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Electronically
FILED
by Superior Court of California, County of San Mateo
ON 11/10/2021
By /s/ Una Finau
Deputy Clerk

6 SUPERIOR COURT OF CALIFORNIA

7 COUNTY OF SAN MATEO

8 Unlimited Jurisdiction

9
10 Jose Loera,

11 Plaintiff

Case No.21-CIV-06118

Verified Complaint for:

12
13 v.

1. **Unpaid Wages (Lab. Code sec. 1194 *et. seq.*);**
2. **Breach of Contract; and**
3. **Fraud and Deceit.**

14
15 Pony Tracks Ranch LLC; Stacey Limbada;
16 Does 1-25.

17
18 Defendants

Demand Exceeds \$25,000

19
20 For his Verified Complaint, Plaintiff, Jose Loera (“Plaintiff”) alleges against Defendant,
21 Pony Tracks Ranch LLC, CA Entity No. 201200310053, (“Pony Tracks”); Stacey Limbada
22 (“Limbada”) and Defendant Does 1-25, the following.

23
24 **Parties, Jurisdiction and Venue**

- 25 1. Plaintiff is an individual who resides in San Mateo County California.
- 26 2. Plaintiff is informed and believes that Pony Tracks is an active limited liability
27 company whose principal asset consists of over a hundred acres of real property located at 499
28 Old Spanish Trail, Portola Valley, CA 94028 (the “Ranch”).

Verified Complaint

1 3. Plaintiff is informed and believes that Limbada is an individual who resides in
2 Alameda County. At all relevant times, Limbada performed work for Pony Tracks at the Ranch
3 in San Mateo County.

4 4. Between May and August 2021, Pony Tracks employed Plaintiff to work full-time
5 as a ranch hand at the Ranch. All of the allegations and averments alleged in this Complaint
6 relate to services provided and wages earned from work performed by Plaintiff at the Ranch in
7 San Mateo County.

8 5. The true names and capacities, whether individual, corporate or otherwise, of
9 Defendant DOES 1 through 25, inclusive, are unknown to Plaintiff at this time. Therefore,
10 Plaintiff sues these Defendants by fictitious names pursuant to §474 of the California Code of
11 Civil Procedure. Plaintiff will seek leave of the Court to amend his Complaint to set forth the
12 true names of the Defendants when the same have been ascertained. Plaintiff is informed and
13 believe, and on that basis allege, that except where otherwise expressly alleged to the contrary,
14 each of the Defendants, including Does 1 through 25, inclusive, is, and at all relevant times
15 herein mentioned was, the agent, partner, joint venturer, employee, and/or coconspirator of the
16 remaining Defendants and is, and at all relevant times herein mentioned was, in performing and
17 failing to perform the acts and conduct hereinafter alleged, acting within the course and scope of
18 such agency, partnership, joint venture, employment and/or conspiracy. Plaintiff is further
19 informed and believe, and on that basis allege, that the acts and conduct of each of the
20 Defendants were known to, and authorized and ratified by, the remaining Defendants, and that
21 each of the Defendants is legally responsible for the conduct and damages alleged.
22

23 **First Cause of Action**

24 **(Unpaid Wages Against Pony Tracks and Limbada)**

25 6. The allegations of paragraphs 1 through 5 *infra.* are incorporated herein by this
26 reference.

27 7. At all times relevant to the Complaint, Limbada was the authorized agent of Pony
28 Tracks and managed the operation of the Ranch. At all relevant times, Limbada was the

1 “managing agent” and “other person acting on behalf of an employer” as these terms are used in
2 Labor Code § 558.1. Pony Tracks and Limbada, when referred to collectively, shall be described
3 as “Defendants.”

4 8. In May 2021, Pony Track’s full-time ranch hand, Jake Hernandez, quit. Limbada
5 offered the position to Plaintiff, and he accepted. The position was full-time employment at the
6 rate of \$45 per hour. In a May 11, 2021 email correspondence, Limbada referred to Plaintiff as
7 “New employee” in the subject line. Plaintiff worked as a full-time employee of Pony Tracks
8 from May 26, 2021 through August 31, 2021 (the “Employment Term”).

9 9. Except for work that Limbada directed Plaintiff to perform at her personal
10 residence, most of Plaintiff’s work for Pony Tracks physically occurred at the Ranch. At all
11 times during the Employment Term, Pony Tracks and Limbada directly supervised Plaintiff’s
12 work. Defendants controlled and directed the manner and order that Plaintiff would complete his
13 assigned tasks. Limbada even filled out Plaintiff’s time records and automatically attributed
14 eight hours of work per day regardless of how many hours he actually worked that day.

15 10. Plaintiff’s tasks during the Employment Term included, without limitation, fixing
16 fences, maintaining buildings and improving landscaping. All of Plaintiff’s tasks were within the
17 usual work and course of business for a large property Portola Valley like the Ranch.

18 11. During the Employment Term, Plaintiff worked exclusively for Pony Tracks
19 during regular business hours and did not engage in an independently established business or
20 trade of the same kind of work he performed for Pony Tracks.

21 12. At all times during the Employment Term, Plaintiff was an employee and entitled
22 minimum wages as provided by the California Labor Code and related regulations. Minimum
23 wages includes the right to be paid overtime wages under Labor Code § 510 for work exceeding
24 8 hours per day and 40 hours per week. During the Employment Term, Plaintiff regularly
25 worked more than 8 hours per day and regularly worked more than 40 hours per week as follows:

Dates	Days	Overtime Hours/Day	Overtime Rate (1.5x)	Overtime Wages
May 26 - 31, 2021 (Six days/week)	5	5	\$67.50	\$1,687
June 1 - 30, 2021 (Six days/week)	26	5	\$67.50	\$8,775
June 5, 12, 19, 26 (Saturdays)	4	8	\$22.50	\$720
July 1 - 30 (Six days/week)	27	5	\$67.50	\$9,112
July 3, 10, 17, 24, 31 (Saturdays)	5	8	\$22.50	\$900
August 1 - 30 (Five days/week)	21	2	\$67.50	\$2,835
	88			\$24,029

Defendants failed to pay Plaintiff the overtime wages set forth above. These overtime wages are due and owing to Plaintiff.

13. At all times during the Employment Term, Plaintiff was an employee and entitled liquidated damages as provided by the California Labor Code and related regulations. Labor Code § 1194.2 requires Defendants to pay liquidated damages in an amount equal to the unpaid minimum wages owed to Plaintiff. As described above in paragraph 12 *infra.*, Defendants failed to pay minimum wages in the amount of \$24,029 during the Employment Term. Therefore,

1 Defendants owe Plaintiff an additional **\$24,029** in liquidated damages pursuant to Labor Code
2 § 1194.2.

3 14. At all times during the Employment Term, Plaintiff was an employee and entitled
4 to rest and meal breaks as provided by the California Labor Code and related regulations.
5 Defendants failed to provide rest and meal breaks throughout the entire Employment Term.
6 Labor Code § 226.7(c) provides that Defendants owe Plaintiff one additional hour of pay for each
7 workday that a meal or rest break was not provided as follows:

Days worked without rest or meal breaks	Hourly Rate	Meal/Rest Break Wages
88	\$45	\$3,960

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13 Defendants failed to pay Plaintiff the meal/rest break wages set forth above. These meal/rest
14 break wages are due and owing to Plaintiff.

15 15. At all times during the Employment Term, Plaintiff was an employee and entitled
16 to waiting time penalties as provided by the California Labor Code and related regulations.
17 Defendants discharged Plaintiff and terminated his employment on August 30,
18 2021(“Termination Date”). Labor Code § 201 provides that Defendants were required to pay
19 Plaintiff all unpaid wages on the Termination Date. But Defendants willfully failed to pay
20 Plaintiff overtime wages and rest/meal break wages as alleged *infra*. Labor Code § 203 provides
21 that a defendant who willfully fails to pay wages when due is liable for waiting time penalties for
22 every day that wages remain unpaid up to 30 days. Defendants failed to pay Plaintiff wages
23 owed to him for more than 30 days as follows:

Waiting Days	Daily Rate	Waiting Penalty
30	\$360	\$10,800

1 Defendants failed to pay Plaintiff waiting time penalties and such penalties are due and owing to
2 Plaintiff.

3 WHEREFORE, Plaintiff seeks a Judgment described in the Prayer of the Complaint.

4 **Second Cause of Action**

5 **(Breach of Oral Contract Against Pony Tracks)**

6 16. The allegations of paragraphs 1 through 15 *infra.* are incorporated herein by this
7 reference.

8 17. An oral contract existed between Plaintiff and Pony Tracks. Pony Tracks, acting
9 through Limbada, its authorized agent, agreed to pay Plaintiff the rate of \$45 per hour in
10 exchange for his full-time work as a ranch hand at the Ranch. In addition, Pony Tracks promised
11 to pay for health insurance coverage for Plaintiff and his dependents during the Employment
12 Term. In a May 11, 2021 email correspondence, Limbada sent Plaintiff information about
13 different health insurance plan options. Finally, Pony Tracks promised Plaintiff the opportunity
14 to participate in an employer sponsored 401(k) retirement savings plan.

15 18. Plaintiff fully performed all of his obligations during the Employment Term.
16 During the Employment Term, Plaintiff worked exclusively at the Ranch fixing fences,
17 maintaining buildings and improving landscaping, among other tasks, on a full-time basis.

18 19. Pony Tracks breached its contract with Plaintiff as follows. During the
19 Employment Term, Pony Tracks failed to pay Plaintiff at the rate of \$45 per hour. On or about
20 July 26, 2021, Pony Tracks unilaterally, and without Plaintiff's consent, reduced Plaintiff's
21 hourly rate to \$37 per hour. In addition, Pony Tracks failed to provide any health insurance
22 coverage for Plaintiff or his dependents and failed to enable his participation in a 401(k)
23 retirement plan.

24 20. The breaches of contract by Pony Tracks, as alleged above in Paragraph 19 *infra.*,
25 caused Plaintiff to suffer damages as follows. During the period July 26, 2021 to August 30,
26 2021 (26 working days/208 hours), Pony Tracks underpaid Plaintiff in the amount of \$1,664 (208
27 x \$8). In addition, Plaintiff did not receive health insurance coverage or participation in a 401(k)
28 retirement plan, the value of which will be proven at trial.

1 WHEREFORE, Plaintiff seeks a Judgment described in the Prayer of the Complaint

2 **Third Cause of Action**

3 **(Fraud and Deceit: Intentional Misrepresentation Against Pony Tracks and Limbada)**

4 21. The allegations of paragraphs 1 through 20 *infra.* are incorporated herein by this
5 reference.

6 22. A relationship of trust and confidence existed between Defendants and Plaintiff at
7 all times relevant to the Complaint. To induce Plaintiff to provide services as a full-time ranch
8 hand at the Ranch, Pony Tracks and Limbada made the following representations to Plaintiff
9 prior to his agreement to work for Defendants:

- 10 a) Plaintiff would be a full-time employee;
11 b) Plaintiff's regular rate of pay would be \$45 per hour; and,
12 c) Pony Tracks would provide health insurance benefits to Plaintiff and
13 Plaintiff's dependents and inclusion in a 401(k) retirement plan.

14 23. At all times relevant to the Complaint, Limbada acted as the agent for Pony
15 Tracks and made the above referenced misrepresentations while acting within the course and
16 authorized scope of such agency.

17 24. In reasonable reliance on the representations alleged in Paragraph 22 *infra.*,
18 Plaintiff agreed to work full-time for Defendants during the Employment Term to the exclusion
19 of other economic opportunities.

20 25. The representations alleged in Paragraph 22 *infra.*, were false. In truth:

- 21 a) Defendants never intended to hire Plaintiff as an employee and intended to
22 treat him as an independent contractor because Defendants, acting through
23 Limbada, believed that independent contractors had less rights;
24 b) Defendants never intended to compensate Plaintiff with regular pay at the
25 rate of \$45 per hour. On or about July 26, 2021, Pony Tracks unilaterally
26 began paying Plaintiff only \$37 per hour as his regular rate of pay; and,
27 c) Defendants never intended to provide health insurance benefits to Plaintiff
28 and Plaintiff's dependents, participation in a 401(k) retirement plan and

1 never provided such employee benefits.

2 26. At all relevant times, Defendants knew that the representations alleged in
3 Paragraph 22 *infra*. were false at the time they made them. At all relevant times, Defendants
4 knew that Plaintiff was relying on the false representations alleged in Paragraph 22 *infra*. when
5 making his decision to accept full-time employment by Defendants. Defendants intended for
6 Plaintiff to rely on these false representations, and Defendants made these representations with
7 the intent to defraud Plaintiff and with the intent to induce Plaintiff to agree to work for
8 Defendants on a full-time basis.

9 27. At all relevant times, Plaintiff was unaware that the representations described in
10 Paragraph 22 *infra*. were false, and Plaintiff believed that they were true at all relevant times.
11 Plaintiff could not, in the exercise of reasonable diligence, have discovered the falsity of
12 Defendants' representations at the time. Had Plaintiff known that these representations were
13 false, he never would have gone to work full-time for Defendants or would not have continued
14 working for Pony Tracks until Defendants honored their representations and promises.

15 28. The aforementioned conduct by Pony Tracks and Limbada, including the
16 intentional misrepresentations and deceit, was done with malice and with the intent to deprive
17 Plaintiff of his property rights and to cause injury to Plaintiff. Pony Tracks and Limbada used
18 Plaintiff's limited English proficiency and foreign-born status to exploit and extract advantage
19 over Plaintiff. Limbada's malicious intent to cause financial harm to Plaintiff is further
20 demonstrated by the fact that in October 2021, Limbada intentionally and maliciously interfered
21 with a new economic opportunity Plaintiff obtained after his employment by Pony Tracks had
22 ended. Pony Tracks and Limbada's conduct was despicable, cruel, oppressive and subjected
23 Plaintiff unjust hardship in conscious disregard of Plaintiff's rights so as to justify an award of
24 punitive damages against Pony Tracks and Limbada.

25 29. As a direct and proximate result of Defendants' knowingly false representations
26 described above, and upon which Plaintiff reasonably relied, Plaintiff suffered damages in
27 amount exceeding \$25,000 to proven at trial.

28 WHEREFORE, Plaintiff seeks a Judgment described in the Prayer of the Complaint.

1 **Prayer for Relief**

2 **For Causes of Action 1 Against Pony Tracks and Limbada:**

- 3 1. Damages that compensate Plaintiff for the unpaid wages, rest/meal breaks,
4 liquidated damages and waiting time penalties owed in the minimum amount of
5 \$62,818 and according to proof;
- 6 2. Interest pursuant to Labor Code §§ 1194 and 1194.2 according to proof; and,
- 7 3. Reasonable attorney's fees incurred in prosecuting this action pursuant to Labor
8 Code § 1194.

9 **For Cause of Action 2 Against Pony Tracks:**

- 10 1. Damages that compensate Plaintiff for the economic loss caused by Defendants'
11 breaches of contract in an amount which exceeds \$25,000 according to proof;
- 12 2. Pre-judgment interest according to proof.

13 **For Cause of Action 3 Against Defendants Pony Tracks and Limbada:**

- 14 1. Damages that compensate Plaintiff for the economic loss caused by Defendants'
15 fraud and deceit in an amount which exceeds \$25,000 according to proof;
- 16 2. Punitive damages for the sake of example and by way of punishing the defendant
17 according to proof; and,
- 18 3. Pre-judgment interest according to proof.

19 **For All Causes of Action Against All Defendants:**

- 20 1. Costs of suit; and,
- 21 2. For such further relief as this Court deems just and proper.

22
23 Dated: November 8, 2021

LEVIN LAW FIRM

24 /s/ David S. Levin

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26 _____
By David S. Levin

27 Attorneys for Plaintiff,
28 Jose Loera

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VERIFICATION

I, Jose Loera, hereby declare:

I am the plaintiff in this action. With the assistance of a translator, I have read the foregoing **Verified Complaint** and know the contents thereof, and I declare that the same is true of my own knowledge, except as to matters which are therein stated upon my information or belief, and as to those matters, I believe them to be true.

I declare, under penalty of perjury under the laws of the state of California, that the foregoing is true and correct and that this Verification is executed on November 8, 2021 in Santa Clara County, California

/s/ Jose Loera

Jose Loera