

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

TAMMY COOK)
_____))
 PLAINTIFF)
))
VS.) NO. 2015 - 7144
))
SUNNY DAYS IN HOME CARE LLC)
_____))
 DEFENDANT)

NOTICE TO DEFEND

YOU HAVE BEEN SUED in court. IF YOU WISH TO DEFEND against the claims set forth in the following pages, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS after this Complaint and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are WARNED that IF YOU FAIL TO DO SO, THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. YOU MAY LOSE MONEY OR PROPERTY or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.

If you do not know a lawyer, contact:

Lawyer Referral Service
119 South College Street
Washington, PA 15301
724.225.6710

If you cannot afford a lawyer, contact:

Southwestern Pennsylvania Legal Aid Society
10 West Cherry Avenue
Washington, PA 15301
724.225.6170

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Attorneys for Plaintiff and the Putative Class

TAMMY COOK,

Plaintiff,

v.

SUNNY DAYS IN HOME CARE LLC

Defendant.

IN THE COURT OF COMMON PLEAS OF
WASHINGTON COUNTY,
PENNSYLVANIA

NO. 2015-7144

COMPLAINT – CLASS ACTION

CLASS ACTION COMPLAINT

Plaintiff Tammy Cook brings this class action lawsuit against Defendant Sunny Days In Home Care LLC, seeking all available relief under the Pennsylvania Minimum Wage Act (“PMWA”), 43 P.S. §§ 333.101, et seq.

PARTIES

1. Plaintiff Tammy Cook (“Plaintiff”) resides at 2731 Farnsworth Drive, Alexandria, VA 22303.
2. Defendant Sunny Days In Home Care LLC (“Defendant”) is a company registered to do business in Pennsylvania and, according to the Pennsylvania Department of State database, maintaining a principal place of business at 460 Valley Brooke Road, McMurray, PA 15317.

JURISDICTION AND VENUE

3. This Court has personal jurisdiction over Defendant.

4. Venue in this Court is proper because, inter alia, Defendant regularly conducts business in Washington County. For example, Defendant services many customers in and around Washington County, and Plaintiff regularly worked for Defendant in Washington County.

FACTS

5. Defendant provides homecare and companionship services to elderly and/or disabled customers in Pennsylvania.

6. Defendant employs workers who are paid an hourly wage and provide homecare and companionship services to Defendant's customers. These workers are referred to herein as "Caregivers."

7. Plaintiff was employed by Defendant as a Caregiver from approximately July 2013 until approximately November 2013.

8. The PMWA entitles employees to overtime compensation "not less than one and one-half times" the employee's regular pay rate for all hours worked over 40 per week. See 43 P.S. § 333.104(c). This entitlement extends to Plaintiff and other Caregivers. See Bayada Nurses, Inc. v. Commonwealth, 8 A.2d 866 (Pa. 2010); Grajales v. Safe Haven Quality Care, LLC, 2013 Pa. Dist. & Cnty. Dec. LEXIS 128 (Dauphin Cty. Com. Pl. Sept. 5, 2013).

9. Notwithstanding Bayada and its progeny, Defendant, during much of the three-year time period relevant to this lawsuit, failed to pay Plaintiff and other Caregivers overtime premium compensation for hours worked over 40 per week.

10. For example, even though Plaintiff often worked up to 50 hours per week, Defendant did not pay Plaintiff any overtime premium compensation for her hours worked over 40 per week. Instead, Defendant paid Plaintiff at her straight-time pay rate

for all work hours, including hours worked over 40 per week.

CLASS ACTION ALLEGATIONS

11. Plaintiff brings this lawsuit as a class action on behalf of herself and all individuals who, during any time within the past three years, were employed by Defendant as Caregivers and received straight-time compensation for hours worked over 40 per week.

12. This action is properly maintained as a class action pursuant to Pennsylvania Rules of Civil Procedure 1702, 1708, and 1709.

13. The class is so numerous that joinder of all individual members is impracticable.

14. Defendant's conduct with respect to Plaintiff and the class raises questions of law and fact that are common to the entire class.

15. Plaintiff's claims and Defendant's anticipated defenses are typical of the claims or defenses applicable to the entire class.

16. Plaintiff's interests in pursuing this lawsuit are aligned with the interests of the entire class.

17. Plaintiff will fairly and adequately protect class members' interests because she and her experienced and well-financed counsel are free of any conflicts of interest and are prepared to vigorously litigate this action on behalf of the entire class.

18. A class action provides the fairest and most efficient method for adjudicating the legal claims of all class members.

COUNT I

19. All previous paragraphs are incorporated as though fully set forth herein.

20. Defendant is an employer covered by the PMWA's overtime pay

mandates, and Plaintiff and the class members are employees entitled to the PMWA's protections.

21. The PMWA requires Defendant to pay Plaintiff and other class members overtime premium compensation "not less than one and one-half times" the regular pay rate for all hours worked over 40 per week. *See* 43 P.S. § 333.104(c).

22. Defendant violated the PMWA by failing to pay Plaintiff and other class members overtime premium compensation for all hours worked over 40 per week.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and the class, seeks the following relief:

- A. Unpaid overtime wages to the fullest extent permitted under the law;
- B. Prejudgment interest to the fullest extent permitted under the law;
- C. Litigation costs, expenses, and attorney's fees to the fullest extent permitted under the law; and
- D. Such other and further relief as this Court deems just and proper.

Date: November 10, 2015

Respectfully,



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For Plaintiff and the Putative Class

VERIFICATION

I, Tammy Cook, hereby state:

1. I am a plaintiff in this action;
2. I verify that the statements made in the accompanying Complaint are true and correct to the best of my knowledge information and belief; and
3. I understand that the statements in the Complaint are subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: Oct 29, 2015

Tammy Cook
Signature

Tammy Cook
Print Name