

COMMONWEALTH OF MASSACHUSETTS
SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

HAMPDEN, ss.

CIVIL ACTION NO. 21 0549

MEGHAN BARNES, individually, and)
on behalf of all others similarly situated,)
Plaintiff,)

v.)

RIVERSIDE PARK ENTERPRISES,)
INC. d/b/a SIX FLAGS NEW)
ENGLAND,)
Defendant.)

CLASS ACTION COMPLAINT

10/22/2021

HAMPDEN COUNTY
SUPERIOR COURT
FILED

OCT 22 2021

James J. Spens
CLERK OF COURTS

I. INTRODUCTION

1. In Massachusetts, employers must compensate their employees for all hours worked. M.G.L. c. 149 § 148. Hours worked includes all time that they are "required by the employer to be on the employer's premises..." 454 C.M.R. § 27.02 (definition of "Working Time"); See also, *Anderson v. Mt Clemens Pottery Co.*, 328 U.S. 680, 690-91 (1946) (holding that time spent walking from time clocks to work benches was compensable); see also, *Tennessee Coal, Iron & R. Co. v. Muscoda Local No. 123*, 321 U.S. 50 (1944) (holding compensable the time spent traveling between mine portals and underground work areas).

2. Here, Defendant, Riverside Park Enterprises, Inc. d/b/a Six Flags New England ("Six Flags" or "Defendant") required Plaintiff, Meghan Barnes ("Barnes" or "Plaintiff"), and the class of non-exempt employees at its Agawam, Massachusetts amusement park to spend uncompensated time on the premises waiting in security lines and undergoing mandatory security screening processes. Barnes, and others, were required to wait in security lines prior to clocking in for the day, and after clocking out at the end of their shifts. This screening process routinely took between ten and twenty minutes or more per employee.

3. As a result, Defendant retained millions of dollars in wages that should have been paid to the class.

II. PARTIES

4. Defendant Riverside Park Enterprises, LLC d/b/a Six Flags New England is a domestic corporation with registered offices in Boston, Massachusetts.

5. Defendant operates as a 235-acre amusement park in Agawam, Massachusetts that employs thousands of hourly workers.

6. Plaintiff Meghan Barnes is an individual presently residing in Agawam, Massachusetts. Barnes worked for Defendant in Food Services from in or around March 2019 through October 2019.

III. JURISDICTION

7. The court has jurisdiction over this matter pursuant to M.G.L. c. 149 §§ 148, 150 and M.G.L. c. 151 § 1.

8. On August 31, 2021, Plaintiff received authorization from the Massachusetts Office of the Attorney General, Fair Labor Division, to pursue claims for unpaid wages on her own behalf and on behalf of those similarly situated employees (copy of Authorization attached as Exhibit "A").

IV. FACTS AND PROCEDURAL HISTORY

9. Defendant owns and operates an amusement park located in Agawam, Massachusetts.

10. Defendant employs thousands of non-exempt hourly workers to work in a variety of occupations including as ride operators, lifeguards, security, food service staff, gift shop staff, maintenance technicians, performers and other positions.

11. On March 17, 2020, the Massachusetts Supreme Judicial Court issued an order tolling all statutes of limitations due to the Coronavirus pandemic. That tolling order

remained in place through and including June 30, 2020. The period of tolling was one hundred and six (106) days. Accordingly, the period of the claim in this matter, which would ordinarily be three years under Massachusetts law, is three years, three months and fifteen days, that is starting on July 7, 2021 until the date of final judgment in this matter.

12. Upon information and belief, during the period of the claim Six Flags has employed thousands of workers on whom it subjected to the pay practices challenged herein.

13. During the period of the claim, Defendant required Plaintiff and the class go through a mandatory security screen process prior to clocking in at their assigned workstations, and again after clocking out and before they could leave the facility at the conclusion of their shift.

14. As part of this screening process, Defendant required Plaintiff and other workers to enter lanes fenced in by chain link fence prior to approaching its security checkpoint. The fenced in area is marked "Employees Only." The security checkpoint was typically manned by one or two security officers who conducted the screens.

15. Each employee going through the security checkpoint was required to produce their Six Flags badge for scanning.

16. Employees were required to place their bags, purses and other belongings on the security table so that items could be individually searched by a security officer.

17. Employees were then required to proceed, one by one, through a single metal detector. Employees were required to remove belts or shoes that contained metal prior to proceeding through security checkpoints.

18. If the metal detector sounded while the employee passed through the metal detector, the employee was subjected to an individual screen where the employee was screened with a portable security wand metal detector.

19. Once the employee passed through the security screen, he or she gathered up his or her belongings and proceeded across the park to his or her workstation.
20. Once at his or her workstation, the employee could then, and only then, clock in using a telephone located at his or her workstation.
21. Defendant penalized individuals who clocked in late at their workstations.
22. As a result, Plaintiff and other members of the class typically arrived at the park 20-30 minutes prior to the starts of their shifts in order to ensure that they did not clock in late.
23. Defendant prohibited Plaintiff and the class from entering the facility until they had successfully completed the entire security screening process.
24. The above screening process routinely took up to between 10 and 20 minutes for Plaintiff and the class to complete, and, with delays, it could take even longer. During this entire time, Plaintiff and the class were required to remain on Defendant's premises.
25. At the conclusion of their shifts, Plaintiff and the class would clock out at their workstation, walk across the amusement park grounds, and stand in security lines again before they could leave the employer's premises.
26. Once the Plaintiff and other members of class reached the security checkpoint, their bags and personally belongings were checked again.
27. Plaintiff and the class could not leave the employer's premises until they had undergone the security screen.
28. Defendant has not paid Plaintiff and the class for the time elapsed between the conclusion of their shifts, and the conclusion of the above screening process.
29. Defendant hired Plaintiff as a Food Service Hostess in March 2019 and agreed to pay her \$12.00 per hour for her work.
30. Defendant required Plaintiff to stand in security lines and traverse the park before she was allowed to clock in.

31. Defendant required Plaintiff to clock out prior to traversing the park and standing in security lines at the conclusion of her shifts.

32. For example, on or about August 5, 2019, Plaintiff Barnes, worked a scheduled six-hour shift. Barnes received no compensation for approximately 40 minutes of this shift, the time she spent waiting in security lines and walking through the park on her way to and from her work-station.

33. The screening process to leave the premises routinely took up to between 10 and 20 minutes for Plaintiff and the class to complete, and, with delays, it could take even longer. During this entire time, Plaintiff and the class were required to remain on Defendant's premises.

34. Defendant's mandatory screening process is solely for the benefit of Defendant and not for the benefit or convenience of Plaintiff and the class.

V. CLASS ACTION ALLEGATIONS

35. Plaintiff Meghan Barnes brings this claim on behalf of herself and all other members of the Massachusetts Class.

36. The Massachusetts Class is defined as follows:

All current and former employees of Defendant who were employed as hourly, non-exempt workers at any time from July 7, 2018, through the date of final judgment in this matter.

37. Class certification for these Massachusetts law claims is appropriate under Rule 23 of the Massachusetts Rules of Civil Procedure because all the requirements of the Rules are met.

38. The class is so numerous that joinder of all members is impracticable. Upon information and belief, there are thousands of workers who were employed by Defendant during the period of the claim.

39. There are questions of law and fact common to the class, including whether the Defendant unlawfully failed to pay class members for their work time in violation of Massachusetts law.

40. The claims of the Plaintiff are typical of those of the class members. The claims of the Plaintiff encompass the challenged practices and course of conduct of Defendant. Furthermore, the claims of Plaintiff are based on the same legal theories as the claims of the putative class members. The legal issues as to the violation of the Massachusetts Wage Act and Massachusetts Minimum Fair Wage Act by Defendant's conduct applies equally to Plaintiff and to the class.

41. Plaintiff will fairly and adequately protect the interests of the class. The claims of the Plaintiff are not antagonistic to those of the putative class, and she hired counsel skilled in the prosecution of class actions.

42. Common questions of law and fact predominate over questions affecting only individuals, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy. This proposed class action is the superior method of adjudications because it presents few management difficulties, conserves the resources of the parties and the court system, protects the rights of each class member and maximizes recovery to them.

43. Based upon the foregoing, Defendant violated the Massachusetts Minimum Fair Wage Act and Massachusetts Wage Act by failing to compensate Plaintiff and the class for time spent undergoing mandatory security checks before and after the start of their shifts.

44. Accordingly, Defendant is liable to Plaintiff and the class for three times the full amount of such wages owed, with costs and such reasonable attorney's fees as may be allowed by the court, pursuant to M.G.L. c. 149 § 150.

VI. LEGAL CLAIMS

COUNT I: NON-PAYMENT OF WAGES IN VIOLATION OF THE MASSACHUSETTS WAGE ACT

45. The Massachusetts Wage Act requires that employers pay their workers for all earned wages.

46. By failing to pay Plaintiff and the class for all working time, the Defendant has failed to pay Plaintiff and the class for all earned wages.

47. Defendant's violation of the Massachusetts Wage Act permits Plaintiff and the class to recover three times their unpaid wages, interest, attorney's fees and costs of litigation.

COUNT II: NON-PAYMENT OF WAGES IN VIOLATION OF M.G.L. 151 § 1

48. The Massachusetts Minimum Fair Wage Act prohibits employers from paying any employee at oppressive or unreasonable wage.

49. By failing to pay Plaintiff and the class for time spent in Defendant's security screening process, Defendant violated M.G.L. c. 149 § 148 and M.G.L. c. 151 § 1 entitling Plaintiff and the class to recover three times their unpaid wages, interest, attorney's fees and costs of litigation.

VII. DEMAND FOR RELIEF

WHEREFORE, Plaintiff requests that the Court:

1. Certify this action as a class action pursuant to M.G.L. c. 149 § 148;
2. In the alternative, certify this case as a class action pursuant to Massachusetts Rule of Civil Procedure 23;
3. Appoint Plaintiff, Meghan Barnes, as class representative;
4. Appoint the undersigned as class counsel;
5. Award treble damages, interest, attorney's fees and costs pursuant to M.G.L. c. 149 §§ 148, 150; and

6. Award such other relief as the Court deems just.

VIII. JURY DEMAND

The Plaintiff demands a trial by jury.

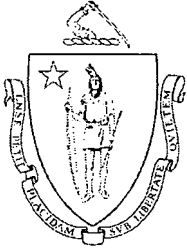
Respectfully submitted,

THE PLAINTIFF,
MEGHAN BARNES, individually on behalf of all
others similarly situated
By her Attorney,

Dated: October 22, 2021

/s/ Raymond Dinsmore (BBO # 667340)
Raymond Dinsmore, Esq. (BBO # 667340)
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EXHIBIT A



THE COMMONWEALTH OF MASSACHUSETTS
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ATTORNEY GENERAL

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August 31, 2021

Attorney Raymond Dinsmore
Hayber, McKenna & Dinsmore, LLC
One Monarch Place, Suite 1340
Springfield, MA 01144

RE: Meghan Barnes
Request for Private Right of Action against Six Flags New England

Dear Attorney Dinsmore:

Thank you for contacting the Office of the Attorney General's Fair Labor Division.

Massachusetts General Laws Chapter 149, § 150, and Chapter 151, §§ 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws.

This letter is to inform you that we are authorizing you to pursue this matter through a private civil lawsuit. If you elect to sue in civil court, you may bring an action on your own or your clients' behalf, and on behalf of other similarly situated workers.

This office will not pursue an investigation or enforcement at this time.

Sincerely,

Fair Labor Division
Office of Attorney General Maura Healey
(617) 727-3465

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В данном документе содержится важная информация. Вам необходимо срочно сделать перевод документа.

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Vui lòng dịch tài liệu này ngay.

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ឯកសារនេះមានស្តីពីធានាសុវត្ថិភាព ។

សូមបកប្រែវាជាបន្ទាន់ ។

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