

COMMONWEALTH OF KENTUCKY
48th JUDICIAL DISTRICT
FRANKLIN CIRCUIT COURT – DIVISION I
CIVIL ACTION NO. 15-CI- 419

FILED TI
APR 22 2015
FRANKLIN CIRCUIT COURT
SALLY JUMP, CLERK

CAROL DEAKINS

PLAINTIFF

vs.

**COMPLAINT
JURY TRIAL DEMANDED**

HEALTHCARE SERVICES GROUP, INC.
a Pennsylvania corporation

DEFENDANT

Serve: CSC – Lawyers Incorporating Service Company
421 West Main Street
Frankfort, KY 40601
(registered agent for service of process)

Plaintiff Carol Deakins for her Complaint against defendant
Healthcare Services Group, Inc., states as follows:

I

Nature of the Action

1. This is an action pursuant to the Fair Labor Standards Act (FLSA),
29 U.S.C. § 216(b), as amended, seeking recovery of unpaid overtime
compensation, liquidated damages, attorney’s fees, costs, litigation expenses
and prejudgment interest.

II

Jurisdiction and Venue

2. This Court has jurisdiction over this action pursuant to KRS
23A.010. Venue is proper in Franklin Circuit Court because plaintiff was

employed by defendant in Franklin County, Kentucky, and plaintiff's cause of action accrued in Franklin County, Kentucky.

III

Parties

3. Plaintiff Carol Deakins is a citizen of the United States of America and a resident of Franklin County, Kentucky at 233 Juniper Drive, Frankfort, Kentucky.

4. Defendant Healthcare Services Group, Inc. (HCSG) is a Pennsylvania corporation that is registered with the Kentucky Secretary of State to do business in Kentucky and conducts business at least at one location in Franklin County, Kentucky at which it employed Deakins. HCSG's agent for service of process, according to electronic database maintained by the Kentucky Secretary of State, is CSC – Lawyers Incorporating Service Company, 421 W. Main Street, Frankfort, KY 40601.

IV

Facts Giving Rise to Lawsuit

5. Defendant is a publicly traded Pennsylvania corporation with multiple places of business spread out across a large number of the United States.

6. Defendant's activities and business affect interstate commerce and its annual revenues exceed \$500,000.

7. At all times pertinent hereto, defendant was the employer of plaintiff within the meaning of 29 U.S.C. § 203(d).

8. At all times pertinent hereto, Plaintiff was an “employee” of defendant within the meaning of 29 U.S.C. § 203(e).

9. From on or about December 5, 2014, to on or about March 20, 2015, HCSG employed Deakins in a position titled Account Manager or Housekeeping & Laundry Account Manager.

10. Defendant provides services as a purported independent contractor to various healthcare facilities in Kentucky and in several states throughout the country. These services include but are not limited to housekeeping, laundry and floor care services.

11. Defendant assigns at least one Account Manager to each of its facilities, along with hourly staff such as floor techs, housekeepers and laundry aides.

12. Plaintiff was employed as an Account Manager by defendant at Golden Living Nursing Home in Franklin County, Kentucky. Prior to December 5, 2014, Plaintiff was employed as a housekeeper by defendant at the same Golden Living Nursing Home.

13. The hourly staff, the floor techs, housekeepers and laundry aides, perform manual and routine duties during their work shift that are substantially similar and nearly materially indistinguishable each working day.

14. Defendant’s business model does not include budgeting for sufficient hourly staff to complete the manual duties. As a result, Deakins,

even though purportedly the supervisor as the Account Manager, was expected and required to and did routinely and daily perform the same manual tasks and duties as did the floor techs, housekeepers and laundry aides.

15. The manual tasks and duties performed by the hourly staff and by Deakins included but was not limited to dust and damp mopping, carpet cleaning, dry/wet bonneting, stripping and waxing floors, resident room changes and cleaning, laundry and other like and similar manual tasks.

16. During her employment by defendant as Account Manager, Deakins routinely and daily performed the manual tasks and duties described above.

17. During her employment by defendant as Account Manager, Deakins expended near 100% of her worktime daily performing the manual tasks and duties described above.

18. During her employment by defendant as Account Manager, the daily performance of the manual duties described above was the primary and nearly entire part of Plaintiff's job.

19. During her employment by defendant as Account Manager, Deakins was directly supervised by defendant's District Manager.

20. During her employment by defendant as Account Manager, Deakins was also supervised, controlled and directed by the facility's

management personnel, which retained and exercised control, direction and supervision of Deakins, the Account Manager, and the hourly staff.

21. Deakins was informed, upon beginning her employment by defendant as Account Manager, by her immediate supervisor, defendant's District Manager, Jonathan Hodges, that her ordinary weekly work schedule would be Monday-Friday 8:00 a.m. to 5:00 p.m.

22. Hodges was succeeded as District Manager by Billy Robinson, who likewise informed and reminded Deakins that her ordinary weekly work schedule was Monday-Friday 8:00 a.m. to 5:00 p.m.

23. During her employment by defendant as Account Manager, Deakins was paid \$500 per week.

24. During her employment by defendant as Account Manager, Deakins was required to and did regularly work in excess of forty (40) hours per workweek.

25. At all times pertinent to this case, defendant knew, required, approved and/or suffered Deakins to work in excess of forty (40) hours per workweek.

26. Despite the job title of Account Manager and contrary to defendant's position, Deakins was not exempt from the overtime pay requirements of the FLSA.

27. Deakins' employment by defendant as Account Manager commenced only a few weeks after defendant settled multiple collective

actions that had been filed in Ohio and Colorado involving claims materially indistinguishable from Deakins'.

V

CAUSE OF ACTION

Count 1 – Failure to Pay Overtime In Violation of FLSA

28. Plaintiff incorporates and realleges herein the preceding paragraphs 1 – 27 as if fully set forth herein.

29. Under the FLSA, 29 U.S.C. § 207, *et seq.*, defendant was and is required to compensate Deakins for all hours worked in excess of forty (40) hours per workweek.

30. The FLSA requires that overtime compensation be paid at a rate not less than one and one-half (1.5) Deakins' regular rate of pay.

31. During the time that Deakins was employed by defendant as Account Manager, defendant required, suffered and/or permitted Deakins to work in excess of forty (40) hours per workweek but did not compensate her for such overtime work.

32. As a result of defendant's policy and practice of failing to pay overtime compensation, Deakins has been damaged in that he has not been paid by defendant the overtime compensation that she has earned.

33. Defendant's failure to pay Deakins the overtime she earned cannot be excused by any good-faith attempt by defendant to comply with the FLSA.

VI

Demand for Relief

Wherefore, plaintiff Carol Deakins demands judgment as follows:

(1) entry of a judgment in her favor and against defendant requiring defendant to pay her the overtime compensation due and owing to her along with an additional equal amount as liquidated damages as shown by the evidence at trial;

(2) entry of a judgment awarding her prejudgment interest on the unpaid overtime compensation along with the costs, litigation expenses and reasonable attorney's fees pursuant to the FLSA and CR 54; and,

(3) the grant of all other relief to which she is shown to be entitled.

Demand for Jury Trial

Plaintiff demands trial by jury on all issues herein so triable.

Respectfully submitted,



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