

STATE OF SOUTH CAROLINA)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

MALIAKA S. VOID and
FREDERICK SUMMERS,
Plaintiffs,

Case No. 2014-CP-38- 456

vs.

SUMMONS
(Jury Trial Requested)

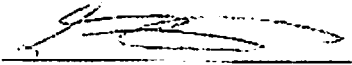
ORANGEBURG COUNTY
DISABILITIES AND SPECIAL
NEEDS BOARD,
Defendant.

TO: THE ABOVE - NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint on the undersigned Attorney for the Plaintiff, at Post Office Box 1346, Orangeburg, SC 29116, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint

At Orangeburg, SC

Dated: 4/28, 2014


GLENN WALTERS, Esquire
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Orangeburg, SC 29116
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SC Bar No.: 13198
Attorney for Plaintiff



STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

MALIAKA S. VOID and)
FREDERICK SUMMERS,)

Plaintiffs,)

vs.)

ORANGEBURG COUNTY)
DISABILITIES AND SPECIAL)
NEEDS BOARD,)

Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

Case No. 2014-CP-38-454

COMPLAINT
(Jury Trial Requested)

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PLAINTIFFS, MALIAKA S. VOID (hereinafter "Void") and FREDERICK SUMMERS (hereinafter "Summers"), collectively referred to as "Plaintiffs, hereby assert the following claims against the Defendant individually and on behalf of all others similarly situated individuals, now or formerly employed by the Defendant:

NATURE OF CLAIMS

1. This action is brought individually and collectively as an action for unpaid overtime compensation, for liquidated damages, and for other relief under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201 et. seq. ("FLSA"). The collective action provision under the FLSA provide for opt-in representative or class participation.

FILED
CLERK OF COURT
JUN 4 2014
ORANGEBURG COUNTY

PARTIES, JURISDICTION AND VENUE

2. Void is a citizen and resident of the County of Orangeburg, State of South Carolina, now and at all times relevant to this lawsuit.
3. Summers is a citizen and resident of the County of Orangeburg, State of South Carolina, now and at all times relevant to this law.
4. Defendant Orangeburg County Disabilities and Special Needs Board ("Board" or "Defendant") is a public agency created by the Orangeburg County Council to oversee, provide and coordinate services for Orangeburg County Citizens with mental retardation, autism, head and spinal cord injuries and other lifelong disabilities.
5. As a public agency, Defendant provides services for individuals who transition between states, accepts state and federal monies in order to carry out its services, and uses technological instrumentalities of interstate commerce such as the United States Postal Services, email, and the banking system in order to carry out its business functions.
6. Additionally, Defendant transacts over \$500,000.00 in business dealings per calendar year.
7. This state court has concurrent jurisdiction over the subject matter of this action pursuant to 29 U.S.C. § 216(b) and venue is proper in this Court because the Defendant's place of business is located in the County of Orangeburg, State of South Carolina.

GENERAL ALLEGATIONS

8. Plaintiffs repeat and reallege each and every allegation of paragraphs one through eight as if restated verbatim herein.

9. At all times material hereto, Defendant Board owned or operated a business enterprise and its managers and supervisors regularly exercised the authority to hire and fire employees, determine the work schedules of employee, set the rate of pay of employees, and control the finances and operations of such business. By virtue of such control and authority, Defendant Board was an employer of the Plaintiffs as such term is defined by the FLSA, 29 U.S.C. § 201 et. seq.
10. At all times pertinent to this Complaint, Defendant owned the operation that employed the Plaintiffs, and the said business operation was an enterprise engaged in interstate commerce, as defined by 29 U.S.C. § 203(r) and 203(s) because it, as a minimum, competed for grants on a national level, provided services to clients who were transient across state lines, accepted state and national funding using the national banking system.
11. Based upon inform and belief, the annual gross sales volume of the Defendant's business was in excess of \$500,000.00 per annum at all times material hereto. Alternatively, the Plaintiff and those similarly situated employees worked in interstate commerce so as to fall within the protections of the FLSA.
12. All of the acts complained of herein occurred during the two to three years immediately preceding the filing of this action.

FOR A FIRST CAUSE OF ACTION
(Fair Labor Standards Act-Failure to Pay Overtime Wages)
(Individually for both Plaintiffs and Collective Action)

13. Plaintiffs repeat and reallege each and every allegation of paragraphs one through twelve as if restated verbatim herein.
14. Plaintiffs and members of the Plaintiff class were employees of Defendant Board for

purposes of the Fair Labor Standards Act during times relevant to this Complaint.

15. Plaintiffs and members of the Plaintiff class were hourly employees while employed by the Defendant Board.
16. During the relevant times of this lawsuit, Defendant Board failed to pay the Plaintiffs and members of the Plaintiff class at the rate of one-and-a-half times their normal rate of pay for all hours worked in excess of forty (40) hours per week as required by section 7(a) of the FLSA, 29 U.S.C. § 207(a).
17. Defendant also failed to pay the Plaintiffs and members of the Plaintiff class for all compensable time for which the Plaintiffs provided work for the benefit of Defendant. For example, as to Plaintiff Void, she sometimes worked hours that did not appear on the pay stub and would sometimes work forty-five (45) hours during a workweek but would only be paid for 35 hours. Sometimes the supervisors for the Defendant Board intentionally reduced the employees' hours because in the opinion of the supervisors the employees were not earning the hours because they were just "riding the clock".
18. Plaintiffs and members of the Plaintiff class are entitled to back wages at the rate on one-and-a-half times their regular rate of pay for all overtime hours worked in excess of forty (40) hours per week, pursuant to section 16(b) of the FLSA, 29 U.S.C. § 216(b), all in an amount to be determine during the trial of this matter.
19. Plaintiff and members of the Plaintiff class are also entitled to an award of back pay at their regular hourly rate or their overtime rate, as appropriate compensation for all time spent working for the Defendant. Said compensation was wrongfully excluded by Defendant Board in calculating the Plaintiffs and Plaintiff members' compensable

time.

20. The failure of Defendant to compensate the Plaintiffs and the Plaintiff members for overtime work and for "off the clock hours" as required by the FLSA was knowing, willful, intentional, and done in bad faith. Therefore, Plaintiffs and Plaintiff members are entitled to an award as liquidated damages equal to the amount of overtime compensation and unpaid compensation due to them under the FLSA, pursuant to section 16(b) of the FLSA, 29 U.S.C. § 216(b).

21. The work and pay records of Plaintiffs and members of the Plaintiff class are in the possession, custody, and/or control of the Defendant, and Defendant is under a duty to pursuant to section 11(c) of the FLSA, 29 U.S.C. § 211(c), and pursuant to the regulations of the United States Department of Labor to maintain and preserve such payroll and other employment records from which the amount of Defendant's liability can be ascertained. Plaintiffs request an order of this Court requiring the Defendant to preserve such records during the pendency of this action.

22. Plaintiffs are also entitled to an award of reasonable attorneys' fees and costs incurred in prosecuting this action, pursuant to 29 U.S.C. § 216(b).

FOR A SECOND CAUSE OF ACTION
(South Carolina Payment of Wages Act)
(Individually for both Plaintiffs and Collective Action)

23. Plaintiffs repeat and reallege each and every allegation of paragraphs one through twenty-two as if restated verbatim herein.

24. Defendant is an "employer" as defined by the South Carolina Payment of Wages Act, S.C. Code Ann. § 41-10-10(1).

25. Defendant employed the Plaintiffs and members of the Plaintiff class within the State

of South Carolina.

26. Defendant owes Plaintiffs and members of the class "wages" as defined in S.C. Code Ann. § 41-10-10(2).

27. Defendant failed to pay the Plaintiff and the members of the class all wages due, as required by Sections 41-10-40 and 50 of the Act.

28. Defendant's failure to pay Plaintiff and members of the class all wages due is willful, without justification, and in violation of the duty of good faith and fair dealings.

29. Pursuant to Section 41-10-80(C) of the Act, Plaintiffs and the members of the Plaintiff class are entitled to recover in this action an amount equal to three times the full amount of their unpaid wages, or their wrongfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and similarly situated employees who are expected to join this action request the following relief:

- a. Designation of this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216(b);
- b. Judgment against the Defendant for an amount equal to Plaintiffs unpaid back wages at the applicable overtime rates;
- c. Judgment against the Defendant that its violation of the FLSA and its implementing regulations were willful;
- d. Liquidated damages in an amount equivalent to the overtime damages owed to Plaintiffs;
- e. Treble damages pursuant to the South Carolina Payment of Wages Act;
- f. Leave to add additional plaintiffs by motion, the filing of written consent forms; or

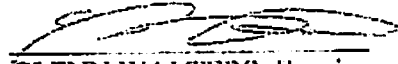
any other method approved by the Court;

JURY TRIAL DEMANDED

Plaintiffs on behalf of themselves and on behalf of all other similarly-situated employees hereby demand a trial by jury.

At Orangeburg, SC

Dated: April 24, 2014


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