

N E W S R E L E A S E

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Labor Commissioner Cites Nail Salon \$1.2 Million for Misclassification and Wage Theft of 36 Workers

Oakland—The Labor Commissioner’s Office issued more than \$1.2 million in wage theft citations to a Temecula nail salon for misclassifying and failing to properly pay 36 workers. An investigation found that the workers at Young’s Nail Spa were not paid an hourly rate and not paid overtime despite working up to 50 hours a week.

“Using misclassification as a business model not only denies workers of their rightful pay, but also gives the employer an unfair advantage over law-abiding businesses,” said Labor Commissioner Julie A. Su. “California law is clear that if employers pay less than the minimum wage, when they are caught they will be responsible for paying not just the wages owed, but an equivalent amount in liquidated damages plus interest.”

The Labor Commissioner’s Office launched its investigation when the Labor and Workforce Development Agency referred the case following notification of a complaint filed through the [Private Attorneys General Act](#). Investigators audited the business records over a 40-month period and determined that 36 workers employed at the salon were paid for each salon service performed instead of the total hours worked. Shifts averaged 9.5 to 10 hours per day but workers were not properly paid for overtime, nor provided proper meal and rest breaks. Young’s Nail Spa also failed to carry valid workers’ compensation insurance coverage during the last three years.

The \$1,242,227 citation amount includes \$670,040 payable to workers and \$572,187 in civil penalties. Of the total due to workers, \$126,702 is for minimum wage violations plus \$17,375 in interest, \$144,076 for liquidated damages, \$118,825 for failure to pay overtime, \$92,492 for not providing final paychecks as required by law, \$87,155 for improperly paid rest periods, \$65,312 for not providing proper itemized wage statements, and \$18,103 for meal period violations.

The civil penalties include \$207,887 for failure to maintain valid workers’ compensation insurance, \$160,000 for misclassifying workers as independent contractors, \$104,000 for not providing proper wage statements and \$100,300 for penalties associated with the wage violations.

Enforcement investigations typically include a payroll audit of the previous three years to determine minimum wage, overtime and other labor law violations, and any payments owed and penalties due are calculated. Civil penalties collected are transferred to the State's General Fund as required by law.

Required [workplace postings](#) on wages, hours and working conditions must be posted in an area frequented by employees where it may be easily read during the workday. Nail salons have a specific posting required for all [Barbering and Cosmetology Licensees](#).

[Worker misclassification](#) is the practice of knowingly misclassifying an employee as an independent contractor. It deprives employees of minimum wage and overtime protections, as well as workers' compensation coverage if injured on the job, and creates an unfair playing field for responsible employers who honor their lawful obligations to their employees. The Labor Commissioner's Office enforces laws prohibiting the willful misclassification of workers.

When workers are paid less than minimum wage, they are entitled to [liquidated damages](#) that equal the amount of underpaid wages plus interest. If a worker quits, [final wages](#) are due within 72 hours of the notice. [Waiting time penalties](#) are imposed when the employer intentionally fails to pay all wages due to the employee at the time of 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 Division of Labor Standards Enforcement, or the Labor Commissioner's Office, is the division within the Department of Industrial Relations (DIR) with wide-ranging enforcement responsibilities including adjudicating wage claims, inspecting workplaces for wage and hour violations, investigating retaliation complaints and educating the public on labor laws.

In 2014, Labor 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 Erika Monterroza or Paola Laverde (510) 286-1161, and are encouraged to [subscribe to get email alerts](#) on DIR's press releases or other departmental updates.

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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 Call Center at 844-LABOR-DIR (844-522-6734) for help in locating the appropriate [division or program](#) in our department.