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Kern County Superior Court
By Edith Carrillo, Deputy

9 **SUPERIOR COURT OF CALIFORNIA**

10 **IN AND FOR THE COUNTY OF KERN**

11 **JASEN BRADY, an individual, on his own**
12 **behalf and on behalf of the Labor and**
13 **Workforce Development Agency;**

14 **Plaintiff,**

15 **vs.**

16 **DTE ES OPERATIONS, LLC, a limited**
17 **liability company; and DOES 1-100,**
18 **inclusive,**

19 **Defendants.**

Case No.: BCV23100557

FIRST AMENDED COMPLAINT FOR
DAMAGES AND CIVIL PENALTIES

1. **FAILURE TO PROVIDE REST PERIODS**
OR PAY PREMIUMS
2. **FAILURE TO PROVIDE MEAL PERIODS**
OR PAY PREMIUMS
3. **FAILURE TO FURNISH COMPLETE**
AND ACCURATE ITEMIZED WAGE
STATEMENTS
4. **FAILURE TO PAY ALL WAGES DUE**
UPON CESSATION OF EMPLOYMENT
5. **FAILURE TO PROVIDE PERSONNEL**
RECORDS UPON REQUEST
6. **FAILURE TO PROVIDE PAYROLL**
RECORDS UPON REQUEST
7. **PRIVATE ATTORNEYS GENERAL ACT**

JURY TRIAL DEMANDED

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22 Plaintiff Jasen Brady brings this action against DTE ES Operations, LLC; and Does 1 through
23 100, for violations of the Labor Code.

24 **PARTIES**

25 1. Plaintiff Jasen Brady (“Brady”) or “Plaintiff”) is and at all times relevant herein was
26 employed in Kern County, California, and was an “employee” as defined by the Government Code,
27 the Labor Code, and applicable California Industrial Wage Commission (“IWC”) Wage Order(s).

2. Defendant DTE ES Operations, LLC (aka “DTE” or “Defendant”) is a Michigan limited liability company formed under the laws of Delaware, and at all times relevant was an “employer” as defined by the Labor Code and applicable IWC Wage Order(s).

3. DTE and Does 1-100 are collectively referred to as Defendants.

4. 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.

5. 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.

VENUE AND JURY TRIAL DEMAND

6. Venue is proper in this court because the unlawful acts alleged herein took place in Kern County, California and Plaintiff's place of employment with Defendants was within Kern County. With respect to the First through Sixth Causes of Action, Plaintiff demands a jury trial.

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GENERAL ALLEGATIONS

7. Brady was hired by DTE on or around April 30, 2018 as an O&M Technician, or Control Room Operator, at the Mt. Poso Power Plant in Bakersfield, California. Brady's employment with DTE ended on or around February 4, 2022.

8. At all times throughout his employment with DTE, Brady was correctly classified and paid as an hourly, nonexempt employee.

9. Throughout his employment, Brady was regularly denied rest and meal periods. He typically worked twelve-hour shifts, three to five days per week. As he was typically at his workstation by himself, with nobody else onsite, Brady was not relieved of all duty and given the opportunity to take all ten-minute rest periods or thirty-minute meal periods to which he was entitled.

10. Brady complained to management about the lack of breaks (and the fact that he wasn't even able to use the bathroom during the shifts); however, DTE dismissed these complaints and his manager actually suggested (perhaps jokingly) that they would provide a bucket for Brady to use as a toilet.

11. Further, Brady was not paid an hour of pay at his regular rate of compensation for these missed breaks.

12. Because of the rest and meal period violations, and DTE's failure to pay premiums for such violations, supra, the itemized wage statements furnished to Brady failed to show, accurately, gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked by the employee.

13. Furthermore, the itemized wage statements failed to show, accurately, the name and address of the legal entity that is the employer; they showed only "ES LLC – Mt Poso", which provides neither an intelligible truncation of the employer name, nor an address. (**Exhibit 1.**)

14. At no point since Brady's cessation of employment was he paid the full balance of unpaid rest and meal premiums, supra.

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

1 16. On January 12, 2023, Brady, through his attorneys, requested from DTE copies of
2 his payroll and personnel records pursuant to Labor Code sections 226 and 1198.5, respectively.
3 **(Exhibit 2.)** As of the date of this Complaint, DTE has not complied with this request to any
4 extent.

5 17. Also on January 12, 2023, Brady provided written notice to the Labor and
6 Workforce Development Agency (“LWDA”) and DTE regarding the specific provisions of the
7 Labor Code alleged to have been violated, including the facts and theories to support those alleged
8 violations. **(Exhibit 3.)**

9 18. As of the filing of the initial Complaint, more than 33 calendar days after Brady’s
10 initial written notice, DTE did not provide written notice to Brady, and by online filing with the
11 LWDA, with a showing that it has “cured” the violations of Labor Code section 226(a)(8) by
12 providing a fully compliant, itemized wage statement for each aggrieved employee for each pay
13 period for the three-year period prior to the date of Brady’s initial written notice. (See Lab. Code,
14 §§ 2699, subd. (d), 2699.3, subd. (c)(2)(A).) Accordingly, Brady satisfied the administrative
15 prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil penalties
16 against Defendants, in addition to other remedies, for violations of Labor Code section 226(a)(8).

17 19. *As of the filing of this First Amended Complaint*, more than 65 calendar days after
18 Brady’s initial written notice, the LWDA has not provided written notice that it intends to
19 investigate any of Brady’s allegations as set forth above. Accordingly, Brady has satisfied the
20 administrative prerequisites under Labor Code section 2699.3 to bring a civil action to recover civil
21 penalties against Defendants, in addition to other remedies, for violations of the California Labor
22 Code.

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FIRST CAUSE OF ACTION
FAILURE TO PROVIDE REST PERIODS OR PAY PREMIUMS
(Lab. Code, § 226.7)
Against Defendants

20. 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.

21. Labor Code section 226.7 requires employers to provide employees meal periods as mandated by Order of the Industrial Welfare Commission. It states:

- a. No employer shall require any employee to work during any meal or rest period mandated by an applicable order of the Industrial Welfare Commission.
- b. If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each work day that the meal or rest period is not provided.

22. Section 11 of the applicable IWC Wage Order provides:

“(A) Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. Nothing in this provision shall prevent an employer from staggering rest periods to avoid interruption in the flow of work and to maintain continuous operations, or from scheduling rest periods to coincide with breaks in the flow of work that occur in the course of the workday. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time for every four (4) hours worked, or major fraction thereof. Rest periods shall take place at employer designated areas, which may include or be limited to the employees' immediate work area.

(B) Rest periods need not be authorized in limited circumstances when the disruption of continuous operations would jeopardize the product or process of the work. However, the employer shall make up the missed rest period within the same workday or compensate the employee for the missed ten (10) minutes of rest time at his/her regular rate of pay within the same pay period.

(C) A rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 ½) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

1 (D) If an employer fails to provide an employee a rest period in accordance with the
2 applicable provisions of this order, the employer shall pay the employee one (1) hour of
3 pay at the employee's regular rate of compensation for each workday that the rest period
4 is not provided."

5 23. During the relevant time period, Plaintiff was not provided with rest breaks as required
6 by law and did not receive an additional hour of premium pay for each missed rest break.

7 24. Wherefore, Plaintiff has been injured and requests relief as hereinafter provided.

8 **SECOND CAUSE OF ACTION**
9 **FAILURE TO PROVIDE MEAL PERIODS OR PAY PREMIUMS**
10 **(Lab. Code, §§ 226.7, 512)**
11 **Against Defendants**

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

15 26. Labor Code section 226.7 requires employers to provide employees meal periods as
16 mandated by Order of the Industrial Welfare Commission. It states:

- 17 a. No employer shall require any employee to work during any meal or rest
18 period mandated by an applicable order of the Industrial Welfare
19 Commission.
20 b. If an employer fails to provide an employee a meal period or rest period in
21 accordance with an applicable order of the Industrial Welfare Commission,
22 the employer shall pay the employee one additional hour of pay at the
23 employee's regular rate of compensation for each work day that the meal or
24 rest period is not provided.

25 27. Labor Code section 512(a) and the applicable wage order provide that an employer
26 may not employ a person for a work period of more than five hours per day without providing that
27 employee a meal period of not less than thirty minutes, except that if the total work period per day
28 is no more than six hours, the meal period may be waived by mutual consent of both the employer
and employee. An employer may not employ a person for a work period of more than ten hours

1 per day without providing an employee with a second meal period of not less than thirty minutes,
2 except that if the total work period per day of the employee is no more than twelve hours, the meal
3 period may be waived by mutual consent of both the employer and the employee, and if the first
4 meal period was not waived.

5 28. During the relevant time period, Plaintiff was not provided with meal breaks as
6 required by law and did not receive an additional hour of premium pay for each missed meal
7 period.

8 29. Wherefore, Plaintiff has been injured and requests relief as hereinafter provided.

9 **THIRD CAUSE OF ACTION**
10 **FAILURE TO FURNISH COMPLETE AND ACCURATE ITEMIZED WAGE STATEMENTS**
11 **(Lab. Code, § 226(a))**
12 **Against Defendants**

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

16 31. Pursuant to Labor Code section 226(a) “every employer shall, semimonthly or at the
17 time of each payment of wages, furnish each of his or her employees, either as a detachable part of the
18 check, draft, or voucher paying the employee’s wages, or separately when the wages are paid by
19 personal check or cash, an accurate itemized statement in writing showing (1) gross wages earned, (2)
20 total hours worked by the employee [. . .], (3) the number of piece-rate units earned and any applicable
21 piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the
22 inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the
23 last four digits of his or her social security number or an employee identification number, (8) the name
24 and address of the legal entity that is the employer [. . .], (9) all applicable hourly rates in effect during
25 the pay period and corresponding number of hours worked at each hourly rate by the employee and, if
26 the employer is a temporary services employer [. . .], the rate of pay and the total hours worked for each
27 temporary services assignment.”
28

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

7 33. An employee is deemed to suffer injury if the employer fails to provide a wage
8 statement or if the employer fails to provide accurate and complete information as required by any one
9 or more of the items (1) to (9), inclusive, of subdivision (a) and the employee cannot promptly and
10 easily determine from the wage statement alone, i) the amount of gross/net wages paid to the employee
11 during the pay period or any of the other information required to be provided pursuant to Labor Code
12 section 226(a) items (2) to (4), inclusive, (6) and (9), ii) deductions made by the employer, iii) the name
13 and address of the employer and iv) the name of the employee and the last four digits of his or her
14 social security number or employee identification number. (Lab. Code, § 226, subds. (e)(2)(A), (B)(i)-
15 (iv).) "Promptly and easily determine" means a reasonable person would be able to readily ascertain
16 the information without reference to other documents or information. (Lab. Code, § 226, subd.
17 (e)(2)(C).)

18 34. As set forth above, Defendants intentionally and willfully failed to furnish accurate
19 itemized wage statements which complied with Labor Code section 226.

20 35. Wherefore, Plaintiff has been injured and requests relief as hereafter provided.

21 **FOURTH CAUSE OF ACTION**
22 **FAILURE TO PAY ALL WAGES DUE UPON CESSATION OF EMPLOYMENT**
23 **(Lab. Code, § 201, *et seq.*)**
 Against Defendants

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

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

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

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

12 40. Wherefore, Plaintiff requests relief as hereafter provided.

13 **FIFTH CAUSE OF ACTION**
14 **FAILURE TO PRODUCE PERSONNEL RECORDS UPON REQUEST**
15 **(Lab. Code, § 1198.5)**
16 **Against Defendants**

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

20 42. Pursuant to Labor Code § 1198.5(a), "Every current and former employee, or his or
21 her representative, has the right to inspect and receive a copy of his personnel records that the
22 employer maintains relating to the employee's performance or to any grievance concerning the
23 employee." Pursuant to Labor Code § 1198.5(b) an "employer shall make the contents of those
24 personnel records available to the current or former employee, or his or her representative, at
25 reasonable intervals and at reasonable times, but not later than 30 calendar days from the date the
26 employer receives a written request, unless the current or former employee, or his representative,
27 and the employer agree in writing to a date beyond 30 calendar days to inspect the records and the
28 agreed-upon date does not exceed 35 days from the employer's receipt of the written request."

1 43. As set forth above, Plaintiff requested copies of his personnel records, but
2 Defendants failed to timely comply.

3 44. Wherefore, Plaintiff seeks relief as set forth below.

4 **SIXTH CAUSE OF ACTION**
5 **FAILURE TO PRODUCE PAYROLL RECORDS UPON REQUEST**
6 **(Lab. Code, § 226, subd. (c))**
7 **Against Defendants**

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

11 46. Pursuant to California Labor Code Labor Code section 226(c), an employer who
12 receives a written or oral request to inspect or copy records pursuant to subdivision (b) pertaining
13 to a current or former employee shall comply with the request as soon as practicable, but no later
14 than 21 calendar days from the date of the request.

15 47. As set forth above, Plaintiff requested copies of his wage statements, but Defendants
16 failed to timely comply.

17 48. Wherefore, Plaintiff seeks relief as set forth below.

18 **SEVENTH CAUSE OF ACTION**
19 **PRIVATE ATTORNEYS GENERAL ACT**
20 **(Lab. Code, § 2698 *et seq.*)**
21 **Against Defendants**

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

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

51. 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.

52. 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.

53. 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.

54. Pursuant to the PAGA, Plaintiff seeks to recover civil penalties against Defendants for violations of the Labor Code.

55. 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 Sixth Causes of Action:

1. That this Court award injunctive relief, including that available under Labor Code sections 226(h);
2. That this Court award unpaid wages, including rest and meal break premiums;

3. That this Court award statutory penalties including, but not limited to, those available under Labor Code section 226, subdivisions (e) and (f), and Labor Code section 1198.5(k);
4. That this Court award statutory attorneys' fees and costs under Labor Code sections 218.5, 226(e)(1) and (h), and 1198.5(l), as well as those available under 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; and
6. That this Court award such other and further relief as the court deems just and proper.

As to the Seventh 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.

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DATED: March 20, 2023

MAYALL HURLEY P.C.



By _____

JOHN P. BRISCOE

Attorneys for Plaintiff Jasen Brady

EXHIBIT 1

Checking		2,927.05
TOTAL		\$2,927.05

EMPLOYEE INFORMATION			TAX DATA			PAY PERIOD		
Employee Name	Jasen D Brady		Federal	California		Period Begin Date	01/17/2022	
Employee ID	141575		Status	Ma. Joint.	Married	Period End Date	01/30/2022	
Org Unit	Fuel Yard Operations II		Allowances	00	10			
Employee Class	Non-Rep Non-Exempt		Addl. Amt					
Location	ES LLC - Mt Poso		Credits	10				
Pay Rate	\$42.86400 Hourly		Addl. Inc.					
			Deductions					
*Tax exempt status expires Feb. 15th each year.								
OVERTIME HOURS			AVAILABLE LEAVE BANK HOURS			CURRENT ABSENCES		
	Current	YTD	Current Year Vac	160.00		Paid Hours YTD	48.00	
Overtime Hours	2.50	27.75	Prior Year Vac	135.00		Unpaid Hours YTD	0.00	
			Current Year Sick	56.00		Extended Disability	0.00	
						Paid Sick YTD	0.00	
MESSAGES								
TAXABLE EARNINGS			RATE		HOURS/UNITS		AMOUNT	
Regular			42.86400		80.00		3,429.12	
Overtime 1.5x			64.29600		2.50		160.74	
Holiday			42.86400		8.00		342.91	
Personal			42.86400		8.00		342.91	
TAXABLE EARNINGS TOTAL							4,275.68	
NON-TAXABLE PAYMENTS			UNITS		CURRENT		YEAR-TO-DATE	
Cell Phone Reimb			0.00		50.00		100.00	
NON-TAXABLE PAYMENTS TOTAL					50.00		100.00	
EMPLOYER PAID BENEFITS					CURRENT		YEAR-TO-DATE	
Life Ins Emp TB					1.81		5.43	
401k Svg Pln ER					171.45		514.35	
TB Denotes Taxable Imputed Income								
PRE-TAX DEDUCTIONS					CURRENT		YEAR-TO-DATE	
401k Saving Plan					205.75		617.25	
AD&D Plan					1.65		4.95	
Dental Plan					3.44		10.32	
LTD					9.94		29.82	
Medical Plan					91.74		275.22	
Vision Plan					1.56		4.68	
PRE-TAX DEDUCTIONS TOTAL					314.08		942.24	
OTHER DEDUCTIONS					CURRENT		YEAR-TO-DATE	
Svg Plan Loan 1					182.22		546.66	
Svg Plan Loan 3					121.66		364.98	
OTHER DEDUCTIONS TOTAL					303.88		911.64	
TAX WITHHOLDINGS					CURRENT		YEAR-TO-DATE	
CA Income Tax					78.27		314.43	
CA EE Disability					43.58		141.34	

Pay SUMMARY		CURRENT	YEAR-TO-DATE
Earned Gross		4,275.68	13,791.48
Federal Base		3,963.41	12,854.67
Social Security		4,169.16	13,471.92
Medicare		4,169.16	13,471.92
PAY CHECK SUMMARY		CURRENT	
Earnings			4,275.68
Non-Taxable Payments			50.00
Pre-Tax Deductions			314.08
Other Deductions			303.88
Tax Withholdings			780.67
		NET PAY	\$2,927.05

Checking		2,954.90
TOTAL		\$2,954.90

EMPLOYEE INFORMATION			TAX DATA			PAY PERIOD	
Employee Name	Jasen D Brady		Federal	California		Period Begin Date	01/03/2022
Employee ID	141575		Status	Ma. Joint.	Married	Period End Date	01/16/2022
Org Unit	Fuel Yard Operations II		Allowances	00	10		
Employee Class	Non-Rep Non-Exempt		Addl. Amt				
Location	ES LLC - Mt Poso		Credits	10			
Pay Rate	\$42.86400 Hourly		Addl. Inc.				
			Deductions				
			*Tax exempt status expires Feb. 15th each year.				
OVERTIME HOURS			AVAILABLE LEAVE BANK HOURS			CURRENT ABSENCES	
	Current	YTD	Current Year Vac	160.00		Paid Hours YTD	32.00
Overtime Hours	14.75	25.25	Prior Year Vac	135.00		Unpaid Hours YTD	0.00
			Personal	8.00		Extended Disability	0.00
			Current Year Sick	56.00		Paid Sick YTD	0.00
MESSAGES							
TAXABLE EARNINGS			RATE		HOURS/UNITS	AMOUNT	
Regular			42.86400		80.00	3,429.12	
Overtime 1.5x			64.29600		14.50	932.29	
Overtime 2x			85.72800		0.25	21.43	
TAXABLE EARNINGS TOTAL						4,382.84	
NON-TAXABLE PAYMENTS			UNITS		CURRENT	YEAR-TO-DATE	
Cell Phone Reimb			0.00		0.00	50.00	
NON-TAXABLE PAYMENTS TOTAL					0.00	50.00	
EMPLOYER PAID BENEFITS					CURRENT	YEAR-TO-DATE	
Life Ins Emp TB					1.81	3.62	
401k Svg Pln ER					171.45	342.90	
TB Denotes Taxable Imputed Income							
PRE-TAX DEDUCTIONS					CURRENT	YEAR-TO-DATE	
401k Saving Plan					205.75	411.50	
AD&D Plan					1.65	3.30	
Dental Plan					3.44	6.88	
LTD					9.94	19.88	
Medical Plan					91.74	183.48	
Vision Plan					1.56	3.12	
PRE-TAX DEDUCTIONS TOTAL					314.08	628.16	
OTHER DEDUCTIONS					CURRENT	YEAR-TO-DATE	
Svg Plan Loan 1					182.22	364.44	
Svg Plan Loan 3					121.66	243.32	
OTHER DEDUCTIONS TOTAL					303.88	607.76	
TAX WITHHOLDINGS					CURRENT	YEAR-TO-DATE	
CA Income Tax					85.35	236.16	
CA EE Disability					44.75	97.76	
Fed Income Tax					352.74	856.60	

SUMMARY		CURRENT	YEAR-TO-DATE
Earned Gross		4,382.84	9,515.80
Federal Base		4,070.57	8,891.26
Social Security		4,276.32	9,302.76
Medicare		4,276.32	9,302.76
PAY CHECK SUMMARY		CURRENT	
Earnings		4,382.84	
Non-Taxable Payments		0.00	
Pre-Tax Deductions		314.08	
Other Deductions		303.88	
Tax Withholdings		809.98	
		NET PAY	\$2,954.90

EXHIBIT 2

SOUTHERN CALIFORNIA OFFICE:
450 N. BRAND BLVD., SUITE 600
GLENDALE, CALIFORNIA 91206

STOCKTON OFFICE:
2453 GRAND CANAL BOULEVARD
STOCKTON, CALIFORNIA 95207

LODI OFFICE:
118 WEST OAK STREET
LODI, CALIFORNIA 95240

N LAW OFFICES OF

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SHANE M. HOOVER
ALI HASHEMI

January 12, 2023

VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

DTE ES Operations, LLC
1 Energy Plaza, 400 WCB
Detroit, MI 48226

Re: Jasen Brady

To whom it may concern:

This office has been retained by Jasen Brady connection with claims arising out of his employment with DTE ES Operations, LLC. Through the enclosed authorization, we hereby request the following records regarding your former employee:

1. Mr. Brady's itemized wage statements, pursuant to Labor Code § 226(b);
2. All documents signed by Ms. Allred relating to the obtaining or holding of his employment, pursuant to Labor Code § 432;
3. Mr. Brady's personnel records, pursuant to Labor Code § 1198.5(b);
4. All records documenting the hours worked and paid sick days accrued and used by Mr. Brady, pursuant to Labor Code § 247.5(a); and
5. Mr. Brady's payroll records pursuant to Labor Code section 1174 and 29 C.F.R. §§ 516.2.

Please feel free to contact me if you wish to discuss any of the foregoing.

Sincerely,

MAYALL HURLEY P.C.

By


JOHN P. BRISCOE

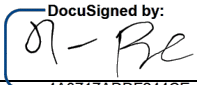
Enclosure

Employee Records Request

Pursuant to California Labor Code sections 226(b), 247.5, 432, and 1198.5, I, Jasen Brady (DOB 11/25/1980) hereby authorize DTE ES Operations LLC to release copies of my payroll records, records of paid/accrued sick days, personnel records and personnel file to Mayall Hurley P.C. Please send my records to:

John P. Briscoe, Esq.
Mayall Hurley P.C.
2453 Grand Canal Blvd.
Stockton, CA 95207
jbriscoe@mayallaw.com

Dated: 1/9/2023 _____

DocuSigned by:

4A0717ADD244CE...
Signature

Jasen Brady

Print Name

EXHIBIT 3

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

January 12, 2023

SUBMITTED ELECTRONICALLY

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

SENT VIA CERTIFIED MAIL

DTE ES Operations, LLC
1 Energy Plaza, 400 WCB
Detroit, MI 48226

Re: Jasen Brady/DTE ES Operations, LLC

To whom it may concern:

This firm represents Jasen Brady ("Brady") in relation to his former employment with DTE ES Operations, LLC ("DTE"). In accordance with Labor Code section 2699.3, this letter shall serve as Brady's written notice to the Labor and Workforce Development Agency ("LWDA") and DTE ES Operations, LLC regarding the following violations, and facts and theories supporting those violations, on Brady's behalf and, as a proxy for the LWDA, on behalf of current and other former California employees of DTE.

Brady was hired by DTE on or around April 30, 2018 as an O&M Technician, or Control Room Operator, at the Mt. Poso Power Plant in Bakersfield, California. Brady's employment with DTE ended on or around February 4, 2022. At all times throughout his employment with DTE, Brady was correctly classified and paid as an hourly, nonexempt employee.

Throughout his employment, Brady was regularly denied rest and meal periods. He typically worked twelve-hour shifts, three to five days per week. As he was typically at his workstation by himself, with nobody else onsite, Brady was not relieved of all duty and given the opportunity to take all ten-minute rest periods or thirty-minute meal periods to which he was entitled. Brady complained to management about the lack of breaks (and the fact that he wasn't even able to use the bathroom during the shifts); however, DTE dismissed these complaints and his manager actually suggested (perhaps jokingly) that they would provide a bucket for Brady to use as a toilet. Further, Brady was not paid an hour of pay at his regular rate of compensation for these missed breaks. Accordingly, DTE violated Labor Code sections 226.7 and 512.

Labor and Workforce Development Agency
DTE ES Operations, LLC
Re: Jasen Brady
January 12, 2023
Page 2 of 2

Because of the rest and meal period violations, and DTE's failure to pay premiums for such violations, *supra*, the itemized wage statements furnished to Brady failed to show, accurately, gross wages earned, total hours worked, net wages earned, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked by the employee. Furthermore, the itemized wage statements failed to show, accurately, the name and address of the legal entity that is the employer; they showed only "ES LLC – Mt Poso", which provides neither an intelligible truncation of the employer name, nor an address. (**Exhibit A.**) Accordingly, DTE violated Labor Code section 226, subdivisions (a)(1), (2), (5), (8), and (9).

At no point since Brady's cessation of employment was he paid the full balance of unpaid rest and meal premiums, *supra*. Accordingly, DTE violated Labor Code sections 201 and 202.

The foregoing violations, and each of them, were committed as against current and other former employees of DTE, 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, Brady intends to file a civil complaint against DTE 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 3

Checking		2,927.05
TOTAL		\$2,927.05

EMPLOYEE INFORMATION			TAX DATA			PAY PERIOD	
Employee Name	Jasen D Brady		Federal	California		Period Begin Date	01/17/2022
Employee ID	141575		Status	Ma. Joint.	Married	Period End Date	01/30/2022
Org Unit	Fuel Yard Operations II		Allowances	00	10		
Employee Class	Non-Rep Non-Exempt		Addl. Amt				
Location	ES LLC - Mt Poso		Credits	10			
Pay Rate	\$42.86400 Hourly		Addl. Inc.				
			Deductions				
			*Tax exempt status expires Feb. 15th each year.				
OVERTIME HOURS			AVAILABLE LEAVE BANK HOURS			CURRENT ABSENCES	
	Current	YTD	Current Year Vac	160.00		Paid Hours YTD	48.00
Overtime Hours	2.50	27.75	Prior Year Vac	135.00		Unpaid Hours YTD	0.00
			Current Year Sick	56.00		Extended Disability	0.00
						Paid Sick YTD	0.00
MESSAGES							
TAXABLE EARNINGS			RATE		HOURS/UNITS	AMOUNT	
Regular			42.86400		80.00	3,429.12	
Overtime 1.5x			64.29600		2.50	160.74	
Holiday			42.86400		8.00	342.91	
Personal			42.86400		8.00	342.91	
TAXABLE EARNINGS TOTAL						4,275.68	
NON-TAXABLE PAYMENTS			UNITS		CURRENT	YEAR-TO-DATE	
Cell Phone Reimb			0.00		50.00	100.00	
NON-TAXABLE PAYMENTS TOTAL					50.00	100.00	
EMPLOYER PAID BENEFITS			CURRENT			YEAR-TO-DATE	
Life Ins Emp TB					1.81	5.43	
401k Svg Pln ER					171.45	514.35	
TB Denotes Taxable Imputed Income							
PRE-TAX DEDUCTIONS			CURRENT			YEAR-TO-DATE	
401k Saving Plan					205.75	617.25	
AD&D Plan					1.65	4.95	
Dental Plan					3.44	10.32	
LTD					9.94	29.82	
Medical Plan					91.74	275.22	
Vision Plan					1.56	4.68	
PRE-TAX DEDUCTIONS TOTAL					314.08	942.24	
OTHER DEDUCTIONS			CURRENT			YEAR-TO-DATE	
Svg Plan Loan 1					182.22	546.66	
Svg Plan Loan 3					121.66	364.98	
OTHER DEDUCTIONS TOTAL					303.88	911.64	
TAX WITHHOLDINGS			CURRENT			YEAR-TO-DATE	
CA Income Tax					78.27	314.43	
CA EE Disability					43.58	141.34	

Pay SUMMARY		CURRENT	YEAR-TO-DATE
Earned Gross		4,275.68	13,791.48
Federal Base		3,963.41	12,854.67
Social Security		4,169.16	13,471.92
Medicare		4,169.16	13,471.92
PAY CHECK SUMMARY		CURRENT	
Earnings			4,275.68
Non-Taxable Payments			50.00
Pre-Tax Deductions			314.08
Other Deductions			303.88
Tax Withholdings			780.67
		NET PAY	\$2,927.05

Checking	2,954.90
TOTAL	\$2,954.90

EMPLOYEE INFORMATION		TAX DATA		PAY PERIOD	
Employee Name	Jasen D Brady	Federal	California	Period Begin Date	01/03/2022
Employee ID	141575	Status	Ma. Joint. Married	Period End Date	01/16/2022
Org Unit	Fuel Yard Operations II	Allowances	00 10		
Employee Class	Non-Rep Non-Exempt	Addl. Amt			
Location	ES LLC - Mt Poso	Credits	10		
Pay Rate	\$42.86400 Hourly	Addl. Inc.			
		Deductions			
*Tax exempt status expires Feb. 15th each year.					
OVERTIME HOURS		AVAILABLE LEAVE BANK HOURS		CURRENT ABSENCES	
Current	YTD	Current Year Vac	160.00	Paid Hours YTD	32.00
Overtime Hours	14.75 25.25	Prior Year Vac	135.00	Unpaid Hours YTD	0.00
		Personal	8.00	Extended Disability	0.00
		Current Year Sick	56.00	Paid Sick YTD	0.00
MESSAGES					
TAXABLE EARNINGS		RATE	HOURS/UNITS	AMOUNT	
Regular		42.86400	80.00	3,429.12	
Overtime 1.5x		64.29600	14.50	932.29	
Overtime 2x		85.72800	0.25	21.43	
TAXABLE EARNINGS TOTAL				4,382.84	
NON-TAXABLE PAYMENTS		UNITS	CURRENT	YEAR-TO-DATE	
Cell Phone Reimb		0.00	0.00	50.00	
NON-TAXABLE PAYMENTS TOTAL			0.00	50.00	
EMPLOYER PAID BENEFITS		CURRENT		YEAR-TO-DATE	
Life Ins Emp TB		1.81		3.62	
401k Svg Pln ER		171.45		342.90	
TB Denotes Taxable Imputed Income					
PRE-TAX DEDUCTIONS		CURRENT		YEAR-TO-DATE	
401k Saving Plan		205.75		411.50	
AD&D Plan		1.65		3.30	
Dental Plan		3.44		6.88	
LTD		9.94		19.88	
Medical Plan		91.74		183.48	
Vision Plan		1.56		3.12	
PRE-TAX DEDUCTIONS TOTAL		314.08		628.16	
OTHER DEDUCTIONS		CURRENT		YEAR-TO-DATE	
Svg Plan Loan 1		182.22		364.44	
Svg Plan Loan 3		121.66		243.32	
OTHER DEDUCTIONS TOTAL		303.88		607.76	
TAX WITHHOLDINGS		CURRENT		YEAR-TO-DATE	
CA Income Tax		85.35		236.16	
CA EE Disability		44.75		97.76	
Fed Income Tax		352.74		856.60	

SUMMARY		CURRENT	YEAR-TO-DATE
Earned Gross		4,382.84	9,515.80
Federal Base		4,070.57	8,891.26
Social Security		4,276.32	9,302.76
Medicare		4,276.32	9,302.76
PAY CHECK SUMMARY		CURRENT	
Earnings		4,382.84	
Non-Taxable Payments		0.00	
Pre-Tax Deductions		314.08	
Other Deductions		303.88	
Tax Withholdings		809.98	
		NET PAY	\$2,954.90