

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)**

WILLIE SAMUEL
2215 Coralthorn Road
Middle River, Maryland 21220
Resident of Baltimore County

DINAH REEDER
9440 Kilimanjaro Road
Columbia, Maryland 21045
Resident of Howard County

ERIC WILLIAMS
6022 Mannington Avenue
Baltimore, Maryland 21206
Resident of Baltimore County

and

TERRENCE GATLING
9517 Axehead Court
Randallstown, Maryland 21133
Resident of Baltimore County

Plaintiffs,

***Individually and on Behalf of All
Similarly Situated Employees***

v.

ATHELAS INSTITUTE, INC.
8850 Stanford Blvd.
Suite 2600
Columbia, Maryland 21045

Serve: Robert L. Fila
3706 St. Johns Lane
Ellicott City, Maryland 21042

Defendant.

Civil Action No.:

Collective/Class Claims

Jury Trial Requested

COLLECTIVE ACTION COMPLAINT FOR WAGES OWED

WILLIE SAMUEL, DINAH REEDER, ERIC WILLIAMS and TERRENCE GATLING, Plaintiffs, by and through their undersigned counsel and The Law Offices of Peter T. Nicholl, hereby submit their Complaint against ATHELAS INSTITUTE, INC., Defendant, to recover unpaid wages, liquidated damages, interest, reasonable attorneys' fees and costs under Section 16(b) of the Federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §§ 201, *et seq.* (hereinafter, "FLSA"); unpaid wages, liquidated damages, interest, reasonable attorneys' fees and costs under Maryland Wage and Hour Law, Md. Code Ann., Lab. & Empl. §§ 3-401, *et seq.* (hereinafter, "MWHL"); and unpaid wages, interest, treble damages, reasonable attorneys' fees and costs under the Maryland Wage Payment and Collection Law, Md. Code Ann., Lab. & Empl., §§ 3-501, *et seq.* (hereinafter, "MWPCL"), and in support thereof, state as follows:

INTRODUCTION AND BACKGROUND

Athelas Institute, Inc. ("Defendant") provides services to individuals with intellectual and developmental disabilities. These individuals are Defendant's clients, who are incapable of functioning on their own. Defendant's clients require constant monitoring and care. Defendant provides residential services in order to facilitate such care.

Defendant hired Plaintiffs to assist with providing residential services to its clients. Plaintiffs and others similarly situated were employed as "House Managers" for Defendant. However, their duties were not managerial.

Plaintiffs' and other House Managers' duties primarily consisted of manual labor. Washing and bathing clients, cooking their meals and general cleaning was the focus of their work. They had to ensure that clients were monitored at all times.

Due to the nature of their responsibilities, Plaintiffs and other House Managers were required to remain on-call. They were frequently on-call on days they were scheduled to be off. They were responsible for covering the shifts of Defendant's other support staff when they were absent. They were also required to remain available for purposes of responding to medical and weather-related emergencies.

Plaintiffs and other similarly situated employees consistently worked over forty (40) hours per week. Their regular schedules alone required them to work in excess of forty (40) hours.

Despite regularly working overtime, Plaintiffs and other House Managers were not paid overtime wages. They never received "time and a half" (1.5) their regular rates of pay for the hours they worked over forty (40) each week.

Defendant willfully misclassified Plaintiffs and other House Managers as salaried employees to evade paying them overtime wages. The duties performed by Plaintiffs and other House Managers did not exempt them from the overtime requirements. They did not have managerial authority. They did not have the authority to hire and fire other employees. They did not have discretion with regard to any important issues. Their tasks were always performed in accordance with Defendant's precise instructions. Their primary tasks centered on housekeeping.

THE PARTIES

1. Plaintiff Willie Samuel (hereinafter, "Samuel") is an adult resident of Baltimore County, Maryland.

2. Plaintiff Dinah Reeder (hereinafter, "Reeder") is an adult resident of Howard County, Maryland.

3. Plaintiff Eric Williams (hereinafter, "Williams") is an adult resident of Baltimore County, Maryland.

4. Plaintiff Terrence Gatling (hereinafter, “Gatling”) is an adult resident of Baltimore County, Maryland.

5. Defendant Athelas Institute, Inc. (hereinafter, “Defendant”) is an incorporated non-profit business.

6. Defendant’s primary office is in Howard County, Maryland.¹

7. Plaintiffs and others similarly situated were employed by Defendant as House Managers.

8. Due to the nature of its business, Defendant is subject to the FLSA, MWHL and the MWPCCL.

9. Due to the amount in revenues generated, Defendant is subject to the FLSA, MWHL and the MWPCCL; Defendant’s annual dollar volume of business exceeds five hundred thousand dollars (\$500,000.00).

10. At all times relevant to this Complaint, Plaintiffs engaged in interstate commerce based on the duties they performed for Defendant.

11. Plaintiff worked for Defendant who, at all times throughout Plaintiffs’ employment, fell within the definition of the term “employer” under the FLSA, 29 U.S.C. § 203(d), MWHL, § 3-401(b) and the MWPCCL, § 3-501(b).

12. At all times relevant, Plaintiffs and other House Managers worked as non-exempt employees for Defendant.

13. The duties assigned to Plaintiffs and all other House Managers did not satisfy the duties tests contained within the exemptions specified in the FLSA, MWHL, or the MWPCCL.

¹ Any reference to Defendant shall include its corporate officers and all those empowered to act as agents of the corporation, either explicitly or implicitly, or who are designated as agents under the doctrine of apparent agency. To the extent individual agents are responsible for any actions alleged in this Complaint, they are hereby incorporated by reference within the term “Defendant.”

14. From approximately 2009 until October 2018, Plaintiff Samuel was employed with Defendant.

15. From approximately 2008 until August 2017, Plaintiff Reeder was employed with Defendant.

16. From approximately 1998 until July 2017, Plaintiff Williams was employed with Defendant.

17. From approximately 2006 until September 2016, Plaintiff Gatling was employed with Defendant.

18. At all times relevant to this Complaint, Defendant controlled the administration of its business and set employee schedules, including those of Plaintiffs and other House Managers.

19. Defendant's agents were, individually and together, actively engaged in the management and direction of Plaintiffs and other similarly situated employees.

20. Defendant made all decisions relating to Plaintiffs' and other House Managers' rates and methods of pay.

21. Defendant possessed and exercised the authority to determine the hours worked by Plaintiffs and others similarly situated.

22. Defendant had the authority to control Plaintiffs' tasks and the tasks of other House Managers.

23. Defendant retained and exercised the power to change Plaintiffs' and other similarly situated employees' duties.

24. Plaintiffs' and members of the putative class recognized Defendant's authority and obeyed Defendant's instructions.

JURISDICTION AND VENUE

25. Original jurisdiction in this Honorable Court is expressly provided by FLSA, 29 U.S.C. § 207, *et seq.* This Court also has subject matter jurisdiction under 28 U.S.C. § 1331, as this matter presents a federal question.

26. Discretionary supplemental jurisdiction of Plaintiffs' Maryland state law claims is provided by 28 U.S.C. § 1367(a); the state law claims form part of the same case or controversy and derive from a common nucleus of operative facts, on which Plaintiffs' federal claims are based.

27. No reasons exist that would require this Honorable Court to decline jurisdiction; the state law claims (i) do not raise novel or complex issues of state law, (ii) do not substantially predominate the claims over which this Honorable Court has original jurisdiction and (iii) no exceptional circumstances exist that would constitute a compelling reason for declining jurisdiction, thereby satisfying 28 U.S.C. 1367(c).

28. Pursuant to 28 U.S.C. § 1391(b), venue is appropriate; the unlawful acts central to this matter occurred within the State of Maryland.

29. This Honorable Court has personal jurisdiction over Defendant; Defendant is a corporation incorporated under the laws of Maryland and conducts sufficient business within the forum state so as to constitute a submission to its laws.

FACTUAL ALLEGATIONS FOR ALL CLAIMS

30. Defendant provides healthcare services to individuals with intellectual and developmental disabilities. These individuals are Defendant's clients.

31. Defendant's clients receive services in group homes that Defendant maintains. These group homes are not private residences; they are dwellings that Defendant itself operates.

32. Defendant either owns or rents these dwellings. Defendant is financially liable for all expenses and is in charge of ensuring that all living conditions are proper. Defendant exercises complete control over the group homes.

33. Clients enrolled in Defendant's residential program are housed in these group homes. Defendant assists its clients with all aspects of day-to-day living. This consists of providing basic care and implementing support systems designed to improve their quality of life.

34. Defendant hired Plaintiffs and other similarly situated employees to assist its clients. Plaintiffs and others similarly situated were given the title of House Manager. However, their duties were non-managerial in nature. They did not have discretion in regard to the performance of their tasks. They were under the direct supervision of Defendant's Operations Managers.

35. Operations Managers maintained control over the group homes where Plaintiffs were assigned. Plaintiffs and other House Managers were required to follow all of the Operations Manager's instructions.

36. Plaintiffs and other House Managers were instructed to perform the same duties as Defendant's support staff, who were all hourly employees. Although Plaintiffs and other House Managers were ranked higher than support staff, it was the Operations Manager's responsibility to supervise the support staff.

37. Plaintiffs and other House Managers did not independently manage any aspect of Defendant's business. The extent of any managerial duties that they performed merely involved filling out routine paperwork and standard recordkeeping.

38. Plaintiffs and other House Managers did not have hiring and firing authority. They altogether lacked independent judgment. Their duties did not involve using their own discretion.

39. Plaintiffs' and other House Managers' duties were basic in nature. The performance of their duties was simply a matter of routine. To perform their daily duties, they did not need any specialized training or knowledge.

40. Plaintiffs' and other House Managers' tasks primarily consisted of manual labor. They had to assist clients with the maintenance of their residences. They were responsible for basic housekeeping and laundry services. This typically consisted of washing dishes, sweeping floors and changing linens.

41. Plaintiffs and other House Managers also assisted clients with meal preparation, as well as bathing, dressing and grooming.

42. Plaintiffs and other House Managers were regularly required to transport clients to their medical appointments and to various community and social events.

43. Plaintiffs and other House Managers had to ensure that the group homes met all security requirements. They were required to follow federal and state safety regulations.

44. Plaintiffs and other House Managers satisfied the requirements of their job and adequately performed their duties to benefit Defendant and its clients.

45. Plaintiffs and other House Managers performed their duties to the extent required by Defendant.

46. From December 2016 until October 2018, Plaintiff Samuel worked as a House Manager for Defendant. He was paid an annual salary of approximately forty thousand (\$40,000.00) dollars.

47. From approximately 2014 to August 2017, Plaintiff Reeder held the position of House Manager. Her annual salary was approximately forty thousand (\$40,000.00) dollars.

48. From 1998 to July 2017, Plaintiff Williams was employed as a House Manager. He was paid an annual salary of approximately forty-five thousand (\$45,000) dollars.

49. From 2012 to September 2016, Plaintiff Gatling was employed as a House Manager. His annual salary was approximately forty thousand (\$40,000.00) dollars.

50. Plaintiffs and other House Managers were scheduled to work approximately fifty (50) hours each week. Their schedules were supposed to be from 2:00 p.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 4:00 p.m. on weekends. However, they routinely worked much more.

51. In addition to their regularly scheduled hours, Plaintiffs and other House Managers were frequently on call. They had to remain accessible at all times. They were required to cover the shifts of Defendant's support staff when they called out. It was also their responsibility to respond to any medical or weather-related emergencies.

52. Because Plaintiffs and other House Managers were paid a salary, they did not receive additional compensation for the work they performed while on-call. They received the same regular payment each week, regardless of how many hours they worked.

53. Plaintiffs and others similarly situated were never compensated at a rate of "time and a half" their regular rate of pay. Defendant refused to pay its House Managers overtime wages.

54. Defendant knew that Plaintiffs and other House Managers worked overtime regularly. They were scheduled to work at least fifty (50) hours each week.

55. There is no bona fide dispute that Plaintiffs and other House Managers are owed overtime wages.

56. The duties performed by Plaintiffs and other House Managers did not implicate any exemptions contained within the FLSA, MWHL, or the MWPCCL.

57. Nothing regarding Plaintiffs' and other House Managers' tasks could justify Defendant's failure to pay overtime wages. However, Defendant suffered and/or permitted Plaintiffs and other House Managers to work overtime regularly.

58. In bad faith, Defendant withheld the overtime wages owed to Plaintiffs and other House Managers, even after Plaintiffs inquired about the wages missing from their paychecks.

59. Consequently, on behalf of themselves and all those similarly situated, Plaintiffs seek the wages to which they are entitled and other available relief through this Complaint.

FLSA COLLECTIVE ACTION ALLEGATIONS

60. Plaintiffs and other similarly situated employees work or worked as House Managers for Defendant.

61. The FLSA requires employers to compensate non-exempt employees such as Plaintiffs and others similarly situated with overtime wages for all hours worked over forty (40) within a workweek.

62. Defendant knew or should have known that Plaintiffs and those similarly situated were entitled to overtime pay for all hours worked over forty (40) in a workweek.

63. Defendant suffered or permitted Plaintiffs and other House Managers to work more than forty (40) hours per week.

64. Pursuant to the FLSA, Plaintiffs commence this collective action against Defendant on behalf of themselves and those similarly situated.

65. Plaintiffs demand damages reflecting an overtime rate of not less than one and a half (1.5) times their regular rate of pay for all hours worked over forty (40) in any workweek within the statutory period. Plaintiffs make these same demands on behalf of all members of the putative class.

66. Plaintiffs consent to be party plaintiffs in this matter. Plaintiffs' consent forms are attached to this Complaint as Exhibits A-D.

67. It is likely that other individuals will join Plaintiffs during the litigation of this matter and file written consents to "opt in" to this collective action.

68. There are numerous similarly situated current and former employees of Defendant that have been harmed by Defendant's common scheme to underpay its employees and violate the FLSA.

69. These similarly situated persons are known to Defendant and are readily identifiable through Defendant's records.

70. Many of these similarly situated employees would benefit from the issuance of court-supervised notice, granting them the opportunity to join this lawsuit.

71. Upon information and belief, others will choose to join Plaintiffs in this action in order to recover their unpaid wages and to seek all other available relief.

CLASS ACTION ALLEGATIONS UNDER MARYLAND WAGE LAWS

72. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs bring this action on behalf of themselves and other employees, current and former, that served as House Managers for Defendant and were subject to the following practices and policies: denial of overtime wages under the MWHL for hours worked over forty (40) in a single workweek; and the denial of all wages owed at the termination of their employment, in violation of the MWPCCL.

73. Plaintiffs are members of the proposed class they seek to represent.

74. The claims alleged by Plaintiffs are typical to the claims of the proposed class.

75. The potential members of the class are sufficiently numerous making joinder of all class members impractical.

76. There are questions of law and fact common to the class that predominate over any questions exclusive to the individual class members.

77. Counsel for the proposed class are qualified and experienced in litigating MWHL class actions and other complex litigation matters.

78. Counsel is capable of providing adequate representation for all members of the proposed class.

79. A class action is superior to other available methods for the fair and efficient adjudication of this case and will serve to promote judicial economy to the benefit of this Court, as well as the involved parties.

CAUSES OF ACTION AND VIOLATIONS OF LAW

Count I. Violation of the FLSA: Failure to Pay Overtime Wages

80. Plaintiffs hereby fully incorporate in this Count all allegations contained within Plaintiffs' Complaint.

81. Plaintiffs are entitled to overtime under 29 U.S.C. § 207(a), which provides that employers must compensate their employees for hours worked in excess of forty (40) in a workweek at a rate of not less than one and one-half (1.5) times the regular rate at which they are employed.

82. As described above, Plaintiffs have not received from Defendant compensation reflecting the prescribed overtime wage rate for hours worked in excess of forty (40) in a week; Defendant failed to compensate Plaintiffs for these additional hours.

83. By paying Plaintiffs a salary, Defendant willfully and intentionally failed to compensate Plaintiffs for the overtime hours they worked.

84. There is no *bona fide* dispute that Plaintiffs are owed overtime wages for the work they performed for Defendant.

85. Under the FLSA, Plaintiffs are entitled to additional wages from Defendant to compensate them for the additional hours they worked over forty (40) each week at a rate of one and one-half (1.5) times their regular hourly wage rate.

Count II. Violation of MWHL: Failure to Pay Overtime Wages

86. Plaintiffs hereby fully incorporate in this Count all allegations contained within Plaintiffs' Complaint.

87. Pursuant to Maryland Labor and Employment Code Ann. § 3-415, each employer shall pay an overtime wage of at least one and one half (1.5) times the regular hourly rate.

88. Pursuant to Maryland Labor and Employment Code Ann. § 3-420(a), an employer shall compute the wage for overtime under § 3-415 on the basis of each hour over forty (40) that an employee works during one (1) workweek.

89. Plaintiffs have not received compensation from Defendant reflecting the prescribed overtime wage rate for hours worked in excess of forty (40) in a week.

90. Defendant willfully and intentionally failed to compensate Plaintiffs for the overtime hours they worked. Defendant unlawfully compensated Plaintiffs for these additional hours.

91. There is no *bona fide* dispute that Plaintiffs are owed overtime wages for the work they performed for Defendant.

92. Under MWHL, Plaintiffs are entitled to additional wages from Defendant for all overtime hours worked at a rate of one and one-half (1.5) times their regular hourly wage rate.

Count III. Violation of the MWCPL: Failure to Pay Wages Owed

93. Plaintiffs hereby fully incorporate in this Count all allegations contained within Plaintiffs' Complaint.

94. Plaintiffs are entitled to wages under the Maryland Wage Payment Collection Law, Labor and Employment §§3-501 *et. seq.*, which provides that each employer shall pay an employee all wages due for work that the employee performed before the end of his or her employment, on or before the day on which the employee would have otherwise been paid the wages.

95. In accordance with §3-505(a), Plaintiffs have not received compensation from Defendant for all wages owed for the work they performed before the termination of their employment. This is specific to Defendant's failure to pay Plaintiffs overtime for all hours worked over forty (40) in a workweek.

96. Defendant willfully and intentionally withheld the wages owed to Plaintiffs and continued to violate the MWPCCL, even after Plaintiffs informed Defendant of the violation.

97. There is no *bona fide* dispute that Plaintiffs are owed wages for the work they performed while employed by Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs on behalf of themselves and others similarly situated, pray for the following relief:

- a) Designation of this action as a collective action on behalf of Plaintiffs and those similarly situated;
- b) Designation of this action as a class action on behalf of Plaintiffs and all members of the proposed state class;
- c) A finding that Defendant's classification of Plaintiffs and similarly situated employees as exempt was done in error;
- d) Judgment against Defendant for its failure to pay Plaintiffs and those similarly situated in accordance with the standards set forth by the FLSA;

- e) Judgment against Defendant for its failure to pay Plaintiffs and those similarly situated in accordance with the standards set forth by MWHL;
- f) Judgment against Defendant for its failure to pay Plaintiffs and those similarly situated in accordance with the standards set forth by the MWPCL;
- g) An award against Defendant for the amount of unpaid overtime wages owed, calculated at a rate that is not less than one and a half (1.5) times Plaintiffs' and the putative class' regular hourly rate for all overtime hours worked;
- h) An award of liquidated damages equal to the total amounts of unpaid wages owed to Plaintiffs and those similarly situated;
- i) An award of treble damages equal to the total amounts of unpaid wages owed to Plaintiffs and those similarly situated;
- j) An award of reasonable attorneys' fees and all costs, plus interest, to be satisfied in full by Defendant;
- k) Leave to add additional plaintiffs, opt-in or party, through the filing of consent forms; and
- l) All further relief deemed just and equitable by this Honorable Court.

REQUEST FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs request that a jury of their peers hear and decide all possible claims brought on behalf of Plaintiffs and those similarly situated.

Respectfully submitted,

/s/ Benjamin L. Davis, III
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