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ELECTRONICALLY FILED

Superior Court of California,
County of Madera

05/17/2024 at 10:56:44 AM

By: Annie Gomez, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MADERA

OSCAR MEZA, individually and on behalf of all
aggrieved employees,

Plaintiff,

v.

MAJCO, LLC, and DOES 1 to 100,

Defendants.

) NO. MCV091999

) COMPLAINT

) 1. Minimum Wage Violations

) 2. Overtime Violations

) 3. Meal Period Violations

) 4. Rest Period Violations

) 5. Wage Statement Penalties

) 6. Waiting Time Penalties

) 7. Commissions Violations

) 8. Violation of Unfair Competition Law

) 9. PAGA Penalties

PRELIMINARY ALLEGATIONS

1. Plaintiff Oscar Meza ("Meza") is a resident of Madera County.

2. Defendant Majco, LLC is a Mancha Development Company, LLC ("Majco") is a California limited liability company based in Ventura County.

3. Majco operates American Tire Depot service centers.

4. Plaintiff worked at Majco's store in Madera, thus venue is proper in Madera County.

5. 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.

6. The named and Doe defendants are collectively referred to as "Defendants."

7. 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.

8. Defendants employed Plaintiff and the class members as service workers. Therefore, Wage Order 4 applies.

9. Plaintiff worked for Defendants from February 2020 to October 2022 and again from June 2023 to October 2023.

10. Plaintiff was not exempt since he did not customarily and regularly exercise discretion and independent judgment.

11. Throughout Plaintiff's employment, he did not receive compliant meal and rest periods, did not receive overtime and premium pay at the correct regular rate, did not receive at least the minimum wage for work off the clock, did not receive accurate wage statements, did not receive all earned commissions, and did not receive applicable waiting time penalty.

12. On February 7, 2024 Plaintiff sent a letter by certified mail to Majco, LLC and uploaded the letter to the LWDA portal. Since it has been more than 65 days since the letter was sent, Plaintiff may now request PAGA penalties.

FIRST CAUSE OF ACTION

Minimum Wage Violations

Against All Defendants

13. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

14. Plaintiff was required to work off the clock including making personal deliveries to his supervisor in Fresno; this time should have been paid at least the minimum wage.

15. As a result, Plaintiff is owed reimbursement for unpaid wages, interest, and attorney fees.

SECOND CAUSE OF ACTION

Overtime Violations

Against All Defendants

16. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

17. Plaintiff was required to work over eight hours in a day and/or 40 hours in a week without being compensated for all overtime in violation of Labor Code 510.

18. Examples of overtime include work off the clock and not receiving overtime at the correct regular rate of pay. The reason for the violations is that Plaintiff and the class members were not paid overtime at the correct regular rate of pay.

19. The remedy for the overtime violations is payment of the unpaid overtime at the correct regular rate of pay, plus interest and attorney fees, pursuant to Labor Code section 1194.

THIRD CAUSE OF ACTION

Meal Period Violations

Against All Defendants

20. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

21. Pursuant to Wage Order 4 every employer shall authorize and permit employees to take meal periods of thirty minutes for every five hours worked.

22. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when the employer does not provide an employee with the required meal period, the employer shall pay the employee one hour of pay at the employee's regular rate of compensation for each workday that a rest period is not provided.

23. Plaintiff was denied meal periods as rest periods were not provided.

24. As a result of Defendants' rest period violations, Plaintiff is entitled to premium pay which is one additional hour of compensation for each missed break at the regular rate of pay.

FOURTH CAUSE OF ACTION

Rest Period Violations

Against All Defendants

25. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

26. Pursuant to Wage Order 4 every employer shall authorize and permit employees to take rest periods of ten minutes for every four hours worked.

1 27. Pursuant to Labor Code section 226.7(c) and IWC Wage Order 4, when the employer does
2 not provide an employee with the required rest period, the employer shall pay the employee one
3 hour of pay at the employee's regular rate of compensation for each workday that a rest period is
4 not provided.

5 28. As a result of Defendants' rest period violations, Plaintiff is entitled to premium pay which
6 is one additional hour of compensation for each missed break at the regular rate of pay.

7
8 FIFTH CAUSE OF ACTION

9 Wage Statement Penalties

10 Against All Defendants

11 29. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

12 30. Defendants' wage statements violated Labor Code section 226 since they intentionally did
13 not list the work performed off the clock, did not list the correct regular rates of pay for overtime,
14 and did not list premium pay for missed breaks at the correct regular rate of pay.

15 31. The remedy is wage statement penalties up to \$4,000 and attorney fees.

16
17 SIXTH CAUSE OF ACTION

18 Waiting Time Penalties

19 Against All Defendants

20 32. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

21 33. Plaintiff was still owed wages when he stopped working for Defendants.

22 34. Therefore, Plaintiff is owed the waiting time penalty, which is 30 days of wages.

23
24 SEVENTH CAUSE OF ACTION

25 Commissions Violation

26 Against All Defendants

27 35. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.

28 36. Commissions are wages pursuant to Labor Code section 200.

- 1 37. Plaintiff was still owed commissions when he stopped working for Defendants.
2 38. Plaintiff is owed unpaid commissions and attorney fees under Labor Code 218.5.

3
4 EIGHTH CAUSE OF ACTION

5 Violation of Unfair Competition Law

6 Against All Defendants

- 7 39. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.
8 40. The Unfair Competition Law prohibits unfair, unlawful, and fraudulent business practices.
9 41. This claim is being brought under the unlawful prong of the UCL.
10 42. Defendants violated the Labor Code and IWC Wage Order by not paying all wages due,
11 including minimum wage, and overtime and premium pay at the correct regular rate.
12 43. Plaintiff and the class members are entitled to restitution.
13 44. Under Code of Civil Procedure section 1021.5, Plaintiffs are entitled to attorney fees.

14
15 NINTH CAUSE OF ACTION

16 PAGA Penalties

17 Against All Defendants

- 18 45. Plaintiff incorporates by reference paragraphs 1 to 12 of the complaint.
19 46. PAGA authorizes an aggrieved employee to pursue a case for Labor Code violations on
20 behalf of aggrieved employees and the Labor and Workforce Development Agency.
21 47. The PAGA penalties discussed in the PAGA letter relate to the following: 1) minimum
22 wage violations, 2) overtime violations, 3) meal break violations, 4) rest break violations, 5) wage
23 statement violations, and 6) waiting time violations.
24 48. The PAGA penalties for the minimum wage violations are in Labor Code 1197.1.
25 49. The PAGA penalties for the overtime violations are contained in Labor Code 558.
26 50. The PAGA penalties for the meal break violations are contained in Labor Code 558.
27 51. The PAGA penalties for the rest break violations are contained in Labor Code 2699.
28 52. The PAGA penalties for the wage statement violations are contained in Labor Code 226.3.

1 53. The PAGA penalties for the waiting time violations are contained in Labor Code 210.

2 54. Also, Plaintiff is entitled to attorney fees and costs under Labor Code section 2699.

3

4 PRAYER

5 First Cause of Action

6 1. Payment of all unpaid wages

7 2. Interest

8 3. Attorney fees

9 4. Other relief the court deems proper

10

11 Second Cause of Action

12 1. Payment of overtime at the correct regular rate

13 2. Interest

14 3. Attorney fees

15 4. Other relief the court deems proper

16

17 Third Cause of Action

18 1. Premium pay at the correct regular rate of pay

19 2. Interest

20 3. Other relief the court deems proper

21

22 Fourth Cause of Action

23 1. Premium pay at the correct regular rate of pay

24 2. Interest

25 3. Other relief the court deems proper

26

27 Fifth Cause of Action

28 1. Wage statement penalties

- 1 2. Attorney fees and costs
2 3. Other relief the court deems proper
3

4 Sixth Cause of Action

- 5 1. Waiting time penalties
6

7 Seventh Cause of Action

- 8 1. Payment of commissions
9 2. Attorney fees and costs
10 3. Other relief the court deems proper
11

12 Eighth Cause of Action

- 13 1. Restitution
14 2. Attorney fees
15 3. Other relief the court deems proper
16

17 Ninth Cause of Action

- 18 1. All applicable PAGA penalties
19 2. Attorney fees and costs
20 3. Other relief the court deems proper
21

22 Date: May 17, 2024

FRONTIER LAW CENTER

23
24 /s/ Adam Rose
25 Attorney for Plaintiff
26 Oscar Meza
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