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Executive Officer/Clerk of Court,
By S. Ruiz, Deputy Clerk

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 ONESIMO HERNANDEZ LOPEZ, an
15 individual,

16 Plaintiff,

17 v.

18 TRI-STAR DYEING & FINISHING, INC., a
19 California corporation; JAECHUL LEE, an
20 individual; INVO PEO, INC. III, a California
21 corporation; and DOES 1 through 20, inclusive,

22 Defendants.

Case No. **23STCV21807**

COMPLAINT FOR DAMAGES FOR:

1. **FAILURE TO PAY WAGES DUE IN VIOLATION OF LABOR CODE §§ 201, 204, 221;**
2. **FAILURE TO PAY OVERTIME COMPENSATION IN VIOLATION OF LABOR CODE §§510, 1194;**
3. **FAILURE TO PROVIDE AN ACCURATE ITEMIZED WAGE STATEMENT IN VIOLATION OF LABOR CODE §§ 226, 1174;**
4. **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORD (CAL. LABOR CODE §§226 *et seq.*, 1198.5);**
5. **WAITING TIME PENALTIES (CAL. LABOR CODE §§201-203);**
6. **PRIVATE ATTORNEY GENERAL ACT LABOR CODE §2699; AND**

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7. UNFAIR COMPETITION (BUS. & PROF. CODE §17200 ET SEQ.).

DEMAND OVER \$25,000

[DEMAND FOR JURY TRIAL]

COMES NOW PLAINTIFF, ONESIMO HERNANDEZ LOPEZ, and for causes of action against the Defendants and each of them, alleges as follows:

JURISDICTION

1. This Court is the proper court, and this action is properly filed in Los Angeles County, because Defendants' obligations and liability arise therein, because Defendants maintain offices and transact business within Los Angeles County, and because the work that is the subject of this action was performed by Plaintiff in Los Angeles County.

THE PARTIES

2. Plaintiff, ONESIMO HERNANDEZ LOPEZ, is and at all times relevant hereto was a resident of the County of Los Angeles, State of California.

3. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant TRI-STAR DYEING & FINISHING, INC. (hereinafter referred to as "TRI-STAR") was and is a California corporation doing business at 15125 Marquardt Ave., Santa Fe Springs, CA 90670, in the County of Los Angeles, State of California.

4. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, TRI-STAR is a textile manufacturing company.

5. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant hereto, Defendant JAECHUL LEE was and is an individual serving the acting Chief Executive Office (CEO), Chief Financial Officer (CFO) and Secretary for TRI-STAR at 2480 Joel Drive, Rowland Heights, CA 91748.

1 6. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
2 hereto, Defendant INVO PEO, INC. III. is a California corporation associated with TRI-STAR.

3 7. At all times relevant herein, Defendants and DOES 1-20 were Plaintiff's employers, joint
4 employers and/or special employers within the meaning of the Labor Code and Industrial Welfare
5 Commission Order No. 6-2001, and are each any "employer or other person acting on behalf of an
6 employer" as such term is used in Labor Code section 558, 558.1, and/or 1197.1, and liable to Plaintiff
7 on that basis.

8 8. Defendants and DOES 1-20, inclusive, are hereinafter collectively referred to as
9 "Defendants."

10 9. The true names and capacities, whether individual, corporate, associate, or otherwise, of
11 the Defendants named herein as DOES 1-20, inclusive, are unknown to Plaintiff at this time and therefore
12 said Defendants are sued by such fictitious names. Plaintiff will seek leave to amend this complaint to
13 insert the true names and capacities of said Defendants when the same become known to Plaintiff.
14 Plaintiff is informed and believes, and based thereupon alleges, that each of the fictitiously named
15 Defendants is responsible for the wrongful acts alleged herein, and is therefore liable to Plaintiff as
16 alleged hereinafter.

17 10. Plaintiff is informed and believes, and based thereupon alleges, that at all times relevant
18 hereto, Defendants, and each of them, were the agents, employees, managing agents, supervisors, co-
19 conspirators, parent corporation, joint employers, alter egos, successors, and/or joint ventures of the other
20 Defendants, and each of them, and in doing the things alleged herein, were acting at least in part within
21 the course and scope of said agency, employment, conspiracy, joint employer, alter ego status, successor
22 status and/or joint venture and with the permission and consent of each of the other Defendants.

23 11. Plaintiff is informed and believes, and based thereupon alleges, that Defendants, and each
24 of them, including those defendants named as DOES 1-20, acted in concert with one another to commit
25 the wrongful acts alleged herein, and aided, abetted, incited, compelled and/or coerced one another in the
26 wrongful acts alleged herein, and/or attempted to do so, including pursuant to Government Code
27 §12940(i). Plaintiff is further informed and believes, and based thereupon alleges, that Defendants, and
28 each of them, including those defendants named as DOES 1-20, and each of them, formed and executed

1 a conspiracy or common plan pursuant to which they would commit the unlawful acts alleged herein,
2 with all such acts alleged herein done as part of and pursuant to said conspiracy, intended to cause and
3 actually causing Plaintiff harm.

4 12. Whenever and wherever reference is made in this complaint to any act or failure to act by
5 a Defendant or co-Defendant, such allegations and references shall also be deemed to mean the acts
6 and/or failures to act by each Defendant acting individually, jointly and severally.

7
8 **ALTER EGO, AGENCY, SUCCESSOR AND JOINT EMPLOYER**

9 13. Plaintiff is informed and believes, and based thereon alleges, that there exists such a unity
10 of interest and ownership between Defendants and DOES 1-20 that the individuality and separateness of
11 defendants have ceased to exist.

12 14. Plaintiff is informed and believes, and based thereon alleges, that despite the formation of
13 purported corporate existence, Defendants and DOES 1-20 are, in reality, one and the same, including,
14 but not limited to because:

15 a. Defendants and DOES 1-20 are completely dominated and controlled by one another, and
16 DOES 1-20 personally committed the frauds and violated the laws as set forth in this complaint, and have
17 hidden and currently hide behind Defendants to perpetrate frauds, circumvent statutes, or accomplish
18 some other wrongful or inequitable purpose.

19 b. Defendants and DOES 1-20 derive actual and significant monetary benefits by and
20 through one another's unlawful conduct, and by using one another as the funding source for their own
21 personal expenditures.

22 c. Defendants and DOES 1-20, while really one and the same, were segregated to
23 appear as though separate and distinct for purposes of perpetrating a fraud, circumventing a statute, or
24 accomplishing some other wrongful or inequitable purpose.

25 d. Defendants do not comply with all requisite corporate formalities to maintain a
26 legal and separate corporate existence.

27 e. The business affairs of Defendants and DOES 1-20 are, and at all times relevant
28 were, so mixed and intermingled that the same cannot reasonably be segregated, and the same are in

inextricable confusion. Defendants are, and at all times relevant hereto was, used by DOES 1-20 as a mere shell and conduit for the conduct of certain of Defendants' affairs, and are, and were, the alter ego of one another and DOES 1-20. The recognition of the separate existence of Defendants would not promote justice, in that it would permit Defendants to insulate themselves from liability to Plaintiff for violations of the Government Code and other statutory violations. The corporate existence of Employers and DOES 1-20 should be disregarded in equity and for the ends of justice because such disregard is necessary to avoid fraud and injustice to Plaintiff herein.

15. Accordingly, Defendants and DOES 1-20 constitute the alter ego of one another, and the fiction of their separate corporate existence must be disregarded.

16. As a result of the aforementioned facts, Plaintiff is informed and believes, and based thereon alleges that Defendants and DOES 1-20 are Plaintiff's joint employers by virtue of a joint enterprise, and that Plaintiff was an employee of Defendants and DOES 1-20. Plaintiff performed services for each and every one of Defendants, and to the mutual benefit of all Defendants, and all Defendants shared control of Plaintiff as an employee, either directly or indirectly, and the manner in which Defendants' business was and is conducted.

17. Alternatively, Plaintiff is informed and believes and, based thereupon alleges, that as and between DOES 1-20, Defendants or any of them, (1) there is an express or implied agreement of assumption pursuant to which Defendants and/or DOES 1-20 agreed to be liable for the debts of the other Defendants, (2) the transaction between Defendants and/or DOES 1-20 and the other Defendants amounts to a consolidation or merger of the two corporations, (3) Defendants and/or DOES 1-20 are a mere continuation of the other Defendants, or (4) the transfer of assets to Defendants and/or DOES 1-20 is for the fraudulent purpose of escaping liability for Defendants' debts. Accordingly, Defendants and/or DOES 1-20 are the successors of one or more of the other Defendants, and are liable on that basis.

FACTUAL ALLEGATIONS

18. On or about May 11, 2017, TRI-STAR hired Plaintiff to work as a machine operator. Plaintiff was a full-time, non-exempt employee, who performed all of Plaintiff's job duties satisfactorily Plaintiff's termination on or about October 21, 2022.

1 19. Plaintiff's hours often exceeded 12 hours per day and/or 60 hours per week. Plaintiff's
2 duties consisted primarily of operating textile manufacturing machinery as a machine operator.

3 20. Throughout Plaintiff's employment with TRI-STAR, May 11, 2017 through October
4 21, 2022 (the "Claim Period"), he was not properly awarded sufficient earned wages (including
5 overtime pay) in violation of Labor Code §§ 1194, 1194.2, 510, 221 and 204.

6 21. Specifically, during the Claim Period, TRI-STAR failed to remunerate sufficient
7 overtime pay to Plaintiff in violation of Labor Code § 510, requiring employers to pay non-exempt
8 employees one-and-a-half times their regular rate of pay for working more than 8 hours in a workday
9 or more than 40 hours in a workweek or more than 6 consecutive days in a workweek, or to pay non-
10 exempt employees double-pay for working more than 12 hours in a workday or more than 8 hours on
11 the seventh consecutive day in a workweek. Plaintiff regularly worked over 12 hours per day and/or
12 60 hours per week, but was paid insufficient overtime.

13 22. TRI-STAR also violated Labor Code § 203 because it willfully failed to pay Plaintiff earned
14 and due wages upon separation of employment, either immediately upon involuntary termination, or within
15 72 hours of resignation. Plaintiff's employment with TRI-STAR ended on October 21, 2022, but TRI-STAR
16 failed and refused to pay all wages earned and due within 72 hours, or ever, upon separation. These earned
17 but unpaid wages included overtime wages, and all wages due and owing at the end of employment described
18 above.

19 23. TRI-STAR also failed, within thirty (30) days of a written request sent on March 20, 2023,
20 to allow Plaintiff to inspect or receive a copy of Plaintiff's personnel and payroll records, as required by
21 law.

22 24. Lastly, throughout Plaintiffs' employment, TRI-STAR did not provide Plaintiff with
23 correct paystubs in compliance with Labor Code §226 and §1174. TRI-STAR consistently provided
24 incorrect and inaccurate paystubs that failed to properly itemize regular and overtime hours worked for
25 said wages, among other inaccurate information.

26 25. Plaintiff is informed and believes, and thereupon alleges, that himself and other employees
27 were subject to the same violations, and, therefore, are aggrieved employees within the meaning of
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1 California Labor Code § 2699. Thus, Plaintiff, as an aggrieved employee, reserves his right to bring an
2 action against Defendants, on behalf of himself and other current and former employees.

3 26. Additionally, pursuant to *Huff v. Securitas Security Services USA, Inc.* (2018) 23
4 Cal.App.5th 745, as an aggrieved employee, Plaintiff may investigate and pursue claims and penalties on
5 behalf of other aggrieved employees for other violations that he was not personally “aggrieved” by.

6 27. Defendants’ conduct described herein was undertaken, authorized, and/or ratified by
7 Defendants’ officers, directors and/or managing agents, including, but not limited to TRI-STAR and
8 DOES 1-20, who were authorized and empowered to make decisions that reflect and/or create policy for
9 Defendants. The aforementioned conduct of said managing agents and individuals was therefore
10 undertaken on behalf of Defendants who further had advanced knowledge of the actions and conduct of
11 said individuals whose actions and conduct were ratified, authorized, and approved by managing agents.

12 28. As a result of Defendants’ actions, Plaintiff has suffered and will continue to suffer general
13 and special damages, including severe and profound pain and emotional distress, anxiety, depression,
14 headaches, tension, and other physical ailments, as well as medical expenses, expenses for psychological
15 counseling and treatment, and past and future lost wages and benefits.

16 29. As a result of the above, Plaintiff is entitled to past and future lost wages, commissions,
17 benefits and loss or diminution of earning capacity.

18 30. Plaintiff claims general damages for emotional and mental distress and aggravation in a
19 sum in excess of the jurisdictional minimum of this Court.

20 31. Because the acts taken toward Plaintiff were carried out by officers, directors and/or
21 managing agents acting in a deliberate, cold, callous, cruel and intentional manner, in conscious disregard
22 of Plaintiff’s rights and in order to injure and damage Plaintiff, Plaintiff requests that punitive damages
23 be levied against Defendants and each of them, in sums in excess of the jurisdictional minimum of this
24 Court.

FIRST CAUSE OF ACTION
FOR FAILURE TO PAY WAGES DUE IN VIOLATION OF
LABOR CODE §§ 201, 204, 221, 510
AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE

32. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

33. As alleged herein, Plaintiff was not exempt from the requirements of Labor Code §510, 8 Code of Regulations §11060, and Industrial Welfare Commission Order No. 6-2001.

34. At all relevant times, Defendants failed and refused to pay Plaintiff wages earned and required by 8 Code of Regulations §11060, as set forth hereinabove. As alleged herein, Defendants routinely underpaid Plaintiff and failed to pay Plaintiff for hours worked beyond eight in a day or 40 per week.

35. Defendants violated Labor Code §§ 204 and 223 because Defendants failed to pay wages for all hours worked paid at least twice during each calendar month to employees as required “by contract” under Labor Code section 223, as well as an improper collection of wages paid to an employee under Labor Code section 221. *Gonzales v. Downtown LA Motors*, 215 Cal. App. 4th 36 (2d App. Dist. Mar. 6, 2013).

36. Defendants, as a pattern and practice in uniform administration of corporate policy with regard to Plaintiff and the other aggrieved employees, required Plaintiff and the other aggrieved employees to perform labor without overtime compensation.

37. Plaintiff has been deprived of Plaintiff’s rightfully earned compensation as a direct and proximate result of Defendants’ failure and refusal to pay said compensation. Plaintiff is entitled to recover such amounts, plus interest thereon, attorneys’ fees and costs.

38. Pursuant Labor Code § 218.5 and/or Labor Code § 1194(a), Plaintiff and the other aggrieved employees request that the Court award reasonable attorneys’ fees and costs incurred by them in this action.

SECOND CAUSE OF ACTION
FOR FAILURE TO PAY OVERTIME COMPENSATION
IN VIOLATION OF LABOR CODE §§ 510, 1194
AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE

39. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

40. Labor Code §510 requires employers to pay their non-exempt employees one and one-half times their regular hourly rate (overtime) for time worked in excess of eight hours in a single day, or 40 hours per week, and double their regular hourly rate (double-time) for all hours worked in excess of 12 hours in a single day. It also requires employers to pay their non-exempt employees overtime compensation for the first eight hours of work done on the seventh consecutive day of work done in any work week, and double-time compensation for any work done beyond the first eight hours on the seventh consecutive day of work.

41. At all relevant times, Defendants required Plaintiff to work more than eight hours per day and/or more than 40 hours per workweek.

42. At all relevant times, Defendants failed and refused to pay Plaintiff all the overtime compensation required by Labor Code §510, 8 Code of Regulations §11060, and Industrial Welfare Commission Order No. 6-2001.

43. In the past year, Plaintiff worked multiple hours of overtime each week, all of which should have been paid at 1.5 or 2.0 times Plaintiff's regular hourly wage rate at that time. Defendants failed to pay Plaintiff the requisite overtime wages by allowing her to work off the clock, all of which should have been paid at a premium wage in an amount according to proof.

44. As alleged herein, Plaintiff is not exempt from the overtime pay requirements of Labor Code §510, 8 Code Regulations §11060, and Industrial Welfare Commission Order No. 6-2001.

45. Thus, for the entirety of the time periods set forth above, Plaintiff is owed overtime wages in the amount according to proof, above and beyond the minimum wages sought in the preceding cause of action for these same hours.

46. Plaintiff has been deprived of Plaintiff's rightfully earned overtime compensation as a direct and proximate result of Defendants' failure and refusal to pay said compensation. Plaintiff is entitled to recover such amounts, plus interest thereon, attorneys' fees, and costs.

THIRD CAUSE OF ACTION

FOR FAILURE TO PROVIDE AN ACCURATE ITEMIZED WAGE STATEMENT IN

VIOLATION OF LABOR CODE §§ 226, 1174

AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE

47. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as though set forth in full herein.

48. Pursuant to Labor Code §§226 and 1174, employers have a duty to provide their non-exempt employees with itemized statements showing total hours worked, hourly wages, gross wages, total deductions and net wages earned. An employer who violates these code sections is liable to its employees for the greater of actual damages suffered by the employee, or \$50.00 in civil penalties for the initial pay period in which a violation occurred, and \$100.00 per employee for each subsequent pay period, up to a statutory maximum of \$4,000.00. Pursuant to Labor Code §226(e)(2), an employee is deemed to suffer injury for purposes of this subdivision if the employer fails to provide a wage statement at all.

49. In addition thereto, pursuant to Labor Code §226.3, an employer who willfully violates Labor Code §226 is subject to a \$250.00 civil penalty for the initial pay period in which a violation occurred, and \$1,000.00 per employee for each subsequent pay period, with no maximum.

50. At all relevant times, Defendants failed to provide Plaintiff with timely and accurate wage and hour statements showing gross wages earned, total hours worked, all deductions made, net wages earned, the name and address of the legal entity employing Plaintiff, and all applicable hours and rates in effect during each pay period and the corresponding number of hours worked at each hourly rate by Plaintiff.

51. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §226.

1 52. This failure has injured Plaintiff, by misrepresenting and depriving Plaintiff of hour, wage,
2 and earnings information to which Plaintiff is entitled, causing Plaintiff difficulty and expense in
3 attempting to reconstruct time and pay records, causing Plaintiff not to be paid wages Plaintiff is entitled
4 to, causing Plaintiff to be unable to rely on earnings statements in dealings with third parties, eviscerating
5 Plaintiff's right under Labor Code §226(b) to review itemized wage statement information by inspecting
6 the employer's underlying records, and deceiving Plaintiff regarding Plaintiff's entitlement to overtime,
7 meal period, and rest period wages.

8 53. Plaintiff was paid on a bi-weekly basis, and therefore Defendants violated Labor Code
9 §226 multiple times during the Claim Period. Consequently, Defendants are liable to Plaintiff for
10 Plaintiff's actual damages, or penalties in the statutory maximum amount of \$4,000.00, whichever is
11 greater.

12 54. In addition, thereto, Plaintiff is entitled civil penalties pursuant to Labor Code §226.3 in
13 the amount of \$51,250.00 (\$250.00 + \$1,000.00 x 51 subsequent pay periods).

14 55. Based on Defendants' conduct as alleged herein, Defendants are liable for damages and
15 statutory penalties pursuant to Labor Code §226, civil penalties pursuant to Labor Code §226.3, and other
16 applicable provisions, as well as attorneys' fees and costs.

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18 **FOURTH CAUSE OF ACTION**
19 **FAILURE TO PERMIT INSPECTION OF PERSONNEL AND PAYROLL RECORDS**
20 **LABOR CODE §§226 *et seq.*, 1198.5**
21 **AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE**

22 56. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
23 though set forth in full herein.

24 57. Labor Code §226(c) requires an employer, within twenty-one (21) days of a written
25 request thereof, to inspect or receive a copy of an employee's records. Pursuant to Labor Code §226(f),
26 an employer's failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

1 58. Labor Code §1198.5 requires an employer, within thirty (30) days of a written request
2 thereof, to inspect or receive a copy of an employee's personnel and payroll records. An employer's
3 failure to do so subjects the employer to a \$750.00 penalty, payable to the employee.

4 59. On March 30, 2023, Plaintiff made a written request to inspect or receive a copy of
5 Plaintiff's personnel and payroll records from Defendants, which Defendants received.

6 60. Defendants failed and refused to permit Plaintiff's inspection of his personnel and
7 payroll records, and failed to provide a copy of Plaintiff's personnel and payroll records to him within
8 the time required by Labor Code §§ 226 *et seq.*, 1198.5, or ever.

9 61. As a result of Defendants' failure and refusal to comply with Labor Code §§ 226, and
10 1198.5, Plaintiff is entitled to recover from Defendants a civil penalty of \$1,500.00.

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12 **FIFTH CAUSE OF ACTION**
13 **FOR WAITING TIME PENALTIES**

14 **LABOR CODE §§201-203**
15 **AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE**

16 62. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
17 though set forth in full herein.

18 63. At all relevant times, Defendants failed to pay all of the Plaintiff's accrued wages and
19 other compensation due immediately upon termination or within 72 hours of resignation, as required.
20 These wages refer to, at a minimum, overtime compensation that Defendants should have paid, but did
21 not pay to Plaintiff, during the term of her employment and which were, at the latest, due within the
22 time restraints of Labor Code §§201-203.

23 64. As alleged herein, Plaintiff is not exempt from the requirements of Labor Code §§201-
24 203.

25 65. As a direct and proximate result of Defendants' willful failure to pay these wages,
26 Plaintiff is entitled to payment of her underpaid overtime payments as previously pleaded herein, and
27 more than \$3,960.00 in wait time penalties, calculated based on 30 days of a regular daily wage of
28 approximately \$132.00, including wages for missed meal and rest periods.

1 66. Based on Defendants' conduct as alleged herein, Defendants are liable for \$3,960.00 in
2 statutory penalties pursuant to Labor Code §203 and other applicable provisions, as well as attorneys'
3 fees and costs.

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5 **SIXTH CAUSE OF ACTION**
6 **FOR PRIVATE ATTORNEY GENERAL ACT**
7 **LABOR CODE §2699**
8 **AGAINST ALL DEFENDANTS AND DOES 1-20, INCLUSIVE**

9 67. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
10 though set forth in full herein.

11 68. Under Labor Code §2699, Plaintiff, as an aggrieved employee, may bring an action against
12 Defendants, on behalf of himself and other current or former employees, seeking statutory civil penalties
13 for Defendants' violations of the California Labor Code.

14 69. Plaintiff was an aggrieved employee within the meaning of Labor Code §§2699(c) and
15 2699.3(a), as Defendants have committed multiple California Labor Code violations against Plaintiff, as
16 previously pleaded in this Complaint.

17 70. On May 4, 2023, more than 65 calendar days before filing this Complaint, Plaintiff
18 provided written notice by certified mail to the Labor and Workforce Development Agency and to
19 Defendants of the specific provisions of the California Labor Code that Defendants violated, thereby
20 satisfying the requirements of Labor Code §2699.3(a). This Complaint include violations of Labor Code
21 §§226, *et seq.*, 510, 221, 204, 226, 1174, 1194, 1194.2, 1198.5 and 201-203, each of which is enumerated
22 among the serious violations set forth in Labor Code §2699.5.

23 71. Here, Plaintiff's civil action alleges violations of provisions listed in Labor Code §2699.5
24 and violations of provisions other than those listed in Labor Code §2699.5. As such, Labor Code
25 §2699.3(a) and §2699.3(c) apply to this action.

26 72. As of the filing of this Complaint, Plaintiff has not received any response from the Labor
27 and Workforce Development Agency on its intent to pursue an action against Defendants. Consequently,
28 Plaintiff may now commence a civil action, pursuant to Labor Code §2699.3.

73. Further, as of the filing of this Complaint, Plaintiff has not received from Defendants written notice by certified mail that the alleged violations have been cured, including a description of the actions taken. As such, Plaintiffs have complied with Labor Code §2699.3(c) and have been given authorization therefrom to commence a civil action which includes a cause of action pursuant to Labor Code §2699.

PENALTIES

74. Pursuant to Labor Code §2699(a) (which provides that any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency (“LWDA”) (or any of its departments, divisions, commissions, board agency or employees), such civil penalties may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees) and Labor Code §2699(f) (which establishes a civil penalty for violations of all Labor Code provisions except those which a civil penalty is specifically provided), the aggrieved employees seek recover of all applicable civil penalties, as follows:

a) As applicable, civil penalties under Labor Code §2699(f), for all violations of the Labor Code except for those for which a civil penalty is specifically provided, in the amount of one hundred dollars (\$100.00) for each aggrieved employee per period for the initial violation; and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent violation, including those violations notated in each of the foregoing paragraphs as though set forth in full herein.

b) As applicable, civil penalties under Labor Code §558 (in addition to and entirely independent and apart from any other penalty provided for in the Labor Code), for violations of Labor Code §§1-556, in the amount of \$50 for each underpaid aggrieved employee for each pay period the aggrieved employee was underpaid in addition to an amount sufficient to recover underpaid wages, and \$100 for each subsequent violation for each underpaid employee for each pay period for which the employee was underpaid; and also an additional amount sufficient to recover under paid wages as penalties, with all wages recovered pursuant to Labor Code §557 paid to the aggrieved employees. Plaintiff is entitled to recover approximately \$2,550 for civil penalties, including for violations under

1 Labor Code §§ 226.7, 512, 1030. Plaintiff is also able to collect an additional penalty to be distributed
2 to the other aggrieved employees in an amount according to proof;

3 c) As applicable, civil penalties under Labor Code §225.5 (in addition to and entirely
4 independent and apart from any other penalty provided in the Labor Code) for violations of Labor Code
5 § 221 and 223, in the amount of \$100 for each underpaid aggrieved employee for each pay period the
6 aggrieved employee was underpaid, and \$200 for each subsequent violation or any willful or intentional
7 violation, for each underpaid aggrieved employees regardless of whether the initial violation was
8 intentionally committed, in addition to 25 percent of the amount unlawfully withheld;

9 d) As applicable, civil penalties under Labor Code §210 (in addition to and entirely
10 independent and apart from any other penalty provided in the Labor Code), for each employee who is/was
11 not paid wages in accordance with Labor Code §§201.3, 204, 204b, 204.1, 204.2, 205, 205.5 and 1197.5,
12 in the amount of a civil penalty of \$100 for each aggrieved employee per pay period for each initial
13 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation, plus 25
14 percent of the amount unlawfully withheld;

15 e) As applicable, civil penalties under Labor Code §2802 (in addition to and entirely
16 independent and apart from any other penalty provided in the Labor Code), for each violation of Labor
17 Code §2802, in the amount of \$100 for each aggrieved employee per pay period for each violation; and
18 \$200 for each aggrieved employee per pay period for each subsequent violation;

19 f) As applicable, civil penalties under Labor Code §226.3 (in addition to and entirely
20 independent and apart from any other civil penalty provided in the Labor Code), for each violation of
21 Labor Code §226(a), in the amount of \$250 for each aggrieved employee per pay period for each violation
22 and \$1,000 for each aggrieved employee per pay period for each subsequent violation;

23 g) As applicable, civil penalties under Labor Code §§203 and/or 256 (in addition to and
24 entirely independent and apart from any other penalty provided in the Labor Code), for any aggrieved
25 employee who was discharged or quit, and was not paid all earned wages at termination in accordance
26 with Labor Code §§201, 201.1, 201.5, 202, and 205.5, in the amount of a civil penalty of one day of pay,
27 at the same rate, for each day that he or she was paid late, until payment was/is made, up to a maximum
28 of thirty (30) days; and

1 h) As applicable, any and all additional applicable civil penalties and sums as provided by
2 the Labor Code and/or other relevant statutes.

3 75. In addition, Plaintiff seeks and is entitled to seventy-five percent (75%) of all penalties
4 obtained under Labor Code §2699 to be allocated to the LWDA, for education of employers and
5 employees about their rights and responsibilities under the Labor Code, and twenty-five percent (25%)
6 to the aggrieved employees.

7 76. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
8 recovery of pre-judgment interest on all amounts recovered herein.

9 77. As a direct and proximate result of Defendants' California Labor Code violations as set
10 forth in this Complaint, Plaintiff is entitled to civil penalties of \$100 for each aggrieved employee per
11 pay period for the initial violation, and \$200 for each aggrieved employee per pay period for each
12 subsequent violation, pursuant to Labor Code §2699(f), for those Labor Code sections not expressly
13 providing for a penalty, and civil penalties provided by the specific Labor Code sections that do expressly
14 provide for a penalty, §§203, 210, 225.5, 226.3, 226.7, 510, 512, 558, and 1030.

15 78. Pursuant to Labor Code §218.6 and Civil Code §3287, these aggrieved employees seek
16 recovery of pre-judgment interest on all amounts recovered herein.

17 79. Further, Plaintiff is entitled; to recover reasonable attorneys' fees and costs pursuant to
18 Labor Code §§2699(g)(1) and any other applicable statute.

19
20 **SEVENTH CAUSE OF ACTION**

21 **FOR UNFAIR COMPETITION**

22 **BUSINESS & PROFESSIONS CODE §§17200, ET SEQ.**

23 **AGAINST TRI-STAR AND DOES 1-20, INCLUSIVE**

24 80. Plaintiff re-alleges and incorporates by reference each of the foregoing paragraphs as
25 though set forth in full herein.

26 81. Defendants' violations of 8 Code of Regulations §11060, Industrial Welfare Commission
27 Order No. 6-2001, and Labor Code §§201-203, 204, 226, 510, 1182.12, 1198.5, 2699, and other
28 applicable provisions, as alleged herein, including Defendants' failure and refusal to pay overtime wages,

1 Defendants' failure to provide timely and accurate wage and hour statements, Defendants' failure to pay
2 compensation due in a timely manner upon termination or resignation, Defendant's failure to permit
3 inspection of personnel and payroll records, and Defendants' failure to maintain complete and accurate
4 payroll records for the Plaintiff, constitute unfair business practices in violation of Business & Professions
5 Code §§17200, et seq.

6 82. As a result of Defendants' unfair business practices, Defendants have reaped unfair
7 benefits and illegal profits at the expense of Plaintiff and members of the public. Defendants should be
8 made to disgorge their ill-gotten gains and restore such monies to Plaintiff.

9 83. Defendants' unfair business practices entitle Plaintiff to seek preliminary and permanent
10 injunctive relief, including but not limited to orders that the Defendants account for, disgorge, and restore
11 to the Plaintiff the overtime compensation and other monies and benefits unlawfully withheld from
12 Plaintiff.

13
14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff seeks judgment against Defendants and each of them, in an amount
16 according to proof but estimated to be no less than \$1,000,000 as follows:

17 84. For a money judgment representing compensatory damages including lost wages,
18 earnings, commissions, retirement benefits, and other employee benefits, and all other sums of money,
19 together with interest on these amounts; for other special damages; and for general damages for mental
20 pain and anguish and emotional distress and loss of earning capacity;

21 85. For payment failure to pay wages due pursuant to Labor Code §§201, 510, 221, 227.3,
22 1030, and Industrial Welfare Commission Order No. 6-2001, and 8 Code of Regulations §11060, in the
23 amount according to proof;

24 86. For statutory penalties and damages pursuant to Labor Code §558 in the amount of no less
25 than \$2,550.00;

26 87. For damages pursuant to Labor Code §221 in the amount according to proof;

27 88. For damages pursuant to Labor Code §226 in the amount of no less than \$4,000.00;

1 89. For statutory penalties or damages pursuant to Labor Code §226.3 in the amount of no
2 less than \$25,250.00;

3 90. For waiting time penalties pursuant to Labor Code §§201-203 in the amount of no less
4 than \$3,960.00;

5 91. For statutory penalties pursuant to Labor Code §§ 226(f), 1198.5 in the amount of no less
6 than \$750.00 each, totaling \$1,500;

7 92. For civil penalties pursuant to Labor Code §2699(f), in addition to and entirely
8 independent and apart from other penalties in the Labor Code and for Labor Code violations without a
9 specific civil penalty, in the amount of \$100 for each aggrieved employee per pay period for each
10 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation;

11 93. For civil penalties under Labor Code §210, in addition to and entirely independent and
12 apart from any other penalty provided in the Labor Code, in the amount of \$100 for each aggrieved
13 employee per pay period for each violation, and \$200 for each aggrieved employee per pay period for
14 each subsequent violation, plus 25 percent of the amount unlawfully withheld;

15 94. For civil penalties under Labor Code §§ 210 and 225.5, in addition to and entirely
16 independent and apart from any other penalty provided in the Labor Code, for each violation of Labor
17 Code §§204, 221 and 223, in the amount of \$100 for each aggrieved employee per pay period for each
18 violation, and \$200 for each aggrieved employee per pay period for each subsequent violation or for each
19 willful or intentional violation, in addition to 25 percent of the amount unlawfully withheld;

20 95. For civil penalties under Labor Code §226.3, in addition to and entirely independent and
21 apart from any other penalty provided in the Labor Code, in the amount of \$250 for each aggrieved
22 employee per pay period for each violation, and \$1,000 for each aggrieved employee per pay period for
23 each subsequent violation;

24 96. For civil penalties under Labor Code §§203 and/or 256, in addition to and entirely
25 independent and apart from any other penalty provided in the Labor Code, in the amount of one day of
26 pay, at the same rate, for each day that an aggrieved employee was paid late, at the time of termination,
27 until payment was/is made, up to a maximum of thirty (30) days;

1 97. For prejudgment interest on all amounts recovered herein pursuant to Labor Code §218.6,
2 Labor Code §1194(a), and/or Civil Code §3287;

3 98. For reasonable attorneys' fees and costs incurred pursuant to Labor Code §2699(g)(1) and
4 any other applicable statute; and

5 99. For prejudgment interest on each of the foregoing at the legal rate from the date the
6 obligation became due through the date of judgment in this matter.

7 **WHEREFORE**, Plaintiff further seeks judgment against Defendants, and each of them, in an
8 amount according to proof, as follows:

9 100. For a declaratory judgment reaffirming Plaintiff's equal standing under the law and
10 condemning Defendants' discriminatory practices;

11 101. For injunctive relief barring Defendants' discriminatory employment policies and
12 practices in the future, and restoring Plaintiff to Plaintiff's former position with Defendants;

13 102. For injunctive relief compelling Defendants to report to federal and state authorities wages
14 earned by Plaintiff, and other employees, and pay all state and federal taxes owing, employer matching
15 funds, unemployment premiums, social security, Medicare, and workers' compensation premiums, all
16 this in an amount according to the proof;

17 103. For punitive damages, pursuant to Civil Code §§3294 in amounts sufficient to punish
18 Defendants for the wrongful conduct alleged herein and to deter such conduct in the future;

19 104. For costs of suit, attorneys' fees, and expert witness fees pursuant to the FEHA, Labor
20 Code and/or any other basis;

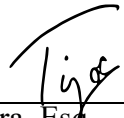
21 105. For post-judgment interest; and

22 106. For any other relief that is just and proper.

23
24 DATED: September 11, 2023

GUERRA & CASILLAS LLP

25
26 By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
ONESIMO HERNANDEZ LOPEZ

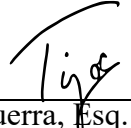
JURY TRIAL DEMANDED

Plaintiff demands trial of all issues by jury.

DATED: September 11, 2023

GUERRA & CASILLAS LLP

By:



Ruben Guerra, Esq.
Tizoc Perez-Casillas, Esq.
Attorney for Plaintiff
ONESIMO HERNANDEZ LOPEZ