



CASTLE LAW

CALIFORNIA EMPLOYMENT COUNSEL, PC

TIMOTHY B. DEL CASTILLO
TDC@CASTLEEMPLOYMENTLAW.COM
916-245-0122

2999 DOUGLAS BLVD.
SUITE 180
ROSEVILLE, CA 95661

September 13, 2023

For Online Filing:

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Deionte Gordon v. Precision Emprise LLC*

Dear Labor Commissioner,

As counsel for, and on behalf of, Deionte Gordon (hereinafter referred to as “Claimant”), I am writing to provide you and the following employer(s) (hereafter “Defendant(s)”) notice pursuant to California Labor Code section 2699.3:

Precision Emprise LLC
417 Harrison Street
Oakland, CA 94607

Precision Emprise LLC also does business under the name “Precision Concrete Cutting.”

I am setting forth the facts and theories to support each of the counts found within this letter. Please notify us of your intent to investigate any or all of the claims alleged herein against any of the above identified Defendant(s). Should you decide not to investigate, we request that you allow us to seek civil penalties on behalf of the Labor Commissioner, Claimant, and all similarly situated current and former aggrieved employees, pursuant to California Labor Code section 2699(a). A \$75.00 filing fee is being submitted to Department of Industrial Relations, Accounting Unit, via the online filing portal.

A. FACTS

Claimant and similarly situated employees worked for Defendant as non-exempt employees in California. Claimant and similarly situated employees were paid on hourly basis. Claimant was employed from approximately December 30, 2019 until September 26, 2022.

Claimant and similarly situated employees suffered noncompliant meal and rest breaks because of the workload, understaffing, and company practice. Specifically, they were required to prioritize work over breaks because management forbade Claimant and similarly situated employees for taking breaks,

and would make them work through his meals despite clocking out. Consequently, meal and rest breaks were regularly late, missed, and/or interrupted.

Claimant and similarly situated employees were also suffered and permitted to work off the clock, which is a violation of California's minimum wage laws. Additionally, Defendant's "Time Card Policy," specifically states that if an employee fails to punch in and out on his or her time card, the employee "will not be paid *for those hours worked*." Thus, Defendant had a policy of not paying for hours worked, even when suffered or permitted by the employer, if the employee's time card does not reflect all the hours worked.

Claimant and similarly situated employees also regularly worked overtime hours without being paid at 1.5 times the regular rate of pay. Specifically, on prevailing wage jobs, Claimant and similarly situated employees were paid overtime at only 1.5 times the minimum wage, not their regular rate of pay.

Claimant and similarly situated employees also incurred expenses that were not reimbursed by the company for personal vehicle usage, cell phone usage, and necessary equipment.

Defendant also failed to provide Claimant and similarly situated employees with compliant wage statements that include all the information required by Labor Code section 226(a). The violations of section 226 are derivative of the violations set forth above, but also independent insofar as the wage statements did not accurately include all hourly rates and the hours worked at those rates, among other violations.

Defendant also failed to provide Claimant and similarly situated employees with timely final pay as a result of its failure to pay all owed meal and rest break premiums, accurate overtime wages, and wages for off the clock work within the statutory time periods set for in Labor Code sections 201 and 202.

Claimant is informed and believe that Defendant(s) committed numerous other violations of the California Labor Code, including but not limited to those identified in this letter. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018), Claimant intends to seek civil penalties for all violations of the California Labor Code, whether he experienced them personally or not.

B. VIOLATIONS OF THE LABOR CODE EXPERIENCED BY CLAIMANT AND SIMILARLY SITUATED EMPLOYEES

Violation of Labor Code §§ 1194, 1197.1; IWC Wage Order No. 5-2001, § 4 (Failure to Pay Minimum Wages)

During the period Claimants and similarly situated employees were employed by Defendant they were entitled to be paid at least the State's minimum wage rate for each hour that they worked. See, e.g., IWC Wage Order MW-2014, MW-2017; IWC Wage Order No. 5-2001, section (4); Cal. Lab. Code §§ 1194, 1197.1. For the reasons stated above, Defendant did not pay Claimants and similarly situated

employees at least minimum wage for all hours worked. Thus, Claimants and similarly situated employees were not paid at least the applicable state minimum wage for all hours worked in violation of the Labor Code.

Violation of Labor Code §§ 510, 1194; IWC Wage Order No. 4-2001, § 3 (Failure to Pay Overtime Wages)

Labor Code sections 510 and 1194 require employers to pay employees overtime for any work in excess of eight (8) hours in one workday and any work in excess of forty (40) hours in any one workweek. Employers must also pay overtime for the first eight (8) hours worked on the seventh day of work in any one workweek. Finally, employers must pay double time for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh day of work in any one workweek. As stated above, Claimant and similarly situated employees worked over eight (8) hours per day and forty (40) hours per week and were not paid overtime wages. Claimant and all similarly situated employees are entitled to recover all unpaid overtime wages.

Violation of Labor Code § 1174 (Failure to Keep Accurate Time Records)

Labor Code section 1174(d) requires employers to keep “payroll records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years.” Defendant did not keep accurate information regarding all hours worked by Claimants and similarly situated employees, largely by failing to accurately record all time worked on their time records. This was in violation of the Labor Code.

Violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001, § 11(A) (Failure to Provide Meal Periods)

Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay meal period premiums for its failure to provide meal periods.

Violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12(A) (Failure to Provide Rest Periods)

Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant rest periods pursuant to California law in violation of the Labor Code. Defendants also failed to pay rest period premiums for their failure to provide rest periods.

Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)

Labor Code section 226 requires employers to furnish to employees with “an accurate itemized statement in writing showing (1) gross wages earned, (2) total hours worked by the employee, . . . (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made on written orders of the employee may be aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee and only the last four digits of his or her social security number or an employee identification number other than a social security number, (8) the name and address of the legal entity that is the employer . . . and (9) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee . . .” For the reasons stated above, Defendants failed to comply with these requirements with respect to Claimant and similarly situated employees in violation of the Labor Code.

Violation of Labor Code §§ 201–203, 256 (Failure to Pay Final Wages)

Labor Code sections 201–203 require that all wages, including minimum wages and meal and rest period premiums, be paid to employees upon separation and/or termination of employment. Here, for the reasons stated above, Claimant and similarly situated employees did not receive all final wages due and owing to them at the time of termination or seventy-two (72) hours thereafter as required by Labor Code sections 201–203. This is in violation of the Labor Code.

Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” For the reasons stated above, Defendants failed to pay required reimbursements to Claimants and similarly situated employees for required business expenses in violation of the Labor Code.

Other Violations of the Labor Code

Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (Ct. App. 2018), reh’g denied (June 13, 2018), review denied (Aug. 8, 2018), Claimant intend to seek civil penalties for all violations of the California Labor Code, whether they experienced them personally or not.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact my office. Pursuant to Labor Code section 2699.3, please notify Defendant(s) and this law office within 60 calendar days of the postmark date of this notice whether the Agency intends to investigate the alleged violations.

Very truly yours,

Castle Law: California Employment Counsel, PC

By: 
Timothy B. Del Castillo

cc: Precision Emprise LLC
417 Harrison Street
Oakland, CA 94607