



AZADIAN LAW GROUP, PC

EMPLOYMENT LAW AND WRONGFUL TERMINATION ATTORNEYS

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November 7, 2023

Labor and Workforce Development Agency
Attn. PAGA Administrator

Re: *ROSE MARY CASTLEBERRY V. KIRKWOOD COLLECTION PALM SPRINGS LLC, ET AL.*

Dear Administrator,

Please allow this correspondence to serve as written notice, as required by California Labor Code § 2699.3(a)-(c), of the specific provisions of the California Labor Code violated by KIRKWOOD COLLECTION PALM SPRINGS LLC and/or MARTINI MADNESS, LLC (together “Defendants”). As detailed below, Plaintiff Rose Mary Castleberry (“Plaintiff”) on behalf of herself and other non-exempt employees in the state of California (“aggrieved employees”) alleges that Defendants have violated the following Labor Code provisions:

- a. Underpayment of minimum wages and hourly wages in violation of California Labor Code §§ 204, 1194, 1194.2, 1197, IWC Wage Order, California Minimum Wage Order.
- b. Underpayment of overtime wages in violation of California Labor Code §§ 510, 1194, and IWC Wage Order.
- c. Failure to provide compliant meal periods in violation of California Labor Code §§ 226.7 and 512 and IWC Wage Order.
- d. Failure to provide compliant rest periods in violation of California Labor Code §§ 226.7 and 512 and IWC Wage Order.
- e. Failure to reimburse business expenses in violation of California Labor Code 2802 and IWC Wage Order.

- f. Non-compliant wage statements in violation of California Labor Code § 226(a).
- g. Failure to pay all wages upon resignation or termination in violation of California Labor Code §§ 201-203.
- h. Failure to pay, appropriately accrue, and forfeiture of paid time off in violation of California Labor Code § 227.3.
- i. Failure to keep payroll records showing total hours worked and wages paid in violation of California Labor Code §§ 1174-1174.5 and IWC Wage Order.

Between approximately February of 2021, and October 27, 2023, Plaintiff worked for Defendants as a front desk agent. In approximately June of 2023, Plaintiffs and some of the aggrieved employees' formal employer changed from MARTINI MADNESS, LLC to KIRKWOOD COLLECTION PALM SPRINGS LLC.

Plaintiff and other non-exempt employees working for Defendants were compensated based on an hourly rate.

Plaintiff and other employees working for Defendants were not compensated for all time worked, had their time entries altered/decreased by Defendants, were required to work "off the clock," were not paid for mandatory trainings, and not paid for reporting time pay.

Plaintiff and other employees are entitled to liquidated damages equal to unlawfully unpaid minimum wages with interest pursuant to Labor Code § 1194.2.

Due to these and other issues, Plaintiff and other employees were also not compensated appropriately for overtime wages and double overtime wages. Plaintiff and other employees worked overtime during their employment with Defendants by working over eight (8) hours in a workday and/or forty (40) hours in a workweek. Plaintiff and other employees were not compensated for all hours worked, which resulted in underpayments of overtime wages and double overtime wages.

Further, Defendants failed to pay Plaintiff and other employees all wages due to them within any time period specified by Labor Code § 204, including earned and unpaid minimum, overtime, and premium wages.

During Plaintiff's employment by Defendants, Plaintiff and other employees working for Defendants were forced to miss taking compliant meal periods (30-minute meal periods after the first five hours worked) due to the demands placed on them by Defendants and lack of coverage. Moreover, Plaintiff and other non-exempt hourly employees were deprived of taking a second meal period after ten hours worked.

During Plaintiff's employment by Defendants, Plaintiff and other employees working for Defendants were forced to miss taking compliant rest periods (ten minutes

rest time per four hours worked) due to the demands placed on them by Defendants and lack of coverage.

Defendants failed to pay penalties for noncompliant rest and meal periods (premium pay as required by Labor Code § 226.7(b) and Sections 11 and 12 of the applicable Wage Order in lieu of meal and/or rest periods).

Throughout Plaintiff's employment with Defendants, Defendants required Plaintiff and other employees to wear uniforms. While Defendants provided Plaintiff and other employees these uniforms, Defendants have a policy and/or practice that requires its employees to maintain/clean their uniforms on their own time and while working off the clock. The relevant IWC Wage Order. states: "When uniforms are required by the employer to be worn by the employee as a condition of employment, such uniforms shall be provided and maintained by the employer. The term 'uniform' includes wearing apparel and accessories of distinctive design or color."

Based on these underpayments of regular wages, overtime wages, double overtime wages, and unpaid or underpaid meal/rest period penalties, Plaintiff and other employees who were terminated or resigned did not receive all wages owed to them upon termination or within seventy-two (72) hours after resignation.

Plaintiff and other employees were not reimbursed for all business expenses and, to the extent such reimbursement was provided, it was provided in an amount not sufficient to reimburse Plaintiff and other employees for such expenses, including use of their personal cell phone and data plans.

In addition, Defendants did not provide Plaintiff and other employees with accurate wage statements as required under California law. More specifically, the wage statements provided to Plaintiff and other employees did not reflect or did not accurately reflect the: (1) gross wages earned, (2) total hours worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid on a piece-rate basis, (4) all deductions, (5) net wages earned, (6) the inclusive dates of the period for which the employee is paid, (7) the name and address of the legal entity that is the employer, and (8) all applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee. Accordingly, Plaintiff and other employees were not able to promptly and easily determine the missing information without reference to other documents or information.

The wage statements also did not provide accurate information by omitting the lack of meal/rest break premium pay that should have been paid to Plaintiff and the other employees. See Naranjo v. Spectrum Sec. Servs., Inc., 13 Cal. 5th 93 (2022) (Because premium pay for missed meal and rest breaks under Lab. Code, § 226.7, compensated employees for the work performed during a break period and therefore constituted wages

within the meaning of Lab. Code, §§ 200, subd. (a), 203, 226, penalties could be available for an employer's alleged failure to timely pay or report such payments.).

Defendants maintained unlawful business practices in their exercise of improperly calculating and improperly paying out the accrued vacation hours of Plaintiff and other non-exempt employees.

Defendants violated California Labor Code §§ 1174, 1174.5 by failing to keep at a central location in the state or at the plants or establishments at which employees are employed, payroll records showing the hours worked daily by and the wages paid to employees employed at the respective plants or establishments.

Based on the foregoing detailed facts, Defendants undertook actions against Plaintiff and other aggrieved employees that violated the above-enumerated provisions of the California Labor Code and applicable Wage Order.

To confirm, Defendants are each a "person" as defined within California Labor Code section 18.

As detailed above, Defendants have violated or have caused to be violated a number of California wage and hour laws. Plaintiff requests the agency investigate the above allegations and provide notice of the allegations pursuant to PAGA's provisions. Alternatively, Plaintiff requests the agency inform them if it does not intend to investigate these violations so that Plaintiff may proceed by filing a Court Action under PAGA on behalf of herself and other aggrieved employees.

Thank you for your assistance and instruction throughout this matter. Should you have any questions or comments, please do not hesitate to contact the undersigned.

Best Regards,



George S. Azadian, Esq.
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cc: Via Certified U.S. Mail

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