

IN THE CIRCUIT COURT OF COOK COUNTY ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

Hermelinda Lopez, on behalf of herself	)	
and similarly situated laborers,	)	
known and unknown,	)	
	)	
Plaintiffs,	)	Case No. 2019CH10438
	)	
v.	)	Judge
	)	
Restaurant Management Corp.	)	Hearing Date: 1/8/2020 9:30 AM - 9:30 AM
d/b/a McDonald's,	)	Courtroom Number: 2301
	)	Location: District 1 Court
Defendant.	)	Cook County, IL

CLASS ACTION COMPLAINT

Plaintiff Hermalinda Lopez (“Plaintiff”), on behalf of herself and similarly situated employees of Defendant, through her attorneys, against Restaurant Management Corp. d/b/a McDonald’s (“Defendant”), states as follows:

I. NATURE OF THE CASE

1. This lawsuit arises under the Chicago Earned Sick Leave Ordinance No. 1-24-010, *et seq.* (“CESLO”). Effective July 1, 2017, Chicago employers are obligated to provide covered employees with at least one (1) hour of Earned Sick Leave for every forty (40) hours worked. Defendant violated the CESLO by requiring Plaintiff to show a doctor’s note upon taking one (1) day of sick leave, threatening to suspend employees who failed to provide a doctor’s note, and by failing to compensate Plaintiff for sick leave properly taken.. In addition, Plaintiff, and other similarly situated laborers, known and unknown, were harmed by Defendant’ failure to post notice to employees of their right to Earned Sick Leave under the CESLO, violating the Ordinance’s notice and posting requirements.

FILED DATE: 9/10/2019 9:59 AM 2019CH10438

## **II. JURISDICTION AND VENUE**

2. Jurisdiction of this Court over Plaintiff's claims is proper pursuant to 735 ILCS 5/2-209(a)(1) because Defendant committed the violations complained of herein in Illinois and, pursuant to 735 ILCS 5/2-209(b)(4), because Defendant conduct and transact business from and within the state of Illinois.

3. Venue is proper in this judicial district pursuant to 735 ILCS 5/2-101 in that Defendant maintains an office in Cook County, Illinois and has conducted and transacted business within Cook County, Illinois.

## **III. PARTIES**

4. At all relevant times, Plaintiff:

a. has been a covered employee as that term is defined by the CESLO, Cook County Ord. No. 16-4229, 10-5-2016, Sec. 42-2:

a. Plaintiff performed at least two (20) hours of work for Defendant during every two-week period since July 1, 2017

b. All of Plaintiff's work was performed while physically present in Chicago in Cook County, Illinois; and

c. Plaintiff consistently worked at least eighty (80) hours for Defendant during any and all 120-day periods.

b. has been an employee of Defendant since approximately 2009 to present;

c. has worked for Defendant in this judicial district; and

d. has resided in and been domiciled within Cook County, Illinois, in this judicial district.

5. At all relevant times, Defendant Restaurant Management Corp.,:

- a. has been corporations organized under the laws of the State of Indiana doing business in Illinois;
- b. has been employers as that term is defined in the CESLO;
- c. have conducted business in this judicial district; and
- d. have been Plaintiff's employer.
- e. has conducted business in this judicial district;

#### **IV. FACTUAL BACKGROUND**

6. On October 5, 2016, Chicago passed the CESLO with the intention of providing a right to paid sick leave to employees of employers in Cook County.

7. Chicago has specifically aimed to ensure that employees are able to take care of themselves and their families in times of need.

8. Chicago has sought to accomplish this goal through the regulatory scheme established by the CESLO. The first and primary right is for all Covered Employees under the County Ordinance to accumulate one (1) hour of Earned Sick Leave for every forty (40) hours worked. Following the 180<sup>th</sup> day of employment, the employee then has the right to use their Earned Sick Leave, with proper notice, when they themselves are sick, are seeking medical care, or are caring for a family member, among other listed reasons. An employer violates this right if the employer denies an employee's properly submitted request to use their Earned Sick Leave or takes any adverse employment action against an employee who uses their Earned Sick Leave.

9. The second key element of the CESLO is the obligation on Chicago employers to post clear notice of their employees' rights to Earned Sick Leave in a conspicuous place at every location where work is performed. In addition, employers are required to provide written notice of rights to any new employees who have started since July 1, 2017. This second element is a critical

buttress to the Chicago regulatory scheme, ensuring that workers have notice of the rights they have to Earned Sick Leave.

10. Plaintiff is employed by Defendant as an hourly employee.

11. Plaintiff works as an hourly employee at the McDonald's location at 180 W. Adams Street, Chicago, Illinois 60603, owned and operated by Defendatn.

12. On November 8, 2018, Plaintiff's son injured his ankle and had to go to the emergency room. Plaintiff notified the manager, Aisha, who stated that Plaintiff had to bring a doctor's note to her next shift despite the absence being only for one day.

13. Ms. Bernal told Plaintiff that Plaintiff had no sick time, and Plaintiff was not paid for November 8, 2018.

14. Plaintiff was unable to find out how much sick time she had accrued because there was no notice on the check detailing her sick time. When Plaintiff consulted Ms. Bernal about the issue, Ms. Bernal told Plaintiff to investigate it. After calling and emailing the Human Resources department, a Human Resources employee informed her how much sick time she had accrued.

15. On or about February 14, 2019, Plaintiff's daughter became ill. Plaintiff called Defendant approximately 2 hours before her shift to state that she would be absent.

16. Plaintiff was not paid for her sick day even though she had accrued sick days.

17. On or about July 25, 2019, Plaintiff herself became sick. She called a manager, Aisha, that she would be unable to work. On or about July 26, 2019, Ms. Bernal told Plaintiff that Plaintiff had not properly taken sick time. Plaintiff's absence was treated as a "no-show." Plaintiff had, in fact, called the restaurant manager and produced a doctor's note, even though not required to do so.

18. Later, Plaintiff was paid for the 7 hours of sick time from the previous day but Defendant's actions deterred her and other employees from taking sick time they had properly accrued under the CESLO.

19. Upon information and belief, Defendant also have a general policy that if an employee fails to bring a doctor's note for any sick day, the employee can be suspended for three (3) days – even if the employee has only taken one sick day. When employees request sick time, Ms. Bernal tells them that they will be suspended for three (3) days if they fail to bring a doctor's note.

20. As a result of Defendant's actions, Defendant have unlawfully stripped Plaintiff and other similarly situated employees of their Earned Sick Leave, as proscribed by the CESLO. In effect, Defendant have directly violated the City Ordinance and stripped Plaintiff and a class of their right to be able to take care of themselves and their family members in a time of need.

## **V. CLASS ACTION ALLEGATIONS**

21. Plaintiff seeks to represent a class of employees of the Defendant for whom Defendant did not provide the required notice and posting of rights to Earned Sick Leave under the CESLO ("the Sick Leave Notice Class").

22. Plaintiff and the Class are similar because they were all subject to the same practices that violated the CESLO, specifically not being given adequate notice of their rights to Earned Sick Leave.

23. Count I is brought pursuant to 735 ILCS 5/2-801 because:

- a. the class is so numerous that joinder of all members is impracticable. While the precise number of Class Members has not been determined at this time, Plaintiff is informed and believes that Defendant has employed at least 100 workers who were not sufficiently notified of their rights in Chicago during the Class Period;

- b. There are questions of fact or law common to the class, which common questions predominate over any questions affecting only individual members. These common questions of law and fact include, without limitation:
  - i. Whether Defendant posted notice in a conspicuous place at each facility where any members of the Class performed work;
  - ii. Whether Defendant provided written notice at the commencement of employment advising the Class member of his or her rights to Earned Sick Leave under the CESLO;
- c. The class representative and the members of the class have been equally affected by Defendant's failure to adhere to the requirements of the Ordinance;
- d. The class representative, class members and Defendant have a commonality of interest in the subject matter and remedies sought and the class representative is able to fairly and adequately represent the interest of the classes. If individual actions were required to be brought by each member of the class injured or affected, the result would be a multiplicity of actions creating a hardship on the class members, Defendant and the Court.

24. Therefore, a class action is an appropriate method for the fair and efficient adjudication of this lawsuit.

25. The books and records of Defendant are material to Plaintiff's case as they disclose how and when Plaintiff and the Class worked at locations owned and operated by Defendant and whether Class members were provided adequate notice at such locations or at the commencement of their employment.

**COUNT I**  
**Violation of CESLO**  
**(Individual Claim)**

26. Plaintiff incorporates and re-alleges paragraphs 1 through 25 as though set forth herein.

27. Defendant is an "employer" under the CESLO.

28. Plaintiff qualifies as a "covered employee" as defined by CESLO.

29. Plaintiff has qualified for Earned Sick Leave since beginning employment with Defendant.

30. Defendant violated the CESLO by unlawfully requiring doctor's notes to use her Earned Sick Leave, threatening to suspend any employee who failed to provide a doctor's note for any Earned Sick Leave, and failing to inform Plaintiff of her accrued Earned Sick Leave by providing leave information on her pay stubs.

31. Defendant knew or should have known of the requirements of the CESLO.

32. As a result, Defendant's violations of the CESLO were reckless or, in the alternative, negligent.

WHEREFORE, Plaintiff, on behalf of him/herself, prays for a judgment against Defendant as follows:

- A. Awarding liquidated monetary damages to Plaintiff for violation of the CESLO;
- B. Enjoining Defendant from committing further violations of the CESLO;
- C. Awarding Plaintiff's reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by CESLO; and
- D. Such other and further relief as this Court deems appropriate and just.

**COUNT II**  
**Violation of CESLO**  
**(Class Action)**

33. Plaintiff and similarly situated employees incorporate and re-allege paragraphs 1 through 32 as though set forth herein.

34. Defendant is a "employer" under CESLO.

35. Plaintiff and similarly situated employees qualify as "covered employees" as defined by CESLO.

36. Defendant has failed to provide adequate posting in a conspicuous place at each location where Plaintiff and Class members have worked of their rights to Earned Sick Leave, as is required by the CESLO.

37. Defendant has failed to provide adequate written notice advising Plaintiff and Class members of their rights to Earned Sick Leave under the CESLO.

38. Failure to provide adequate notice constitutes a violation of the CESLO.

39. Defendant knew or should have known of the requirements of the CESLO.

40. As a result, Defendant's violations of the CESLO were reckless or, in the alternative, negligent.

WHEREFORE, Plaintiff, on behalf of him/herself and similarly situated employees, prays for a judgment against Defendant as follows:

- E. Awarding liquidated monetary damages to Plaintiff and the Class for each violation of the CESLO;
- F. Enjoining Defendant from committing further violations of the CESLO;
- G. Awarding Plaintiff's reasonable attorneys' fees and costs incurred in filing and prosecuting this action as provided by CESLO; and
- H. Such other and further relief as this Court deems appropriate and just.

Respectfully submitted,

Dated: September 10, 2019

s/Christopher J. Williams  
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