

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

DIANA L HAYNES,)	
On Behalf of Herself and All Others)	Civil Action No.: <u>2:15-cv-2003-PMD</u>
Similarly Situated,)	
)	
Plaintiff,)	
)	
v.)	COLLECTIVE ACTION COMPLAINT
)	(Jury Trial Requested)
CHARLESTON RETIREMENT)	
INVESTORS, LLC., and CENTURY)	
PARK ASSOCIATES, LLC.,)	
)	
Defendants.)	
_____)	

Plaintiff Diana Haynes, individually and on behalf of all others similarly situated, by way of their Complaint in the above-captioned matter, alleges and shows unto this Honorable Court the following:

NATURE OF CLAIM

1. Plaintiff Diana Haynes brings this action individually and as a collective action for unpaid overtime compensation, liquidated damages, and reasonable attorneys’ fees under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq. (“FLSA”). Plaintiff also brings individual and class claims for unpaid wages under the South Carolina Payment of Wages Act, S.C. Code Ann § 41-10-10, et seq.

PARTIES, JURISDICTION AND VENUE

2. Plaintiff Diana L Haynes is a citizen and a resident of Berkeley County, South Carolina.

3. Defendant, Century Park Associates LLC, is a for-profit corporation, registered with the South Carolina Secretary of State.

4. Defendant, Charleston Retirement Investors, LLC, is a for-profit corporation, registered with the South Carolina Secretary of State.

5. Venue is proper in this District because the Defendants have conducted substantial, continuous and systematic commercial activities in North Charleston. Additionally, the unlawful labor practices and policies giving rise to Plaintiff's claims were committed in the Charleston Division of this Court.

6. Plaintiff brings this action, individually and as an opt-in collective action pursuant to 29 U.S.C. § 216(b), on behalf of a class of all similarly situated employees who worked in excess of forty (40) hours during certain workweeks without receiving overtime compensation during the last three years.

7. This Court has jurisdiction of the Plaintiff's claims brought under the FLSA pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216 (b).

8. In addition, this Court has supplemental jurisdiction, pursuant to 28 U.S.C. § 1367 over Plaintiff's pendent claims, which are brought pursuant to the law of the State of South Carolina, because those claims arise out of the same transaction or occurrence as the federal claims alleged herein.

FACTS

9. Defendant, Charleston Retirement Investors, LLC, owns and operates The Bridge at Charleston, which is a senior assisted living and rehabilitation facility located at 2590 Elms Plantation Blvd, North Charleston, SC. The facility offers certified, licensed medical staff, 24-hour emergency call system, 3 meals served daily, medication

management, personal housekeeping, laundry and linen services, scheduled transportation, apartment maintenance, and a full calendar of recreational and wellness activities.

10. Defendant Century Park Associates, LLC, manages and operates The Bridge at Charleston in addition to managing several other senior living communities throughout the United States.

11. Plaintiff Diana L Haynes was employed by the Defendants from approximately August of 2011 until approximately June 2014.

12. Plaintiff had an employment agreement with the Defendant, whereby the Defendant agreed to pay her an hourly rate for all hours worked.

13. Plaintiff was employed as food server in the kitchen. Her primary duties included prepping food for the residents meals, serving food to the residents in the food line in cafeteria, serving food to the residents in their room, cleaning and setting the tables, distributing menus and mopping the floors in the kitchen.

14. Defendants did not compensate Plaintiff and similarly situated employees for their meal breaks. The Defendants automatically deducted thirty (30) minutes from Plaintiff's pay each shift regardless of whether or not she was able to have a meal break. Plaintiff rarely, if ever, got an uninterrupted meal break because Defendants required her to respond to the residents' requests for meals, snacks and drinks. The Defendants maintained the same policies and practices for all of their other kitchen employees.

15. At all times relevant to this Complaint, Plaintiff regularly worked in excess of forty (40) hours per week, and Defendants failed to compensate her at a rate of one and one-half times her regular hourly wage.

FOR A FIRST CAUSE OF ACTION

(Fair Labor Standards Act–Failure to Pay Overtime Wages)
(Individual and Collective Action)

16. Plaintiff, on behalf of herself and all similarly situated employees, realleges and incorporates by reference all preceding paragraphs as if they were set forth herein verbatim.

17. At all times pertinent to this Complaint, each Defendant was an “enterprise engaged in commerce or in the production of goods for commerce” as that term is defined by 29 U.S.C. § 203(s).

18. At all times pertinent to this Complaint, Plaintiff and similarly situated employees were “engaged in commerce or in the production of goods for commerce” as that term is defined within 29 U.S.C. §207.

19. At all times relevant herein, each Defendant was an “employer” of Plaintiff and similarly situated employees as that term is defined by 29 U.S.C. § 203(d) of the Fair Labor Standards Act.

20. Defendants required Plaintiff and similarly situated employees to work “off the clock” by failing to compensate them for all hours during a workweek for which they were “employed” as that term is defined under 29 U.S.C. § 203(g) of the Fair Labor Standards Act.

21. Defendant employed Plaintiff and similarly situated employees for workweeks longer than forty (40) hours without compensating Plaintiff and similarly situated employees at a rate of one and on-half times their regular rate of pay as required by 29 U.S.C. § 207(a).

22. Plaintiff and similarly situated employees are entitled to unpaid overtime compensation at the rate of one-and-a-half times their regular rate of pay for all hours worked in excess of forty (40) hours in a workweek, liquidated damages in an equal amount, and their reasonable attorneys' fees and costs incurred in bringing this action pursuant to 29 U.S.C. § 216(b).

23. Defendants' violations of the FLSA were willful.

FOR A SECOND CAUSE OF ACTION
(South Carolina Payment of Wages Act)
(Individual and Class Action)

24. Plaintiff, on behalf of herself and all similarly situated employees, realleges and incorporates by reference all preceding paragraphs as if they were set forth herein verbatim.

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

26. Defendants employed Plaintiff and the members of the Plaintiff's class within the State of South Carolina.

27. Defendants owe Plaintiff and the members of the Plaintiff's class "wages" as defined in Section 41-10-10(2) of the Act, to compensate them for labor rendered to Defendants, as promised to Plaintiff and the members of the Plaintiff's class and as required by law, including overtime pay required by the FLSA.

28. Defendants required Plaintiff and the members of the Plaintiff's class to work "off the clock," and did not pay them for all service rendered for the benefit of Defendants.

29. Defendants have failed to pay Plaintiff and the members of the Plaintiff's class all wages due, as required by Sections 41-10-40 and -50 of the Act.

30. Pursuant to S.C. Code § 41-10-80(C), Plaintiff and the members of the Plaintiff's class are entitled to recover in this action an amount equal to three times the full amount of their unpaid wages, or their wrongfully deducted wages, plus costs and reasonable attorney's fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and all other similarly situated employees, seeks judgment against the Defendants as follows:

- a. That this Court certify this action as a collective action pursuant to 29 U.S.C. § 216 (b);
- b. An award of compensatory damages in an amount equal to the unpaid overtime compensation owed to Plaintiff and similarly situated employees pursuant to 29 U.S.C. § 216(b);
- c. An award of liquidated damages in an amount equal to the award of compensatory damages pursuant to 29 U.S.C. § 216(b);
- d. An order certifying a class action under Rule 23 of the Federal Rules of Civil Procedure to remedy the class-wide violations of the South Carolina Payment of Wages Act;
- e. An award of compensatory damages in the amount of the unpaid wages owed to Plaintiff and similarly situated employees;
- f. An award of treble damages pursuant to the South Carolina Payment of Wages Act;

- g. An award of the reasonable attorneys' fees and costs incurred by Plaintiff and similarly situated employees in bringing this action; and
- h. All such further relief as the Court deems just and equitable.

JURY DEMANDED

Plaintiff Haynes on her behalf and on behalf of all other similarly situated employees hereby demands a trial by jury.

Respectfully submitted,

s/ Marybeth Mullaney
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May 13, 2015
Mount Pleasant, South Carolina.