

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>DISTRICT OF COLUMBIA,</p> <p style="text-align:center"><i>Plaintiff,</i></p> <p style="text-align:center">v.</p> <p>EXECUTIVE SECURITY SERVICES, LLC, <i>et al.</i></p> <p style="text-align:center"><i>Defendants.</i></p>	<p>Civil Action No.: 2021 CA 000829 B</p>
--	---

CONSENT ORDER

This matter comes before the Court on the joint motion of Plaintiff District of Columbia (“District”) and Defendants Executive Security Services, LLC (“ESS”), Justin Allen, and Darryl Wilson (collectively, the “Parties”) pursuant to SCR-Civil 68-I, for entry of this Consent Order (“Consent Order”). The Parties agree to the relief set forth in this Consent Order, and the Court further finds that the entry of the Consent Order is in the public interest. This Consent Order resolves the District’s claims in this action against all parties to this Consent Order.

I. PARTIES

1. Plaintiff District of Columbia, a municipal corporation that is authorized to sue and be sued, is the local government for the territory constituting the seat of the government for the United States of America. Pursuant to D.C. Code § 32-1306, the Attorney General for the District of Columbia is authorized to bring civil actions seeking back wages, liquidated damages, civil penalties, costs, and attorneys’ fees for violations of the District of Columbia Minimum Wage Revision Act (“MWRA”), D.C. Code § 32-1001, *et seq.*; and Sick and Safe Leave Act (“SSLA”), D.C. Code § 32-531.01, *et seq.*

2. Defendant Executive Security Services, LLC is a Maryland corporation that

provides security services in the District and its surrounding metropolitan area.

3. Defendant Justin Allen is the founder and a co-owner of ESS.

4. Defendant Darryl Wilson is a co-owner of ESS.

II. FACTS

5. The Court has jurisdiction over this matter and the Parties.

6. On March 16, 2021, the District filed a Complaint against Defendants ESS and Justin Allen. On January 18, 2022, the District filed an Amended Complaint, which added Defendant Darryl Wilson as a party.

7. The District's Amended Complaint alleged that Defendants misclassified ESS's workers as independent contractors, and in doing so failed to pay them owed minimum wage and overtime payments, failed to provide them required new hire notices, and failed to provide them paid sick and safe leave and COVID-19-related leave.

8. The District alleged in its Complaint that Defendants were liable as "employers" as defined in the MWRA and SSLA (collectively referred hereinafter to as the "District's wage-and-hour laws") for the following violations:

- a. Failed to pay minimum wage and overtime wages to workers in violation of the MWRA, D.C. Code § 32-1001, *et seq.*;
- b. Failed to provide paid sick leave and paid COVID-19-related leave in violation of the SSLA, D.C. Code § 32-531.01, *et seq.*; and
- c. Failed to provide new hire notices for workers in violation of the MWRA, D.C. Code § 32-1001, *et seq.*

9. Defendants deny all of the District's claims, has vigorously defended this action, and does not admit liability or wrongdoing. Nothing in this Consent Order constitutes or shall be interpreted as an admission of liability or wrongdoing on the part of Defendants. Further, this Consent Order may not be used as evidence in any subsequent proceeding of any kind (without the

written consent of all other parties) except one which any party institutes alleging a breach of this Consent Order.

10. For the purpose of compromise and to eliminate the burden and expense of further litigation, the Parties wish to resolve and settle this litigation and have agreed to the terms in this Consent Order to resolve the District's claims in this action.

III. INJUNCTIVE TERMS

11. Defendants shall not engage in any act or practice that violates the MWRA, D.C. Code § 32-1001, *et seq.*

12. Defendants shall not engage in any act or practice that violates the SSLA, D.C. Code § 32-1001, *et seq.*

13. No later than 30 days following entry of this Consent Order, Defendants shall classify Executive Security Services security guards as employees.

14. Defendants shall institute policies and/or systems reasonably sufficient to ensure prospective compliance with the MWRA and the SSLA. Within 90 days after entry of this Consent Order, Defendants shall submit to the District documents sufficient to show that such policies and/or systems have been implemented that reasonably ensure compliance with requirements. The documents shall include, but not be limited to, updated employment policies and procedures, copies of the D.C. Code § 32-1008(c) notices provided to employees, and a month's worth of ESS's complete payroll.

15. By no later than May 1, 2023, Defendants shall provide the District with copies of all W-2s and 1099s they issued for calendar year 2022.

16. By no later than May 1, 2024, Defendants shall provide the District with copies of all W-2s and 1099s they issued for calendar year 2023.

17. By no later than May 1, 2025, Defendants shall provide the District with copies of all W-2s and 1099s they issued for calendar year 2024.

IV. PAYMENT TERMS

18. **Payment Terms.** Defendants agree to pay, in the manner set forth below, a total of Two Hundred and Seventy-Five Thousand Dollars (\$275,000) (the “Total Settlement Amount”). The Total Settlement Amount consists of (a) a “Worker Share” equaling Two Hundred Thirty-Nine Thousand Five Hundred Seventy-Five dollars and Thirty-Nine cents (\$239,575.39) to be paid to affected workers who performed services for ESS in the District of Columbia between March 16, 2018 and the date of the entry of this Consent Order as set forth in Appendix A (hereinafter, “Eligible Employees”) and (b) a “Penalty Share” equaling Thirty-Five Thousand Four Hundred Twenty-Four dollars and Sixty-One cents (\$35,424.61) to be paid to the District.

19. **Payment Schedule.** Defendants shall pay the entire Settlement Amount to the District over a period of three years as follows:

- a. Defendants shall make an initial payment of \$5,555.55 within 30 days of the entry of this Consent Order. Defendants will make a payment of \$5,555.55 by the 15th of every month for the following 20 months.
- b. After the initial 21 payments, Defendants will make a payment of \$10,555.56 by the 15th of every month for the following 14 months, except that their final payment shall be \$10,555.61.
- c. All payments shall be made by cashier’s check made payable to “D.C. Treasurer” and delivered to Conny Tello, Office of the Attorney General for the District of Columbia, 400 6th Street NW, 10th Floor, Washington, DC 20001, unless another method of payment is specified by the District.

- d. If Defendants fail to timely make any monthly payment due under this Paragraph, and Plaintiff District of Columbia provides notice of default to counsel for the Defendants at the address set forth below in Paragraph 27, including by e-mail, and the Defendants do not cure said default within 14 calendar days, the remainder of the amount owed under Paragraph 18 is immediately due to the District and may be collected under any procedures available to collect a money judgment.
- e. To the extent Defendants pay any of the amounts due under Appendix A directly to Eligible Employees, they shall provide to Plaintiff notice thereof and documentation demonstrating such payment, and may reduce the amount of their next payment to Plaintiff by the same amount—provided that any such offset per Eligible Employee shall not exceed the amount due to that Eligible Employee under Appendix A.

20. **Worker Contact Information.** Within thirty (30) days after entry of this Consent Order, Defendants will prepare and submit to the District an Excel spreadsheet that identifies each Eligible Employee's last known available contact information, including phone, email, and address.

21. **Claims Payments.** The District of Columbia, through the Office of the Attorney General, shall set aside the Worker Share to distribute to Eligible Employees in accordance with any reasonable claims procedure it establishes in its discretion, in light of the payments made by Defendants and the payment amounts set forth in Appendix A. After the District has attempted to make all Claims Payments under the claims procedure it adopts in its discretion, all remaining funds shall be treated as an additional civil penalty award under this Consent Order or shall be used for any other lawful purpose designated by the Attorney General, including being placed in,

or applied to, the District's litigation support fund or being held for additional payment attempts to Eligible Employees.

V. RELEASE

22. **Release by the District.** Upon entry of this Consent Order and conditioned upon receipt of the Total Settlement Amount, the District shall release Defendants from claims that were brought in this action or that could be civilly brought under the District's wage-and-hour and leave laws, including but not limited to the MWRA and SSLA, arising out of work performed by Defendants in the District before the date of the entry of this Consent Order. The foregoing release shall not affect the District's right to take an appropriate enforcement action against Defendants with respect to the payment terms and injunctive terms set out in Sections III and IV of this Consent Order, nor shall it, or anything in this agreement, affect the District's right to bring any enforcement action for conduct that is not specifically released or for any conduct that post-dates the date of the entry of the Consent Order.

VI. ADDITIONAL TERMS

23. This Consent Order represents the full and complete terms of the settlement entered by the Parties. In any action undertaken by the Parties, neither prior versions of this Consent Order nor prior versions of any of its terms that were not entered by the Court in this Consent Order may be introduced for any purpose whatsoever.

24. This Court retains jurisdiction of this Consent Order and the Parties for the purpose of enforcing this Consent Order and for the purpose of granting such additional relief as may be necessary and appropriate. The Parties may agree in writing, through their counsel, to an extension of any time period in this Consent Order without need for a new court order.

25. The Parties may apply to the Court to modify this Consent Order by agreement at any time.

26. This Consent Order may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature.

27. All notices sent pursuant to this Consent Order shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

Graham Lake
Chief, Workers' Rights and Antifraud Section
Office of the Attorney General
400 6th St., NW, 10th Floor
Washington, D.C. 20001
Graham.Lake@dc.gov

Counsel for the District of Columbia

Charles M. Henderson, Esquire
McNamee Hosea, P.A.
6411 Ivy Lane, Suite 200
Greenbelt MD 20770
chenderson@mhlawyers.com

Counsel for Defendants

28. If any clause, provision or section of this Consent Order shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this Consent Order and this Consent Order shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

29. Nothing in this Consent Order shall be construed as relieving Defendants of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Consent Order be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

30. Nothing in this Consent Order may be deemed as creating rights in individual or entity third parties.

CONSENTED TO FOR PLAINTIFF DISTRICT OF COLUMBIA

KARL A. RACINE
Attorney General for the District of Columbia

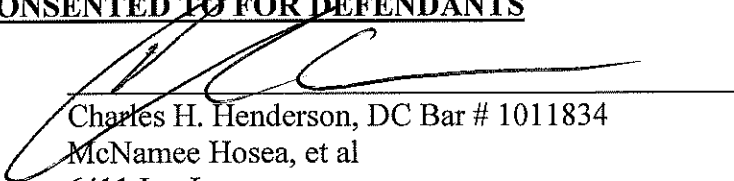
KATHLEEN KONOPKA
Deputy Attorney General, Public Advocacy Division

/s/ James Graham Lake
JAMES GRAHAM LAKE [1028853]
Chief, Workers' Rights & Antifraud Section

Date: May 31, 2022

NICOLE TORTORIELLO
Assistant Attorney General
Office of the Attorney General for the District of Columbia
600 6th Street NW, 10th Floor
Washington, D.C. 20001

CONSENTED TO FOR DEFENDANTS


Charles H. Henderson, DC Bar # 1011834
McNamee Hosea, et al
6411 Ivy Lane
Suite 200
Greenbelt, MD 20770
301.441.2420
chenderson@mhlawyers.com
Counsel for Defendants

Date: June 1, 2022