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

BOBBY NEWLAND,

Plaintiff,

v.

KEYSTONE RV COMPANY dba
KEYSTONE RV,

Defendant.

) Case No.
)
) **COMPLAINT**
) (Failure to Pay Sick Time, Prohibited Actions
) Regarding Jury Service, Breach of Contract,
) Failure to Pay Wages on Termination,
) Wrongful Discharge)
)
) Damages in the amount of \$152,976; filing fee
) per ORS §21.160(1)(c)
)
) **NOT SUBJECT TO MANDATORY**
) **ARBITRATION**
)
JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Bobby Newland (hereafter “Plaintiff”), through counsel, alleges as follows:

1.

Plaintiff is an adult resident of California and a former employee of Keystone RV Company dba Keystone RV (hereafter “Defendant”).

2.

On information and belief, Defendant is a foreign business corporation, duly registered with the State of Oregon, with a principal place of business in the City of Pendleton, in the County of Umatilla, State of Oregon. Defendant employees more than 10 people in the State of

1 Oregon.

2 3.

3 Defendant conducts regular, sustained business activities in Multnomah County,
4 Oregon, via a dealership. ORS §14.080.

5 4.

6 Plaintiff was hired by Defendant on or about July 11, 2016.

7 5.

8 Plaintiff received a jury summons and was scheduled for jury duty from September 26
9 through September 30, 2016. Defendant, through its employees, attempted to pressure and
10 coerce Plaintiff not to attend his scheduled jury duty. Plaintiff reported for jury duty on
11 September 26, 2016.

12 6.

13 Plaintiff was issued attendance points for being absent from work on September 28 and
14 29 and late on September 30 (days during which he was scheduled for jury duty). Defendant's
15 policy is to terminate an employee who accumulates a certain number of attendance points.

16 7.

17 When Plaintiff was offered and accepted his position, Defendant's employee manual
18 stated that employees would be paid for their time at jury duty. Defendant was not paid for any
19 time while he was on, or reported for, jury duty.

20 8.

21 On, or about, October 10, 2016, Plaintiff became sick with Bronchitis and was absent
22 from work from October 10, 2016 until October 14, 2016. Plaintiff was eligible to use paid
23 Oregon Sick Time Leave on October 10, 2016, which he requested. However, Defendant
24 miscalculated the start of Plaintiff's protected sick leave availability and issued Plaintiff
25 attendance points for October 10, 11 and 14.

Complaint: Page 2 of 6

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1 9.

2 Defendant terminated Plaintiff's employment on or about October 25, 2016, after it
3 determined that Plaintiff had accumulated excessive attendance points.

4 10.

5 Plaintiff reserves the right to amend this complaint pursuant to ORS §31.725.

6 11.

7 **FIRST CLAIM FOR RELIEF**

8 (Failure to Pay Sick Time, ORS §653.641)

9 Plaintiff re-alleges paragraphs 1 through 10 above as though fully set forth herein.

10 12.

11 ORS §653.641 was in full force and effect and was binding on Defendant.

12 13.

13 Plaintiff was entitled to paid, sick-time benefit under ORS §653.601 on October 10 and
14 11 of 2016. Defendant did not pay Plaintiff for this benefit to which he was entitled.

15 14.

16 Plaintiff is due to be paid for his sick-time benefit according to ORS §653.606 –
17 accrued at the rate of at least one hour of paid sick time for every 30 hours the employee works
18 or 1-1/3 hours for every 40 hours the employee works.

19 15.

20 **SECOND CLAIM FOR RELIEF**

21 (Prohibited Actions of Employer Regarding Jury Service, ORS
22 §10.090; ORS §659A.885)

23 Plaintiff re-alleges paragraphs 1-14 above as though fully set forth herein.

24 16.

25 ORS §10.090 was in full force and effect and was binding on Defendant.

1 17.

2 ORS §10.090 states that an employer commits an unlawful employment practice under
3 ORS chapter 659A if it intimidates or coerces any employee by reason of the employee's
4 service or scheduled service as a juror. Defendant, through its employees, attempted to
5 pressure and coerce Plaintiff not to attend his scheduled jury service. Defendant further gave
6 Plaintiff attendance points for days he was scheduled to attend jury duty.

7 18.

8 As a proximate result of Defendant's violation of ORS §10.090, Plaintiff may file a
9 civil action and the court may order relief in accordance with ORS §659A.885.

10 19.

11 **THIRD CLAIM FOR RELIEF**

12 (Breach of Contract)

13 Plaintiff re-alleges paragraphs 1 through 18 above as though fully set forth herein.

14 20.

15 When Plaintiff agreed to, and began, his employment, Defendant's employee manual
16 stated that Defendant's policy was to pay employees for their time at jury duty.

17 21.

18 Defendant breached this contract when it did not pay Plaintiff for his time at jury duty.

19 22.

20 As a proximate result of Defendant's knowing, willful, and intentional breach of
21 Plaintiff's employment contract, Plaintiff sustained losses in earnings in the amount of \$96.00.

22 23.

23 **FOURTH CLAIM FOR RELIEF**

24 (Failure to Pay Wages on Termination, ORS §652.140)

25 Plaintiff re-alleges paragraphs 1 through 22 above as though fully set forth herein.

1 24.

2 ORS §652.140 was in full force and effect and was binding on Defendant.

3 25.

4 The amounts owed in paragraphs 13 and 21 were due on Plaintiff's final paycheck.
5 Those amounts were then not paid pursuant to ORS §652.140.

6 26.

7 Plaintiff is thus entitled to a penalty wage of 8 hours per day for the maximum 30 days,
8 plus attorney's fees pursuant to ORS §652.200, as well as pre-judgment interest at nine percent
9 per annum pursuant to ORS §82.010. This totals \$2,880.

10 27.

11 **FIFTH CLAIM FOR RELIEF**

12 (Wrongful Discharge)

13 Plaintiff re-alleges paragraphs 1 through 26 above as though fully set forth herein.

14 28.

15 Defendant terminated Plaintiff's employment based on his accumulation of attendance
16 points. Defendant wrongfully miscalculated and attributed points to absences during Plaintiff's
17 protected leave: jury service and sick time.

18 29.

19 As a proximate result of Defendant's miscalculation and inclusion of attendance points
20 for Plaintiff's protected activities, Plaintiff has sustained losses in earnings and other
21 employment benefits in the amount of \$50,000.

22 30.

23 As a proximate result of Defendant's miscalculation and inclusion of attendance points
24 for Plaintiff's protected activities, Plaintiff has suffered emotional distress and other non-
25 economic damages in the amount of \$100,000.

1
2 31.

3 **DEMAND FOR JURY TRIAL**

4 Plaintiff hereby demands a jury trial on all issues.

5 32.

6 **PRAYER FOR RELIEF**

7 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:

- 8 a) Economic damages in the amount to be determined by the trier of fact to fairly
9 compensate Plaintiff in accordance with Oregon law, and not to exceed
10 \$50,096;
- 11 b) Non-economic damages in the amount to be determined by the trier of fact to
12 fairly compensate Plaintiff in accordance with Oregon law, and not to exceed
13 \$100,000;
- 14 c) Penalty wage of \$2,880;
- 15 d) Reasonable attorney's fees pursuant to ORS §659A.885;
- 16 e) Costs and disbursements incurred herein; and
- 17 f) Other relief as the Court deems just and equitable.

18
19 Dated: August 16, 2017

Respectfully submitted,

20
21 **STEVENS & LEGAL, LLC**

22 /s/ Michael O. Stevens

23 Michael O. Stevens, OSB No. 095198
24 Attorney for Plaintiff

25 Trial Attorney:
Michael O. Stevens, OSB No. 095198

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