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ATTORNEYS FOR PLAINTIFF TYRONE SIMS

-----X
TYRONE SIMS,
Plaintiff,

v.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION
HUDSON COUNTY

DOCKET No. HUD-L- -24

CITY OF BAYONNE,
NEW JERSEY;
JOHN DOE No. 1 THROUGH
No. 10 (NAME BEING
FICTITIOUS AND GENDER
NEUTRAL AS TRUE
IDENTITY IS UNKNOWN)
Defendants.

CIVIL ACTION

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COMPLAINT

TYRONE SIMS (hereinafter "Tyrone" or "Plaintiff") complains of
the Defendants CITY OF BAYONNE, NEW JERSEY and JOHN DOE
No. 1 THROUGH No. 10 (NAME BEING FICTITIOUS AND GENDER
NEUTRAL AS TRUE IDENTITY IS UNKNOWN) as follows:

NATURE OF ACTION

1. This is a civil complaint against the named defendants for their willful
and intentional failure and refusal to pay to the plaintiff the minimum

wage per hour to which the plaintiff was entitled in violation of N.J.S.A. §§ 34:11-56a4 and 34:11-56a25.

2. The City of Bayonne (“City”) and the Doe defendants are liable to Plaintiff for the damages caused by the City’s violation of the contract of employment with Plaintiff in that it knowingly and intentionally violated the employment provision relating to the minimum wage per hour, contrary to and in violation of N.J.S.A. §§ 34:11-56a4 and 34:11-56a25.

JURISDICTION, VENUE, AND CONDITIONS PRECEDENT

3. This action is a contract claim.
4. Jurisdiction and venue are proper in this Court as the events giving rise to the instant claims occurred in Bayonne, New Jersey.
5. This action is timely because it was commenced within six years of the time that the instant causes of action accrued.
6. Plaintiff has duly complied with all conditions precedent to the commencement of this action.

THE PARTIES

7. Plaintiff, TYRONE SIMS, at all relevant times, is a citizen and resident of the State of New Jersey and the United States and resides in Bayonne, New Jersey.
8. Defendant CITY OF BAYONNE (“City”) is a municipal corporation of the State of New Jersey and is located within Hudson County New

Jersey.

9. John Doe No. 01 through 10 (collectively “Doe”) are gender neutral fictitious defendants, who are entities and/or individuals whose true identity is unknown to the Plaintiffs but whose identity may be revealed during the period of discovery that will occur relative to this action, and who may be liable in whole or in part for Plaintiffs’ damages as referenced herein. Such individuals/entities may include but are not necessarily limited to agents and servants of the City and the like.
10. Several of the said Doe defendant(s) were at all times relevant to this Complaint City agents, supervisors, and other officials who participated in the actions and conduct complained of herein. They are sued in their individual capacities. Plaintiffs do not presently know the names of these defendants but will seek leave to amend the Complaint so as to name each appropriate defendant after the completion of additional discovery.
11. The Doe defendants constitute individuals, parties, employees and/or agents of the City and it is intended that such individuals and other entities will be more particularly identified in the amendments to pleadings following completion of discovery.
12. Defendants City and Doe will be referred to herein as the “individual defendants.”

13. The individual Defendants had a known duty to honor and not violate or abridge the contractual and statutory minimum wage and employment rights of persons employed by the City, such as Tyrone.
14. By the negligent conduct, acts, deliberate indifference, and omissions complained of herein, the individual defendants violated the clearly established rights of Tyrone of which a reasonable individual under the circumstances should have known.
15. Each of the individual Defendants is sued in his or her individual and official capacity. At all times relevant to the events, negligent acts, deliberate indifference, and/or omissions alleged in this Complaint, the individual defendants, individually and collectively, have acted under color of state law, pursuant to their authority and responsibilities as officials, employees and/or agents of City.

FACTS COMMON TO ALL COUNTS

16. On or about August 01, 1990 Tyrone was hired by the City as a recreation department employee at an hourly rate of \$3.00; at this point in time the New Jersey statutory minimum wage was \$3.50 per hour.
17. Defendant City terminated Tyrone on or about December 31, 2018.
18. The period August 01, 1990 through December 31, 2018 shall be referred to hereinafter as the “relevant period.”

19. During the relevant period defendant City failed and refused to pay to Tyrone at the New Jersey minimum wage per hour.
20. In addition, defendant City failed and refused to pay Tyrone the rate per hour granted to other defendant City employees similarly situated.
21. During the relevant period Defendant City unlawfully, illegally and contrary to N.J.S.A. §§ 34:11-56a4 and 34:11-56a25 failed and refused to pay to plaintiff the New Jersey minimum wage per hour and the rate per hour granted to other defendant City employees.
22. Said wage underpayments were made without just cause, explanation or excuse and deprived and denied Tyrone of earned pay during the relevant period totaling \$319,157.28.¹
23. Said willful and intentional non-payment and deprivation of Tyrone's earned pay by defendant City is contrary to and in violation of N.J.S.A. §§ 34:11-56a4 and 34:11-56a25, thereby entitling plaintiff to recover as exemplary damages an additional \$638,314.56.
24. Plaintiff Tyrone has demanded defendant City pay the aforementioned wage underpayments but defendant City has failed and refused to do so.
25. All workers and employees of Defendant City, such as Tyrone, are considered "employees" and/or "prospective employees" under the State

¹ Comprised of \$265,754.91 in wage underpayment, \$16,206.13 in pension underpayment and \$37,196.24 in vacation underpayment.

Policy and state law, including the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. ("LAD").

26. Defendant City was deliberately indifferent, reckless, negligent and/or tacitly approved the aforementioned wage underpayment.
27. The individual defendants' aforementioned actions and conduct were deliberately undertaken in bad faith.
28. Defendant City knew, or should have known, of the above actions complained of herein and knowingly and intentionally permitted such actions and conduct to continue although it had the authority, duty and obligation to cease and desist from such illegal conduct as against Tyrone.
29. Each of the foregoing paragraphs is repeated and re-alleged in each of the following counts, as if fully set forth therein.

FIRST COUNT

(BREACH OF CONTRACT)

29. Plaintiff Tyrone has demanded the payment of the wage underpayments of \$319,157.28 due him from defendant City to no avail, thereby breaching and breaking the contract of employment between the parties.
30. As a direct and proximate result of said breach by defendant City, Plaintiff Tyrone Sims has been damaged thereby.

SECOND COUNT

(VIOLATION OF N.J.S.A. 34:11-4.56a4; - 56a25)

31. Defendant City unlawfully, intentionally and deliberately deprived and withheld from Plaintiff \$319,157.28 in earned salary based on his employment with the City.
32. Pursuant to N.J.S.A. 34:11-4.56a4; - 56a25 is entitled to 200% in damages totaling no less than \$638,314.56.
33. Plaintiff has been damaged thereby.

THIRD COUNT

[INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS]

34. The Individual Defendants' conduct, as above described, was without provocation or justification, was extreme, outrageous, and utterly intolerable in a civilized community; conduct which exceeded all reasonable bounds of decency.
35. The Individual Defendants' conduct, described above, was intended to and did cause severe financial, mental and emotional distress to Plaintiff Tyrone.
36. The Individual Defendants' conduct was the direct and proximate cause of injury and damage to Plaintiff Tyrone and violated his contractual, statutory and common law rights.

37. As a result of the foregoing, Plaintiff Tyrone was subjected to serious financial, physical and emotional pain and suffering, and was otherwise damaged and injured.

FOURTH COUNT

[NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS]

38. The Individual Defendants' actions and conduct, as above described, were careless and negligent as to the emotional health of Plaintiff Tyrone, and caused severe emotional distress to Plaintiff Tyrone.
39. The acts and conduct of the Individual Defendants' was the direct and proximate cause of injury and damage to Plaintiff and violated his contractual, statutory and common law rights.
40. As a result of the foregoing, Plaintiff Tyrone was subjected to serious financial, physical and emotional pain and suffering, and was otherwise damaged and injured.

PRAYER FOR RELIEF

41. Plaintiff TYRONE SIMS demand judgment against the defendants, jointly and severally, as follows:

COUNT ONE:

- (a) Compensatory damages in an amount of no less than \$319,157.28;

- (b) Punitive damages in any amount to be determined at trial;
- (c) Reasonable attorney fees and costs of suit; and
- (d) Such other and further relief which the Court deems equitable and just.

COUNT TWO:

- (a) Exemplary damages of \$638,314.56 pursuant to N.J.S.A. 34:11-4.56a4; - 56a25;
- (b) Reasonable attorneys fees and costs of suit, and
- (c) Such other and further relief which the Court deems equitable and just.

COUNT THREE/COUNT FOUR:

- (a) For compensatory damages of not less than \$1 million;
- (b) For punitive damages of not less than \$1 million;
- (c) For reasonable attorneys' fees, together with costs and disbursements, pursuant to the inherent powers of this Court;
- (d) For pre- and post-judgment interest as allowed by law; and
- (e) For such other and further relief as this Court may deem just and proper.

DESIGNATION OF TRIAL COUNSEL AND JURY DEMAND

JARRED S. FREEMAN, ESQ. is herein designated as counsel for Plaintiff before a jury of six as to all issues.

FILING CERTIFICATION

I hereby certify that pursuant to Rule 4:5-1, it is hereby stated to the best of my knowledge and belief that the matter in controversy is not the subject of any other action pending in any other court or of a pending arbitration proceeding, with the exception of two.

Further, Plaintiff is unaware of any non-party who should be joined in the action pursuant to R. 4:28 or who is subject to joinder pursuant to R. 4:29-1(b) because of potential liability to any party on the basis of the same transactional facts.

I further certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).

Subject to the foregoing, Plaintiff served a Tort Claim Notice upon the Defendant City with respect to Plaintiff Tyrone and Plaintiff Lambrus.

I recognize the continuing of each party to file and serve on all parties should be joined herein. I recognize the continuing obligation of each party to file and serve on all parties and the court an amended certification, if there is a change in the facts stated in this original certification.

A copy of the within COMPLAINT has been filed with the Clerk of the Superior Court, Law Division-Hudson County and a copy of same has been served upon the adversary by e-filing within the time period prescribed by the Rules of Court, or as directed by order of the Court or within the extension of time to file as stipulated by counsel for Defendants.

Respectfully submitted,



JARRED S. FREEMAN, ESQ.

Dated: August 24, 2024