

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

MARIE MARTHE JEAN BAPTISTE,
on her own behalf and others similarly situated,

Plaintiff,

v.

FLORIDA CARE ASSISTED LIVING, INC.,
a Florida Profit Corporation, DBA VICTORIA GARDENS ALF
and COLLETTE BURGESS, individually,

Defendants.

_____ /

COMPLAINT

1. Plaintiff, MARIE MARTHE JEAN BAPTISTE (hereinafter referred to as "Plaintiff"), was an employee of Defendants, FLORIDA CARE ASSISTED LIVING, INC., a Florida profit corporation, dba VICTORIA GARDENS ALF, and COLLETTE BURGESS, individually (collectively referred to as "Defendants"), and brings this action on behalf of herself and other current and former employees of Defendants similarly situated to her for overtime compensation and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b).

2. Plaintiff performed non-exempt work as a laborer and related activities for Defendants at Defendants' assisted living facility known at VICTORIA GARDENS ALF located in Riviera Beach, Florida.

3. MARIE MARTHE JEAN BAPTISTE was employed as a housekeeper and home health aide at VICTORIA GARDENS ALF. Plaintiff assisted the residents with bathing, toileting assistance, dressing, hygiene, and self-administration of medication, performed housekeeping and laundry services, provided companionship, and assisted residents with feeding at the assisted living facility.

4. MARIE MARTHE JEAN BAPTISTE also worked overnights performing the same duties identified in paragraph 3.

5. At all times material hereto, Plaintiff and similarly situated employees were employees of Defendants within the meaning of the FLSA.

6. The services provided by Defendants to its elderly and disabled residents constituted healthcare services.

7. Employees of Defendants assisted the residents with bathing, dressing, hygiene, and self-administration of medication, health monitoring, healthcare services, performed housekeeping and laundry services, provided companionship, prepared meals, and traveled with residents to various destinations.

8. Plaintiff and similarly situated employees regularly handled and worked with goods and materials moved in or produced in commerce.

9. Plaintiff handled and worked with medication, cleaning supplies, food items, cleaning equipment, linen materials, vehicles, and mobility equipment.

10. Plaintiff was employed by Defendants during the three year period preceding the filing of this lawsuit.

11. Plaintiff, MARIE MARTHE JEAN BAPTISTE, worked with Defendants from August 2016 until November 17, 2017.

12. Plaintiff routinely worked more than forty (40) hours per week for Defendants.

13. During certain pay periods of Plaintiff's employment, Plaintiff would average between five (5) to ten (10) hours of overtime.

14. Defendants failed to compensate Plaintiff for all overtime hours worked.

15. Defendants would routinely deducted from Plaintiff's compensation in violation of the FLSA.

16. Defendants failed to properly credit Plaintiff for all hours worked.
17. Plaintiff worked as an hourly paid employee for Defendants.
18. Defendants would make improper deductions from Plaintiff's pay.
19. FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF is an assisted living facility primarily engaged in the care of the sick, aged, and the mentally ill or defective elderlies who reside at the facility.
20. FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF is licensed under Florida's Assisted Living Facilities Act, Fla. Stat. 429.01 et seq., and is primarily engaged in providing services to the elderly.
21. The services provided by Defendants identified in paragraphs 3, 4, 5, 8, 22 and 23 necessitated that Defendants' employees work with goods and materials that have traveled or produced in commerce.
22. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1337 and by Title 29 U.S.C. § 216(b). At all times pertinent to this Complaint FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF was and is an enterprise engaged in interstate commerce or in the production of goods for commerce.
23. The services provided by Defendants necessitated that Defendants engage in interstate commerce.
24. Plaintiff was individually engaged in commerce due to the nature of her work.
25. This action is brought to recover from Defendants overtime compensation, unpaid wages, minimum wage violation, liquidated damages, and the costs and reasonable attorney's fees under the provisions of Title 29 U.S.C. § 216(b).
26. At all times material hereto, individual Defendant, COLLETTE BURGESS, was and/or is an individual resident of the State of Florida who owns, manages, directs, and/or operates FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF and who regularly exercised the authority to hire

and fire employees, determine the work schedules of employees, set the rate pay of employees, manage daily or weekly activities of employees, and control the finances and operations of FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF. By virtue of such control and authority, PATRICIA S. RENGASAWMY is an employer of Plaintiff as such term is defined by the FLSA, 29 U.S.C. §201 et seq.

27. Plaintiff reported directly to COLLETTE BURGESS.

28. COLLETTE BURGESS was Plaintiff's administrator during the period of employment referenced herein.

29. COLLETTE BURGESS is also an officer of FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF.

30. Plaintiff reported all employment related concerns to PATRICIA S.

31. Plaintiff repeatedly requested for COLLETTE BURGESS to pay her at time and one-half for her overtime hours worked. Plaintiff also requested that PATRICIA S. RENGASAWMY not deduct from her compensation.

32. The additional persons who may become Plaintiffs in this action are non-exempt employees and/or former employees of Defendants who worked similar positions as Plaintiff and worked in excess of forty (40) hours in a work-week on or after December 2014, but were not properly paid for all hours worked in excess of forty (40) during one or more work weeks or current and/or former employees who were not credited for all hours worked during their employment with Defendants.

33. At all times pertinent to this Complaint, Defendants failed to comply with Title 29 U.S.C. § 201-209, in that Plaintiff and those similarly situated to Plaintiff performed services for Defendants for which no provisions were made by the Defendants to properly pay Plaintiff for those hours worked in excess of forty (40) at an overtime rate of one and one-half times their regular rate of pay for all the overtime hours

worked, based in part upon Defendants' custom and practice of failing to credit all overtime hours actually worked and failing to calculate and pay overtime wages accurately.

34. Jurisdiction is conferred on this Court by Title 28 U.S.C. § 1337 and by Title 29 U.S.C. § 216(b). At all times pertinent to this Complaint, FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF is an enterprise engaged in interstate commerce or in the production of goods for commerce.

35. Based upon information and belief, the annual gross sales volume of FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF was in excess of \$500,000.00 per annum during the relevant time period.

36. As a result of Defendants' actions identified herein Plaintiff and other similarly situated employees were not paid time and one-half of their regular rate of pay for all hours worked in excess of forty (40) hours per work week during one or more work weeks.

37. Likewise, the other employees similarly situated to Plaintiff regularly worked in excess of forty (40) hours in one or more work weeks during their employment with Defendants.

38. The records, if any, concerning the number of hours actually worked by Plaintiff and all other similarly situated employees and the compensation actually paid to such employees are in the possession and custody of Defendants. However, upon information and belief, Defendants did not maintain accurate and complete time records of hours worked by Plaintiff.

COUNT I, RECOVERY OF OVERTIME COMPENSATION

39. Plaintiff readopts and realleges all allegations contained in Paragraphs 1 through 38 above.

40. Plaintiff is entitled to be paid time and one-half of her regular rate of pay for each hour worked in excess of forty (40) hours per work week. All similarly situated employees are similarly owed their overtime rate for each overtime hour they worked and were not properly paid.

41. By reason of the said intentional, willful and unlawful acts of Defendants, all Plaintiffs (Plaintiff and those similarly situated to her) have suffered damages plus incurring costs and reasonable attorney's fees.

42. Plaintiff has retained the undersigned counsel to represent her in this action, and agreed to pay reasonable fees and costs, and pursuant to 29 U.S.C. §§216(b), Plaintiff is entitled to recover all reasonable attorney's fees and costs incurred in this action.

43. As a result of Defendants' willful violation of the Act, all Plaintiff (the named Plaintiff and those similarly situated to her) are entitled to liquidated damages.

44. Plaintiff demands a jury trial.

WHEREFORE, Plaintiff, MARIE MARTHE JEAN BAPTISTE, and those similarly situated to her who have or will opt into this action, demand judgment, jointly and severally, against Defendants, FLORIDA CARE ASSISTED LIVING, INC. dba VICTORIA GARDENS ALF and COLLETTE BURGESS, for the payment of all overtime hours at one and one-half their regular rate of pay due them for the hours worked by them for which they have not been properly compensated, liquidated damages in an amount equal to the overtime awarded, prejudgment interest, reasonable attorney's fees and costs of suit, and such further relief that this Court deems just and appropriate.

JURY DEMAND

Plaintiff demand a trial by jury on all issues so triable.

DATED this 22 day of December 2017

Respectfully submitted on behalf of MARIE MARTHE JEAN BAPTISTE.

s/Maguene D. Cadet

Maguene D. Cadet, Esq., FBN. 0591361

Email: Maguene@DieudonneLaw.com

Law Office of Dieudonne Cadet, P.A.

2500 Quantum Lakes Drive, Suite 203

Boynton Beach, Florida 33426

Telephone: 561-853-2212

Facsimile: 561-853-2213
Attorney for Plaintiff

JS 44 (Rev. 12/12)

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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

MARIE MARTHE JEAN BAPTISTE, on her own behalf and others similarly situated

(b) County of Residence of First Listed Plaintiff **Palm Beach County**
(EXCEPT IN U.S. PLAINTIFF CASES)

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

Law Office of Dieudonne Cadet, P.A., 2500 Quantum Lakes Drive, Suite 203, Boynton Beach, Florida 33426; 561-853-2212

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

DEFENDANTS

FLORIDA CARE ASSISTED LIVING, INC., a Florida Profit Corporation, DBA VICTORIA GARDENS ALF

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

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 (Excl. 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	PERSONAL INJURY <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 - Med. Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. 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 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <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"/> 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	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence Other: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <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 Re-filed (See VI below) 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
 Fair Labor Standards Act, 29 U.S.C 216(b)
 LENGTH OF TRIAL via 3 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **CHECK YES only if demanded in complaint:**
JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE December 22, 2017 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT JURY MAG JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

MARIE MARTHE JEAN BAPTISTE,
on her own behalf and others similarly situated,

Plaintiff,

v.

FLORIDA CARE ASSISTED LIVING, INC.,
a Florida Profit Corporation, DBA VICTORIA GARDENS ALF
and COLLETTE BURGESS, individually,

Defendants.

_____ /

SUMMONS IN A CIVIL CASE (CORPORATION)

TO: FLORIDA CARE ASSISTED LIVING, INC. DBA VICTORIA GARDENS ALF
Attn: Victoria Gardens, Registered Agent
701 West 9th Street
Riviera Beach, Florida 33404

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFFS' ATTORNEY:

Law Office of Dieudonne Cadet, P.A.
Maguene D. Cadet, Esq.
2500 Quantum Lakes Drive, Suite 203
Boynton Beach, Florida 33426
Phone: 561-853-2212

an Answer to the Complaint which is herewith served upon you, within twenty 21 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK OF COURT

DATE

(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

MARIE MARTHE JEAN BAPTISTE,
on her own behalf and others similarly situated,

Plaintiff,

v.

FLORIDA CARE ASSISTED LIVING, INC.,
a Florida Profit Corporation, DBA VICTORIA GARDENS ALF
and COLLETTE BURGESS, individually,

Defendants.

_____ /

SUMMONS IN A CIVIL CASE (INDIVIDUAL)

TO: COLLETTE BURGESS, individual Defendant
701 West 9th Street
Riviera Beach, Florida 33404

YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFFS' ATTORNEY:

Law Office of Dieudonne Cadet, P.A.
Maguene D. Cadet, Esq.
2500 Quantum Lakes Drive, Suite 203
Boynton Beach, Florida 33426
Phone: 561-853-2212

an Answer to the Complaint which is herewith served upon you, within twenty 21 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

CLERK OF COURT

DATE

(BY) DEPUTY CLERK

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Assisted Living Facility Victoria Gardens Pegged with FLSA Suit in Florida](#)
