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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF DOUGLAS

10	ANNA M. UWUJIYE,	)
11		) Case No. 15CV33586
12		)
13	Plaintiff,	) <b>SECOND AMENDED COMPLAINT</b>
14		)
15		) 1. Overtime Wages (FLSA)
16	v.	) 2. Overtime Wages (ORS 653.261)
17		) 3. Liquidated Damages (FLSA)
18	WINDY BAY HOLDINGS LLC,	) 4. Statutory Penalty (ORS 653.055(1))
19	an Oregon limited liability company, and	) 5. Vacation Wages
20	NANCY C. FAUBEL, an individual,	) 6. Statutory Penalty (ORS 652.150)
21		)
22	Defendants.	) <b>Claims Total \$13,447.20</b>
23	_____	) <b>Subject to Mandatory Arbitration</b>

24  
25 Plaintiff alleges:

26 **FIRST CLAIM FOR RELIEF**  
27 **(Unpaid Overtime Wages - FLSA)**  
28 **[Against Both Defendants]**

29  
30 1.

31 At all material times herein, Windy Bay Holdings, LLC (“Defendant WBH”), was  
32 and is a limited liability company, formed within the State of Oregon, and conducting  
33 regular and sustained business activity in Douglas County, Oregon.

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2.

At all material times herein, Nancy C. Faubel (“Defendant Faubel”), was managing member of Defendant WBH, and personally directed and controlled Plaintiff’s employment, as well as payment of her wages.

3.

At all material times, Defendants were both Plaintiff’s employers, subject to the requirements of the Fair Labor Standards Act (29 USC §201-219) to pay Plaintiff overtime premium wages, for all hours worked over 40 in any given workweek.

4.

Plaintiff Anna M. Uwujyiye (“Plaintiff”) was employed by both Defendants WBH and Faubel, from August 4, 2014 until May 20, 2015. At all material times herein, Plaintiff’s regular pay rate was \$13.00 per hour, and her overtime pay rate was \$19.50 per hour.

5.

Defendants have failed to pay Plaintiff overtime wages for 173.3 overtime hours worked, from December 8, 2014 through May 10, 2105, in the amount of \$3,379.35.

6.

Plaintiff is entitled to an award of reasonable attorney fees pursuant to 29 USC §216(b).

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1 **SECOND CLAIM FOR RELIEF**  
2 **(Unpaid Overtime Wages – ORS 653.261)**  
3 **[Against Defendant WBH Only]**  
4

5 7.

6 Plaintiff hereby realleges the allegations contained in paragraphs 1, 2, 4 and 5  
7 above.

8 8.

9 At all material times, Defendant WBH was Plaintiff's employer, subject to the  
10 requirements of Oregon wage law (ORS 653.261; OAR 839-020-0030) to pay Plaintiff  
11 overtime premium wages, for all hours worked over 40 in any given workweek.

12 9.

13 Defendant WBH has failed to pay Plaintiff overtime wages for 173.3 overtime  
14 hours worked, from December 8, 2014 through May 10, 2105, in the amount of  
15 \$3,379.35; despite its receipt of written notice from Plaintiff that said overtime wages  
16 were owed, more than 12 days prior to the filing of this Complaint. Plaintiff is further  
17 owed prejudgment interest on these unpaid wages, at the legal rate of 9% per annum,  
18 from the dates said wages were due, until final Judgment is entered herein.

19 10.

20 Plaintiff is entitled to an award of reasonable attorney fees pursuant to ORS  
21 652.200(2).

22 \* \* \* \* \*

1 **THIRD CLAIM FOR RELIEF**  
2 **(Liquidated Damages - FLSA)**  
3 **[Against both Defendants]**  
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5 11.

6 Plaintiff hereby realleges the allegations contained in paragraphs 1-5 above.

7 12.

8 Plaintiff is entitled to liquidated damages, pursuant to 29 USC §216(b), in the  
9 amount of \$3,379.35, due to Defendant's failure to pay overtime wages.

10 13.

11 Plaintiff is entitled to an award of reasonable attorney fees pursuant to 29 USC  
12 §216(b).

13 \* \* \* \* \*

14 **FOURTH CLAIM FOR RELIEF**  
15 **(Statutory Penalty – ORS 653.055(1)(b))**  
16 **[Against Defendant WBH Only]**  
17

18 14.

19 Plaintiff hereby realleges the allegations contained in paragraphs 1, 2, 4 and 5  
20 above.

21 15.

22 For Defendant WBH's failure to pay Plaintiff's overtime wages, Plaintiff is  
23 entitled to a statutory penalty against Defendant WBH in the amount of \$3,120, pursuant  
24 to ORS 652.150, plus prejudgment interest thereon, at the legal rate of 9% per annum,  
25 from September 5, 2015, until final Judgment is entered herein.

PAGE 4 – SECOND AMENDED COMPLAINT

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16.

Plaintiff is entitled to an award of reasonable attorney fees pursuant to ORS

652.200(2).

\* \* \* \* \*

**FIFTH CLAIM FOR RELIEF  
(Unpaid Vacation Wages)  
[Against Defendant WBH Only]**

17.

Plaintiff hereby realleges the allegations contained in paragraphs 1 and 4 above.

18.

Defendant WBH has failed to pay Plaintiff's earned and accrued vacation wages, in the amount of \$448.50. Plaintiff is further owed prejudgment interest on these unpaid wages, at the legal rate of 9% per annum, from the dates said wages were due, until final Judgment is entered herein.

19.

Plaintiff is entitled to an award of reasonable attorney fees pursuant to ORS

652.200(2).

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1 **SIXTH CLAIM FOR RELIEF**  
2 **(Statutory Penalty – ORS 652.150)**  
3 **[Against Defendant WBH Only]**  
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5 20.

6 Plaintiff hereby realleges the allegations contained in paragraphs 1, 4 and 18  
7 above.

8 21.

9 Defendant WBH's failure to pay Plaintiff's vacation wages following termination  
10 of employment, was willful and despite its receipt of written notice from Plaintiff that  
11 said vacation wages were owed, more than 12 days prior to the filing of this Complaint.  
12 Plaintiff is entitled to a statutory penalty against Defendant WBH, pursuant to ORS  
13 652.150, in the amount of \$3,120, plus prejudgment interest thereon, at the legal rate of  
14 9% per annum, from September 5, 2015, until final Judgment is entered herein.

15 22.

16 Plaintiff is entitled to an award of reasonable attorney fees pursuant to ORS  
17 652.200(2).

18 \* \* \* \* \*

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1           **WHEREFORE**, Plaintiff Anna M. Uwujyiye prays for a Judgment against both  
2 Windy Bay Holdings LLC and Nancy C. Faubel, jointly and severally, as follows:

3 **A. First Claim for Relief: (Overtime Wages - FLSA) (Both Defendants):**

4           1. For unpaid overtime wages under the Fair Labor Standards Act, against both  
5 Defendants jointly and severally, in the amount of \$3,379.35; and

6           2. For an award of reasonable attorney fees, against both Defendants jointly and  
7 severally, pursuant to 29 USC §216(b).

8 **B. Second Claim for Relief: (Overtime Wages – ORS 653.261) (Def. WBH Only):**

9           1. For unpaid overtime wages under Oregon law, against Defendant WBH, in the  
10 amount of \$3,379.35; plus prejudgment interest thereon, at the legal rate of 9%  
11 per annum, from the dates said overtime wages were due, until final Judgment  
12 is entered herein; and

13           2. For an award of reasonable attorney fees against Defendant WBH, pursuant to  
14 ORS 652.200(2).

15 **C. Third Claim for Relief: (Liquidated Damages - FLSA) (Both Defendants):**

16           1. For liquidated damages against both Defendants jointly and severally, in the  
17 amount of \$3,379.35, pursuant to 29 USC §216(b); and

18           2. For an award of reasonable attorney fees, against both Defendants jointly and  
19 severally, pursuant to 29 USC §216(b).

20 ///

21 ///

1 **D. Fourth Claim for Relief: (Penalty – ORS 653.055(1)(b)) (Def. WBH Only):**

2 1. For failure to pay overtime wages, a statutory penalty against Defendant WBH,  
3 pursuant to ORS 653.055(1)(b), in the amount of \$3,120, plus prejudgment  
4 interest thereon, at the legal rate of 9% per annum, from September 5, 2015,  
5 until final Judgment is entered herein; and

6 2. For an award of reasonable attorney fees, against Defendant WBH, pursuant to  
7 ORS 652.200(2).

8 **E. Fifth Claim for Relief: (Vacation Wages) (Def. WBH Only):**

9 1. For vacation wages against Defendant WBH in the amount of \$448.50; plus  
10 Prejudgment interest thereon, at the legal rate of 9% per annum, from the dates  
11 said wages were due, until final Judgment is entered herein; and

12 2. For an award of reasonable attorney fees, , against Defendant WBH, pursuant  
13 to ORS 652.200(2).

14 **F. Sixth Claim for Relief: (Penalty – ORS 652.150) (Def. WBH Only):**

15 1. For failure to pay vacation wages, a statutory penalty against Defendant WBH,  
16 pursuant to ORS 652.150, in the amount of \$3,120, plus prejudgment interest  
17 thereon, at the legal rate of 9% per annum, from September 5, 2015, until final  
18 Judgment is entered herein; and

19 ///

20 ///

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1           2. For an award of reasonable attorney fees, against Defendant WBH, pursuant to  
2           ORS 652.200(2).

3   **G. Costs and Disbursements:** – For an award of Costs against both Defendants.

4   DATED this 31st day of March, 2016.

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*Brian A. Buchanan*  
\_\_\_\_\_  
Brian A. Buchanan, OSB #922434  
Attorney for Plaintiff Anna M. Uwujiye

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PAGE 9 – SECOND AMENDED COMPLAINT

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E-Mail: brian@wageclaims.org

1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that I served a true copy of the foregoing **SECOND AMENDED**  
4 **COMPLAINT** on:

5  
6 David S. Tilton  
7 Attorney at Law  
8 590 Commercial St  
9 Coos Bay, OR 97420

10  
11 by e-mail to davidtilton@590lawoffices.com, on the date noted below.

12  
13 DATED this 31st day of March, 2016.

14  
15  
16  
17 \_\_\_\_\_  
18 Brian A. Buchanan, OSB #922434  
19 Attorney for Plaintiff Anna M. Uwujije