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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

EUGENIA CAICEDO,
*on behalf of herself, Nationwide FLSA Collective Plaintiffs
and the Class,*

Plaintiff,

Case No.:

v.

**CLASS AND COLLECTIVE
ACTION COMPLAINT**

THE ANTHEM COMPANIES, INC.
f/k/a THE WELLPOINT COMPANIES, INC.,

Defendant.

Plaintiff EUGENIA CAICEDO (“Plaintiff”), on behalf of herself and others similarly situated, by and through her undersigned attorneys, hereby files this Class and Collective Action Complaint against Defendant, THE ANTHEM COMPANIES, INC. f/k/a THE WELLPOINT COMPANIES, INC. (“Defendant”), and states as follows:

INTRODUCTION

1. Plaintiff CAICEDO alleges, pursuant to the Fair Labor Standards Act, as amended, 29 U.S.C. §§ 201 *et seq.* (“FLSA”), that she and others similarly situated are entitled to recover from Defendant: (1) unpaid overtime compensation, (2) liquidated damages and (3) attorneys’ fees and costs.

2. Plaintiff CAICEDO also alleges, pursuant to the New York Labor Law (“NYLL”), that she and others similarly situated are entitled to recover from Defendant: (1) unpaid overtime compensation, (2) statutory penalties, (3) liquidated damages and (4) attorneys’ fees and costs.

3. Plaintiff CAICEDO further alleges that she and others similarly situated were deprived of their statutory rights as a result of Defendant’s unlawful discrimination practices pursuant to the New York State Human Rights Law, New York Executive Law § 296 (“NYSHRL”), New York City Human Rights Law and the Administrative Code of the City of New York § 8-107 (“NYCHRL”), and brings this action against Defendant to recover (1) economic damages (2) compensatory damages for emotional distress, (3) punitive damages and (4) attorneys’ fees and costs.

4. Plaintiff EUGENIA CAICEDO alleges an individual claim pursuant to the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601 *et seq.*, in that she was denied a proper opportunity for leave to take care of her medical and was retaliated against rather for taking leave to deal with medical issues. Plaintiff seeks all applicable remedies under the law, including (1) compensatory damages, (2) punitive damages, (3) back pay, (4) front pay, and (5) attorneys’ fees and costs.

JURISDICTION AND VENUE

5. Defendant is subject to personal jurisdiction in this judicial district.

6. This Court has subject matter jurisdiction over this controversy pursuant to 29 U.S.C. § 216(b), 28 U.S.C. §§ 1331, 1337 and 1343, and has supplemental jurisdiction over Plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

7. Venue is proper in the Southern District pursuant to 28 U.S.C. § 1391.

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

PARTIES

9. Plaintiff EUGENIA CAICEDO is a resident of Queens County, New York.

10. Defendant THE ANTHEM COMPANIES, INC. is a foreign business corporation operating in New York and organized under the laws of Indiana. Its principal executive office is located at 120 Monument Circle, Indianapolis, IN, 46204, and its address for service of process purposes is c/o CT Corporation System, 111 Eighth Avenue, New York, NY 10011. Defendant THE ANTHEM COMPANIES, INC. is registered to conduct business in New York and formerly operated under the name THE WELLPOINT COMPANIES, INC.

11. Defendant operates a healthcare enterprise that provides programs and services to uninsured and underinsured individuals. Defendant maintains offices and hires employees throughout the entire United States, including offices in California (18), Georgia (1), Maine (1), New Hampshire (1), Virginia (9), Colorado (2), Indiana (3), Missouri (4), New York (4), Wisconsin (5), Connecticut (1), Kentucky (2), Nevada (2), Ohio (9)

12. The Anthem Offices (the “Offices”) share common central management, Human Resources team, central payroll (as evidenced on Plaintiff’s pay stub, see **Exhibit A**), and central marketing team.

- a) Each Office location is engaged in the same business of providing insurance sales services.
- b) All the Offices share the same trade name "Anthem" with the same logo and are marketed jointly on one (1) common website: (<https://anthem.com/>). See **Exhibit B**.
- c) The Offices within New York State are commonly owned and operated by THE ANTHEM COMPANIES, INC. See **Exhibit C**.
- d) All offices share the common “Individual & Family” Webpage, “Medicare” Webpage, “Medicaid” Webpage, “For Employers” Webpage, “For Producers” Webpage, “For Providers” Webpage, corporate office address, email address and a 1-800 number. See **Exhibit D**.
- e) Job openings of Anthem in multiple states were posted on the same Webpage for prospective employees to apply. See also **Exhibit E** for the “Careers” Webpage.
- f) All Offices share common social media accounts, including: Facebook, located at <https://www.facebook.com/AnthemBlueCrossBlueShield/>; and Twitter, located at <https://twitter.com/antheminc?lang=en>. See **Exhibit F**.

13. At all relevant times, the Defendant was and continues to be an “enterprise engaged in commerce” within the meaning of the FLSA and NYLL and the regulations thereunder.

14. At all relevant times, the Defendant was an employer that employs four (4) or more “employees” within the meaning of the NYSHRL and NYCHRL, and is an “employer” and “person” within the meaning of Section 15(a) of the FLSA and Section 215 of the NYLL.

15. At all relevant times, the work performed by Plaintiff, Nationwide FLSA Collective Plaintiffs and Class Members was directly essential to the business operated by Defendant.

NATIONWIDE FLSA COLLECTIVE ACTION ALLEGATIONS

16. Plaintiff CAICEDO brings claims for relief as a collective action pursuant to the FLSA, 29 U.S.C. § 216(b), on behalf of all non-managerial employees, who engaged or facilitated in the enrollment and/or recertification of clients (including but not limited to all non-managerial Retention Associates, Facilitated Enrollers, Medicaid Representatives outside of New York City, and all Sales Representative, Field Sales Representative, and Inside Sales Representative employees within New York City and throughout the United States) employed by Defendant on or after the date that is six (6) years before the filing of the Complaint in this case as defined herein (“Nationwide FLSA Collective Plaintiffs”).

17. At all relevant times, Plaintiff CAICEDO and Nationwide FLSA Collective Plaintiffs are and have been similarly situated, have had substantially similar job requirements and pay provisions, and are and have been subjected to Defendant’s decisions, policies, plans, programs, practices, procedures, protocols, routines, and rules, all culminating in a willful failure and refusal to pay them the proper overtime compensation at the rate of one and one half times the regular hourly rate for work in excess of forty (40) hours per workweek and improperly classifying non-exempt employees as exempt. The claims of Plaintiff CAICEDO stated herein are essentially the same as those of Nationwide FLSA Collective Plaintiffs.

18. The claims for relief are properly brought under and maintained as an opt-in collective action pursuant to the FLSA, 29 U.S.C. § 216(b). The Nationwide FLSA Collective Plaintiffs are readily ascertainable. For purposes of notice and other purposes related to this action, their names and addresses are readily available from Defendant. Notice can be provided to the Nationwide FLSA Collective Plaintiffs via first class mail to the last address known to Defendant.

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