

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TAJANAE ANDERSON, on behalf of herself and others similarly situated	:	
	:	
vs.	:	Civil Action No. 20-3014
	:	
LIBERTY HEALTHCARE CORPORATION and SARGENT'S PERSONNEL AGENCY, INC.	:	

**DEFENDANT LIBERTY HEALTHCARE CORPORATION'S ANSWER WITH
AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendant, Liberty Healthcare Corporation ("Answering Defendant"), by and through its attorneys, Marshall Dennehey Warner Coleman & Goggin, answers Plaintiff's Complaint as follows:

JURISDICTION AND VENUE

1. The allegations of paragraph 1 of the Complaint are conclusions of law to which no response is required.
2. The allegations of paragraph 2 of the Complaint are conclusions of law to which no response is required.
3. The allegations of paragraph 3 of the Complaint are conclusions of law to which no response is required.

PARTIES

4. After reasonable investigation, Answering Defendant is without sufficient knowledge or information to form a belief as to the truth of the allegations of this paragraph and, therefore, they are denied.
5. Admitted.

6. The allegations of this paragraph are directed to a defendant other than Answering Defendant, and therefore, no response by Answering Defendant is required.

7. It is admitted only that Plaintiff purports to to bring this action against Answering Defendant pursuant to the Fair Labor Standards Act ("FLSA") and the Pennsylvania Minimum Wage Act ("PMWA"). It is specifically denied that Answering Defendant is liable pursuant to any of these statutes.

8. The allegations of paragraph 8 of the Complaint are conclusions of law to which no response is required.

9. The allegations of paragraph 9 of the Complaint are conclusions of law to which no response is required.

FACTUAL ALLEGATIONS

10. Denied as stated. It is admitted only that Plaintiff refers to the DHS Adult Protective Services Annual Report for Fiscal Year 2016-17. Plaintiff's characterization of the report is denied in that the report is a document that speaks for itself. The remaining allegations of this paragraph are denied.

11. Admitted.

12. Denied as stated. It is admitted only that Plaintiff refers to the DHS Adult Protective Services Annual Report for Fiscal Year 2016-17. Plaintiff's characterization of the report is denied in that the report is a document which speaks for itself. The remaining allegations of this paragraph are denied.

13. Denied as stated. It is admitted only that Answering Defendant employs individuals in the position of Protective Services Caseworker. It is further admitted that Plaintiff refers to a description of the Protective Services Caseworker position contained in the Careers section of Answering Defendant's webpage. Plaintiff's characterization of the Protective

Services Caseworker position is denied in that the description is a document which speaks for itself. The remaining allegations of this paragraph are denied.

14. Denied as stated. It is admitted only that Answering Defendant employs individuals in the position of Protective Services Caseworker. It is further admitted that Plaintiff refers to a description of the Protective Services Caseworker position contained in the Careers section of Answering Defendant's webpage. Plaintiff's characterization of the Protective Services Caseworker position is denied in that the description is a document which speaks for itself. The remaining allegations of this paragraph are denied.

15. Denied as stated. It is admitted only that Answering Defendant has a contract with Sargent's Personnel Agency to provide personnel to work on Answering Defendant's contracts with the Commonwealth of Pennsylvania. The remaining allegations of this paragraph are denied.

16. Denied as stated. It is admitted only that individuals working as Protective Services Caseworkers are required to investigate allegations of abuse, exploitation, abandonment and/or neglect for disabled adults between the ages of 18 and 59 in accordance with Answering Defendant's contract with the Commonwealth of Pennsylvania. It is also admitted that Protective Services Caseworkers are paid a salary and are exempt from overtime. The remaining allegations of this paragraph are denied.

17. Denied as stated. It is admitted only that Plaintiff was engaged by Sargent's Personnel Agency and assigned to work with Answering Defendant as a Protective Services Caseworker between June 10, 2019 and February 21, 2020. The remaining allegations of this paragraph are denied.

18. Denied as stated. It is admitted only that that Plaintiff was engaged by Sargent's Personnel Agency and assigned to work with Answering Defendant as an APS Investigator between June 10, 2019 and February 21, 2020. The remaining allegations of this paragraph are denied.

19. Denied as stated. It is admitted only that Plaintiff was paid an annual salary of \$42,000 by Sargent's. To the extent Plaintiff attempts to imply that she was employed and/or paid by Answering Defendant, such allegations are specifically denied and strict proof of the same is hereby demanded.

20. Denied. The allegations of this paragraph are specifically denied and strict proof of the same is hereby demanded.

21. Admitted only that the position of Protective Services Caseworker is exempt from overtime. The remaining allegations of this paragraph are denied.

22. Denied as stated. It is admitted only that Plaintiff was provided with an email address from Answering Defendant during the time period when she was assigned to work with Answering Defendant. The remaining allegations of this paragraph are denied.

23. Denied as stated. It is admitted only that Plaintiff used Answering Defendant's computer programs during the time period when she was assigned to work with Answering Defendant. The remaining allegations of this paragraph are denied.

24. Denied as stated. It is admitted only that Plaintiff was provided with cases to investigate during the time period when she was assigned to work with Answering Defendant. The remaining allegations of this paragraph are directed to a defendant other than Answering Defendant, and therefore, no response by Answering Defendant is required.

25. Denied. The allegations of this paragraph are specifically denied and strict proof of the same is hereby demanded.

26. Denied as stated. It is admitted only that Cory Haines was an APS Investigator Supervisor during the time period when Plaintiff was assigned to work with Answering Defendant. The remaining allegations of this paragraph are denied.

27. Denied as stated. It is admitted only that Plaintiff submitted an email resignation Mr. Haines and Jeffrey Paulinellie (Regional Program Manager) on February 21, 2020 and Mr. Paulinellie forwarded the email to Kirk Golden (Program Director). By way of further response, Plaintiff submitted her email resignation after she was contacted by Mr. Haines and asked to attend a meeting regarding the falsification of records, including her time entries reflecting a meeting with a consumer at the consumer's home during a time period when the consumer was actually in the hospital. The remaining allegations of this paragraph are denied.

COLLECTIVE AND CLASS ALLEGATIONS

28. The allegations of paragraph 28 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

29. The allegations of paragraph 29 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

30. The allegations of paragraph 30 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

31. The allegations of paragraph 31 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

32. The allegations of paragraph 32 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

33. The allegations of paragraph 33 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

34. The allegations of paragraph 34 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

35. The allegations of paragraph 35 of the Complaint are conclusions of law to which no response is required. To the extent Plaintiff attempts to plead facts, such allegations are specifically denied.

COUNT I – FLSA

36. Answering Defendant incorporates by reference its responses to paragraphs 1 through 35 of the Complaint as though fully set forth herein.

37. The allegations of paragraph 37 are conclusions of law to which no response is required. Admitted.

38. Denied. The allegations of this paragraph are specifically denied and strict proof of the same is hereby demanded.

39. Denied. The allegations of this paragraph are specifically denied and strict proof of the same is hereby demanded.

WHEREFORE, Answering Defendant demands judgment in its favor and against Plaintiff.

COUNT II – PMWA

40. Answering Defendant incorporates by reference its responses to paragraphs 1 through 39 of the Complaint as though fully set forth herein.

41. The allegations of paragraph 41 are conclusions of law to which no response is required. Admitted.

42. Denied. The allegations of this paragraph are specifically denied and strict proof of the same is hereby demanded.

WHEREFORE, Answering Defendant demands judgment in its favor and against Plaintiff.

PRAYER FOR RELIEF

Answering Defendant denies that Plaintiff is entitled to any of the damages and/or relief contained in her Prayer for Relief and strict proof of the same is hereby demanded.

AFFIRMATIVE DEFENSES

1. Plaintiff fails to state a claim upon which relief may be granted.
2. Plaintiff has failed to state a claim pursuant to the Fair Labor Standards Act.
3. Plaintiff has failed to state a claim pursuant to the Pennsylvania Minimum Wage Act.
4. Plaintiff's claims are barred or limited based upon Plaintiff's own actions.
5. Plaintiff is exempt from the overtime provisions of the FLSA and PMWA.

6. Plaintiff's claims are barred and/or limited by the fact that she was never an employee of Answering Defendant.

7. Plaintiff's claims are barred or limited based upon Plaintiff's own actions.

8. Answering Defendant's alleged actions or omissions were not the cause in fact or the proximate cause of the harm alleged by Plaintiff.

9. Plaintiff's injuries and damages, if any, are unrelated to any actions or omissions on the part of Answering Defendant.

10. At all times relevant hereto, Answering Defendant acted without malicious intent and acted in good faith and with reasonable justification or belief in the legality and lawfulness of its actions and its actions were reasonable considering all of the circumstances.

11. Plaintiff has received all compensation that she earned.

12. Answering Defendant acted, at all times, in good faith with regard to the payment of wages and had good faith, reasonable grounds to believe that its actions were not in violation of the FLSA or state wage and hour laws.

13. Answering Defendant's actions were in accord with applicable statutes, regulations, policies and procedures.

14. Plaintiff cannot establish reckless, malicious or intentional conduct on the part of Answering Defendant to justify the imposition of liquidated damages.

15. Plaintiff and/or the members of the putative class contributed in a direct and proximate manner to their own damages by failing to act reasonably and prudently to mitigate their damages and those damages, if any, must be reduced to the extent to which those damages were proximately caused by their failure to mitigate their own damages.

16. Plaintiff's claims are matters as to which individual questions predominate and, accordingly, are not appropriate for treatment as a class or collective action.

17. Plaintiff's claims are neither common to nor typical of those of the alleged class Plaintiff purports to represent.

18. The named Plaintiff is an inadequate representative of any alleged class of persons she purports to represent.

19. Class and/or collective treatment of Plaintiff's claims is improper because Plaintiff and the other purported class members are not similarly situated.

20. If it is determined that Plaintiff suffered damages, which Answering Defendant specifically denies, Plaintiff's damages are barred in whole or in part by the failure of Plaintiff to mitigate her damages.

WHEREFORE, Answering Defendant demands judgment in its favor and against Plaintiff.

CROSS-CLAIM

Liberty Healthcare Corporation, by and through its undersigned counsel, Marshall Dennehey Warner Coleman & Goggin, hereby brings this Cross-Claim against Sargent's Personnel Agency, Inc. in accordance with Federal Rule of Civil Procedure 13(g), and avers as follows:

1. Plaintiff initiated a lawsuit against Defendant, Liberty Healthcare Corporation, alleging violations of the Fair Labor Standards Act and the Pennsylvania Minimum Wage Act.

2. Liberty Healthcare Corporation has a contract with Sargent's Personnel Agency to provide personnel, including providing the Plaintiff, to work on Liberty Healthcare Corporation's contracts with the Commonwealth of Pennsylvania.

3. The contract with Sargent's Personnel Agency states, in pertinent part, that "Subcontractor [i.e., Sargent's Personnel Agency, Inc.] agrees to indemnify and hold Contract [i.e., Liberty Healthcare Corporation] harmless from and against any and all claims, demands, judgments, and damages which may be imposed or incurred by Contractor as a result of Subcontractor's breach of any of the covenants, restrictions or warranties set forth in this Agreement."

4. For the purposes of this cross-claim only, and specifically without admitting same, Liberty Healthcare Corporation incorporates by reference the allegations in Plaintiff's Complaint.

5. Liberty Healthcare Corporation avers that if Plaintiff sustained any compensable damages as alleged in Plaintiff's Complaint, such allegations against Liberty Healthcare Corporation being herein strictly denied, then Sargent's Personnel agency is liable to Liberty Healthcare Corporation is alone liable to Plaintiff; is jointly and severally liable to Plaintiff; and/or is liable to Liberty Healthcare Corporation by way of contribution and/or indemnification.

WHEREFORE, Liberty Healthcare Corporation denies all liability to Plaintiff and demands judgment in its favor and against Sargent's Personnel Agency, Inc. for indemnification and/or contribution for any judgment rendered in favor of the Plaintiff. Additionally, in the event that liability on its part is established at trial, all allegations of which are expressly denied by Liberty Healthcare Corporation, then Liberty Healthcare Corporation requests that the Court find that Sargent's Personnel Agency, Inc. are alone liable to Plaintiff or liable over to Liberty Healthcare Corporation for indemnification or contribution.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY:  _____

LEE C. DURIVAGE
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Attorney for Liberty Healthcare Corporation

Dated: August 21, 2020

CERTIFICATE OF SERVICE

I, Lee C. Durivage, Esquire, do hereby certify that a true and correct copy of Defendant, Liberty Healthcare Corporation's Answer with Affirmative Defenses to Plaintiff's Complaint was served upon all counsel by electronic service through the Court's ECF system at the following address:

Peter D. Winebrake, Esquire
Mark J. Gottesfeld, Esquire
Winebrake & Santillo, LLC
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Dresher, PA 19025

Attorneys for Plaintiff

Christopher J. Gilligan, Esquire
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170 S. Independence Mall West
Philadelphia, PA 19106

Attorney for Sargent's Personnel Agency Inc.

**MARSHALL DENNEHEY WARNER
COLEMAN & GOGGIN**

BY: 
LEE C. DURIVAGE

Dated: August 21, 2020