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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

8 ABDIKHADAR JAMA, *et al.*,

9 Plaintiffs,

10 v.

11 GOLDEN GATE AMERICA LLC,

12 Defendant.

Case No. C16-0611RSL

ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT AND
GRANTING PLAINTIFFS' LEAVE
TO AMEND

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15 This matter comes before the Court on “Defendant Golden Gate America LLC’s
16 Motion for Summary Judgment.” Dkt. # 29. Plaintiffs filed a class action complaint
17 alleging that their employer failed to pay an hourly rate of \$15.00 after January 1, 2014,
18 when Chapter 7.45 of the City of SeaTac Municipal Code went into effect. Golden Gate
19 argues that it does not fall within the definition of “Transportation employer” and is
20 therefore not subject to the ordinance. It seeks summary dismissal of plaintiffs’ claims.

21 There is no genuine dispute regarding the relevant facts. At the time the ordinance
22 went into effect, Golden Gate had a contract with EAN Holdings LLC (d/b/a Enterprise
23 Rent-A-Car) to move vehicles to the car washing area of the rental facility, to clean,
24 wash, vacuum, fuel, and otherwise prepare the vehicle for the next customer, and to return

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26 ORDER GRANTING MOTION FOR SUMMARY
JUDGMENT AND LEAVE TO AMEND - 1

1 the vehicle to the rental area.¹ Golden Gate employees were expected to keep their work
2 area neat and clean while preparing a vehicle for rental. If a vehicle needed maintenance
3 or had to be stored off-site, Golden Gate employees transport it as requested by
4 Enterprise. While transporting vehicles around the rental facility, Golden Gate employees
5 occasionally interact with Enterprise customers: they are expected to direct all inquiries to
6 Enterprise employees, but may provide substantive answers instead. Plaintiffs were, at all
7 relevant times, employees of Golden Gate.

8 Chapter 7.45 of the City of SeaTac Municipal Code was passed by voter initiative
9 in 2013. It requires certain hospitality and transportation employers in the City of SeaTac
10 to pay their employees \$15.00 per hour, adjusted annually for inflation, and to guarantee
11 certain other benefits. The first issue in this case is whether Golden Gate falls within the
12 definition of “Transportation employer,” which means:

13 1. A person, excluding a certificated air carrier performing services for itself, who:

14 a. Operates or provides within the City any of the following: any curbside
15 passenger check-in services; baggage check services; wheelchair escort
16 services; baggage handling; cargo handling; rental luggage cart services;
17 aircraft interior cleaning; aircraft carpet cleaning; aircraft washing and
18 cleaning; aviation ground support equipment washing and cleaning; aircraft
19 water or lavatory services; aircraft fueling; ground transportation
20 management; or any janitorial and custodial services, facility maintenance
21 services, security services, or customer service performed in any facility
22 where any of the services listed in this subsection are also performed; and

23 b. Employs twenty-five (25) or more nonmanagerial, nonsupervisory

24 ¹ Two of the named plaintiffs state that Golden Gate also provided transport and fleet
25 services at SeaTac for Alamo and National car rental companies. Taking the evidence in the light
26 most favorable to plaintiffs, the Court will assume for purposes of this motion that Golden Gate
provides services only for Enterprise, a fact that weighs in plaintiff’s favor under the economic
reality test of Becerra v. Expert Janitorial, LLC, 181 Wn.2d 186, 196-97 (2014).

1 employees in the performance of that service.

2 2. A transportation employer also includes any person who:

3 a. Operates or provides rental car services utilizing or operating a fleet of
4 more than one hundred (100) cars; shuttle transportation utilizing or
5 operating a fleet of more than ten (10) vans or buses; or parking lot
6 management controlling more than one hundred (100) parking spaces; and

7 b. Employs twenty-five (25) or more nonmanagerial, nonsupervisory
8 employees in the performance of that operation.

9 SeaTac Municipal Code 7.45.010(M).

10 In resolving what is essentially a legal issue of statutory construction, the Court's
11 "fundamental purpose . . . is to ascertain and carry out the intent of the legislature." In re
12 Schneider, 173 Wn.2d 353, 363 (2011).² If, after considering the statute as a whole and
13 related statutes which may shed light on the legislature's intent with regards to the
14 provision in question, there is no ambiguity, the plain meaning of the statutory language
15 controls. Tracfone Wireless, Inc. v. Dep't of Revenue, 170 Wn.2d 273, 281 (2010); Dep't
16 of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 11 (2002). If, however, two
17 reasonable interpretations arise from the language of the statute and related statutes, the
18 Court may resort to the rules of statutory construction, relevant legislative history, and
19 case law for assistance in determining the legislature's intent. Cerrillo v. Esparza, 158
20 Wn.2d 194, 203-04 (2006); Anthis v. Copland, 173 Wn.2d 752, 756 (2012). If an
21 ambiguity is found in a voter initiative, the Court may also "examine the statements in the
22 voters pamphlet in order to determine the voters' intent." Amalgamated Transit, 142 Wn.

23 ² Voter initiatives are interpreted according to the general rules of statutory construction.
24 Roe v. TeleTech Customer Care Mgmt. (Colo.), LLC, 152 Wn. App. 388, 396 (2009). The object
25 of the Court is to ascertain the collective intent of the voters who enacted the measure.
26 Amalgamated Transit Union Local 587 v. State, 142 Wn.2d 183, 205 (2000).

1 2d at 205.

2 Plaintiffs argue that Golden Gate is a “Transportation employer” for purposes of
3 the ordinance because it provides janitorial services and customer service at the airport.
4 Each term is considered below.

5 **A. “Janitorial Services”**

6 Two of the named plaintiffs state that their job duties included cleaning the area of
7 the rental car facility in which they worked and that the Golden Gate service agents were
8 “the only workers that performed janitorial services in this area.” Dkt. # 33 at ¶ 9; Dkt.
9 # 34 at ¶ 8. “Janitorial Services” is not defined in the ordinance, but the term is ordinarily
10 used to mean cleaning and maintenance services in an office or building. The SeaTac car
11 rental facility is a building, and it is plausible that someone changes the light bulbs,
12 empties the trash, washes the windows, and/or scrubs the floors. Mr. Jeas and Mr.
13 Mohamed provide no details regarding the “janitorial” tasks they perform, however,
14 simply noting that they clean their work area as part of their job duties. Mr. El-Rassy, the
15 Vice President of Golden Gate, clarifies that:

16 Each station in the service area contains a vacuum, gas pump, and trash bin.
17 A service agent will drive the rental vehicle into a station, remove any trash
18 or debris from the vehicle, vacuum and fill the vehicle with gas before
19 driving it to the car wash. The service agent is expected to put any trash or
20 debris from the car into the trash bin in his or her station. If the service
21 agent, while cleaning out the vehicle, has placed or dropped any trash on
22 the ground, he or she is expected to pick it up and place it in the trash bin.
23 Service agents are also generally expected to keep their work area neat and
24 tidy.

25 Dkt. # 36 at ¶¶ 2-3. Putting one’s trash in a trash bin and keeping a neat work area is not
26 the provision of “janitorial services” as that term is normally used. Plaintiffs’ position that
any entity whose employees throw trash in the trash bin provides “janitorial services” is

1 unreasonable.

2 **B. “Customer Service”**

3 Plaintiffs also argue that, because Golden Gate’ employees respond to questions
4 posed by Enterprise customers, Golden Gate provides “customer service” within the Sea-
5 Tacoma International Airport (*i.e.*, within the facility where curbside check-in, aircraft
6 refueling, and the other services listed in Section M(1) are performed) and is therefore a
7 “Transportation employer.” A review of the ordinance as a whole shows that “customer
8 service” has a narrower meaning than the one posited by plaintiffs. If every person who
9 assisted a customer in the course of providing some other service were engaged in
10 customer service for purposes of the ordinance, there would be no need to include in the
11 list of “Transportation employers” those who provide curbside passenger check-in,
12 wheelchair escort, or baggage check services. Providers of those services interact with
13 and assist customers on a regular basis, and yet Section M includes a specific reference to
14 the services the employer’s actually offer – curbside check-in, for example – rather
15 relying on the catch-all term “customer service.” Read in context, the activities listed in
16 Section M, such as “customer service,” are specific functions or services offered by
17 certain SeaTac employees. They are job descriptions, not simply a list of tasks that an
18 employee might occasionally perform. Plaintiffs’ preferred construction of “customer
19 service” to include every person who serves customers in the City of Seatac is
20 unreasonable in that it would make many of the activities listed redundant. The Court
21 finds that “customer service” under SeaTac Municipal Code 7.45.010(M)(1) includes
22 employers who provide customer service as a business venture, generally for a fee or
23 other compensation, not as a one-off activity wholly collateral to the employer’s primary
24 operation. Taking the time to direct someone to the nearest bathroom does not convert a

1 baggage handler into a customer service representative any more than stooping to pick up
2 a discarded coffee cup converts a customer service representative into a janitor.
3 “Customer service,” read in context, is not simply any person who assists a customer
4 while in the airport facility, but rather includes only those who offer and provide that
5 particular service as part of their business operation. Golden Gate operates and provides
6 rental car fleet services: it does not provide customer service for purposes of the
7 ordinance.

8 **C. Leave to Amend**

9 For the reasons discussed above, Golden Gate is not a “Transportation employer”
10 for purposes of the ordinance. “Transportation workers” entitled to the increased
11 minimum wage and other benefits offered by the ordinance are those who are employed
12 by a “Transportation employer.” Thus, plaintiffs’ claims for relief against Golden Gate
13 fail as a matter of law and cannot be saved by amendment. Plaintiffs nevertheless seek
14 leave to amend their complaint to add claims against a different entity, EAN Holdings, on
15 the ground that EAN Holdings is their employer under the economic realities test set forth
16 in Becerra v. Expert Janitorial, LLC, 181 Wn.2d 186, 196-97 (2014).

17 Assuming for purposes of this motion that plaintiffs can allege, consistent with
18 their Rule 11 obligations, that EAN Holdings is their employer, that it operates a rental
19 car service utilizing a fleet of more than 100 cars, and that it employs at least 25 people,
20 they may be able to assert a plausible claim for relief against that entity. “Every employer,
21 including a joint employer, has the same duties” under the minimum wage laws. Becerra,
22 181 Wn.2d at 196. If plaintiffs were actually employed by EAN Holdings under the
23 economic realities test, that company bears the burden (independent of any obligation
24 Golden Gate might have) of complying with the ordinance. An employer that meets the
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1 definition of "Transportation employer" cannot avoid its wage obligations by entering
2 into a subcontracting agreement that is a mere subterfuge or sham. Plaintiffs will be given
3 an opportunity to allege and prove that that is what happened here.
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5 For all of the foregoing reasons, Golden Gate's motion for summary judgment
6 (Dkt. # 29) is GRANTED. All claims against Golden Gate are hereby DISMISSED.
7 Plaintiffs shall have fourteen days from the date of this Order to file an amended
8 complaint adding EAN Holdings as the employer-defendant. If an amended complaint is
9 not timely filed, judgment shall be entered in favor of defendant and against plaintiffs.
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11 Dated this 4th day of January, 2017.
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14 Robert S. Lasnik
15 United States District Judge
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