

## N E W S   R E L E A S E

News Release No.: 2017-76

Date: August 14, 2017

### **Labor Commissioner’s Office Files \$6.3 Million Misclassification and Wage Theft Lawsuit against Glendale Construction Company**

**Los Angeles**—The Labor Commissioner’s Office has filed a lawsuit against Calcrete Construction, Inc. seeking \$6,300,338 for multiple wage theft violations affecting a group of 249 construction workers and the willful misclassification of 175 workers as independent contractors.

An investigation launched in October 2016 uncovered the Glendale-based company’s failure to pay the workers for overtime hours, allocate pay for sick leave and provide proper wage statements. The lawsuit, filed in Los Angeles Superior Court, also seeks civil damages and penalties.

Beginning in August 2016, Calcrete forced its workers under threat of termination to sign contracts stating they were independent contractors. The company then used staffing agencies Dominion Staffing and Southeast Personnel Leasing to pay the workers.

“It is illegal for employers to use subcontractors to distance themselves from the obligation to pay workers, and we will use every tool to dissuade employers from this scheme,” said Labor Commissioner Julie A. Su. “This lawsuit aims to recover the money these misclassified workers should have been paid after years of wage theft.”

Calcrete employees typically worked 10-12 hours Monday through Friday and eight hours on Saturday. They were paid only their regular hourly rate and not for the 18-28 hours of overtime they regularly worked. This underpayment occurred for a nearly two-year period from 2014-16, the lawsuit specifies.

The lawsuit seeks:

- Wages and damages of approximately \$2,596,438 payable to the workers:
  - \$352,000 in overtime wages
  - \$1,244,438 in waiting time penalties
  - Over \$1,000,000 (specific amount to be determined at trial) for unpaid sick leave and liquated damages

- Penalties of approximately \$3,703,900 payable to the state:
  - \$2,625,000 in statutory penalties for willful misclassification
  - \$78,900 in civil penalties.
  - Over \$1,000,000 (specific amount to be determined at trial) for failure to provide proper wage statements

The Carpenters / Contractors Cooperation Committee, a union-affiliated, non-profit organization that advocates for workplace compliance within the construction industry, referred the case to the Labor Commissioner's Office.

When a worker is [misclassified](#) as an independent contractor, they are not protected by minimum wage, overtime and retaliation laws. The worker is not guaranteed workers' compensation coverage if injured on the job and has no right to paid rest and meal breaks or sick leave. Many factors go into determining if a worker is misclassified, including a review of who decides what tasks the worker does, who dictates how tasks should be done and who controls customer relations. Worker misclassification results in an estimated loss of \$7 billion each year in payroll tax revenue to the state.

When workers are paid less than minimum wage, they are entitled to liquidated damages that equal the amount of underpaid wages plus interest. [Waiting time penalties](#) are imposed when the employer fails to provide workers their final paycheck after separation. This penalty is calculated by taking the employee's daily rate of pay and multiplying it by the number of days the employee was not paid, up to a maximum of 30 days.

The [Labor Commissioner's Office](#), officially known as the Department of Industrial Relations' Division of Labor Standards Enforcement, inspects workplaces for wage and hour violations, adjudicates wage claims, investigates retaliation complaints, issues licenses and registrations for businesses, enforces prevailing wage rates and apprenticeship standards in public works projects and educates the public on labor laws. The division's [Bureau of Field Enforcement](#) is responsible for investigating and enforcing certain statutes including those that cover group claims of unpaid minimum wage and overtime.

In 2014, Commissioner Su launched the [Wage Theft is a Crime](#) multilingual public awareness campaign. The campaign defines wage theft and informs workers of their rights and the resources available to them to recover unpaid wages or report other labor law violations. Employees with work-related questions or complaints may contact DIR's Call Center in English or Spanish at 844-LABOR-DIR (844-522-6734).

Members of the press may contact Peter Melton or Frank Polizzi at (510) 286-1161, and are encouraged to [subscribe to get email alerts](#) on DIR's press releases or other departmental updates.

# # #



The [California Department of Industrial Relations](#), established in 1927, protects and improves the health, safety, and economic well-being of over 18 million wage earners, and helps their employers comply with state labor laws. DIR is housed within the [Labor & Workforce Development Agency](#). For general inquiries, contact DIR's Communications Call Center at 844-LABOR-DIR (844-522-6734) for help in locating the appropriate [division or program](#) in our department.