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VIETNAMESE NAIL SALON WORKERS SUE TO CHALLENGE EXPLOITATIVE LABOR PRACTICES PLAGUING INDUSTRY

Monolingual Vietnamese Workers Fired after Challenging Unlawful Payment Schemes, Fake Time Records and other Unfair Business Practices that Deprived Them of Hundreds of Thousands in Unpaid Wages

ORANGE COUNTY - On Wednesday, Asian Americans Advancing Justice - Los Angeles (Advancing Justice) and Hadsell Stormer & Renick LLP filed a complaint in the Orange County Superior Court on behalf of four Vietnamese nail salon workers formerly employed at Tustin Nail Spa, a popular nail salon in Orange County, California. During their many years as manicurists at the salon, the workers endured some of the most common unlawful wage and hour practices endemic in the industry, including long hours without meal and rest breaks, not receiving minimum wage and overtime compensation, incurring unlawful deductions from wages for using salon equipment and supplies, and being forced to work “off the clock.”

Nail salons make up an \$8.5 billion industry nationally, and are largely operated by first generation Asian American entrepreneurs and workers, many of whom have limited English proficiency and therefore struggle to participate in the mainstream economy. “Owning a nail salon has been a vital means for upward mobility for many Asian American immigrants, especially in the Vietnamese American community,” said John C. Trang, an attorney at Advancing Justice, who represents the plaintiffs. “While many nail salon owners strive to follow the law and include workers in their success, others have sought to enrich themselves by undercutting wages and passing business expenses onto their workers.”

The former employees at Tustin Nail Spa endured years of abusive practices that deprived them of hard-earned wages. Their compensation was based on an unlawful “commission” system where they received approximately 60% of the amount their customers paid for nail services, regardless of how many hours they worked. Because the workers routinely worked 10-12 hour days, this payment scheme resulted in systematic underpayment of wages, including failure to pay mandated minimum wage and overtime compensation. The salon owners also deducted from workers’ compensation for the use of spa chairs and other business supplies. To mask their unlawful workplace practices, the owners devised a system of fake time records and inaccurate pay checks to cast the illusion that workers were paid lawfully by the hour.

“These practices are rampant in the nail salon industry, and we intend to put an end to them,” said Mary Tanagho Ross, an attorney at Hadsell Stormer & Renick, co-counsel in the case. “The workers here endured these unlawful practices for years, but took the courageous step of filing a lawsuit in order to expose the

abusive nature of the practices and the human toll this despicable mistreatment has taken on the workers and their families.”

Despite being subject to an investigation into labor law violations by the State Labor Commissioner, which resulted in citations of \$28,000, the owners continued their unlawful payment schemes. They initiated a series of sham sales of the business in an effort to escape potential liability. Through thinly-veiled ownership transfers to insiders, the salon was “sold” a total of three times in the span of one year. “Lawsuits like this one highlight the fraudulent shell games some businesses play to evade responsibility,” said Kat Choi, an attorney at Advancing Justice who is counsel in the case. “While workers in this industry rarely come forward to exercise their workplace rights out of fear they will be blacklisted, we hope this lawsuit will send the message that organizations like ours will support workers who seek justice at their workplace.”

Additionally, the salon owners repeatedly tried to convert the workers into independent contractors, which would relieve the owners of basic wage and hour duties. In response, the plaintiffs organized 30 workers to sign a petition opposing this misclassification. While worker opposition temporarily forestalled the change, when the third set of owners assumed control of the salon, they again announced their intention to convert the workers into independent contractors. Just days after the workers protested again, three of the four plaintiffs were fired. The salon was sold a fourth time after the four workers filed their lawsuit. The remaining plaintiff was fired soon after by the current owner.

“Even though we smiled and seemed happy in front of customers, the truth was that we were quietly suffering. We did not fight back because we were grateful to have jobs as refugees who do not speak a lot of English, and we wanted to provide for our family and children. After the Labor Commissioner investigated the salon, things got worse and we decided to fight back when they tried to squeeze us more by calling us independent contractors,” said Jenny Hoang, a plaintiff and mother of three who worked at Tustin Nail Spa for nearly a decade. “We never imagined the employers would respond by firing us and we do not regret speaking up and using the law to ask for fair treatment. It was the right thing to do.”

For a full copy of the complaint, [click here](#).

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Asian Americans Advancing Justice-Los Angeles (Advancing Justice-LA) is the nation’s largest legal and civil rights organization for Asian Americans, Native Hawaiians, and Pacific Islanders (NHPI). Through direct services, impact litigation, policy advocacy, leadership development, and capacity building, Advancing Justice-LA focuses on the most vulnerable members of Asian American and NHPI communities while also building a strong voice for civil rights and social justice. Advancing Justice-LA’s Orange County office conducts legal clinics and self-help workshops.

Hadsell Stormer & Renick LLP is one of the nation’s oldest and largest civil rights firms, staffed with highly respected, nationally recognized attorneys. Founded in 1991, Hadsell Stormer represents clients in wide-ranging practice areas including employment discrimination, whistleblower protection, consumer class actions, wage and hour litigation, international human rights, police misconduct and a variety of civil rights matters.

