

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA

a municipal corporation
400 6th Street NW
Washington, D.C. 20001,

Plaintiff,

v.

EXECUTIVE SECURITY SERVICES LLC

16405 Livingston Road, #118
Accokeek, MD 20601, *and*

JUSTIN ALLEN

3719 2nd Street, SE, #301
Washington, D.C. 20032

Served on:

JUSTIN ALLEN

Registered Agent
3719 2nd Street SE, #301
Washington, D.C. 20032

Defendants.

Case No.:

Judge:

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff the District of Columbia (“District”), through the Office of the Attorney General (“OAG”), brings this enforcement action against Defendants Executive Security Services LLC (“ESS”) and Justin Allen for violations of the District’s Minimum Wage Revision Act (“MWA”), D.C. Code § 32-1001, *et seq.*, and Sick and Safe Leave Act (“SSLA”), D.C. Code § 32-531.01, *et seq.* The District’s minimum wage, overtime, and sick leave laws are fundamental: they require employers who choose to do business in the District to guarantee fair payment to all workers. Defendant ESS, through its founder, Justin Allen, has flouted this requirement over the course of multiple years and, in so doing, has deprived hundreds of workers of the hard-earned wages to

which they are entitled. The District therefore brings this action to recover wages and sick leave owed to workers as well as all applicable penalties for violations of District law.

JURISDICTION

1. This Court has jurisdiction over the subject matter of this case pursuant to D.C. Code §§ 11-921.

2. This Court has personal jurisdiction over Defendant ESS pursuant to D.C. Code § 13-423(a).

PARTIES

3. Plaintiff the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the federal government. The District is represented by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. The Attorney General is also charged with enforcing violations of the District's wage laws, including the MWA and SSLA, pursuant to D.C. Code § 32-1306(a)(2)(A).

4. Defendant Executive Security Services LLC is a Maryland corporation with headquarters at 16405 Livingston Road #118, Accokeek, MD 20601. Defendant operates in Washington, D.C. and provides security services for retail stores and building or property management companies.

5. Defendant Justin Allen is the founder of Defendant Executive Security Services LLC. He exercises control over ESS's business, including its human resources and payroll decisions.

FACTUAL ALLEGATIONS AND LEGAL FRAMEWORK

6. Executive Security Services LLC (“ESS”) is a security services company that operates in Washington, D.C. ESS provides security services for retail stores and buildings or property management companies through armed and unarmed security guards, background investigations, and other related services. ESS employs at least one hundred security personnel who serve at various locations throughout the District. ESS was founded by Justin Allen, who maintains control over various aspects of ESS’s business, including its security personnel.

7. The District’s Minimum Wage Revision Act (“MWA”) establishes a minimum wage that is presently \$15.00/hour. D.C. Code § 32-1003(a)(5)(A)(v). The MWA also requires employers to pay employees overtime rates of 1.5 times their regular rate for hours worked in excess of 40 hours/week. D.C. Code § 32-1003(c).

8. The District’s Sick and Safe Leave Act (“SSLA”) requires employers with over 100 employees to provide employees with up to 7 paid sick leave days per calendar year, accrued at a rate of one hour of paid leave for every 37 hours worked. D.C. Code § 32-531.02(a)(1). Employees can take paid sick leave days earned for a variety of reasons, including taking an absence due to physical or mental illness, obtaining professional medical diagnosis or care (including preventive care), to care for family members suffering from physical or mental illness, and pursuing social and legal services if the employee or the employee’s family is the victim of stalking, domestic violence or sexual abuse. D.C. Code § 32-531.02(b).

9. On May 27, 2020, Mayor Bowser signed the COVID-19 Support Emergency Amendment Act (“CSEA”), which creates a new, temporary COVID-19 job-protected leave. D.C. Code § 32–531.02a. Beginning April 10, 2020, and for the duration of the COVID-19 emergency, the CSEA requires an employer with between 50 and 499 employees, that is not a health care

provider, to provide up to two weeks of paid leave for a variety of COVID-19-related circumstances. The CSEA is a temporary expansion of the SSLA to provide workers additional paid leave during the COVID-19 emergency which is in place at least through April 1, 2021.

10. The District's MWA and SSLA establish essential worker protections by requiring employers to provide employees with minimum payment for hours, overtime, and accrued paid sick leave. The current public health crisis caused by the COVID-19 virus underscores the significance of these economic protections, as many more employees struggle with unexpected healthcare costs and related economic anxiety. The MWA and SSLA afford the most basic protections during this crisis by providing D.C. employees with guaranteed income, by providing those who become sick for any reason with up to seven days of paid leave to self-care or seek medical diagnosis or treatment, and by providing those with COVID-19 related absences with up to two weeks of paid leave.

11. The MWA and SSLA apply to employees: The MWA defines the term "employer" to mean "any . . . corporation . . . or any person . . . acting directly or indirectly in the interest of an employer in relation to an employee" and the term "employee" to mean "any individual employed by an employer." D.C. Code § 32-1002(1A), (2), (3). The SSLA defines an employer as any entity that "employs or exercises control over the wages, hours, or working conditions of an employee." D.C. Code § 32-531.01(2), (3)(A).

12. Defendant ESS's security personnel are all employees for the purposes of the MWA and SSLA (including as expanded by the CSEA). ESS had the power to hire and fire security personnel; ESS supervised and controlled employee work schedules and conditions of employment; security personnel performed work as part of ESS's regular business; ESS determined the rate and method of payment for security personnel; ESS maintained some

employment records; security personnel had no opportunity for profit or loss beyond the wages that ESS set; and the work provided by security personnel required little if any independent initiative.

13. From at least as early as January 2018 through January 2020, Defendant ESS failed to pay minimum and overtime wages to multiple employees. Throughout this time period, ESS also failed to provide its employees with paid sick leave.

14. Employees were told that they would be paid the minimum wage, or even a higher amount, but then failed to receive the appropriate compensation. Multiple employees were not paid for the correct number of hours that they worked in a given pay period.

15. Multiple employees also were paid irregularly, or were not paid on the date that they were promised payment. In some instances, employees were provided payment in the form of personal checks or cashier's checks that bounced when the workers attempted to cash them.

16. Multiple workers did not receive any hours of paid sick leave throughout their entire time of employment, including during the period of expanded paid sick leave for reasons related to the COVID-19 pandemic, as provided for under the SSLA as expanded by the CSEA.

17. ESS payroll records demonstrate pervasive failure to pay employees required minimum and overtime wages and for accrued sick leave. For example, payroll records representing six months of employment data from the year 2018 showed that 138 employees were paid less than the amount that they were owed pursuant to the minimum wage and overtime requirements of the MWA during this period. Moreover, these payroll records confirm that ESS does not have a method for tracking employee sick leave time and making sure it is adequately compensated. Within only this limited time period for which ESS supplied payroll records, ESS failed to pay its workers more than \$50,000 dollars in owed wages.

18. Defendant ESS, under the control of Defendant Allen, has failed to pay current and former employees the wages that they are owed under the MWA, and has failed to provide accrued paid sick leave pursuant to the SSLA (including as expanded under the CSEA).

CLAIMS FOR RELIEF

Count One: Violations of the Minimum Wage Revision Act (“MWA”) (As to Both Defendants)

19. The District re-alleges paragraphs 1-18 of this Complaint as if fully set forth herein.

20. At all relevant times, Defendant ESS was an “employer” as defined by the Minimum Wage Revision Act. D.C. Code § 32-1002(3).

21. At all relevant times, security personnel were “employees” employed by Defendant ESS as defined by the Minimum Wage Revision Act. D.C. Code § 32-1002(2).

22. Throughout the relevant time period, Defendant ESS did not pay all employees the operative minimum wage for hours worked in violation of the MWA. D.C. Code § 32-1003(a)(5)(A)(v).

23. Throughout the relevant time period, Defendant ESS did not pay all employees overtime rates of 1.5 times the employees’ regular rate for hours worked in excess of 40 hours per week, in violation of the MWA. D.C. Code § 32-1003(c).

24. The Attorney General is authorized to bring a civil action in the Superior Court against employers for violations of the MWA for “restitution or for injunctive, compensatory, or other authorized relief for an individual or for the public at large.” D.C. Code § 32-1306(a)(2)(A).

Count Two: Violation of the Sick and Safe Leave Act (“SSLA”)
(As to Both Defendants)

25. The District re-alleges paragraphs 1-24 of this Complaint as if fully set forth herein.

26. At all relevant times, Defendant ESS was an “employer” as defined by the SSLA. D.C. Code § 32-531.01(3)(A).

27. At all relevant times, security personnel were “employees” employed by Defendant ESS as defined by the SSLA. D.C. Code § 32-531.01(2).

28. Defendant ESS did not provide employees with paid sick leave during the relevant time period in violation of the SSLA. D.C. Code § 32-531.02.

29. Defendant ESS did not provide security personnel with COVID-19-related paid sick leave, beginning on April 10, 2020, in violation of the CSEA’s expansions to the SSLA. D.C. Code § 32-531.02a.

30. The Attorney General is authorized to bring a civil action in the Superior Court against employers for violations of the SSLA for “restitution or for injunctive, compensatory, or other authorized relief for an individual or for the public at large.” D.C. Code § 32-1306(a)(2)(A).

REQUESTED RELIEF

WHEREFORE, the District of Columbia respectfully requests:

31. A declaratory judgment that Defendant ESS’s failure to pay minimum wage and overtime constitutes a violation of the MWA, and an injunction against further violations of the MWA;

32. A declaratory judgment that Defendant ESS’s failure to provide sick leave constitutes a violation of the SSLA (including the CSEA expansion), and an injunction against further violations of the SSLA;

33. An award of back wages against Defendant due to its failure to pay minimum wage and overtime in violation of the MWA, in an amount to be proven at trial;
34. An award of liquidated damages equal to treble the back wages unlawfully withheld, in an amount to be proven at trial;
35. An award of damages against Defendant for its failure to provide sick leave, as authorized by the SSLA, in an amount to be proven at trial;
36. Statutory penalties against Defendant for each violation of the MWA and SSLA in an amount to be proven at trial;
37. An award of costs and reasonable attorneys' fees, as authorized by D.C. Code § 32-1306(a)(2)(A)(i); and
38. Such other and further relief as this Court deems just and proper.

JURY DEMAND

The District demands a jury trial on all issues triable of right by a jury in this matter.

Dated: March 16, 2021

Respectfully submitted,

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