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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

AVEON GOOSBY, as an individual and on behalf
of all others similarly situated, and as a private
attorney general,

Plaintiff,

vs.

PANDA RESTAURANT GROUP, INC., a
California corporation; PANDA EXPRESS, INC.,
a California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 23STCV15228

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- (1) Unfair or Unlawful Business Practices
(Bus. & Prof. Code §§ 17200 et seq.); and**
- (2) Violations of the California Labor Code
(Lab. Code §§ 2698 et seq.)**

DEMAND OVER \$25,000.00

FILED
Superior Court of California
County of Los Angeles

12/28/2023

David W. Slayton, Executive Officer / Clerk of Court

By: R. Lozano Deputy

1 Plaintiff, Aveon Goosby, submits this First Amended Class and Representative Action
2 Complaint against Defendants Panda Restaurant Group, Inc., Panda Express, Inc., and Does 1 through
3 50 (collectively, “Defendants”), individually, on behalf of himself and other similarly situated current
4 and former employees of Defendants, and as a proxy for the State of California. Pursuant to Family
5 Code section 6710, Plaintiff hereby disaffirms in its entirety any contract between Plaintiff and
6 Defendants relating to arbitration of any disputes alleged herein.

7 **JURISDICTION AND VENUE**

8 1. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
9 Defendants’ violations of Labor Code section 1391 and the Unfair Competition Law, codified at
10 Business and Professions Code sections 17200 et seq. (the “UCL”).

11 2. Venue is proper because Defendants are headquartered in the County of Los Angeles.
12 Defendants also maintains business locations in the County of Los Angeles and employ aggrieved
13 individuals who perform their duties in the County of Los Angeles.

14 **PARTIES**

15 3. Plaintiff is an individual, who at all times herein mentioned was and is a resident of
16 Fresno, California.

17 4. Plaintiff is informed and believes and thereon alleges that Defendants operate various
18 restaurants with locations throughout the State of California.

19 5. Plaintiff is informed and believes that Panda Restaurant Group, Inc. was and is a
20 California corporation. Plaintiff is informed and believes that Panda Express, Inc. was and is a
21 California corporation. Plaintiff is informed and believes that at all times herein mentioned named
22 defendants and Does 1 through 50, were and are corporations, business entities, individuals, or
23 partnerships that are and were licensed to do business and actually doing business in the State of
24 California.

25 6. During the time of Plaintiff’s employment with Defendants, each of them regularly
26 exercised direct and indirect control of Plaintiff’s wages, working hours, and working conditions during
27 Plaintiff’s employment for Defendants. Plaintiff further alleges that each of the said individual
28

Defendants, including unknown Defendants identified herein as Does, also directly and indirectly controlled the working conditions, wages, working hours, and working conditions of Plaintiff.

7. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

8. At all times mentioned herein, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

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

10. Plaintiff is informed and believes that at all times material hereto each of the Defendants (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in pursuance of, a joint venture, partnership, or common enterprise.

FACTUAL ALLEGATIONS

11. Plaintiff worked for Defendants from on or about November 9, 2021, to on or about June 11, 2022. Plaintiff worked in Fresno, California.

12. Defendants routinely require Plaintiff and other employees under the age of 18 to work hours not allowed under Labor Code section 1391. For example, Defendant requires Plaintiff and other

employees under the age of 18 to work more than four hours on schooldays and to work after 10:00 p.m. on days preceding a schoolday.

13. On numerous occasions, Plaintiff complained to his manager, Bee Yang, about being required to work more than four hours on schooldays and being required to work after 10:00 p.m. on days preceding schooldays. In or around April of 2022, Plaintiff is informed and believes that the area coach Argie Santoyo acknowledged that Plaintiff and other employees under the age of 18 should not be required to work more than four hours on schooldays or to work after 10:00 p.m. on days preceding schooldays. Nonetheless, Bee Yang continued to require Plaintiff and other employees under the age of 18 to work more than four hours on schooldays and to work after 10:00 p.m. on days preceding schooldays. When a human resources representative visited Plaintiff's store, Plaintiff informed the human resources representative that employees under the age of 18 were required to work more than four hours on schooldays and being required to work after 10:00 p.m. on days preceding schooldays. Plaintiff also continued to complain to Bee Yang about the work hours. Instead of no longer requiring Plaintiff to work more than four hours on schooldays or to work after 10:00 p.m. on days preceding schooldays, Defendants terminated Plaintiff's employment on June 11, 2022.

14. The policies, practices, and customs of Defendants result in unjust enrichment of Defendants and an unfair business advantage over businesses that comply with the Labor Code.

CLASS ACTION ALLEGATIONS

15. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class certification of the following classes: all current and former non-exempt employees of Defendants in the State of California who at any time since June 29, 2019, were employed as a 16 or 17 year old either for more than four hours in a schoolday when school is in session or after 10:00 p.m. on any day preceding a schoolday.

16. **Numerosity and Ascertainability:** The members of the Class are so numerous that joinder of all members would be impractical, if not impossible. The identities of the members of the Class are readily ascertainable by review of Defendants' records, including personnel and payroll records. Plaintiff is informed and believes that Defendants violated the UCL by requiring Plaintiff and the Class to work hours not allowed under Labor Code section 1391.

1 17. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
2 represent fairly and adequately the interests of the Class defined above. Plaintiff's attorneys are ready,
3 willing, and fully and adequately able to represent Plaintiff and the Class. Plaintiff's attorneys have
4 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-
5 and-hour class actions currently pending in California state and federal courts.

6 18. **Common Question of Law and Fact:** There are predominant common questions of law
7 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is
8 informed and believes that Defendants uniformly administer a corporate policy and practice of routinely
9 requiring Plaintiff and the Class to work hours not allowed under Labor Code section 1391.

10 19. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class
11 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class
12 suffered. As with other members of the Class, Plaintiff was required to work more than four hours on
13 schooldays and to work after 10:00 p.m. on days preceding a schoolday. Plaintiff thus is a member of
14 the Class and has suffered the alleged violations of the Labor Code.

15 20. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
16 in establishing minimum working conditions and requirements in California. These labor standards
17 protect employees from onerous terms and conditions of employment or exploitation by employers who
18 have superior economic and bargaining power.

19 21. The nature of this action and the format of laws available to Plaintiff and members of the
20 Class make the class action format a particularly efficient and appropriate procedure to redress the
21 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate
22 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and
23 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
24 legal resources. Requiring each member of the Class to pursue an individual remedy would also
25 discourage the assertion of lawful claims by employees who would be disinclined to file an action
26 against their former or current employer for real and justifiable fear of retaliation and permanent
27 damage to their careers at their current or subsequent employment.

22. The prosecution of separate actions by individual members of the Class, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual members of the Class that would establish potentially incompatible standards of conduct for Defendants, or (b) adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests of other members of the Class not parties to the adjudications. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering the concomitant costs and expenses.

23. Defendants' pattern, practice, and uniform administration of corporate policy in violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the rights of Plaintiff and the Class under Labor Code section 1391, applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5 to recover restitution, reasonable attorneys' fees, and costs of suit.

24. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

FIRST CAUSE OF ACTION

Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.)

(By Plaintiff and the Class Against All Defendants)

25. The preceding paragraphs are re-alleged and incorporated by this reference.

26. Plaintiff is informed and believes that at Defendants have engaged and continue to engage in unfair and unlawful business practices in California by utilizing the employment policies and practices alleged herein, including requiring Plaintiff and other employees under the age of 18 to work more than four hours on schooldays and to work after 10:00 p.m. on days preceding a schoolday.

27. Defendants' utilization of such unfair and unlawful business practices constitutes unfair and unlawful competition and provides an unfair advantage over Defendants' competitors, as proscribed by the UCL. Defendants have deprived Plaintiff and the Class of the minimum working protections due to them under the Labor Code and Education Code.

28. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiff and the Class to full restitution of all monies withheld, acquired, or converted by means of the unfair practices complained of herein, including interest thereon, attorneys' fees, and costs of suit.

SECOND CAUSE OF ACTION

Violation of California Labor Code (Lab. Code §§ 2698 Et Seq.)

(By Plaintiff as a Proxy for the State Against All Defendants)

29. The preceding paragraphs are re-alleged and incorporated by this reference.

30. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698 et seq. (“PAGA”), Plaintiff brings this cause of action as a proxy for the State of California. In this capacity, Plaintiff seeks penalties for Defendants’ violations of Labor Code section 1391 committed since May 18, 2022, against all aggrieved employees. Under Section 2699(c), Plaintiff is an “aggrieved employee,” as one or more of the alleged violations was committed against Plaintiff as an employee of Defendants.

31. As stated herein, Defendants uniformly administer a corporate policy and practice of routinely requiring Plaintiff and other employees under the age of 18 to work more than four hours on schooldays and to work after 10:00 p.m. on days preceding a schoolday

32. On or about May 18, 2023, Plaintiff sent written notice to the Labor & Workforce Development Agency (“LWDA”) of Defendants’ violations of Labor Code section 1391, including facts and theories to support the violations. Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

33. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable penalties for Defendants' violations against all aggrieved employees for the period described above.

PRAYER FOR RELIEF

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

1. Prejudgment interest at the prevailing legal rate;

2. For an order certifying the proposed Class;
3. For an order appointing Plaintiff as the representative of the Class;
4. For an order appointing Counsel for Plaintiff as Class Counsel;
5. For restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for attorneys' fees and costs;
6. For all applicable penalties pursuant to Labor Code section 2699(a), (f), and (g), and for attorneys' fees and costs;
7. Upon each cause of action for attorneys' fees and costs as provided by the Labor Code, UCL, and Code of Civil Procedure section 1021.5; and
8. For such other and further relief that the Court may deem just and proper.

DATED: December 28, 2023

DIVERSITY LAW GROUP, P.C.

By: 

Larry W. Lee
Simon L. Yang
Attorneys for Plaintiff

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On December 28, 2023, I served the following document(s) described as: **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

Mark D. Kemple Vivian Y. Shen Benjamin F. Fraser Greenberg Traurig, LLP 1840 Century Park East, 19 th Floor Los Angeles, California 90067	<i>Attorneys for Defendants Panda Restaurant Group, Inc. and Panda Express, Inc.</i> kemplem@gtlaw.com Vivian.shen@gtlaw.com Ben.fraser@gtlaw.com
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 X BY ELECTRONIC SERVICE: Based on a court order I caused the above-entitled document(s) to be served through the ACE Attorney Service E-Filing System at the website www.efile.acelegal.com, addressed to all parties appearing on this proof of service for the above-entitled case. The service transmission was reported as complete and a copy of the filing receipt/confirmation will be filed, deposited, or maintained with the original document(s) in this office.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 28, 2023, at Los Angeles, California.



Erika Mejia