

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

LORI SUBER on her own
behalf and others similarly situated,

Plaintiff,

CaseNumber:

8:17-cv-2293-T-30JSS

v.

SABER HEALTHCARE GROUP, LLC., d/b/a
"The Crossings of Riverview",

Defendant.

FILED
2017 SEP 22 PM 1:12
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

FILED

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff, was an employee of Defendant for profit corporation and brings this action for unpaid wages, liquidated damages, attorney fees/costs and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 201-216 (the "FLSA").

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CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

FILED

2. Plaintiff worked as an hourly worker for Defendant performing work as a resident aide.

3. Defendant is a foreign for profit corporation that operates and conducts business in, among others, Hillsborough County, Florida, and is therefore, within the jurisdiction of the Court.

4. Saber Healthcare Group, LLC., owns and operates skilled nursing facilities for residents/customers in need of medical care and supervision.

5. Defendant was founded in 2001 and is based in Bedford Heights, Ohio.

6. Defendant maintains locations in Florida, Indiana, North Carolina, Pennsylvania and Virginia. Defendant's principal address is 26691 Richmond Road, Bedford Heights, Ohio, 44146-1421.

7. Plaintiff worked for Defendant for approximately six months, from March of 2017 through approximately September of 2017.

8. Defendant's key executives include George S. Repchick, who is a co-owner, president and partner of Defendant.

9. William I. Weisberg is also a key executive as well as co-owner and partner in Defendant's organization.

10. Plaintiff worked at Defendant's location 8451 U.S. Highway 301 South, Riverview, Florida 33578, which is advertised and held out the public as "The Crossings at Riverview".

11. Defendant is an EMPLOYER as defined by the FLSA and Defendant conducts interstate commerce, using telephones, highways and byways and products and supplies (that are used in connection with services provided to Defendant's customers) that do not originate from Florida.

12. In addition, Defendant uses materials and related items for third party customers (residents) and uses products from outside of the State of Florida to be consumed by Defendant's third party customers, who are composed of business and individuals domiciled in the State of Florida and

also out of the State of Florida. Likewise, Defendant is an employer under 29 U.S.C. 1001-1140.

13. Plaintiff's duties involved interstate commerce, including but not limited to providing health care to patients who not exclusively Florida residents.

14. This action is brought under the FLSA to recover from Defendant, unpaid wages, liquidated damages, and reasonable attorneys' fees and costs.

15. This action is intended to include each and every hourly employee who worked for the Defendant at any time within the past three (3) years.

16. The Court has jurisdiction over Plaintiff's claims as all material events occurred in Hillsborough County as a primary place, including those brought pursuant to 28 U.S.C. § 1337 and the FLSA.

17. At all material times relevant to this action, Defendant was an enterprise covered by the

FLSA, and as defined by 29 U.S.C. § 203(r) and 203(s).

18. In fact, Defendant is an assisted living service provider that routinely conducts commerce both in and out of the State of Florida and which, upon information and belief has grossed over \$500,000.00 in revenue in the thirty six months prior to the institution of this complaint.

19. At all material times relevant to this action, Plaintiff, in her capacity as a resident aide employee, was individually covered by the FLSA.

20. Plaintiff routinely dealt with the instrumentalities of commerce, including but not limited to telephones, computers, data transmission lines on behalf of both individuals.

21. Plaintiff did not exercise any substantial discretion in the exercise of her job duties from through her date of termination in September of 2017.

22. Plaintiff did not supervise more than two full time employees.

23. Plaintiff did not have hire or fire authority.

24. Plaintiff did not direct the work of subservient employees. All decisions of this nature were made by Plaintiff's superiors.

25. At all times relevant to this action, Defendant failed to comply with 29 U.S.C. §§ 201-209, because Plaintiff performed services for Defendant for which no provisions were made by Defendant to properly pay Plaintiff for all hours worked during her employment.

26. In fact, Defendant failed to pay Plaintiff for all the hours Plaintiff worked for Defendant during Plaintiff's period of employment.

27. Plaintiff made written claims for the alleged wages on one occasion and provided her best good faith calculations therein.

28. In addition, when Plaintiff inquired as to why Plaintiff was required to work through lunch without being paid, Defendant's supervisor "Chris" told Plaintiff that "that's just how we do it."

29. During their employment with Defendant, Plaintiff, and those similarly situated to her, were not paid for all time worked during one or more work weeks.

30. Defendant employees multiple persons who work in a resident aid capacity and did employ more than four resident aides per shift.

31. Each resident aid was subjected to the same employment practices and policies.

32. Plaintiff was not treated any differently with respect to Defendant's employment policies during her employment with Defendant.

33. Defendant failed to pay Plaintiff and those similarly situated to her for all of the hours that Plaintiff worked and the bulk of these hours are reasonably believed to constitute "straight-time"

hours at a rate of \$10.50 an hour. Other similarly situated employees believed to have been impacted by Defendant's refusing to pay proper wages, including but not limited to Lilli Travis.

33. Defendant failed, refused and/or neglected to keep accurate time records pursuant to 29 U.S.C. § 211(c) of Plaintiff's, and others similarly situated to her, true hours of work.

34. Defendant did not substantively respond to written demands for payment of unpaid wages and minimum wages made by the named Plaintiff and on behalf of the named Plaintiff.

35. Defendant did not object to the quantum or legitimacy of hours worked by Plaintiff and sought by the named Plaintiff. Defendant did not turn over any documentation that may have assisted Plaintiff in providing a more specific demand or any specifics with regard to how Plaintiff could have been an exempt employee under the Fair Labor Standards Act.

36. The amount of wages owed to named Plaintiff and potential opt-ins are reasonably believed to be, individually, in excess of fifteen or more-thousand dollars, when liquidated damages are included into the equation along with the damages of other similarly situated employees.

37. The extent to which other similarly situated workers may be owed wages under the FLSA has yet to be determined, but are reasonably believed to exceed fifteen or more-thousand dollars.

38. To the extent that relevant documents exist, such are believed to be in the exclusive possession of Defendant, however Defendant has not produced any documentation relating to this claim.

COUNT I - RECOVERY OF UNPAID WAGES

39. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-38, above, including paragraphs 5 through 38 in particular.

40. Plaintiff, and those similarly situated to her, are/were entitled to be paid their regular rate of pay for each hour worked per work week.

41. During their employment with Defendant, Plaintiff, and those similarly situated to her, regularly worked hours for each week and were not paid even minimum wages for said time.

42. As a result of Defendant's intentional, willful, and unlawful acts in refusing to pay Plaintiff, and those similarly situated to her, for each hour worked work week in one or more work weeks, Plaintiff, and those similarly situated to her, have suffered damages plus incurring reasonable attorneys' fees and costs.

43. As a result of Defendant's willful violation of the FLSA, Section 206, Plaintiff, and those similarly situated to her, are entitled to payment of the unpaid wages and liquidated damages under the FLSA.

44. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff demands judgment against Defendant, including, but not limited to, reimbursement of an amount equal to the loss of wages and liquidated damages as well as attorney fees and costs and such other further relief as this Court deems just and proper.

I hereby swear and/or affirm that the factual allegations stated above are true and correct under penalty of perjury.

Lori Suber

Lori Suber

s/W. John Gadd
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JS 44 (Rev. 11-15)

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

Lori Suber-Plaintiff

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
W. John Gadd, Esq.
Bank of America Building-2727 Ulmerton Road-#250
Clearwater, Florida 33762

DEFENDANTS

Saber Healthcare Group, LLC., d/b/a "The Crossings at Riverview"

County of Residence of First Listed Defendant Ohio-Bedford
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)
Unknown

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)

	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)

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	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<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"/> 840 Trademark	<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 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"/> 900 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input checked="" 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	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (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))
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
29 USC 201-216

Brief description of cause:
FLSA-Unpaid Wages

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 _____ DOCKET NUMBER _____

DATE
09/29/2017

SIGNATURE OF ATTORNEY OF RECORD

[Signature] 9-29-2017

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

MIDDLE DISTRICT OF FLORIDA
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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [The Crossings of Riverview Operating Co. Facing Unpaid Wage Claims](#)
