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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF CONTRA COSTA

LESLEY HOWARD, on behalf of herself and all
others similarly situated,

Plaintiff,

vs.

LIBERTY ASSOCIATES GROUP, LLC, a
limited liability company; and DOES 1 through
100, Inclusive,

Defendants.

Case No. C23-02821

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

- (1) WAGE STATEMENT VIOLATIONS
(LABOR CODE § 226, *et seq.*)**
- (2) CIVIL PENALTIES UNDER THE
PRIVATE ATTORNEY GENERAL
ACT (LABOR CODE § 2698, *et seq.*)**

**DEMAND FOR JURY TRIAL
UNLIMITED CIVIL CASE**

1 Plaintiff Lesley Howard (“Plaintiff”), on behalf of herself and all others similarly situated,
2 hereby brings this Class and Representative Action Complaint against Liberty Associates Group,
3 LLC, a limited liability company; and Does 1 through 100, inclusive (collectively, “Defendants”),
4 and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of herself and all others similarly situated, hereby brings this
7 class action for recovery of all available damages, penalties, and relief under California Labor
8 Code sections 226, 2698 *et seq.*, and Industrial Welfare Commission Wage Order No. 4 (“Wage
9 Order 4”). This class action is brought pursuant to California Code of Civil Procedure section
10 382. This Court has jurisdiction over Defendants’ violations of the California Labor Code because
11 the amount in controversy exceeds this Court’s jurisdictional minimum.

12 **VENUE**

13 2. Venue is proper in this judicial district pursuant to California Code of Civil
14 Procedure §§ 395(a) and 395.5, as at least some of the acts and omissions complained of herein
15 occurred in Contra Costa County. Defendants own, maintain offices, transact business, employ
16 employees, have an agent or agents within Contra Costa County, and/or otherwise are found
17 within Contra Costa County, and Defendants are within the jurisdiction of this Court for purposes
18 of service of process.

19 **PARTIES**

20 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
21 Plaintiff was, and currently is, a California resident. During the one year immediately preceding
22 the filing of this action and within the statute of limitations periods applicable to each cause of
23 action pled herein, Plaintiff was employed by Defendants. Plaintiff was, and is, a victim of
24 Defendants’ policies and/or practices complained of herein, and has been deprived of the rights
25 guaranteed by California Labor Code § 226, 2698 *et seq.*; and Wage Order 4, which sets
26 employment standards for employees in professional, technical, clerical, mechanical, and similar
27 occupations.

28 4. Plaintiff is informed and believes, and based thereon alleges, that during the one

1 year preceding the filing of this lawsuit and continuing to the present, Defendants did (and do)
2 business as a property management company, and that they employed Plaintiff and other similarly
3 situated employees within Contra Costa County and the state of California.

4 5. Plaintiff does not know the true names or capacities, whether individual, partner,
5 or corporate, of the defendants sued herein as DOES 1 through 100, and for that reason, said
6 defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to
7 amend this Complaint when such true names and capacities are discovered. Plaintiff is informed
8 and believes, and thereon alleges, that each of said fictitious defendants, whether individual,
9 partners, or corporate, were responsible in some manner for the acts and omissions alleged herein,
10 and proximately caused Plaintiff and the Class (as defined in Paragraph 11) to be subject to the
11 unlawful employment practices, wrongs, injuries, and damages complained of herein.

12 6. Plaintiff is informed and believes, and based thereon alleges, that at all times
13 mentioned herein, Defendants were and are the employers of Plaintiff and all Class members.

14 7. At all times herein mentioned, each of said Defendants participated in the acts
15 herein alleged to have been done by the named Defendants; and furthermore, the Defendants, and
16 each of them, were the agents, servants, and employees of each of the other Defendants, as well
17 as the agents of all Defendants, and at all times herein mentioned were acting within the course
18 and scope of said agency and employment. Defendants, and each of them, approved of, condoned,
19 and/or otherwise ratified each of the acts or omissions alleged herein.

20 8. At all times mentioned herein, Defendants, and each of them, were members of
21 and engaged in a joint venture, partnership, and common enterprise, and acting within the course
22 and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,
23 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all Class
24 members (as defined in Paragraph 11).

25 **GENERAL FACTUAL ALLEGATIONS**

26 9. Plaintiff was employed by Defendants from approximately October 2022 to
27 December 11, 2022.

28 10. During Plaintiff's employment with Defendants, Plaintiff was provided inaccurate

1 and/or incomplete wage statements, in that the wage statements issued to Plaintiff and other
2 employees were facially deficient because they failed to list the inclusive dates of the pay period,
3 and therefore, failed to comply with Labor Code § 226(a)(6). Specifically, the wage statements
4 issued by Defendants did not list the beginning date of the relevant pay period. Rather, the wage
5 statements issued by Defendants only list dates associated with the last day of the pay period
6 denoted as the ‘week end date.’ Plaintiff is informed and believes, and based thereon alleges, that
7 Defendants have issued similar wage statements to all of its employees during the relevant time
8 period. Thus, the wage statements issued to Plaintiff and Defendants’ other employees, failed to
9 comply with the requirements set forth by Labor Code § 226(a)(6).

10 **CLASS ACTION ALLEGATIONS**

11 11. Class Definition: Plaintiff bring this action on behalf of herself and the following
12 Class pursuant to Section 382 of the Code of Civil Procedure:

13 a. The Wage Statement Class consists of all of the Defendants’ current and former
14 employees in California who in at least one pay period were issued a wage statement that
15 failed to list the inclusive dates of the relevant pay period, at any time from one year
16 immediately preceding the filing of this action through the present.

17 12. **Numerosity/Ascertainability:** The members of the Class are so numerous that
18 joinder of all members would be unfeasible and impracticable. The membership of the Class is
19 unknown to Plaintiff at this time; however, it is estimated that the Class number greater than fifty
20 (50) individuals. The identity of such membership is readily ascertainable via Defendants’
21 employment records.

22 13. **Common Questions of Law and Fact Predominate/Well Defined Community**
23 **of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly
24 situated employees, which predominate over questions affecting only individual members
25 including, without limitation to:

26 i. Whether Defendants furnished legally compliant wage statements to
27 members of the Wage Statement Class pursuant to Labor Code § 226.

28 14. **Predominance of Common Questions:** Common questions of law and fact

predominate over questions that affect only individual members of the Class. The common questions of law set forth above are numerous and substantial and stem from Defendants' policies and/or practices applicable to each individual class member, such as Defendants' wage statement policies/practices. As such, the common questions predominate over individual questions concerning each individual class member's showing as to his or her eligibility for recovery or as to the amount of his or her damages.

15. **Typicality:** Plaintiff's claims are typical of the claims of the Class because Plaintiff was employed by Defendants in California during the statute(s) of limitation applicable to each cause of action pled in the Complaint in this action. As alleged herein, Plaintiff, like the members of the Class, was furnished with wage statements that failed to list the beginning date of the relevant pay period.

16. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the members of the Class. Moreover, Plaintiff's attorneys are ready, willing, and able to fully and adequately represent the members of the Class and Plaintiff. Plaintiff's attorneys have prosecuted numerous wage-and-hour class actions in state and federal courts in the past and are committed to vigorously prosecuting this action on behalf of the members of the Class.

17. **Superiority:** The California Labor Code is broadly remedial in nature and serves an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Class make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Class

1 to pursue an individual remedy would also discourage the assertion of lawful claims by employees
2 who would be disinclined to file an action against their former and/or current employer for real
3 and justifiable fear of retaliation and permanent damages to their careers at subsequent
4 employment. Further, the prosecution of separate actions by the individual class members, even
5 if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications
6 with respect to the individual class members against Defendants herein; and which would
7 establish potentially incompatible standards of conduct for Defendants; and/or legal
8 determinations with respect to individual class members which would, as a practical matter, be
9 dispositive of the interest of the other class members not parties to adjudications or which would
10 substantially impair or impede the ability of the class members to protect their interests. Further,
11 the claims of individual Class members are not sufficiently large to warrant vigorous individual
12 prosecution considering all of the concomitant costs and expenses attending thereto. Thus, the
13 Class identified in Paragraph 11 is maintainable under Code Civ. Proc. § 382.

14 **FIRST CAUSE OF ACTION**

15 **WAGE STATEMENT VIOLATIONS**

16 **(AGAINST ALL DEFENDANTS)**

17 18. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 19. Plaintiff is informed and believes, and based thereon alleges, that Defendants
19 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
20 and the Wage Statement Class with accurate and complete itemized wage statements that
21 included, among other requirements, the beginning date of the relevant pay period, in violation
22 of Labor Code § 226.

23 20. Defendants' failure to furnish Plaintiff and Wage Statement Class members with
24 complete and accurate itemized wage statements resulted in injury, as said failure created
25 confusion and deprived Wage Statement Class members of information required to be included
26 on the wage statement, and the information could not be determined based on the wage statement
27 itself without reference to other documents or information.

28 21. Moreover, Defendants were aware of the fact that the wage statements issued to

Plaintiff and other Wage Statement Class members did not contain the beginning date of the pay period, and the failure was therefore “knowing and intentional” as that term is used in the context of Labor Code Section 226.

22. Defendants’ failure creates an entitlement to recovery by Plaintiff and members of the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor Code § 226, including statutory penalties, civil penalties, and reasonable attorneys’ fees and costs of suit according to California Labor Code §§ 226 and 226.3.

SECOND CAUSE OF ACTION

PRIVATE ATTORNEYS GENERAL ACT

(AGAINST ALL DEFENDANTS)

23. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

24. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff is an “aggrieved employee” within the meaning of Labor Code § 2698 *et seq.* Plaintiff, acting on behalf of herself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§ 226 and 2699 (a) and (f) including, but not limited to: (1) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3, per employee per pay period; and/or (2) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- a. Failing to furnish Plaintiff and other aggrieved employees with accurate and complete itemized wage statements, in violation Labor Code § 226.

25. On or about November 6, 2023, Plaintiff notified Defendant Liberty Associates Group, LLC., via certified mail, and the California Labor and Workforce Development Agency (“LWDA”) via its website, of Defendants’ violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties under California Labor Code § 2698 *et seq.* with respect to the violations of the California Labor Code identified in paragraph 24(a) above. Thereafter, on

December 8, 2023, Defendants submitted its cure notification letter to the LWDA, which claimed that Defendants had attempted to cure the alleged Labor Code violations. In turn, on January 12, 2024, Plaintiff submitted her cure dispute letter to the LWDA and asserted that Defendants' cure attempt had not in fact cured the alleged Labor Code violations. Finally, on January 29, 2024, the LWDA determined that Defendants had not cured the alleged Labor Code violations. Now that sixty-five days have passed from Plaintiff's notifying Defendants and the LWDA of the alleged Labor Code violations, and the LWDA has determined that Defendants have not cured the alleged Labor Code violations, Plaintiff has exhausted her administrative requirements for bringing a claim under the Private Attorneys General Act with respect to the alleged Labor Code violations.

26. Plaintiff was compelled to retain the services of counsel to file this court action to protect her interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which she is entitled to recover under California Labor Code § 2699(g).

PRAYER

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

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as representative of the Class;
3. For an order appointing counsel for Plaintiff as counsel for the Class;
4. Upon the First Cause of Action, for statutory penalties pursuant to Labor Code § 226, *et seq.*;
5. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 226(e); and
6. For such other and further relief the Court may deem just and proper.
7. Upon the Second Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 2699, including, but not limited to: (1) \$250.00 for each initial violation of Labor Code § 226 and \$1,000.00 for each subsequent violation, pursuant to Labor Code § 226.3 per employee per pay

1 period; and/or (2) \$100.00 for each initial violation and \$200.00 for each subsequent violation per
2 employee per pay period for those violations of the Labor Code for which no civil penalty is
3 specifically provided, pursuant to Labor Code § 2699(f).

4 Respectfully submitted,

5 Date: February 2, 2024

6 ABRAMSON LABOR GROUP

7 By: 

8 Tuvia Korobkin
9 Attorney for Plaintiff

10 **DEMAND FOR JURY TRIAL**

11 Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

12 Respectfully submitted,

13 Dated: February 2, 2024

14 ABRAMSON LABOR GROUP

15 By: 

16 Tuvia Korobkin
17 Attorney for Plaintiff