

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ASHLEY ROBERTS, Individually and)	
on Behalf of All Those Similarly Situated,)	
)	Case No.: _____
Plaintiffs,)	
)	
v.)	
)	
PROFESSIONAL CASE MANAGEMENT)	
SERVICES OF AMERICA, INC.,)	
and TONI BRANDON, Jointly and Severally,)	
)	
Defendants.)	
)	

COLLECTIVE ACTION COMPLAINT
(Jury Trial Demanded)

Plaintiff, Ashley Roberts, individually and on behalf of all others similarly situated, upon personal knowledge as to herself and upon information and belief as to other matters, alleges as follows:

NATURE OF THE ACTION

1. Defendants operate an agency called Professional Case Management Services of America, Inc. (“PCSA”), that provides daily assistance to persons with

developmental disabilities. Support coordinators make appointments for clients, arrange for medication, create life plans for clients to follow, and check on their general well-being.

2. Defendants service 3,000 individuals in 3 different regions of Georgia. Defendants currently have two offices, the main office in Valdosta, Georgia and a second office in Tucker, Georgia. Plaintiff worked for Defendant in the Tucker office during her employment.

3. Plaintiff worked for PCSA as a support coordinator for individuals with mental and physical impairments.

4. Plaintiff was not paid overtime wages for all hours worked, despite working well in excess of 40 hours per week throughout her employment.

5. There is a large class of current and former employees of PCSA who have suffered a similar unpaid overtime wage injury as Plaintiff. The exact number is unknown at this time, but the class is believed to be at least 50 employees.

6. Plaintiff brings this action on behalf of herself and all other similarly situated employees of Defendants, to recover unpaid overtime regular and premium pay, owed to them pursuant to the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201

et seq, and supporting regulations.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337, 1343. In addition, the Court has jurisdiction over Plaintiff's claims under the FLSA pursuant to 29 U.S.C. § 216(b).

8. Venue is proper in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions leading to this claim occurred while Plaintiff performed work for PCSA located at 3543 Habersham at Northlake Rd. Bldg. E, Tucker, GA, 30084, which is in Dekalb County. As a result, venue is proper in the Atlanta Division of the Northern District of Georgia.

9. This Court is empowered to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202.

THE PARTIES

Plaintiff:

10. Plaintiff, Ashley Roberts, was at all relevant times, an adult individual residing at 902 Preston Lake Drive, Tucker, Georgia 30084, which is in DeKalb

County.

Defendants:

11. Defendant, PCSA, is an active Georgia corporation. Its principal place of business is 2404 Bemiss Road, Valdosta, GA, 31602, USA, which is in Lowndes County.

12. Upon information and belief, Defendant, Toni Brandon, is an owner, officer, director and/or managing agent of PCSA, as well as at its various affiliate stores listed in this complaint. Mr. Brandon's residential address is unknown at this time.

13. Toni Brandon (the "Individual Defendant") participated in the day-to-day operations of the PCSA locations, and acted intentionally and maliciously. Each individual is considered an "employer" pursuant to the FLSA, 29 U.S.C. § 203(d), and the regulations promulgated under 29 C.F.R. § 791.2, and are jointly and severally liable with PCSA (the "Corporate Defendant").

14. Upon information and belief, the Individual Defendant jointly set the unlawful payroll policies complained of in this complaint for all of the Corporate Defendant locations.

15. At all relevant times, Defendants have been employers of Plaintiff, and/or

joint employers within the meaning of the FLSA.

16. Upon information and belief, at all relevant times, Defendants have had gross revenues in excess of \$500,000, within the meaning of 29 U.S.C. § 203(s)(1)(A)(ii).

17. Additionally, upon information and belief, at all relevant times, Defendants have had employees engaged in commerce, in that they transport employees, medication and other goods to different clients in need of assistance in interstate commerce, within the meaning of 29 U.S.C. § 203(s)(1)(A)(i).

STATEMENT OF FACTS

18. At all relevant times, Defendants have been in the health service coordination, servicing customers who have various physical and/or mental disabilities.

19. Plaintiff worked as a support coordinator, making appointments for clients, arranging for medication, creating life plans for clients to follow, and checking on their general well-being.

20. Plaintiff often worked several hours beyond the agreed upon 45 hours per week, and was not paid overtime wages for this work.

21. Plaintiff would travel to meet with clients every week during her employment, but was not paid regular wages or hourly wages for this travel time. Plaintiff only

received gas and mileage reimbursements for her travel.

22. Plaintiff would have to respond to e-mails and phone calls from her superiors are various times at night and on weekends, which went beyond the agreed upon 45 hours per week that she agreed to work. Plaintiff was not compensated for any of this additional time.

23. Defendants' practice was to pay Plaintiff a flat rate for clients on her case load, rather than pay hourly wages and overtime wages.

24. Upon information and belief, the Individual Defendant handles payroll and record keeping for the Corporate Defendant, and is actively involved with the Corporate Defendant's day-to-day operations.

25. Plaintiff Roberts was employed by Defendants as a support coordinator. Ms. Roberts' job duties included visiting individuals on her case load, monitoring their safety and quality of life, scheduling appointments, arranging for medication, and a variety of other support services. Ms. Roberts was employed at PCSA at 3543 Habersham at Northlake Road, Bldg. E, Tucker GA, 30084, USA, from February 1, 2017 to July 31, 2017 (26 weeks).

26. Ms. Roberts was paid \$14.00 per hour, and worked around 60 hours per week.

Ms. Roberts was paid, as salary, \$1,333.20 every two weeks by check (\$666.60).

27. Plaintiff was paid straight-time for 40 hours worked, and was paid an overtime premium for 5 hours worked (hours 41-45), but was never paid for the extra 15 hours she consistently worked every week (hours 46-60).

28. This failure to pay overtime wages to this hourly employee can only be considered a willful violation of the FLSA, within the meaning of 29 U.S.C. § 255(a).

STATEMENT OF CLAIM

29. Ms. Roberts worked 60 hours per week, which includes 40 regular hours and 20 overtime hours. Ms. Roberts was paid straight-time for the first 40 hours worked and was paid only 5 hours of overtime pay, even though she worked 20 hours of overtime weekly. Her rate of pay was \$14 per hour, so her “half-rate” is \$7 per hour, for the purposes of computing overtime.¹ 15 unpaid overtime hours multiplied by \$21 one-and-half-times-rate, equals \$315 unpaid overtime per week. Ms. Roberts was employed 26 weeks by Defendants. 26 weeks multiplied by \$315 unpaid overtime per week, equals \$8,190 in unpaid overtime wages. If the Court grants liquidated damages in this case, pursuant to 29 U.S. Code § 216(b), then the total

¹ The half-rate is determined by dividing the regular rate of pay by 2.

damages are \$8,190 plus \$8,190, which equals \$16,380. The violation at issue is failure to pay overtime wages.

30. Therefore, Plaintiff Roberts is owed \$16,380.

FLSA COLLECTIVE ACTION ALLEGATIONS

31. Pursuant to 29 U.S.C. §§ 207 & 216(b), Plaintiff bring their First Cause of Action as a collective action under the FLSA on behalf of themselves and the following collective:

All persons employed by Defendants, at any time since October 23, 2014, and through the entry of judgment in this case (the “Collective Action Period”) who worked as service coordinators, and all similarly situated employees (the “Collective Action Members”).

32. A collective action is appropriate in this circumstance because Plaintiff and the Collective Action Members are similarly situated, in that they were all subjected to Defendants’ illegal policy of failing to pay overtime premiums for all hours worked in excess of 40 hours per week. As a result of this policy, Plaintiff and the Collective Action Members did not receive the legally-required overtime regular and premium payments for all hours worked in excess of 40 hours per week.

33. The number in the class of current and former employees of PCSA who have

suffered the same unpaid overtime wage injury as Plaintiff, is unknown at this time, but believed to be at least 50 employees.

FIRST CAUSE OF ACTION
FAIR LABOR STANDARDS ACT – UNPAID OVERTIME

34. Plaintiff, on behalf of herself and the Collective Action Members, repeat and reallege each and every allegation of the preceding paragraphs hereof with the same force and effect as though fully set forth herein.

35. As a result of Defendants' failure to compensate its employees, including Plaintiff and the Collective Action Members, at a rate of not less than one and one-half times their regular rate of pay for work performed in excess of 40 hours per week, 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), for which Plaintiff and the Collective Action Members are entitled to relief pursuant to 29 U.S.C. 216(b).

36. Defendants have failed to pay overtime past hour 40 to these hourly employees, with no colorable argument as to why these workers are exempt. This constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a).

37. The failure to pay overtime has caused Plaintiff to suffer lost wages and

interest thereon. Plaintiff and Collective Action Members are entitled to recover from Defendants her unpaid overtime premium compensation, liquidated damages, attorney's fees, and costs and disbursements of the action pursuant to 29 U.S.C. § 216(b).

PRAYER FOR RELIEF

Therefore, Plaintiff respectfully requests that this Court grant the following relief:

- a. An order tolling the relevant statutes of limitations;
- b. An order declaring that Defendants violated the FLSA;
- c. An award of unpaid overtime wages due under the FLSA;
- d. An award of liquidated and/or punitive damages as a result of Defendant's willful failure to pay overtime wages
- e. An award of prejudgment and post-judgment interest;
- f. An award of costs and expenses of this action together with attorney's fees;
- g. Such other and further relief and this Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff

demands a trial by jury on all questions of fact raised by the complaint.

Dated: October 23, 2017

Respectfully submitted,

s/ Brandon A. Thomas

BRANDON A. THOMAS

GA BAR NO.: 742344

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JS44 (Rev. 6/2017 NDGA)

CIVIL COVER SHEET

The JS44 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 is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

Ashley Roberts, Individually and on Behalf of All Those Similarly Situated

DEFENDANT(S)

Professional Case Management Services of America, Inc., and Toni Brandon, jointly and severally

(b) COUNTY OF RESIDENCE OF FIRST LISTED

PLAINTIFF DeKalb
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED

DEFENDANT Lowndes
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

The Law Offices of Brandon A. Thomas, PC
1800 Peachtree Street, Suite 300
Atlanta, GA 30309
(404) 343-2441
brandon@brandonthomaslaw.com

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
- 2 U.S. GOVERNMENT DEFENDANT
- 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
- 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)

- | PLF | DEF | PLF | DEF |
|----------------------------|----------------------------|----------------------------|----------------------------|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
- CITIZEN OF THIS STATE
CITIZEN OF ANOTHER STATE
CITIZEN OR SUBJECT OF A FOREIGN COUNTRY
INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
FOREIGN NATION

IV. 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 District)
- 6 MULTIDISTRICT LITIGATION - TRANSFER
- 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
- 8 MULTIDISTRICT LITIGATION - DIRECT FILE

V. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq.
Defendants have failed to pay overtime wages for all hours worked.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
- 2. Unusually large number of claims or defenses.
- 3. Factual issues are exceptionally complex
- 4. Greater than normal volume of evidence.
- 5. Extended discovery period is needed.
- 6. Problems locating or preserving evidence
- 7. Pending parallel investigations or actions by government.
- 8. Multiple use of experts.
- 9. Need for discovery outside United States boundaries.
- 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT \$ _____ APPLYING IFP _____ MAG. JUDGE (IFP) _____
JUDGE _____ MAG. JUDGE _____ (Referral) NATURE OF SUIT _____ CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
- 152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
- 153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
- 120 MARINE
- 130 MILLER ACT
- 140 NEGOTIABLE INSTRUMENT
- 151 MEDICARE ACT
- 160 STOCKHOLDERS' SUITS
- 190 OTHER CONTRACT
- 195 CONTRACT PRODUCT LIABILITY
- 196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
- 220 FORECLOSURE
- 230 RENT LEASE & EJECTMENT
- 240 TORTS TO LAND
- 245 TORT PRODUCT LIABILITY
- 290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
- 315 AIRPLANE PRODUCT LIABILITY
- 320 ASSAULT, LIBEL & SLANDER
- 330 FEDERAL EMPLOYERS' LIABILITY
- 340 MARINE
- 345 MARINE PRODUCT LIABILITY
- 350 MOTOR VEHICLE
- 355 MOTOR VEHICLE PRODUCT LIABILITY
- 360 OTHER PERSONAL INJURY
- 362 PERSONAL INJURY - MEDICAL MALPRACTICE
- 365 PERSONAL INJURY - PRODUCT LIABILITY
- 367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
- 368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
- 371 TRUTH IN LENDING
- 380 OTHER PERSONAL PROPERTY DAMAGE
- 385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
- 423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
- 441 VOTING
- 442 EMPLOYMENT
- 443 HOUSING/ ACCOMMODATIONS
- 445 AMERICANS with DISABILITIES - Employment
- 446 AMERICANS with DISABILITIES - Other
- 448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
- 465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
- 510 MOTIONS TO VACATE SENTENCE
- 530 HABEAS CORPUS
- 535 HABEAS CORPUS DEATH PENALTY
- 540 MANDAMUS & OTHER
- 550 CIVIL RIGHTS - Filed Pro se
- 555 PRISON CONDITION(S) - Filed Pro se
- 560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
- 555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
- 690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
- 720 LABOR/MGMT. RELATIONS
- 740 RAILWAY LABOR ACT
- 751 FAMILY and MEDICAL LEAVE ACT
- 790 OTHER LABOR LITIGATION
- 791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
- 840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
- 835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
- 862 BLACK LUNG (923)
- 863 DIWC (405(g))
- 863 DIWW (405(g))
- 864 SSID TITLE XVI
- 865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
- 871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
- 376 Qui Tam 31 USC 3729(a)
- 400 STATE REAPPORTIONMENT
- 430 BANKS AND BANKING
- 450 COMMERCE/ICC RATES/ETC.
- 460 DEPORTATION
- 470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
- 480 CONSUMER CREDIT
- 490 CABLE/SATELLITE TV
- 890 OTHER STATUTORY ACTIONS
- 891 AGRICULTURAL ACTS
- 893 ENVIRONMENTAL MATTERS
- 895 FREEDOM OF INFORMATION ACT
- 899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
- 950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANITRUST
- 850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

*** PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3**

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$ _____

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE _____ DOCKET NO. _____

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
- 4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
- 5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
- 6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. _____, WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.


SIGNATURE OF ATTORNEY OF RECORD

10/23/17
DATE

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit Claims Professional Case Management Services of America Owes Unpaid OT](#)
