

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
)
) FOR THE NINTH JUDICIAL CIRCUIT
)
) Case No. 16-CP-10-1008

Elizabeth A. Peiffer,
individually and on behalf of all others
similarly situated,

Plaintiff,

vs.

Charleston County School District,

Defendant.

CLASS ACTION
COMPLAINT
(Jury Trial Demanded)

FILED
2016 FEB 29 PM 3:52
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Plaintiff, by and through her undersigned attorneys, alleges and shows unto this Court as follows:

1. Plaintiff Elizabeth A Peiffer is a citizen and resident of Charleston County South Carolina. She brings this case individually, and on behalf of all others similarly situated.
2. The Defendant Charleston County School District is a body corporate and politic with authority to sue and be sued. The Defendant is organized under the laws of South Carolina with its principal place of business in Charleston County, South Carolina.
3. The Defendant is an "employer" of the Plaintiffs as that term is defined by the South Carolina Payment of Wages Act, S.C. Code Ann. § 41-10-10(1), and the authorities interpreting that Act.

4. The Plaintiff and those similarly situated are due payment for work performed on behalf of the Defendant. The monies due constitute "wages" as that term is defined by the South Carolina Payment of Wages Act, S.C. Code Ann. §41-10-10(2).

5. At all times pertinent, the Plaintiff Peiffer has been an non-exempt hourly employee of the Defendant who was to be paid \$14.23 per hour for all hours worked. A copy of the August 3, 2015, letter from the Defendant setting out the Plaintiff's terms of employment is attached hereto as Exhibit One.

6. Although Plaintiff Peiffer had been previously employed by the Defendant, Plaintiff was required to again attend "New Employee Orientation" on August 7, 2015.

7. Plaintiff Peiffer attended the August 7, 2015, "New Employee Orientation" as required, but has not been paid her hourly wages for this day of work.

8. Plaintiff Peiffer has made repeated inquiries of the Defendant as to any legal basis for the failure of the Defendant to pay the wages due her, but the Defendant has not provided any response except to reject her claim for payment. A copy of the emails regarding these inquiries are attached hereto as Exhibit Two.

9. Upon information and belief, Defendant has unlawfully refused to pay the Plaintiff and other similarly situated, hourly non-exempt employees who attend "New Employee Orientation" when their attendance occurs outside of the dates that the Defendant has designated as prior to the "first day of school".

10. Defendants have willfully, wrongfully, and intentionally withheld wages due to Plaintiff and other similarly situated, hourly non-exempt employees, in violation of the South Carolina Payment of Wages Act, S.C. Code Ann. §§ 41-10-10 to -110.

11. As a consequent and proximate result of Defendants' willful and intentional withholding of the wages owed to the Plaintiff and other similarly situated, hourly non-exempt employees, the Plaintiff and other similarly situated employees are entitled to damages in an amount equal to three times the amount that Defendants owe them as unpaid wages, in addition to costs and reasonable attorney's fees pursuant to S.C. Code Ann. § 41-10-80 (c).

CLASS ACTION ALLEGATIONS

12. Pursuant to Rule 23 of the South Carolina Rules of Civil Procedure, the Plaintiff brings this action on behalf of herself and all others similarly situated. The class the Plaintiff seeks to represent is composed of all persons in the United States who were employed by the Defendant as non-exempt, hourly employees; required to attend the Defendant's "New Employee Orientation"; and were not paid for their attendance. The claim against the Defendant is brought under the S.C. Payment of Wages Act.

13. The class is so numerous that the joinder of all members is impracticable. Although the precise number of such persons is unknown, the facts on which the calculation of that number may be based are presently within the sole control of the Defendant. The disposition of the claims in a class action will provide substantial benefits to the parties and the court system.

14. There are questions of law and fact common to the class that predominate over questions affecting only individual members. There is a well-defined community of interest in the questions of law and fact affecting the parties to be represented. The questions of law and fact predominate over questions which may affect individual class members, including the following: (a) whether the Defendant is an "employer" as defined under the Payment of Wages Act; (b) whether the Defendant failed to pay wages due the plaintiffs; (c) whether the class has suffered damages and, if

so, the extent of such damages to which each member of the class is entitled and (d) whether this Court will award treble damages, attorneys fees and costs as allowed under the Payment of Wages Act.

15. The representative party will fairly and adequately protect the interests of the class. The claims of the representative Plaintiff are typical of the claims of the class. The Plaintiff is asserting entitlements that are typical of the claims of the entire class, and the Plaintiff will fairly and adequately represent and protect the interests of the claims of the class in that the Plaintiff has no interests antagonistic to those of the class. The Plaintiff has retained counsel who are competent and experienced in the prosecution of complex employment-related litigation.

16. A class action is superior to other available methods for the fair and efficient adjudication of the controversy, since individual joinder of all members of the class is impracticable. While the amount in controversy significantly exceeds the \$100 per class member specified by S.C. Rule of Civil Procedure 23(a), the limited damages suffered by each class member coupled with the expense and burden of individual prosecutions would make it difficult for individual class members to prosecute their claims. The cost to the court system of adjudicating each individual claim would be substantial. The conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and the Court System, and protects the rights of each class member.

17. This action is properly certifiable under Rule 23 of the South Carolina Rules of Civil Procedure in that all the requirements of that Rule are met.

JURY DEMAND

18. Plaintiff demands a trial by jury of all matters triable to a jury.

FOR A FIRST CAUSE OF ACTION
S.C. PAYMENT OF WAGES ACT

19. The Plaintiff incorporates herein all prior and subsequent allegations.

20. The Defendant was the "employer" of the Plaintiff and all other class members herein.

21. The Plaintiff and other similarly situated parties did not receive all wages due within forty-eight (48) hours of the termination of their employments or at the next regular payday and the Defendants now owe the Plaintiffs for all unpaid wages — including vacation, holiday, sick leave, and any other monies wrongfully withheld — which were due to the Plaintiff and all class members.

22. The Plaintiff and all class members are entitled to recover an amount equal to three times the full amount of the unpaid wages, plus costs and reasonable attorneys' fees pursuant to Section 41-10-80 S.C. Code of Laws (1976), as amended.

FOR A SECOND AND ALTERNATIVE CAUSE OF ACTION
FEDERAL FAIR LABOR STANDARDS ACT

23. The Plaintiff incorporates herein all prior and subsequent allegations.

24. At all times pertinent to this Complaint, Defendant was an "enterprise engaged in commerce or in the production of goods for commerce" as that term is defined by 29 U.S.C. § 203(s).

25. At all times pertinent to this Complaint, Plaintiff and similarly situated employees were "engaged in commerce or in the production of goods for commerce" as that term is defined within 29 U.S.C. §207.

26. At all times relevant herein, Defendant was an "employer" of Plaintiff and similarly

situated employees as that term is defined by 29 U.S.C. § 203(d) of the Fair Labor Standards Act.

27. At all times relevant herein, Defendant owned an operation and were an enterprise engaged in interstate commerce or in the production of interstate commerce as defined by the Act, 29 U.S.C. § 203(r) and 203(s).

28. Plaintiff and other similarly situated employees worked in interstate commerce so as to fall within the protections of the FLSA.

29. At all times relevant herein, the annual gross sales volume of the Defendants' business was in excess of \$500,000.

30. Defendants employed Plaintiff and similarly situated non-exempt employees without compensating Plaintiff and similarly situated employees at the minimum wage required by 29 U.S.C. § 206(a).

31. Plaintiff and similarly situated employees are entitled to back pay of unpaid minimum wage compensation for all hours worked in a workweek, liquidated damages in an equal amount, and their reasonable attorneys' fees and costs incurred in bringing this action pursuant to 29 U.S.C. § 216(b).

32. Defendants' violations of the FLSA were willful.

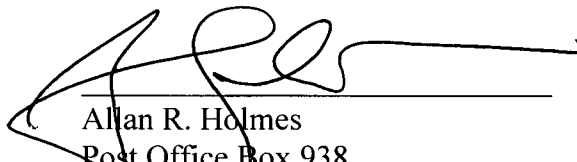
WHEREFORE, Plaintiff respectfully request that this Court:

- (a) Order certification of the class alleged herein;
- (b) Appoint the undersigned as class counsel;
- (c) Set this case down for trial by jury;
- (d) Find that the Defendant violated the South Carolina Payment of Wages Act;
- (e) Enter Judgment against the Defendant in an amount equal to three times the full amount of

the unpaid wages, plus costs and reasonable attorneys' fees together with pre-judgment interest;

- (f) Enjoin the Defendant from continuing to violate the South Carolina Payment of Wages Act;
- (g) Certify this action as a collective action pursuant to 29 U.S.C. § 216 (b);
- (h) Enter judgment for the Plaintiff and all similarly situated damages for unpaid wages, liquidated damages, attorneys' fees, and costs as provided by the Fair Labor Standards Act.
- (i) Grant such other and further relief as is deemed just and proper.

GIBBS & HOLMES



Allan R. Holmes
Post Office Box 938
171 Church Street, Suite 110
Charleston, South Carolina 29402
Phone: (843) 722-0033
Facsimile: 843-722-0114

February 29, 2016

ATTORNEYS FOR PLAINTIFFS

EXHIBIT ONE



August 3, 2015

Ms. Elizabeth A. Peiffer
237 Indigo Bay Circle
Mount Pleasant, SC, 29465

Dear Ms. Peiffer:

The purpose of this letter is to communicate to you our terms of employment with the Charleston County School District. We are extremely pleased to extend this offer to you and we look forward to you becoming part of our team. You may be assured that we will do everything possible to provide a smooth transition for you.

Human Resources
Department

Gerrita Postlewait, Ed.D.
Superintendent of Schools

William Briggman
Executive Director of
Human Resources

Our offer is contingent upon the presentation of proper documents verifying your identity and your authorization to work in the United States. As indicated on the attached lists of acceptable documents, you may present one item from List A only or one item from List B and one item from List C. A negative TB test result documented on DHEC Form 1420 is required by SC State Law and must be presented.

Please consider this letter your formal offer of employment as follows:

1. Compensation

This position is a DBM B21 position. You will begin at the rate of \$14.23 per hour based on Three (3) years of experience as approved by the Board in the 2015-2016 budget. Years of experience are calculated using information that you have furnished for experience on your application. Additional information may be requested from Human Resources for persons that were self-employed. New hires will receive a maximum of 12 years credit for full-time comparable work experience at the discretion of the Human Resources Department (work experience credit will not be given for part-time, temporary, or internship employment).

The net amount of your pay, after all deductions are taken, will be directly deposited to the bank(s) of your choice each bi-weekly pay period. You will receive a direct deposit form for this purpose during your orientation.

2. Job Title

Your job title will be Sr. Teaching Assistant, which is considered a 190-day, non-exempt position. You will be a member of Sullivan's Island ES, and you will report to Susan R. King, Principal. You will be working out of our location at 2015 I'on Avenue, Sullivan's Island, SC 29482 and your work hours will be 7:30 a.m. to 2:30 p.m. or as determined by your supervisor.

3. Benefits

You may be eligible to participate in our benefits program, which includes health, dental, life, long term disability insurance, and retirement. Participation in our flexible spending plan may also be available to you. Eligibility for our benefit programs will begin on the first day of the month following your date of hire. In addition, you have thirty-one (31) days from your date of hire to enroll in our benefits program.

THIS IS NOT A CONTRACT. BY ACCEPTING THE EMPLOYMENT OFFERED, YOU UNDERSTAND AND ACKNOWLEDGE THAT YOU ARE AN EMPLOYEE AT WILL AND MAY BE TERMINATED AT ANY TIME FOR ANY OR NO REASON.

If the terms of this offer are acceptable, sign all documents and retain a copy for your records. Return the original signed copy of the offer letter to Human Resources by **August 13, 2015**. Your signature will confirm the terms and conditions of your employment as specified in this letter.

Your start day is August 10, 2015.

You will attend the **New Employee Orientation on August 5, at SAMS SUPPORT LOCATION, 725 WAPPOO ROAD, CHARLESTON, SC 29407, from 7:45 AM – 4:00 PM.** If you are unable to attend, please call the Human Resources Support Center at 843-937-6380. Please carefully review the information included regarding the requirements for this orientation.

Welcome to CCSD and I look forward to seeing you soon.

☐

I accept the terms and conditions listed above and understand that my employment is subject to the terms listed on my original employment application. I agree there are no outstanding arrangements that would otherwise interfere with the employment arrangements with CCSD.

☐

I decline the foregoing terms.

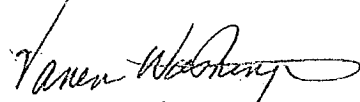
Signature _____

Date _____

Return Options for offer letter:

1. Deliver to Human Resources, 75 Calhoun St., Charleston, SC
2. Mail to Human Resources, 75 Calhoun St., Charleston, SC 29401
3. Bring with you to New Employee Orientation

Sincerely,



Vanessa Washington
Human Resources Recruitment Manager

C: Susan R. King
Personnel File

Attachments: New Employee Orientation Information
DHEC Form 1420
I-9 List of Acceptable Documents
Health Benefits Enrollment Form

EXHIBIT TWO

Charleston
County SCHOOL DISTRICT

ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

190 Day classified employee pay

1 message

ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

Mon, Nov 2, 2015 at 5:33
PM

To: HRInfo CCSD <hrinfo@charleston.k12.sc.us>

To whom it may concern:

I am a classified employee in a position that is based on a 190 work day pay scale. However, I attended the mandatory new employee orientation on Friday, August 7, 2015, which effectively means that I worked for an additional day that I was not compensated for. My understanding is that any hourly employee who is required to attend a mandatory training for work is entitled to compensation for that time. Could you please clarify this for me?

Elizabeth Peiffer

Charleston
County SCHOOL DISTRICT

ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

190 Classified Employee Pay

7 messages

SANDRA QUIGLEY <sandra_quigley@charleston.k12.sc.us>
To: ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>
Cc: HRInfo CCSD <hrinfo@charleston.k12.sc.us>

Tue, Nov 3, 2015 at 9:04 AM

Good morning Ms. Peiffer,

If you are scheduled for a New Employee Orientation during the summer prior to the first day of school, you are not compensated for that day. You are only paid for orientation if it falls on a work day.

Please let me know if you have any additional questions. Have a great day!

--
Sandra Quigley
Human Resources Technician
Charleston County School District
75 Calhoun Street
Charleston, SC 29401
(843) 937-6380 Office
(843) 937-6360 FAX
www.ccsdschools.com

<http://vision2016.org>
twitter.com/ccsdconnects
facebook.com/ccsdconnects

Excellence is our Standard

ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

Tue, Nov 3, 2015 at 3:46 PM

To: SANDRA QUIGLEY <sandra_quigley@charleston.k12.sc.us>

Ms. Quigley,

Thank you for your reply. I do need some additional clarification. I believe this practice is in violation of the Fair Labor Standards Act. Please consult with the CCSD legal department and help me to understand how this mandatory unpaid orientation does not violate those federal regulations. Thank you.

Sincerely,
Elizabeth Peiffer
[Quoted text hidden]

SANDRA QUIGLEY <sandra_quigley@charleston.k12.sc.us>

Tue, Nov 3, 2015 at 3:55 PM

To: ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>
Cc: YVONNE MARSHALL <yvonne_marshall@charleston.k12.sc.us>

Hi Ms. Peiffer,

I have forwarded your email to Yvonne Marshall for additional response. We will wait for her reply.

Thank you.

[Quoted text hidden]

YVONNE MARSHALL <yvonne_marshall@charleston.k12.sc.us>
Cc: ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

Wed, Nov 4, 2015 at 11:43 AM

Good morning Ms. Peiffer,

Thanks for your email. I will research your request and get back to you.

[Quoted text hidden]

--

Yvonne T. Marshall
Human Resources Specialist
Charleston County School District
75 Calhoun St.
Charleston, SC 29403

(843)-937-6524-(phone)

(843)-937-6360 (fax)

Excellence is our Standard

ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>
To: YVONNE MARSHALL <yvonne_marshall@charleston.k12.sc.us>

Mon, Nov 9, 2015 at 9:52 AM

Ms. Marshall- Thank you for looking into this for me. Any idea how long it will take to get a response?

[Quoted text hidden]

YVONNE MARSHALL <yvonne_marshall@charleston.k12.sc.us>
To: ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

Tue, Nov 10, 2015 at 8:02 AM

Ms. Peiffer

Unfortunately I had an unexpected emergency and am out of the office until tomorrow or Thursday, but I will follow up upon my return.

Thank you for your patience

Sent from my iPhone

[Quoted text hidden]

YVONNE MARSHALL <yvonne_marshall@charleston.k12.sc.us>

Fri, Nov 13, 2015 at 1:46 PM (

To: ELIZABETH PEIFFER <elizabeth_peiffer@charleston.k12.sc.us>

Ms. Pfeiffer unfortunately, I am still out.. I plan to return on Monday at which time, I will follow-up with your question/concern.

Thanks

[Quoted text hidden]