

**Hearing Date:** 5/3/2024

**Department:** 53

**Superior Court of California**

**County of Los Angeles – Central District**

Department 53

cecilia hailey , et al.;

Plaintiffs,

vs.

donda academy, inc. , et al.;

Defendants.

Case No.: 23STCV07583

Hearing Date: May 3, 2024

Time: 10:00 a.m.

**[tentative] Order RE:**

defendant's demurrer to second amended complaint

**MOVING PARTY:** Defendant Ye (f/k/a Kanye West)

**RESPONDING PARTIES:** Plaintiffs Cecilia Hailey, Chekarey Byers, and Timanii Meeks, on behalf of themselves and other aggrieved employees

**Demurrer to Second Amended Complaint**

The court considered the moving, opposition, and reply papers filed in connection with this demurrer.

## DISCUSSION

Plaintiffs Cecilia Hailey (“Hailey”), Chekarey Byers (“Byers”), and Timanii Meeks (“Meeks”), on behalf of themselves and other aggrieved employees (collectively, “Plaintiffs”), filed the operative Second Amended Complaint in this action on October 19, 2023 against defendants Donda Academy, Inc., and Kanye West.

Defendant Ye (f/k/a Kanye West) (“Defendant”) now moves the court for an order sustaining his demurrer to the sixth and eighth causes of action.

The court sustains Defendant’s demurrer to plaintiffs Hailey and Byers’s sixth cause of action for violation of Labor Code section 558.1 because it does not state facts sufficient to constitute a cause of action since Hailey and Byers have not alleged facts establishing that Defendant may be held personally liable for the alleged violations of Labor Code sections 201 and 226 under section 558.1. (Code Civ. Proc., § 430.10, subd. (e).)

“Any employer or other person acting on behalf of an employer, who . . . violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.” (Lab. Code, § 558.1, subd. (a).) As used in this statute, “the term ‘other person acting on behalf of an employer’ is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term ‘managing agent’ has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.” (Lab. Code, § 558.1, subd. (b).)

“[T]o be held liable under section 558.1, an ‘owner’ . . . must either have been personally involved in the purported violation of one or more of the enumerated provisions; or, absent such personal involvement, had sufficient participation in the activities of the employer, including, for example, over those responsible for the alleged wage and hour violations, such that the ‘owner’ may be deemed to have contributed to, and thus for purposes of this statute, ‘cause[d]’ a violation.” (*Usher v. White* (2021) 64 Cal.App.5th 883, 896-897.) “However, that does not necessarily mean the individual must have had involvement in the day-to-day operations of the company, nor is it required the individual authored the challenged employment policies or specifically approved their implementation. But to be held personally liable he or she must have had some oversight of the company’s operations or some

influence on corporate policy that resulted in Labor Code violations.” (*Espinoza v. Hepta Run, Inc.* (2022) 74 Cal.App.5th 44, 59.)

Here, Plaintiffs have not alleged that Defendant is their employer. Instead, they have alleged that Defendant is the founder, owner, and Chief Executive Officer of nonmoving defendant Donda Academy, Inc., which is alleged to be their employer.[1] (SAC ¶¶ 1, 11, 13-14, 29.) As an owner of their employer, Defendant may be held liable for violations of certain statutes provided that he was personally involved in those violations, “had sufficient participation in the activities of the employer . . . , such that [he] may be deemed to have contributed to, and thus for purposes of this statute, ‘cause[d]’ a violation[,]” or “had some oversight of the company’s operations or some influence on corporate policy that resulted in Labor Code violations.” (*Usher, supra*, 64 Cal.App.5th at pp. 896-897; *Espinoza, supra*, 74 Cal.App.5th at p. 59.) The court finds that plaintiffs Hailey and Byers have not alleged facts establishing Defendant’s personal involvement in the alleged violations or his oversight or influence on Donda Academy, Inc.’s operations or policy that resulted in the alleged violations of the Labor Code. (*Ibid.*)

The court acknowledges that Hailey and Byers have alleged that Defendant “has engaged in a pattern and practice of continuously providing Plaintiffs with inaccurate and untimely wage statements.” (SAC ¶ 102.) However, that allegation is conclusory is not supported by the facts alleged. (*Travelers Indemnity Company of Connecticut v. Navigators Specialty Insurance Company* (2021) 70 Cal.App.5th 341, 358 [courts do not, on demurrer, “‘assume the truth of contentions, deductions or conclusions of law’”].) The court also acknowledges that they have alleged that Defendant influenced the operations of Donda Academy, Inc. regarding (1) the lack of cleaning staff and requirements on cleaning supplies (SAC ¶ 21), (2) the lunches eaten by the students (SAC ¶ 22), and (3) the subjects taught, restrictions on assignments, dress codes, and other rules (SAC ¶ 25). The court, however, finds that these allegations are insufficient to establish that Defendant (1) was personally involved in the alleged wage and hour violations (i.e., failing to provide Plaintiffs with accurate and timely wage statements), (2) had sufficient participation in Donda Academy, Inc.’s activities such that he may be deemed to have contributed to those wage and hour violations, since he is alleged to have had oversight of the school policies and not its employment practices, or (3) had oversight of Donda Academy, Inc.’s

operations or policy “that resulted in” the alleged Labor Code violations. (*Usher, supra*, 64 Cal.App.5th at pp. 896-897; *Espinoza, supra*, 74 Cal.App.5th at p. 59.)

Thus, the court finds that plaintiffs Hailey and Byers have not alleged facts establishing that Defendant may be held personally liable for the alleged Labor Code violations pursuant to Labor Code section 558.1.

The court sustains Defendant’s demurrer to Plaintiffs’ eighth cause of action for violation of Labor Code section 2698 because it does not state facts sufficient to constitute a cause of action. (Code Civ. Proc., § 430.10, subd. (e).)

The court agrees, as noted by Plaintiffs in their opposition papers, that aggrieved employees may recover civil penalties under the Private Attorneys General Act of 2004 (PAGA) (Lab. Code, § 2698 et seq.) if “a party *other than the employer* ‘violates, or causes to be violated’ the overtime laws ([Lab. Code,] § 558(a) ) or ‘pays or causes to be paid to any employee’ less than the minimum wage ([Lab. Code,] § 1197.1(a) ) . . . .” (*Atempa v. Pedrazzani* (2018) 27 Cal.App.5th 809, 820 [emphasis in original], 812 [concluding that PAGA “authorizes an aggrieved employee to recover these civil penalties in lieu of the” Labor and Workforce Development Agency].)

However, Plaintiffs do not appear to base their request for civil penalties on either Labor Code section 558 or Labor Code section 1197.1. (SAC ¶ 118 [Plaintiffs are entitled to civil penalties “for violations of California Labor Code §§ 98.6, 1102.5, 6310, 200, 201, 202, 203, 204, 221, and 226(a)”].) Moreover, even if Plaintiffs’ eighth cause of action were based on those statutes, Plaintiffs did not allege facts establishing (1) Defendant “violate[d], or caused to be violated, a section of this chapter” under Labor Code section 558, subdivision (a), or (2) that Defendant, in acting as an officer, agent, or employee of another person (i.e., Donda Academy, Inc.), “pa[id] or cause[d] to be paid to any employee a wage less than the minimum fixed by an applicable state or local law, or by an order of the commission” under Labor Code section 1197.1, subdivision (a). Thus, the court finds that Plaintiffs have not alleged facts establishing that they may recover civil penalties from Defendant under PAGA.

The burden is on the plaintiff “to articulate how it could amend its pleading to render it sufficient.” *Palms Springs Villas II Homeowners Assn., Inc. v. Barth* (2016) 248 Cal.App.4th 268, 290. To satisfy that

*Assil, Inc. v. Fallon* (2010) 246 Cal.App.4th 206, 290.) To satisfy that burden, a plaintiff “must show in what manner he can amend his complaint and how that amendment will change the legal effect of his pleading.” ( *Goodman v. Kennedy* (1976) 18 Cal.3d 335, 349.) Plaintiffs have asserted that they can allege specific facts establishing Defendant’s involvement in the financial decisions of Donda Academy, Inc. (Opp., pp. 8:26-9:23.) Thus, the court finds that Plaintiffs have met their burden to show how they can amend their pleading and therefore grants their request for leave to amend.

## **ORDER**

The court sustains defendant Ye f/k/a Kanye West’s demurrer to (1) plaintiffs Cecilia Hailey and Chekarey Byers’s sixth cause of action for violation of Labor Code section 558.1, and (2) plaintiffs Cecilia Hailey, Chekarey Byers, and Timanii Meeks, on behalf of themselves and other aggrieved employees’ eighth cause of action for violation of Labor Code section 2698.

The court grants plaintiffs Cecilia Hailey, Chekarey Byers, and Timanii Meeks, on behalf of themselves and other aggrieved employees 20 days leave to file a Third Amended Complaint that cures the defects in the sixth and eighth causes of action discussed above.

The court orders defendant Ye f/k/a Kanye West to give notice of this ruling.

IT IS SO ORDERED.

DATED: May 3, 2024

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Robert B. Broadbelt III

Judge of the Superior Court

[1] The court notes that, in opposition, Plaintiffs have argued that Defendant “was the shot caller at Donda [Academy, Inc.], and by operation of that function, Plaintiffs’ employer.” (Opp. p. 3:6-8.)

operation of that function, Plaintiffs' employer. (Opp., p. 3.0-8.)  
However, Plaintiffs did not allege that fact in their Second Amended  
Complaint.