

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

HEATHER LUCAS, on behalf of herself and	:	
Similarly situated employees,	:	
	:	Civil Action No.: 20-0029
Plaintiff,	:	
	:	
Vs.	:	
	:	
HEARTFELT HOME HEALTHCARE, INC.	:	
	:	
Defendant.	:	

ANSWER AND AFFIRMATIVE DEFENSES

AND NOW comes Defendant, Heartfelt Home Healthcare, Inc. (hereinafter “Heartfelt” or “Defendants”) by and through its attorneys Dickie, McCamey & Chilcote, P.C. and in response to the class/collective action brought by Plaintiff, Heather Lucas, states the following:

ANSWER

1. The allegations of paragraph 1 are admitted in part. It is admitted that the statutes cited by Plaintiff confer jurisdiction on this Court for the claims pled. To the extent the allegations of paragraph 1 allege that Defendant has violated the FLSA, said allegation is a conclusion of law to which no response is required.

2. The allegations of paragraph 2 are admitted in part. It is admitted that this Court has supplemental jurisdiction over Plaintiff’s alleged state law claim. To the extent the allegations of paragraph 2 allege that Defendant has violated state law, said allegation is a conclusion of law to which no response is required.

3. The allegations of paragraph 3 are admitted in part. It is admitted that this Court has venue for the actions pled by Plaintiff. To the extent the allegations of paragraph 3 allege that Defendant has violated those statutes, said allegation is a conclusion of law to which no response is required.

4. It is admitted that Plaintiff, Heather Lucas, is an individual. After reasonable investigation, Defendant is without sufficient information to form an opinion as to the truth of the remaining averments of paragraph 4.

5. The allegations of paragraph 5 state a legal conclusion to which no response is required.

6. Admitted.

7. The allegations of paragraph 7 are admitted in part. It is admitted that Defendant employs individuals and that it formerly employed Plaintiff. It is denied that Plaintiff is currently employed. The remaining allegations of paragraph 7 state legal conclusions to which no response is required. It is denied that Defendant is engaged in interstate commerce.

8. The allegations of paragraph 8 state two legal conclusions to which no response is required. It is denied that Defendant is engaged in interstate commerce.

9. It is admitted that the allegations in paragraph 9 is comprised of an accurate quote from Defendant's company website.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted. In further answer to the allegations of paragraph 13, the one and only assignment Plaintiff had during her employment by Defendant was to care for her brother, Alan Poole.

14. It is admitted that Plaintiff regularly worked in excess of 40 hours. In further response to the allegations of Paragraph 14 Plaintiff was paid in good faith and Defendant had reasonable grounds for its method of payment.

15. It is admitted that on occasion, Plaintiff was not paid an overtime premium. The remaining allegations of Paragraph 15 are denied. In further response to the allegations of Paragraph 15, Plaintiff was paid in good faith and Defendant had reasonable grounds for its method of payment.

16. It is admitted that in the allegations set forth in paragraph 16, Plaintiff states an intent to bring this lawsuit as a class and collective action on behalf of herself and other individuals. It is denied that the elements necessary to bring this matter as either a class or collective action have been met.

17. The allegations of paragraph 17 state a conclusion of law to which no response is required. To the extent a response is required, it is denied that Plaintiff's claim should proceed as a collective action in that to the extent there are similarly situated individuals, the number of them does not meet the standards of the FLSA for a collective action.

18. The allegations of paragraph 18 state a conclusion of law to which no response is required. To the extent a response is required, it is denied that this action would be properly maintained as a class action under the Pennsylvania Minimum Wage Act ("PMWA").

19. The allegations of paragraph 19 state a conclusion of law to which no response is required. To the extent a response is required, it is denied that there is a numerous class of similarly situated Plaintiffs, such that joinder would be impracticable.

20. The allegations of paragraph 20 state a legal conclusion to which no response is required. To the extent a response is required, it is denied that Defendant's conduct with regard to any class raises common questions of law and fact.

21. The allegations of paragraph 21 state a legal conclusion to which no response is required. To the extent a response is required the allegations of paragraph 21 are denied.

22. The allegations of paragraph 22 state a legal conclusion to which no response is required. To the extent a response is required the allegations of paragraph 22 are denied.

23. The allegations of paragraph 23 state a legal conclusion to which no response is required. To the extent a response is required the allegations of paragraph 23 are denied.

24. To the extent the allegations of paragraph 24 aver or infer that the instant case requires a class action to provide a fair and efficient method for adjudicating legal claims, said allegations are denied.

25. The allegations of paragraph 25 state a legal conclusion to which no response is required. To the extent a response is required the allegations of paragraph 25 are denied.

26. The allegations of paragraph 26 state a legal conclusion to which no response is required. To the extent a response is required the allegations of paragraph 26 are denied.

27. The allegations of paragraph 27 states and incorporation by reference to which no response is required.

28. The allegations of paragraph 28 state a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 28 are denied.

29. The allegations of paragraph 29 state a general principal of the Fair Labor Standards Act which as stated is overly broad. To the extent the allegations of paragraph 29 require an answer, those allegations are denied.

30. The allegations of paragraph 30 state a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 28 are denied.

31. The allegations of paragraph 31 state a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 28 are denied.

32. The allegations of paragraph 32 state an incorporation by reference to which no response is required.

33. The allegations of paragraph 33 state a legal conclusion to which no response is required.

34. The allegations of paragraph 34 state in general terms a general principal of the PMWA. To the extent this allegation expresses or infers that there is an appropriate

class of individuals employed by Defendant who are entitled to relief under the PMWA, those allegations are denied.

35. The allegations of paragraph 35 state a legal conclusion to which no response is required. To the extent a response is required, the allegations of paragraph 28 are denied.

WHEREFORE, Defendant respectfully requests that Plaintiff's claim in its entirety and in particular, her contentions that this matter proceed as a collective or class action be dismissed.

AFFIRMATIVE DEFENSES

Heartfelt alleges the following affirmative and other defenses.

1. Lucas' claims and the claims of those individuals whom she purports to represent fail, in whole or in part, to state a claim upon which relief can be granted.

2. There exists no class of individuals similarly situated to Lucas for whom she can properly serve as a representative Plaintiff.

3. Neither Lucas nor the individuals whom she purports to represent are entitled to an order of liquidation damages because Heartfelt has at all times acted in good faith and had reasonable grounds for believing that its conduct did not violate the FLSA.

4. Any cause of action or claim for damages arising more than two years prior to the institution of this lawsuit is barred by the Statute of Limitations because none of Heartfelt's alleged acts constituted willful violations of the FLSA.

5. The claims of Lucas and the individuals whom she purports to represent are barred, in whole and in part, to the extent that Lucas seeks compensation for activities that are preliminary or post-liminary to her principal activities or incidental to them.

6. The claims of Lucas and the individuals whom she purports to represent are barred, in whole or in part to the extent that Lucas and such individuals performed compensable work under the FLSA for *de minimus* amounts of time

7. Lucas is not entitled to conditional or final certification or to court aided notice under the FLSA because she is not similarly situated to the putative class members that she purports and seeks to represent and because she has not defined the putative class clearly and objectively.

8. This claim does not meet the class action requirements necessary for class certification under FRCP 23.

9. Lucas is not entitled to a jury determination as to some of her claims regarding attorney's fees or liquidated damages.

10. The claims of Lucas and the individuals whom she purports to represent are barred in whole or in part by the equitable doctrines of waiver, estoppel, unclean hands, and/or laches.

11. Heartfelt reserves the right to file and serve additional defenses as appropriate.

WHEREFORE, having fully answered, Heartfelt respectfully prays that judgment be entered in its favor and for costs including attorneys' fees as ordered by the Court.

Respectfully Submitted,

DICKIE, McCAMEY & CHLCOTE, P.C.

BY: /s/Thomas H. May

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*Attorneys for Defendant,
Heartfelt Home Healthcare, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses To Plaintiff's Complaint has been served electronically this 17th day of April, 2020 to the following counsel of record:

Peter Winebrake, Esquire
R. Andrew Santillo, Esquire
Mark J. Gottesfeld, Esquire
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DICKIE, MCCAMEY & CHILCOTE, P.C.

BY: /s/Thomas H. May
Thomas H. May, Esquire

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Thomas H. May

Signature: /s/Thomas H. May

Name: Thomas H. May

Attorney No. 25953