

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

**STEPHANIE ROBINSON,  
on behalf of herself and on behalf  
of all others similarly situated,**

**Plaintiff,**

**v.**

**Case No.:**

**HELP AT HOME HOMECARE, LLC,  
TIMOTHY T. BEACH, an individual, and  
STUART C. CHRISTENSEN, an individual,**

**Defendants.**

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, STEPHANIE ROBINSON (“Plaintiff”), by and through undersigned counsel, on behalf of herself and on behalf of all others similarly situated, brings this action against Defendants, HELP AT HOME HOMECARE, LLC, TIMOTHY T. BEACH, in his individual capacity, and STUART C. CHRISTENSEN, in his individual capacity, (“Defendants”), and in support of her claims states as follows:

**JURISDICTION AND VENUE**

1. This is an action for damages under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 et seq. for failure to pay overtime wages under 29 U.S.C. § 215(a)(3).
2. This Complaint is filed as a collective action under 29 U.S.C. § 216(b).
3. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 201 et seq.

4. Venue is proper in the Middle District of Florida, because all of the events giving rise to these claims occurred in Sarasota County, Florida, which lies within the Middle District of Florida.

#### **PARTIES**

5. Named Plaintiff, is a resident of Sarasota County, Florida.

6. Defendants are senior healthcare providers in Sarasota, in Sarasota County, Florida.

#### **GENERAL ALLEGATIONS**

7. Plaintiff has satisfied all conditions precedent, or they have been waived.

8. Plaintiff has hired the undersigned attorneys and agreed to pay them a fee.

9. Plaintiff requests a jury trial for all issues so triable.

10. The collective action members employed by Defendants within the last three years will be referred to as “similarly situated employees.”

11. At all times material hereto, Plaintiff and similarly situated employees were “engaged in the production of goods” for commerce within the meaning of Sections 6 and 7 of the FLSA, and as such were subject to the individual coverage of the FLSA.

12. At all times material hereto, Plaintiff and similarly situated employees were “employees” of Defendant, HELP AT HOME HOMECARE, LLC, within the meaning of the FLSA.

13. At all times material hereto, Defendant, HELP AT HOME HOMECARE, LLC, was an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d).

14. Defendant, HELP AT HOME HOMECARE, LLC, continues to be an “employer” within the meaning of the FLSA.

15. At all times material hereto, Defendant, HELP AT HOME HOMECARE, LLC, was and continues to be an enterprise covered by the FLSA. See 29 U.S.C. §§ 203(r) and 203(s).

16. At all times relevant to this action, Defendant, HELP AT HOME HOMECARE, LLC, engaged in interstate commerce within the meaning of the FLSA. See 29 U.S.C. § 203(s).

17. At all times relevant to this action, the annual gross sales volume of Defendant, HELP AT HOME HOMECARE, LLC, exceeds \$500,000.00 per year.

18. Defendants, TIMOTHY T. BEACH, and STUART C. CHRISTENSEN, are the owners and operators of Defendant, HELP AT HOME HOMECARE, LLC.

19. As part of their duties, Defendants, TIMOTHY T. BEACH, and STUART C. CHRISTENSEN, supervised Plaintiff, and exercised control over the wages, hours, and working conditions of Plaintiff and similarly situated employees. Defendants, TIMOTHY T. BEACH, and STUART C. CHRISTENSEN, also controlled the payroll practices of Defendant, HELP AT HOME HOMECARE, LLC.

20. Through the exercise of dominion and control over all employee-related matters at HELP AT HOME HOMECARE, LLC, Defendants, TIMOTHY T. BEACH, and STUART C. CHRISTENSEN, in their individual capacity, are also an “employer” within the meaning of the FLSA.

21. At all times material hereto, the work performed by Plaintiff and similarly situated employees were directly essential to the business performed by Defendants.

**FACTS**

22. Plaintiff, STEPHANIE ROBINSON, began working for Defendants as a Staffing Coordinator in June 2015, and she worked in this capacity until May 2017.

23. At various times material hereto, Plaintiff and similarly situated employees worked hours in excess of forty hours within a work week for Defendants, and they were entitled to be compensated for these overtime hours at a rate equal to one and one-half times their individual regular hourly rate.

24. Defendants failed to pay Plaintiff and similarly situated employees an overtime premium for all of their overtime hours, in violation of the FLSA.

25. At various times material hereto, Plaintiff and similarly situated employees were required to be on call during afterhours on weekdays and weekends, and could not use their time while on call between calls freely.

26. Plaintiff was at times material hereto, paid only a flat fee for the imposition of being “on call.”

27. By failing to accurately record all of the hours worked by Plaintiff and similarly situated employees, Defendants have failed to make, keep, and preserve records with respect to each of its employees in a manner sufficient to determine their wages, hours, and other conditions of employment, in violation of the FLSA. See 29 C.F.R. § 516.2.

28. Defendants’ actions were willful, and showed reckless disregard for the provisions of the FLSA.

**COLLECTIVE ACTION ALLEGATIONS**

29. Plaintiff brings this case as an “opt-in” collective action on behalf of similarly situated employees of Defendants pursuant to 29 U.S.C. § 216(b). The similarly situated employees are composed of employees whom Defendants failed to compensate for all on call hours worked and overtime premium for hours worked over 40 in accordance with the FLSA.

30. Therefore, notice is properly sent to: “Employees whom Defendants failed to compensate for all hours worked and overtime premium for hours worked over 40 that they worked from December 2017 to the present.”

31. The total number and identities of the similarly situated employees may be determined from the records of Defendants, and the similarly situated employees may easily and quickly be notified of the pendency of this action.

32. Plaintiff is similar to the similarly situated employees because Plaintiff and the similarly situated employees have been unlawfully denied full payment of their on call and overtime wages as mandated by the FLSA.

33. Plaintiff’s experiences with Defendants’ payroll practices are typical of the experience of the similarly situated employees.

34. Defendants’ failure to pay all on call time and overtime wages due at the rates required by the personal circumstances of the named Plaintiff is common to the similarly situated employees.

35. Overall, Plaintiff’s experiences as an employee who worked for Defendants is typical of the experience of the similarly situated employees.

36. Specific job titles or job duties of the similarly situated employees do not prevent collective treatment.

37. Although the issue of damages can be individual in character, there remains a common nucleus of operative facts concerning Defendants' liability under the FLSA in this case.

### **COUNT I – FLSA OVERTIME VIOLATIONS**

38. Plaintiff realleges and readopts the allegations of Paragraphs 1 through 37 of this Complaint, as fully set forth herein. Plaintiff brings this action on behalf of herself and all other similarly situated employees in accordance with 29 U.S.C. § 216(b). Plaintiff anticipates that as this case proceeds, other individuals will sign consent forms and join this collective action as plaintiffs.

39. During the statutory period, Plaintiff and the similarly situated employees worked on call hours and overtime hours while employed by Defendants, and they were not properly compensated for all of these hours under the FLSA.

40. Defendants failed to compensate Plaintiff and the similarly situated employees for all of the on call hours and overtime hours that they worked.

41. The similarly situated employees are similarly situated because they were all employed by Defendants, were compensated in the same manner, and were all subject to Defendants' common policy and practice of failing to pay its employees for all of the on call and overtime hours that they worked.

42. This reckless practice violates the provisions of the FLSA, specifically 29 U.S.C. § 207(a)(1). As a result, Plaintiff and the similarly situated employees who have opted into this action are each entitled to an amount equal to their unpaid overtime wages as liquidated damages.

43. All of Defendants' conduct, as alleged and described above, constitute a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

44. As a result of the foregoing, Plaintiff and the similarly situated employees have suffered damages.

**WHEREFORE**, Plaintiff and all similarly situated employees who join this collective action demand:

- (a) Designation of this action as a collective action on behalf of Plaintiff and the similarly situated employees that they seek to represent, in accordance with the FLSA;
- (b) Prompt issuance of notice pursuant to 29 U.S.C. § 216(b) to all similarly situated members of the FLSA collective action, apprising them of the pendency of this action and permitting them to assert timely FLSA claims in this action by filing individual consent to sue forms pursuant to 29 U.S.C. § 216(b);
- (c) Equitable tolling of the statute of limitations from the date of the filing of this complaint until the expiration of the deadline for filing consent to sue forms under 29 U.S.C. § 216(b);

- (d) Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by this Court;
- (e) Judgment against Defendants for an amount equal to the unpaid overtime wages of Plaintiff and all opt-in similarly situated employees at the applicable overtime rate;
- (f) A declaratory judgment stating that the practices complained of herein are unlawful under the FLSA;
- (g) Judgment against Defendants for an amount equal to the unpaid back wages of Plaintiff and all opt-in similarly situated employees at the applicable overtime rate, as liquidated damages;
- (h) Judgment against Defendants stating that their violations of the FLSA were willful;
- (i) To the extent liquidated damages are not awarded, an award of prejudgment interest;
- (j) All costs and attorney's fees incurred in prosecuting these claims; and
- (k) For such further relief as this Court deems just and equitable.

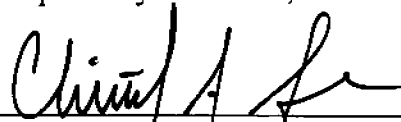
**JURY TRIAL DEMAND**

Plaintiff demands trial by jury as to all issues so triable.



Dated this 10<sup>th</sup> day of January, 2018.

Respectfully submitted,



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**CHRISTOPHER J. SABA**

Florida Bar Number: 0092016

**WENZEL FENTON CABASSA, P.A.**

1110 North Florida Avenue, Suite 300

Tampa, Florida 33602

Main Number: 813-224-0431

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**Attorneys 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.)

<p><b>I. (a) PLAINTIFFS</b></p> <p>STEPHANIE ROBINSON, on behalf of herself and on behalf of all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) CHRISTOPHER J. SABA, WENZEL FENTON CABASSA, P.A., 1110 North Florida Avenue, Suite 300, Tampa, Florida 33602, Main No.: 813-224-0431</p>	<p><b>DEFENDANTS</b></p> <p>HELP AT HOME HOMECARE, LLC, TIMOTHY T. BEACH, an individual, and STUART C. CHRISTENSEN, an individual,</p> <p>County of Residence of First Listed Defendant <u>Sarasota</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p><b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p><b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:33%; text-align: center;">PTF</td> <td style="width:33%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

<p><b>CONTRACT</b></p> <p><input type="checkbox"/> 110 Insurance</p> <p><input type="checkbox"/> 120 Marine</p> <p><input type="checkbox"/> 130 Miller Act</p> <p><input type="checkbox"/> 140 Negotiable Instrument</p> <p><input type="checkbox"/> 150 Recovery of Overpayment &amp; Enforcement of Judgment</p> <p><input type="checkbox"/> 151 Medicare Act</p> <p><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)</p> <p><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits</p> <p><input type="checkbox"/> 160 Stockholders' Suits</p> <p><input type="checkbox"/> 190 Other Contract</p> <p><input type="checkbox"/> 195 Contract Product Liability</p> <p><input type="checkbox"/> 196 Franchise</p>	<p><b>TORTS</b></p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 310 Airplane</p> <p><input type="checkbox"/> 315 Airplane Product Liability</p> <p><input type="checkbox"/> 320 Assault, Libel &amp; Slander</p> <p><input type="checkbox"/> 330 Federal Employers' Liability</p> <p><input type="checkbox"/> 340 Marine</p> <p><input type="checkbox"/> 345 Marine Product Liability</p> <p><input type="checkbox"/> 350 Motor Vehicle</p> <p><input type="checkbox"/> 355 Motor Vehicle Product Liability</p> <p><input type="checkbox"/> 360 Other Personal Injury</p> <p><input type="checkbox"/> 362 Personal Injury - Medical Malpractice</p> <p><b>PERSONAL INJURY</b></p> <p><input type="checkbox"/> 365 Personal Injury - Product Liability</p> <p><input type="checkbox"/> 367 Health Care Pharmaceutical Personal Injury Product Liability</p> <p><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability</p> <p><b>PERSONAL PROPERTY</b></p> <p><input type="checkbox"/> 370 Other Fraud</p> <p><input type="checkbox"/> 371 Truth in Lending</p> <p><input type="checkbox"/> 380 Other Personal Property Damage</p> <p><input type="checkbox"/> 385 Property Damage Product Liability</p>	<p><b>FORFEITURE/PENALTY</b></p> <p><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881</p> <p><input type="checkbox"/> 690 Other</p> <p><b>LABOR</b></p> <p><input checked="" type="checkbox"/> 710 Fair Labor Standards Act</p> <p><input type="checkbox"/> 720 Labor/Management Relations</p> <p><input type="checkbox"/> 740 Railway Labor Act</p> <p><input type="checkbox"/> 751 Family and Medical Leave Act</p> <p><input type="checkbox"/> 790 Other Labor Litigation</p> <p><input type="checkbox"/> 791 Employee Retirement Income Security Act</p> <p><b>IMMIGRATION</b></p> <p><input type="checkbox"/> 462 Naturalization Application</p> <p><input type="checkbox"/> 465 Other Immigration Actions</p>	<p><b>BANKRUPTCY</b></p> <p><input type="checkbox"/> 422 Appeal 28 USC 158</p> <p><input type="checkbox"/> 423 Withdrawal 28 USC 157</p> <p><b>PROPERTY RIGHTS</b></p> <p><input type="checkbox"/> 820 Copyrights</p> <p><input type="checkbox"/> 830 Patent</p> <p><input type="checkbox"/> 840 Trademark</p> <p><b>SOCIAL SECURITY</b></p> <p><input type="checkbox"/> 861 HIA (1395ff)</p> <p><input type="checkbox"/> 862 Black Lung (923)</p> <p><input type="checkbox"/> 863 DIWC/DIWW (405(g))</p> <p><input type="checkbox"/> 864 SSD Title XVI</p> <p><input type="checkbox"/> 865 RSI (405(g))</p> <p><b>FEDERAL TAX SUITS</b></p> <p><input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)</p> <p><input type="checkbox"/> 871 IRS—Third Party 26 USC 7609</p>	<p><b>OTHER STATUTES</b></p> <p><input type="checkbox"/> 375 False Claims Act</p> <p><input type="checkbox"/> 400 State Reapportionment</p> <p><input type="checkbox"/> 410 Antitrust</p> <p><input type="checkbox"/> 430 Banks and Banking</p> <p><input type="checkbox"/> 450 Commerce</p> <p><input type="checkbox"/> 460 Deportation</p> <p><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations</p> <p><input type="checkbox"/> 480 Consumer Credit</p> <p><input type="checkbox"/> 490 Cable/Sat TV</p> <p><input type="checkbox"/> 850 Securities/Commodities/Exchange</p> <p><input type="checkbox"/> 890 Other Statutory Actions</p> <p><input type="checkbox"/> 891 Agricultural Acts</p> <p><input type="checkbox"/> 893 Environmental Matters</p> <p><input type="checkbox"/> 895 Freedom of Information Act</p> <p><input type="checkbox"/> 896 Arbitration</p> <p><input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision</p> <p><input type="checkbox"/> 950 Constitutionality of State Statutes</p>
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**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

**VI. CAUSE OF ACTION** Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 29 U.S.C. § 201 et seq. - 29 U.S.C. § 215(a)(3)  
 Brief description of cause:  
 FLSA OVERTIME VIOLATIONS

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

**VIII. RELATED CASE(S) IF ANY** (See instructions):    JUDGE \_\_\_\_\_    DOCKET NUMBER \_\_\_\_\_

DATE: 1.10.18    SIGNATURE OF ATTORNEY OF RECORD: [Signature]

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Help at Home Homecare Employees Weren't Paid Overtime for On Call Hours](#)

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