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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Lynnette Hudson, individually and on
behalf of all others similarly situated,

Plaintiff,

vs.

Hallmark Behavioral Health @ Lago,
LLC d/b/a Hallmark Assisted Living @
Lago, LLC d/b/a Hallmark Assisted
Living @ Largo, LLC,

Defendant.

Case No. _____

FLSA Collective Action

FED. R. CIV. P. 23 Class Action

**Plaintiff's Original Class and
Collective Action Complaint for
Damages and Declaratory Relief**

SUMMARY

1. Lynnette Hudson brings this lawsuit to recover unpaid overtime wages and other damages owed by Hallmark Behavioral Health @ Lago, LLC d/b/a Hallmark Assisted Living @ Lago, LLC d/b/a Hallmark Assisted Living @ Largo, LLC ("Hallmark").

2. Hudson and other hourly workers for Hallmark regularly worked in excess of 40 hours in a week.

3. Hallmark did not pay Hudson and the other workers the proper overtime rate for all of these hours.

4. Instead, Hallmark paid Hudson and the other workers the same hourly

1 5. Hallmark's failure to pay overtime wages violates the Fair Labor
2 Standards Act (FLSA), 29 U.S.C. § 201, *et seq.*, and the Arizona Wage Act, ARS 23-
3 350, *et seq.*

4 6. Hallmark also didn't provide Hudson or its other employees with the
5 notices and statements required under the Arizona Fair Wage and Healthy Families
6 Act (the "Arizona Sick Leave Law"), ARS § 23-371, *et seq.*

7 7. That is, Hallmark didn't tell Hudson or its other employees about their
8 rights under the Arizona Sick Leave Law.

9 8. And Hallmark didn't provide Hudson or its other employees with
10 statements of their earned paid sick time, so that they would know how much they
11 had earned or used, or that were or available to them.

12 9. By doing this, Hallmark interfered with the Hudson and its other
13 employees' rights under the Arizona Sick Leave Law.

14 10. This action seeks to recover the unpaid overtime wages, earned paid sick
15 time, and other damages owed by Hallmark to these workers, along with the penalties,
16 interest, and other remedies provided by law.

17 **JURISDICTION & VENUE**

18 11. This Court has original subject matter jurisdiction pursuant to 28 U.S.C.
19 § 1331 because this action involves a federal question under the FLSA. 29 U.S.C. §
20 216(b).

21 12. This Court has original jurisdiction over this action pursuant to the
22 jurisdictional provisions of the Class Action Fairness Act, 28 U.S.C. § 1332(d).

23 13. The Court has supplemental jurisdiction over any state law sub-classes
24 pursuant to 28 U.S.C. § 1367.

25 14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1) because
26 Hallmark resides in this District.

27 15. Hudson worked for Hallmark in this District.

16. Therefore, venue is also proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claim occurred in this District.

PARTIES

17. Hudson was, at all relevant times, an employee of Hallmark.

18. Hudson was an hourly employee of Hallmark.

19. Hudson worked for Hallmark from October 2020 to October 2021.

20. Hudson's written consent is attached as Exhibit A.

21. Hudson represents at least three classes of similarly situated Hallmark workers.

22. Hudson represents a collective of similarly situated hourly employees under the FLSA pursuant to 29 U.S.C. § 216(b). This “FLSA Collective” is defined as:

All current or former hourly employees of Hallmark working in the United States who were, at any point in the past three years, paid “straight time for overtime.”

23. Hudson represents a class of similarly situated hourly employees under Arizona law pursuant to Federal Rule of Civil Procedure 23. This “Arizona Overtime Class” is defined as:

All current or former hourly employees of Hallmark working in Arizona who were, at any point in the past year, paid “straight time for overtime.”

24. Hudson represents a class of similarly situated employees under Arizona law pursuant to Federal Rule of Civil Procedure 23. This “Arizona Sick Leave Class” is defined as:

All current or former employees of Hallmark working in Arizona at any point in the past three years.

25. Together, throughout this Complaint, the Arizona Overtime Class members and Arizona Sick Leave Class members are referred to as the “Arizona Class Members.”

26. Together, throughout this Complaint, the FLSA Collective members and Arizona Class Members are referred to as the “Similarly Situated Workers.”

27. **Hallmark Behavioral Health @ Lago, LLC d/b/a Hallmark Assisted Living @ Lago, LLC d/b/a Hallmark Assisted Living @ Largo, LLC (“Hallmark”)** is an Arizona limited liability company.

28. Hallmark’s headquarters and principal place of business is in Maricopa County, Arizona.

29. Hallmark may be served by service upon its registered agent, **Mike Rogers, 1550 E. McKellips Rd., Ste. 109, Mesa, AZ 85203**, or by any other method allowed by law.

COVERAGE UNDER THE FLSA

30. At all relevant times, Hallmark was an employer of Hudson within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

31. At all relevant times, Hallmark was and is an employer of the Similarly Situated Workers within the meaning of Section 3(d) of the FLSA, 29 U.S.C. § 203(d).

32. Hallmark was and is part of an enterprise within the meaning of Section 3(r) of the FLSA, 29 U.S.C. § 203(r).

33. During at least the last three years, Hallmark has had gross annual sales in excess of \$500,000.

34. Hallmark was and is part of an enterprise engaged in commerce or in the production of goods for commerce within the meaning of the FLSA, 29 U.S.C. § 203(s)(1).

35. Hallmark employs many workers, including Hudson, who are engaged in commerce or in the production of goods for commerce and/or who handle, sell, or otherwise work on goods or materials that have been moved in or produced for commerce by any person.

36. The goods and materials handled, sold, or otherwise worked on by

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commerce include, but are not limited to, prescription and non-prescription medical supplies and equipment, and pharmaceuticals.

FACTS

37. Hallmark supplies in-home caregivers and caregiving services to its clients.

38. For at least the last three years, Hallmark has employed 15 or more employees.

39. Hudson was an hourly employee of Hallmark.

40. Hallmark never paid Hudson a salary.

41. Hallmark never paid Hudson on a fee basis.

42. Hallmark paid Hudson by the hour.

43. Hallmark paid Hudson \$15 per hour.

44. Hudson reported the hours she worked to Hallmark on a regular basis.

45. Hudson's hours are reflected in Hallmark's records.

46. Hallmark paid Hudson at the same hourly rate for all hours worked, including those in excess of 40 in a week.

47. Hudson normally worked more than 40 hours in a week.

48. For example, for the bi-monthly pay period ending May 31, 2021, Hudson worked 155 hours for Hallmark.

49. For that pay period, Hallmark paid Hudson at her hourly rate of \$15 per hour for all 155 hours worked:

Earnings and Hours	Qty	Rate	Current	YTD Amount
Hourly	155:00	15.00	2,325.00	20,561.50
Holiday Pay				180.00
	155:00		2,325.00	20,741.50

50. Thus, in each of the weeks for the May 31, 2021, pay period, Hudson worked more than 40 hours, but was not paid an overtime premium for any overtime hour worked.

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