

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) **SBN: 239984**
 Matthew Siroly, Esq.; DIR- Division of Labor Standards Enforcement
 320 W. 4th Street, Suite 600
 Los Angeles, CA 90013
 TELEPHONE NO.: (213) 576-7717 FAX NO. (Optional):
 E-MAIL ADDRESS (Optional):
 ATTORNEY FOR (Name): **Labor Commissioner**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco
 STREET ADDRESS: 400 McAllister Street, Room 103
 MAILING ADDRESS: 400 McAllister Street, Room 103
 CITY AND ZIP CODE: San Francisco 94102
 BRANCH NAME: **Civic Center**

PLAINTIFF/PETITIONER: **Labor Commissioner of the State of California**
 DEFENDANT/RESPONDENT: **Philip Achilles aka Philip Achilleos, et al.**

CASE MANAGEMENT STATEMENT
 (Check one): **UNLIMITED CASE** (Amount demanded exceeds \$25,000) **LIMITED CASE** (Amount demanded is \$25,000 or less)

FOR COURT USE ONLY

ELECTRONICALLY FILED
 Superior Court of California, County of San Francisco
05/16/2019
 Clerk of the Court
 BY: **JEFFREY LEE**
 Deputy Clerk

CASE NUMBER:
CGC-18-571050

A **CASE MANAGEMENT CONFERENCE** is scheduled as follows:
 Date: 6/12/19 Time: 10:30 am Dept.: 610 Div.: Room:
 Address of court (if different from the address above):
 Notice of Intent to Appear by Telephone, by (name): Matthew Siroly, attorney for Plaintiff Labor Commissioner

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties (answer one):**

- a. This statement is submitted by party (name): **Labor Commissioner of the State of California**
- b. This statement is submitted jointly by parties (names):

2. **Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)**

- a. The complaint was filed on (date): **11/1/2018**
- b. The cross-complaint, if any, was filed on (date):

3. **Service (to be answered by plaintiffs and cross-complainants only)**

- a. All parties named in the complaint and cross-complaint have been served, have appeared, or have been dismissed.
- b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
- c. The following additional parties may be added (specify names, nature of involvement in case, and date by which they may be served):

*****Note: Although defendants have appeared in the action by filing applications to extend time to respond to the complaint, they have not actually responded. The court granted defendants until May 10, 2019 to file a responsive pleading, but none appears to have been filed as of May 15, 2019.**

4. **Description of case**

- a. Type of case in complaint cross-complaint (Describe, including causes of action):

Fraudulent transfer of real estate (causes of action 1 to 3) and wage and hour claims for: violation of Labor Code 2802, minimum wage, overtime, meal and rest break premiums, and waiting time penalties (COAs 4-9).

PLAINTIFF/PETITIONER: Labor Commissioner of the State of California	CASE NUMBER:
DEFENDANT/RESPONDENT: Philip Achilles aka Philip Achilleos, et al.	CGC-18-571050

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

Labor Commissioner seeks to recover wages and penalties due to shuttle van drivers. In addition, Labor Commissioner seeks to unwind the fraudulent conveyance of the employer's real estate. The total damages are estimated to exceed \$1.3MM. The general terms of a settlement were agreed to at mediation on 2/25/19.

However, Defendants have breached the agreement and failed to cooperate in drafting a long-form agreement.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date)*:

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. days *(specify number)*: 8-10

b. hours (short causes) *(specify)*:

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation (if available).**

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER: Labor Commissioner of the State of California DEFENDANT/RESPONDENT: Philip Achilles aka Philip Achilleos, et al.	CASE NUMBER: CGC-18-571050
---	-------------------------------

10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input checked="" type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input checked="" type="checkbox"/> Mediation completed on (<i>date</i>): 2/25/19
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

PLAINTIFF/PETITIONER: Labor Commissioner of the State of California	CASE NUMBER: CGC-18-571050
DEFENDANT/RESPONDENT: Philip Achilles aka Philip Achilleos, et al.	

11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
 - b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):
 Plaintiff will be seeking to enforce the meditation settlement and/or for default against defendants. Thus, discovery is unlikely to be necessary at this time.

PLAINTIFF/PETITIONER: Labor Commissioner of the State of California	CASE NUMBER: CGC-18-571050
DEFENDANT/RESPONDENT: Philip Achilles aka Philip Achilleos, et al.	

17. Economic litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case):

18. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (specify):

Parties agreed to the basic terms of a settlement at mediation on February 25, 2019, and signed a short-form agreement. However, defendants have breached that agreement. Plaintiff intends to seek enforcement of the agreement with the court, or in the alternative, entry of a default judgment. Defendants have appeared in the action, filing motions to extend time to respond to the complaint, but they have not file a responsive pleading

19. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (if not, explain):
Parties agreed to the basic terms of a settlement at mediation on February 25, 2019, and have not yet responded to the complaint. Thus, discovery and trial setting questions are not ripe.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (specify):

20. Total number of pages attached (if any): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: 5/15/19

Matthew Sirolly, Attorney for Plaintiff Labor Commission

(TYPE OR PRINT NAME)



/s/Matthew Sirolly

(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.