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Attorney for Plaintiff
Milania Monroe

Assigned for All Purposes
Judge William Claster
Dept. CX101

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

MILANIA MONROE, individually and on behalf of all similarly situated individuals,	)	NO. 30-2023-01359416-CU-OE-CXC
	)	CLASS ACTION
	)	
Plaintiff,	)	COMPLAINT
v.	)	1. Minimum Wage Violations
	)	2. Overtime Violations
NO ORDINARY MOMENTS, INC. and DOES 1 to 100,	)	3. Meal Period Violations
	)	4. Rest Period Violations
	)	5. Wage Statement Penalties
Defendants.	)	6. Waiting Time Penalties
	)	7. Work Expenditure Violations
	)	8. Violation of Unfair Competition Law
	)	9. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Milania Monroe is a resident of Orange County.
2. Defendant No Ordinary Moments, Inc. is an Orange County corporation.
3. Plaintiff does not know the true names and capacities of Does 1 to 100 and therefore uses fictitious names. Plaintiff will amend the complaint pursuant to Code of Civil Procedure section 474 to allege the true names and capacities when ascertained.
4. The named and Doe defendants are collectively referred to as "Defendants."
5. Plaintiff is informed and believes that each of the Defendants was the agent or employee of the other defendants and acted in the scope of agency or employment.
6. Defendants operate a facility assisting developmentally disabled individuals.

7. Plaintiff and the class members and aggrieved employees worked as personal attendants; therefore Wage Order 5 applies.

8. The class members include all persons who worked in nonexempt capacities at any of the four California facilities within the class period.

9. Plaintiff and the class members were not exempt since they did not customarily and regularly exercise discretion and independent judgment.

10. Throughout Plaintiff's and the class members' employment, they did not receive compliant meal and rest periods, were not paid overtime and premium pay at the correct regular rates, were not reimbursed for work-related purchases, did not receive accurate, itemized wage statements, and did not receive payment for all hours worked.

11. On August 28, 2023 Plaintiff sent Defendants a PAGA notice and uploaded the letter to the LWDA website; since it has been more than 65 days Plaintiff may now include PAGA allegations.

CLASS ACTION ALLEGATIONS

12. The class is defined as the following: "All non-exempt employees who worked for Defendants in California as from four years prior to filing the case to the date of certification or judgment, whichever is earlier."

13. There is a well-defined community of interest, and the proposed class is ascertainable from employment records. Also, the following apply pursuant to Code of Civil Procedure section 382:

- a. Numerosity: The members of the class as defined are so numerous that joinder of all class members is impracticable.
- b. Commonality: This action involves common questions of law and fact to the class because the action focuses on Defendants' systematic course of conduct with respect to violating the Labor Code and IWC Wage Order.
- c. Typicality: The claims are typical of the claims of the class. Plaintiff was subjected to the same violations and seeks the same types of damages, restitution, and other relief on the same as those of the members of the class.
- d. Adequacy of Representation: Plaintiff will fairly and adequately represent and

1 protect the interests of the class. Plaintiff understands the obligations as a class
2 representative and is willing and able to fulfill them. Plaintiff's counsel is
3 competent and experienced in litigating large employment class actions and
4 complex litigation matters, including wage and hour cases like this.

- 5 e. Superiority of Class Action: A class action is superior to other available means
6 for efficient adjudication. Class action treatment will allow similarly situated
7 persons to pursue the claims in a manner that is most efficient and economical.

8 14. There are common questions of law and fact including but not limited to:

- 9 f. Whether Defendants did not pay for all hours worked in violation of Labor Code
10 sections 510 and 1194;
11 g. Whether Defendants did not pay overtime at the correct regular rate of pay;
12 h. Whether Defendants violated Labor Code section 512 and Wage Order 5 by not
13 providing meal breaks;
14 i. Whether Defendants violated Wage Order 5 for not providing rest breaks;
15 j. Whether Defendants violated Labor Code section 226 by providing inaccurate
16 wage statements;
17 k. Whether Defendants violated Labor Code section 226.7 by not paying premium
18 pay for missed meal and rest breaks at the correct regular rate of pay;
19 l. Whether Defendants are liable for waiting time penalties;
20 m. Whether Defendants violated Labor Code section 2802 regarding work
21 expenditure reimbursements;
22 n. Whether Defendants engaged in unfair competition; and
23 o. The amount of damages, wages, and penalties owed.

24
25 FIRST CAUSE OF ACTION

26 Minimum Wage Violations

27 Against All Defendants

28 15. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

1 16. Plaintiff and the class members were required to work off the clock, and this time should
2 have been paid at least the minimum wage.

3 17. Plaintiff and the class members are owed reimbursement for unpaid wages, interest, and
4 statutory attorney fees apply.

5
6 SECOND CAUSE OF ACTION

7 Overtime Violations

8 Against All Defendants

9 18. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

10 19. Plaintiff and the class members were required to work over eight hours in a day and/or 40
11 hours in a week without being compensated for all overtime in violation of Labor Code 510.

12 20. Plaintiff and the class members should have received overtime at the correct regular rate of
13 pay for the overtime work; the reason for the violations is that Plaintiffs and the class members
14 received different rates of pay that should have been incorporated into the regular rate pay.

15 21. The remedy for the overtime violations is payment of the unpaid overtime at the correct
16 regular rate of pay, plus interest and attorney fees.

17
18 THIRD CAUSE OF ACTION

19 Meal Period Violations

20 Against All Defendants

21 22. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

22 23. Pursuant to Wage Order 5 every employer shall authorize and permit employees to take
23 meal periods of thirty minutes for every five hours worked.

24 24. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 5, when the employer does
25 not provide an employee with the required meal period, the employer shall pay the employee one
26 hour of pay at the employee's regular rate for each workday that a rest period is not provided.

27 25. Plaintiff and the class members were denied meal periods as meal periods were not
28 provided or were on-duty.

1 26. As a result of Defendants' meal period violations, Plaintiff and the class members are
2 entitled to premium pay which is one additional hour of compensation for each missed break at the
3 correct regular rate of pay.

4
5 FOURTH CAUSE OF ACTION

6 Rest Period Violations

7 Against All Defendants

8 27. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

9 28. Pursuant to Wage Order 5 every employer shall authorize and permit employees to take rest
10 periods of ten minutes for every four hours worked.

11 29. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 5, when the employer does
12 not provide an employee with the required rest period, the employer shall pay the employee one
13 hour of pay at the employee's regular rate of compensation for each workday that a rest period is
14 not provided.

15 30. Plaintiff and the class members were denied rest periods as rest periods were not provided
16 or were on duty.

17 31. As a result of Defendants' rest period violations, Plaintiff and the class members are
18 entitled to premium pay which is one additional hour of compensation for each missed break.

19
20 FIFTH CAUSE OF ACTION

21 Wage Statement Penalties

22 Against All Defendants

23 32. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

24 33. Defendants' wage statements issued to Plaintiffs and the class members violated Labor
25 Code section 226 since they intentionally did not list the work performed off the clock, did not list
26 the correct regular rates of pay for overtime, and did not list premium pay at the correct regular
27 rates of pay.

28 34. The remedy is wage statement penalties up to \$4,000 each and attorney fees.

1 SIXTH CAUSE OF ACTION

2 Waiting Time Penalties

3 Against All Defendants

4 35. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

5 36. Plaintiff and the class members who no longer work for Defendants were still owed wages
6 when they stopped working for Defendants and were willfully not paid these wages.

7 37. Therefore, pursuant to Labor Code section 203, Plaintiff and the class members who no
8 longer work for Defendants are owed waiting time penalties, which are 30 days of wages each.

9
10 SEVENTH CAUSE OF ACTION

11 Work Expenditure Violations

12 Against All Defendants

13 38. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

14 39. Labor Code section 2802 provides employers must reimburse employees for work-related
15 expenditures.

16 40. Plaintiff and the class members made purchases, including supplies, for Defendants but
17 were not reimbursed.

18 41. Plaintiff and the class members are entitled to reimbursement of the expenditures and
19 attorney fees.

20
21 EIGHTH CAUSE OF ACTION

22 Violation of Unfair Competition Law

23 Against All Defendants

24 42. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.

25 43. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.

26 44. This claim is being brought under the unlawful prong of the UCL.

27 45. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due, and
28 overtime and premium pay at the correct regular rate, and reimbursement of expenditures.

- 1 46. Plaintiff and the class members are entitled to restitution for the above.
2 47. Under Code of Civil Procedure section 1021.5, Plaintiff is entitled to attorney fees.

3
4 NINTH CAUSE OF ACTION

5 PAGA Penalties

6 Against All Defendants

- 7 48. Plaintiff incorporates by reference paragraphs 1 to 14 of the complaint.
8 49. Pursuant to Labor Code section 2699, Plaintiff may seek PAGA penalties on behalf of
9 herself and all aggrieved employees for the Labor Code violations.
10 50. The PAGA penalties for the minimum wage violations are contained in Labor Code 1197.1.
11 51. The PAGA penalties for the overtime violations are contained in Labor Code 558 & 2699.
12 52. The PAGA penalties for the meal break violations are contained in Labor Code 558.
13 53. The PAGA penalties for the rest break violations are contained in Labor Code 2699.
14 54. The PAGA penalties for the wage statement violations are contained in Labor Code 2699.
15 55. The PAGA penalties for the waiting time violations are contained in Labor Code 2699.
16 56. The PAGA penalties for the work expenditure violations are contained in Labor Code 2699.
17 57. Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

18
19 PRAYER

20 For All Causes of Action

- 21 1. That the court determine that this action may be maintained as a class action
22 2. That Plaintiff is appointed representative of the class
23 3. That Counsel for Plaintiff are appointed as class counsel.

24
25 First Cause of Action

- 26 1. Payment of all unpaid wages
27 2. Interest
28 3. Attorney fees

- 1 Second Cause of Action
- 2 1. Payment of unpaid overtime
- 3 2. Interest
- 4 3. Attorney fees
- 5
- 6 Third Cause of Action
- 7 1. Premium pay at the correct regular rate of pay
- 8 2. Interest
- 9 3. Other relief the court deems proper
- 10
- 11 Fourth Cause of Action
- 12 1. Premium pay at the correct regular rate of pay
- 13 2. Interest
- 14 3. Other relief the court deems proper
- 15
- 16 Fifth Cause of Action
- 17 1. Wage statement penalties
- 18 2. Attorney fees and costs
- 19 3. Other relief the court deems proper
- 20
- 21 Sixth Cause of Action
- 22 1. Waiting time penalties
- 23
- 24 Seventh Cause of Action
- 25 1. Reimbursement of work-related expenditures
- 26 2. Attorney fees
- 27 3. Other relief the court deems proper
- 28 ///

- 1 Eighth Cause of Action
2 1. Restitution of unpaid wages and premium pay
3 2. Attorney fees
4 3. Other relief the court deems proper
5

- 6 Ninth Cause of Action
7 1. All applicable PAGA penalties
8 2. Attorney fees and costs
9 3. Other relief the court deems proper
10

11 Date: November 5, 2023

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