

FILED
Superior Court Of California,
Sacramento
04/08/2022
kjohnson12
By _____, Deputy
Case Number:
34-2022-00318020

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

LATOYIA KIMII BROWN, as an
individual and on behalf of all others
similarly situated,

Plaintiff,

vs.

HP HOOD LLC, a Delaware limited
liability company; and DOES 1 through
50, inclusive,

Defendants.

Case No.:

**REPRESENTATIVE ACTION COMPLAINT
UNDER THE PRIVATE ATTORNEYS
GENERAL ACT OF 2004**

DEMAND OVER \$25,000.00

BY FAX

Plaintiff Latoyia Kimii Brown ("Plaintiff") hereby submits this Representative Action Complaint ("Complaint") against Defendant HP Hood LLC ("Defendant"), and Does 1 through 50 (collectively, "Defendants"), individually, and on behalf of herself and all aggrieved employees of Defendant, for penalties for violations of the California Labor Code as follows:

INTRODUCTION

1. This representative action is within the Court's jurisdiction under California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, 2698, *et seq.*, and the applicable Wage Orders of the Industrial Welfare Commission ("IWC").

**REPRESENTATIVE ACTION COMPLAINT UNDER THE PRIVATE ATTORNEYS GENERAL ACT
OF 2004**

2. This Complaint challenges systemic illegal employment practices resulting in violations of the California Labor Code against individuals who worked for Defendant.

3. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly and severally, have acted intentionally and with deliberate indifference and conscious disregard to the rights of all employees by failing to pay minimum, regular, and overtime wages for all hours worked, failing to reimburse business expenses, failing to pay meal and rest period premium pay at the regular rate of pay, and failing to provide accurate itemized wage statements to its employees in the State of California.

JURISDICTION AND VENUE

4. The Court has jurisdiction over the violations of the California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, 2698, *et seq.*, and the applicable IWC Wage Orders.

5. Venue is proper in Sacramento County because Plaintiff worked for Defendants in Sacramento County.

PARTIES

6. 8. Plaintiff was employed by Defendants as a Relief Worker from about March 25, 2019, to about October 25, 2021. During her employment with Defendants, Plaintiff worked as a non-exempt employee.

7. Plaintiff was and is the victims of the policies, practices, and customs of Defendant complained of in this action in ways that have deprived her of the rights guaranteed by California Labor Code §§ 201-204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, 2698, *et seq.*, and the applicable IWC Wage Orders.

8. 10. Plaintiff is informed and believes, and based thereon alleges, that Defendant HP Hood LLC was and is a Delaware limited liability company that maintains operations and does business in the State of California, including in Sacramento County, California. Plaintiff is informed and believes, and based thereon alleges, that Defendant operates as a dairy processor.

9. Plaintiff is informed and believes, and based thereon alleges, that at all times

herein mentioned Does 1 through 50, are and were corporations, business entities, individuals, and partnerships, licensed to do business and actually doing business in the State of California. As such, and based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to the California Labor Code and the applicable IWC Wage Orders.

10. Plaintiff does not know the true names or capacities, whether individual, partner or corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this complaint when the true names and capacities are known. Plaintiff is informed and believes and based thereon alleges that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused Plaintiff and members of the general public and aggrieved employees to be subject to the illegal employment practices, wrongs and injuries complained of herein.

11. At all times herein mentioned, each defendant participated in the doing of the acts hereinafter alleged to have been done by the named Defendant; and furthermore, Defendants, and each of them, were the agents, servants and employees of each of the other defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting within the course and scope of said agency and employment.

12. Plaintiff is informed and believes, and based thereon alleges, that at all times material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or joint venturer of, or working in concert with each of the other co-Defendants and was acting within the course and scope of such agency, employment, joint venture, or concerted activity. To the extent said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

13. At all times herein mentioned, Defendants, and each of them, were members of, and engaged in, a joint venture, partnership and common enterprise, and acting within the course and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

14. At all times herein mentioned, the acts and omissions of various Defendants, and

1 each of them, concurred and contributed to the various acts and omissions of each and all of the
2 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
3 herein mentioned, Defendants, and each of them, ratified each and every act or omission
4 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
5 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
6 damages as herein alleged.

7 **FIRST CAUSE OF ACTION**

8 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

9 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

10 15. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as
11 though fully set forth herein.

12 16. Plaintiff brings this cause of action as a proxy for the State of California and in
13 this capacity, seeks penalties on behalf of all Aggrieved Employees from February 1, 2021,
14 through the present, for Defendants' violations of Labor Code §§ 201-204, 226, 226.7, 510, 512,
15 558, 1194, 1197, 1197.1, 2802, 2698, et seq., as identified above, for failing to pay minimum,
16 regular, and overtime wages for all hours worked, failing to reimburse business expenses, failing
17 to pay meal and rest period premium pay at the regular rate of pay, and failing to provide
18 accurate itemized wage statements.

19 17. Specifically, Plaintiff and Aggrieved Employees were required to undergo
20 COVID screenings and temperature checks prior to the start of each shift without the payment of
21 any wages for such time. As a result, Plaintiff and Aggrieved Employees were not paid any
22 applicable minimum, regular, or overtime wages for undergoing said COVID screenings and
23 temperature checks off-the-clock. To date, Plaintiff and Aggrieved Employees have yet to
24 receive the unpaid minimum, regular, and overtime wages owed to them. Thus, Defendants owe
25 waiting time penalties under Labor Code § 203.
26

27 18. Furthermore, as a result of the off-the-clock violation alleged above, Plaintiff and
28 Aggrieved Employees also received inaccurate wage statements that identified incorrect wage

1 rates, total hours worked, and net/gross wages earned, in violation of Labor Code § 226(a).
2 Moreover, as a result of Defendants requiring Plaintiff and Aggrieved Employees to use their
3 own phones to download an app to perform COVID screenings, Defendants did not reimburse
4 Plaintiff and Aggrieved Employees for those phone costs in violation of Labor Code § 2802.

5 19. Additionally, Plaintiff and Aggrieved Employees earned non-discretionary
6 remuneration, including without limitation, shift differentials. Plaintiff and Aggrieved
7 Employees were paid meal and rest period premium for missed meal and rest periods at the base
8 rate of pay as Defendants failed to include any non-discretionary remuneration earned into the
9 calculation of the regular rate. Specifically, whenever Plaintiff and Aggrieved Employees
10 received meal and rest period premium pay during workweeks in which they earned non-
11 discretionary remuneration, the meal and rest period premium was paid at the base rate of pay.
12 Thus, Plaintiff and Aggrieved Employees are owed additional meal and rest break premium pay
13 based on the correct, higher regular rate of pay. Further, Defendants failed to pay Plaintiff and
14 Aggrieved Employees all the wages owed upon separation of employment due to the unpaid
15 missed meal and rest period premiums. Finally, Plaintiff and Aggrieved Employees received
16 wage statements that failed to identify the accurate rate of pay, and the gross and net wages
17 earned.
18

19 20. On or about February 1, 2022, Plaintiff sent written notice to the California Labor
20 & Workforce Development Agency (“LWDA”) of Defendants’ violation of Labor Code § 201-
21 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1, 2802, pursuant to Labor Code § 2698, *et*
22 *seq.*, the Private Attorneys General Act (“PAGA”). Plaintiff also sent written notice of said
23 Labor Code violations to Defendant via certified mail pursuant to Labor Code § 2699.3. As of
24 the date of the filing of this Complaint, the LWDA has not provided written notice regarding
25 whether it intends to investigate the Labor Code violations set forth in Plaintiff’s written notice.

26 21. As such, pursuant to Labor Code § 2699(a), Plaintiff seeks recovery of any and
27 all applicable civil penalties for Defendants’ violation of Labor Code §§ 201-204, 226, 226.7,
28 510, 512, 558, 1194, 1197, 1197.1, 2802, and 2698 for the time period described above, on

1 behalf of himself and other Aggrieved Employees.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf
4 this suit is brought against Defendants, jointly and severally, as follows:

5 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to
6 the PAGA, Labor Code §226.3, and for costs and attorneys' fees;

7 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
8 §2699 and California Code of Civil Procedure section 1021.5; and

9 3. For such other and further relief as the Court may deem just and proper.
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11 DATED: April 8, 2022

DIVERSITY LAW GROUP, P.C.

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13 By: 

14 Larry W. Lee
15 Shalom "Christine" Choo
16 Attorneys for Plaintiff and the Aggrieved
17 Employees
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