

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division**

**KEITH HARDY, individually  
and on behalf of all other employees and  
former employees of Lewis Gale Medical  
Center, LLC similarly situated,**

**KIRK HENDRICKS, individually  
and on behalf of all other employees and  
former employees of Lewis Gale Medical  
Center, LLC similarly situated,**

**RODRIGO CONTRERAS, individually  
and on behalf of all other employees and  
former employees of Lewis Gale Medical  
Center, LLC similarly situated,**

**SHANNON FINKS, individually  
and on behalf of all other employees and  
former employees of Lewis Gale Medical  
Center, LLC similarly situated,**

**and**

**DEION SANDERS, individually  
and on behalf of all other employees and  
former employees of Lewis Gale Medical  
Center, LLC similarly situated,**

**Plaintiffs,**

**v.**

**Civil Action No.: 7:18CV218**

**LEWIS GALE MEDICAL  
CENTER, LLC,**

**JURY TRIAL DEMANDED**

**Serve: CT Corporation System  
4701 Cox Rd. Suite 285  
Glen Allen, VA 23060-0000**

**Defendant.**

## **COMPLAINT**

The Plaintiffs, Keith Hardy, Kirk Hendricks, Rodrigo Contreras, Shannon Finks, and Deion Sanders, individually and on behalf of all similarly situated current and former employees of Lewis Gale Medical Center, LLC, bring this action for racial discrimination and retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, for racial discrimination and retaliation pursuant to 42 U.S.C. § 1981, for violation of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201, *et seq.*, and for attorney’s fees and litigation costs pursuant to 42 U.S.C. § 1988. Plaintiffs seek compensatory and punitive damages, unpaid minimum wages and overtime compensation, liquidated damages, attorney’s fees, pre-judgment and post-judgment interest, and costs.

### **JURISDICTION AND VENUE**

1. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 28 U.S.C. §§ 1343(a)(3) and (4), and 29 U.S.C. § 216(b).
2. Venue is proper in this District under 28 U.S.C. § 1391(b), as the actions and unlawful employment practices alleged herein arose in the Western District of Virginia.
3. All conditions precedent to jurisdiction under 42 U.S.C. §§ 2000e-5 have been met for Plaintiff Hendricks. Plaintiffs Hendricks and Sanders filed timely charges of racial discrimination with the Equal Employment Opportunity Commission (“EEOC”); administrative procedures have been exhausted; and suit is filed within 90 days of Plaintiffs Hendricks’ and Sanders’ receipt of right-to-sue letters with regard to the discrimination claims and within 90 days of Plaintiff Hendricks’ receipt of a right-to-sue letter with regard to the retaliation claim. These right-to-sue letters are attached hereto as Exhibit “A.” Plaintiff Sanders filed timely

charges of retaliation with the EEOC. Plaintiffs Hardy, Contreras and Finks filed timely charges of racial discrimination and retaliation with the EEOC. The EEOC is currently investigating these charges. Once Plaintiffs Sanders, Hardy, Contreras and Finks receive their right-to-sue letters, Plaintiffs will seek to amend the Complaint to include Sanders, Hardy, Contreras and Finks in Count III and to include Hardy, Contreras, and Finks in Count I.

4. Plaintiffs file this statutorily authorized collective or representative action as Representative Plaintiffs and consent in writing to become party plaintiffs in this representative FLSA action pursuant to 29 U.S.C. § 216(b). Such written consents are attached hereto as “Exhibit B.”

### **PARTIES**

5. Plaintiff Keith Hardy, an African-American male, is a resident of Roanoke, Virginia. At all times relevant hereto, Mr. Hardy was an employee of the Defendant within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the FLSA, 29 U.S.C. § 203(e)(1).

6. Plaintiff Kirk Hendricks, an African-American male, is a resident of Dublin, Virginia. At all times relevant hereto, Mr. Hendricks was an employee of the Defendant within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the FLSA, 29 U.S.C. § 203(e)(1).

7. Plaintiff Rodrigo Contreras, a Latino/Hispanic male, is a resident of Roanoke, Virginia. At all times relevant hereto, Mr. Contreras was an employee of the Defendant within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the FLSA, 29 U.S.C. § 203(e)(1).

8. Plaintiff Shannon Finks, an African-American male, is a resident of Roanoke, Virginia. At all times relevant hereto, Mr. Finks was an employee of the Defendant within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the FLSA, 29 U.S.C. § 203(e)(1).

9. Plaintiff Deion Sanders, an African-American male, is a resident of Salem, Virginia. At all times relevant hereto, Mr. Sanders was an employee of the Defendant within the meaning of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.*, and the FLSA, 29 U.S.C. § 203(e)(1).

10. Defendant Lewis Gale Medical Center, LLC, (“LGMC”) is a Delaware limited liability company doing business at 1900 Electric Rd., Salem, Virginia 24153. Defendant LGMC has had 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year. LGMC is an employer engaged in an industry affecting commerce and was Plaintiffs’ employer within the contemplation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, *et seq.* and the Fair Labor Standards Act, 29 U.S.C. § 203(e)(1).

## **FACTS**

### **Racial Discrimination**

#### **Facts Common to all Plaintiffs**

11. Plaintiffs are employed in the Security Department at LGMC. Sergeant Hardy and Lieutenant Hendricks are security supervisors. Contreras, Finks and Sanders are armed security officers.

12. Upon information and belief, in 2013, LGMC investigated the best approach to meet

the needs of security at the hospital. Upon information and belief, the goal was to make the security department like a police force, giving the officers more powers and authority to deal with security and safety crises. Three options were considered: (1) Special Conservators of the Peace; (2) Off-duty police officers from local police departments; or (3) Outsourcing security to a company such as G4S. Upon information and belief, the option to outsource was quickly discarded, as LGMC did not want outsiders and non-employees in the hospital with security authority. LGMC decided to use Special Conservators of the Peace and took steps towards implementing that plan.

13. In December 2016, LGMC hired Barry Booth as Manager of Security. Booth was the Plaintiffs' supervisor. LGMC was aware at the time it hired Booth that, in May 2015, Booth had been placed on administrative leave from the Roanoke City Police Department after making disparaging and insensitive remarks on a social media post. Many in the community construed Booth's social media post to be racist.

14. Shortly after Booth was hired, Booth began treating the Plaintiffs differently from white employees. Booth's differential treatment included but was not limited to: denying Plaintiffs opportunities for advancement, singling out the Plaintiffs for unfair treatment, disciplining Plaintiffs more harshly than white employees, denying Plaintiffs the opportunity to become Special Conservators of the Peace ("SCOP"), falsely accusing Plaintiffs of misconduct, denying Plaintiffs' requests for Paid Time Off ("PTO"), and giving white employees preferential treatment in scheduling. LGMC management was aware of Booth's discriminatory actions towards the Plaintiffs.

15. After an incident in the LGMC Emergency Room in April 2017, a Security and

Emergency Preparedness Assessment was conducted in early May 2017. The Assessment recommended that LGMC obtain SCOP certification for security personnel.

16. On May 23, 2017, Booth announced that LGMC had approved positions for Special Conservators of the Peace (“SCOP”). These positions were well respected and heavily sought after. Employees given a SCOP position would receive a large pay increase, increased responsibilities, and a respected certification from the Commonwealth of Virginia Department of Criminal Justice Services. SCOP Officers would be issued firearms. Those remaining as Security Officers would carry tasers. Badges and Patches would state “Police.” LGMC outlined the SCOP requirements as follows:

1. Minimum experience 3 years law enforcement, 5 years ideal.
2. Current staff will have to prove prior LEO experience to be accepted  
(Mandated by DCJS for waivers).

17. However, specific police experience was not required by the Virginia Department of Criminal Justice Services to obtain Special Conservator of the Peace status.

18. Despite the plain language of the announcement for the Special Conservator of the Peace position, Booth imposed the additional requirement that an individual must have prior experience as a police officer in order to be a Special Conservator of the Peace. Neither the Virginia Department of Criminal Justice Services, nor the job announcement initially released by LGMC, required prior experience as a police officer to be able to obtain SCOP status. Upon information and belief, Booth imposed this requirement so that the white former police officers whom he planned to and did hire would receive the higher paid, sought-after positions as Special Conservators of the Peace. LGMC management was aware that Booth had added this

requirement yet failed to intervene.

19. Booth hired three white males to be “Police Officers” in November 2017. Booth assigned these new white officers preferential work shifts. Booth promised the three newly hired white officers that they would not be required to work weekends or holidays, as the non-white security employees were required to do.

20. The newly hired white officers were given the higher paid, sought after SCOP positions. The Plaintiffs were denied these positions.

21. The white Special Conservators of the Peace, all former police officers, were given fixed schedules and higher pay than the Plaintiffs.

22. Morale in the Security Department declined as Booth hired white officers at a higher salary than the non-white officers were receiving, gave the SCOP positions to the newly hired white officers, gave the white officers preferential treatment, unfairly singled out the Plaintiffs for discipline and mistreatment, prevented the Plaintiffs from becoming SCOPs, and required Plaintiffs to work weekends and holidays while allowing the white officers to have these days off.

23. The new white employees hired in November 2017 were given higher salaries than the other officers. John Braziel started at \$32.00/hour, John Call at \$28.00/hour, and Eric Smith at \$28.00/hour. Despite having the same or less experience than the Plaintiffs, Booth suggested, and Chris Marlin, Human Resources Vice President, approved, hiring these three white males at higher salaries than those of the Plaintiffs. At the time the white employees were hired, the Plaintiffs’ base pay was as follows: Hendricks \$25.42/hour, Hardy \$17.39/hour, Contreras \$15.88/hour, Finks \$11.87/hour, and Sanders \$11.29/hour.

24. Booth permitted the white officers to use their phones for personal matters and to engage in other prohibited behaviors while on duty. Plaintiffs were not permitted to do so and were disciplined if they engaged in similar behaviors.

25. Plaintiffs complained to LGMC management for months regarding Booth's discriminatory actions. Finally, Booth was removed, or was permitted to resign, on February 9, 2018.

26. Plaintiffs have filed administrative complaints and appeals with LGMC regarding Booth's actions and the repercussions from his actions. LGMC has refused to process these complaints in a timely manner.

27. As a result of LGMC's actions, Plaintiffs have suffered, and will continue to suffer, loss of income and benefits, loss of supervisory roles, impending loss of employment, loss of advancement opportunities, loss of shift differential, overtime and weekend pay, emotional pain, inconvenience, mental anguish, loss of enjoyment of life, damage to character and reputation, personal embarrassment and humiliation.

28. Plaintiffs have been, and continue to be, adversely affected by the actions of the defendants.

**Keith Hardy**

29. Hardy was hired as a regular officer and became a Sergeant in 2016. In March 2017, Booth sent Hardy to a class to become a Special Conservator of the Peace. Hardy passed the class and background check, and all paperwork was completed. However, Booth never forwarded the paperwork on to the Circuit Court to finalize the process.

30. In June 2017, Booth advised Hardy and Hendricks that they would receive a pay



increase in October or November 2017, and their pay would double or triple at that time.

31. In September 2017, Booth informed Hardy and Hendricks that the pay increase would not be effective until January 2018.

32. On September 5, 2017, Booth held a mandatory security meeting and announced that Hardy would be grandfathered in as Special Conservator of the Peace. This would allow Hardy to maintain his supervisory status and to be a Special Conservator of the Peace.

33. In October 2017, Booth advised Hardy that he would get paid as a police officer, thus he would receive a significant increase in salary.

34. On November 21, 2017, Booth informed Hardy that he would have to attend the Cardinal Academy before he could receive his pay increase. Hardy questioned this, informing Booth that he had not previously said that Hardy would have to attend the Cardinal Academy, but Booth now said that Hardy had to attend in order to be a Special Conservator of the Peace and receive the pay increase. This was a catch-22 requirement for Hardy. If he attended the 22-week Cardinal Academy program as required by Booth, he would lose his supervisory status, along with the increased pay that accompanied his supervisory status, because of the time he would have to take away from his duties at LGMC. If he did not attend the Cardinal Academy, then Booth would not allow him to become a Special Conservator of the Peace. The newly hired white officers were not treated in this manner.

35. On November 28, 2017, Hardy met with Vickie Richardson from Human Resources at LGMC and advised her that Booth was favoring the white officers and refusing to honor his promise to Hardy that Hardy would be grandfathered in as a Special Conservator of the Peace. Shortly after Hardy complained to Richardson about Booth, on the following day, Booth called

Hardy into a private meeting where Booth acknowledged he was trying different things in the department and asked Hardy to speak to the other officers on his behalf.

36. In mid-December 2017, Booth again insisted that Hardy attend Cardinal Academy to become a Special Conservator of the Peace, despite the fact that white security officers did not have to attend the Academy. Hardy refused to attend Cardinal Academy because Booth had previously told him he would be grandfathered in, and if he did attend the academy, he would lose his supervisory status and pay.

37. Hardy complained to Michael Lynch, Booth's direct supervisor, that Booth was insisting that Hardy attend the Academy to become a Special Conservator of the Peace. Lynch assured Hardy that he would look into it.

38. In December 2017, Booth informed Hardy that Booth would be doing the schedule and that he would be sure that Hardy and the other supervisors would rotate weekends off.

39. Meanwhile, Booth continued to demand that Hardy attend the Academy, and Hardy continued to communicate with Michael Lynch and Vickie Richardson (Human Resources) regarding Hardy's being grandfathered in as Special Conservator of the Peace. Lynch and Richardson did not follow up on Hardy's concerns in a timely manner.

40. On January 3, 2018, Lynch informed Hardy that Hardy would not have to attend the Academy due to his years of previous experience.

41. Though he had previously promised to do so, Booth did not rotate weekends off for Hardy and Hendricks when making the schedule. White supervisors did not work on the weekends. Hardy and Hendricks were regularly scheduled for weekends. Pursuant to Booth's schedule, Hardy was required to work without any days off for several weeks. On January 13,

2018, Hardy questioned Booth about this preferential treatment, and Booth told Hardy that Hardy may need to seek an alternative position.

42. On January 23, 2018, Hardy met with Booth to ask when the promised pay raise would become effective and advised Booth that Lynch had said that Hardy did not have to attend the Academy. Booth said Hardy must nevertheless attend the Academy.

43. On January 23, 2018, Lynch informed Hardy that he had not approved anything, despite his having earlier told Hardy that Hardy did not have to attend the Academy to become a Special Conservator of the Peace.

44. Also in January of 2018, Booth had an interview with a potential new hire and had a white employee leave his post unattended to come to the hospital and participate in the interview. Although Hardy had previously sat in on interviews with potential new hires and was actually in the hospital on the day of the interview, Booth did not call him to sit in.

45. On January 26, 2018, Lynch finally met with Hardy and Hendricks on the issues regarding Booth and his behavior towards the non-white employees in the security department. Lynch did not provide any satisfactory resolution to Booth's discriminatory behaviors.

### **Kirk Hendricks**

46. Kirk Hendricks was hired by Defendants in April 2014 for the role of Special Conservator of the Peace supervisor. At that time, Hendricks was a Certified Police Officer. Hendricks later went through the training to obtain his SCOP certification. The Circuit Court approved his application on November 13, 2014; thus, he became a certified SCOP. He had been told by LGMC that LGMC was planning to use SCOPs in its security department. For this reason, Hendricks left his previous position and came to LGMC. In 2016, he was promoted to

Assistant Manager of the Security Department and Lieutenant of Security.

47. In June 2017, Booth advised Hardy and Hendricks that they would receive a pay increase in October or November 2017, and their pay would double or triple at that time.

48. In September 2017, Booth informed Hardy and Hendricks that the pay increase would not be effective until January 2018.

49. In October 2017, Booth advised Hendricks that he would get paid like a Police Administrator, thus he would receive a significant increase in salary. Booth would bring in an administrative assistant to handle administrative duties.

50. Hendricks went to Michael Lynch, Booth's supervisor, at the end of November 2017 to discuss his frustrations with Booth, including Booth's giving higher pay to three new white employees, decreased morale in the department, and Booth's inability to effectively lead and manage the department.

51. Hendricks also discussed the problems with Booth with Human Resources.

52. On November 30, 2017, Hendricks discussed with Booth that the three new white officers were not following the chain of command, that they were using their phones while on duty, and that the new officers were not required to work weekends and holidays. No disciplinary action was taken by Booth toward the white officers violating company policies.

53. After a meeting on December 8, 2017 with Michael Lynch, Booth and Hendricks, Booth stripped Hendricks of some supervisory responsibilities and placed Hendricks on unpopular shifts for the last part of December.

54. Hendricks was forced to work a nine-hour shift on Christmas Day because Booth refused to schedule the newly hired white employees for holidays.

55. On December 26, 2017, Booth posted a new schedule placing Hendricks on the second shift, 2 p.m. – 10 p.m., for the remainder of December and the entire month of January 2018. White employees were not given this undesirable schedule. This schedule change effectively stripped Hendricks of his supervisory responsibilities and limited Hendricks' ability to participate in administrative meetings as well as the interview process for prospective new employees.

56. On December 29, 2017, Hendricks spoke to Vickie Richardson in Human Resources to alert her that the discrimination and retaliation were continuing, and that Booth had stripped away his management responsibilities and changed Hendricks' schedule.

57. On January 4, 2018, Hendricks attended a meeting with Michael Lynch, Regina Mabe, and Vickie Richardson. Lynch denied that there had been complaints about Booth and told Hendricks if you can't support Booth you will need to make some decisions. Lynch conveyed that if Hendricks could not work with Booth, Hendricks would need to find another job.

58. On January 8, 2018, Hendricks spoke to Vickie Richardson to again report Booth's discriminatory and retaliatory behavior. Richardson stated that Human Resources was not going any further with its investigation of Booth because Hendricks had said he was going to the COO or CEO.

59. Booth started weekly performance meetings with Hendricks on January 8, 2018. Booth confirmed in these meetings that he had taken control of the schedule and that this duty had been taken away from Hendricks.

60. On January 10, 2018, Booth wrote Hendricks up for a HIPAA violation for leaving a

notebook in the nurse's station, even though the notebook was in the nurse's station secure and closed. This write up was in retaliation for Hendricks' complaining to LGMC management regarding Booth's discriminatory behaviors. White employees were not written up for this type of infraction.

61. On January 17, 2018, Booth informed Hendricks that he was ineligible to be a SCOP, despite the fact that Hendricks had current SCOP and LEO certifications. Booth said that Hendricks could not be a SCOP because he was not affiliated with a police department. Upon information and belief, Booth had arranged to have the three new white males he hired covered under the Rocky Mount Police Department so that they could be SCOPs, but Booth did not offer to do this for Hendricks or the other Plaintiffs. Booth had put together a SCOP policy book at the direction of Mike Lynch based upon his changing requirements for this position.

62. On January 23, 2018, Booth demanded a meeting with Hendricks. The discussion became heated on both sides, and Booth reported unprofessional conduct by Hendricks to LGMC management. Hendricks appealed, and his appeal was rejected at the first level. He appealed to the next level, but LGMC has refused to act upon the appeal. LGMC has refused to act upon any complaints filed by Hendricks. Further, after Hendricks requested his personnel file, he discovered that the disciplinary write up for this incident, which had originally been done on February 8th, had been backdated to February 2nd, which date was prior to the date Hendricks filed charges with the EEOC on February 5th. Booth did not write up white officers for alleged disciplinary violations. Only Booth or a supervisor at a higher level in the organization than Booth were authorized to approve and put disciplinary violations into effect; Hendricks did not have this authority.

63. After Booth was either terminated or forced to resign on February 9, 2018, Hendricks, as the next in command, should have been moved into Booth's position as Manager of Security. Hendricks had been the Interim Supervisor before Booth was hired. However, LGMC placed Michael Lynch, a white male, in the position rather than Hendricks. Although Hendricks did move back to the day shift, he never regained his supervisory authority. Upon information and belief, LGMC upheld the disciplinary write up of Hendricks in order to justify its decision not to move Hendricks into Booth's position.

64. Hendricks' current base rate of pay is \$25.42 per hour. In January 2017, Booth had told Hendricks he wanted to increase Hendricks' salary to \$70,000 annually without overtime. Booth then retracted this promise and said that Hendricks would not be receiving the salary increase.

65. The new white employees Booth hired in November 2017 were given higher salaries than the Plaintiffs. John Braziel started at \$32.00/hour, John Call at \$28.00/hour, and Eric Smith at \$28.00/hour. Call and Smith had less law enforcement experience and seniority with LGMC than Hendricks. Hendricks and Braziel have similar years of experience. Despite the same or less experience, LGMC hired these three white males at a higher salary than that of Hendricks.

### **Rodrigo Contreras**

66. Rodrigo Contreras was hired as an Armed Security Officer for the Defendant in December 2016.

67. Contreras had the proper experience according to Virginia DCJS guidelines to obtain SCOP status. However, Booth refused to permit him to apply for SCOP status because he did not have police officer experience. Booth imposed this requirement for SCOP certification so

that only the newly hired white officers would attain SCOP status.

68. Booth accused Contreras of, and disciplined Contreras for, infractions that were either based upon false accusations or were not a violation of any policy. White officers were not subject to false accusations and disciplinary actions.

69. Booth removed Contreras from a special assignment without any basis or reason. White officers were not removed from special assignments.

70. Booth denied Contreras' request for Paid Time Off ("PTO"). However, white officers' requests for PTO were not denied. Booth required Contreras to continue working after Contreras had clocked out.

71. Booth required Contreras to cover shifts for which he was not scheduled so that white employees could have time off.

72. Contreras complained to Michael Lynch, Facility Operations Director, of the employment discrimination but received no response. No action was taken on his complaint of discrimination. LGMC consistently refused to act upon Plaintiffs' grievances related to racial and/or national origin discrimination by Booth.

73. Although the LGMC Attendance and Tardiness policy permits a seven-minute grace period to clock in after the official shift start time, Contreras was disciplined for clocking in during this seven-minute grace period. At Booth's direction, Contreras was given a verbal warning, and then was written up. Booth signed off on the disciplinary report. Contreras appealed the decision, which was upheld by LGMC management. Similarly situated white employees were not subject to written discipline for clocking in during the seven-minute grace period.



### **Shannon Finks**

74. Shannon Finks was hired as a part time security officer by Booth in February 2017. Booth told Finks that Finks would be considered for a full-time position as soon as one became available.

75. Shortly thereafter, a full-time position became available. Finks applied for the position, but Booth did not even interview Finks. Instead, Booth hired a white male from outside HCA for the position which he had promised to Finks. Booth also authorized this white male to go through SCOP training. Ultimately, Booth hired a total of four white males to serve as Special Conservators of the Peace at LGMC.

76. Finks was eligible to serve as a Special Conservator of the Peace as he had been a sworn Correctional Officer for the Western Virginia Regional Jail for over three years.

77. Finks applied to be a Special Conservator of the Peace. Booth deemed that Finks was not eligible because he was not a former police officer. Booth refused to count Finks' time as a Correctional Officer towards the qualifications, even though Finks was a sworn Law Enforcement Officer for the Commonwealth of Virginia and met both LGMC's and the Commonwealth of Virginia's requirements.

78. Booth again hired externally to fill these positions, hiring only white males.

79. On November 27, 2017, Finks contacted Vickie Richardson in Human Resources regarding Booth's discriminatory conduct. Richardson said she would look into the allegations and get back in touch with Finks. Finks contacted Richardson again on December 17, 2017 because he had not heard anything back from Richardson.

80. LGMC refused to investigate and act upon Finks' complaints regarding racial discrimination by Booth.

**Deion Sanders**

81. Deion Sanders was hired as an armed security officer for Defendant in November 2016.

82. On January 9, 2018, Sanders put in a request for Personal Time Off ("PTO") to Booth.

83. On January 14, 2018, Booth denied Sanders' PTO request. However, Booth permitted white officers to take time off as needed.

84. On January 15, 2018, Booth made false allegations regarding Sanders' performance, and instructed Hardy and Sgt. Lewis to investigate complaints that Sanders was not doing his job. Booth fabricated allegations that Sanders was spending large amounts of time in the kitchen, was sitting in the security office with the lights out for long periods of time, was coming in on days off with his badge and ID cards and hanging out in the kitchen, and that Sanders' girlfriend was with Sanders all night or nearly his entire shift. All of these allegations were completely false. Booth was aware that these allegations were false. Booth did not make false accusations and fabricate complaints against white officers.

85. When Hardy questioned Booth further about the alleged complaints, Booth admitted to Hardy that there were not really any complaints against Sanders, but Booth still wanted Hardy to investigate Sanders. Booth wanted Hardy to follow Sanders, trying to catch Sanders doing something wrong.

**Retaliation for Participation in Filing Complaint with the EEOC**

86. On January 11, 2018, LGMC ordered new uniforms for the SCOPs as well as for the regular security officers. The new uniforms said, "Lewis Gale Medical Center."

87. On February 5, 2018, Plaintiffs filed charges of racial and national origin discrimination with the EEOC as a result of the discrimination they had been subjected to by Booth and the management at LGMC.

88. Upon information and belief, at the time Plaintiffs filed their complaints, LGMC did not intend to outsource the security department at any time in the near future. The issue of outsourcing had been examined at length several years earlier, and LGMC had decided instead to use Special Conservators of the Peace, rather than outsourcing to a contractor such as G4S, so that outsiders would not be running the security department and non-employees would not have such authority in the hospital.

89. On February 14, 2018, after Booth was no longer employed, LGMC held a mandatory meeting with the security department. Chris Marlin, Vickie Richardson and Michael Lynch attended from LGMC management. Chris Marlin advised that the jobs of Hendricks and the other security officers were safe and that there were some outside sources "muddying up the waters." Upon information and belief, the outside source to which Marlin referred was the EEOC investigation of the Plaintiffs' complaints. Plaintiffs knew that their jobs were in jeopardy after this veiled reference by LGMC management to their EEOC complaints.

90. At a mandatory meeting on March 15, 2018, LGMC suddenly announced that the security department was being outsourced to G4S, effective May 20, 2018. The Plaintiffs' jobs were not guaranteed with G4S, and the Plaintiffs would have to reapply to continue their employment. However, LGMC did guarantee all current pay for those hired by G4S. This

guaranty has proven to be false. Upon information and belief, LGMC knew that Plaintiffs' pay with G4S was not guaranteed.

91. LGMC did not provide any information to the Plaintiffs about the transition process. The Plaintiffs had to contact G4S directly to see if and when G4S would be coming to LGMC to complete the hiring process.

92. In order to transition to a position with G4S, Plaintiffs were required to attend interviews, training and orientation. Lynch stated that anyone attending the orientation, interviewing, training, etc. at G4S would not be paid by LGMC, and Plaintiffs were required to use PTO to interview and attend any orientation, training, etc. with G4S.

93. Despite refusing to pay Plaintiffs for attendance at G4S interviews, training and orientation, such training and orientation appeared directly on Plaintiff's LGMC work schedules. Upon information and belief, LGMC alone or in conjunction with G4S scheduled the training/orientation and instructed the Plaintiffs when each of them was required to attend the trainings. Plaintiffs were not permitted to schedule the total of five days of training and orientation directly with G4S and were not permitted to choose when they wished to attend. LGMC's scheduling resulted in several of the Plaintiffs' being required to work double shifts in order to attend their scheduled training/orientations.

94. Plaintiffs were also required to use their PTO in order to attend the trainings, orientation and interviews with G4S, despite the fact that their attendance at these events was scheduled by LGMC and was for the benefit of LGMC. Under the LGMC policy HR CP.001, Compensable Time, any training that is done outside of working hours/off site that is done to "the benefit of the business entity" is to be considered paid hours. Plaintiffs were required to

attend these trainings, orientation and interviews with G4S for the benefit of LGMC. Although the Plaintiffs were paid minimum wage by G4S during the training and interviews, several of the Plaintiffs worked additional hours and double shifts at LGMC during the five days of training/orientation. In addition, the Plaintiffs received no pay from G4S during their day long orientation. Because they were required to use PTO, however, they did not receive overtime compensation, and they lost their PTO benefits for these days. Nor did Plaintiffs receive any compensation for the drive time to attend these sessions. Plaintiffs were required to attend at least 5 days of interviews, orientation, or training for G4S, for which they did not receive compensable time from LGMC.

95. Plaintiffs were hired to be security officers with G4S beginning on May 20, 2018. However, the salary offered by G4S is significantly lower than the salary the Plaintiffs received with LGMC. G4S has offered only \$16.00/hour to the Plaintiffs. Plaintiffs received extra compensation for shift differentials, weekend pay, overtime, and twelve-hour shifts at LGMC which increased their salaries significantly. Additionally, LGMC paid a large portion of the Plaintiffs' health insurance premiums. Upon information and belief, neither the overtime nor extra compensation for weekend work, shift differentials or twelve-hour shifts will be available to the Plaintiffs at G4S. Furthermore, G4S will not be paying as much towards health insurance, so the Plaintiffs' portion of this cost will increase. Thus, all Plaintiffs will suffer a significant decrease in salary with G4S. Plaintiffs will also lose 401K matching.

96. Upon information and belief, members of LGMC management communicated false and negative information regarding Hardy, Hendricks and Contreras to G4S to prevent Hardy, Hendricks and Contreras from being hired as supervisors for G4S. As a result of the false and

incorrect information communicated to G4S by LGMC, G4S refused to retain Hardy and Hendricks as supervisors and refused to hire Contreras in a supervisor position, despite the fact that they were qualified. Upon information and belief, LGMC instructed G4S that it did not want the current African-American supervisors (Hardy and Hendricks) to continue as supervisors once G4S takes over security, and did not want Contreras, a Latino/Hispanic male, to obtain a position as a supervisor.

97. Upon information and belief, LGMC removed Booth but then failed to repair the damage to the security department and to Plaintiffs' positions which Booth and LGMC's tacit authorization of Booth's discriminatory conduct had created. Upon learning that the Plaintiffs had filed complaints with the EEOC, Defendant retaliated by outsourcing the security department to G4S.

98. Defendant finalized the decision to outsource after learning of the complaints of racial and national origin discrimination and retaliated against the Plaintiffs by outsourcing their jobs, requiring Plaintiffs to reapply for their jobs, and requiring Plaintiffs to use PTO to attend the interviews, trainings and orientations with G4S. Defendant knew that Plaintiffs were not guaranteed positions with G4S, would suffer a decrease in salary, would lose overtime and shift differential opportunities, and would lose benefits with G4S. Defendant further interfered with the hiring process by communicating false and incomplete information to G4S so that Hardy, Hendricks and Contreras were not hired as supervisors for G4S.

99. Upon information and belief, the decision to outsource the security department at this time was made in retaliation for the complaints of discrimination made by the Plaintiffs. The decision to refuse to compensate Plaintiffs for attendance at required training, interviews and

orientations, and to require Plaintiffs to use PTO for these meetings was a continued part of the retaliation. LGMC's interference with the hiring process so that neither Hardy, Hendricks nor Contreras were hired as supervisors was also a continued part of the retaliation.

100. As a result of the Defendant's actions, Plaintiffs have suffered, and will continue to suffer, loss of income and benefits, impending loss of employment, loss of supervisory positions, loss of advancement opportunities, loss of accrued paid time off, loss of 401(k) match, loss of minimum wages and overtime, weekend and shift differential opportunities, increased insurance costs, loss of seniority, emotional pain, damage to reputation, inconvenience, mental anguish, loss of enjoyment of life, personal embarrassment and humiliation.

101. Plaintiffs have been, and continue to be, adversely affected by the actions of LGMC.

#### **Fair Labor Standards Act**

102. Plaintiffs are all hourly, non-exempt employees within the definition of the Fair Labor Standards Act, and therefore are entitled to minimum wages and to overtime compensation for any hours worked over 40 hours per week.

103. Defendant strongly encouraged, or required, Plaintiffs to clock in seven minutes prior to the start of their shift. Plaintiffs are prohibited from signing in more than seven minutes early. Plaintiffs were only permitted to clock out within the seven minute period prior to the end of their shift if their replacement had already reported for duty.

104. While Defendant permitted Plaintiffs to clock in after the start of their shift, Plaintiffs were eligible for discipline if they clocked in after the start of their shift. If Plaintiffs clocked in late, they could first be given a verbal warning, and then were written up. Although

the LGMC Attendance and Tardiness policy permits a seven-minute grace period to clock in without disciplinary action, LGMC prohibited this practice and disciplined employees in the Security department for clocking in after the start of their shift, including within this 7-minute period. Upon information and belief, other departments at LGMC permitted employees a 7-minute grace period both before and after the start of their shift. At Booth's direction, Hendricks was required to first give a verbal warning and then to write up any employee who clocked in within the seven-minute grace period after the start of their shift. Booth signed off on any disciplinary report. LGMC management approved the disciplinary reports for security department employees who clocked in during the seven-minute grace period, thus giving their approval of this improper procedure.

105. Defendant rounded Plaintiffs' work hours to the nearest quarter hour of time to their detriment. The rounding worked in favor of the Defendant. This practice resulted in Plaintiffs and all other similarly situated employees being denied wages, including overtime premiums.

106. The time keeping system maintained by the Defendant recorded the exact times all employees, including Plaintiffs, clocked in and out for each shift on each day.

107. Nevertheless, even though the Defendant had a record of the exact times the Plaintiffs worked, the Defendant used the rounded times for purposes of compensation.

108. As a result of the rounding, Plaintiffs were not compensated for the seven minutes prior to their shift each day that they were required to work.

109. This rounding did not average out to equally benefit the Defendant and the Plaintiffs over time.

110. Plaintiffs were required to attend five days of interviews, training and orientation



with G4S to continue their employment as armed security officers in the security department at LGMC.

111. Upon information and belief, LGMC alone or in conjunction with G4S scheduled the training and orientation sessions and directed the Plaintiffs to attend the training/orientation sessions on specific dates, including these dates on Plaintiffs' LGMC work schedules. Plaintiffs were not able to schedule the training/orientation sessions directly with G4S.

112. Plaintiffs' attendance at the training/orientation sessions was mandatory and was required by LGMC and G4S.

113. Plaintiffs were led to believe that their present working conditions or the continuance of their employment would be adversely affected by non-attendance.

114. The training/orientation sessions were directly related to the Plaintiffs' jobs in the security department at LGMC.

115. Although Plaintiffs did receive minimum wage from G4S, a lower rate than their regular rate of pay, for the four days of training, LGMC refused to pay Plaintiffs for attendance at the five days of training/orientation. Several Plaintiffs were required to work double shifts and/or to use PTO to attend the training/orientation sessions. Plaintiffs did not receive minimum wage, or other regular pay, for the one day of orientation.

116. As a direct and proximate result of Defendant's failure to properly calculate Plaintiffs' and other similarly situated current and former employees' overtime hours and rates, Defendant willfully and illegally underpaid such employees overtime wages due. Further, Defendant failed to pay minimum wages, or regular pay, for the one day of orientation.

117. The amounts due to Plaintiffs and other similarly situated current and former

employees are unknown to counsel for the Plaintiffs at the present time, as they are contained in the records of LGMC. These amounts will be known to counsel for the Plaintiffs after discovery of these records.

## COUNT I

### DISCRIMINATION IN VIOLATION OF TITLE VII

**(Plaintiffs Hendricks and Sanders in their individual capacities; Plaintiffs Hardy, Contreras and Fink will be added upon receipt of their right-to-sue letters)**

118. Plaintiffs incorporate by reference herein the preceding paragraphs of this Complaint.

119. Defendant is an employer within the meaning of § 701(b) of Title VII, 42 U.S.C. § 2000e(b).

120. Plaintiffs Keith Hardy, Kirk Hendricks, Shannon Finks and Deion Sanders are African American and as such are members of a group protected under Title VII from discrimination on the basis of race. Plaintiff Rodrigo Contreras is a Latino/Hispanic male and as such is a member of a group protected under Title VII from discrimination on the basis of race.

121. Plaintiffs were denied employment and advancement opportunities, disciplined more harshly, denied promotions, forced to work less desirable shifts, refused status as Special Conservators of the Peace, denied paid time off, unfairly accused of misconduct, stripped of responsibilities, retaliated against, and paid lower wages, because of their race and/or national origin, contrary to similarly situated white employees.

122. Plaintiffs were qualified for the positions they held, as well as for the promotions and positions which they were seeking, but were denied the promotions and positions because of their race and/or national origin. Plaintiffs were paid less than white employees with less

experience and were disciplined more harshly. Similarly situated white individuals were not treated in this manner.

123. These adverse employment actions, taken against the Plaintiffs because of their race and/or national origin, are in violation of Title VII of the Civil Rights Act.

124. Defendant's unlawful employment practices were malicious and committed in reckless disregard to Plaintiffs' rights, and Defendant engaged in these discriminatory practices with malice and reckless indifference to Plaintiffs' federally protected rights, in violation of Title VII of the Civil Rights Act of 1964, as amended.

125. Defendant intentionally, knowingly and willfully discriminated on racial and national origin grounds and with a reckless disregard of Plaintiffs' federally protected civil rights. The acts of Defendant as set forth above were wanton, malicious, oppressive, shocking, outrageous, willful, intolerable and offend generally accepted standards of decency. Plaintiffs are entitled to an award of punitive damages.

126. As a result of the acts of the Defendant as set forth above, Plaintiffs have suffered and will continue to suffer loss of income and benefits, potential loss of employment, loss of seniority, loss of advancement opportunities, emotional pain, inconvenience, mental anguish, loss of enjoyment of life, damage to reputation, personal embarrassment and humiliation.

## **COUNT II**

### **RACIAL DISCRIMINATION IN VIOLATION OF 42 U.S.C. SEC. 1981**

**(All Plaintiffs in their individual capacities)**

127. Plaintiffs incorporate by reference herein the preceding paragraphs of this Complaint.

128. Plaintiffs are African Americans and Latino/Hispanic males and as such are members of a protected class pursuant to 42 U.S.C. § 1981.

129. 42 U.S.C. § 1981 guarantees all persons the right to make, enforce, modify, perform and terminate contracts, as well as the right to the full and equal benefit of all laws as is enjoyed by white persons.

130. Defendant violated 42 U.S.C. § 1981 when it refused Plaintiffs the right to make and enforce the same contract for employment, and the benefits, privileges and terms and conditions of that contract, in a manner enjoyed by white employees. Defendant violated 42 U.S.C. § 1981 when it discriminated against the Plaintiffs on the basis of race and/or national origin.

131. Plaintiffs were denied employment and advancement opportunities, exposed to unfair discipline, denied promotions, forced to work less desirable shifts, refused status as Special Conservators of the Peace, retaliated against and paid lower wages, because of their race and/or national origin, contrary to similarly situated white employees.

132. Plaintiffs were qualified for the positions they held, as well as for promotions and positions which they were seeking, but were denied the promotions and positions they were seeking, paid lower wages, and disciplined more harshly because of their race and/or national origin. Similarly situated white individuals were not treated in this manner.

133. These adverse employment actions, taken against the Plaintiffs because of their race and/or national origin, violate 42 U.S.C. § 1981.

134. Defendant's unlawful employment practices were malicious and committed in reckless disregard to Plaintiffs' rights, and Defendant engaged in these discriminatory practices

with malice and reckless indifference to Plaintiffs' federally protected rights, all in violation of 42 U.S.C. § 1981.

135. Defendant intentionally, knowingly and willfully discriminated on racial and national origin grounds and with a reckless disregard of Plaintiffs' federally protected civil rights. The acts of Defendant as set forth above were wanton, malicious, oppressive, shocking, outrageous, willful, intolerable and offend generally accepted standards of decency. Plaintiffs are entitled to an award of punitive damages.

136. As a result of the acts of LGMC as set forth above, Plaintiffs have suffered and will continue to suffer loss of income and benefits, potential loss of employment, loss of advancement opportunities, emotional pain, inconvenience, damage to reputation, mental anguish, loss of enjoyment of life, personal embarrassment and humiliation.

### **COUNT III**

#### **RETALIATION IN VIOLATION OF TITLE VII**

**(Plaintiff Hendricks in his individual capacity; Plaintiffs Sanders, Hardy, Contreras and Fink will be added upon receipt of their right-to-sue letters)**

137. Plaintiffs incorporate by reference herein the previous paragraphs of this Complaint.

138. Plaintiffs complained to LGMC management of racial and national origin discrimination in late 2017 and early 2018. In February 2018, Plaintiffs filed complaints of racial and national origin discrimination with the EEOC.

139. After Plaintiff Hendricks met with Booth's supervisor, Michael Lynch, to report racial discrimination on the part of Booth, Booth stripped Hendricks of his supervisory responsibilities, assigned Hendricks to unpopular shifts for the last part of December, including on Christmas Day, and placed Hendricks on the second shift, further removing his supervisory

responsibilities and limiting his ability to participate in department meetings, which took place in the mornings, or interviews of prospective new hires. After Plaintiff Hendricks complained to Vickie Richardson in Human Resources regarding Booth's discriminatory and retaliatory behavior, Booth started weekly performance meetings with Hendricks where he confirmed he had removed scheduling duties from Hendricks and informed Hendricks that he was ineligible to be a SCOP even though he had previously earned his SCOP certifications. Even after Booth was either terminated or forced to resign, LGMC did not restore Hendricks' supervisory authority. Such reductions in Plaintiff Hendricks' job responsibilities and supervisory role constituted adverse employment actions, taken in response to Hendricks' opposition to the racial discrimination.

140. Further, after Plaintiffs complained of the racial and national origin discrimination, LGMC also retaliated by outsourcing the security department to G4S. This decision to outsource the Plaintiffs' jobs, such that Plaintiffs were not guaranteed positions with the new company, would be required to reapply for their jobs, would not have the same seniority, would receive lower wages, would be deprived of opportunities for shift differentials, weekend, twelve-hour and overtime hours, and would pay more for health insurance, was made in direct response to Plaintiffs' complaints regarding racial and national origin discrimination. Outsourcing of the Plaintiffs' positions constitutes an adverse employment action, taken in retaliation for Plaintiffs' protected conduct. It is therefore unlawful.

141. LGMC's retaliatory actions, including through its agent Booth, include, but are not limited to:

- a. Reducing and/or removing supervisory responsibilities from Plaintiff

Hendricks, including, but not limited to, by stripping him of supervisory authority, changing his shift which prevented him from attending administrative department meetings, and finding him ineligible to be a SCOP notwithstanding the fact that he had been hired for that role and had earned his SCOP certification;

b. Outsourcing the security department, knowing that it would result in loss of seniority, reduced wages and benefits and possible loss of employment for the Plaintiffs;

c. Refusing to facilitate the transition;

d. Requiring the Plaintiffs to use PTO for orientation, trainings, and interviews with G4S rather than paying the Plaintiffs;

e. Refusing to allow Plaintiffs to attend scheduled interviews and training when they were originally planned and thereby requiring rescheduling of such interviews and training;

f. Interfering with the hiring process by communicating false and negative information about the Plaintiffs to G4S so that Plaintiffs have been denied supervisory roles with G4S; and

g. Refusing to pay Plaintiffs for benefits already accrued.

142. Such actions on the part of LGMC constitute continued discrimination, adverse employment actions, and retaliation and are therefore unlawful. This treatment has been solely the result of Plaintiffs asserting their rights by complaining of the racial and national origin discrimination to LGMC management and the EEOC.

143. Defendant intentionally, knowingly and willfully retaliated against Plaintiffs for

complaining of racial and national origin discrimination with a reckless disregard of Plaintiffs' federally protected civil rights. The acts of Defendant as set forth above were wanton, malicious, oppressive, shocking, outrageous, willful, intolerable and offend generally accepted standards of decency. Plaintiffs are thus entitled to an award of punitive damages.

144. As a result of the acts of the Defendant as set forth above, Plaintiffs have suffered and will continue to suffer loss of income and benefits, potential loss of employment, loss of supervisory positions, loss of advancement opportunities, loss of overtime and shift differential opportunities, loss of matching 401(k), increased health insurance costs, damage to reputation, emotional pain, inconvenience, mental anguish, loss of enjoyment of life, personal embarrassment and humiliation.

#### **COUNT IV**

#### **RETALIATION IN VIOLATION OF 42 U.S.C. § 1981**

**(All Plaintiffs in their individual capacities)**

145. Plaintiffs incorporate by reference herein the preceding paragraphs of this Complaint.

146. Plaintiffs are African Americans and Latino/Hispanic males and as such are members of a protected class pursuant to 42 U.S.C. § 1981.

147. 42 U.S.C. § 1981 guarantees all persons the right to make, enforce, modify, perform and terminate contracts, as well as the right to the full and equal benefit of all laws as is enjoyed by white persons.

148. Plaintiffs engaged in protected activity and opposition to practices made unlawful under 42 U.S.C. § 1981 when they complained to LGMC management and the EEOC regarding



racial and national origin discrimination.

149. Defendant violated 42 U.S.C. § 1981 when it retaliated against Plaintiffs for engaging in such protected activity.

150. After Plaintiff Hendricks met with Booth's supervisor, Michael Lynch, to report racial discrimination on the part of Booth, Booth stripped Hendricks of his supervisory responsibilities, assigned Hendricks to unpopular shifts for the last part of December, including on Christmas Day, and placed Hendricks on the second shift, further removing his supervisory responsibilities and limiting his ability to participate in department meetings, which took place in the mornings, or interviews of prospective new hires. After Plaintiff Hendricks complained to Vickie Richardson in Human Resources regarding Booth's discriminatory and retaliatory behavior, Booth started weekly performance meetings with Hendricks where he confirmed he had removed scheduling duties from Hendricks and informed Hendricks that he was ineligible to be a SCOP even though he had previously earned his SCOP certifications. Even after Booth was either terminated or forced to resign, LGMC did not restore Hendricks' supervisory authority. Such reductions in Plaintiff Hendricks' job responsibilities and supervisory role constituted adverse employment actions, , taken in response to Hendricks' opposition to the racial discrimination.

151. Further, after Plaintiffs complained of the racial and national origin discrimination, LGMC retaliated by outsourcing the security department to G4S. This decision to outsource the Plaintiffs' jobs, such that Plaintiffs were not guaranteed positions with the new company, would be required to reapply for their jobs, would not have the same seniority, would not have the opportunities for shift differentials, weekend, twelve-hour and overtime pay, would receive

lower wages, and would pay more in health insurance premiums, was made in direct response to Plaintiffs' complaint regarding racial and national origin discrimination. Outsourcing of the Plaintiffs' positions constitutes an adverse employment action, taken in retaliation for Plaintiffs' protected conduct. It is therefore unlawful.

152. LGMC's retaliatory actions include, but are not limited to:

- a. Reducing and/or removing supervisory responsibilities from Plaintiff Hendricks, including, but not limited to, by stripping him of supervisory authority, changing his shift which prevented him from attending administrative department meetings, and finding him ineligible to be a SCOP notwithstanding the fact that he had been hired for that role and had earned his SCOP certification;
- b. Outsourcing the security department, knowing that it would result in loss of seniority, reduced wages and benefits and possible loss of employment for the Plaintiffs;
- c. Refusing to facilitate the transition;
- d. Requiring the Plaintiffs to take PTO for orientation, trainings, and interviews with G4S rather than paying the Plaintiffs;
- e. Refusing to allow Plaintiffs to attend scheduled interviews and training when they were originally planned and thereby requiring rescheduling of such interviews and training;
- f. Interfering with the hiring process by communicating false and negative information about the Plaintiffs to G4S so that Plaintiffs have been denied supervisory roles with G4S; and

g. Refusing to pay Plaintiffs for benefits already accrued.

153. Such actions on the part of LGMC constitute continued discrimination, adverse employment actions, and retaliation and are therefore unlawful. This treatment has been solely the result of Plaintiffs asserting their rights by complaining of the racial and national origin discrimination to LGMC management and the EEOC.

154. Defendant intentionally, knowingly and willfully retaliated against Plaintiffs for complaining of racial and national origin discrimination with a reckless disregard of Plaintiffs' federally protected civil rights. The acts of Defendant as set forth above were wanton, malicious, oppressive, shocking, outrageous, willful, intolerable and offend generally accepted standards of decency. Plaintiffs are thus entitled to an award of punitive damages.

155. As a result of the acts of the Defendant as set forth above, Plaintiffs have suffered and will continue to suffer loss of income and benefits, potential loss of employment, loss of supervisory positions, loss of overtime and shift differential opportunities, loss of advancement opportunities, loss of matching 401(k), increased health insurance costs, damage to reputation, emotional pain, inconvenience, mental anguish, loss of enjoyment of life, personal embarrassment and humiliation.

## **COUNT V**

### **VIOLATIONS OF FAIR LABOR STANDARDS ACT**

**(All Plaintiffs in their individual and representative capacities)**

156. Plaintiffs, on behalf of themselves and all similarly situated current and former employees, incorporate by reference herein the preceding paragraphs of this Complaint.

157. Plaintiffs bring Count V, their FLSA claim, as an opt-in collective action pursuant

to 29 U.S.C. § 216(b) on behalf of all similarly situated current and former employees.

158. Plaintiffs and all similarly situated current and former employees were hourly, non-exempt employees entitled to minimum wages and overtime premiums pursuant to the Fair Labor Standards Act, 29 U.S.C. § 213.

159. Defendant is and has at all relevant times been an employer subject to the provisions of the FLSA.

160. The FLSA requires that covered employees receive overtime compensation “not less than one and one-half times” their regular rate of pay for hours worked over forty hours in a workweek. 29 U.S.C. § 207. The FLSA also requires that covered employees receive a minimum wage for all hours worked. 29 U.S.C. § 206.

161. Plaintiffs and all similarly situated current and former employees were strongly encouraged and/or required to clock in seven minutes prior to the start of their shifts. Plaintiffs and all similarly situated current and former employees were not permitted to clock in earlier than seven minutes prior to the start of their shifts. Plaintiffs and all similarly situated current and former employees were disciplined if they clocked in after the start of their shift. Plaintiffs were not given a seven-minute grace period to clock in.

162. Defendant employed a rounding policy which includes rounding down to the nearest quarter hour. This rounding policy resulted in the Plaintiffs and all similarly situated current and former employees who clocked in up to seven minutes early not being compensated until their shift start time.

163. Defendant had a department-wide policy that authorized discipline and/or subjected Plaintiffs and all similarly situated employees to discipline for arriving tardy to work.

164. The time keeping system maintained by the Defendant recorded the exact times all employees, including Plaintiffs, clocked in and out for each shift on each day. Nevertheless, even though the Defendant had a record of the exact times the Plaintiffs worked, the Defendant used the rounded times for purposes of compensation.

165. Defendant's rounding policy did not average out over time and resulted in Defendant not paying its employees for all time worked. This practice resulted in Plaintiffs and all similarly situated current and former employees being denied wages, including overtime premiums.

166. Defendant willfully and illegally rounded Plaintiffs' and other similarly situated current and former employees' work time down to the nearest quarter of an hour.

167. Plaintiffs were required to attend five days of training/orientation with G4S in order to maintain their employment in the security department of LGMC. Attendance was not voluntary.

168. Upon information and belief, LGMC alone or in conjunction with G4S scheduled the training/orientation sessions and required Plaintiffs to attend on specific dates.

169. Plaintiffs were led to believe that their present working conditions or the continuance of their employment would be adversely affected by non-attendance.

170. LGMC refused to pay Plaintiffs for the five days of training/orientation sessions which Plaintiffs were required to attend, instead requiring them to use PTO.

171. The five days of training/orientation were directly related to the Plaintiffs' jobs.

172. LGMC and G4S were Plaintiffs' joint employers for the purposes of the Fair Labor Standards Act.

173. Plaintiffs' employment by G4S was not completely disassociated from employment by LGMC. The Plaintiffs' attendance at the training/orientation sessions is considered as employment by LGMC for purposes of the Fair Labor Standards Act.

174. LGMC is responsible for compliance with all applicable provisions of the Fair Labor Standards Act, including compensation for Plaintiffs' attendance at the training/orientation sessions.

175. LGMC did not fully compensate Plaintiffs for attendance at the training/orientation sessions. Plaintiffs were required to use PTO in order to receive compensation. Several Plaintiffs were required to work double shifts in order to attend the training/orientation sessions, but did not receive appropriate compensation, instead receiving only minimum wage from G4S for four of the five days of training and no pay for the one day of orientation.

176. Plaintiffs and all similarly situated current and former employees are and/or were victims of a common, department-wide compensation policy that fails to record and compensate all time that Plaintiffs were required to work, including time worked pre-shift, and time spent at mandatory training/orientation sessions.

177. Defendant's policy and practice is to willfully deny its hourly, non-exempt employees overtime pay for all hours worked including hours worked beyond forty hours in a workweek.

178. These violations of the FLSA were willful and entitle the Plaintiffs and those similarly situated current and former employees to double the amount of unpaid minimum wages and overtime compensation due as a penalty.

179. Defendant has acted neither in good faith nor with reasonable grounds to believe

that its actions and omissions complied with the FLSA.

180. As a result of the Defendant's violations of the FLSA's minimum wage and overtime provisions, Defendant has unlawfully withheld minimum wages and overtime wages from Plaintiffs and all similarly situated current and former employees.

181. Plaintiffs and other similarly situated current and former employees have been damaged in the amount of unpaid minimum wages and overtime compensation and interest from the time improper wage payments were made to the present time.

182. Plaintiffs and other similarly situated current and former employees have been denied payment for hours worked and overtime hours under the same policy, plan or scheme.

183. As a result of the foregoing unlawful conduct and Defendant's willful failure to pay overtime in violation of Section 7 of the FLSA (29 U.S.C. § 207), Plaintiffs and other similarly situated current and former employees further seek liquidated damages in an amount equal to the amount of unpaid minimum wages and overtime compensation.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, individually and on behalf of similarly situated current and former employees, request judgment as follows:

A. For each of Counts I, II, III, and IV, Plaintiffs, individually:

1. Ask that this Court order the Defendant, for each count, to make each Plaintiff whole by providing compensation for pecuniary, as well as non-pecuniary losses, including loss of income and benefits, emotional pain and distress, humiliations, suffering, inconvenience, loss of quality of life, mental anguish, and any other such claims allowed by law in the amount of ONE MILLION AND 00/100

DOLLARS (\$1,000,000.00);

2. Ask that this Court grant each Plaintiff punitive damages against the Defendant for each count, in the amount of ONE MILLION and 00/100 DOLLARS (\$1,000,000.00);

3. Ask that this Court order the Defendant to pay each Plaintiff reasonable attorney's fees, costs incurred in prosecuting this action, pre-judgment and post-judgment interest, and any other costs and fees deemed proper.

B. For Count V, Plaintiffs, individually and on behalf of those similarly situated current and former employees:

1. Ask the court to enter judgment declaring the acts and practices complained of herein are willful violations of the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*;

2. Provide notice to those current and former employees similarly situated to Plaintiffs of the existence of this FLSA collective or representative action, the claims set forth herein, and further provide notice of their right to opt-in to this action pursuant to 29 U.S.C. § 216(b);

3. Enter judgment awarding Plaintiffs, and those similarly situated current and former employees, actual and compensatory damages in the amount shown to be due for unpaid minimum wages and overtime compensation, with interest, against the Defendant;

4. Enter judgment awarding Plaintiffs, and those similarly situated current and former employees an equal amount (inclusive of unpaid minimum wages and



overtime for all hours worked), in statutorily allowed liquidated damages for willful violations of the Act;

5. Enter judgment awarding Plaintiffs, and those similarly situated current and former employees, reasonable attorney's fees and costs of suit; and

6. Grant such other and further relief as this Court deems necessary and proper.

**JURY TRIAL DEMANDED**

Plaintiffs demand a trial by jury of all issues so triable.

Respectfully submitted,

KEITH HARDY, KIRK HENDRICKS, RODRIGO CONTRERAS, SHANNON FINKS, DEION SANDERS and all other similarly situated current and former employees

By: /s/ John P. Fishwick, Jr.  
Of Counsel

John P. Fishwick, Jr., Esquire (VSB #23285)  
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101 South Jefferson Street, Suite 500  
Roanoke, Virginia 24011  
(540) 345-5890 Telephone  
(540) 343-5789 Facsimile

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.

I. (a) PLAINTIFFS
Keith Hardy, individually and on behalf of all other employees and former employees of Lewis Gale Medical Center, LLC similarly situated, et al.
(b) County of Residence of First Listed Plaintiff Roanoke
(c) Attorneys (Firm Name, Address, and Telephone Number) John P. Fishwick, Jr. Fishwick & Associates PLC, 101 S. Jefferson Street, Suite 500 Roanoke, VA 24011, 540-345-5890

DEFENDANTS
Lewis Gale Medical Center, LLC
County of Residence of First Listed Defendant
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
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with 5 main columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Each column contains a list of legal categories with checkboxes.

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): Title VII of Civil Rights Act of 1964, 42 U.S.C. section 2000e et seq., 29 U.S.C. Section 201, et seq., 42 USC section 1981
Brief description of cause: Racial discrimination and retaliation

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMANDS 40,000,000.00
CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [ ] No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER
DATE 5/16/18 SIGNATURE OF ATTORNEY OF RECORD

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Kirk A. Hendricks  
P.O. Box 1223  
Dublin, VA 24084

From: Richmond Local Office  
400 North 8th Street  
Suite 350  
Richmond, VA 23219

On behalf of person(s) aggrieved whose identity is  
CONFIDENTIAL (29 CFR §1601.7(e))

EEOC Charge No.

EEOC Representative

Telephone No.

438-2018-00612

Gabrielle M. Corbett,  
Investigator

(804) 771-2139

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

**Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act:** This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

**Equal Pay Act (EPA):** EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

*Gabrielle M. Corbett* For

FEB 13 2018

Enclosures(s)

Daron L. Calhoun,  
Director

(Date Mailed)

cc:

Robert Maloney  
Assistant Admin Ethic & Complaints  
HCA  
1900 Electric RD  
Salem, VA 24153

**U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION**  
**NOTICE OF RIGHT TO SUE (ISSUED ON REQUEST)**

To: **Kirk A. Hendricks**  
**P.O. Box 1223**  
**Dublin, VA 24084**

From: **Richmond Local Office**  
**400 North 8th Street**  
**Suite 350**  
**Richmond, VA 23219**

On behalf of person(s) aggrieved whose identity is  
**CONFIDENTIAL (29 CFR §1601.7(a))**

EEOC Charge No.	EEOC Representative	Telephone No.
<b>438-2018-00969</b>	<b>Gabrielle M. Corbett,</b> <b>Investigator</b>	<b>(804) 771-2139</b>

*(See also the additional information enclosed with this form.)*

**NOTICE TO THE PERSON AGGRIEVED:**

**Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), or the Genetic Information Nondiscrimination Act (GINA):** This is your Notice of Right to Sue, issued under Title VII, the ADA or GINA based on the above-numbered charge. It has been issued at your request. Your lawsuit under Title VII, the ADA or GINA **must be filed in a federal or state court WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

- More than 180 days have passed since the filing of this charge.
- Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.
- The EEOC is terminating its processing of this charge.
- The EEOC will continue to process this charge.

**Age Discrimination in Employment Act (ADEA):** You may sue under the ADEA at any time from 60 days after the charge was filed until 90 days after you receive notice that we have completed action on the charge. In this regard, the paragraph marked below applies to your case:

- The EEOC is closing your case. Therefore, your lawsuit under the ADEA **must be filed in federal or state court WITHIN 90 DAYS of your receipt of this Notice**. Otherwise, your right to sue based on the above-numbered charge will be lost.
- The EEOC is continuing its handling of your ADEA case. However, if 60 days have passed since the filing of the charge, you may file suit in federal or state court under the ADEA at this time.

**Equal Pay Act (EPA):** You already have the right to sue under the EPA (filing an EEOC charge is not required.) EPA suits must be brought in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

If you file suit, based on this charge, please send a copy of your court complaint to this office.

On behalf of the Commission

 FOR

**Daron L. Calhoun,**  
**Director**

**APR 13 2018**

*(Date Mailed)*

Enclosures(s)

CC: **Mark Edwards**  
**Attorney**  
**2501 Park Plaza**  
**Nashville, TN 37203**

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Deion E. Sanders
2167 Mulberry Street
Salem, VA 24153

From: Richmond Local Office
400 North 8th Street
Suite 350
Richmond, VA 23219

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No. 438-2018-00705
EEOC Representative Vickki Y. Sumlin, Investigator
Telephone No. (804) 771-2148

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
Your allegations did not involve a disability as defined by the Americans With Disabilities Act.
The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
[X] The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

Signature of Daron L. Calhoun, Director
On behalf of the Commission

APR - 5 2018

Enclosures(s)

Daron L. Calhoun, Director

(Date Mailed)

cc: Chris Marlin
Vice President, Human Resources
LEWIS GALE HOSPITAL
1900 Electric Road
Salem, VA 24153

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division

KEITH HARDY, KIRK HENDRICKS,  
RODRIGO CONTRERAS, SHANNON FINKS,  
and DEION SANDERS, for themselves  
and on behalf of all other employees and former  
employees of LEWIS GALE MEDICAL  
CENTER, LLC similarly situated,

Plaintiffs

v.

Civil Action No. 7:18CV218

LEWIS GALE MEDICAL CENTER, LLC,

Defendant.

CONSENT TO BECOME PARTY PLAINTIFF

I hereby give my written consent to become a plaintiff in the case of *Hardy et. al. v.*

*Lewis Gale Medical Center, LLC.*

  
Kirk Hendricks

Date: 05/16/18

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division

KEITH HARDY, KIRK HENDRICKS,  
RODRIGO CONTRERAS, SHANNON FINKS,  
and DEION SANDERS, for themselves  
and on behalf of all other employees and former  
employees of LEWIS GALE MEDICAL  
CENTER, LLC similarly situated,

Plaintiffs

v.

Civil Action No.

LEWIS GALE MEDICAL CENTER, LLC,

Defendant.

CONSENT TO BECOME PARTY PLAINTIFF

I hereby give my written consent to become a plaintiff in the case of *Hardy et. al. v.*

*Lewis Gale Medical Center, LLC.*



Rodrigo Contreras

Date: 05/16/2018

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division**

**KEITH HARDY, KIRK HENDRICKS,  
RODRIGO CONTRERAS, SHANNON FINKS,  
and DEION SANDERS, for themselves  
and on behalf of all other employees and former  
employees of LEWIS GALE MEDICAL  
CENTER, LLC similarly situated,**

**Plaintiffs**

v.

**Civil Action No.**

**LEWIS GALE MEDICAL CENTER, LLC,**

**Defendant.**

**CONSENT TO BECOME PARTY PLAINTIFF**

I hereby give my written consent to become a plaintiff in the case of *Hardy et. al. v.*

*Lewis Gale Medical Center, LLC.*



Shannon Finks

Date: 05/16/18



IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division

KEITH HARDY, KIRK HENDRICKS,  
RODRIGO CONTRERAS, SHANNON FINKS,  
and DEION SANDERS, for themselves  
and on behalf of all other employees and former  
employees of LEWIS GALE MEDICAL  
CENTER, LLC similarly situated,

Plaintiffs

v.

Civil Action No.

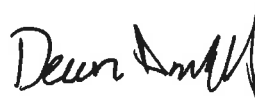
LEWIS GALE MEDICAL CENTER, LLC,

Defendant.

CONSENT TO BECOME PARTY PLAINTIFF

I hereby give my written consent to become a plaintiff in the case of *Hardy et. al. v.*

*Lewis Gale Medical Center, LLC.*



Deion Sanders

Date: 5/10/18

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Roanoke Division

**KEITH HARDY, KIRK HENDRICKS,  
RODRIGO CONTRERAS, SHANNON FINKS,  
and DEION SANDERS, for themselves  
and on behalf of all other employees and former  
employees of LEWIS GALE MEDICAL  
CENTER, LLC similarly situated,**

**Plaintiffs**

v.

**Civil Action No.**

**LEWIS GALE MEDICAL CENTER, LLC,**

**Defendant.**

**CONSENT TO BECOME PARTY PLAINTIFF**

I hereby give my written consent to become a plaintiff in the case of *Hardy et. al. v. Lewis Gale Medical Center, LLC.*



Keith Hardy

5/16/18

Date:

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lewis Gale Medical Center in Virginia Sued Over Alleged Racial Discrimination, Wage and Hour Issues](#)

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