

<b>STATE OF CALIFORNIA</b> <b>Department of Industrial Relations</b> <b>Labor Commissioner's Office</b> 320 W 4th St Ste 450 Los Angeles, CA 90013 Tel: (213) 620-6330 Fax: (213) 897-4059		For Court Use Only:
Plaintiff: Dolores Quintana,		Court Number:
Defendant: MATT DENOTO, an individual		
Case No.: 06-119326	<b>ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER</b>	

1. The above-entitled matter came on for hearing before the Labor Commissioner of the State of California as follows:  
**DATE: June 5, 2017** **CITY: 320 W 4th St, Ste 450, Los Angeles, CA 90013**

2. IT IS ORDERED THAT: Plaintiff recover from Defendant:

	Balance Due to Employee(s)	Interest Balance Due	Line Total
MINIMUM WAGE	\$0.00	\$0.00	\$0.00
LIQUIDATED DAMAGES	\$0.00	\$0.00	\$0.00
WAITING TIME PENALTIES	\$0.00	\$0.00	\$0.00
<b>Totals</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

3. The herein Order, Decision or Award is based upon the Findings of Fact, Legal Analysis and Conclusions attached hereto and incorporated herein by reference.

4. The parties herein are notified and advised that this Order, Decision or Award of the Labor Commissioner shall become final and enforceable as a judgment in a court of law unless either or both parties exercise their right to appeal to the appropriate court\* within ten (10) days of service of this document. Service of this document can be accomplished either by first class mail or by personal delivery and is effective upon mailing or at the time of personal delivery. If service on the parties is made by mail, the ten (10) day appeal period shall be extended by five (5) days. For parties served outside of California, the period of extension is longer (See Code of Civil Procedure Section 1013). In case of appeal, the necessary filing fee must be paid by the appellant and appellant must, immediately upon filing an appeal with the appropriate court, serve a copy of the appeal request upon the Labor Commissioner. If an appeal is filed by a corporation, a non-lawyer agent of the corporation may file the Notice of Appeal with the appropriate court, but the corporation must be represented in any subsequent trial by an attorney, licensed to practice in the State of California. Labor Code Section 98.2(c) provides that if the party seeking review by filing an appeal to the court is unsuccessful in such appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other party to the appeal and assess such amount as a cost upon the party filing the appeal. An employee is successful if the court awards an amount greater than zero. **PLEASE TAKE NOTICE:** Labor Code Section 98.2(b) requires that as a condition to filing an appeal of an Order, Decision or Award of the Labor Commissioner, the employer shall first post a bond or undertaking with the court in the amount of the ODA; and the employer shall provide written notice to the other parties and the Labor Commissioner of the posting of the undertaking. Labor Code Section 98.2(b) also requires the undertaking contain other specific conditions for distribution under the bond. While this claim is before the Labor Commissioner, you are required to notify the Labor Commissioner *in writing* of any changes in your business or personal address within 10 days after change occurs.

Notice Date: November 09, 2017

\*Stanley Mosk Courthouse - Los Angeles Superior Court  
 111 North Hill Street Room 102  
 Los Angeles, CA 90012

By

Donald Banks, Hearing Officer

<b>STATE OF CALIFORNIA</b> <b>Department of Industrial Relations</b> <b>Labor Commissioner's Office</b> 320 W 4th St Ste 450 Los Angeles, CA 90013 Tel: (213) 620-6330 Fax: (213) 897-4059	For Court Use Only:
Plaintiff: Dolores Quintana,	Court Number:
Defendant: KATHRYN MAYER, an individual	
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 111 North Hill Street Room 102  
 Los Angeles, CA 90012

By

  
 Donald Banks, Hearing Officer

BEFORE THE LABOR COMMISSIONER  
OF THE STATE OF CALIFORNIA

DOLORES QUINTANA,

Plaintiff,

vs.

MATT DENOTO, an individual;  
KATHRYN MAYER, an individual,

Defendant

CASE NO. 06-119326 FD

ORDER, DECISION OR AWARD  
OF THE LABOR COMMISSIONER

BACKGROUND

Plaintiff filed an initial claim with the Labor Commissioner's office on April 29, 2016. The Complaint alleges that Plaintiff is owed:

1. Wages for 41.694 hours at \$9.00 per hour earned from May 9, 2015 through June 27, 2015, claiming \$375.25;
2. Liquidated damages pursuant to Labor Code section 1194.2;
3. Interest pursuant to Labor Code sections 98.1(c) and 1194.2; and
4. Waiting time penalties pursuant to Labor Code section 203.

A hearing was conducted in Los Angeles, California, on June 5, 2017, before the undersigned hearing officer designated by the Labor Commissioner to hear this matter. Plaintiff appeared with her advocate, David Mack. Matt Denoto, an individual, appeared in pro per. Kathryn Mayer, an individual did not appear. Denoto and Mayer will be hereinafter collectively referred to as "Defendants." Abel Horwitz and Jahel Caldera appeared as witnesses for Defendants.

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1 Due consideration having been given to the testimony, documentary evidence, and  
2 arguments presented, the Labor Commissioner hereby adopts the following Order, Decision  
3 or Award.

4  
5 FINDINGS OF FACT

6 Plaintiff contends that Defendant employed her under the terms of an oral agreement  
7 to perform personal services as an actor in a community theatre play production in Los  
8 Angeles, California, County of Los Angeles, from May 9, 2015 to June 27, 2015. Plaintiff  
9 worked an average of four hours per day. Therefore, Plaintiff's daily wage was \$36 per day.

10 Plaintiff testified that the word "volunteer" appeared nowhere in the casting notices  
11 (Exhibit 2), or discussed with her. Her time and duties were managed by Defendants  
12 inasmuch as her schedule required mandatory appearances, and her acting was directed by  
13 Defendant, e.g., where to stand, when to speak, how loud to speak, etc. Based on her  
14 recollection and review of the production schedule (Exhibit 2), Plaintiff brings a minimum  
15 wage claim for 41.694 hours earned from May 9, 2015 to June 27, 2015, being \$375.25.

16 On June 27, 2015, Plaintiff was discharged from her employment when the production  
17 run came to an end. Plaintiff received two \$70.00 payments from Defendant, who  
18 characterized them as honorariums (Exhibit 4).

19 Matt Denoto, appearing on his own behalf, testified that Plaintiff was a volunteer  
20 actor. The production carried no 501c(3) status, but it was a non-profit endeavor.

21 Defendants' witnesses, Abel Horwitz and Jahel Caldera, provided essentially the  
22 same testimony, in that, both stated that they volunteered their time.

23  
24 LEGAL ANALYSIS

25 A volunteer is one who donates his or her services to a religious, charitable, or  
26 similar non-profit corporation without contemplation of pay and for public service,

1 religious, or humanitarian objectives. In determining whether a person is a volunteer,  
2 the two main factors to be considered are the nature of the entity to whom services are  
3 provided and the intention of the parties regarding the nature of the relationship.  
4 Defendants operated a non-commercial, likely not for profit, enterprise consisting of  
5 community theater production. Defendants are precisely the type of entity for whom  
6 individuals may donate their time on a volunteer basis without expectation of  
7 compensation.

8 Plaintiff responded to audition notices without the expectation of payment. She  
9 acknowledged that the advertisements contained nothing regarding a rate of pay, and  
10 that she needed the role.

11 Plaintiff was a bona fide volunteer providing services for a community theater  
12 organization without expectation of compensation. Accordingly, there are no wages,  
13 liquidated damages, or penalties owed to Plaintiff.

14  
15  
16 CONCLUSION

17 For all the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff, Dolores  
18 Quintana, shall take nothing by virtue of her Complaint.

19  
20  
21  
22 Date: November 9, 2017



23 Donald Banks  
24 Hearing Officer