

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
COOKEVILLE DIVISION**

BONNIE EMERY, on behalf of )  
herself and all others similarly-situated, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
HOME CAREGIVERS OF COOKEVILLE, )  
LLC, KONSTANTIN YEPIFANTSEV, )  
and JESSICA YEPIFANTSEV )  
 )  
Defendants. )

CASE NO. \_\_\_\_\_

**COLLECTIVE ACTION COMPLAINT  
FOR VIOLATIONS OF THE FAIR  
LABOR STANDARDS ACT OF 1938**

Comes Plaintiff BONNIE EMERY (“Plaintiff”), on behalf of herself and all others similarly-situated (“Class Members”), and for their collective action complaint against Defendants HOME CAREGIVERS OF COOKEVILLE, LLC, KONSTANTIN YEPIFANTSEV, AND JESSICA YEPIFANTSEV, (“Defendants”) allege the following:

**I. OVERVIEW**

1. The Fair Labor Standards Act (“FLSA”) was passed by Congress in 1938 to eliminate low wages and long hours and to correct conditions that were detrimental to the health and well-being of workers. To achieve its humanitarian goals and purposes, Section 7(a) of the FLSA “limits to 40 a week the number of hours that an employer may employ any of his employees subject to the Act, unless the employee receives compensation for his employment in excess of 40 hours at a rate ‘not less than one and one-half times the regular rate at which he is employed.’” *Walling v. Helmerich & Payne*, 323 U.S. 37, 39 (1944)(citing 29 U.S.C. §207(a)).

2. This is a collective action brought pursuant to the FLSA by Plaintiff, on behalf of herself and all similarly-situated current and former non-exempt caregivers, who worked for

Defendants' during the 3 years preceding the filing of this complaint ("Recovery Period") and who:

- a) signed an agreement similar to the agreement Plaintiff signed attached hereto as Exhibit 1; or who
- b) provided extended 24 hour care while confined to one of Defendants' fully serviced Employment and Community First ("ECF") and Community Living Support ("CLS") homes ("Class Members"); or who
- 3) earned and received a bonus. ("Class Members").

3. In the early spring of 2020, in response to the Covid-19 pandemic, Defendants required the Plaintiff and Class Members to "shelter in place" and work 24 hours a day, 7 days a week while providing caregiver services to clients in residential caregiver homes, and prohibited them from leaving for several weeks on end ("Covid Lockdown Period").

4. During the Covid Lockdown Period, Defendants refused to pay Plaintiff and Class Members any overtime compensation for the huge number of overtime hours they were required to work each week.

5. Throughout the Recovery Period, Defendants failed to include the non-discretionary bonuses earned by caregivers such as Plaintiff and other Class Members in the calculation of the regular rate for purposes of computing their overtime compensation.

## **II. JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action pursuant to 29 U.S.C. §216(b) and 28 U.S.C. §1331 & §1343.

7. Venue is proper in the Middle District of Tennessee under 28 U.S.C. §1391 because a substantial portion of the events forming the basis of the suit occurred in this District.

### III. PARTIES

8. Plaintiff Bonnie Emery is a resident and citizen of Cookeville, Tennessee. Her Consent Form to join this lawsuit is attached as Exhibit 2.

9. Plaintiff worked as a caregiver for Defendants from December of 2019 through June 8, 2020 in Cookeville, Tennessee.

10. Defendant Home Caregivers of Cookeville, LLC (“Home Caregivers”) is a Tennessee Limited Liability Company, with its principal place of business in Cookeville, Tennessee. Home Caregiver’s registered agent for service in Tennessee is Defendant Jessica Yepifantsev, Suite 24, 118 S. Dixie Ave., Cookeville, Tennessee 38501-3415.

11. According to its website, [www.homecaregiverstn.com](http://www.homecaregiverstn.com): “Home Caregivers...has been a family owned and operated nonmedical home care service provider since 2002. We offer excellent in-home services to clients of all ages who need assistance with the activities of daily living...In-Home Care – Trained caregivers provide medication assistance, homemaker services, personal care services, personal care services, transportation to appointments, and companionship care in your own home. Supported Living – Although most elderly people prefer to remain in the privacy and comfort of their own home, Home Caregivers Inc. offers 24 hour care in one of their fully serviced non-medical homes. With Trained caregivers to assist you every step of the way.”

12. Defendant Konstantin Yepifantsev is the Chief Executive Officer, Vice President, and part owner of Home Caregivers, and can be personally served at Defendants’ principal place of business at Suite 24, 118 S. Dixie Ave., Cookeville, Tennessee 38501-3415.

13. Defendant Jessica Yepifantsev is the Chief Financial Officer, President, and part owner of Home Caregivers, and can be personally served at Defendants' principal place of business at Suite 24, 118 S. Dixie Ave., Cookeville, Tennessee 38501-3415.

14. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted within the course and scope of their employment with Defendants in committing the acts and conduct complained of herein.

#### **IV. COVERAGE UNDER THE FLSA**

15. At all material times, Defendant Home Caregivers has been an employer and/or joint employer of Plaintiff and Class Members within the meaning of §3(d) of the FLSA, 29 U.S.C. §203(d).

16. At all material times, Defendant Home Caregivers has constituted an enterprise within the meaning of §3(r) of the FLSA, 29 U.S.C. §203(r).

17. At all material times, Defendant Home Caregivers has been an enterprise engaged in commerce, or in the production of goods for commerce, within the meaning of §3(s)(1) of the FLSA because it has had employees engaged in commerce and made an annual gross income of not less than \$500,000. 29 U.S.C. §203(s)(1).

18. At all material times, Defendant Konstantin Yepifantsev was an employer and/or joint employer of Plaintiff, as defined by §203(d) of the FLSA, as well as an employer of all other similarly-situated Class Members.

19. At all material times, Defendant Jessica Yepifantsev was an employer and/or joint employer of Plaintiff, as defined by §203(d) of the FLSA, as well as an employer of all other similarly-situated Class Members.

20. At all material times, Plaintiff and Class Members have been employees within the meaning of §3(e)(1) of the FLSA. 29 U.S.C. §203(e)(1).

21. At all material times, the overtime provisions set forth in §7 of the FLSA applied to Defendant Home Caregivers, and to Plaintiff and each Class pursuant to 29 U.S.C. §207.

## **V. VIOLATIONS OF THE FLSA**

### **BACKGROUND**

22. At all material times, Plaintiff and Class Members were classified as non-exempt employees by Defendants who were entitled to receive overtime pay.

23. Among other services, Defendant Home Caregivers provides trained caregivers, such as Plaintiff and the Class Members, to assist elderly and handicapped persons in CLS housing, and persons with intellectual and developmental disabilities in ECF housing, with activities of daily living and to live as independently as possible in the community.

24. Defendant Home Caregivers owns and/or leases a number of ECF and CLS residential houses in Putnam and Fentress counties (and possibly other counties) in Tennessee, in which it offers 24 hour companionship services provided by caregivers such as the Plaintiff and Class Members, to the elderly, physically handicapped, and developmentally and intellectually challenged.

25. Prior to the Covid-19 pandemic, Plaintiff and other Class Member caregivers were paid on an hourly basis and had established schedules that ordinarily did not require them to “live-in” in CLS or ECF housing for periods of 24 hours for days or weeks on end, but rather allowed them to rotate in and out of Defendants’ CLS and ECF housing at the end of their shifts upon being relieved by other caregivers.

**NO OVERTIME PAY FOR COVID LOCKDOWN PERIOD**

26. Upon the advent of the Covid-19 pandemic, Defendants required the Plaintiff and other Class Members to “shelter in place” and work 24 hours a day, 7 days a week while providing caregiver services to clients in residential caregiver homes, and prohibited them from leaving during the Covid Lockdown Period.

27. All caregivers, such as Plaintiff and Class Members, had to agree to “shelter in place” and work 24 hours a day, 7 days a week throughout the Covid Lockdown Period, otherwise Defendants would take them off the schedule completely, and they would receive no work assignment and have no income for weeks on end until the Covid Lockdown Period ended.

28. In advance of the Covid Lockdown Period, Defendants required caregivers, and specifically Plaintiff and Class Members, to sign agreements which obligated them to provide caregiver services 24 hour a day, 7 days a week, throughout the Covid Lockdown Period.

29. In order to receive a work assignment during the Covid Lockdown Period, Plaintiff was required to sign such an agreement.

30. A true and accurate copy of the agreement Plaintiff was required to sign in order to receive a work assignment is attached hereto as Exhibit 1.

31. Upon information and belief, the agreements Defendants required other caregiver Class Members to sign were uniformly worded, and identical to the agreement Plaintiff was required to sign attached hereto as Exhibit 1.

32. The agreements Defendants required Plaintiff and other Class Members to sign in order to receive a work assignment all stated, in part, as follows:

During the COVID-19, commonly known as the Coronavirus Outbreak-Once the state of Tennessee is [sic] issued a “Shelter in Place Order,” I agree to work a 14-dy rotation in one

of the ECF/CLS homes. I understand that I'm expected and mandated to work 24/7 and be attentive to the needs of the members in the home. I understand during this pandemic the following pay scale is in effect. The following reflects gross amount, before taxes.

Daily Rate -- \$215.00

Weekly Rate -- \$1,505.00

Biweekly Rate -- \$3,010.00

\* \* \*

I understand that as [sic] a shelter in place order, remains in effect and I am not permitted to leave the members home during this time.

33. In order to receive a work assignment, Plaintiff signed the agreement attached hereto as Exhibit 1 and could not leave her assigned CLS residential home for 31 consecutive days from April 2, 2020, through May 3, 2020.

34. During the Covid Lockdown Period when Plaintiff was confined to her assigned CLS home, she was on duty 24 hours a day, 7 days a week assisting her CLS client with activities of daily living and household chores such as bathing, grooming, personal hygiene and grooming, dressing, toileting, cooking, feeding, ambulation, wheelchair assistance, sweeping, mopping, dusting, changing linens, making beds, washing dishes, laundry, meal prep, and medication reminders.

35. During the Covid Lockdown Period, there was no explicit or implicit agreement between Plaintiff and Defendants, or between Class Members and Defendants, to exclude from the workday bona fide meal periods or a regularly scheduled sleeping period.

36. Defendants expected Plaintiff and Class Members to be on-call throughout each 24-hour shift during the Covid Lockdown Period, and thus required Plaintiff and Class Members to perform 24 hours of work each day.

37. As part of her job duties, Plaintiff was required to check on her CLS client every 2 hours and chart her status including her position and activities throughout each night during the Covid Lockdown Period.

38. Because of her job duties and responsibilities, Plaintiff could not take an uninterrupted period of sleep of 5 hours or more during the Covid Lockdown Period.

39. Because of the nature her job duties and responsibilities, Plaintiff had no regularly scheduled sleep or meal period throughout the Covid Lockdown Period.

40. The duties, responsibilities, on-duty work schedules, and experiences of Class Members during the Covid Lockdown Period are similar to those of Plaintiff set forth above.

41. Defendants paid no overtime pay to Plaintiff or to any Class Member during the Covid Lockdown Period.

**FAILURE TO INCLUDE BONUSES IN THE CALCULATION  
OF THE REGULAR RATE**

42. During most of the Recovery Period, Defendants had a bonus plan in which they agreed to pay bonuses to caregivers, such as Plaintiff, for achieving certain performance goals.

43. “Bonuses which are announced to employees to induce them to work more steadily or more rapidly or more efficiently or to remain with the firm are regarded as part of the regular rate of pay. Most attendance bonuses, individual or group production bonuses, bonuses for quality and accuracy of work, bonuses contingent upon the employee’s continuing in employment until the time the payment is to be made and the like are in this category; in such circumstances they must be included in the regular rate of pay.” 29 CFR §778.211(c).



44. Absent an express statutory exclusion in the FLSA, employers are required to include “all remuneration for employment paid to, or on behalf of, the employee” in determining the regular rate of pay for an employee for use in calculating overtime pay. 29 U.S.C. §207(e).

45. All of the bonuses which Plaintiff and other caregivers received while working for Defendants during the Recovery Period were “non-discretionary” bonuses which Defendants were required to include along with other earnings to determine the Plaintiff’s and Class Members’ regular rates on which overtime pay was calculated.

46. Plaintiff received at least one non-discretionary bonus while employed as a caregiver for Defendants which was not included in her earnings to determine her regular rate of pay, thus her overtime pay was understated.

47. Throughout the Recovery Period, Defendants excluded the non-discretionary bonuses paid to Plaintiff and other caregivers from the calculation of their regular rate of pay. As a result, on those occasions when Plaintiff and other caregivers received overtime pay during a period when they qualified for a bonus, it was less than they were entitled to by law.

## **VI. INDIVIDUAL LIABILITY OF KONSTANTIN AND JESSICA YEPIFANTSEV**

48. At all material times, Defendant Konstantin Yepifantsev was Chief Executive Officer, Vice President, and part owner of Home Healthcare who possessed and/or actually exercised authority and control over the terms and conditions of employment, compensation, and policies and procedures applicable to caregivers who worked for Defendants.

49. Defendant Konstantin Yepifantsev directed, authorized and/or approved the implementation, execution, and enforcement of the policy requiring Plaintiff and Class Members to “shelter in place” and work 24 hours a day, 7 days a week for weeks on-end without overtime

compensation for the huge number of overtime hours they were required to work during the Covid Lockdown Period.

50. Defendant Konstantin Yepifantsev directed and/or approved adoption and implementation of the change in compensation and other policies set forth in the agreement which Plaintiff and other Class Members were required to sign in order to receive work assignments during the Covid Lockdown Period, a true and accurate exemplar of which is attached hereto as Exhibit 1.

51. Throughout the Recovery Period Defendant Konstantin Yepifantsev controlled work schedules and conditions of employment, and made and/or approved compensation and pay decisions which affected Plaintiff and all other Class Members, including but not limited to the practice of excluding non-discretionary bonuses from the calculation of their regular rates of pay.

52. Defendant Konstantin Yepifantsev had the power and authority to require and direct that Plaintiff and Class Members receive overtime compensation for the huge number of overtime hours they were required to work during the Covid Lockdown Period, as well as require and direct that non-discretionary bonuses be included in the calculation of their regular rates of pay, but did not do so.

53. Accordingly, Defendant Konstantin Yepifantsev acted “directly or indirectly in the interest of an employer in relation to” the Plaintiff and Class Members over whom she exercised supervisory authority within the meaning of §203(d) of the FLSA, and is thus individually and personally liable for the unpaid wages, liquidated damages, costs and attorneys’ fees, and all other relief sought herein.

54. At all material times, Defendant Jessica Yepifantsev was Chief Financial Officer, President, and part owner of Home Healthcare who possessed and/or actually exercised authority

and control over the terms and conditions of employment, compensation, and policies and procedures applicable to caregivers who worked for Defendants.

55. Defendant Jessica Yepifantsev directed, authorized and/or approved the implementation, execution, and enforcement of the policy requiring Plaintiff and Class Members to “shelter in place” and work 24 hours a day, 7 days a week for weeks on-end without overtime compensation for the huge number of overtime hours they were required to work during the Covid Lockdown Period.

56. Defendant Jessica Yepifantsev directed and/or approved adoption and implementation of the change in compensation and other policies set forth in the agreement which Plaintiff and other Class Members were required to sign in order to receive work assignments during the Covid Lockdown Period, a true and accurate exemplar of which is attached hereto as Exhibit 1.

57. Throughout the Recovery Period Defendant Jessica Yepifantsev controlled work schedules and conditions of employment, and made and/or approved compensation and pay decisions which affected Plaintiff and all other Class Members, including but not limited to the practice of excluding non-discretionary bonuses from the calculation of their regular rates of pay.

58. Defendant Jessica Yepifantsev had the power and authority to require and direct that Plaintiff and Class Members receive overtime compensation for the huge number of overtime hours they were required to work during the Covid Lockdown Period, as well as require and direct that non-discretionary bonuses be included in the calculation of their regular rates of pay, but did not do so.

59. Accordingly, Defendant Jessica Yepifantsev acted “directly or indirectly in the interest of an employer in relation to” the Plaintiff and Class Members over whom she exercised

supervisory authority within the meaning of §203(d) of the FLSA, and is thus individually and personally liable for the unpaid wages, liquidated damages, costs and attorneys' fees, and all other relief sought herein.

## VI. COLLECTIVE ACTION ALLEGATIONS

60. Plaintiff reasserts and re-alleges the allegations set forth above.

61. The FLSA regulates, among other things, the payment of wages for overtime worked by employees who are engaged in interstate commerce or engaged in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce. 29 U.S.C. §207(a)(1).

62. Plaintiff brings this FLSA collective action on behalf of herself and all other caregivers similarly-situated pursuant to §16(b) of the FLSA (codified at 29 U.S.C. §216(b)), which provides, in pertinent part, as follows:

An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer . . . by any one or more employees for and in behalf of himself or themselves and other employees similarly-situated.

63. The FLSA Class consists of all current and former caregivers who: a) signed an agreement similar to the agreement Plaintiff signed attached hereto as Exhibit 1; or who b) provided extended 24 hour care 7 days a week while confined to one of Defendants' ECF and/or CLS homes during the Covid Lockdown Period; or who 3) earned and received a bonus during the Recovery Period.

64. Section 13 of the FLSA, codified at 29 U.S.C. §213, exempts certain categories of employees from overtime pay obligations. None of the FLSA exemptions from overtime pay apply to the Plaintiff or to Class Members.

65. The FLSA requires covered employers, such as Defendants, to compensate all non-exempt employees at a rate of not less than one and one-half times the regular rate of pay for work performed in excess of forty (40) hours per work week.

66. Plaintiff and Class Members are victims of Defendants' intentional, illegal and uniform compensation policies and practices designed to evade the overtime requirements of the FLSA.

67. Defendants willfully engaged in a pattern of violating the FLSA, 29 U.S.C. § 201 *et seq.*, as described in this Complaint, in ways including, but not limited to, knowingly failing to pay Plaintiff and Class Members overtime compensation during the Covid Lockdown Period, and also failing to pay them at the proper overtime rate throughout the Recovery Period.

68. Defendants' conduct constitutes willful violations of the FLSA within the meaning of 29 U.S.C. §255.

69. Defendants are liable under the FLSA for failing to properly compensate Plaintiff and Class Members.

70. Plaintiff and Class Members are similarly-situated to each other because they were each: 1) required to sign an agreement identical and/or similar to Exhibit 1 in order to receive a work assignment; 2) subject to the same illegal compensation policies and practices; 3) classified as non-exempt; 4) confined to Defendants' ECF and/or CSL homes 24 hours a day, 7 days a week while

providing around-the-clock caregiver services to clients during the Covid Lockdown Period; 5) and were required to perform the same job duties throughout the Covid Lockdown Period and Recovery Period.

71. There are numerous similarly-situated current and former employees of Defendants who have suffered from Defendants' common and uniform policies, practices and/or procedures of not paying Plaintiff and Class Members proper overtime, and who would benefit from the issuance of a Court-supervised notice of the present lawsuit and the opportunity to join in this action. These similarly-situated employees are known to Defendants, and are readily identifiable through Defendants' records.

72. Defendants have not acted in good faith or with reasonable grounds to believe that their failure to pay overtime to Plaintiff and Class Members during the Covid Lockdown Period, or their failure to include non-discretionary bonuses with other compensation to calculate their regular rates of pay during the Recovery Period, was not a violation of the FLSA.

73. Plaintiff and Class Members are entitled to recover an award of liquidated damages in an amount equal to the amount of unpaid overtime compensation as permitted by §16(b) of the FLSA. 29 U.S.C. §216(b). Alternatively, should the Court find that Defendants acted in good faith and with reasonable grounds to believe they were complying with the FLSA, Plaintiffs and all similarly-situated Class Members are entitled to an award of prejudgment interest at the applicable legal rate.

74. As a result of the aforementioned violations of the FLSA's overtime provisions, overtime compensation has been unlawfully withheld by Defendants from the Plaintiff and Class

Members. Accordingly, Defendants are liable to Plaintiff and Class Members for unpaid overtime compensation under §16(b) of the FLSA (codified at 29 U.S.C. §216(b)), together with an additional amount as liquidated damages, pre- and post-judgment interest, reasonable attorneys' fees, and costs of this action.

## **VII. PRAYER FOR RELIEF**

75. Wherefore, Plaintiff, on behalf of herself and all other similarly-situated Class Members, respectfully requests that this Court grant the following relief:

- a. Designation of this action as a collective action on behalf of the FLSA Class and prompt issuance of notice pursuant to 29 U.S.C. §216(b) to all similarly-situated Class Members, apprising them of the pendency of this action, and permitting them to assert timely FLSA claims in this action by filing individual consents to join this lawsuit pursuant to 29 U.S.C. §216(b);
- b. An award of unpaid wages, including all overtime compensation due under the FLSA;
- c. An award of liquidated damages as a result of the Defendants' failure to exercise good faith in failing to pay lawful overtime compensation pursuant to 29 U.S.C. §216;
- d. An award of prejudgment and post-judgment interest;
- e. An award of costs and expenses of this action, together with reasonable attorneys' fees; and,
- f. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

**DICKINSON WRIGHT PLLC**

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*Attorneys for Plaintiffs and Putative Collective Class*

4832-5362-7075 [93418-1]



# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

### I. (a) PLAINTIFFS

BONNIE EMERY, on behalf of herself and all others similarly-situated

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

See attached.

### DEFENDANTS

HOME CAREGIVERS OF COOKEVILLE, LLC, KONSTANTIN YEPIFANTSEV and JESSICA YEPIFANTSEV

County of Residence of First Listed Defendant \_\_\_\_\_

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <b>LABOR</b> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

### V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
29 U.S.C. §201 et. seq.

Brief description of cause:

Failure to pay proper hourly wages and/or overtime in violation of the Fair Labor Standards Act

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

07/15/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/Peter F. Klett

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFF \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

### Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

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# EXHIBIT 1



# Home Caregivers

During the COVID-19, commonly known as the Coronavirus Outbreak-Once the state of Tennessee is issued a "Shelter In Place Order," I agree to work a 14-day rotation in one of the ECF/CLS homes. I understand that I'm expected and mandated to work 24/7 and be attentive to the needs of the members in the home. I understand during this pandemic the following pay scale is in effect. The following reflects gross amount, before taxes.

Daily Rate – \$215.00

Weekly Rate – \$1,505.00


Biweekly Rate – \$3,010.00

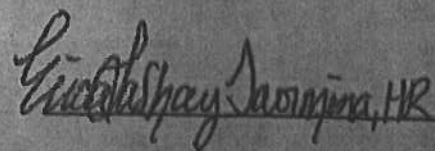
Our goal is to ensure the safety of all members and staff during this time. Minimizing exposure and risk while taking all necessary precautions are what we are currently focusing on. No visitors are permitted to the homes during this time. Staff are expected to use good personal hygiene, washing your hands frequently. Any signs or symptoms of sickness of yourself, members or even family members must be reported immediately.

I further understand that during this time, I am permitted to bring family members to the home, to shelter in place as well. I understand that my first priority is the members in the home and I nor family in the home will not hold Home Caregivers responsible for any liabilities or injury sustained during this time, further releasing Home Caregivers of any liability.

I understand that as a shelter in place order, remains in effect and I am not permitted to leave the members home during this time. Staff need to reach out to their supervisor during this time, for any concerns or direction needed during this difficult time.

We would like to take this time, to THANK YOU for your dedication to not only the individuals we support but to the company.

  
\_\_\_\_\_  
Staff Signature/Date 3/23/2020

  
\_\_\_\_\_  
Administrative Signature/Date 3/23/2020

# EXHIBIT 2

**FLSA ACTION AGAINST HOME CAREGIVERS, INC., and/or HOME CAREGIVERS  
OF COOKEVILLE, LLC, et. al**

**PLAINTIFF CONSENT FORM**

By my signature below, I hereby authorize the filing and prosecution of a Fair Labor Standards Act action in my name and on my behalf by the named Plaintiffs and designate them as my agent to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' Counsel concerning attorneys' fees and costs, to file a proof of claim on my behalf in the event Defendant(s) file for bankruptcy protection under Chapters 7 or 11 of the Bankruptcy Act, to negotiate and to take any other action necessary to present or preserve my wage and hour claim against Defendants HOME CAREGIVERS, INC., and/or HOME CAREGIVERS OF COOKEVILLE, LLC, et. al, their successors, affiliates, owners, and/or principals.

6-9-2020  
**DATE**

B.A. Emery  
**SIGNATURE**  
Bonnie A. Emery  
**(Print Name)**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Home Caregivers of Cookeville Failed to Pay Overtime During COVID-19 'Lockdown' Period](#)

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