

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DIANNAH ANNE ZENDON, Individually
and on behalf of all other persons similarly
situated,

Plaintiff,

- *against* -

GRANDISON MANAGEMENT, INC.,
REHAB SYNERGY PT, P.C. and
BASILIO E. LOPEZ,

Defendants.

**CLASS AND COLLECTIVE
ACTION COMPLAINT and
JURY DEMAND**

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The Plaintiff, Diannah Anne Zendon, individually and on behalf of all others similarly
situated, by counsel, and for her Complaint, respectfully states as follows:

NATURE OF THE ACTION

1. This is an action for damages and injunctive relief for violations of the Trafficking Victims Protection Act, (TVPA), 18 U.S.C. §§ 1589, *et seq.*, for failure to pay regular and overtime wages in violation of the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201, *et seq.*, and the New York Labor Law, N.Y. Lab. L. §§ 190, *et seq.*, for breach of the parties' employment contract, and for a declaratory judgment that a \$30,000.00 indenture and a nationwide, two-year non-compete clause in the employment contract are unenforceable under the TVPA, the 13th Amendment to the United States Constitution, and New York common law.

2. The TVPA, declaratory judgment, and New York Labor Law claims are brought as a class action, pursuant to Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of all foreign healthcare professionals who worked for Defendant Grandison Management, Inc., at any time since August 9, 2012, under an employment contract containing a

\$30,000 so-called “liquidated damages” clause. The FLSA claims are brought as a collective action, pursuant to 29 U.S.C. § 216(b), on behalf of all similarly-situated foreign-trained physical therapists who worked for the Defendants at any time since August 9, 2015.

3. Plaintiff is a physical therapist who was recruited in the Philippines to work for the Defendants in this District under contracts of indentured servitude for a three-year term. The first contract she was made to sign, which was dated February 20, 2015, contained a so-called “liquidated damages” clause that required her to pay or work off a \$30,000 indenture before she would be allowed to stop working for the Defendants. The contract also contained non-compete provisions that purport to prohibit her from practicing her profession anywhere in the United States for two years. The second contract dated July 13, 2017 also contained a so-called “liquidated damages” clause that required Plaintiff to pay “\$200.00 for every 40 hours left in the Work Term”.

4. After Plaintiff arrived in this country on an H-1B non-immigrant visa, the Defendants put her to work at a chiropractor’s clinic where she was pressured to provide physical therapy services and treatment to an excessive number of patients, complete billing records that did not accurately reflect the amount of time she actually spent with patients, and work off-the-clock without compensation.

5. When Plaintiff complained about risks to patient health and safety, false billing practices, and the failure to pay her for all hours worked, Defendant Grandison Management replied that it was allegedly normal for a physical therapist to treat as many as 40 patients a day and that there allegedly was no law restricting the number of patients a physical therapist could treat in a day. Defendant Grandison also replied that Plaintiff was just merely adjusting to a new

work environment when she complained about her working during week-ends and even evenings to finish her paperworks.

6. Defendant Grandison Management also threatened Plaintiff with serious harm and abusive legal actions if she tried to stop working for the Defendants, including by threatening her with a lawsuit and by actually commencing a legal action against her to collect a \$30,000.00 indenture in the employment contract and to enforce non-compete clauses prohibiting her from practicing her profession for two years anywhere in the United States.

7. The threats of serious harm caused Plaintiff to continue working for the Defendants, even though they continued to require her to treat an excessive number of patients, complete false billing records used to bill private and government health insurance programs, and did not pay her for all the hours she worked. These threats were part of a policy and practice that the Defendants pursued with respect to all foreign healthcare professionals who signed Grandison Management's standard employment contracts.

8. Plaintiff therefore seeks a declaratory judgment that the \$30,000.00 indenture, two-year, nationwide non-compete clauses and the U.S. \$200.00 "liquidated damages" for every 40 hours left in the Work Term clause in Grandison Management's standard employment contracts are unenforceable, a permanent injunction prohibiting Defendants from enforcing or threatening to enforce the indenture or non-compete provisions in the standard contracts, together with compensatory and punitive damages, and an award of reasonable attorneys' fees, costs, and disbursements.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction under 28 U.S.C. §1331 (federal question - 18 U.S.C. § 1595(a) [TVPA], and 29 U.S.C. § 216(b) [FLSA]), in that these claims are

asserted under the laws of the United States. This Court has supplemental jurisdiction over Plaintiff's pendent state law claims pursuant to 28 U.S.C. §1367 because the state law claims form part of the same case or controversy as the federal law claims.

10. Venue is proper in this Court under 28 U.S.C. §1391(b) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this district. Venue is also proper in this Court under 28 U.S.C. §1391(c) because Defendant corporations are deemed to reside in this judicial district where Defendant corporations have owned, operated, managed, and maintained a rehabilitation staffing company or physical therapy clinic where the named Plaintiff was employed and are subject to personal jurisdiction.

PARTIES

11. Plaintiff Diannah Anne Zendon resides in Essex County, State of New York, and was employed by the Defendants as an hourly-paid Physical Therapist at Defendant Rehab Synergy, PT, PC and Defendant Basilio E. Lopez's physical therapy clinics located at Nassau County, State of New York, within this District.

12. Upon information and belief, Defendant Grandison Management, Inc. (hereinafter, "Grandison") is a domestic business corporation incorporated in the State of New York with a principal executive office located at 461 Bedford Avenue, Brooklyn, NY 11211, within this District.

13. At all times relevant to this Complaint, Grandison was Plaintiff's employer within the meaning of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 203(d), and the New York Labor Law, N.Y. Lab. L. § 190.

14. Upon information and belief, Defendant Rehab Synergy PT, PC (hereinafter, "Rehab Synergy") is a domestic professional corporation doing business within the State of New

York with a principal executive office located at 3530 64th Street, Woodside, NY 11377, within this District.

15. At all times relevant to this Complaint, Defendant Rehab Synergy was Plaintiff's joint employer within the meaning of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 203(d), and the New York Labor Law, N.Y. Lab. L. § 190.

16. Upon information and belief, Defendant Basilio E. Lopez (hereinafter, "Lopez") is a physical therapist licensed to practice in the State of New York. Upon information and belief, he resides at 18003 90th Avenue, Jamaica, NY 11432, within this District.

17. At all times relevant to this complaint, Defendant Lopez was Plaintiff's joint employer within the meaning of the Fair Labor Standards Act (FLSA), 29 U.S.C. § 203(d), and the New York Labor Law, N.Y. Lab. L. § 190.

18. Upon information and belief, at all times relevant, Defendants had the power to make personnel decisions over their employees, including the Plaintiff.

19. Upon information and belief, at all times relevant, Defendants had power over payroll decisions. Defendant Grandison regularly prepared and issued the pay stubs of the employees on a weekly basis.

20. Upon information and belief, at all times relevant, Defendants had the power to hire and fire employees, including the Plaintiff; to establish and pay their wages; set their work schedules, and; maintain their employment records.

COLLECTIVE ACTION ALLEGATIONS

21. Pursuant to 29 U.S.C. §207, Plaintiff Zendon seeks to prosecute her FLSA claim as a collective action on behalf of all persons who are or were formerly employed by Defendants at any time since August 9, 2015 to the entry of judgment in this case (the "Collective Action

Period”), as hourly-paid Physical Therapists, and who were not compensated for all hours worked and for all hours worked in excess of forty (40) hours per workweek at rates no less than one-half times the regular rate of pay (the “FLSA Collective”).

22. All of the work that Plaintiff and the FLSA Collective have performed has been assigned by the Defendants, and/or the Defendants have been aware of or should have known of all of the work that Plaintiff and the FLSA Collective have performed.

23. As part of their regular business practice, Defendants have intentionally, willfully, and repeatedly engaged in a pattern, practice and/or policy of violating the FLSA with respect to the Plaintiff and the FLSA Collective. This policy and pattern or practice includes, but is not limited to:

- a. willfully failing to pay Plaintiff and the members of the FLSA Collective minimum or regular compensation rate for all hours actually worked, and overtime compensation for hours that they worked in excess of 40 hours per workweek; and
- b. willfully misclassifying Plaintiff and the members of the FLSA Collective as exempt from the protections of the FLSA.

24. Defendants are aware or should have been aware that federal law required them to pay hourly-paid Physical Therapist employees, including the Plaintiff and the members of the FLSA Collective, their minimum or regular compensation rate for all hours actually worked, and their overtime premium compensation for all hours worked in excess of 40 hours per workweek.

25. Plaintiff and the FLSA Collective are or were paid on an hourly basis, and perform or performed the same primary duty.

26. Defendants’ unlawful conduct has been widespread, repeated, and consistent.

27. The number of the FLSA Collective is so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of the Defendants, upon information and belief, there are more than 100 members of the FLSA Collective during the Collective Action Period, most of whom would not be likely to file individual suits because they lack adequate financial resources, access to attorneys, and/or knowledge of their claims, and are fearful of retaliation.

28. Questions of law and fact common to the members of the collective action predominate over questions that may affect only individual members because Defendants have acted on grounds generally applicable to all members.

29. Plaintiff knows of no difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a collective action.

CLASS ALLEGATIONS

30. Plaintiff sues on her own behalf and on behalf of a class of persons under Rules 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure.

31. Plaintiff brings her New York Labor Law claim on behalf of all persons who were or are employed by Defendants at any time since August 9, 2012, to the entry of judgment in this case (the "Class Period I"), as hourly-paid Physical Therapists, and have not been paid for all of the time that they actually worked, and were not compensated at all, including overtime wages, in violation of the New York Labor Law (the "Class I").

32. Plaintiff likewise brings her TVPA claim on behalf of all persons who were or are employed by Defendants at any time since August 9, 2008, to the entry of judgment in this case (the "Class Period II"), as hourly paid Physical Therapists, and have been compelled to continue

performing labor or services for Defendants because of the abuse or threatened abuse of law or legal process, or because of serious harm and threats of serious harm, or because of a scheme, plan, or pattern intended to cause Plaintiff and the members of the Class to believe that, if they did not perform such labor or services, they would suffer serious harm (the “Class II”).

33. Excluded from each Class are the Defendants, Defendants’ legal representatives, officers, directors, assigns and successors, and/or any individual who has, or who at any time during the class period has had, a controlling interest in Defendants; the Judge(s) to whom this case is assigned and any member of the Judge’s immediate family; and all persons who will submit timely and otherwise proper requests for exclusion from each Class.

34. The persons in each Class identified above are so numerous that joinder of all members is impracticable. Although the precise number of such persons is unknown, and the facts on which the calculation of that number are presently within the sole control of the Defendants, upon information and belief, there are approximately more than 100 members of each Class during each relevant Class Action Period, most of whom would not be likely to file individual suits because they lack adequate financial resources, access to attorneys, and/or knowledge of their claims, and are fearful of retaliation.

35. Common questions of law and fact exist as to the Class I that predominate over any questions only affecting them individually, and these include, but are not limited to the following:

- a. whether Defendants violated NYLL, Articles 6 and 19, and the supporting New York State Department of Labor regulations, for not compensating Plaintiff and the Class members for all of their hours worked;

- b. whether Defendants failed to compensate Plaintiff and the Class members for hours worked in excess of 40 hours per workweek;
- c. whether Defendants' practice and/or policy of not paying hourly-paid physical therapists for all hours worked, including for overtime hours, was instituted willfully or with reckless disregard of the law; and
- d. the nature and extent of class-wide injury and the measure of damages for those injuries.

36. The claims of Plaintiff are typical of the claims of the Class I she seeks to represent. Plaintiff and all members of the Class I work or have worked for Defendants as hourly-paid Physical Therapists. Plaintiff and the members of the Class I enjoy the same statutory rights under the NYLL to be paid wages for all hours worked, including overtime wages. Plaintiff and members of the Class I have all sustained similar types of damages as a result of Defendants' failure to comply with the NYLL. Plaintiff and the members of the Class I have all been injured in that they have been uncompensated or under-compensated due to Defendants' policy, practice and pattern of conduct.

37. Common questions of law and fact exist as to the Class II that predominate over any questions only affecting them individually, and these include, but are not limited to the following:

- a. whether Defendants violated the TVPA, for knowingly obtaining the labor and services of Plaintiff and the members of the Class II by means of the abuse or threatened abuse of law or legal process, or by means of serious harm and threats of serious harm, or by means of a scheme, plan, or pattern intended to cause Plaintiff and the members of the Class II to

believe that, if they did not perform such labor or services, they would suffer serious harm; and

- b. the nature and extent of class-wide injury and the measure of damages for injuries suffered by Plaintiff and the members of the Class II on account of their having been compelled to provide labor or services.

38. The claims of Plaintiff are typical of the claims of the Class II she seeks to represent. Plaintiff and all members of the Class II are or were compelled to provide labor or services by means of the abuse or threatened abuse of law or legal process, or by means of serious harm and threats of serious harm, or by means of a scheme, plan, or pattern intended to cause Plaintiff and the members of the Class II to believe that, if they did not perform such labor or services, they would suffer serious harm. Plaintiff and the members of the Class II have all sustained similar types of damages as a result of Defendants' violation of the TVPA. Plaintiff and the members of the Class II have all been injured in that they were compelled to provide labor or services due to Defendants' policy, practice and pattern of conduct of violating the TVPA.

39. Plaintiff will fairly and adequately represent and protect the interests of the members of each Class. Plaintiff understands that as a class representative, she assumes a fiduciary responsibility to each Class to represent its interests fairly and adequately. Plaintiff recognizes that as a class representative, she must represent and consider the interests of each Class just as she would represent and consider her own interests. Plaintiff understands that in decisions regarding the conduct of the litigation and its possible settlement, she must not favor her own interests over the interests of each Class. Plaintiff recognizes that any resolution of the class action must be in the best interest of each Class. Plaintiff understands that in order to

provide adequate representation, she must be informed of developments in litigation, cooperate with class counsel, and testify at deposition and/or trial. Plaintiff has retained counsel competent and experienced in complex class actions and employment litigation. There is no conflict between Plaintiff and the members of each Class.

40. A class action is superior to other available methods for the fair and efficient adjudication of the controversy – particularly in the contexts of wage and hour litigation and labor trafficking litigation, where individual plaintiffs lack the financial resources to vigorously prosecute a lawsuit in federal court against corporate defendants. In addition, class litigation is superior because it will obviate the need for unduly duplicative litigation that might result in inconsistent judgments about Defendants’ practices.

41. This action is properly maintainable as a class action under Federal Rules of Civil Procedure 23(b)(3).

FACTUAL BACKGROUND

42. Defendant Grandison recruited Plaintiff in the Philippines to work as a physical therapist for the Defendants in this District.

43. On or about February 20, 2015, Defendant Grandison required Plaintiff to execute an employment contract with Defendant Grandison on account of Grandison’s sponsoring Plaintiff as an H-1B physical therapist.

44. The employment contract provided that Defendant Grandison was Plaintiff’s employer.

45. The employment contract provided that Plaintiff’s term of employment was three (3) years.

46. The February 20, 2015 employment contract provided that Grandison must petition the U.S. Government to provide Plaintiff with a non-immigrant working visa under the H-1B visa program.

47. The employment contract provided that Grandison must employ Plaintiff full time, which was defined as 35 hours per week.

48. Under the immigration laws, an employer who petitions for an H-1B visa must employ the worker full time for at least 35 hours per week. The employer is not permitted to “bench” an H-1B worker when the employer does not have enough work for the worker. The employer must pay the H-1B worker a full-time wage whether or not the employer has sufficient work to justify employing the worker full time.

49. The employment contract provided that Plaintiff would be paid “at the hourly rate identified in the H-1B petition as per LCA for each ‘straight hour’ worked in accordance with the legally required wage established for the geographic area where the Employee performed the work”.

50. The employment contract also provided that Grandison must pay overtime wages “in accordance with the laws of the United States government and the state where the Employee performs services.”

51. The February 20, 2015 employment contract included a \$30,000.00 indenture. It provided that Plaintiff must either pay \$30,000.00 or work off the \$30,000.00 debt over a period of three years before she can stop working for Grandison and its clients.

52. On or about July 13, 2017, after Plaintiff had secured her H-1B visa and before she departed for the United States, Defendant Grandison required Plaintiff to sign a second employment contract.

53. The July 13, 2017 employment contract likewise provided that Defendant Grandison was Plaintiff's employer and that the term of employment was three (3) years.

54. The second contract provided that the "employer shall pay employee \$28.54 per hour".

55. The second contract also provided that "overtime will be paid in accordance with NY State Department of Labor laws and regulations".

56. This contract likewise provided that if the contract is terminated prior to the end of the Work Term for any reason other than death or disability, the employee must pay Grandison "U.S. \$200.00 for every 40 hours left in the Work Term".

57. Plaintiff arrived in the United States on July 14, 2017 and started working on or about August 4, 2017.

A. Defendants Were Plaintiff's Joint Employers

58. Defendant Grandison assigned Plaintiff to work as a physical therapist for Defendants Basilio E. Lopez, and Rehab Synergy PT, P.C. on or about August 4, 2017.

59. Plaintiff performed work which simultaneously benefited Defendants Grandison, Lopez, and Rehab Synergy.

60. Defendants Grandison, Lopez, and Rehab Synergy each had the power to hire and fire Plaintiff from her employment with Defendants Lopez and Rehab Synergy.

61. Defendants Grandison, Lopez, and Rehab Synergy each had the power to supervise and control Plaintiff's work schedules and conditions of employment.

62. Defendants Grandison, Lopez, and Rehab Synergy jointly had the power to determine the rate and method of payment of Plaintiff's wages.

63. Defendants Grandison, Lopez, and Rehab Synergy each maintained records of Plaintiff's employment.

64. The premises and equipment of Defendants Lopez and Rehab Synergy were used for Plaintiff's work.

65. Defendants Grandison, Lopez, and Rehab Synergy jointly had the power to shift Plaintiff's employment from one joint employer to another.

66. Plaintiff performed a job function that was integral to the businesses of Defendants Grandison, Lopez, and Rehab Synergy.

67. Plaintiff's job responsibilities could pass from Defendant Grandison to Defendants Lopez and Rehab Synergy without material changes.

68. Plaintiff's work was supervised by Defendants Grandison, Lopez and Rehab Synergy.

69. During all relevant times, Plaintiff worked exclusively for Defendants Grandison, Lopez, and Rehab Synergy.

B. Defendants Pressured Plaintiff to Provide Sub-Standard Care to Patients

70. Defendants Grandison, Lopez, and Rehab Synergy required Plaintiff to provide physical therapy services and treatment to an excessive number of patients without any assistance from other physical therapists or physical therapy assistants.

71. Defendants Grandison, Lopez, and Rehab Synergy required Plaintiff to provide physical therapy services and treatment to an average of 35 patients during each eight-hour work day, without any assistance.

72. Plaintiff had less than 30 minutes per patient to provide physical therapy services and treatment on an average work day.

73. On high-volume days, Defendants Grandison, Lopez, and Rehab Synergy frequently required Plaintiff to provide physical therapy services and treatment to between 35 and 41 patients in an eight-hour day.

74. Plaintiff had less than 20 minutes per patient to provide physical therapy services and treatment on high-volume days.

75. Defendants Grandison, Lopez, and Rehab Synergy required Plaintiff to use forms that record treatment times in intervals that do not match the amount of time Plaintiff actually spent with patients.

76. The forms were used to bill health insurance programs including Medicare and Medicaid.

77. Plaintiff complained to Defendants Grandison, Lopez, and Rehab Synergy that the high volume of patients raised serious risks of sub-standard patient care.

78. Plaintiff complained to Defendants Grandison, Lopez, and Rehab Synergy that it was improper to use forms stating physical therapy services and treatment were provided in 45-minute intervals when she spent less than 20 or 30 minutes with each patient.

79. Plaintiff complained to Defendants Grandison, Lopez, and Rehab Synergy that she was constantly worried about risks to the health and safety of her patients because the pressure to provide physical therapy services and treatments to an excessive number of patients created risks of sub-standard care.

80. Plaintiff complained to Defendants Grandison, Lopez, and Rehab Synergy that she was constantly worried about her professional license because of pressure to provide sub-standard care and to engage in fraudulent time and billing practices.

81. Defendants Grandison, Lopez, and Rehab Synergy did not take action to correct the risks of sub-standard care and false billing.

82. Defendants Grandison, Lopez and Rehab Synergy refused to engage the services of additional physical therapists or physical therapy assistants to provide adequate care to the high volume of patients.

83. Defendants Lopez and Rehab Synergy refused to change the forms that resulted in the submission of false claims to health insurance programs including Medicare and Medicaid.

C. Defendants Provided Inadequate Breaks and Required Plaintiff to Work Off-the-Clock

84. Providing physical therapy services and treatment to patients is physically demanding and exhausting work.

85. Plaintiff was promised a one-hour lunch break and other breaks during the day.

86. A one-hour lunch break and other breaks during the day were necessary to ensure that Plaintiff was rested enough to provide adequate care and treatment to every patient.

87. Due to the excessive number of patients, Plaintiff was not given a full one-hour lunch break. On some days, Plaintiff was given only 15 minutes or less for lunch.

88. Due to the excessive number of patients, Plaintiff was rarely given any other breaks during the work day.

89. The Defendants routinely made deductions from Plaintiff's paychecks for a hypothetical "lunch break," even though Plaintiff's time records show that she rarely took a full hour for lunch and often took no breaks at all.

90. Defendants Grandison, Lopez, and Rehab Synergy required Plaintiff to provide physical therapy services and treatment to patients even after regular business hours.

91. Defendants Grandison, Lopez, and Rehab Synergy failed to pay Plaintiff for all the extra time required to provide physical therapy services and treatment to patients after regular business hours.

92. Defendants Grandison, Lopez, and Rehab Synergy required Plaintiff to prepare written, detailed treatment notes for each patient every day.

93. Treatment notes are essential to the proper care and treatment of patients.

94. Treatment notes are essential to support claims for reimbursement from health insurance programs including Medicare and Medicaid.

95. Treatment notes must be completed at the time treatment is provided or shortly thereafter.

96. Given the excessive numbers of patients Plaintiff was required to see during her workdays, she was required to prepare treatment notes even after regular working hours.

97. Plaintiff worked at least an extra 1-3 hours each workday, and sometimes during week-ends, preparing treatment notes.

98. Defendants knew or were made aware that Plaintiff had to work beyond normal working hours and had to continue working even during lunch and other breaks to treat patients and also had to devote more time even after normal office hours, including late nights and week-ends, to complete and finish her treatment notes.

99. The additional hours Plaintiff worked preparing treatment notes after regular working hours and/or during week-ends resulted in Plaintiff working more than 40 hours per workweek.

100. Defendants Grandison, Lopez, and Rehab Synergy failed to pay Plaintiff for all the hours she worked, including extra hours beyond 40 per week, to prepare treatment notes.

101. As and by way of illustration, Plaintiff Zendon worked more than 40 hours for the work-week from October 2, 2017 through October 6, 2017, as follows:

- Oct. 2 – 8:30 am to 9:30 am - started doing PT notes
10:00 am to 7:00 pm - treated patients at the clinic, with no lunch break
- Oct. 3 - 2:00 am to 2:40 am - prepared treatment notes
6:03 am to 6:19 am - prepared PT notes
11:00 am to 7:00 pm - treated patients at the clinic, with no lunch break
- Oct. 4 - 10:00 am to 7:00 pm - treated patients at the clinic, with no lunch break
- Oct. 5 - 8:37 am to 10 am - prepared treatment notes
11 am to 7 pm - treated patients at the clinic, with 1 hr. lunch break
- Oct. 6 - 10 am to 7 pm - treated patients at the clinic, with no lunch break

102. As and by way of another illustration, Plaintiff Zendon worked more than 40 hours for the work-week from October 9, 2017 through October 15, 2017, as follows:

- Oct. 9 – 10 am to 7:30 pm - treated patients, with 30 min. lunch break
- Oct. 10 - 11 am to 7:30 pm - treated patients, with 30 min. lunch break
8:30 pm to 11:00 pm - completed PT notes
- Oct. 11- 3:09 am to 3:36 am - completed treatment notes
10:00 am to 7:00 pm - treated patient at the clinic, with no lunch break
- Oct. 12- 11:00 am to 7:00 pm - treated patients, with 1 hr. lunch break
8:25 pm to 11:25 pm - prepared treatment notes
- Oct. 13 - 12 mn to 4:42 am - prepared treatment notes
10:00 am to 7:00 pm - treated patients at the clinic, with no lunch break
- Oct. 14 - 11:50 am to 5:29 pm - completed PT notes
- Oct. 15 - 1:06 am to 5:18 am - completed PT notes

103. Defendants Grandison, Lopez, and Rehab Synergy failed to pay Plaintiff for all of her hours that she worked during each work-week.

104. Defendants Grandison, Lopez, and Rehab Synergy failed to pay Plaintiff at the required overtime rate of compensation for the hours in excess of 40 per workweek that she was required to work.

D. Defendant Grandison Management Refused to Cure its Breaches of the Employment Contract

105. On several occasions, Plaintiff complained to Defendant Grandison that it had breached the employment contract by: (a) requiring Plaintiff to treat an excessive number of patients and to use forms that record treatment times in intervals that do not match the amount of time she actually spent with patients; (b) requiring Plaintiff to work with patients after normal business hours without any compensation; (c) requiring Plaintiff to prepare treatment notes after or outside normal business hours without any compensation; and (d) not allowing for lunch or other breaks during the work day.

106. Plaintiff notified Defendant Grandison that she was contemplating of terminating her employment contract for cause if the material breaches and her complaints were not properly addressed.

107. Defendant Grandison replied to Plaintiff that it was allegedly normal for a physical therapist to treat as many as 40 patients a day and that there allegedly was no law restricting the number of patients a physical therapist could treat in a day. Defendant Grandison also replied that Plaintiff was just merely adjusting to a new work environment when she complained about her working during week-ends and even after normal business hours to finish her paperworks.

108. Defendant Grandison did not cure its breaches of the employment contract and did not properly address Plaintiff's employment concerns.

E. Defendant Grandison Management Used Threats of Serious Harm

to Obtain and Provide Plaintiff's Labor and Services

109. Notwithstanding Defendant Grandison's material breaches of the contract and failure to properly address her complaints, Plaintiff continued to work for the Defendants because Defendant Grandison threatened her with serious harm if she tried to stop working.

110. Defendant Grandison threatened to sue Plaintiff for a \$30,000.00 penalty in the employment contract if she stopped working for the Defendants.

111. The purpose and effect of the \$30,000.00 penalty was not to compensate Defendant Grandison for actual or potential damages.

112. The purpose and effect of the \$30,000.00 penalty was to obtain and provide Plaintiff's labor and services to Grandison and its clients, even when she is not being paid the legally required wages.

113. The purpose and effect of the \$30,000.00 penalty was to obtain and provide Plaintiff's labor and services to Grandison and its clients, even when her employers pressured her to provide sub-standard care to an excessive number of patients.

114. The purpose and effect of the \$30,000.00 penalty was to obtain and provide Plaintiff's labor and services to Grandison and its clients, even when her employers pressured her to use billing forms that did not accurately reflect the amount of time she spent with an individual patient.

115. Upon information and belief, Defendant Grandison is able to calculate with reasonable certainty the amount of actual damages it would suffer in the event Plaintiff breached the employment contract.

116. The amount of so-called "liquidated damages" in the employment contract is disproportionate to Defendant Grandison's actual or potential damages.

117. The amount of the so-called “liquidated damages” in the employment contract is disproportionate to the wages paid to Plaintiff.

118. Plaintiff reasonably feared that Defendant Grandison’s threats to sue her for breach of a non-compete clause in the employment contract would prevent her from practicing her profession in the United States.

119. The employment contract stated that Grandison Management provides healthcare professionals “in hospitals, nursing homes, and other healthcare settings (each, a ‘Client’) throughout the United States.”

120. The non-compete provision in the employment contract purported to prohibit Plaintiff from becoming “an employee, contractor, consultant or otherwise work[ing] for any hospital, nursing home, medical clinic, home health-care agency or other healthcare facility within a 25-mile radius of any Client” of Grandison Management “for a period of two years following the date of the Employee’s termination for any reason.”

121. The non-compete provision purported to prohibit Plaintiff from becoming “an employee, contractor, consultant or otherwise work[ing] for or be[ing] associated with any healthcare recruitment and/or staffing firm or any person, firm, partnership, company or any entity that performs the same or similar services as the Employer in any geographic area where the Employer provides services.”

122. The temporal, geographic, and substantive scope of the non-compete provisions create an unreasonable restraint on Plaintiff’s ability to practice her profession.

123. The temporal, geographic, and substantive scope of the non-compete provisions are broader than necessary to protect any legitimate business interest of Defendant Grandison.

124. The purpose and effect of the non-compete provisions are not to protect any legitimate business interests of Defendant Grandison.

125. The purpose and effect of the non-compete provisions are to obtain and provide Plaintiff's labor and services to Defendant Grandison and its clients, even when she is not being paid the wages required under the employment contract.

126. The purpose and effect of the non-compete provisions are to obtain and provide Plaintiff's labor and services, even when her employers pressure her to provide sub-standard care to an excessive number of patients.

127. The purpose and effect of the non-compete provisions are to obtain and provide Plaintiff's labor and services, even when her employers pressure her to use forms that do not accurately reflect the amount of time she spends with an individual patient.

128. The so-called "liquidated damages" clause and non-compete provisions are part of a contract of adhesion that Defendant Grandison obtained as a result of unequal sophistication and bargaining power.

129. Plaintiff reasonably fears that potential employers, especially in the New York City and Long Island metropolitan areas, will not hire her as long as Defendant Grandison is suing or threatening to sue her for alleged violation of the two-year, nationwide non-compete provision in the employment contract.

130. Plaintiff reasonably fears that the cost of defending herself against Defendant Grandison's threatened legal actions will cause her to suffer serious harm.

F. Defendant Grandison Management Retaliated Against Plaintiff for Complaining About Unpaid Wages, Sub-Standard Patient Care, and False Claims to Medicare and Medicaid

131. After Plaintiff complained about the excessive number of patients, the false billing, and the failure to pay her proper compensation for all of her work hours, including off-the-clock hours, and after Defendant Grandison refused to address her employment concerns, Plaintiff eventually decided to terminate her employment with Defendants.

132. On November 1, 2017, Plaintiff sent formal communications to Defendants Grandison, Lopez and Rehab Synergy that she was resigning from her employment.

133. On or about December 28, 2017, Defendant Grandison retaliated against Plaintiff by filing a civil action against her in New York State Supreme Court, County of Kings, for alleged breach of contract, anticipatory repudiation and unjust enrichment.

FIRST CAUSE OF ACTION
Violation of the Trafficking Victims Protection Act
18 U.S.C. § 1595
(Brought on behalf of Plaintiff and the Class II)

134. Plaintiff, on behalf of herself and the Class II, re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

135. Defendants knowingly provided and obtained the labor and services of Plaintiff and other members of the Class by means of the abuse or threatened abuse of law or legal process, including without limitation, the use or threatened use of a law or legal process to exert pressure on Plaintiff and other members of the Class to continue working for the Defendants and to refrain from seeking employment elsewhere.

136. Defendants knowingly provided and obtained the labor and services of Plaintiff and other members of the Class by means of serious harm and threats of serious harm to Plaintiff and other members of the Class, including without limitation, psychological, financial or reputational harm that was sufficiently serious to compel a reasonable person of the same

background and in the same circumstance to perform or to continue performing labor or services in order to avoid incurring that harm.

137. Defendants knowingly provided and obtained the labor and services of Plaintiff and other members of the Class by means of a scheme, plan, or pattern intended to cause Plaintiff and other members of the Class to believe that, if they did not perform such labor or services, they would suffer serious harm, including without limitation, psychological, financial or reputational harm, that was sufficiently serious to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

138. Defendants knowingly benefited, financially or by receiving other value, from participation in a venture which has engaged in the providing or obtaining of labor or services by the means described above, knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by such means.

139. Defendants knowingly recruited, transported, provided, and obtained Plaintiff and members of the Class for labor or services in violation of 18 U.S.C. §§ 1589, 1590, 1594(a) and 1594(b).

140. By reason of the conduct described above, Defendants were perpetrators of violations of 18 U.S.C. §§ 1589, 1590, 1594(a) and 1594(b).

141. Plaintiff and the other Class members suffered damages as a direct and proximate result of the Defendants' conduct.

142. Plaintiff and the other Class members are entitled to compensatory and punitive damages in amounts to be determined at trial, together with reasonable attorney's fees and the costs of this action.

SECOND CAUSE OF ACTION
Violation of the Trafficking Victims Protection Act
18 U.S.C. § 1594(b)
(Brought on behalf of Plaintiff and the Class II)

143. Plaintiff, on behalf of herself and the Class II, re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

144. Defendants conspired with one another to violate 18 U.S.C. §§ 1589 and 1590.

145. Defendants agreed to provide and obtain the labor and services of Plaintiff and other members of the Class by means of the abuse or threatened abuse of law or legal process, including without limitation, the use or threatened use of a law or legal process to exert pressure on Plaintiff and other members of the Class to continue working for the Defendants and to refrain from seeking employment elsewhere.

146. Defendants agreed to provide and obtain the labor and services of Plaintiff and other members of the Class by means of serious harm and threats of serious harm to Plaintiff and other members of the Class, including without limitation, psychological, financial or reputational harm that was sufficiently serious to compel a reasonable person of the same background and in the same circumstance to perform or to continue performing labor or services in order to avoid incurring that harm.

147. Defendants agreed to provide and obtain the labor and services of Plaintiff and other members of the Class by means of a scheme, plan, or pattern intended to cause Plaintiff and other members of the Class to believe that, if they did not perform such labor or services, they would suffer serious harm, including without limitation, psychological, financial or reputational harm, that was sufficiently serious to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services in order to avoid incurring that harm.

148. Defendants agreed to benefit, financially or by receiving other value, from participation in a venture which has engaged in the providing or obtaining of labor or services by the means described above, knowing or in reckless disregard of the fact that the venture has engaged in the providing or obtaining of labor or services by such means.

149. Defendants agreed to recruit, transport, provide, and obtain Plaintiff and members of the Class for labor or services in violation of 18 U.S.C. §§ 1589 and 1590.

150. Each of the Defendants engaged in at least one overt act in furtherance of the conspiracy, including:

- a) Defendant Grandison acted as plaintiff and commenced baseless lawsuits against foreign physical therapists, including Plaintiff Zendon, for the purpose of coercing the Class to continue working for Defendants.
- b) Defendants Grandison recruited Plaintiff and other Class members in the Philippines to work for the Defendants in this District, and, after their arrival in the United States, warned them of the serious harm they would suffer if they attempted to stop working for the Defendants or to seek employment elsewhere.
- c) Defendant Grandison failed to pay Plaintiff and other Class members the prevailing wage rates in their employment contracts for all of their work hours.
- d) Defendant Lopez provided physical therapy clinics where Plaintiff and other Class members were made to perform and render their physical therapy services.

- e) Defendant Lopez obtained the services of Plaintiff and other Class members knowing of the employees' "liquidated damages" and "non-compete" provisions in their contracts.
- f) Defendant Rehab Synergy provided a physical therapy clinic where Plaintiff and other Class members were made to perform and render their physical therapy services.
- g) Defendant Rehab Synergy obtained the services of Plaintiff and other Class members knowing of the employees "liquidated damages" and "non-compete" provisions in their contracts.

151. Each of the Defendants intentionally engaged in these acts and additional acts in furtherance of their agreed plan to deny Plaintiff and other members of the Class the compensation they were entitled under their employment agreements and to coerce Plaintiffs and other Class members to continue working for the defendants and not to seek employment elsewhere.

152. Plaintiff and the other Class members suffered damages as a direct and proximate result of the Defendants' conspiracy.

153. Plaintiff and the other Class members are entitled to compensatory and punitive damages in amounts to be determined at trial, together with reasonable attorney's fees and the costs of this action.

THIRD CAUSE OF ACTION
Fair Labor Standards Act (FLSA)
(Brought on behalf of Plaintiff and the FLSA Collective)

154. Plaintiff, on behalf of herself and the FLSA Collective, re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

155. Defendants have engaged in a widespread pattern and practice of violating the FLSA, as described in this Class and Collection Action Complaint.

156. At all relevant times, Plaintiff and other similarly-situated current and former employees of Defendants were engaged in commerce and/or the production of goods for commerce, within the meaning of 29 U.S.C. §§206(a) and 207(a).

157. At all times relevant, Plaintiff engaged in “commerce” while working for the Defendants, as when she regularly used physical therapy equipment and supplies which were ordered and/or manufactured, upon information and belief, outside the state or delivered crossing state lines.

158. At all relevant times, Plaintiff and members of the FLSA Collective are/were employees within the meaning of 29 U.S.C. §§203(e) and 207(a).

159. At all relevant times, Defendants have been and continue to be, an employer engaged in interstate commerce and/or the production of goods for commerce, within the meaning of 29 U.S.C. §§206(a) and 207(a).

160. Upon information and belief, Defendant corporations employ or employed more than four (4) workers who fall under the category of “non-exempt employees” pursuant to the FLSA, and these employees regularly and recurrently either engaged in commerce or handled or otherwise worked on goods or materials that had been moved in or produced for commerce, such as when they handled credit card transactions or when they accepted delivery of supplies ordered from out-of-state.

161. At all relevant times, Defendants were and continue to be an "enterprise engaged in commerce" because they utilized essential business equipment, such as computers, physical

therapy equipment and supplies that, upon information and belief, were manufactured outside the state of New York and were moved in interstate commerce.

162. Upon information and belief, at all relevant times, Defendants regularly used, sourced out and ordered their computer equipment and supplies, and their physical therapy equipment and supplies, by ordering either through the telephone or through online, with supply and distribution companies, and which various equipment and supplies, upon information and belief, were either manufactured outside the state or were delivered crossing state lines.

163. At all relevant times, Defendants' business activities are/were related, and performed through unified operations or common control for a common business purpose, and constitute/constituted an enterprise within the meaning of 29 U.S.C. §§203(r).

164. At all relevant times herein, upon information and belief, Defendants' businesses and enterprise have/had annual gross revenues in excess of \$500,000.00 (five hundred thousand dollars).

165. At all relevant times herein, Defendants employed and/or continue to employ the Plaintiff and the members of the FLSA Collective in various physical therapy clinics and healthcare facilities, in furtherance of the activities of their enterprise, and while engaged in commerce and/or continuing to engage in commerce, by providing healthcare services to their residents or patients.

166. The overtime wage provisions set forth in 29 U.S.C. §§201 *et seq.* apply to the Defendants.

167. At all relevant times, Defendants have a policy and/or practice of refusing to pay regular compensation for all work hours as well as overtime compensation to their physical

therapists-employees paid on hourly basis, for all their hours worked, including those hours in excess of forty (40) hours per workweek.

168. Defendants' violations of the FLSA, as described in this Class and Collective Action Complaint, have been willful and intentional. Defendants have failed to make a good faith effort to comply with the FLSA with respect to their compensation of Plaintiff and other similarly-situated current and former employees.

169. Because Defendants' violations of the FLSA have been willful, a three-year statute of limitations applies, pursuant to 29 U.S.C. §255.

170. As a result of Defendants' willful failure to compensate their employees, including Plaintiff and the FLSA Collective, for all of the hours actually worked by them, including those in excess of forty (40) hour per workweek, at their regular rate and/or at a rate not less than one and one-half times the regular rate of pay, the Defendants have violated and continue to violate the FLSA, 29 U.S.C. §201 *et seq.*, including 29 U.S.C. §207(a)(1) and 215(a).

171. As a result of Defendants' failure to properly compensate their employees, including Plaintiff and the FLSA Collective, the Defendants have failed to make, keep, record, credit them with actual work hours, and to preserve records with respect to each of their employees, sufficient to determine the wages, hours and other conditions and practices of employment, in violation of the FLSA, 29 U.S.C. §201 *et seq.*, including 29 U.S.C. §211(c) and 215(a).

172. Due to Defendants' FLSA violations, Plaintiff and the members of the FLSA Collective suffered damages by being denied proper regular compensation and overtime compensation, for all their hours of work, including those hours in excess of 40 hours per workweek.

173. Due to Defendants' FLSA violations, Plaintiff and the members of the FLSA Collective are entitled to recover from the Defendants, the unpaid regular compensation as well as overtime compensation for all their hours worked, including for those hours worked in excess of forty (40) hours per workweek at a rate of one and one-half times the regular rate, as well as additional amount equal to the unpaid compensation as and by way of liquidated damages, an additional liquidated damages for unreasonably delayed payment of wages, reasonable attorney's fees, and costs and disbursements of this action, pursuant to 29 U.S.C. §216(b).

FOURTH CAUSE OF ACTION
New York Labor Law (NYLL)
(Brought on behalf of Plaintiff and the Class I)

174. Plaintiff, on behalf of herself and the Class I, re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

175. At all relevant times, Plaintiff and the members of the Class I, have been employees of the Defendants, and the Defendants have been their employer within the meaning of the New York Labor Law, §§2 and 651.

176. Defendants have failed to pay the Plaintiff and the members of the Class compensation, including compensation for all their hours of work, and also overtime compensation for all their hours of work in excess of forty hours (40 hrs.) per workweek, in violation of NYLL Article 19, §§650 *et seq.* and the supporting New York State Department of Labor regulations.

177. Defendants have failed to pay the Plaintiff and the members of the Class overtime wages at the rate of one and one-half times their regular rate of pay.

178. Defendants violated Plaintiff's rights and the rights of the members of the Class, by failing to pay them for all of the hours actually worked by them as well as for overtime

compensation at rates not less than one and one-half times the regular rate of pay for each hour worked in excess of forty hours in a workweek. Defendants' violations of the NYLL, as described in this Class and Collective Action Complaint, have been willful and intentional.

179. Defendants' violations of the NYLL have caused Plaintiff and the members of the Class irreparable harm and injury.

180. Due to Defendants' NYLL violations, Plaintiff and the members of the Class are entitled to recover from Defendants their unpaid wages, as well as overtime compensation, reasonable attorney's fees, and costs and disbursement of the action, pursuant to NYLL §663(1).

FIFTH CAUSE OF ACTION
Action for Declaratory Judgment
(Brought on behalf of Plaintiff and the Class I)

181. Plaintiff, on behalf of herself and the members of the Class I, re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

182. Defendant Grandison's threats to enforce the so-called "liquidated damages" clause and non-compete provisions of the employment contract constitute threats of serious harm within the meaning of the Trafficking Victims Protection Act.

183. Plaintiff and members of the Class have been compelled to perform and to continue performing labor or services for Defendant Grandison in order to avoid incurring that harm.

184. Defendant Grandison's threats to commence legal action against Plaintiff and members of the Class to enforce the penalty and non-compete provisions of the employment contract are designed to cause them to continue working for the Defendants and refrain from leaving their employment, notwithstanding their failure to pay Plaintiff and members of the Class the legally required compensation.

185. Plaintiff and members of the Class have been compelled to perform and to continue performing labor or services for Defendant Grandison as a result of its threats.

186. The 13th Amendment to the United States Constitution provides that involuntary servitude shall not exist within the United States or any place subject to their jurisdiction.

187. The so-called “liquidated damages” clause and non-compete provisions in the employment contracts are intended to keep Plaintiff and members of the Class in a position of involuntary servitude.

188. The so-called “liquidated damages” clause and non-compete provisions in the employment contracts have the effect of keeping Plaintiff and members of the Class in a position of involuntary servitude.

189. A Court may not use its legal authority and power to enforce so-called “liquidated damages” clauses and non-compete provisions in an employment contract that have the purpose and effect of keeping Plaintiff and members of the Class in a position of involuntary servitude.

190. The so-called “liquidated damages” clause in the employment contracts is an unenforceable penalty.

191. The amount of the so-called “liquidated damages” is disproportionate to Defendant Grandison’s foreseeable or probable losses.

192. Defendant Grandison’s actual damages caused by a breach of the employment contracts are and were readily ascertainable.

193. The amount of the so-called “liquidated damages” is disproportionate to the compensation of Plaintiff and other Class members.

194. The purpose and effect of the so-called “liquidated damages” clause is to coerce Plaintiff and other Class members into continuing to work for Defendant Grandison Management.

195. The so-called “liquidated damages” clause was the result of unequal bargaining power and a contract of adhesion.

196. The duration and geographic scope of the non-compete provisions in the employment contracts are broader than necessary to protect any legitimate business interests of Defendant Grandison.

197. The duration and geographic scope of the non-compete provisions in the employment contracts are not necessary to prevent possible solicitation or disclosure of trade secrets.

198. The duration and geographic scope of the non-compete provisions in the employment contracts are not necessary to prevent possible release of confidential information regarding Defendant Grandison’s customers.

199. The duration and geographic scope of the non-compete provisions in the employment contracts impose unreasonable burdens on and barriers to the ability of Plaintiff and members of the Class to practice their professions and earn an income.

200. The geographic scope of the non-compete provisions of the employment contracts is unreasonably ambiguous and indefinite.

201. The duration and geographic scope of the non-compete provisions in the employment contracts are contrary to the State of New York’s strong public policy in favor of competition engendered by the uninhibited flow of services, talent, and ideas.

202. The duration and scope of the non-compete provisions in the employment contracts are contrary to the State of New York's strong public policy in favor of allowing employees to apply to their own best advantage the skills and knowledge acquired by the overall experience of their previous employment.

203. The duration and scope of the non-compete provisions in the employment contracts are unsupported by continued consideration for Plaintiff's loyalty and good will.

204. The duration and geographic scope of the non-compete provisions in the employment contract are designed for improper purposes, including to coerce Plaintiff and other members of the Class into continuing to work for Defendant Grandison.

205. Plaintiff and members of the Class have a definite and concrete dispute with Defendant Grandison Management concerning the enforceability of the so-called "liquidated damages" clause and non-compete provisions in the employment contracts.

206. The dispute touches the legal relations of parties having adverse legal interests.

207. The dispute is real and substantial.

208. The dispute admits of specific relief through a decree of a conclusive character.

209. The dispute involves a substantial controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

210. Defendant Grandison's threats to enforce the liquidated damages and non-compete provisions would work to Plaintiff's detriment and injury, and for which she has no adequate remedy at law.

211. For the above reasons, the liquidated damages and non-compete provisions in the employment agreements are void and unenforceable and in contravention of the laws of the State of New York, in that these are a restraint of trade, against public policy, and constitute an

unlawful coercive device designed to depress wages and deprive Plaintiff of the opportunity to resign for good cause, and would effectively compel someone to continue working.

212. Plaintiff's services as a Physical Therapist are not unique or extraordinary, nor are they of a character that involves the acquisition of any trade secrets of Defendants. Plaintiff's skills, ability and knowledge obtained in the course of her employment are not the property of Defendants.

213. The liquidated damages and non-compete provisions contained in the employment agreements are not reasonably necessary to protect any legitimate business interests of the Defendants, and are therefore unenforceable and contrary to public policy as an unnecessary restraint of employment.

214. The employment agreements containing the \$30,000 liquidated damages provision and the "U.S. \$200.00 for every 40 hours left in the Work Term" provision are harsh, oppressive, inequitable and unenforceable. These are adhesive contracts frowned upon in law.

215. The liquidated damages provisions of the employment contracts are actually a penalty. While the provision fixed the damages in the event of a breach, the amount liquidated, which is \$30,000, did not bear a reasonable proportion to the probable loss. \$30,000 is grossly disproportionate to the amount of probable loss by the Defendant Grandison.

216. As a direct and proximate result of Defendant Grandison's threats to enforce the liquidated damages and non-compete provisions by legal action, Plaintiff has suffered and will continue to suffer in the future, direct and consequential damages, including but not limited to, the loss of the ability to exercise her rights to leave her employment for good cause, and to exercise her physical therapy profession in another environment free of concerns or issues that

would jeopardize her physical therapy license, her health, and the delivery of quality patient care to the patients.

217. By reason of the foregoing, an actual and justiciable controversy exists between Plaintiff and the members of the Class, on one hand, and Defendant Grandison, on the other hand. Plaintiff seeks a declaratory judgment that the liquidated damages and non-compete provisions in the employment agreements are void and unenforceable.

SIXTH CAUSE OF ACTION
Breach of Contract

218. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as if fully set forth herein.

219. Plaintiff entered into a valid and binding employment contract with Defendant Grandison Management.

220. Plaintiff substantially performed under the contract.

221. Defendant Grandison Management breached the contract by failing to pay Plaintiff the wages promised in her employment contract for all hours worked.

222. Plaintiff suffered damages as a direct and proximate result of the breach.

223. Plaintiff is entitled to compensatory damages for breach of contract in amounts to be determined at trial.

PRAYER

WHEREFORE, Plaintiff, on behalf of herself and all other similarly-situated FLSA Collective members and members of the Class, respectfully requests that this Court grant the following relief:

(a) Against all Defendants, jointly and severally, awarding Plaintiff and members of the Class and/or Collective compensatory and punitive damages for violations of the Trafficking

Victims Protection Act; and compensatory and liquidated damages for failure to pay regular and overtime compensation for all hours worked in violation of the Fair Labor Standards Act, and the New York Labor Law;

(b) Against Defendant Grandison, declaring that the so-called “liquidated damages” and non-compete provisions in the employment contracts are unenforceable under the Trafficking Victims Protection Act, 18 U.S.C. § 1589, *et seq.*, the 13th Amendment to the United States Constitution, and New York common law; and enjoining Defendant Grandison from enforcing or threatening to enforce the so-called “liquidated damages” and non-compete provisions in the employment contracts against Plaintiff or any other class member in any forum;

(c) Prompt issuance of notice pursuant to 29 U.S.C. §216(b) to all similarly-situated members of an FLSA Opt-In Class, apprising them of the pendency of this action, permitting them to assert timely FLSA claims in this action by filing individual Consents to Sue pursuant to 29 U.S.C. §216(b), and appointing Plaintiff and her counsel to represent the FLSA Collective;

(d) Certification of the Fourth Cause of Action under the New York Labor Law, as a class action pursuant to Fed.R.Civ.P 23(b)(2) and (3) on behalf of the members of the Class, and appointing Plaintiff and her counsel to represent the Class;

(e) An award of prejudgment and post-judgment interests;

(f) An award of costs and expenses of this action, together with reasonable attorneys’ fees;

(g) Such other and further relief as this Court deems just and proper.

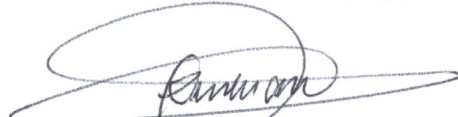
DEMAND FOR JURY TRIAL

Plaintiff is entitled to and hereby demands a jury trial in this matter on all issues of fact raised by the Complaint.

Respectfully submitted.
August 9, 2018. Woodside, New York.


LAW OFFICE OF FELIX VINLUAN

By:



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Woodside, NY 11377
Tel. No. 718-478-4488
Fax No. 718-478-4488
Email: fqvinluan@yahoo.com

LAW OFFICES OF MANUEL QUINTAL, P.C.



MANUEL B. QUINTAL
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New York, NY 10007
Tel. No. 212-732-0055
Fax No. 212-587-8933
Email: quintallaw@aol.com

Counsel for the Plaintiff and the Collective/Class

VERIFICATION

STATE OF NEW YORK)

S.S.:

COUNTY OF QUEENS)

I, **DIANNAH ANNE ZENDON**, of legal age and residing at Essex County, State of New York, after having been sworn in accordance with law, hereby state that I am the plaintiff in the within action. I have read the foregoing Complaint and know the contents thereof. The contents are true to my knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true.

DIANNAH ANNE ZENDON

Sworn to and subscribed before me
on August 9, 2018

FELIX Q. VINLUAN
Notary Public, State of New York
No. 02V16129101
Qualified in Nassau County
Commission Expires June 20, 2021

JS 44 (Rev. 01/29/2018)

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
 DIANNAH ANNE ZENDON, Individually and on behalf of all other persons similarly situated,
 (b) County of Residence of First Listed Plaintiff Essex
 (EXCEPT IN U.S. PLAINTIFF CASES)
 (c) Attorneys (Firm Name, Address, and Telephone Number)
 FELIX Q. VINLUAN, Law Office of Felix Vinluan
 69-10 Roosevelt Avenue, 2nd Floor, Woodside, NY 11377 Tel. No. 718-478-4488

DEFENDANTS
 GRANDISON MANAGEMENT, INC., REHAB SYNERGY PT, PC, and BASILIO E. LOPEZ
 County of Residence of First Listed Defendant Kings
 (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)
 (For Diversity Cases Only)

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

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

Click here for: Nature of Suit Code Descriptions.

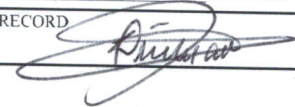
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	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 - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 FIA (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)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" 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

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):
18 USC 1589 et seq., Violations under the Trafficking Victims Protection Act as amended
 Brief description of cause:
Defendant used threats of serious harm and abuse of law or legal process to compel continued labor of plaintiff

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

VIII. RELATED CASE(S) IF ANY (See instructions):
 JUDGE Hon. Allyne R. Ross DOCKET NUMBER 18-cv-03520

DATE 8/10/2018 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY
 RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, FELIX VINLUAN, counsel for PLAINTIFF, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

-
-
-

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
 the complaint seeks injunctive relief,
 the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

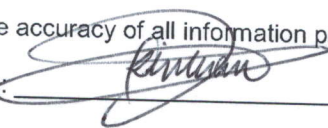
Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: _____



AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

DIANNAH ANNE ZENDON, Individually and on behalf of all other persons similarly situated,

Plaintiff(s)

v.

GRANDISON MANAGEMENT, INC., REHAB SYNERGY PT, P.C., and BASILIO E. LOPEZ,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) GRANDISON MANAGEMENT, INC. 461 Bedford Avenue Brooklyn, NY 11211

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

FELIX VINLUAN, Esq. Law Office of Felix Vinluan 69-10 Roosevelt Avenue, 2nd Floor Woodside, NY 11377

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

DIANNAH ANNE ZENDON, Individually and on behalf of all other persons similarly situated,

Plaintiff(s)

v.

GRANDISON MANAGEMENT, INC., REHAB SYNERGY PT, P.C., and BASILIO E. LOPEZ,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) REHAB SYNERGY PT., P.C. 35-30 64th Street Woodside, NY 11377

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: FELIX VINLUAN, Esq. Law Office of Felix Vinluan 69-10 Roosevelt Avenue, 2nd Floor Woodside, NY 11377

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

DIANNAH ANNE ZENDON, Individually and on behalf of all other persons similarly situated,

Plaintiff(s)

v.

GRANDISON MANAGEMENT, INC., REHAB SYNERGY PT, P.C., and BASILIO E. LOPEZ,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) BASILIO E. LOPEZ 180-03 90th Avenue Jamaica, NY 11432

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

FELIX VINLUAN, Esq. Law Office of Felix Vinluan 69-10 Roosevelt Avenue, 2nd Floor Woodside, NY 11377

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Filed Against Grandison Management, Rehab Synergy Over Allegedly Unpaid Wages, Unconscionable Work Contracts](#)
