



**Denver  
Labor**

# City and County of Denver

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## Liability Determination

### Re: Active Enforcement Investigation into Garuda Labs, Inc. doing business as Instawork and Advantage Workforce Services, LLC

#### I. INTRODUCTION AND SUMMARY OF DETERMINATION AND PENALTIES

For decades, Colorado’s staffing agencies have provided on-demand, short-term labor. By and large, these businesses follow the law. They classify their workers as employees, pay minimum wage and overtime, provide sick and safe leave, carry workers’ compensation insurance, and pay their taxes. They provide fair pay for honest work, contribute to Colorado’s economic success, and help build an economy that benefits all.

These things are not true for all employers, though. Too many commit wage theft and violate workers’ most basic rights. It is hard to overstate the harm of such practices. Wage theft increases economic insecurity, creates anxiety, precarity, and uncertainty, and threatens eviction, hunger, and debt. It injures both the workers who are denied the money they have earned and the ethical employers who are forced to compete against a rival with an unfair advantage. But wage theft is extremely profitable for those businesses that perpetrate it. They increase their profits, keep workers vulnerable, and run competitors out of business by offering low prices driven by exploitation.

This Determination is about the second type of employer: Garuda Labs, Inc., which does business as Instawork and has a wholly-owned subsidiary called Advantage Workforce Services (AWS) (together, the “Employers”).

On May 28, 2024, the Denver Labor Division of the Denver Auditor’s Office (“Denver Labor” or the “Division”) opened an investigation into AWS. AWS is a staffing agency operating throughout the United States, including in Denver. But unlike most staffing firms, AWS broke nearly every applicable wage and hour law. It denied its employees basic information about their rights, all while systematically violating them. It stole an extraordinary amount of money from its low-income workers. It frequently failed to pay minimum wage and overtime. It routinely denied paid sick and safe leave to its employees, who overwhelmingly work in hospitality, food service, and warehousing roles — exactly the kinds of close-quarters jobs where sick leave is most important.

But there’s an additional wrinkle. In 2023, Denver Labor investigated AWS’ parent company **for these exact same issues**. On January 16, 2024, the Division released a determination (the “Instawork Determination”) regarding Garuda Labs. Denver Labor determined that Instawork had misclassified nearly 3,000 employees as independent contractors and systemically violated their fundamental wage and hour rights. Like AWS,

Instawork committed widespread wage theft. It paid sub-minimum wages, didn't pay overtime, denied workers notice of their rights, and refused to provide paid sick and safe leave. Like AWS, Instawork is a staffing agency that undercut its competitors through illegal practices.

Denver Labor's latest investigation has revealed three facts.

First, AWS committed thousands of legal violations. Frequently, flagrantly, and to great profit.

Second, **Instawork** withheld an extraordinary amount of payroll data while being investigated — data that Denver Labor specifically requested and Instawork claimed, falsely, it provided. This information encompasses nearly **14,000** shifts and **at least 1,467** employees.

And third, the Employers are not, in any meaningful way, separate. Instawork fully owns and controls AWS, which is wholly dependent upon its parent to do business, make money, and serve clients. In fact, in Denver AWS and Instawork shared their largest client, and both simultaneously provided the same kind of labor, sometimes during the same week. All work for the Employers happens through Instawork's app, where workers have just a single profile and performance score. Instawork tracks all relevant information about workers, applies its many detailed standards, rules, and requirements to employees of AWS, and profits from their labor.

As a matter of law, Instawork is both an individual employer and a joint employer of employees of AWS. In addition, AWS is merely Instawork's alter ego. It was set up to cleave Instawork's business into two parts. AWS exists to provide cover for Instawork's illegal misclassification scheme and to deny these employees the full range of wages they have earned. **In short, Instawork is responsible for all wage and hour violations committed against its workers, including those employees of AWS, and Instawork and AWS must be analyzed as a single entity for the purposes of measuring those violations.**

Because the Employers are not truly separate, and the parent company owns, controls, and is responsible for all violations revealed by the Division's investigations, this Determination discusses them under their most well-known and popular trade name: Instawork, which is ultimately the responsible party for this widespread wage theft.

This Determination does not rescind the Instawork Determination. It incorporates and supplements Denver Labor's prior findings and orders as necessary to address the new and only recently discovered information that Instawork withheld — and continues to withhold — for more than seven months. This Determination refines and updates Denver Labor's prior math regarding notice violations and wage theft, including overtime and paid sick and safe leave violations. It also fully articulates the details of the Employers' relationship — a relationship Instawork previously hid.

In Denver alone, Instawork has committed more than **20,000** violations of its employees' basic wage and hour rights. This includes more than 1,600 minimum wage violations, 750 overtime violations, and 19,400 paid sick leave violations. Each of these acts constitutes a separate violation of Denver's Minimum Wage and Civil Wage Theft Ordinances (the "Ordinances"). D.R.M.C. § 58-1 *et seq.*

The Ordinances promise dignity and fairness at work. They prohibit wage theft. They require employers to provide workers with notice of their rights; keep and produce accurate records of hours worked and wages paid; and pay workers all the wages they have earned.

Instawork broke every one of these requirements. **To address these violations, Denver Labor:**

1. **Concludes that all workers covered by this Determination who labor and have labored through the Instawork platform are employees** entitled to minimum wage, overtime, paid sick and safe leave, and all other wages owed to employees under law.
2. **Concludes that Instawork bears liability for all wage theft committed against workers on its platform for work performed in Denver.** There are three overlapping and alternative reasons:
  - a. Instawork is the employer of all workers on its platform under the Colorado Wage Act (CWA), C.R.S. § 8-4-101(5), as incorporated into the Ordinances. D.R.M.C. § 58-22.
  - b. AWS is Instawork's alter ego. Piercing the corporate veil is appropriate here. It is, in fact, required by the principles of justice. The Employers must be treated as a single entity for wage and hour purposes.
  - c. Instawork and AWS are joint employers of AWS Employees under the Colorado Wage Act, C.R.S. § 8-4-101(5), as incorporated into the Ordinances. D.R.M.C. § 58-22.
3. **Orders Instawork to pay \$190,805.02 in restitution to the 334 employees against whom it committed overtime-based wage theft,** as detailed in Exhibit A, *Restitution Owed*. This restitution includes unpaid wages of \$47,701.26, 300% damages of \$143,103.77, and statutory interest of 12% per year.

Accrued interest shall apply concurrently with damages up until the date of this Determination; as of August 27, 2024, 12% annual interest shall accrue cumulatively of damages on all unpaid wages still outstanding. This restitution order shall supersede Denver Labor's previous order regarding overtime and minimum wage violations, based on new information previously withheld from Denver Labor.

As explained in Section III.G.1, Instawork may deduct from this total all overtime wages already paid that are accounted for in the \$47,701.26, provided it can provide evidence of applicable payments made. Because its back payments were untimely, however, and based on the circumstances described in this Determination, damages shall remain the same.

4. **Fines Instawork \$47,701.26** for its overtime violations. This is significantly less than the maximum allowable under the Ordinances, which contemplate a maximum fine of

\$25,000 per violation. The Division determines that a fine of 100% of the total of Instawork's weekly and daily overtime violations is sufficient to recognize and redress the harm it caused.

5. **Order Instawork to accrue paid sick and safe leave to workers** at a rate no less than 1 hour per 30 hours worked. Instawork shall calculate the paid sick and safe leave its employees earned and should have received. To the extent those employees are still entitled to paid sick leave pursuant to the requirements of Colorado law, Instawork must create a bank tracking such leave for each eligible employee. It must present its findings to Denver Labor within 30 days of the date of this Determination to ensure accuracy.
6. **Fines Instawork \$974,300 for its failure to provide earned wages in the form of paid sick and safe leave**, based on fines of \$50 for each of the 19,486 violations of which Denver Labor is aware. *See Ex. A, PSL Violation Weeks – DL*. This fine shall supersede the fine of \$659,750 already imposed against Instawork for this type of wage theft, based on new information previously withheld from Denver Labor.
7. **Fines Instawork \$982,890** for withholding payroll records from Denver Labor, based on fines of **\$670** for each of the **1,467 workers** for whom Instawork withheld information.
8. **Fines Instawork \$1,000 per day, with the first day being July 20, 2024** for continuing to withhold records regarding work performed through the Instawork platform since October 16, 2020. Specifically, Instawork refuses to provide full records for work performed between October 16, 2020 and May 28, 2021, and refuses to provide records of deductions from wages imposed against employees since October 16, 2020. As of the date of this order, this fine is **\$37,000**.
9. **Fines Instawork \$121,940** for the full range of the Employers' notice violations, based on fines of \$35 for each of the **3,484** workers who did not receive timely notice of their rights. This fine shall supersede the fine of \$73,900 already imposed against Instawork for this type of violation, based on new information previously withheld from Denver Labor.
10. **Orders Instawork to provide all other records it has thus far withheld**, including those described in Point 8; payroll records reflecting work performed on shifts booked through the app since December 12, 2023; and records reflecting any deductions for rest breaks imposed against workers' wages for work performed on shifts booked through the app since October 16, 2020. *See Instawork Determ., p. 36*.

This Determination contains final, appealable conclusions and orders, *see* D.R.M.C. § 58-5, but does not include fines for the full range of Instawork's violations. Nor does it assess all damages or fines available under the Ordinance. If Instawork does not fully comply with this Determination within **30 days of its date**, Denver Labor will take further action, including (but not limited to) imposing additional sanctions. Additionally, the second phase of this

process will assess whether and to what extent Instawork has already paid unpaid wages as calculated by Denver Labor.

These orders undercount the true extent of the Employers' legal violations. Some of those violations may only be revealed by the information that Instawork was required to produce but continues to withhold. Others fall outside of Denver Labor's enforcement authority, such as Instawork's failure to pay applicable payroll taxes for thousands of its employees. Finally, if Instawork is systematically violating the law in Denver, it is almost certainly doing so throughout Colorado – and the United States.

The Division therefore will refer this matter to its municipal, state, and federal partners.