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FILED
 Superior Court of California
 County of Los Angeles

11/14/2022

Sherri R. Carter, Executive Officer / Clerk of Court

By: K. Martinez Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEXTER A. HUNTER, on behalf of himself and
all others similarly situated,

Plaintiff,

vs.

VACO LLC, a limited liability company; and
DOES 1 through 100, Inclusive,

Defendants.

Case No. 22STCV29059

**FIRST AMENDED CLASS AND
 REPRESENTATIVE ACTION
 COMPLAINT FOR:**

- (1) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, et seq.);**
- (2) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEYS GENERAL
ACT (LABOR CODE § 2698, et seq.)**

**DEMAND FOR JURY TRIAL
 UNLIMITED CIVIL CASE**

1 Plaintiff Dexter Hunter (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this Class Action Complaint against Vaco LLC., a limited liability company; and
3 Does 1 through 100, inclusive (collectively, “Defendants”), and on information and belief alleges
4 as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 class action for recovery of unpaid wages and penalties under California Labor Code sections
8 226, 2698, *et seq.*; and Industrial Welfare Commission Wage Order No. 4 (“Wage Order 4”).
9 This class action is brought pursuant to California Code of Civil Procedure section 382. This
10 Court has jurisdiction over Defendants’ violations of the California Labor Code because the
11 amount in controversy exceeds this Court’s jurisdictional minimum.

12 **VENUE**

13 2. Venue is proper in this judicial district pursuant to California Code of Civil
14 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
15 occurred in Los Angeles County. Defendants own, maintain offices, transact business, have an
16 agent or agents within Los Angeles County, and/or otherwise are found within Los Angeles
17 County, and Defendants are within the jurisdiction of this Court for purposes of service of process.

18 **PARTIES**

19 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
20 Plaintiff was, and currently is, a California resident. During the one year immediately preceding
21 the filing of this action and within the statute of limitations periods applicable to each cause of
22 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
23 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
24 and/or property, and has been deprived of the rights guaranteed by California Labor Code § 226,
25 2698, *et seq.*; and Wage Order 4, which sets employment standards for professional, technical,
26 clerical, mechanical and similar occupations.

27 4. Plaintiff is informed and believes, and based thereon alleges, that during the one
28 year preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)

business as a staffing agency, and that they employed Plaintiff and other similarly situated non-exempt employees within Los Angeles County and the state of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 11) to be subject to the unlawful employment practices, wrongs, injuries, and damages complained of herein.

6. Plaintiff is informed and believes, and based thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

7. At all times herein mentioned, each of said Defendants participated in the acts herein alleged to have been done by the named Defendants; and furthermore, the 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. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each of the acts or omissions alleged herein.

8. At all times mentioned herein, 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. Further, Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class Members (as defined in Paragraph 11).

GENERAL FACTUAL ALLEGATIONS

9. Plaintiff was employed by Defendants as a non-exempt employee from approximately January 2022 until approximately March 2022.

10. During Plaintiff's employment with Defendants, Plaintiff was provided inaccurate wage statements, in that the wage statements issued to Plaintiff and other non-exempt employees

were facially deficient in that they failed to list the correct total hours worked and therefore, failed to comply with Labor Code § 226(a)(2). Specifically, the wage statements issued by Defendants generally included a line item titled “total hours worked,” which reflected only the employee’s regular hours worked regardless of the total number of hours actually worked. Thus, for example, in pay periods when Plaintiff worked 40 regular hours and 5 overtime hours, his wage statement reported only 40 hours as Plaintiff’s “total hours worked.” Plaintiff is informed and believes, and based thereon alleges, that Defendants continue to issue wage statements to non-exempt employees that include inaccurate representations of total hours worked.

CLASS ACTION ALLEGATIONS

11. Class Definition: Plaintiff bring this action on behalf of himself and the following Class pursuant to Section 382 of the Code of Civil Procedure:

a. The Wage Statement Class consists of all of the Defendants’ current and former non-exempt employees in California who in at least one pay period worked hours other than regular hours, and were issued a wage statement in that pay period that did not count those non-regular hours among “total hours worked,” at any time from one year immediately preceding the filing of this action through the present.

12. **Numerosity/Ascertainability:** The members of the Class are so numerous that joinder of all members would be unfeasible and impracticable. The membership of the Class is unknown to Plaintiff at this time; however, it is estimated that the Class number greater than fifty (50) individuals. The identity of such membership is readily ascertainable via Defendants’ employment records.

13. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members including, without limitation to:

i. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226.

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1 14. **Predominance of Common Questions:** Common questions of law and fact
2 predominate over questions that affect only individual members of the Classes. The common
3 questions of law set forth above are numerous and substantial and stem from Defendants' policies
4 and/or practices applicable to each individual class member, such as Defendants' wage statement
5 policies/practices. As such, the common questions predominate over individual questions
6 concerning each individual class member's showing as to his or her eligibility for recovery or as
7 to the amount of his or her damages.

8 15. **Typicality:** Plaintiff's claims are typical of the claims of the Classes because
9 Plaintiff was employed by Defendants as a non-exempt employee in California during the
10 statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As
11 alleged herein, Plaintiff, like the members of the Class, was furnished with inaccurate wage
12 statements that failed to accurately list Plaintiff's total hours worked.

13 16. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary
14 steps to represent fairly and adequately the interests of the members of the Class. Moreover,
15 Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of
16 the Class and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class
17 actions in state and federal courts in the past and are committed to vigorously prosecuting this
18 action on behalf of the members of the Class.

19 17. **Superiority:** The California Labor Code is broadly remedial in nature and serves
20 an important public interest in establishing minimum working conditions and standards in
21 California. These laws and labor standards protect the average working employee from
22 exploitation by employers who have the responsibility to follow the laws and who may seek to
23 take advantage of superior economic and bargaining power in setting onerous terms and
24 conditions of employment. The nature of this action and the format of laws available to Plaintiff
25 and members of the Class make the class action format a particularly efficient and appropriate
26 procedure to redress the violations alleged herein. If each employee were required to file an
27 individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they
28 would be able to exploit and overwhelm the limited resources of each individual plaintiff with

1 their vastly superior financial and legal resources. Moreover, requiring each member of the Class
2 to pursue an individual remedy would also discourage the assertion of lawful claims by employees
3 who would be disinclined to file an action against their former and/or current employer for real
4 and justifiable fear of retaliation and permanent damages to their careers at subsequent
5 employment. Further, the prosecution of separate actions by the individual class members, even
6 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
7 with respect to the individual class members against Defendants herein; and which would
8 establish potentially incompatible standards of conduct for Defendants; and/or legal
9 determinations with respect to individual class members which would, as a practical matter, be
10 dispositive of the interest of the other class members not parties to adjudications or which would
11 substantially impair or impede the ability of the class members to protect their interests. Further,
12 the claims of individual Class members are not sufficiently large to warrant vigorous individual
13 prosecution considering all of the concomitant costs and expenses attending thereto. Thus, the
14 Class identified in Paragraph 11 is maintainable under Code Civ. Proc. § 382.

15 **FIRST CAUSE OF ACTION**

16 **WAGE STATEMENT VIOLATIONS**

17 **(AGAINST ALL DEFENDANTS)**

18 18. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
20 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
21 and the Wage Statement Class with accurate and complete itemized wage statements that
22 included, among other requirements, an accurate representation of total hours worked, in violation
23 of Labor Code § 226.

24 20. Defendants' failure to furnish Plaintiff and Wage Statement Class members with
25 complete and accurate itemized wage statements resulted in injury, as said failure created
26 confusion over the total number of hours worked and deprived Wage Statement Class members
27 of, among other things, the information necessary to effectively comprehend their actual total
28 number of hours worked.

Defendants' failures create an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys' fees and costs of suit according to California Labor Code §§ 226 and 226.3.

SECOND CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

21. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

22. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 558 and 2699 (a) and (f) including, but not limited to, \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period; and/or \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to furnish Plaintiff and other aggrieved employees with complete, accurate, itemized wage statements in violation of Labor Code § 226;

23. On or about September 7, 2022, Plaintiff notified Defendant Vaco LLC, via certified mail, and the California Labor and Workforce Development Agency ("LWDA") via its website, of Defendants' violations of the Labor Code and Plaintiff's intent to bring a claim for civil penalties under Labor Code § 2698 *et seq.* with respect to violations of the Labor Code identified in paragraph 22(a) above. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of these violations, Plaintiff has exhausted his administrative requirements for bringing a claim under the Private Attorneys General Act with respect to these violations.

24. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to recover under California Labor Code § 2699(g).

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as representative of the Class;
3. For an order appointing counsel for Plaintiff as counsel for the Class;
4. Upon the First Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
5. Upon the Second Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to, \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay period; and/or \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, pursuant to Labor Code § 2699(f).
6. On all causes of action, for attorneys' fees and costs as provided by Labor Code §§ 226(e) and 2699(g); and
7. For such other and further relief the Court may deem just and proper.

Date: November 14, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

By: _____


Tuvia Korobkin
Attorneys for Plaintiff

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

3
4 Dated: November 14, 2022

Respectfully submitted,
ABRAMSON LABOR GROUP

5
6 By: _____



Tuvia Korobkin
Attorneys for Plaintiff