



880 Apollo Street, Suite 336 ♦ El Segundo, CA 90245 ♦ Voice (310) 322-2211 ♦ Fax (310) 322-2252

July 22, 2024

VIA WEBSITE UPLOAD

State of California
Labor and Workforce Development Agency

VIA CERTIFIED MAIL (RETURN RECEIPT REQUESTED)

Mr. Martin Medina
1384 Raven Avenue
Chula Vista, CA 91911

Re: *Trujillo v. Mega Nice Trucking, LLC, et al.*

Dear Mr. Medina:

This office represents Hector Trujillo. We are informing you of our representation and ask that all further communication regarding this matter be directed to our attention at the address located on this letterhead, and that no contact be made directly with our client. This letter is sent pursuant to the provisions of California Labor Code, §§2699, *et seq.*

I. FACTS & NATURE OF THE DISPUTE

This is an employer-employee related dispute. Plaintiff was a non-exempt employee of Mega Nice Trucking, LLC. Plaintiff is seeking relief for Defendants' violations of the California Business & Professions Code §§ 17200 *et seq.*, including full restitution and disgorgement of all compensation retained by Defendants as a result of their unlawful and unfair business practices, as well as injunctive relief.

This action is on behalf of Plaintiff to recover wages from Defendants due to Defendants' willful misclassification as exempt, failure to pay overtime/double time, failure to pay minimum wages, provide meal/rest breaks (or pay the statutory compensation due), to issue accurate wage statements, to reimburse business expenses, to provide a uniform maintenance allowance, to provide days of rest, to allow inspection of employment records and unfair competition.

Defendants have violated the law. These violations are set forth in Section II below. Plaintiff seeks compensatory, statutory, declaratory and injunctive relief to compensate him for wage theft and otherwise unlawful working conditions.

II. § 2699, ET SEQ., LABOR CODE VIOLATIONS

Our client has numerous legal claims against Mega Nice Trucking, LLC (“MNT”) and you. Further investigation and formal discovery will likely uncover other claims and additional facts supporting liability herein.

The details of our client’s Labor Code, §2699, claims include, but are not limited to:

A. WILLFUL MISCLASSIFICATION AS EXEMPT (Wage Order No. 9)

Defendants willfully misclassified Plaintiff as exempt to avoid the payment of wages and other benefits in violation of the Labor Code and IWC Wage Order No. 9. Plaintiff did not meet the requirements of being “salary exempt” as set forth by California Labor Code § 515(a). Plaintiff was not allowed to make independent decisions. Plaintiff did not manage any employees of Defendants. He did not earn a monthly salary equivalent to tow times the state minimum wage. Further, Plaintiff did not have independent judgment or discretion in his job position. Thus, Plaintiff should have been classified as non-exempt.

Plaintiff is entitled to recover penalties as a result of Defendants’ willful misclassification.

B. FAILURE TO PAY PREMIUM OVERTIME/DOUBLE TIME WAGES DUE (Cal. Labor Code §§ 510, 511, 558, 1194.3, 1198; IWC Wage Order No. 9)

Defendants were required to pay Plaintiff for all time worked. Plaintiff routinely worked schedules such that he was due pay at overtime/double time rates. However, Plaintiff was not paid for the overtime/double time hours he worked.

Plaintiff is entitled to, and is, seeking such relief as may be necessary to restore to his the money which Defendants have acquired, or of which Plaintiff has been deprived by means of the above-described unfair and unlawful business practices.

Throughout Plaintiff’s employment, Defendants failed and refused to pay and properly calculate overtime/double time compensation to Plaintiff as required by law. The foregoing overtime/double time compensation is owed and unpaid. As a direct and proximate result of Defendants’ failure and refusal to pay overtime/double time, Plaintiff suffered damages in an amount to be proven at trial.

C. FAILURE TO PAY MINIMUM WAGES

(Cal. Labor Code §§1194, 1194.2, 1997, 1197.1, 1198; IWC Wage Order No. 9)

Defendants failed to satisfy minimum wage requirements. As a result of Defendants failing to afford meal/rest breaks, Plaintiff was paid less than minimum wage. This resulted in Defendants' failure to compensate Plaintiff properly for "all hours worked" and consequently underpaid Plaintiff for the actual hours Plaintiff worked in violation of *Labor Code* §§ 1197, 1198 and Wage Order 9.

D. FAILURE TO PROVIDE REST PERIODS

(Cal. Labor Code § 226.7; IWC Wage Order No. 9)

Defendants failed to provide any rest periods as required by Labor Code § 226.7 and the applicable Wage Order.

By virtue of Defendants' unlawful failure to provide rest periods to the Plaintiff, Plaintiff has suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff, but which exceed the jurisdictional limits of the Court and which will be ascertained according to proof at trial.

E. FAILURE TO PROVIDE MEAL PERIODS

(Labor Code §226.7; IWC Wage Order No. 9)

Defendants intentionally and improperly denied Plaintiff any meal periods. Plaintiff did not receive premium pay for his missed meal periods.

By virtue of Defendants' unlawful failure to provide meal periods to the Plaintiff, Plaintiff has suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff, but which exceed the jurisdictional limits of the Court and which will be ascertained according to proof at trial.

F. FAILURE TO MAINTAIN RECORDS AND PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS

(Cal. Labor Code §226; IWC Wage Order No. 9)

Defendant MNT intentionally and knowingly provided Plaintiff with weekly itemized wage statements containing inaccurate information regarding the wages earned by Plaintiff in that the payments owed to Plaintiff for overtime/double time, minimum wages, failure to afford meal/rest periods, pay for days of rest, were not included in gross wages earned by Plaintiff.

Plaintiff was damaged by these failures because, among other things, the failures led him to believe that he was not entitled to overtime/double time, minimum wages, pay for meal/rest periods not provided and pay for days of rest, even though he was so

entitled and these failures hindered him from determining the amounts of wages owed to him.

G. FAILURE TO PAY WAGES DUE UPON TERMINATION
(Cal. Labor Code §§201-203)

Plaintiff was discharged from Defendants' employ and Defendants willfully failed to pay Plaintiff wages due to him.

Plaintiff was not paid for all the wages he was owed when he ended his employment with Defendants on March 4, 2024. He is still owed overtime/double time, minimum wages, premium pay for meal/rest breaks not afforded, and pay for days of rest and other wages.

H. FAILURE TO REIMBURSE BUSINESS EXPENSES
(Cal. Labor Code §§2802)

Defendant MNT was aware that Plaintiff was using his cell phone, vehicle and purchasing tools for business, but failed to indemnify Plaintiff for all his business-related expenses, in accordance with Labor Code §2802.

Plaintiff suffered damages in an amount, subject to proof, to the extent he was not reimbursed for all of his business-related expenses incurred in the discharge of his duties. An employer may never impose a financial burden on employees, with respect to business-related expenses, which would reduce the employees' wage rate below the minimum wage.

I. FAILURE TO PROVIDE UNIFORM MAINTENANCE ALLOWANCE
(Cal. Labor Code §2802)

MNT required Plaintiff to purchase uniforms, such as pants and overalls. Further, MNT does not maintain the uniforms. Plaintiff was required to purchase the clothing himself and pay for the maintenance and cleaning himself.

Plaintiff suffered damages in an amount, subject to proof, to the extent he was not reimbursed for his uniform expenses.

J. FAILURE TO PROVIDE DAYS OF REST
(Cal. Labor Code §§ 551,552, Wage Order No. 9)

At times, Plaintiff worked 7 days per week.

Defendants knowingly and intentionally failed to pay Plaintiff premium pay for working seven consecutive days as required by Labor Code sections 551 and 552 and Wage Order No. 9.

Plaintiff is owed premium pay due to Defendants' failure to pay for days of rest.

K. FAILURE TO ALLOW INSPECTION OF EMPLOYMENT RECORDS
(Cal. Labor Code §1198.5)

On or about May 15, 2024, Plaintiff's counsel issued a written request to you for copies of his personnel records. You have failed and refused to permit Plaintiff to have access to copies of his records.

As a result of your failure and refusal to permit Plaintiff to have full access to his records, Plaintiff will seek injunctive relief and recovery of statutory penalties.

L. UNFAIR COMPETITION
(Cal. Bus. & Prof. Code §§17200 et seq.)

Defendants, through the unfair and unlawful business practices as described herein, have obtained valuable property, money and services from the Plaintiff and has deprived him of valuable rights and benefits guaranteed by law all to the detriment of Plaintiff. All the acts described are violations of, among other things, the Labor Code and applicable Industrial Commission Wage Orders, are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, and unscrupulous, and thereby constitute unfair and unlawful business practices in violation of Business & Professions Code §§ 17200 *et seq.*

Plaintiff is entitled to, and is, seeking such relief as may be necessary to restore to him the money and property which Defendants have acquired, or of which Plaintiff has been deprived by means of the above-described unfair and unlawful business practices.

M. ADDITIONAL PENALTIES
(Violations of Labor Code §§201-204, 218.5, 226(a)(e), 226.7, 510, 512, 558, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2802, 1198.5, 1720, 1770, 1771, 1773, 1773.1, 1774, 1776 and 1778)

Plaintiff intends to seek all penalties for the violations described above. Moreover, Plaintiff also intends to recover the actual wages owed to employees under the Labor Code sections that authorize such recovery, including but not limited to Labor Code §558.

III. CONCLUSION

Please take notice this letter is intended to exhaust the pre-litigation requirements set forth under California Labor Code, §§2699, *et seq.* By law, an employee alleging a violation of one of the above-referenced sections must notify his or her employer and the Labor and Workforce Development Agency (LWDA) before he or she can invoke the provisions of §2699, *et seq.*, by seeking redress in court. (Labor Code § 2699.3(a)(1).) The LWDA must then notify the employer

and the employee within 33 calendar days regarding whether it intends to investigate the alleged violation. (Labor Code, §2699.3(a)(2)(B).) If the LWDA advises that it will not investigate, or if no notice is provided within 33 calendar days, the employee may file a lawsuit invoking the provisions under Labor Code, §2699. (Labor Code, §2699.3(a)(2)(A).) It is the intention of this office to file a civil complaint and to bring the appropriate claims under Labor Code, §2699, should your office not address these matters within the proscribed time.

We write this letter subject to and without waiver of our client's rights and remedies, all of which we expressly reserve. This letter is not an express statement of all facts and circumstances concerning this matter.

Sincerely,

LIPELES LAW GROUP, APC

A handwritten signature in blue ink, appearing to read 'K. Lipeles'.

Kevin A. Lipeles, Esq.