

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

THE PEOPLE OF THE STATE OF  
ILLINOIS, *ex rel.* KWAME RAOUL,  
Attorney General of Illinois,

Plaintiff,

vs.

TBJ DRYWALL & TAPING, INC., ANA  
PULIDO and ELISEO PULIDO

Defendants.

Case No. 2024CH08067

**COMPLAINT**

The People of the State of Illinois, by Kwame Raoul, Attorney General of Illinois, bring this Complaint against TBJ Drywall & Taping, Inc. (“TBJ”), Eliseo Pulido (“Eliseo”), and Ana Pulido (“Ana”) (collectively “Defendants”) for violations of the Employee Classification Act (“ECA”), 820 ILCS 185/1 *et seq.*, and the Illinois Minimum Wage Law (“IMWL”), 820 ILCS 105/1 *et seq.*

**NATURE OF THE CASE**

1. TBJ Drywall & Taping, Inc. is a construction business primarily engaged in drywall installation, drywall taping, and interior painting. It is based in Elgin, Illinois and performs work in Cook, Lake, and Kane counties. Since at least 2018, Defendants have misclassified some of their employees as independent contractors in violation of the ECA. TBJ failed to pay misclassified employees for all time worked over 40 hours per week at time and a half their regular rate of pay in violation of the IMWL. Defendants also paid other employees for overtime work performed on the weekends “off the books,” in cash, at a rate lower than time and a half employees’ regular rate of pay in violation of the IMWL.

2. The ECA requires that employers designate individuals performing construction services as employees unless: “the individual has been and will continue to be free from control or direction over the performance of the service for the contractor, both under the individual's contract of service and in fact; the service performed by the individual is outside the usual course of services performed by the contractor; and the individual is engaged in an independently established trade, occupation, profession or business; or the individual is deemed a legitimate sole proprietor or partnership.” 820 ILCS 185/10(b). Employers must establish the first three factors of section 4 of the ECA (the “ABC Test”) or establish that the employees are legitimate sole proprietors or partnerships. *Id.* For years, Defendants flagrantly violated the ECA by misclassifying a significant number of its employees as independent contractors.

3. The IMWL requires that employers compensate their employees at a rate not less than one-and-a-half times their regular rate of pay for all time worked over 40 hours per week. 820 ILCS 105/4a. For years, Defendants have violated this fundamental obligation by compensating workers at their regular rate of pay for hours worked over 40 in a workweek.

#### **THE ATTORNEY GENERAL’S ENFORCEMENT AUTHORITY**

4. The Attorney General Act, 15 ILCS 205/1 *et seq.*, empowers the Attorney General to initiate legal proceedings on behalf of the People of the State of Illinois on matters related to the payment of wages, including the provisions of the ECA, the IMWL, and the IWPCA. *Id.* § 6.3(b).

5. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain restitution, equitable relief, injunctive relief, and civil penalties against any person or entity that violated the provisions of the ECA and the IMWL. *Id.* § 6.3(d).

6. Prior to filing this suit, the Attorney General conducted an investigation that included issuing pre-lawsuit subpoenas for documents to TBJ and depositions, as provided by the Attorney General Act. 15 ILCS 205/6.3(c).

## JURISDICTION AND VENUE

7. This action is brought pursuant to section 6.3(b) of the Attorney General Act, 15 ILCS 205/6.3(b), and seeks equitable and monetary relief for violations of section 20 of the ECA, 820 ILCS 185/20 and section 4a of the IMWL, 820 ILCS 105/4a.

8. This Court has personal jurisdiction over Defendants. TBJ is a domestic corporation incorporated under the laws of Illinois, 735 ILCS 5/2-209(b)(3) and Ana and Eliseo Pulido are natural persons domiciled within Illinois at all relevant times, *id.* § 2-209(b)(2).

9. Venue is proper in Cook County because some of the construction projects at which workers were misclassified and underpaid took place in Cook County. *Id.* § 5/2-101. For example, employees were misclassified and underpaid at construction projects in Lemont, Elgin, Northbrook, and Orland Park, Illinois in 2023. *Id.* § 5/2-102(a).

## PARTIES

10. The People, by Kwame Raoul, Attorney General of Illinois, bring this action as authorized by the Attorney General Act. 15 ILCS 205/4; *id.* § 205/6.3(b).

11. In 2019, the General Assembly found that the welfare and prosperity of all Illinois citizens and businesses required the establishment of a unit within the Attorney General's Office dedicated to pursuing businesses that underpay their employees and gain an unfair economic advantage by avoiding their labor responsibilities. 15 ILCS 205/6.3(a). The Attorney General's Workplace Rights Bureau exercises this statutory authority.

12. TBJ Drywall & Taping Inc., is a corporation incorporated under Illinois law. TBJ's registered office is located at 557 Cooper Ave., Elgin, IL 60120.

13. At all relevant times, TBJ has been an "employer" as that term is defined by 820 ILCS 105/3(c).

14. Eliseo Pulido is the Co-Owner of TBJ. He is domiciled at 557 Cooper Ave., Elgin, IL 60120.

15. At all relevant times, Eliseo Pulido has been an “employer” as that term is defined by 820 ILCS 105/3(c).

16. Ana L. Pulido the Co-Owner of TBJ. She is domiciled at 557 Cooper Ave., Elgin, IL 60120.

17. At all relevant times, Ana L. Pulido has been an “employer” as that term is defined by 820 ILCS 105/3(c).

### **FACTS**

18. TBJ provides drywall, taping, and painting services out of Elgin, Illinois

19. Eliseo and Ana, are spouses and co-owners of TBJ.

20. At all relevant times, Eliseo served as president of TBJ

21. At all relevant times, Ana has served as secretary of TBJ.

22. At all relevant times, TBJ’s business has consisted of drywall installation, taping, and painting.

#### **A. Misclassification of Employees**

23. From at least 2018 until at least 2023, Defendants have misclassified a large part of their workforce, including most of their tapers and drywall installers as independent contractors.

24. Misclassified workers worked under the supervision and control of Defendants, and performed work that was within Defendants’ usual course of business.

25. The misclassified workers were employees under 820 ILCS 185/10.

26. The misclassified workers regularly worked more than 40 hours in a workweek.

27. The majority of the misclassified workers were compensated at a fixed amount for each day of work they performed, regardless of how many hours they worked each day.

28. Misclassified workers were not paid at time and a half their regular rate of pay for all hours worked in excess of 40 per week in violation of section 4a of the IMWL, 820 ILCS 105/4(a).

**B. Cash Payments for Weekend Work.**

29. Other TBJ employees were paid an hourly rate for work performed during weekdays but were paid a fixed day rate, in cash, for work performed on weekends.

30. The weekend work performed by these TBJ employees was typically overtime work in excess of 40 hours per week.

31. Defendants' practice of compensating weekend work in excess of 40 hours per weeks at a fixed cash day rate instead of at time and a half employees' regular rate of pay violated section 4a of the IMWL, 820 ILCS 105/4(a).

**COUNT I  
Violations of Illinois Minimum Wage Law – Overtime**

32. Defendants permitted employees to work for them.

33. Defendants' employees worked in excess of 40 hours in many workweeks.

34. Defendants routinely paid misclassified employees a flat day rate for all time worked including all time worked in excess of 40 hours per week.

35. Defendants' payments to misclassified employees did not include premium overtime pay for hours worked in excess of 40 hours in a workweek.

36. Defendants routinely paid employees for hours worked in excess of 40 per week on weekends in cash at a fixed day rate. This fixed day rate for weekend work did not include premium pay for hours worked in excess of 40 hours in a workweek.

37. Defendants violated section 4a of the IMWL, 820 ILCS 105/4(a)(1), by failing to compensate employees for all time worked in excess of 40 hours in any workweek at a rate not less than one and one-half times the regular rate at which they were employed.

38. The IMWL provides for civil penalties under which employees may recover treble the amount of the underpayments. *Id.* § 12(a).

39. The IMWL also provided for additional damages of 5% of the amount of the underpayments for each month following the date of payment during which the underpayments remain unpaid. *Id.*

40. Further, the ECA provides that misclassified employees may recover “compensation denied or lost to the person by reason of the violation.” 820 ILCS 185/60(a)(1). *See also Jaworski v. Master Hand Contrs., Inc.*, 2014 U.S. Dist. LEXIS 129107, at \*5-6 (N.D. Ill. Sept. 16, 2014) (misclassified employees may recover any remedy they would have been due under the IMWL had they not been misclassified, without having to show that they were employees under the IMWL itself)

41. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain, as remedies, monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the Attorney General prays that this Honorable Court:

- a. Award judgment in Plaintiff’s favor;
- b. Enter a judgment in the amount of all overtime wages and statutory damages due to employees to be paid to the Attorney General to be held in trust for the employees’ benefit;

- c. Award the appropriate amount of monthly prejudgment interest, as provided by the IMWL;
- d. Award such relief as the court deems necessary to address Defendants' violations of the IMWL, including disgorgement of ill-gotten gains;
- e. Enjoin Defendants from engaging in employment practices that violate the IMWL; and
- f. Grant such other relief that the Court deems appropriate.

**COUNT II**  
**Violations of the Employee Classification Act – Misclassification**

42. Defendants were engaged in carpentry, drywall installation, painting, taping.

43. Defendants were “contractors” as defined by the ECA because they engaged in “construction.” 820 ILCS 185/5.

44. Defendants were “employers” as defined under the ECA. *Id.*

45. TBJ’s workers were “employees” as under the statute. *Id.*

46. The ECA requires employers to designate workers as employees unless certain criteria are met. *Id.* § 20.

47. Under the ECA, an “individual performing services for a contractor” is presumed to be an employee unless the following is shown: (1) the individual has been and will continue to be free from control or direction over the performance of the service for the contractor, both under the individual's contract of service and in fact; (2) the service performed by the individual is outside the usual course of services performed by the contractor; and (3) the individual is engaged in an independently established trade, occupation, profession or business; or (4) the individual is deemed a legitimate sole proprietor or partnership. *Id.* § 10(b)

48. Defendants maintained significant control or direction over workers’ performance by assigning daily tasks, determining hours, and prescribing wages and pay rates.

49. Employees were specialized craftsmen and performed services such as taping, painting, and drywall installation, all of which are within Defendants' usual course of services.

50. Employees were not engaged in independently established trade, occupation, profession or business.

51. Lastly, Employees were not legitimate sole proprietors or partnerships. Workers were under the direct control of Defendants. Defendants provided tools and materials necessary to complete assignments.

52. Defendants misclassified a significant number of their workers in violation of 820 ILCS 185/10.

53. In an action brought under section 6.3 of the Attorney General Act, the Attorney General may obtain as remedies monetary damages to the State, civil penalties in the maximum amount prescribed by law, and equitable relief as may be appropriate. 15 ILCS 205/6.3(d).

WHEREFORE, the Attorney General prays that this Honorable Court:

- a. Award judgment in Plaintiff's favor;
- b. Assess civil penalties of \$2,000 per violation against Defendants for willfully misclassifying individuals performing services for TBJ;
- c. Award an equal amount in punitive damages to be held in trust by the Attorney General for the affected employees;
- d. Award such relief as the court deems necessary to address Defendants' violations of the ECA, including disgorgement of ill-gotten gains;
- e. Prohibit Defendants, including any entity owned or controlled by any of Defendants, or any entity for which any Defendant serves as an officer or agent, from participating in any public works project for 4 years; and



f. Grant such other relief that the Court deems appropriate.

THE PEOPLE OF THE STATE OF ILLINOIS  
*ex rel.* KWAME RAOUL,  
Attorney General of Illinois

Dated: August 27, 2024

By: /s/ Jack Cramer

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