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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

CHRISTINE DAVID, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

BANKERS LIFE AND CASUALTY
COMPANY, a foreign corporation; and
ALBERT HAWKS, an individual,

Defendants.

No.

CLASS ACTION COMPLAINT

I. INTRODUCTORY STATEMENT

This is a class action brought under the Washington Minimum Wage Act (“MWA”), Ch. 49.46 RCW, on behalf of all persons currently or formerly employed as Agents by Defendant Bankers Life and Casualty Company in the State of Washington at any time from three years prior to the filing of this Complaint to the present and hereafter. Plaintiff alleges that she and other Agents were misclassified as independent contractors by Defendants and were thereby denied proper compensation, including minimum wages and overtime pay, required under the MWA.

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II. JURISDICTION AND VENUE

1. Jurisdiction and venue are proper in this Court under RCW 4.12.020 as all or some of the acts and omissions giving rise to this case took place in King County, Washington.

III. PARTIES

2. Plaintiff Christine David is a resident of Seattle, Washington and was formerly employed by Bankers Life and Casualty Company as an Agent in Washington State.

3. Defendant Bankers Life and Casualty Company (“Bankers”) is a foreign corporation with a principal place of business in Chicago, Illinois. At all times material hereto, Bankers conducted business in King County and the State of Washington.

4. Defendant Albert Hawks is a resident of Washington and, at all times material hereto, is and was the branch manager and regional manager for Bankers in Washington State.

5. Bankers and Albert Hawks are and were employers within the meaning of the MWA.

IV. FACTUAL ALLEGATIONS

6. Plaintiff and other persons hired by Defendants as Agents were engaged to sell annuities and other Bankers insurance products in Washington State. Bankers’ insurance products are primarily targeted at senior citizens.

7. Defendants classified Plaintiff and other Agents in Washington State as independent contractors rather than as employees.

8. Plaintiff and other Agents were paid on a commission basis.

1 All persons hired by Bankers who worked as Agents (or in similar job
2 classifications) during the three years prior to the filing of this complaint and
thereafter whom Bankers classified as independent contractors.

3 14. The action is properly maintainable under CR 23(a), (b)(2) and (b)(3).

4 15. The class described above is sufficiently numerous such that joinder of all of
5 them is impractical, as required by CR 23(a)(1).

6 16. Pursuant to CR 23(a)(2), there are questions of law and fact common to the
7 class, including, but not limited to: whether class members were misclassified as independent
8 contractors by Defendants; whether class members are subject to the overtime requirements
9 of the MWA; whether Defendants failed to pay class members one and one-half times their
10 regular rate of pay for overtime work; and whether Defendants failed to pay class members
11 minimum wages in any workweeks.

12 17. Pursuant to CR 23(a)(3), Plaintiff's wage and hour claims are typical of the
13 claims of all class members and of Defendants' anticipated affirmative defenses thereto.

14 18. Plaintiff will fairly and adequately protect the interests of the class as required
15 by CR 23(a)(4).

16 19. Pursuant to CR 23(b)(2), Defendants have acted on grounds generally
17 applicable to the class members by uniformly misclassifying them as independent
18 contractors, making declaratory relief appropriate with respect to the class as a whole.

19 20. Pursuant to CR 23(b)(3), class certification is appropriate here because
20 questions of law or fact common to members of the class predominate over any questions
21 affecting only individual members and because a class action is superior to other available
22 methods for the fair and efficient adjudication of the controversy.
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VI. CLAIMS FOR RELIEF

A. First Claim - Failure To Pay Overtime Wages In Violation Of the MWA

21. Plaintiff repeats and realleges the prior allegations of this complaint.

22. Defendants' failure to pay Plaintiff and the class members one and one-half times their regular rate of pay for hours worked in excess of 40 in their workweeks constitutes a violation of RCW 49.46.130.

23. As a result of Defendants' acts and omissions, Plaintiff and the class members have been damaged in amounts as will be proven at trial.

B. Second Claim – Failure To Pay Minimum Wages In Violation Of The MWA

24. Plaintiff repeats and realleges the prior allegations of this complaint.

25. Defendants' failure to pay Plaintiff and the class members at least the minimum wage per hour for each hour worked in their workweeks constitutes a violation of RCW 49.46.020.

26. As a result of Defendants' acts and omissions, Plaintiff and the class members have been damaged in amounts as will be proven at trial.

VII. PRAYER FOR RELIEF

27. The total recovery alleged by Plaintiff in this case, including reasonable attorneys' fees but excluding interest and costs, is less than \$75,000 for the named Plaintiff individually and \$5,000,000 in the aggregate for Plaintiff and the class as a whole.

28. Wherefore, Plaintiff, individually and on behalf of the similarly situated persons, prays for relief as follows:

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- a. Certification of this case as a class action pursuant to CR 23 and the MWA;
- b. Damages for lost wages in amounts to be proven at trial;
- c. Attorneys fees and costs pursuant to RCW 49.46.090 and RCW 49.48.030;
- d. Prejudgment interest; and
- e. Such other and further relief as the Court deems just and proper.

DATED this 16th day of June, 2011.

SCHROETER, GOLDMARK & BENDER


ADAM J. BERGER, WSBA #20714
MARTIN S. GARFINKEL
Counsel for Plaintiff