

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARVELLA MORRIS and NOEL CORD, :
on behalf of themselves and others similarly :
situated, , :

Plaintiff, :

v. :

PUBLIC HEALTH MANAGEMENT :
CORPORATIOIN and TURNING POINTS :
FOR CHILDREN, :

Defendant. :

Case No. 2:17-cv-04620-AB

**DEFENDANTS' ANSWER TO THE
COMPLAINT**

FILED VIA ECF

Defendants Public Health Management Corporation ("PHMC") and Turning Points for Children ("Turning Points") answer the consecutively numbered paragraphs of the Complaint filed by Plaintiffs Marvella Morris and Noel Cord as follows:

Defendants admit that Plaintiff allege violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§201 *et seq.*, and the Pennsylvania Minimum Wage Act ("PMWA"), 43 P.S. §§333.101 *et seq.*, but deny that they violated either statute. Defendants further admit that the Complaint alleged a hybrid class action as to Plaintiffs' PMWA claim, and a collective action as to Plaintiffs' FLSA claim, but deny that class or collective action treatment is appropriate here.

JURISDICTION AND VENUE

1. Defendants admit that Plaintiffs allege violation of a federal statute, the FLSA, and therefore rely on federal question jurisdiction. The remaining allegations set forth in paragraph 1 are conclusions of law to which no answer is required.

2. Defendants admit that Plaintiffs rely on supplemental jurisdiction for their related state law PMWA claim. The remaining allegations set forth in paragraph 2 are conclusions of

law to which no answer is required.

3. Defendants admit that Defendant Turning Points employed Plaintiffs in this judicial district. The remaining allegations set forth in paragraph 3 are conclusions of law to which no answer is required.

PARTIES

4. Defendants admit that Plaintiff Morris resides at the stated address.

5. Defendants admit that Plaintiff Cord's last known address is the stated address, but deny any remaining allegations set forth in paragraph 5.

6. Defendants admit that Plaintiffs Morris and Cord are referred to as Plaintiffs in the Complaint.

7. Defendants admit that PHMC is a nonprofit corporation with offices at 1500 Market Street, Philadelphia, PA 19102. Defendant admits that PHMC is the parent corporation of subsidiary organizations that provide a broad array of programs as quoted from PHMC's website. Defendants deny any remaining allegations set forth in paragraph 7.

8. Defendants admit that Turning Points is a non-profit corporation, affiliated with PHMC since March 2013, that provides programs as quoted from the Turning Points page of the website. Defendants deny any remaining allegations set forth in paragraph 8.

9. Defendants admit that the Complaint refers to PHMC and Turning Points as Defendants.

10. Defendants admit that Plaintiffs were employed by Defendant Turning Points. The remaining allegations set forth in paragraph 10 are conclusions of law to which no answer is required, and were an answer required, Defendants deny the same.

11. Defendants admit that Defendant Turning Points employed Plaintiffs. The

remaining allegations set forth in paragraph 11 are conclusions of law to which no answer is required, and were an answer required, Defendants deny the same.

FACTS

12. Defendants admit that Plaintiffs were employed by Turning Points, which provides various social services to children and families in Philadelphia's foster care system. Defendants admit that Plaintiff Morris is employed as a Case Manager and that Plaintiff Cord was formerly employed as a Permanency Specialist. Defendants deny the remaining allegations set forth in paragraph 12.

13. Defendants admit that Plaintiffs Morris and Cord did not supervise 2 or more other employees in the course of their duties. Defendants deny the remaining allegations set forth in paragraph 13.

14. Defendants deny that, at all times during the relevant time period, the positions held by Plaintiffs did not require a Master's Degree, and deny any remaining allegations set forth in paragraph 14.

15. Defendants deny that the Case Manager position held by Plaintiff Morris does not require specialized academic training. Defendants further deny that requiring a Bachelor's Degree in areas such as criminal justice, psychology, sociology, and/or communications is the equivalent of not requiring specialized academic training at all, when the position at issue draws on specialized academic training across multiple disciplines. Defendants deny any remaining allegations.

16. Defendants deny that the Permanency Specialist position held by Plaintiff Cord does not require specialized academic training. Defendants further deny that requiring a Bachelor's Degree in areas such as sociology, psychology, counseling, criminal justice,

education, divinity or public health administration is the equivalent of not requiring specialized academic training at all when the position at issue draws on specialized academic training across multiple disciplines. Defendants deny any remaining allegations set forth in paragraph 16.

17. Defendants admit that the range of annual pay for Case Managers and Permanency Specialists includes \$43,000, but denies any remaining allegations set forth in paragraph 17.

18. Defendants deny that Case Managers and Permanency Specialists regularly work over 40 hours per week. Defendants admit that the job duties include traveling between client homes and completing paperwork relating to cases. Defendants deny the remaining allegations set forth in paragraph 18.

19. Defendants admit that Plaintiffs have been classified as exempt and have not been paid overtime for hours worked in excess of 40 in a workweek, and deny any remaining allegations set forth in paragraph 19.

20. Defendants deny that they have violated the FLSA, willfully or otherwise, and deny any remaining allegations set forth in paragraph 20.

CLASS/COLLECTIVE ACTION ALLEGATIONS

21. Defendants admit that Plaintiffs bring their FLSA claim as a collective action under 29 U.S.C. §216(b) and their PMWA claim as a Rule 23 class action on behalf of Case Managers and Outcome Specialists employed by Defendants within three years prior to the date the Complaint was filed. Defendants deny that such collective or class action treatment is appropriate here. Defendants further deny that PHMC is a proper Defendant since it was not Plaintiffs' employer, and also deny that Plaintiffs have standing to sue on behalf of individuals who did not work for Turning Points. Defendants deny any remaining allegations set forth in

paragraph 21.

22. Deny.

23. Deny.

24. Defendants admit that over 50 individuals employed by Defendant Turning Points held either the Case Manager position held by Plaintiff Morris or the Permanency Specialist position held by Plaintiff Cord. Defendants deny the remaining allegations set forth in paragraph 24.

25. Defendants deny that Plaintiffs' claims are typical of those whom they seek to represent, and aver that Plaintiff Morris holds a Master's Degree in Psychology. Defendants deny the remaining allegations set forth in paragraph 25.

26. The allegations set forth in paragraph 26 are conclusions of law to which no answer is required.

27. Deny.

28. Deny.

COUNT I (FLSA)

29. Defendants incorporate their answers to the previous paragraphs as if fully set forth herein.

30. Defendants admit that the FLSA requires that non-exempt employees receive overtime pay for hours worked in excess of 40 in a workweek, but deny the remaining allegations set forth in paragraph 30.

31. Deny.

32. Deny.

COUNT II (PMWA)

33. Defendants incorporate their answers to the previous paragraphs as if fully set forth herein.

34. Defendants admit that the PMWA requires that non-exempt employees receive overtime pay for hours worked in excess of 40 in a workweek, but deny the remaining allegations set forth in paragraph 34.

35. Deny.

AFFIRMATIVE AND ADDITIONAL DEFENSES

1. The Complaint fails to state a claim upon which relief can be granted.

2. The Complaint fails insofar as PHMC was not Plaintiffs' employer.

3. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, by the applicable statutes of limitation and/or statutory time bars.

4. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, because they have already been paid and/or received all wages due to them under federal and state law.

5. The claims of Plaintiffs and those whom they seek to represent, including any claim for liquidated damages, are barred, in whole or in part, insofar as any act(s) and/or omissions that may be found to be in violation of the FLSA or PMWA occurred in good faith in conformity with and in reliance on written administrative regulation, order, ruling, opinion letter, approval and/or interpretation of the United States Department of Labor and/or the Pennsylvania Department of Labor and Industry.

6. The claims of Plaintiffs and those whom they seek to represent are barred because each are and/or were at all relevant times exempt from overtime and the other allegedly relevant

provisions of the FLSA and PMWA and applicable regulations promulgated thereunder pursuant to the professional or administrative exemptions or a combination thereof.

7. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, because they have sustained no damages.

8. The claims of Plaintiffs and those whom they seek to represent are barred insofar as any damages suffered were proximately caused by their own conduct and not the conduct of Defendant.

9. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, by the *de minimis* doctrine.

10. The claims of Plaintiffs and those whom they seek to represent barred, in whole or in part, by the doctrines of release, accord and satisfaction, waiver, estoppel, laches, consent, unclean hands, set-off and/or avoidable consequences.

11. The claims of Plaintiffs and those whom they seek to represent barred, in whole or in part, based on the doctrine of unjust enrichment.

12. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, to the extent that they performed compensable work activities that were not known to Defendant and could not reasonably have been known by Defendant.

13. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, to the extent that the alleged activities were non-compensable preliminary or postliminary activities under the Portal to Portal Act, 29 U.S.C. §251 *et seq.*, or otherwise non-compensable travel time under the PMWA.

14. The claims of Plaintiffs and those whom they seek to represent are barred, in whole or in part, by exclusions, exceptions, credits, or offsets permissible under the FLSA and/or

PMWA.

15. The claims of Plaintiffs and those whom they seek to represent are barred because Defendants had reasonable grounds for believing that any alleged acts and omissions were not violations of the FLSA or PMWA.

16. The certification of a collective or class action, as applied to the facts and circumstances of this case, would constitute a denial of Defendants' due process rights, both substantive and procedural, in violation of the Seventh and Fourteenth Amendments of the United States Constitution and the Constitution and laws of the Commonwealth of Pennsylvania.

17. The certification of a collective action is barred because Plaintiffs lack standing as representatives of the putative class and/or collective of individuals whom they seek to represent, and do not adequately represent the putative class members.

18. The certification of a class action is barred because the claims of the Plaintiffs and allegedly similarly situated persons whom Plaintiffs seek to represent are improperly joined, as their rights to recover require individual analysis, do not present a predominance of common questions of law or fact, and are unsuited for determination on a class representative basis; class treatment is neither a superior nor a suitable means of adjudicating these claims.

19. Plaintiffs' Complaint fails to assert any facts or provide any basis on which Defendants may be held individually liable for the violations alleged in the Complaint. Defendants reserve the right to amend, modify, revise or supplement their Answer, and to plead such further affirmative defenses and take such further actions as Defendants may deem proper and necessary to defend.

WHEREFORE, Defendants requests that the Complaint be dismissed in its entirety, with prejudice, that judgment be entered in its favor and against Plaintiffs and that the Court awards

such other relief as is just and equitable.

Dated: March 30, 2018

Respectfully submitted,



Richard R. Harris, (PA #84897)

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CERTIFICATE OF SERVICE

I, Martha Keon, hereby certify that I caused the foregoing Defendants' Answer to Plaintiffs' Complaint to be served via ECF upon the following:

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/s/ Martha Keon _____

Martha Keon

Dated: March 30, 2018

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