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ELECTRONICALLY
FILED
*Superior Court of California,
County of San Francisco*

08/17/2022
Clerk of the Court
BY: JEFFREY FLORES
Deputy Clerk

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

7 **COUNTY OF SAN FRANCISCO**

8 **CGC-22-601316**

9 MINDI PENDLETON, on behalf of the
State of California

10
11 Plaintiff,

12 v.

13 BLUECREW STAFFING, INC. a
Delaware Corporation; BLUECREW,
14 LLC, a Delaware Limited Liability
Company; and DOES 1-50, inclusive,

15 Defendants.

Case No.

REPRESENTATIVE ACTION
COMPLAINT FOR:

- 1) VIOLATIONS OF THE PRIVATE
ATTORNEY GENERAL ACT
PURSUANT TO LABOR CODE
SECTIONS 2698, et seq.

1 Plaintiff MINDI PENDLETON (“Plaintiff”), on behalf of the people of the State of
2 California acting as a private attorney general under the Labor Code Private Attorneys General Act
3 of 2004, § 2699, *et seq.* (“PAGA”) only, alleges against Defendants BLUECREW STAFFING,
4 INC., BLUECREW, LLC, and DOES 1-50, inclusive (collectively “Defendants” or “Bluecrew”) as follows:

6 INTRODUCTION

7 1. This is a representative action for recovery of penalties under PAGA. PAGA
8 permits individuals, acting as a private attorney general on behalf of the State of California, to bring
9 a representative action on behalf aggrieved employees to recover civil penalties and address an
10 employer’s violations of the California Labor Code.

11 2. Plaintiff brings this action pursuant to the PAGA on a representative basis on behalf
12 of all individuals employed by Bluecrew within the State of California and who were assigned to
13 work at stadiums in California including but not limited to Oracle Park, RingCentral Coliseum,
14 Levi Stadium, and PayPal Park (the “Aggrieved Employees”) from one year prior to the filing of
15 the PAGA notice to the conclusion of this action.

16 3. Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an
17 employee who brings a representative action and was affected by at least one of the violations
18 alleged in the complaint has standing to pursue penalties on behalf of the state and not only for that
19 violation, but for violations affecting other employees as well. Accordingly, Plaintiff has standing
20 to pursue penalties on behalf of the state of violations affecting all the aggrieved employee at
21 Conduent, regardless of their classification, job title, or locations in California.

22 4. In this case, Defendants violated various provisions of the California Labor Code
23 and IWC Wage Order. Defendants’ violations include: (1) Failure to Pay Tips/Gratuities; (2) Failure
24 to Pay Hourly Wages; (3) Failure to Pay Overtime Wages; (4) Failure to Pay Wages Due Upon
25 Resignation or Termination; (5) Failure to Reimburse Necessary Business Expenses; (6) Failure to
26 Keep and Provide Accurate, Itemized Wage Statements; and (7) Improper Deductions from Wages.

27 5. This action is timely because Plaintiff suffered a violation or numerous violations
28 of the California Labor Code within one year of the date on which the PAGA notice was sent to

1 the LWDA. More than 65 days have passed, and no response has been received by the LWDA.
2 A copy of the letter sent to the LWDA with enclosure is attached hereto as **Exhibit A**, thereby
3 satisfying the notice requirement under the statute and permitting Plaintiff to proceed with this
4 action in a representative capacity.

5 **JURISDICTION AND VENUE**

6 6. This Court has jurisdiction over this action pursuant to the California Constitution
7 Article VI §10, which grants the California Superior Court original jurisdiction in all causes except
8 those given by statute to other courts. The statutes under which this action is brought do not give
9 jurisdiction to any other court.

10 7. Venue is proper in this Court because one or more of the Defendants reside, transact
11 business, or have offices in this County, Plaintiff is a resident of this County, and the acts or
12 omissions alleged herein took place in this County.

13 **PARTIES**

14 8. Defendant Bluecrew Staffing, Inc. is a Delaware Corporation doing business in the
15 State of California. It is headquartered at 2045 W. Grand Ave., Suite B, PMB 63708, Chicago, IL
16 60612-1577.

17 9. Defendant Bluecrew, LLC is a Delaware Limited Liability Company doing business
18 in the state of California. It is headquartered at 222 Merchandise Mart Plaza, Suite 600, Chicago,
19 IL 60654.

20 10. Plaintiff Mindi Pendleton is, and during the liability period has been, a resident of
21 California.

22 11. Plaintiff was employed in a non-exempt position by Defendants during the relevant
23 time period.

24 12. Plaintiff and the members of the Aggrieved Group were employed as Aggrieved
25 Employees by employed by Defendants, either directly or indirectly, in the State of California at
26 any time from one year prior to the submission of the PAGA notice to the LWDA.

27 13. Whenever in this complaint reference is made to any act, deed, or conduct of
28 Defendants, the allegation means that Defendants engaged in the act, deed, or conduct by or through

one or more of Defendants' officers, directors, agents, employees, or representatives, who was actively engaged in the management, direction, control, or transaction of the ordinary business and affairs of Defendants.

14. The true names and capacities of Defendants, whether individual, corporate, associate, or otherwise, sued herein as DOES 1 through 50, inclusive, are currently unknown to Plaintiff, who therefore sue Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff will seek leave of court to amend this Complaint to reflect the true names and capacities of the Defendants designated hereinafter as DOES when such identities become known.

15. Plaintiff is informed and believes, and thereon allege, that the Doe Defendants are the partners, agents, or principals and co-conspirators of Defendants and of each other; that Defendants and the Doe Defendants performed the acts and conduct herein alleged directly, aided and abetted the performance thereof, or knowingly acquiesced in, ratified, and accepted the benefits of such acts and conduct, and therefore each of the Doe Defendants is liable to the extent of the liability of the Defendants as alleged herein.

16. Plaintiff is further informed and believes, and thereon allege, that at all times material herein, each Defendant was completely dominated and controlled by its co-Defendants and each was the alter ego of the other. Whenever and wherever reference is made in this complaint to any conduct by Defendant or Defendants, such allegations and references shall also be deemed to mean the conduct of each of the Defendants, acting individually, jointly, and severally. Whenever and wherever reference is made to individuals who are not named as Defendants in this complaint, but were employees and/or agents of Defendants, such individuals, at all relevant times acted on behalf of Defendants named in this complaint within the scope of their respective employments.

FACTUAL ALLEGATIONS

17. Bluecrew is an on-demand temporary staffing platform. Bluecrew supplies hourly, non-exempt workers to companies in various industries including warehousing, catering, manufacturing, retail, and hospitality.

18. Bluecrew employs Plaintiff as a non-exempt, hourly employee. As relevant here,

1 Plaintiff was assigned to work at Oracle Park in San Francisco, California.

2 19. Defendants compensated Plaintiff and the Aggrieved Employees based upon an
3 hourly wage.

4 20. Plaintiff and the Aggrieved Employees were, and at all times pertinent hereto,
5 have been non-exempt within the meaning of the California Labor Code, and the implementing
6 rules and regulations of the IWC California Wage Orders. They are subject to the protections of
7 the IWC Wage Orders and the Labor Code.

8 21. Plaintiff is informed and believes, and thereon alleges, that Defendants are and were
9 advised by skilled lawyers and other professionals, employees, and advisors with knowledge of the
10 requirements of California's wage and employment laws.

11 22. The Aggrieved Employees are similarly situated in that they are all subject to
12 Defendants' uniform policies and systemic practices as specified herein.

13 ***FAILURE TO PAY TIPS/GRATUITIES***

14 23. Labor Code §351 prohibits employers—and agents of employers—from taking
15 any part of the tips given to their employees.

16 24. Gratuities are the sole property of the employee. When tips are paid by credit card,
17 the employer must provide the tip amount to the employee by the next regular payday.

18 25. The employer may not deduct any credit card processing fees from the tip amount
19 according to Labor Code §351.

20 26. Furthermore, employees who receive tips must still receive their full wages from
21 their employer under Labor Code §351.

22 27. Here, Bluecrew withheld and failed to pay tips to Plaintiff and, upon information
23 and belief, other Aggrieved Employees that were left to them by patrons who purchased
24 concession using credit cards.

25 28. Upon information and belief, Bluecrew also failed to keep accurate records of such
26 tips.

27 ///

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1 ***FAILURE TO PAY HOURLY WAGES***

2 29. California Labor Code §201-204, 210, 1194, 1197 and IWC Wage Order requires
3 that employers fully and timely pay all wages earned and due for all hours worked.

4 30. Bluecrew suffered or permitted Plaintiff, and upon information and belief, other
5 Aggrieved Employees to perform work without pay.

6 31. Plaintiff and the Aggrieved Employees are required to wait in line for security
7 checks each day at the start of their shift. This daily uncompensated waiting time during security
8 checks is done to undergo searches for possible contraband.

9 32. Because such screening is designed to prevent and deter employee contraband, a
10 concern that stems from the nature of the employee's work, the security checks and consequential
11 wait time are necessary to the employee's primary work without compensation.

12 33. Plaintiff alleges that there were no separate security check locations for
13 employees, and all employees had to use the security checkpoints that are open to the public
14 entering the stadium. This created lengthy lines, and at times Plaintiff and the Aggrieved
15 Employees would show up thirty minutes to an hour prior to the start time to ensure they made it
16 through security in a timely manner before the start of their shift.

17 34. In addition, Plaintiff and the Aggrieved Employees are not compensated for the
18 time it takes to walk from the security checkpoints to their workstation. Because the stadiums are
19 often crowded and busy and their workstation was not always located near a security checkpoint,
20 it would take approximately ten to twenty minutes to walk to their workstation.

21 ***FAILURE TO PAY OVERTIME WAGES***

22 35. Bluecrew violated Labor Code §§510, 1194, 1198 and the IWC Wage Order by
23 failing to properly pay overtime wages.

24 36. The Wage Order and Labor Code §1194 and 1197 provide that an employee must
25 be paid at least minimum wage for each hour worked and overtime as applicable.

26 37. Labor Code §1182.12 sets the minimum wages.

27 38. Labor Code §510 and IWC Wage Order provide that employees working for more
28 than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime

1 compensation at the rate of one and one-half times the regular rate of pay for all hours worked in
2 excess of eight (8) hours in a day or forty (40) hours in a work week.

3 39. An employee who works more than twelve (12) hours in a day or more than eight
4 (8) hours on the seventh day in a workweek is entitled to overtime compensation at a rate of twice
5 the regular rate of pay.

6 40. To the extent that Bluecrew failed to record and pay for all hours worked by
7 Plaintiff and the Aggrieved Employees as described herein which, if recorded, would have cause
8 them to work more than 8 hours per day or 40 hours per week, Bluecrew failed to pay overtime
9 wages.

10 ***FAILURE TO PAY WAGES DUE UPON RESIGNATION OR TERMINATION***

11 41. Bluecrew violated California Labor Code §§201 and 202 by willfully failing to
12 pay all compensation due and owing to Aggrieved Employees at the time of their resignation or
13 termination.

14 42. Upon information and belief, Bluecrew failed to pay aggrieved employees all
15 compensation due upon resignation or termination of employment as required under California
16 Labor Code §§201 and 202, tips/gratuities, regular wages, and overtime wages.

17 ***FAILURE TO REIMBURSE NECESSARY BUSINESS EXPENSES***

18 43. Under California Labor Code §2802, an employee is entitled to be reimbursed by
19 his or her employer “for all necessary expenditures or losses incurred by the employee in direct
20 consequence of the discharge of his or her duties, or of his or her obedience to the directions of
21 the employer.”

22 44. Here, Bluecrew failed to reimburse Aggrieved Employees for all expenses
23 incurred in the discharge of their duties, including but not limited to uniforms and cell phone
24 usage.

25 45. In addition, it was Plaintiff and Aggrieved Employees who reimbursed Bluecrew
26 for alleged expenses for on demand pay when Bluecrew should have incurred these business
27 expenses.

28 ///

1 ***FAILURE TO KEEP AND PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS***

2 46. Bluecrew violated Labor Code §226(a) by willfully failing to furnish Plaintiff and
3 Aggrieved Employees with accurate, itemized wage statements.

4 47. As described above, Bluecrew failed to pay straight and overtime wages, failed to
5 pay tips, and failed to reimburse necessary business expenses.

6 48. Therefore, Bluecrew knew or should have known that the wage statements were
7 inaccurate.

8 49. In addition, Bluecrew failed to accurately report Aggrieved Employees' net pay by
9 virtue of deducting "on demand" pay from gross wages.

10 50. As a result of violations of California Labor Code §226(a), Bluecrew is liable for
11 civil penalties pursuant to California Labor Code §§226(e), 226.3, and 2698 *et seq.*

12 ***IMPROPER DEDUCTIONS FROM WAGES***

13 51. California law prohibits an employer from deducting anything from an employee's
14 wages other than those deductions explicitly permitted by law.

15 52. The fees deducted from Plaintiff's wages for "On Demand Payment Fee" is not
16 explicitly permitted by law.

17 53. Nevertheless, Defendants' custom, policy, and practice was and is to deduct these
18 fees from wages being paid to Plaintiff and Aggrieved Employees.

19 54. This deduction was and is an illegal deduction from wages under California law.

20 **CAUSES OF ACTION**

21 **FIRST CAUSE OF ACTION**

22 **PENALTIES UNDER THE PRIVATE ATTORNEYS GENERAL ACT, LABOR CODE**

23 **SECTION 2698 ET SEQ.**

24 55. Plaintiff incorporates by reference each and every paragraph above, and realleges
25 each and every allegation contained above as though fully set forth herein.

26 56. On June 7, 2022, Plaintiff gave written notice by online submission to the LWDA
27 and by certified mail to Defendants of Defendants' violations of numerous provisions of the
28 California Labor Code and the IWC Wage Orders as alleged in this complaint. All fees were paid

1 as required by statute. A copy of the letter sent to the LWDA with enclosure is attached hereto as
2 **Exhibit A.**

3 57. Plaintiff is an “aggrieved employee” as defined in Labor Code Section 2699(a), as
4 she was employed by Defendants during the statutory period and suffered one or more of the
5 Labor Code violations set forth herein.

6 58. 65 days have passed and no response has been received from the LWDA.
7 Accordingly, the LWDA has permitted Plaintiff to proceed in a representative capacity.

8 59. Plaintiff has exhausted all administrative procedures required of her under the
9 Labor Code §§2698, 2699, 2699.3, and as a result, is justified as a matter of right in bringing
10 forward this cause of action.

11 60. Pursuant to Labor Code section 2699(a) Plaintiff seeks to recover civil penalties
12 for which Defendants are liable due to numerous Labor Code violations as set forth in this
13 Complaint.

14 61. Plaintiff seeks to recover the PAGA civil penalties through a representative action
15 permitted by PAGA and the California Supreme Court in *Arias v. Superior Court* (2009) 46
16 Cal.4th 969.

17 62. Specifically, Plaintiff, on behalf of the State of California, seeks penalties, under
18 Labor Code §2699, for, without limitation, the claims set forth herein, including:

- 19 a. Defendants’ failure to pay tips/gratuities to employees in violation of Labor Code
20 §351, 353.
- 21 b. Defendants’ failure to comply with the requirement of Labor Code §1182.12,
22 1194, 1197, 1198, and Wage Orders to pay at least minimum wage for every hour
23 worked;
- 24 c. Defendants’ failure to comply with the requirement of Labor Code §510, 1194,
25 1197, 1198, and Wage Orders to accurately pay all wages earned including
26 overtime wages;
- 27 d. Defendants’ failure to comply with the requirement of Labor Code §216 to pay
28 wages after demand was made;

- 1 e. Defendants' failure to comply with the requirement of Labor Code §§204, and 210
- 2 to pay, without condition and within the time set by the applicable article, all
- 3 wages, or parts thereof;
- 4 f. Defendants' failure to comply with the requirement of Labor Code §225.5 to pay
- 5 wages due;
- 6 g. Defendants' failure to comply with the requirement of Labor Code §§201 and 202
- 7 to pay wages due to former employees'
- 8 h. Defendants' failure to comply with the requirement of Labor Code §203 to pay
- 9 waiting time penalties to former employees;
- 10 i. Defendants' failure to maintain required records in violation of Labor Code §226,
- 11 1174, and Wage Orders;
- 12 j. Defendants' failure to reimburse necessary business expenses in violation of Labor
- 13 Code §2802;
- 14 k. Defendants' failure to provide accurate compliant wage statements under Labor
- 15 Code section 226;

16 63. Plaintiff seeks civil penalties for Defendants' violation of Labor Code provisions
17 for which a civil penalty is specifically provided, including but not limited to the following:

- 18 a. Pursuant to Labor Code §210, for violations of Labor Code §204, Defendants are
- 19 subject to a civil penalty in the amount of one hundred dollars (\$100) for the initial
- 20 violation for each failure to pay each employee and two hundred (\$200) per
- 21 employee for violations in subsequent pay periods plus 25% of the amount
- 22 unlawfully withheld.
- 23 b. Pursuant to Labor Code §226.3, for violations of Labor Code §226 (a) Defendants
- 24 are subject to a civil penalty in the amount of two hundred and fifty dollars (\$250)
- 25 per aggrieved employee for the initial pay period where a violation occurs and one
- 26 thousand dollars (\$1,000) per aggrieved employee for violations in subsequent pay
- 27 period.

28

- 1 c. Pursuant to Labor Code §558(a), “[a]ny employer or other person acting on behalf
2 of an employer who violated, or causes to be violated, a section of this chapter or
3 any provisions regulating hours and days of work in any order of the Industrial
4 Welfare Commission,” including Labor Code §§510 and 512, shall be subject to a
5 civil penalty, in addition to any other penalty provided by law, of fifty dollars
6 (\$50) for initial violations for each underpaid employee for each pay period for
7 which the employee was underpaid and one hundred dollars (\$100) for each
8 subsequent violation for each underpaid employee for each pay period for which
9 the employee was underpaid.
- 10 d. Pursuant to Labor Code §1174.5, for violations of Labor Code §1174(d),
11 Defendants are subject to a civil penalty of five hundred dollars (\$500).
- 12 e. Pursuant to Labor Code §1197.1, an employer who pays or causes to be paid to
13 any employee a wage less than the minimum fixed by an order of the commission,
14 shall be subject to a civil penalty as follows: for any initial violation that is
15 intentionally committed, one hundred dollars (\$100) for each underpaid employee
16 for each pay period for which the employee is underpaid; and for each subsequent
17 violation of the same offense, two hundred fifty dollars (\$250) for each underpaid
18 employee for each pay period for which the employee is underpaid regardless of
19 whether the initial violation was intentionally committed.

20 64. Further, as a result of the acts alleged hereinabove, Plaintiff seeks penalties under
21 Labor Code §§2698 et seq. and 2699 because of Defendants’ violation of numerous provisions of
22 the California Labor Code and IWC Wage Orders.

23 65. Under Labor Code §2699, Plaintiff and Aggrieved Employees are entitled to \$100
24 for any initial violation and \$200 for all subsequent violations of the above-mentioned provisions
25 of the California Labor Code.

26 66. Under Labor Code §2699, Aggrieved Employees should be awarded twenty-five
27 percent (25%) of all penalties due under California law, interest, attorneys’ fees and costs.
28

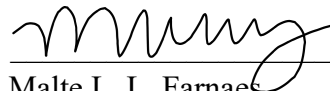
1 67. Under Labor Code § 2699, the State of California should be awarded seventy-five
2 percent (75%) of the penalties due under California law.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff prays for judgment against Defendants, jointly and severally, as
6 follows:

- 7 1. For penalties according to proof, pursuant to Labor Code §§2698 et seq. for the
8 violations specified above;
- 9 2. For penalties under Labor Code sections 210, 226.3, 1174.5, 1197.1, 2802 and 2699(a)
10 and (f);
- 11 3. For interest at the legal rate pursuant to Labor Code §§218.6, 1194, California Civil
12 Code §§3287, 3288, and/or any other applicable provision providing for pre-judgment
13 interest;
- 14 4. For reasonable attorneys' fees, expenses, and costs under Labor Code §§1194, 226,
15 2699, and/or Code of Civil Procedure §1021.5, and/or any other applicable provisions
16 providing for attorneys' fees and costs; and
- 17 5. For such other and further relief as the Court deems proper.

18 Dated: August 17, 2022



19 Malte L. L. Farnaes
20 Christina M. Lucio
21 Mitchell J. Murray

22 Attorneys for Plaintiff
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Exhibit A

June 7, 2022

Via Online SubmissionLabor and Workforce Development Agency
Attn: PAGA Administrator**Via Certified U.S. Mail**Bluecrew, LLC
222 Merchandise Mart Plaza, Ste. 600
Chicago, IL 60654Bluecrew, LLC
c/o CT Corporation System
330 N Brand Blvd. Ste. 700
Glendale, CA 91203**Re: PAGA Notice Pursuant to California Labor Code § 2699**

This letter shall serve as Mindi Pendleton's (hereafter "Claimant") notice pursuant to the California Private Attorneys General Act ("PAGA"), California Labor Code § 2698, *et seq.*, regarding her wage and hour claims against Bluecrew Staffing, Inc. and Bluecrew, LLC (including any and all affiliates, managers, members, subsidiaries, and parents, and their shareholders, officers, directors, and employees), any individual, owner, officer or managing agent, DOES 1-10 as an "Employer" or person acting on behalf of an "Employer" pursuant to California Labor Code § 558.1, and DOES 11-20¹ for violations of California wage and hour laws (collectively, "Bluecrew" or "Respondent").

Claimant is pursuing her claim on a representative basis pursuant to PAGA. Therefore, Claimant seeks penalties and wages for violations of Labor Code on behalf of the state of California and aggrieved employees, which are recoverable under PAGA. This letter is sent in compliance with the reporting requirements of California Labor Code 2699.3.

Bluecrew is an on-demand temporary staffing platform. Bluecrew supplies hourly, non-exempt workers to companies in various industries including warehousing, catering, manufacturing, retail, and hospitality.

Bluecrew employs Claimant as a non-exempt, hourly employee. As relevant here, Claimant was assigned to work at Oracle Park in San Francisco, California.

Claimant seeks to represent a group of aggrieved employees defined as all individuals who are or were employed by Bluecrew within the state of California and who were assigned to work at stadiums in California including but not limited to Oracle Park, RingCentral Coliseum, Levi Stadium, and PayPal Park (the "aggrieved employees").

¹ Claimant does not know the true names and capacities, whether individual, partner or corporate, of DOES 1-20, inclusive, and for that reason, said DOES are designated under such fictitious names. Claimant will amend this notice when the true names and capacities are known. Claimant is informed and believes each DOE was responsible in some way for the matters alleged herein and proximately caused her and other current and former aggrieved employees to be subject to the illegal employment practices, wrongs, and injuries complained of herein.

Pursuant to *Huff v. Securitas Security Services*, 23 Cal. App. 5th 745, 751 (2018), an employee who brings a representative action and was affected by at least one of the violations alleged in the complaint has standing to pursue penalties on behalf of the state and not only for that violation, but for violations affecting other employees as well. Accordingly, Claimant has standing to pursue penalties on behalf of the state for violations affecting all the aggrieved employees at Bluecrew, regardless of their classification, job title, or locations.

Bluecrew has violated, and/or has caused to be violated, various Labor Code provisions, and is therefore liable for civil penalties under California Labor Code § 2698 *et seq.* We request that your agency investigate the claims alleged against it below. This letter will serve as notice of these allegations pursuant to the Private Attorneys General Act of 2004 ("PAGA"), Cal. Lab. Code § 2699.3.

Failure to Pay Tips/Gratuities

Labor Code § 351 prohibits employers – and agents of employers – from taking any part of the tips given to their employees. Gratuities are the sole property of the employee. *Id.* When tips are paid by credit card, the employer must provide the tip amount to the employee by the next regular payday. And the employer may not deduct any credit card processing fees from the tip amount. *Id.* Furthermore, employees who receive tips must still receive their full wages from their employer. *Id.* Employers are required to keep accurate records of all gratuities received. Labor Code § 353.

Here, Bluecrew withheld and failed to pay tips to Claimant and, upon information and belief, other aggrieved employees that were left to them by patrons who purchased concession using credit cards. Upon information and belief, Bluecrew also failed to keep accurate records of such tips.

Failure to Pay Hourly Wages

California Labor Code §§ 201-204, 210, 1194, 1197 and IWC Wage Order requires that employers fully and timely pay all wages earned and due for all hours worked. Bluecrew suffered or permitted Claimant and, upon information and belief, other aggrieved employees to perform work without pay.

Claimant and the aggrieved employees are required to wait in line for security checks each day at the start of their shift. This daily uncompensated waiting time during security checks is done to undergo searches for possible contraband. Because such screening is designed to prevent and deter employee contraband, a concern that stems from the nature of the employee's work, the security checks and consequential wait time are necessary to the employee's primary work without compensation.

Claimant alleges that there were no separate security check locations for employees, and all employees had to use the security checkpoints that are open to the public entering the stadium. This created lengthy lines, and at times Claimant and the aggrieved employees would show up thirty minutes to an hour prior to the start of the shift to ensure they made it through security in a timely manner before the start of their shift.

In addition, Claimant and the aggrieved employees are not compensated for the time it takes to walk from the security checkpoints to their workstation. Because the stadiums are often crowded and busy and their workstation was not always located near a security checkpoint, it would take approximately ten to twenty minutes to walk to their workstation.

Failure to Pay Overtime Wages

Bluecrew violated Labor Code §§ 510, 1194, 1198 and the IWC Wage Order by failing to properly pay overtime wages. The Wage Order and Labor Code § 1194 and 1197 provide that an employee must be paid at least minimum wage for each hour worked and overtime as applicable. Labor Code § 1182.12 sets the minimum wage. Labor Code § 510 and IWC wage order provide that employees working for more than eight (8) hours in a day or forty (40) hours in a work week are entitled to overtime compensation at the rate of one and one-half times the regular rate of pay for all hours worked in excess of eight (8) hours in a day or forty (40) hours in a work week. An employee who works more than twelve (12) hours in a day or more than eight (8) hours on the seventh day in a workweek is entitled to overtime compensation at a rate of twice the regular rate of pay.

To the extent that Bluecrew failed to record and pay for all hours worked by Claimant and the aggrieved employees as described herein which, if recorded, would have caused them to work more than 8 hours per day or 40 hours per week, Bluecrew failed to pay overtime wages.

Failure to Pay Wages Due Upon Resignation or Termination

Bluecrew violated California Labor Code §§ 201 and 202 by willfully failing to pay all compensation due and owing to aggrieved employees at the time of their resignation or termination. Upon information and belief, Bluecrew failed to pay aggrieved employees all compensation due upon resignation or termination of employment as required under California Labor Code §§ 201 and 202, tips/gratuities, regular wages, and overtime wages.

Failure to Reimburse Necessary Business Expenses

Under California Labor Code § 2802, an employee is entitled to be reimbursed by his or her employer "for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties, or of his or her obedience to the directions of the employer." Here, Bluecrew failed to reimburse Claimant for all expenses incurred in the discharge of her duties, including but not limited to uniforms and cell phone usage. In addition, it was Claimant and aggrieved employees who reimbursed Bluecrew for alleged expenses for on demand pay when Bluecrew should have incurred these business expenses.

Failure to Keep and Provide Accurate, Itemized Wage Statements

Bluecrew has violated Labor Code § 226(a) by willfully failing to furnish Claimant with accurate, itemized wage statements. As described above, Bluecrew failed to pay straight and overtime wages, failed to pay tips, and failed to reimburse necessary business expenses. Therefore, Bluecrew knew or should have known that the wage statements were inaccurate. In addition, Bluecrew failed to accurately report Claimant's net pay by virtue of deducting "on demand" pay from her gross wages. As a result of violations of California Labor Code § 226(a),

Bluecrew is liable for civil penalties pursuant to California Labor Code §§ 226(e), 226.3 and 2698 *et seq.*

Improper Deductions from Wages

California law prohibits an employer from deducting anything from an employee's wages other than those deductions explicitly permitted by law. The fees deducted from Claimant's wages for "On Demand Payment Fee" is not explicitly permitted by law. Nevertheless, Defendants' custom, policy and practice was and is to deduct these fees from wages being paid to Claimant and aggrieved employees. This deduction was and is an illegal deduction from wages under California law.

Conclusion

As described above, Bluecrew has violated or has caused to be violated a number of California wage and hour laws. Claimant requests the agency inform her within 60 days if it does not intend to investigate these violations so that she may proceed with a civil action pursuant to Labor Code § 2699, *et seq.*

Sincerely,

A handwritten signature in black ink, appearing to read "Murray", with a stylized, cursive flourish at the end.

Mitchell J. Murray, Esq.