453 Grand Canal Blvd.
Stockton, California 95207

RE: **Notice to Complainant's Attorney**
DFEH Matter Number: 202207-17523107
Right to Sue: Harris-Limas / Tackle Technology, Inc. et al.

Dear John Briscoe:

Attached is a copy of your **amended** complaint of discrimination filed with the Department of Fair Employment and Housing (DFEH) pursuant to the California Fair Employment and Housing Act, Government Code section 12900 et seq.

Pursuant to Government Code section 12962, DFEH will not serve these documents on the employer. You or your client must serve the complaint.

The amended complaint is deemed to have the same filing date of the original complaint. This is not a new Right to Sue letter. The original Notice of Case Closure and Right to Sue issued in this case remains the only such notice provided by the DFEH. (Cal. Code Regs., tit. 2, § 10022.)

Be advised that the DFEH does not review or edit the complaint form to ensure that it meets procedural or statutory requirements.

Sincerely,

Department of Fair Employment and Housing

**COMPLAINT OF EMPLOYMENT DISCRIMINATION
BEFORE THE STATE OF CALIFORNIA
DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING
Under the California Fair Employment and Housing Act
(Gov. Code, § 12900 et seq.)**

In the Matter of the Complaint of

Mercel Harris-Limas

DFEH No. 202207-17523107

Complainant,

vs.

Tackle Technology, Inc.
4708 Roseville Rd., Suite 114
North Highlands, CA 95660

Ocsanna Seropyan

,

Respondents

1. Respondent **Tackle Technology, Inc.** is an **employer** subject to suit under the California Fair Employment and Housing Act (FEHA) (Gov. Code, § 12900 et seq.).

2. Complainant is naming **Ocsanna Seropyan** individual as Co-Respondent(s).

3. Complainant **Mercel Harris-Limas**, resides in the City of , State of .

4. Complainant alleges that on or about **April 13, 2022**, respondent took the following adverse actions:

Complainant was harassed because of complainant's sex/gender, sexual harassment-hostile environment.

Complainant was discriminated against because of complainant's sex/gender, disability (physical or mental), sexual harassment-hostile environment, association with a member of a protected class, family care or medical leave (cfra) and as a result of the discrimination was terminated, other, denied family care or medical leave (cfra).

Complainant experienced retaliation because complainant reported or resisted any form of discrimination or harassment, participated as a witness in a discrimination or harassment

1 complaint, requested or used family care or medical leave (cfra) and as a result was
2 terminated, other, denied family care or medical leave (cfra).

3 **Additional Complaint Details:** Complainant was hired by Respondent on or around
4 February 16, 2021 as a cashier at Respondent's Fisherman Warehouse store in Manteca,
5 California. At all times throughout his employment with Respondent, Complainant performed
6 his job duties with competence and received no write-ups on his work performance (indeed,
7 Complainant was quickly promoted to Assistant Manager). Within a couple of months of his
8 hire, Complainant began to suffer from a hostile work environment. The manager, Ocsanna
9 Seropyan, frequently made offensive, vulgar comments to Complainant about her menstrual
10 cycle. For example, she would frequently tell Complainant about whether she was
11 menstruating and where she was in her cycle. Complainant was offended by these
12 comments, which occurred multiple times per month. In or around January 2022,
13 Complainant complained to Respondent (through Chelsea Wasulko, Regional Manager)
14 about Ms. Seropyan's inappropriate comments; Ms. Wasulko told Complainant that she
15 would look into it but she never advised Complainant as to what, if anything, was done in
16 response to his complaint. On April 8, 2022, Complainant had to leave work early to drive
17 his uncle to a doctor's appointment. Complainant's uncle suffers from a brain injury that
18 limits major life activities and, as a result, needs living assistance from family members
19 (Complainant had told Ms. Seropyan about his uncle and his injury and limitations, on at
20 least one occasion). Complainant asked Ms. Seropyan if he could leave before the end of
21 his shift to take his uncle to the doctor; Ms. Seropyan said yes. Complainant clocked out at
22 about 3:27 p.m. and left work. On April 13, 2022, Complainant was informed that he was
23 terminated because he supposedly "inaccurately reported" his work hours by failing to clock
24 out on April 8, 2022. However, the stated reason for Complainant's termination was
25 pretextual because it was abjectly false--Complainant did clock out on April 8, 2022, and he
26 did not falsely report his work hours. In reality, Complainant was terminated because he had
27 complained about what he reasonably and in good faith contended was harassment and a
28 hostile work environment, and because of his association with a physically and mentally
disabled person. Respondent failed to prevent the foregoing, which is a partial list only and
set forth by way of mere example.

1 VERIFICATION

2 I, **John P. Briscoe**, am the **Attorney** in the above-entitled complaint. I have read the
3 foregoing complaint and know the contents thereof. The matters alleged are based
4 on information and belief, which I believe to be true.

5 On July 7, 2022, I declare under penalty of perjury under the laws of the State of
6 California that the foregoing is true and correct.

7 **Lodi, CA**
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EXHIBIT 3

SEQ 000067
Company Code
K4 / 5WT 24167709
Tackle Technology Inc
4708 Roseville Rd Ste 114
Suite 114
North Highlands, CA 95660

Loc/Dept
04/100
Number
2387105
Page
1 of 1

Earnings Statement



Period Starting: 03/16/2022
Period Ending: 03/31/2022
Pay Date: 04/04/2022

Taxable Filing Status: Single

Exemptions/Allowances:

Federal: Std W/H Table
State: 0
Local: 0

Tax Override:

Federal:
State:
Local:

Social Security Number: [REDACTED]

MERCEL HARRIS-LIMAS

Earnings	rate	hours/units	this period	year to date
Regular	18.0000	81.88	1473.84	9170.10
Overtime	27.0000	3.97	107.19	368.55
Sick	18.0000	7.50	135.00	999.00
Bonus		0.00	146.38	242.60

Gross Pay **\$1,862.41** \$10,780.25

Statutory Deductions	this period	year to date
Federal Income	-150.18	780.45
Social Security	-115.47	668.38
Medicare	-27.00	156.31
California State Income	-53.19	247.02
California State DI	-20.49	118.59

Voluntary Deductions	this period	year to date
Medical Insurance	-12.49	87.43
Roth IRA %	-93.12	538.99

Net Pay **\$1,390.47**

Other Benefits and Information	this period	year to date
Sick		0.00
- Carry Over		80.00
- Accrued Hours	0.00	73.50
- Taken Hours	7.50	6.50
- Balance		
Vacation		0.00
- Carry Over		6.68
- Accrued Hours	1.67	0.00
- Taken Hours	0.00	6.68
- Balance		
Total Hours Worked	85.85	523.10

Deposits	transit/ABA	amount
account number	XXXXXXXXXX	1390.47

Important Notes

Basis of pay: Hourly
If no CA SPSL 22 is listed, you have used zero hours.

Your federal taxable wages this period are \$1,862.41

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

Tackle Technology Inc
4708 Roseville Rd Ste 114
Suite 114
North Highlands, CA 95660

Pay Date:

04/04/2022

Deposited to the account

account number

transit/ABA
XXXXXXXXXX

amount
1390.47

EXHIBIT 4

SOUTHERN CALIFORNIA OFFICE
.....
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91206
(818) 646-6440

MAILING ADDRESS:
2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207

LAW OFFICES OF

MAYALL HURLEY

A PROFESSIONAL CORPORATION

2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207

TELEPHONE: (209) 477-3833
FACSIMILE: (209) 473-4818
WWW.MAYALLLAW.COM

VLADIMIR F. KOZINA
STEVEN A. MALCOUN
MARK E. BERRY
WILLIAM J. GORHAM, III
NICHOLAS F. SCARDIGLI
ROBERT J. WASSERMAN
JENNY D. BAYSINGER
JOHN P. BRISCOE
VLADIMIR J. KOZINA
SHANE M. HOOVER

May 6, 2022

SUBMITTED ELECTRONICALLY

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Suite 801
Oakland, California 94612

SENT VIA CERTIFIED MAIL

Tackle Technology Inc.
4708 Roseville Rd., Suite 114
North Highlands, CA 95660

Re: Mercel Harris-Limas/Tackle Technology, Inc.

To whom it may concern:

This firm represents Mercel Harris-Limas (“Harris-Limas”) in relation to his former employment with Tackle Technology, Inc. (“TTI”) dba Fisherman’s Warehouse. In accordance with Labor Code section 2699.3, this letter shall serve as Harris-Limas’s written notice to the Labor and Workforce Development Agency (“LWDA”) and TTI regarding the following violations, and facts and theories supporting those violations, on Harris-Limas’s behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of TTI.

Harris-Limas was hired by TTI on or around February 16, 2021, as an Assistant Manager at the Fisherman’s Warehouse store (a retailer of fishing supplies) in Manteca, California. Harris-Limas’ employment with TTI ended on or around April 13, 2022. At all times throughout his employment with TTI, Harris-Limas was properly classified as an hourly, nonexempt employee, eligible for overtime.

Though Harris-Limas frequently worked overtime, TTI failed to pay that earned overtime at 1.5 times the “regular rate of pay”, as required by the Labor Code. In addition to his base hourly pay, Harris-Limas frequently earned nondiscretionary bonuses for meeting monthly sales goals. (**Exhibit A.**) However, when it came time for TTI to calculate and pay Harris-Limas’ earned overtime, it merely took his base hourly rate and multiplied that by 1.5, ignoring the value of earned nondiscretionary bonuses. (See Division of Labor Standards Enforcement Policies and Interpretations Manual, § 49.) By failing to pay earned overtime at 1.5 times the regular rate of pay, TTI violated Labor Code section 510.

Labor and Workforce Development Agency
Tackle Technology, Inc.
Re: Mercel Harris-Limas
May 6, 2022
Page 2 of 2

TTI also failed to pay Harris-Limas paid sick days at the appropriate rate. As with his overtime, when Harris-Limas took paid sick days, TTI paid that sick leave at only his base hourly rate, and failed to account for the value of earned nondiscretionary bonuses. (Exhibit A, *supra*; see also Lab. Code, § 246, subd. (l) [sick pay shall be paid at the regular rate of pay].) Accordingly, TTI violated Labor Code sections 233 and 246.

Because of the underpayment of overtime and paid sick leave, *supra*, the itemized wage statements furnished to Harris-Limas failed to accurately show the gross wages earned, the net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each rate, in violation of Labor Code section 226, subdivisions (a)(1), (5), and (9).

At no point since the severance of Harris-Limas' employment did TTI pay him the full balance of unpaid overtime and paid sick days, *supra*. Accordingly, TTI violated Labor Code sections 201 and 202.

The foregoing violations, and each of them, were committed as against current and other former employees of TTI, and within the last year.

If the LWDA believes that it needs additional information to determine whether to investigate these claims, please contact me immediately to request the additional information, which I will provide to the extent it is available to me or my client.

If the LWDA does not intend to investigate these violations, Harris-Limas intends to file a civil complaint against TTI pursuant to the Labor Code Private Attorneys General Act of 2004 (Labor Code, § 2698 *et seq.*), on his behalf and, as a proxy for the LWDA, on behalf of all aggrieved current and former employees. Thank you for your attention in this matter.

Sincerely,

MAYALL HURLEY P.C.

By 

JOHN P. BRISCOE

Attachment

EXHIBIT A

SEQ 000067
Company Code
K4 / 5WT 24167709
Tackle Technology Inc
4708 Roseville Rd Ste 114
Suite 114
North Highlands, CA 95660

Loc/Dept
04/100
Number
2387105
Page
1 of 1

Earnings Statement



Period Starting: 03/16/2022
Period Ending: 03/31/2022
Pay Date: 04/04/2022

Taxable Filing Status: Single
Exemptions/Allowances:

Federal: Std W/H Table
State: 0
Local: 0

Social Security Number: [REDACTED]

Tax Override:
Federal:
State:
Local:

MERCEL HARRIS-LIMAS

Earnings	rate	hours/units	this period	year to date
Regular	18.0000	81.88	1473.84	9170.10
Overtime	27.0000	3.97	107.19	368.55
Sick	18.0000	7.50	135.00	999.00
Bonus		0.00	146.38	242.60

Gross Pay **\$1,862.41** \$10,780.25

Statutory Deductions	this period	year to date
Federal Income	-150.18	780.45
Social Security	-115.47	668.38
Medicare	-27.00	156.31
California State Income	-53.19	247.02
California State DI	-20.49	118.59

Voluntary Deductions	this period	year to date
Medical Insurance	-12.49	87.43
Roth IRA %	-93.12	538.99

Net Pay **\$1,390.47**

Other Benefits and Information

	this period	year to date
Sick		0.00
- Carry Over		80.00
- Accrued Hours	0.00	73.50
- Taken Hours	7.50	6.50
- Balance		
Vacation		0.00
- Carry Over		6.68
- Accrued Hours	1.67	0.00
- Taken Hours	0.00	6.68
- Balance		523.10
Total Hours Worked	85.85	

Deposits

account number	transit/ABA	amount
[REDACTED]	XXXXXXXXXX	1390.47

Important Notes

Basis of pay: Hourly
If no CA SPSP 22 is listed, you have used zero hours.

Your federal taxable wages this period are \$1,862.41

VERIFY DOCUMENT AUTHENTICITY - COLORED AREA MUST CHANGE IN TONE GRADUALLY AND EVENLY FROM DARK AT TOP TO LIGHTER AT BOTTOM

Tackle Technology Inc
4708 Roseville Rd Ste 114
Suite 114
North Highlands, CA 95660

Pay Date:

04/04/2022

Deposited to the account

account number

transit/ABA
XXXXXXXXXX

amount
1390.47