

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

TAJANAE ANDERSON, on behalf of herself
and others similarly situated

Plaintiff,

v.

LIBERTY HEALTHCARE CORPORATION
and SARGENT'S PERSONNEL AGENCY,
INC.,

Defendants.

Case No. 2:20-cv-03014

DEFENDANT SARGENT'S PERSONNEL AGENCY
ANSWER TO PLAINTIFF'S COMPLAINT AND CROSS CLAIM TO DEFENDANT
LIBERTY HEALTHCARE CORPORATION

Defendant Sargent's Personnel Agency (hereinafter "Answering Defendant"), by and through its undersigned attorney, files this Answer to Plaintiff Tajanae Anderson's Complaint and Cross Claim to Defendant Liberty Healthcare Corporation, and state as follows:

COMPLAINT-CLASS/COLLECTIVE ACTION¹

The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

JURISDICTION AND VENUE

1. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

¹ Answering Defendant uses Plaintiff's headings as outlined in Plaintiff's Complaint, docketed June 22, 2020, solely for organizational purposes.

2. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

3. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

PARTIES

4. Admitted, upon information and belief.

5. Admitted, upon information and belief.

6. Admitted.

7. Admitted, upon information and belief.

8. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

9. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

FACTS

10. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

11. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

12. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

13. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

14. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

15. Denied as stated. By way of further responses Answering Defendant employs Investigators for Co-Defendant Liberty Healthcare Corporation (the "Liberty Defendant").

16. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

17. Admitted, upon information and belief. By way of further response, to the extent that this allegation is directed at the Answering Defendant, Plaintiff was on the payroll during the stated dates.

18. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

19. Admitted in Part, Denied in Part. It is admitted that Plaintiff's annual salary was \$42,000. However, her bi-weekly wages were \$1,615.38.

20. Denied as stated. Plaintiff did occasionally work more than 40 hours per week but did not "often" work 50 hours or more in a week.

21. Denied as stated. Plaintiff was a salaried employee and was paid the same amount every pay-period.

22. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

23. Denied as stated. Sargent's role was to provide payroll services. Sargent's did not oversee the investigatory work performed by Plaintiff.

24. Denied as stated. Sargent's role was to provide payroll services. Sargent's did not oversee the investigatory work performed by Plaintiff.

25. Denied as stated. Plaintiff had to adhere Answering Defendant's policies and procedures as well as the Liberty Defendant's policies and procedures.

26. The allegations contained in this paragraph are not directed at the Answering Defendant, therefore no response on the part of Answering Defendant is required. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

27. Denied as stated. Liberty Defendant did not have the authority to terminate Plaintiff from her employment with Sargent's, only the authority to end her assignment with Liberty Defendant.

CLASS/COLLECTIVE ACTION ALLEGATIONS

28. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

29. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

30. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

31. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

32. Denied. The allegations of the within paragraph are specifically denied, and strict proof thereof is demanded at trial of this matter.

33. Denied. The allegations of the within paragraph are specifically denied, and strict proof thereof is demanded at trial of this matter.

34. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

35. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent that a response is required, the same is denied as stated, and strict proof is demanded at trial of this matter.

COUNT 1

(Alleging FLSA Violations)

36. Answering Defendant incorporates by reference the answers to paragraphs 1-35 inclusive, as though the same were here set forth at length.

37. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

38. Denied. The allegations of the within paragraph are specifically denied, and strict proof thereof is demanded at trial of this matter, if relevant. The remaining averments contained within this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleading. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial of this matter

39. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

COUNT II

(Alleging PWMA Violations)

40. Answering Defendant incorporates by reference the answers to paragraphs 1-39 inclusive, as though the same were here set forth at length.

41. The allegations contained in this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleadings. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial.

42. Denied. The allegations of the within paragraph are specifically denied, and strict proof thereof is demanded at trial of this matter, if relevant. The remaining averments contained within this paragraph are conclusions of law to which the Federal Rules of Civil Procedure require no responsive pleading. To the extent a response is required, the same are denied, and strict proof thereof is demanded at trial of this matter

JURY DEMAND

No response required.

PRAYER FOR RELIEF

WHEREFORE, Answering Defendant denies Plaintiff's entitlement to any and all relief and specifically requests judgment in its favor.

AFFIRMATIVE DEFENSES

Without admitting any facts alleged by Plaintiff, Defendant pleads the following separate and affirmative defenses:

First Affirmative Defense

Plaintiff fails, in whole or in part, to state a claim or claims upon which relief may be granted, or upon which the relief sought can be awarded.

Second Affirmative Defense

Defendant denies that this is a proper “collective” or “class” action and Defendant asserts that Plaintiff has not affirmatively established the same by way of motion.

Third Affirmative Defense

Plaintiff and members of the purported class or collective action are not similarly situated. The potential claims of the purported class members reflect variability.

Fourth Affirmative Defense

The proposed class action fails to meet the numerosity requirement of Fed. R. Civ. P. 23(a)(1).

Fifth Affirmative Defense

The proposed class action fails to meet the commonality requirement of Fed. R. Civ. P. 23(a)(2).

Sixth Affirmative Defense

The proposed class action fails to meet the typicality requirement of Fed. R. Civ. P. 23(a)(3).

Seventh Affirmative Defense

The named plaintiff will not adequately and fairly protect the interests of the proposed class, as required by Fed. R. Civ. P. 23(a)(4).

Eighth Affirmative Defense

The proposed class lacks common questions of law or fact, as required by Fed. R. Civ. P. 23(b)(3).

Ninth Affirmative Defense

The Complaint, and each and every alleged cause of action therein are barred, in whole or in part, because Plaintiff and the putative class members consented to the conduct about which Plaintiff now complains.

Tenth Affirmative Defense

Any damages suffered by Plaintiff and all members of the putative class were proximately caused by their own conduct and not the conduct of Defendant.

Eleventh Affirmative Defense

Plaintiff and the putative class members have been paid and/or received all wages due to them by virtue of their employment.

Twelfth Affirmative Defense

This suit may not be properly maintained as a class action because there is not a well-defined community of interest in the questions of law or fact affecting Plaintiff and the members of the alleged putative class

Thirteenth Affirmative Defense

This suit may not be properly maintained as a class action because the alleged putative class is not ascertainable, nor are its members identifiable

Fourteenth Affirmative Defense

Plaintiff's claims are or may be barred, in whole or in part, by the applicable statute of limitations.

Fifteenth Affirmative Defense

This action is barred to the extent Plaintiff seeks recovery for time that is not compensable time under the FLSA.

Sixteenth Affirmative Defense

In the alternative, Answering Defendant is entitled to offset monies or other compensation paid or provided to Plaintiff by Answering Defendant for periods in which Plaintiff was not engaged to work.

Seventeenth Affirmative Defense

To the extent Answering Defendant is found to have violated the Fair Labor Standards Act or the Pennsylvania Minimum Wage Act, Answering Defendant's actions and omissions were taken in good faith.

Eighteenth Affirmative Defense

Plaintiff and all members of the putative class fail to establish any basis for asserting compensatory damages or punitive damages.

Nineteenth Affirmative Defense

To the extent Plaintiff seeks damages not recoverable under the FLSA, Plaintiff is barred from such recovery.

Twentieth Affirmative Defense

Plaintiff and all members of the putative class fail to establish any basis for an award of attorneys' fees.

Twenty-First Affirmative Defense

The alleged time for which Plaintiff seeks compensation is irregular as well as practically and administratively difficult to record.

Twenty-Second Affirmative Defense

Plaintiff has suffered no cognizable damage or injury under the laws of the United States of America or Commonwealth of Pennsylvania.

Twenty-Third Affirmative Defense

Without assuming the burden of proof, Answering Defendant acted at all times reasonably, prudently and consistently with any all duties and obligations imposed upon it by law or otherwise.

Twenty-Fourth Affirmative Defense

To the extent it is ultimately determined that a violation of law was committed, the law in question was not clearly established at the time of violation.

Twenty-Fifth Affirmative Defense

Plaintiff has failed to mitigate any damages she may have suffered, and Answering Defendant is entitled to an offset to the extent of any mitigation by Plaintiff and putative class members.

Twenty-Sixth Affirmative Defense

Plaintiff's claims are barred by the doctrines of waiver, estoppel, and/or laches.

Twenty-Seventh Affirmative Defense

Plaintiff has failed to exhaust administrative remedies.

Twenty-Eighth Affirmative Defense

To the extent anyone in the putative class has released claims alleged in the Complaint, their claims are barred by those releases.

Twenty-Ninth Affirmative Defense

Without assuming the burden of proof, all actions taken by Answering Defendant with respect to Plaintiff were supported by legitimate business reasons.

Thirtieth Affirmative Defense

Answering Defendant is entitled to recover its reasonable attorneys' fees, experts' fees, costs and expenses upon prevailing on any or all of the claims alleged against it to the extent such recovery is allowed by law.

Thirty-First Affirmative Defense

Plaintiff cannot bring collective or class action relief for other similar situated individuals without proving they meet all pre-requisites of the Fair Labor Standards Act, 29 U.S.C. § 216(b), the Pennsylvania Minimum Wage Act and Fed. R. Civ. P. 23. To that extent, Answering Defendant denies this action is appropriate for either collective or class action but reserves further argument unless and until Plaintiff files the requisite motion.

Thirty-Second Affirmative Defense

Answering Defendant reserves the right to amend its Answer to add affirmative defenses as they become available.

WHEREFORE, Answering Defendant denies that it is liable on Plaintiff's causes of action, and demands judgment in its favor.

CROSS-CLAIMS

SARGENT'S PERSONNEL AGENCY, INC. V. LIBERTY HEALTHCARE CORPORATION

1. Solely for the purpose of asserting this Cross-Claim, the averments set forth in Plaintiff's Complaint against Co-Defendant Liberty Healthcare Corporation ("Liberty Defendant") are incorporated herein.
2. In the event Plaintiff is entitled to a recovery against Sargent's Personnel Agency, which is specifically denied, then the Liberty Defendant is solely, jointly, and or severally liable to the Plaintiff in this action.

3. In the event Plaintiff is entitled to a recovery against Sargent's Personnel Agency, which is specifically denied, then the Liberty Defendant is liable to Sargent's Personnel Agency for contribution and/or indemnity.

WHEREFORE, Defendant Sargent's Personnel Agency denies liability to any party in this action, but in the alternative, demand contribution and/or indemnity from Co-Defendant Liberty Healthcare Corporation.

Respectfully Submitted,

MARGOLIS EDELSTEIN

BY: Christopher Gilligan
CHRISTOPHER GILLIGAN, ESQUIRE
Identification No. 316936
The Curtis Center, Suite 400E
170 S. Independence Mall W.
Philadelphia, PA 19106-3337
Telephone: (215) 922-1100
cgilligan@margolisedelstein.com
*Attorney for Defendant Sargent's
Personnel Agency, Inc.*

Date: August 17, 2020

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

TAJANAE ANDERSON, on behalf of herself
and others similarly situated

Plaintiff,

v.

LIBERTY HEALTHCARE CORPORATION
and SARGENT'S PERSONNEL AGENCY,
INC.,

Defendants.

Case No. 2:20-cv-03014

CERTIFICATE OF SERVICE

I, Christopher J. Gilligan, Esquire, hereby certify that on the date shown below a true and correct copy of the foregoing Answer and Affirmative Defenses with Cross-Claim to Liberty Defendant, was served to all counsel of record via Notice of Electronic Filing.

MARGOLIS EDELSTEIN

BY:



CHRISTOPHER GILLIGAN, ESQUIRE

Identification No 316936

The Curtis Center, Suite 400E

170 S. Independence Mall W.

Philadelphia, PA 19106-3337

Telephone: (215) 922-1100

cgilligan@margolisedelstein.com

*Attorney for Defendant Sargent's
Personnel Agency, Inc.*

Date: August 17, 2020