

**IN THE SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA  
(CIVIL ACTIONS BRANCH)**

KELVIN LARA, et al.

Plaintiffs

v.

BOZZUTO CONTRACTORS, INC.

Defendant.

Civil Action No. 220-CA-002648-B

**ANSWER**

Defendant Bozzuto Construction Company (“Bozzuto”) hereby answers the Complaint filed against it by Plaintiffs as follows:

1. Bozzuto admits that Plaintiffs have filed this action.

**INTRODUCTION**

2. Bozzuto denies the allegations in the last sentence of paragraph 2 of the Complaint. The remaining allegations in that paragraph do not require a response. To the extent a response is deemed required, they are denied.

**JURISDICTION AND VENUE**

3. Admitted.

**PARTIES**

4. Bozzuto denies that it employed the Plaintiffs. It is without sufficient information to admit or deny the factual allegations pertaining to specific terms of the employment arrangement between Plaintiffs and other entities; those allegations are therefore denied.

5. Bozzuto denies that it employed the Plaintiffs. It is without sufficient knowledge or information to admit or deny the remaining factual allegations pertaining to the specific terms

of the employment arrangement between Plaintiffs and other entities; those allegations are therefore denied.

6. Admitted.

### **FACTUAL ALLEGATIONS**

7. Bozzuto admits that it provided general contractor services at Delta Towers. The scope of Bozzuto's responsibility in that role is defined in a construction contract, which speaks for itself. Bozzuto denies any further characterization of that contract.

8. Admitted.

9. Admitted.

10. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations that relate to Plaintiffs' employment arrangement with other entities; the allegations in paragraph 10 are therefore denied.

11. Bozzuto denies that Plaintiffs were paid less than required prevailing wage rates. The contract referenced in paragraph 11 speaks for itself, and Bozzuto denies any further characterization of that contract. The remaining allegations in this paragraph are legal conclusions to which no response is required; to the extent a response is deemed required, they are denied.

12. Denied.

13. Denied.

14. Denied.

15. The allegations contained in paragraph 15 of the Complaint are conclusions of law or mixed conclusions of law and fact to which no answer is required. To the extent an answer is deemed required, these allegations are denied.

16. Denied.

17. Denied.

### **COLLECTIVE ACTION ALLEGATIONS**

18. Bozzuto admits that Plaintiffs purport to bring the Collective Action Allegations pursuant to DC Code § 32-1308 as alleged in paragraph 18 of the Complaint. Bozzuto denies that Plaintiffs or any of the individuals they purport to represent or otherwise include in this action are entitled to any relief and further denies that this case is suitable for collective or class action treatment.

19. Denied.

20. Denied.

21. Bozzuto denies that this case is suitable for collective or class action treatment.

Bozzuto denies any further allegations in paragraph 21.

22. Bozzuto denies that this case is suitable for collective or class action treatment.

Bozzuto denies any further allegations in paragraph 22.

23. Denied.

24. Denied.

25. Denied.

26. Denied.

27. Denied.

28. Denied.

29. Denied.

30. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 of the Complaint.

## **CLASS ACTION ALLEGATIONS**

31. Bozzuto admits that Plaintiffs purport to bring this class-action pursuant to D.C. Rule of Civil Procedure 23 and D.C. Code § 32-1308. Bozzuto denies that Plaintiffs or any of the individuals they purport to represent or otherwise include in this action are entitled to any relief and further denies that this case is suitable for collective or class action treatment. Bozzuto denies the remaining allegations in paragraph 31.

32. Bozzuto denies that this case is suitable for collective or class action treatment. Bozzuto denies any further allegations in paragraph 32.

33. Denied.

34. Bozzuto denies the allegations contained in paragraph 34 of the Complaint, including the allegations contained in each subparagraph.

## **CAUSES OF ACTION**

### **COUNT I**

#### **VIOLATION OF D.C. MINIMUM WAGE LAW**

35. Bozzuto incorporates by reference its response to all preceding paragraphs as if they were repeated here.

36. To the extent that the allegations contained in paragraph 36 of the Complaint are conclusions of law or mixed conclusions of law and fact, no answer is required. To the extent further response is required, the allegations in paragraph 36 are denied.

37. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations that relate to Plaintiffs' employment arrangement with other entities; the allegations in paragraph 37 are therefore denied.

38. To the extent the allegations contained in paragraph 38 of the Complaint are conclusions of law or mixed conclusions of law and fact, no answer is required. To the extent further response is required, these allegations are denied.

39. The D.C. Code section referenced in paragraph 39 of the Complaint speaks for itself.

40. Admitted.

41. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations that relate to Plaintiffs' employment arrangement with other entities; the allegations in paragraph 41 are therefore denied.

42. Denied.

43. Denied.

## **COUNT II**

### **FAILURE TO PAY TIMELY PAY WAGES**

44. Bozzuto incorporates by reference its response to all preceding paragraphs as if they were repeated here.

45. The D.C. Code section referenced in paragraph 45 of the Complaint speaks for itself.

46. The D.C. Code section referenced in paragraph 46 of the Complaint speaks for itself.

47. The D.C. Code section referenced in paragraph 47 of the Complaint speaks for itself.

48. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations that relate to Plaintiffs' employment arrangement with other entities; the allegations in paragraph 48 are therefore denied.

49. To the extent the allegations contained in paragraph 49 of the Complaint are conclusions of law or mixed conclusions of law and fact, no answer is required. To the extent further response is required, these allegations are denied.

50. The D.C. Code section referenced in paragraph 50 of the Complaint speaks for itself.

51. Admitted.

52. Bozzuto is without knowledge or information sufficient to form a belief as to the truth of the allegations that relate to Plaintiffs' employment arrangement with other entities; the allegations in paragraph 52 are therefore denied.

53. Denied.

54. Denied.

55. Denied.

### **COUNT III**

#### **MISCLASSIFICATION OF EMPLOYEES AS INDEPENDENT CONTRACTORS UNDER THE D.C. WORKPLACE FRAUD ACT**

56. Bozzuto incorporates by reference its response to all preceding paragraphs as if they were repeated here.

57. The D.C. Code section referenced in paragraph 57 of the Complaint speaks for itself, and Bozzuto denies any further characterization of that Code section.

58. The D.C. Code section quoted in paragraph 58 of the Complaint speaks for itself.

59. Denied.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

### **PRAYER FOR RELIEF**

To the extent the Plaintiffs' prayer for relief requires a response, Bozzuto denies that Plaintiffs or any of the individuals they purport to represent or otherwise include in this action are entitled to any relief sought, denies that this case is suitable for collective or class action treatment, and denies the entirety of Plaintiffs' claims.

### **DEFENDANT'S AFFIRMATIVE AND OTHER DEFENSES**

Bozzuto asserts the following affirmative and other defenses without assuming any burdens of production or proof that, pursuant to law, belong to Plaintiffs. Bozzuto reserves the right to amend its Answer and Affirmative and Other Defenses to Plaintiff's Complaint and to assert any affirmative or other defenses as may become available or apparent during the course of this litigation, in accordance with applicable law and rules of this Court.

1. Plaintiff's Complaint, in whole or in part, fails to state a claim upon which the relief sought may be granted.

2. Plaintiff's claims are barred, in whole or in part, by the applicable statutes of limitations.

3. To the extent that Plaintiffs purport to assert a collective and/or class action, certain members of the putative collective and/or class action are barred, in whole or in part, from becoming a member of any purported class or collective because of their agreement to resolve through individual arbitration certain disputes arising out of their employment.

4. This case may not be maintained as a class action because Plaintiffs cannot establish the existence of each of the requirements under D.C. Rule of Procedure 23, D.C. Code § 3-1308, and other relevant legal authority.

5. Bozzuto states that its actions (or omissions) with respect to Plaintiffs and the purported class and collective action members they purport to include or represent in this lawsuit were taken in good faith in conformity with and in reliance on a written administrative regulation, order, ruling, approval, interpretation, and/or administrative practice or policy pursuant to permissible interpretations of the FLSA, Davis-Bacon Act, DCMWA, and DCWPA.

6. Subject to proof through discovery, some or all of Plaintiffs' claims, and those of the members of any putative class and/or collective, are barred by the doctrines of laches, waiver, and/or estoppel,

7. Any claims for punitive damages are barred because the alleged acts or omissions of Defendant fail to rise to the level required to sustain an award of punitive damages.

8. Plaintiffs' damages, if any, were directly and proximately caused by the acts, errors and/or omissions of third parties for which Bozzuto is not legally responsible and over which Bozzuto did not have necessary control.

9. Bozzuto reserves the right to assert any additional defenses depending on any evidence discovered in the course of this litigation.

**WHEREFORE**, having fully answered, Defendant Bozzuto Construction Company respectfully requests judgment:

- (1) Dismissing Plaintiffs' Complaint, and Plaintiffs' claims therein, with prejudice and in their entirety;
- (2) Denying collective action and class action status;

(3) Awarding Bozzuto its costs, including reasonable attorney fees, and expenses, in the amount and manner permitted by applicable law; and

(4) Granting Bozzuto such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ James D. Bragdon  
James D. Bragdon (Bar No. 1017743)  
Gallagher Evelius & Jones LLP  
218 North Charles Street, Suite 400  
Baltimore, Maryland 21201  
410-727-7702 telephone  
410-468-2786 facsimile  
[jbragdon@gejlaw.com](mailto:jbragdon@gejlaw.com)

*Attorneys for Defendant  
Bozzuto Contractors, Inc*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on July 31, 2020, a copy of Defendant Bozzuto Building Company's Answer was filed and served through the Court's electronic filing system on:

Matthew K. Handley  
Handley Farah & Anderson PLLC  
777 6<sup>th</sup> Street, NW – Eleventh Floor  
Washington, DC 20001  
[mhandley@hfajustice.com](mailto:mhandley@hfajustice.com)  
*Attorneys for Plaintiffs*

/s/ James D. Bragdon  
Mark S. Saudek (Bar No. 462525)  
James D. Bragdon (Bar No. 1017743)  
Gallagher Evelius & Jones LLP  
218 North Charles Street, Suite 400  
Baltimore, Maryland 21201  
410-727-7702 telephone  
410-468-2786 facsimile  
[msaudek@gejlaw.com](mailto:msaudek@gejlaw.com)  
[jbragdon@gejlaw.com](mailto:jbragdon@gejlaw.com)

*Attorneys for Defendant  
Bozzuto Contractors, Inc.*