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ELECTRONICALLY FILED
Superior Court of California
County of Marin
02/07/2025
James M. Kim, Clerk of the Court
By: D. Harrison, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MARIN

KIMBERLEY MILLER KAISERMAN, an individual, on behalf of herself and all others similarly situated, Plaintiff, vs. CLUTCH STAFFING LLC, a Pennsylvania Limited Liability Company; PUBLICIS HEALTH, LLC, a Delaware Limited Liability Company; and DOES 1 TO 50, Defendants.	CASE NO. CV0005329 **CLASS ACTION COMPLAINT FOR:** **1. FAILURE TO REIMBURSE EMPLOYEE FOR NECESSARY EXPENDITURES OR LOSSES** **2. UNFAIR/UNLAWFUL BUSINESS PRACTICES** **DEMAND FOR TRIAL BY JURY** [UNLIMITED CIVIL JURISDICTION]

I. INTRODUCTION

1. Plaintiff KIMBERLEY MILLER KAISERMAN ("Plaintiff") brings this action as a class action for Defendants' failure to reimburse business expenses to its California employees. As a result of these acts or omissions, Defendants have violated California statutory laws as described below.

II. JURISDICTION AND VENUE

2. Plaintiff hereby brings this Complaint for recovery of business expenses under provisions of the California Labor Code, including 2802, and the applicable

Industrial Welfare Commission Wage Order (the “IWC Wage Order”), in addition to declaratory relief and restitution.

3. This court has jurisdiction over Defendants’ violations of the California Labor Code because the amount in controversy exceeds this court’s jurisdictional minimum. Venue in this court is proper because Defendants actively and regularly conducted business in Marin County, and a significant portion of the events giving rise to this action occurred here.

4. Plaintiff asserts no claims arising under federal law. Rather, Plaintiff brings causes of action based solely on, and arising from, California law.

III. PARTIES

5. Plaintiff is an individual over the age of eighteen, and resides in Marin County, California.

6. Defendant CLUTCH STAFFING LLC is incorporated in Pennsylvania. The Company employed and employs individuals in California, including Plaintiff, and regularly conducts business in California, including Marin County.

7. Defendant PUBLICIS HEALTH, LLC, Inc. is incorporated in Delaware. The Company employed and employs individuals in California, including Plaintiff, and regularly conducts business in California, including Marin County.

8. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as Doe Defendants 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this Complaint when such true names and capacities are discovered. Plaintiff is informed and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Class to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein. The Company and Doe Defendants 1 to 50 are referred to herein as “Defendants”.

9. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein

IV. PAGA ALLEGATIONS

10. On or around the date of filing of this Complaint, Plaintiff filed a claim with the California Labor and Workforce Development Agency (hereafter, "LWDA") and provided a copy by certified mail to Defendant. The LWDA has 60 calendar days to respond and, if it does not do so, Plaintiff will have exhausted Plaintiff's administrative remedies and, pursuant to Labor Code section 2699.2, will be permitted to pursue Plaintiff's PAGA claims in this court. The period for the LWDA to respond to the has not expired. If the LWDA does not respond within the applicable statutory period, Plaintiff will amend this Complaint to add a cause of action under PAGA.

V. CLASS ACTION ALLEGATIONS

11. Plaintiff brings this case as a class action pursuant to California Code of Civil Procedure § 382 on behalf of a class (hereafter the "Class") consisting of the following:

a. The Class: All current and former employees of Publicis Health, LLC and Clutch in California who, at any time during the applicable statutory period, incurred necessary business expenses, including but not limited to phone and internet costs, and were not reimbursed in accordance with California Labor Code § 2802. ("Class Members"). The Class Period is the time period starting four years before the filing of the initial Complaint in this action plus any additional time during which the statutes of limitation for the causes of action herein were tolled pursuant to Emergency Rule 9 of the California Rules of Court, the "Emergency Rules Related to COVID-19".

12. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court to amend or modify the class description with greater specificity, by division into subclasses, or by limitation to particular issue.

13. This action has been brought and may properly be maintained as a class action under the provisions of § 382 of the Code of Civil Procedure because there is a well-defined community of interest in the litigation and the Class are easily ascertainable.

14. Numerosity. The members of the Class are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Class are unknown to Plaintiff at this time; however, it is estimated that the Class number greater than one hundred (100) individuals. The identity of such membership is readily ascertainable via inspection of the Company's personnel records.

15. Typicality. Plaintiff's claims are typical of the claims of the members of the Class. Defendants subjected all Class Members to identical violations of the California Labor Code, the Wage Orders of the California Industrial Welfare Commission, and the California Business and Professions Code. The factual grounds of Defendants' violations are common to all Class Members and represent a common thread of unlawful conduct resulting in injury to all members of the Class.

16. Commonality. Common questions of law and fact exist with respect to all members of the Class and predominate over any questions solely affecting individual members. Issues of law and fact common to the Class include:

a. Whether Defendants failed to reimburse Plaintiff and Class Members for all necessary expenditures or losses incurred by them in direct consequence to the discharge of their duties in violation of Labor Code section 2802, or of their obedience of the direction of the Defendants; and

b. Whether the violations alleged in (a) above constitutes unfair business practices in violation of California's Unfair Competition Law, Section 17200 et seq. of the Business and Professions Code.

17. Adequacy. Plaintiff will fairly and adequately represent the interests of the Classes and has no interests adverse to or in conflict with other Class Members. Plaintiff is represented by attorneys who have class action experience in wage and hour and class action law and are committed to vigorously prosecuting this action on behalf of the members of the Class.

18. Superiority. A class action is superior to the other available methods for the fair and efficient adjudication of this controversy since, among other things, joinder of all Class Members is impracticable, and a class action will reduce the risk of inconsistent adjudications or repeated litigation over the same conduct. Further, the expense and burden of individual lawsuits would make it virtually impossible for Class Members, Defendants, or the court to cost-effectively redress separately the unlawful conduct alleged. Plaintiff knows of no difficulties to be encountered in the management of this action that would preclude its maintenance as a class action.

VI. GENERAL FACTUAL ALLEGATIONS

19. Plaintiff and similarly situated employees were employed by Defendants Publicis Health and Clutch, either separately or jointly, and were systematically denied reimbursement for necessary business expenses in violation of California Labor Code § 2802. Defendants employed individuals throughout California in various roles and classifications yet uniformly failed to reimburse employees for work-related expenses incurred in the performance of their job duties.

20. Plaintiff was hired by Clutch and assigned to work directly for Publicis Health as a medical copywriter, performing her work remotely from her home in Mill Valley, California. Throughout her employment, Plaintiff was required to use her personal phone and internet to perform essential job duties.

21. Despite these mandatory work-related obligations, neither Publicis Health nor Clutch reimbursed Plaintiff or other similarly situated employees for these necessary

expenses, effectively shifting the cost of doing business onto workers. These failures were not limited to Plaintiff but were part of Defendants' widespread policies and practices, which applied to all remote employees, whether they worked for Publicis Health, Clutch, or both entities.

22. Defendants exercised significant control over the terms and conditions of employment, requiring the use of work-related communication tools, time-tracking platforms, and remote work systems. However, neither entity took responsibility for ensuring compliance with California Labor Code § 2802, which requires that employers reimburse employees for all necessary expenditures incurred as a direct consequence of their job duties.

23. By failing to reimburse employees for necessary phone and internet expenses, Defendants Publicis Health and Clutch violated California Labor Code § 2802, causing financial harm to employees across both companies. Plaintiff brings this action on behalf of all employees of Publicis Health and Clutch in California who were similarly denied reimbursement for necessary business expenses.

A. Failure to Reimburse Necessary Business Expenses

24. During the Class Period, Plaintiff, like other Class Members, was not reimbursed for necessary and reasonable business expenses including but not limited to home internet charges and mobile telephone expenses.

FIRST CAUSE OF ACTION
FAILURE TO REIMBURSE EMPLOYEE FOR NECESSARY EXPENDITURES OR LOSSES
(PLAINTIFF ON BEHALF OF HERSELF AND THE CLASS AGAINST ALL DEFENDANTS)

25. Plaintiff, on behalf of herself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

26. Plaintiff and the Proposed Class incurred expenditures and/or losses as a direct consequence of discharging Plaintiff and the Proposed Class Members' job duties and/or obeying the directions of Defendants. The expenditures and losses that Plaintiff

and the Proposed Class Members incurred were necessary and reasonable.

27. Defendants failed to reimburse Plaintiff and the Proposed Class Members for the full amount of the expenditures and/or losses as required by law, including Labor Code section 2802(a), and Plaintiff and the Proposed Class members have suffered damages as a result.

SECOND CAUSE OF ACTION
UNFAIR/UNLAWFUL BUSINESS PRACTICES
(PLAINTIFF ON BEHALF OF HERSELF AND THE CLASS AGAINST ALL DEFENDANTS)

28. Plaintiff, on behalf of herself and the Class, incorporates by reference all other paragraphs of this Complaint as if they were re-alleged and set forth herein.

29. Defendants' violations of the Labor Code and other laws and regulations as alleged by this Complaint, including Defendants' failure and refusal to reimburse Plaintiff and the Class for business expenses, and other wrongful, tortious and illegal acts and omissions, all constitute unfair business practices in violation of the Unfair Competition Law, Business and Professions Code § 17200 et seq.

30. As a result of Defendants' unfair business practices, Defendants have reaped unfair benefits and illegal profits at the expense of Plaintiff and the Class, and members of the public. Defendants' utilization of such unfair business practices constitutes unfair competition and provides an unfair advantage over Defendants' competition. Defendants should be made to disgorge the ill-gotten gains and restore such monies to Plaintiff and the Class.

31. Defendants' unfair business practices entitles Plaintiff and the Class to seek preliminary and permanent injunctive relief, including but not limited to orders that Defendants account for, disgorge and restore to Plaintiff and the Class any compensation unlawfully withheld from them, and for which Defendants were unjustly enriched.

DEMAND FOR JURY TRIAL

32. Plaintiff hereby demands trial by jury against Defendants of her and the Class's claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants:

1. For reimbursement of business expenses expended by Plaintiff and the Class Members;
2. For restitution for unfair competition pursuant to Business and Professions Code section 17200, *et seq.*, including disgorgement of profits, in an amount as may be determined;
3. For all statutory penalties and liquidated damages as authorized by law;
4. Pre-judgment interest on any damages or other amounts deemed payable;
5. For attorney's fees and costs of suit; and
6. For other or further relief as the Court deems just and proper.

Dated: February 7, 2025

HAULK & HERRERA LLP

By: ______________________________

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