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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Erika Deavers, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
SAN DIEGO COUNTY

JESSE LOPEZ, an individual,

Plaintiff,

v.

CALBIZ DEVELOPMENT CORP; EJAZ
MOHAMMAD, an individual; AZRA
MOHAMMAD, an individual; and DOES 1
through 50, inclusive,

Defendants.

CASE NO.: 37-2022-00042635-CU-OE-NC

COMPLAINT FOR DAMAGES:

1. FAILURE TO PAY WAGES
2. FAILURE TO TIMELY FURNISH
ACCURATE ITEMIZED WAGE
STATEMENTS
3. UNFAIR BUSINESS PRACTICES
4. WAITING TIME PENALTIES PER
LABOR CODE §203
5. MEAL AND REST PERIOD
VIOLATIONS
6. FAILURE TO TIMELY PROVIDE A
COPY OF PAYROLL RECORDS AND
EMPLOYEE FILE AND FAILURE TO
MAINTAIN ACCURATE TIME
RECORDS
7. PRIVATE ATTORNEYS GENERAL
ACT OF 2004 ("PAGA") PER LABOR
CODE §2699, et seq.

[IMAGED FILE]

1 Plaintiff JESSE LOPEZ, an individual (hereinafter “Plaintiff”) alleges as follows:

2 **GENERAL ALLEGATIONS**

3 The public policy of California declares:

4 It is the public policy of this state to vigorously enforce minimum labor standards in
5 order to ensure employees are not required or permitted to work under substandard
6 unlawful conditions or for employers that have not secured the payment of compensation
7 and to protect employers who comply with the law from those who attempt to gain a
8 competitive advantage at the expense of their workers by failing to comply with
9 minimum labor standards.

(Labor Code §90.5 subd. (a).)

10 Despite this clear mandate, DEFENDANTS blatantly violated the California Labor Code
11 and the Industrial Welfare Commission (“IWC”) Wage Orders. Defendants willfully and
12 maliciously failed to pay mandated overtime and minimum wage and overtime compensation,
13 failed to provide meal and rest periods, and failed to provide and maintain proper employee
14 records to their employees.

15 1. This lawsuit is brought in response to the Defendants’ refusal to pay Plaintiff,
16 who is a former employee of Defendants, and the other aggrieved employees all wages that they
17 earned during their employment with Defendants, among other Labor Code violations.

18 2. The acts complained of herein have occurred within the time period from four (4)
19 years preceding the filing of the original Complaint herein (hereinafter, the “Relevant Time
20 Period”).

21 **JURISDICTION AND VENUE**

22 3. The Superior Court of the State of California for the County of San Diego has
23 jurisdiction over this case due to the fact that some of the alleged violations (a) of California
24 Labor Code (i.e. §§ 200 et seq.), (b) California Business and Professions Code §§ 17200 et seq.
25 and (c) related common law violations occurred in the County of San Diego.
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4. Venue is proper in North County Division of San Diego County Superior Court pursuant to Code of Civil Procedure §395(a) and §395.5, because *inter alia*, (a) the Defendants' and Defendant corporation's principal place of business is situated in this County, and (b) complaints regarding such issues may be filed in the North County Division..

PARTIES

1. Plaintiff JESSE LOPEZ is an individual over the age of eighteen (18) and was an employee of Defendants during the last 4 years.

2. Plaintiff is informed and believes that Defendant CALBIZ DEVELOPMENT CORP is a California Corporation, and at all times mentioned herein operated its businesses within the jurisdiction of this Court.

3. Plaintiff is informed and believes that Defendant EJAZ MOHAMMAD is an individual who during the relevant time period has owned, managed and operated and continues to own, manage and operate CALBIZ DEVELOPMENT CORP, and who at all times mentioned in this Complaint herein resided within the jurisdiction of this Court. EJAZ MOHAMMAD was and remains a person acting on behalf of CALBIZ DEVELOPMENT CORP, on information and belief as the chief executive officer, president, managing agent, and director of CALBIZ DEVELOPMENT CORP, who violated and/or who caused to violate various Labor Code sections and other provisions regulating hours and days of work established by the Industrial Welfare Commission of the State of California rendering him individually liable pursuant to Labor Code Sections 558, 558.1, 1102.5, and 2699 et. seq. In addition, EJAZ MOHAMMAD is an officer, director, and person acting either individually or as a managing agent, who paid or caused to be paid the Plaintiff and the other aggrieved employees a wage less than the minimum, regular, and overtime rate of pay under the law, failed to relieve them of duties during their meal and rest periods, and failed to provide accurate records, or by an order of the commission and is

1 therefore subject to a civil penalty, restitution of wages payable to the employee, and any
2 applicable wages, damages and penalties plus fees and costs imposed pursuant to Labor Sections
3 203, 558, 558.1, and 2699 et. seq.

4 4. Plaintiff is informed and believes that Defendant AZRA MOHAMMAD is an
5 individual who during the relevant time period has owned, managed and operated and continues
6 to own, manage and operate CALBIZ DEVELOPMENT CORP, and who at all times mentioned
7 in this Complaint herein resided within the jurisdiction of this Court. AZRA MOHAMMAD
8 was and remains a person acting on behalf of CALBIZ DEVELOPMENT CORP, on information
9 and belief as the secretary, chief financial officer, managing agent, and director of CALBIZ
10 DEVELOPMENT CORP, who violated and/or who caused to violate various Labor Code
11 sections and other provisions regulating hours and days of work established by the Industrial
12 Welfare Commission of the State of California rendering him individually liable pursuant to
13 Labor Code Sections 558, 558.1, 1102.5, and 2699 et. seq. In addition, AZRA MOHAMMAD is
14 an officer, director, and person acting either individually or as a managing agent, who paid or
15 caused to be paid the Plaintiff and the other aggrieved employees a wage less than the minimum,
16 regular, and overtime rate of pay under the law, failed to relieve them of duties during their meal
17 and rest periods, and failed to provide accurate records, or by an order of the commission and is
18 therefore subject to a civil penalty, restitution of wages payable to the employee, and any
19 applicable wages, damages and penalties plus fees and costs imposed pursuant to Labor Sections
20 203, 558, 558.1, and 2699 et. seq.

21 5. DOES 1 to 50, inclusive are now, and/or at all times mentioned in this Complaint
22 were licensed to do business and/or actually doing business in the State of California. Plaintiff
23 does not know the true names or capacities, whether individual, partner or corporate, of DOES 1
24 to 50, inclusive and for that reason, DOES 1 to 50 are sued under such fictitious names pursuant
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1 to California Code of Civil Procedure (“CCP”) §474. Plaintiff will amend this Complaint to
2 allege such names and capacities as soon as they are ascertained.

3 6. Plaintiff is informed and believes and thereon alleges that DOES 1 to 50,
4 inclusive, are former co-employers and/or joint employers of Plaintiff.

5 7. Plaintiff is informed and believes and thereon alleges that DOES 1 to 50,
6 inclusive, are successors in interest to Defendants or are otherwise obligated to pay Plaintiff the
7 wages due and owing to them, e.g. by way of statute, common law, quantum meruit, express
8 written contract, implied in fact contract, or by way of common counts such as money had and
9 received. Plaintiff reserves the right to augment the foregoing allegations to more clearly set
10 forth this Defendant’s liability as discovery progresses and reveals the same.

11 8. Plaintiff is informed and believes, and based upon such information and belief
12 alleges that the Defendants, and each of them, are now and/or at all times mentioned in this
13 Complaint were in some manner legally responsible for the events, happenings and
14 circumstances alleged in this Complaint.

15 9. Plaintiff is further informed and believes, and based upon such information and
16 belief alleges, that at all times herein mentioned, all Defendants, and each of them, were and are
17 the agents, servants, employees, joint venturers, and/or partners of each of the other Defendants,
18 and were, at all such times, acting within the course and scope of said employment and/or
19 agency; furthermore, that each and every Defendant herein, while acting as a high corporate
20 officer, director and/or managing agent, principal and/or employer, expressly directed, consented
21 to, approved, affirmed and ratified each and every action taken by the other co-Defendants, as
22 herein alleged and was responsible in whole or in part for the matters referred to herein.

23 10. Plaintiff is further informed and believes, and based upon such information and
24 belief alleges, that at all times herein mentioned, Defendant, and each of them, proximately
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1 caused Plaintiff to be subjected to the unlawful practices, wrongs, complaints, injuries and/or
2 damages alleged in this Complaint.

3 11. Plaintiff is further informed and believes, and based upon such information and
4 belief alleges, that at all times herein mentioned, Defendants, and each of them were co-
5 employers and/or joint employers of Plaintiff.
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7 12. Defendants, and each of them, are now and/or at all times mentioned in this
8 Complaint were members of and/or engaged in a joint venture, partnership and common
9 enterprise, and were acting within the course and scope of, and in pursuit of said joint venture,
10 partnership and common enterprise and, as such were co-employers and/or joint employers of
11 Plaintiff.
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13 13. Defendants, and each of them, at all times mentioned in this Complaint concurred
14 with, contributed to, approved of, aided and abetted, condoned and/or otherwise ratified the
15 various acts and omissions of each and every one of the other Defendants in proximately causing
16 the complaints, injuries and/or damages alleged in this Complaint.

17 14. Plaintiff is informed and believes and thereon alleges that at all times herein
18 mentioned, some of the Defendants DOES 1 through 50, Inclusive, were the *alter egos* of the
19 named Defendants. Plaintiff is informed and believes and thereon alleges that there exists such a
20 unity of interest and ownership between the named Defendants and DOES 1 through 50, that the
21 individuality and separateness of the named Defendants and DOES 1 through 50 has ceased to
22 exist. The business affairs of named Defendants and DOES 1 through 50, are, and at all times
23 relevant hereto were, so mixed and intermingled that the same cannot reasonably be segregated,
24 and the same are in inextricable confusion. Defendants, and at all times relevant hereto, used
25 each other as a mere shell and conduit for the conduct of certain of Defendants' affairs. The
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1 recognition of the separate existence of Defendants would not promote justice, in that it would
2 permit Defendants to insulate themselves from liability to Plaintiff. Accordingly, the named
3 Defendants constitute the *alter ego* of Defendants DOES 1 through 50, and the fiction of their
4 separate existence must be disregarded.

5
6 **FIRST CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES**

8 **(Against all Defendants)**

9 15. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
10 section as though fully set forth herein.

11 16. Plaintiff was an “employee” of Defendants (as defined by section 350 of the
12 Labor Code) but Defendants failed to pay Plaintiff and the other aggrieved employees for all
13 hours worked. Plaintiff and the other aggrieved employees were employed as food preparers,
14 cashiers, and supervisors.

15 17. Pursuant to Labor Code section 1197, payment of less than the minimum wage
16 fixed by the commission is unlawful.

17 18. During the entire period of time that Plaintiff and the other aggrieved employees
18 were employed by Defendants, and for the four (4) years preceding the filing of this lawsuit,
19 Defendants were required to compensate them at least at the minimum wage, but failed to carry
20 out their duties and responsibilities as an employer imposed under the laws and regulations of the
21 State of California and violated the law by failing to pay Plaintiff and the other aggrieved
22 employees at least a minimum wage for all hours worked pursuant to all applicable wage orders
23 and in accordance with Labor Code sections 200, 226, 500, 510, 558.1, 1194, 1194.2, and 1197.

24 19. Defendants regularly failed to pay Plaintiff and the other aggrieved employees all
25 of the wages that they earned. In violation of state law, Defendants have knowingly and
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1 willfully refused to perform their obligations to compensate Plaintiff and the other aggrieved
2 employees for all minimum wages earned and all hours worked. As a direct result, Plaintiff and
3 the other aggrieved employees have suffered, and continue to suffer, substantial losses related to
4 the use and enjoyment of such unpaid wages, lost interest on such wages, costs and attorneys'
5 fees in seeking to compel Defendants to fully perform its obligation under state law, all to their
6 damage in amounts according to proof at the time of trial, but in amounts in excess of the
7 minimum jurisdiction requirement of this Court. Defendants committed the acts alleged herein
8 knowingly and willfully and maliciously, with wrongful and deliberate intent.

10 20. Defendants' conduct described herein violates Labor Code sections 200, 226, 500,
11 510, 558, 558.1, 1194, 1194.2, and 1197. As a proximate result of the aforementioned
12 violations, Plaintiff and the other aggrieved employees have been damaged in an amount
13 according to proof at the time of trial. Plaintiff is therefore entitled to recover the unpaid balance
14 of minimum wages and damages for minimum wage violations, plus liquidated damages
15 pursuant to LC §1194.2, plus interest, plus penalties, attorneys' fees, expenses, and costs of suit.

17 21. Pursuant to Labor Code §200, "wages" includes all amounts for labor performed
18 by employees of every description, whether the amount is fixed or ascertained by the standard of
19 time, task, piece, commission basis, or other method of calculation.

21 22. Plaintiff is thus entitled to their earned unpaid wages in an amount to be proven at
22 trial, plus interest, penalties, attorneys' fees and costs.

23 23. Under California law, including but not limited to, Labor Code sections 200, 226,
24 500, 510, 558, 558.1, and 1198, Defendants were required to compensate Plaintiff and the other
25 aggrieved employees for all overtime, which is calculated at one and one-half (1.5) times the
26 regular rate of pay for hours worked in excess of forty (40) per week or after eight (8) in one day,
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1 and double time (2) times the regular rate of pay for hours worked on the seventh consecutive
2 work day, or after twelve (12) hours in any workday.

3 24. Throughout his employment with Defendants, Plaintiff regularly worked on
4 average over 50 hours per week. Plaintiff and the other aggrieved employees are or were non-
5 exempt employees entitled to overtime pay under California law, including but not limited to
6 Labor Code sections 200, 226, 500, 510, 558, 558.1, 1194 and 1198. Throughout Plaintiff's
7 employment, Defendants regularly failed to pay Plaintiff and the other aggrieved employees at
8 the overtime wage rate for their overtime hours worked. Specifically, Defendants would
9 intentionally fail to pay Plaintiff, and other aggrieved employees, at the overtime rate where
10 Defendants paid them at the regular rate of pay for overtime hours worked or nothing at all.

11
12 25. Under the applicable wage orders, statutes and regulations, Plaintiff and the other
13 aggrieved employees are entitled to one and one-half (1.5) times and double their regular rate of
14 pay for overtime work performed during the entire course of their employment with Defendants.

15
16 26. As a direct result, Plaintiff and the other aggrieved employees have suffered
17 substantial losses related to the use and enjoyment of such wages, lost interest on such wages,
18 and expenses and attorneys' fees in seeking to compel Defendants to fully perform its obligation
19 under state law, all to their respective damage in amounts according to proof at the time of trial,
20 but in amounts in excess of the jurisdiction of this Court. Defendants committed the acts alleged
21 herein knowingly and willfully and maliciously, with the wrongful and deliberate intention of
22 injuring Plaintiff, from improper motives amounting to malice, and in conscious disregard of
23 Plaintiff's rights. Plaintiff is thus entitled to recover nominal, actual, compensatory damages in
24 amounts according to proof at the time of trial, but in amounts in excess of the jurisdiction of this
25 Court.
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1 27. Defendants' conduct described herein violates Labor Code sections 200, 226, 500,
2 510, 558, 558.1, 1194, and 1197.1. As a proximate result of the aforementioned violations,
3 Plaintiff has been damaged in an amount according to proof at the time of trial, but in an amount
4 in excess of the jurisdiction of this Court. Therefore, pursuant to Labor Code sections 200, 203,
5 226, 558, 558.1, and 1194, Plaintiff is entitled to recover the unpaid balance of overtime
6 compensation Defendants owe to Plaintiff of at least \$2,352.00, plus interest of at least \$235.20,
7 plus penalties, attorneys' fees, expenses, and costs of suit.

9 28. Defendants committed the acts alleged herein knowingly and willfully, with the
10 wrongful and deliberate intention of injuring Plaintiff, from improper motives amounting to
11 malice, and in conscious disregard of Plaintiffs' rights. Specifically, Defendants know that they
12 owe wages to Plaintiff and yet have failed to pay him his owed wages and instead have taken
13 efforts to deprive Plaintiff of his owed wages to annoy, harass, oppress, hinder, delay and
14 defraud him in violation of Labor Code section 216.

16 **SECOND CAUSE OF ACTION**

17 **FAILURE TO TIMELY FURNISH**

18 **ACCURATE ITEMIZED WAGE STATEMENTS**

19 **(Pursuant to Labor Code §226(a) and (e))**

20 **(Against all Defendants)**

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22 29. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
23 section as though fully set forth herein.

24 30. Plaintiff is informed and believes and thereon alleges that Defendants, in violation
25 of Labor Code §226(a), engaged in a practice with respect to Plaintiff and the other aggrieved
26 employees of regularly failing to furnish them with accurate, itemized statements in writing
27 showing (1) all gross wages earned, (2) all deductions, (3) net wages earned, and/or (4) accurate
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1 rate of pay during each respective pay period for which wages have been and continue to be due
2 and owing, as well as all other information required by section 226 of the Labor Code.
3 Specifically, Defendants failed to provide wage statements to Plaintiff and the other aggrieved
4 employees showing the above required information.

5
6 31. Plaintiff seeks damages pursuant to Labor Code §226(e) for each violation by
7 Defendants of Labor Code §226 of at least \$1,150.00, and pursuant to §§ 226.3, 558.1, plus
8 attorneys' fees and costs. In addition, Plaintiff seeks preliminary and permanent injunctive relief
9 pursuant to Labor Code §226(h).

10 **THIRD CAUSE OF ACTION**

11 **UNFAIR BUSINESS PRACTICES**

12 **(BUSINESS & PROFESSIONS CODE §17200, et seq.)**

13 **(Against all Defendants)**

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15 32. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
16 section as though fully set forth herein.

17 33. Defendants have engaged in unfair business practices in California by utilizing
18 and engaging in an unlawful pattern and practice of failing to properly pay employee
19 compensation as described throughout this Complaint, specifically, by requiring the Plaintiff and
20 the other aggrieved employees to perform the work without proper payment of overtime, regular,
21 minimum pay earned, without meal and rest periods, and failed to pay and report proper taxes to
22 the US and California governments. Defendants' use of such practices constitutes a statutorily
23 illegal, and thus, unfair business practice and provides an unfair advantage over Defendants'
24 competitors.
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34. Plaintiff seeks full restitution by Defendants as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by the Defendants by means of the unfair business practices complained of herein.

35. Plaintiff seeks the appointment of a receiver, as necessary, to oversee said restitution, including all wages earned and unpaid, including interest thereon.

36. The acts complained of herein, occurred, at least in part, within the last 4 years preceding this Complaint for Damages.

37. Further, if Defendants are not enjoined from the unlawful conduct described above, Defendants will continue unabated in its unlawful conduct, which will continue to result in irreparable injury to members of the general public, including, but not limited to Plaintiff and the other aggrieved employees, who are current and former employees of the Defendants, and for which there is no adequate remedy at law. Thus, Plaintiff requests that the Court issue a preliminary and permanent injunction prohibiting Defendants from engaging in the foregoing conduct.

FOURTH CAUSE OF ACTION

FAILURE TO PAY WAGES UPON SEPARATION OF EMPLOYMENT

WAITING TIME PENALTIES PURSUANT TO LABOR CODE §203

(Against all Defendants)

38. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this section as though fully set forth herein.

39. Defendants failed to pay Plaintiff and the other aggrieved employees all earned wages upon the separation of their employment with Defendants in violation of Labor Code sections 201 and 202, including but not limited to, overtime, minimum, regular, and meal and rest period premium wages, and despite his several demands to be paid.

1 40. Defendants' failure to pay Plaintiff and the other aggrieved employees all wages
2 due was willful and done with malice. Plaintiff and the other aggrieved employees are therefore
3 entitled to penalties pursuant to Labor Code §203 of at least \$3,990.00 and pursuant to §§ 558,
4 558.1, plus attorneys' fees and costs.

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6 **FIFTH CAUSE OF ACTION**

7 **MEAL AND REST PERIOD VIOLATIONS**

8 **LABOR CODE §§ 226.7 and 512**

9 **(Against all Defendants)**

10 41. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
11 section as though fully set forth herein.

12
13 42. Under California Labor Code sections 226.7, 512 and California Wage Orders,
14 Off Duty Meal Periods of 30 minutes are required for all non-exempt employees who work at
15 least 5 hours in a shift, except that when a work period of not more than 6 hours will complete
16 the day's work then the meal period may be waived by mutual consent of the employer and
17 employee. Time records of meal periods must be kept except that meal periods during which
18 operations cease need not be recorded. Employers must provide non-exempt employees 2 Off
19 Duty Rest Periods of 10 minutes each in a normal 8 hour shift. Rest Periods need not be
20 recorded. The Meal Periods are unpaid unless the employee is not fully relieved of all duties.
21 Rest Periods must be paid. An employer who fails to provide off duty meal and rest periods
22 (breaks) must pay the employee an additional 1 hour regular pay for each category of break not
23 provided in a work day.
24

25
26 43. At all times mentioned herein, Defendants violated Labor Code sections 226.7
27 and 512 by refusing to allow Plaintiff and the other aggrieved employees to be timely fully
28 relieved of their duties during their meal and rest periods.

44. Accordingly, Plaintiff seeks damages available pursuant to the Labor Code, including but not limited to Labor Code sections 226.7 and 512 of at least \$4,032.00 in premium wages, sections 558, and 558.1, plus interest of at least \$403.20.

SIXTH CAUSE OF ACTION

EMPLOYEE FILE & PAYROLL RECORDS VIOLATION & FAILURE TO MAINTAIN

TIME RECORDS

LABOR CODE §§ 1198.5, 432, 226(b), (c), and (f), 1174

(Against all Defendants)

45. Plaintiff incorporates by reference and re-alleges each and every one of the allegations contained in this Complaint as though fully set forth herein.

46. On or about August 8, 2022, Plaintiff, through his counsel, requested in writing and via certified US mail, that Defendants provide Plaintiff with a copy of certain documents in his employee file and payroll and time records. To date, Defendants have failed to timely furnish Plaintiff with a copy of his employee file and payroll and time records in violation of Labor Code §§432, and 226(b),(c), (f), and 1198.5; IWC Orders 1 through 15, Section 7, and IWC Order 16, Section 6. Plaintiff is entitled to recover any and all penalties and compensation provided by the Labor Code, including the above mentioned sections and section 558.1, for Defendant's failure to furnish the requested personnel and payroll and time records including at least \$750.00 in penalties pursuant to LC §§226(f), 1198.5, and 558.1, plus attorneys' fees and costs.

47. Pursuant to Labor Code §1174(d), Defendants have a legal obligation to “[k]eep, at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to, and the

1 number of piece-rate units earned by and any applicable piece rate paid to, employees employed
2 at the respective plants or establishments.”

3
4 48. Defendants failed to maintain records of Plaintiff’s and the other aggrieved
5 employees’ accurate hours worked which Defendants were required to keep pursuant to Labor
6 Code §1174(d). Therefore, Defendants violated Labor Code §1174(d) by failing to collect and
7 keep records indicating the daily hours worked by Plaintiff and the other aggrieved employees.

8
9 49. Pursuant to Labor Code §1174.5, “any person employing labor who willfully fails
10 to maintain... accurate and complete records required by subdivision (d) of Section 1174... shall
11 be subject to a civil penalty of five hundred dollars (\$500).” Accordingly, Defendants are
12 required to pay Plaintiff and the other aggrieved employees an additional \$500.00 each along
13 with consequential damages.

14
15 **EIGHTH CAUSE OF ACTION**

16 **PRIVATE ATTORNEYS GENERAL ACT OF 2004 (“PAGA”)**

17 **PER LABOR CODE §2699, et seq.**

18 **(Against All Defendants)**

19 50. Plaintiff re-alleges and incorporates herein by reference all paragraphs outside this
20 section as though fully set forth herein.

21
22 51. On or about August 8, 2022, pursuant to Labor Code sections 2699(a) and 2699.3,
23 Plaintiff, through his counsel, provided notice in writing by online submission to the California
24 Labor Workforce Development Agency (“LWDA”) and via certified US Mail to Defendants and
25 each of them, that Plaintiff intended to assert a PAGA claim pursuant to section 2699(a) on his
26 own behalf, and in a representative capacity on behalf of other aggrieved employees of
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1 Defendants, for violations of specified provisions of the California Labor Code. See Exhibit 1
2 attached to this Complaint. The LWDA did not respond within 65 days.

3
4 52. As a result, Plaintiff has perfected his right to sue Defendants in a civil action, and
5 to collect statutory penalties, pursuant to Labor Code section 2699.3(a)(2)(A)(1) on behalf of all
6 aggrieved employees (PAGA Employees).

7
8 53. As a result of the acts alleged above, Plaintiff brings this action on his own behalf,
9 and in a representative capacity on behalf of other current or former aggrieved employees
10 (PAGA Employees), for penalties pursuant to California Labor Code section 2699 for
11 Defendants' violations of the enumerated Labor Code sections, including, but not limited to
12 sections 200, 201, 202, 203, 210, 216, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227,
13 227.3, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1175, 1194, 1194.2, 1197.1, 1198,
14 1198.5, 1199, 1770-1781, and 2802.

15
16 54. Pursuant to California Labor Code section 2699, Plaintiff and PAGA Employees
17 are entitled to be awarded twenty-five (25%) percent of all penalties due under California law, in
18 addition to interest, attorney's fees and costs.

19
20 55. The Court should award seventy-five (75%) percent of all penalties due under
21 California law to the State of California.

22
23 56. Plaintiff, on behalf of the State of California and the aggrieved employees,
24 therefore seek to recover from Defendants, and each of them, allowable damages and civil
25 penalties for the violations claimed above regarding Plaintiff's claims of at least \$2,300.00, plus
26 interest, costs, attorneys' fees, and plus civil penalties regarding the other aggrieved employees'
27 claims in an amount according to proof at trial, in accordance with Labor Code sections 2699, *et*
28 *seq.*, but that is at least \$5,100 per employee, for at least 6 employees, totaling at least

1 \$30,600.00 in PAGA penalties regarding the other aggrieved employees. The \$2,300 plus
2 \$30,600 in PAGA penalties total at least \$32,900.00 in PAGA penalties.

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4 57. Labor Code Section 558 states that “[a]ny employer or *other person* acting on
5 behalf of an employer who violates, or causes to be violated, a section of this chapter or any
6 provision regulating hours and days of work in any order of the Industrial Welfare Commission
7 shall be subject to a civil penalty as follows: (1) For any initial violation, fifty dollars (\$50) for
8 each underpaid employee for each pay period for which the employee was underpaid in addition
9 to an amount sufficient to recover underpaid wages. (2) For each subsequent violation, one
10 hundred dollars (\$100) for each underpaid employee for each pay period for which the employee
11 was underpaid in addition to an amount sufficient to recover underpaid wages. (3) Wages
12 recovered pursuant to this section shall be paid to the affected employee. The Section goes on to
13 state that “[t]he civil penalties provided for in this section are in addition to any other civil or
14 criminal penalty provided by law.”

15
16 58. Labor Code Section 558.1(a) provides in pertinent part: “Any employer or other
17 person acting on behalf of an employer, who violates, or causes to be violated, any provision
18 regulating minimum wages or hours and days of work in any order of the Industrial Welfare
19 Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or
20 2802, may be held liable as the employer for such violation.”

21
22 59. Defendants violated/violate, or caused/causes to be violated, multiple sections of
23 the Labor Code as well as provisions regulating hours and days of work in any order of the
24 Industrial Welfare Commission including those requiring payment of minimum and regular
25 wages and payment of overtime wages, meal and rest periods, failure to reimburse business
26 expenditures, and records violations, as set forth in detail throughout this Complaint.
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60. Accordingly, Plaintiff is also entitled to recovery of wages, premium wages, damages, and penalties pursuant to Labor Code Sections 558 and 558.1 of at least \$14,562.40.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, as follows:

1. For compensatory damages, including but not limited to, those pursuant to Labor Code §§ 200, 201, 203, 218, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 246, 350-356, 500, 510, 512, 558, 558.1, 1174, 1174.5, 1194, 1194.2, 1194.3, 1197.1, 1198, 1198.5, 1770-1781, 2802, 2699, et seq., California Wage Orders, and other statutes and laws, which include, but are not limited to:

- i) at least \$2,352.00 in unpaid overtime wages,
- ii) at least \$4,032.00 in meal and rest period premium wages,
- iii) at least \$1,150.00 in damages for inaccurate paycheck statements pursuant to LC §226;

2. For pre-judgment interest pursuant to all applicable statutes including but not limited to, Labor Code §§218.6, et seq., 558, et seq., and pursuant to Civil Code §§ 3287(b) and 3289, more specifically including but not limited to:

- i) at least \$235.20 in interest on unpaid overtime wages,
- ii) at least \$403.20 in interest on meal and rest period premium wages;

3. For penalties pursuant to Labor Code §§ 203, 225.5, 226, 226(f), 1198.5, 226.3, 226.7, 246, 350-356, 512, 558, 558.1, 1174.5, 1194.2, 1197.1, 2802, civil penalties pursuant to section 2699, et seq., and other statutes and laws, including but not limited to:

- i) at least \$3,990.00 in waiting time penalties pursuant to LC §203,
- ii) at least \$750.00 in penalties for failure to timely produce employee file and records pursuant to LC §§ 226(f), 1198.5,

iii) at least \$32,900.00 in penalties pursuant to LC §2699, et seq.,

iv) at least \$14,562.40 in penalties pursuant to LC 558, 558.1;

4. For all damages available pursuant to all applicable sections of the Labor Code and the Industrial Wage Orders;

5. For injunctive relief pursuant to Labor Code §226(h);

6. For an award of reasonable attorneys' fees and costs;

7. For restitution of all monies due to Plaintiff and disgorged profits from the unlawful business practices of Defendants;

8. For all remedies available pursuant to Business and Professions Code section 17200 et seq.;

9. For all other appropriate injunctive, declaratory and equitable relief;

10. For interest to the extent permitted by law; and

11. For such other and further relief as the Court may deem proper.

Dated: October 24, 2022


Rodolfo Ruiz-Velasco, Esq.
Attorneys for Plaintiff,
Jesse Lopez

EXHIBIT 1

RUIZ-VELASCO LAW FIRM

August 8, 2022

Via Electronic Submission

California Labor & Workforce Development Agency
Attn. PAGA Administrator
455 Golden Gate Avenue, 9th Floor
San Francisco, CA 94102

All By Certified Mail

Ejaz Mohammad
Azra Mohammad
Calbiz Development Corp
1303 Northview Rd
Escondido, CA 92029

Re: **Lopez v. Calbiz Development Corp, et al.**

To Whom It May Concern:

We represent Jesse Lopez individually and on behalf of all other individuals (collectively "Plaintiffs") who are either former or current employees of Calbiz Development Corp, a California Corporation which does business as several Subway franchises, and its owners and officers Ejaz Mohammad and Azra Mohammad, (collectively "Defendants"). Pursuant to Labor Code section 2699.3, this letter constitutes written notice of Defendant's Labor Code violations and of our client's intent to recover statutory penalties under the Labor Code Private Attorney General Act of 2004. A copy of this letter is also being sent to Defendants via certified mail pursuant to Labor Code section 2699.3.

Plaintiffs were employed by Defendants as food preparers, cashiers, and supervisors. Plaintiffs are regularly required to work on average at least 50 hours per week, that is, at least on average 10 overtime hours per week, without receiving overtime compensation, but Defendants instead pay the employees at the regular rate of pay for their overtime hours worked, thus causing overtime wage violations ("wage theft").

As a result of the violations above and below, Defendants have failed to provide any paycheck statements with accurate hours worked, rate of pay, and regular and overtime hours, and all other required information on the paycheck statements. Further,

Defendants failed to keep accurate time records regarding Plaintiffs, in violation of Section 7 of the Wage Orders and Labor Code section 1174.5.

Plaintiffs were not paid all of their wages owed at the time of their separation of work in violation of LC §§ 203 and 204.

In addition, Defendants fail to fully relieve Plaintiffs from rest periods and regularly force Plaintiffs to take their meal periods late, but fail to pay them any premiums for their on-duty rest periods and illegal meal periods. Specifically, Plaintiffs and other current and former employees are not fully relieved of their duties during their rest periods because Defendants require them to work through their rest periods and even if they were allowed, they are not able to because they would not be able to complete their required tasks. Further, Defendants require Plaintiffs to take meal periods late, also causing meal period violations.

Ejaz Mohammad and Azra Mohammad, as the owners, officers, directors and managers of Calbiz Development Corp are jointly and severally liable for the above violations pursuant to LC Sections 558, 558.1, 1197.1, and others.

The payment of a less wage than the California minimum wage and minimum wage violations, including failure to pay split shift premiums, are unlawful pursuant to Labor Code Sections 1197, 1197.1, 1194, 558, 558.1. Overtime compensation is statutorily required by California Labor Code Section 510, 558, 558.1. Meal and rest periods are required pursuant to Labor Code section 226.7 and 512, 558, 558.1. Failure to reimburse for expenses incurred in the course of one's employment is a violation of Labor Code Section 2802, et seq. Accurate wage statements must be timely given to employees pursuant to Labor Code section 226. Illegal deductions are in violation of LC Sections 220, 221, 222, 223, 224, et seq. Taking of gratuities from aggrieved employees is a violation of Labor Code sections 350-356. Failure to pay sick pay wages is a violation of LC 246. Failure to pay vacation pay is a violation of LC 227, 227.3. Defendants' misclassification of Plaintiffs is a violation of LC 226.8 Defendants' employment practices implicate violations of numerous other Labor Code sections, including but not limited to the following: Labor Code §§ 98.6, 201, 202, 203, 204, 220, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 350-356, 510, 512, 558, 558.1, 1102.5, 1194, 1194.2, 1197.1, 2802, et seq., and 2698, et seq.

California Labor & Workforce Development Agency
Re: Lopez v. Calbiz Development Corp, et al.
August 8, 2022
Page 3

Accordingly, Plaintiffs respectfully request that the Labor & Workforce Development Agency ("LWDA") initiate an enforcement action with respect to the aforementioned violations. If the LWDA declines to pursue enforcement, Plaintiffs will pursue these claims for statutory penalties on behalf of themselves and all other current and former employees. If you have any questions or concerns regarding the above, do not hesitate to contact us.

Very truly yours,

A handwritten signature in black ink, appearing to be "Rodolfo Ruiz-Velasco", written in a cursive style.

Rodolfo Ruiz-Velasco, Esq.