



CASTLE LAW

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June 30, 2023

For Online Filing:

Labor and Workforce Development Agency
Attn: PAGA Administrator
1515 Clay Street, Ste. 801
Oakland, CA 94612

Re: *Kenneth Hom v. Kings Casino Management Corp.*

Dear Labor Commissioner,

As counsel for, and on behalf of, Kenneth Hom (hereinafter referred to as “Claimant”), I am writing to provide you and the following employer(s) (hereafter “Defendant(s)”) notice pursuant to California Labor Code section 2699.3:

Kings Casino Management Corp.
7727 Herschel Avenue
La Jolla, CA 92037

I am setting forth the facts and theories to support each of the counts found within this letter. Please notify us of your intent to investigate any or all of the claims alleged herein against any of the above identified Defendant(s). Should you decide not to investigate, we request that you allow us to seek civil penalties on behalf of the Labor Commissioner, Claimant, and all similarly situated current and former aggrieved employees, pursuant to California Labor Code section 2699(a). A \$75.00 filing fee is being submitted to Department of Industrial Relations, Accounting Unit, 455 Golden Gate Avenue, 10th Floor, San Francisco, CA 94102.

A. FACTS

Claimant was employed by Defendant in its Stones Gambling Hall casino as both an exempt and non-exempt employee, from approximately February 2021 thru March 27, 2023.

During the relevant period, Defendant did not reimburse Claimant and similarly situated employees for cell phone usage for business purposes. Claimant and similarly situated employees used their cell phones for business purposes on a regular basis and were not reimbursed by Defendant.

In addition, Defendant did not allow Claimant and similarly situated employees to take their statutorily required meal periods. Defendant failed to provide Claimant and other similarly situated

employees a 30-minute, duty-free meal period before the end of the fifth hour of work as required under the law. Claimant and similarly situated employees regularly missed their meal periods and/ or they were provided late due to the necessity of remaining on post until relieved, or having to complete assigned duties, often because there was inadequate staffing.

Defendant also failed to provide rest periods to Claimant and similarly situated employees for every 4 hours worked or major fraction thereof. Claimant has previously informed Defendant's management that she could not take her meal or rest periods, but management has failed to take action to ensure meal and rest periods were able to be taken by Claimant and similarly situated employees.

When Defendant required Claimant and similarly situated employees to work through their meal and/or rest periods, Defendant failed to pay Claimant and similarly situated employees all statutorily required meal and rest period premiums owed.

Claimant is informed and believe that Defendant committed numerous other violations of the California Labor Code, including but not limited to those identified in this letter. Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745 (2018), Claimant intends to seek civil penalties for all violations of the California Labor Code, whether he experienced them personally or not.

B. VIOLATIONS OF THE LABOR CODE EXPERIENCED BY CLAIMANT AND SIMILARLY SITUATED EMPLOYEES

Violation of Labor Code § 1174 (Failure to Keep Accurate Time Records)

Labor Code section 1174(d) requires employers to keep "payroll records showing the hours worked daily by and the wages paid to . . . employees . . . These records shall be kept in accordance with rules established for this purpose by the commission, but in any case, shall be kept on file for not less than three years." Defendant did not keep accurate information regarding all hours worked by Claimants and similarly situated employees, largely by failing to accurately record all time worked on their time records. This was in violation of the Labor Code.

Violation of Labor Code § 226.7 and IWC Wage Order No. 4-2001, § 11(A) (Failure to Provide Meal Periods)

Labor Code section 226.7 and IWC Wage Order No. 4-2001, section 11(A) require employers to provide employees meal periods of thirty (30) minutes per five (5) hours worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant meal periods pursuant to California law. Defendants also failed to pay meal period premiums for its failure to provide meal periods.

Violation of Labor Code § 226.7 and IWC Wage Order No. 5-2001, § 12(A) (Failure to Provide Rest Periods)

Labor Code section 226.7 and IWC Wage Order No. 5-2001, section 12(A) require employers to provide employees paid off-duty rest periods of ten (10) minutes per four (4) hours or major fraction thereof worked. For the reasons stated above, Claimant and similarly situated employees were not authorized and permitted to take legally compliant rest periods pursuant to California law in violation of the Labor Code. Defendants also failed to pay rest period premiums for their failure to provide rest periods.

Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

Labor Code section 2802(a) states that “An employer shall indemnify his or her employee 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, even though unlawful, unless the employee, at the time of obeying the directions, believed them to be unlawful.” For the reasons stated above, Defendants failed to pay required reimbursements to Claimants and similarly situated employees for required business expenses in violation of the Labor Code.

Other Violations of the Labor Code

Pursuant to *Huff v. Securitas Sec. Servs. USA, Inc.*, 23 Cal. App. 5th 745, 761, 233 Cal. Rptr. 3d 502, 513 (Ct. App. 2018), reh’g denied (June 13, 2018), review denied (Aug. 8, 2018), Claimant intend to seek civil penalties for all violations of the California Labor Code, whether they experienced them personally or not.

If you have any questions or require any further information regarding the facts and theories to support these claims, do not hesitate to contact my office. Pursuant to Labor Code section 2699.3, please notify Defendant(s) and this law office within 60 calendar days of the postmark date of this notice whether the Agency intends to investigate the alleged violations.

Very truly yours,

Castle Law: California Employment Counsel, PC

By: 
Kent L. Bradbury

cc: Kings Casino Management Corp.
7727 Herschel Avenue
La Jolla, CA 92037