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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

MAY 17 2023

BY: Regine M-Mamudu, Deputy

Attorneys for Plaintiff Tierra Taylor, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO

TIERRA TAYLOR, on behalf of herself and all "aggrieved employees" pursuant to Labor Code § 2698 *et seq.*, Plaintiff, v. SOUTHERN PACPIZZA, LLC, a Delaware limited liability company, and DOES 1 through 10, inclusive, Defendants.	CASE NO: CIV SB 2311211 **REPRESENTATIVE ACTION COMPLAINT FOR PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 212, 226(a), 226.7, 510, 512, AND 1194 AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 225.5, 226.3, AND 558** FAXED

Plaintiff TIERRA TAYLOR ("Plaintiff"), on behalf of herself and others as an "aggrieved employee" under the Labor Code Private Attorneys General Act of 2004, complains of SOUTHERN PACPIZZA, LLC, a Delaware limited liability company, and/or any subsidiaries or affiliated companies (hereinafter referred to as "Defendants"), as follows:

I.

INTRODUCTION AND FACTUAL BACKGROUND

1. This is a Representative Action, pursuant to Labor Code § 2698 et seq., on behalf of Plaintiff and other California employees who currently work or formerly worked for Defendants ("Aggrieved Employees").

2. For at least one (1) year prior to the filing of this action and at least one (1) year prior to the date Plaintiff began the process of exhausting the administrative requirements, pursuant to Labor Code § 2698 *et seq*., and continuing to the present (the "liability period"), Defendants have had consistent policies of:

a. Failing to pay correct premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied rest periods, in violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001. Plaintiff and non-exempt Aggrieved Employees were routinely unable to take a 10-minute rest period for every four (4) hours of work or major fraction thereof, but were not paid premium wages of one hour's pay for each missed rest period. When they were able to take a rest period, they were oftentimes late, cut short, or on-duty and Plaintiff and Aggrieved Employees were impermissibly required to remain on or near the company premises during their rest periods, thereby subjecting them to Defendants' control. This violates Labor Code § 226.7 and IWC Wage Order No. 5-2001;

b. Failing to pay premium wages to Plaintiff and other non-exempt Aggrieved Employees who were denied proper meal periods, in violation of Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 5-2001. Plaintiff and non-exempt Aggrieved Employees were routinely denied, and not authorized to take, a proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded five hours, or a second proper, timely, uninterrupted, 30-minute meal period for every shift worked that exceeded ten hours, but were not paid premium wages of one hour's pay for each missed first or second meal period. When they were able to take a meal period, they were sometimes late or cut short. Defendants also maintains an unlawful meal period policy; it does not set forth meal period timing requirements. This violates Labor Code §§ 226.7, 512, and 558 and IWC Wage Order 5-2001;

c. Failing to offer Plaintiff and other Aggrieved Employees a method for them to receive their wages "in cash, on demand," in violation of Labor Code § 212. Defendants issue their Aggrieved Employees wages by paychecks drawn on an account at Wells Fargo Bank. Wells Fargo Bank charges all non-account holders check cashing fees. Plaintiff and other Aggrieved Employees do not have a bank account with Wells Fargo, such that they were forced to incur check cashing fees at Wells Fargo to obtain their wages. Further, there was no California business address listed on their paychecks where they could be cashed without any fees, violating the express requirements of Labor Code § 212. By not making arrangements with Wells Fargo or another business to permit employees to cash their paychecks without paying a fee, Defendants have violated Labor Code §§ 212 and 225.5;

d. Failing to provide Plaintiff and other non-exempt Aggrieved Employees with wage statements that fully and accurately itemized the requirements set forth in Labor Code §§ 226(a) and 226.3. Plaintiff and other non-exempt Aggrieved Employees were not paid all wages due, as stated above. As such, the wage statements provided by Defendants failed to accurately state all gross wages earned, in violation of Labor Code §§ 226(a)(1) and 226.3, total hours worked, in violation of Labor Code §§ 226(a)(2) and 226.3, net wages earned, in violation of Labor Code §§ 226(a)(5) and 226.3, and all applicable hourly rates in effect during the pay period and the corresponding number of hours worked, in violation of Labor Code §§ 226(a)(9) and 226; and

e. Failing to pay Plaintiff and other non-exempt Aggrieved Employees all wages due at the separation of their employment based on the time frames required by Labor Code §§ 201 and 202. As stated above, Plaintiff and other non-exempt Aggrieved Employees were not paid all wages due during the course of their employment and, as a result of this failure, they were not timely paid all wages due at the separation of their employment. This violates Labor Code §§ 201-202 and is alleged on behalf of Plaintiff and certain Aggrieved Employees no longer employed by Defendants. Separately, when Plaintiff ended her employment with Defendants, she was not provided her final wages within 72 hours. Instead, Defendants issued her final paycheck more than 72 hours after her last date of employment, in violation of Labor Code §§ 201-202. It is alleged that Defendants untimely compensate all of their former employees at the separation of their employment.

3. Plaintiff, on behalf of herself and all Aggrieved Employees pursuant to Labor Code § 2698 *et seq*., seeks civil penalties for Defendants' violations of the California Labor Code.

4. Venue is proper in this judicial district, pursuant to Code of Civil Procedure § 395 because Defendants employed Plaintiff and Aggrieved Employees in San Bernardino County, California.

II.

PARTIES

A. Plaintiff

5. Plaintiff TIERRA TAYLOR was employed by Defendants from June 2021 through December 2022 as a non-exempt employee in San Bernardino County, California.

B. Defendant

6. Defendant SOUTHERN PACPIZZA, LLC is a Delaware limited liability company that employed Plaintiff and Aggrieved Employees throughout the State of California, including San Bernardino County, California.

7. The true names and capacities, whether individual, corporate, associate, or otherwise, of Defendants sued herein as DOES 1 to 10, inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by such fictitious names under Code of Civil Procedure § 474. Plaintiff is informed and believes, and based thereon alleges, that each of the Defendants designated herein as a DOE is legally responsible in some manner for the unlawful acts referred to herein. 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.

8. Plaintiff is informed and believes, and based thereon alleges, that each Defendant acted in all respects pertinent to this action as the agent of the other Defendant, carried out a joint scheme, business plan or policy in all respects pertinent hereto, and the acts of each Defendant is legally attributable to the other Defendants.

9. The Defendants named herein as DOE 1 through DOE 10 are and were persons acting on behalf of, or acting jointly with, Defendants, who violated, or caused to be violated, one or more provisions of the California Labor Code as alleged herein.

III.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

PLAINTIFF AND ALL AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS

CIVIL PENALTIES PURSUANT TO LABOR CODE § 2699(f) FOR VIOLATIONS OF LABOR CODE §§ 201, 202, 212, 226(a), 226.7, 510, 512, AND 1194 AND PURSUANT TO LABOR CODE § 2699(a) FOR VIOLATIONS OF LABOR CODE §§ 225.5, 226.3, AND 558

10. Plaintiff incorporates paragraphs 1 through 9 of this Complaint as though fully set forth herein.

11. As a result of the acts alleged above, including the Labor Code violations set forth in paragraph 2 above, Plaintiff seeks civil penalties pursuant to Labor Code §§ 2698 *et seq.*

12. For each such violation, Plaintiff and all other Aggrieved Employees are entitled to civil penalties subject to the following formula:

a. Pursuant to Labor Code § 2699(f), $100 for each initial violation and $200 for each subsequent violation of Labor Code §§ 201, 202, 212, 226(a), 226.7, 510, 512, and 1194; and

b. Pursuant to Labor Code § 2699(a), the civil penalties as authorized by Labor Code §§ 225.5, 226.3, and 558.

13. Civil penalties recovered will be allocated 75% to the Labor and Workforce Development Agency, and 25% to the affected employees.

14. On March 1, 2023 and March 10, 2023, Plaintiff sent letters, by online submission to the LWDA and by certified mail, return receipt requested, to Defendants setting forth the facts and theories of the violations alleged against Defendants, as prescribed by Labor Code § 2698 *et seq*. Pursuant to Labor Code § 2699.3(a)(2)(A), no notice was received by Plaintiff from the LWDA within sixty-five (65) calendar days of March 1, 2023 or March 10, 2023. Plaintiff may therefore commence this action to seek civil penalties pursuant to Labor Code § 2698 *et seq.*

Wherefore, Plaintiff and the Aggrieved Employees she seeks to represent request relief as described below.

V.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for the following relief:

1. For civil penalties pursuant to Labor Code § 2698 *et seq.* for Plaintiff and all other Aggrieved Employees;

2. An award providing for payment of costs of suit pursuant to Labor Code § 2699(g)(1) and other applicable law;

3. An award of attorneys' fees pursuant to Labor Code § 2699(g)(1) and other applicable law; and

4. Such other and further relief as this Court may deem just and proper.

Dated: May 17, 2023

Respectfully submitted,

GAINES & GAINES
A Professional Law Corporation

By: *Daniel F. Gaines*
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