SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

JAMAL BARNEY	:	Case Number: 2020 CA 2016 B
v.	:	Judge: Florence Y. Pan
TACTICAL SECURITY SOLUTIONS INCORPORATED, *et al.*	: :	Scheduling Conference: November 20, 2020[1]

ORDER

This matter comes before the Court on consideration of defendants' Motion to Dismiss ("Defs. Mot."), filed on September 28, 2020; and plaintiff's Opposition ("Pl. Opp."), filed on October 13, 2020. Defendants have not filed a reply, and the time to do so has passed. The Court has considered the papers, the pleadings, and the applicable law. For the following reasons, defendants' Motion is denied.

PROCEDURAL HISTORY

On August 11, 2020, plaintiff filed his Amended Complaint against defendants Tactical Security Solutions, Inc., Tactical Security Solutions II, Inc., Cornelius L. Johnson, and Everal Ornal Campbell, alleging claims for unpaid overtime wages, unpaid regular wages, and failure to provide sick leave, in violation of the Fair Labor Standards Act ("FLSA"); the District of Columbia Minimum Wage Act Revision Act ("DCMWA"); the District of Columbia Wage Payment and Collection Law ("DCWPCL"); and the District of Columbia Accrued Safe and Sick Leave Act ("ASSLA"). *See generally* Am. Compl.

According to the Amended Complaint, defendants Tactical Security Solutions and Tactical Security Solutions II are Maryland corporations that are owned and operated by defendants Johnson and Campbell. *See id.* ¶¶ 7-10. Plaintiff alleges that he worked for

[1] If the parties file a joint scheduling praecipe (which is available online as Civil form 113), the scheduling conference will be vacated and the parties will not be required to appear.

defendants as a special police officer from January 1, 2016, through June 30, 2017, and then again from July 1, 2019, through March 12, 2020. *See id.* ¶¶ 14, 16. Plaintiff further alleges that defendants Johnson and Campbell both "participated in the decision to hire" plaintiff, and "participated in the decision to set [p]laintiff's hourly rate of pay." *See id.* ¶¶ 33-36. Plaintiff alleges that defendants Johnson and Campbell "were the only individuals with the authority to determine how much [p]laintiff was paid," and that they did "in fact determine, every pay period, how much [p]laintiff was paid." *See id.* ¶¶ 37-38. Plaintiff further alleges that defendants "had the power to hire and fire [p]laintiff;" "to control [his] work schedule;" and "to supervise and control [his] work." *See id.* ¶¶ 39-41.

Plaintiff alleges that he "often worked fifty hours per week" for defendants, and that defendants paid plaintiff by the hour. *See id.* ¶¶ 18-19. According to plaintiff, defendants failed to pay plaintiff overtime wages for the hours that he worked in excess of forty hours per week. *See id.* ¶ 24. Plaintiff also alleges that defendants failed to pay plaintiff for some of the regular hours he worked, and further failed to provide plaintiff with paid sick leave. *See id.* ¶¶ 26-28. Based on these allegations, plaintiff seeks $27,258.48 in damages and attorney's fees under the FLSA, DCMWA, DCWPCL, and ASSLA. *See id.* at 9.

On September 28, 2020, defendants filed the instant Motion to Dismiss, arguing that the Amended Complaint fails to state a claim because (1) plaintiff fails to allege facts that support piercing the corporate veil and imposing individual liability on defendants Johnson and Campbell; and (2) plaintiff fails to allege in sufficient detail the dates and hours for which defendants failed to pay plaintiff. *See generally* Defs. Mot.

APPLICABLE LEGAL STANDARD

A complaint should be dismissed for failure to state a claim upon which relief can be granted only if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." *See Fingerhut v. Children's Nat'l Med. Ctr.*, 738 A.2d 799, 803 (D.C. 1999); D.C. Super. Ct. Civ. R. 12(b)(6). When considering a motion to dismiss a complaint for failure to state a claim, the Court must "construe the facts on the face of the complaint in the light most favorable to the non-moving party, and accept as true the allegations in the complaint." *See Fred Ezra Co. v. Pedas*, 682 A.2d 173, 174 (D.C. 1996). A court should not dismiss a complaint merely because it "doubts that a plaintiff will prevail on a claim." *See Duncan v. Children's Nat'l Med. Ctr.*, 702 A.2d 207, 210 (D.C. 1997).

A pleading must contain a "short and plain statement of the claim showing that the pleading is entitled to relief." *See* D.C. Super. Ct. Civ. R. 8(a); *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009). Plaintiffs who wish to survive a motion to dismiss under D.C. Superior Court Rule of Civil Procedure 12(b)(6) must provide "enough facts to state a claim to relief that is plausible on its face." *See Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (plaintiffs must "[nudge] their claims across the line from conceivable to plausible"); *Mazza v. Housecraft LLC*, 18 A.3d 786, 791 (D.C. 2011) (holding that *Twombly* and *Iqbal* apply in our jurisdiction because D.C. Super. Ct. Civ. R. 8(a) is identical to its federal counterpart). The "plausibility" pleading standard does not require "detailed factual allegations" at the initial litigation stage of filing the complaint, but "it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *See Iqbal*, 556 U.S. at 678. A claim is plausible on its face "when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *See id.*

ANALYSIS

Plaintiff is not required to pierce the corporate veil to bring his statutory claims against defendants Johnson and Campbell. The FLSA, DCMWA, DCWPCL, and ASSLA each permit a plaintiff to sue an employer for the employer's failure to comply with applicable statutory requirements. *See* 29 U.S.C. § 216(b) (the FLSA permits an employee to file an "action . . . against any employer"); D.C. Code § 32-1308(a)(1)(A) (permitting any "person aggrieved by a violation of [the Wage Payment and Collection Law,] the Minimum Wage Revision Act, [or] the Sick and Safe Leave Act to "bring a civil action . . . against [an] employer or other person"). These statutes define "employer" as any person, including an individual, acting directly or indirectly in the interest of an employer in relation to an employee. *See* 29 U.S.C. § 203(d) (the FLSA defines an "employer" as "any person acting directly or indirectly in the interest of an employer in relation to an employee"); D.C. Code § 32-1002(3) (the DCMWA defines an "employer" as "any individual . . . directly or indirectly in the interest of an employer in relation to an employee"); *see also* D.C. Code § 32-1301(1B) (the DCWPCL defines an employer as any "individual . . . employing any person in the District of Columbia[.]").[2]

The Amended Complaint alleges that defendants Johnson and Campbell participated in the decision to hire plaintiff; determined how much plaintiff was paid; had the power to hire and fire plaintiff; controlled his work schedule; and supervised his work. *See* Am. Compl. ¶¶ 33-42.

[2] Unlike the other statutes on which plaintiff brings his claims, the definition of an "employer" under the Accrued Safe and Sick Leave Act does not explicitly include individuals. *See* D.C. Code § 32-531.01(3)(A) (the ASSLA defines an "employer" as "a legal entity (including a for-profit or nonprofit firm, partnership, proprietorship, sole proprietorship, limited liability company, association, or corporation) . . . who directly or indirectly . . . employs or exercises control over the wages, hours, or working conditions of an employee."). Defendants, however, have not raised the specific issue of whether defendants Johnson and Campbell may be held liable as employers under the ASSLA. *See generally* Defs. Mot. The Court therefore does not address that issue in the instant Order.

Plaintiff therefore alleges that defendants Johnson and Campbell are "employers" under the FLSA, DCMWA, and DCWPCL, who may be sued in their individual capacities.

Defendants' only argument for dismissing defendants Johnson and Campbell is that plaintiff fails to allege facts that support piercing the corporate veil, which the individual defendants apparently believe is required to impose liability on them. *See generally* Defs. Mot. Defendants fail to provide any legal authority to support the claim that veil-piercing is necessary to bring statutory claims against the individual defendants. *See generally id.* As discussed above, plaintiff has sufficiently alleged that defendants Johnson and Campbell are "employers" under the FLSA, MWA, and WPCL.

Defendants further argue that the Amended Complaint must be dismissed because it fails to allege with sufficient detail the dates and hours for which defendants failed to provide plaintiff with overtime pay, regular pay, and sick leave. *See* Defs. Mot. at 5-6. The Amended Complaint alleges the dates that plaintiff worked for defendants; the approximate hours he worked each week; and the rates at which defendants paid plaintiff. *See* Am. Compl. ¶¶ 4, 18, 20, 22, 27. The Amended Complaint further alleges that defendants violated the FLSA and DCMWA by failing to pay plaintiff overtime wages for the weeks he worked more than 40 hours per week; violated the DCWPCL by failing to pay plaintiff all the wages he was due after his employment ended; and violated the ASSLA by failing to provide plaintiff with paid safe and sick leave. *See id.* ¶¶ 50, 56, 64, 70. These allegations are sufficient to put defendants on notice of the claims against them. *See, e.g.*, *Sarete, Inc. v. 1344 U St. Ltd. P'ship*, 871 A.2d 480, 497 (D.C. 2005) ("The District is a notice pleading jurisdiction and . . . a complaint is sufficient so long as it fairly puts the defendant[s] on notice of the claim[s] against [them].").[3]

[3] Defendants' Motion to Dismiss also raises a variety of factual allegations concerning plaintiff's employment with defendants. *See, e.g.*, Defs. Mot. at 6 (alleging that plaintiff "failed to appear at work over his

Accordingly, it is this 18th day of November, 2020, hereby

ORDERED that defendants' Motion to Dismiss is **DENIED**.

SO ORDERED.

Judge Florence Y. Pan
Superior Court of the District of Columbia

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entire tenure, falsified accounting . . . , [and] borrowed money from his employers"). Defendants cannot rely on factual arguments such as these on a motion to dismiss. *See, e.g.*, *Pedas*, 682 A.2d at 174 ("When considering a motion to dismiss a complaint for failure to state a claim," the Court must "construe the facts on the face of the complaint in the light most favorable to the non-moving party, and accept as true the allegations in the complaint.").