

ORIGINAL

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

COUNTY OF LEXINGTON

Case No: 2016-CP-32-_____

Clare Cash-Davis, Bernard Ceasar,
Carolyn Neal, and Tawanda Taylor-
White, individually and on behalf of
similarly-situated Consenters,

Plaintiffs,

vs.

Access Community Rehabilitative
Behavioral Health Services and
Jembralyn Jones, individually and as a
managing agent of Access Community
Rehabilitative Behavioral Health
Services,

Defendants.

2016 CP 32 04193

**COMPLAINT
(JURY TRIAL DEMANDED)**

**BETH A. CARRIGG
CLERK OF COURT
LEXINGTON SC**

2016 DEC 12 PM 4: 56

FILED

Plaintiffs, by and through their undersigned counsel, and complaining of
Defendants, would respectfully show unto the Court that:

PARTIES AND JURISDICTION

1. Plaintiffs are adult citizens and residents of Richland County, South Carolina.
2. Defendant Access Community Rehabilitative Behavioral Health Services (hereinafter "the corporate Defendant") is a non-profit corporation organized under the laws of the State of South Carolina, with its principal place of business in Lexington County.

3. Defendant Jembralyn Jones (hereinafter "Defendant Jones") is an individual who, upon information and belief, is a citizen and resident of Lexington County, which is within this District.
4. This Court has jurisdiction over the subject matter of this action pursuant to Article V, Section 11, of the South Carolina Constitution, and the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. (hereinafter "FLSA") and its implementing regulations, 29 C.F.R. Part 541, et seq.
5. The most substantial portion of the acts and omissions giving rise to this cause of action occurred in Newberry County.
6. Accordingly, venue is proper in Lexington County pursuant to S.C. Code Ann. § 15-7-30.

FACTUAL BACKGROUND

7. Each and every allegation set forth above is reiterated as if fully set forth herein.
8. The corporate Defendant is in the business of providing "community-based services to youth and families to promote wellness, independence, and maximum functioning in all aspects of daily life."
9. Defendant Jones a corporate officer for the corporate Defendant and has organizational control regarding its employees, including, but not limited to, hiring, firing, supervision, and other decisions regarding employee terms and conditions of employment.
10. At all times relevant hereto, Defendants have been "employers" within the meaning of the FLSA, 29 U.S.C. § 203.

11. At all times relevant hereto, Plaintiffs were “employees” of Defendants within the meaning of the FLSA, 29 U.S.C. § 203, even though Plaintiffs were unlawfully classified by Defendants as independent contractors.
12. Within the past three years, Defendants failed to pay Plaintiffs the agreed-upon compensation.
13. Defendants also had a practice of failing to pay employees for some weeks in which they worked.
14. Defendants also had a practice of revising and reducing terms and conditions of Plaintiff’s employment, specifically as related to compensation, without notice to Plaintiffs.

AS AND FOR A FIRST CAUSE OF ACTION
(Fair Labor Standards Act - Minimum Wage)

15. Plaintiffs repeat and reallege the allegations above as if set forth fully verbatim herein.
16. On several occasions in the past three years, Defendants failed to pay Plaintiffs for hours worked in contravention of the Fair Labor Standards Act.
17. Accordingly, Plaintiffs seek to recover from Defendants a judgment in the amount equal to Plaintiffs’ unpaid backwages at the minimum wage, judgment that Defendants’ actions were willful, liquidated damages in the amount equivalent to the minimum wage owed to Plaintiffs, all recoverable costs, expenses, and attorneys’ fees incurred in pursuing this action, injunctive relief, and such other and further relief as deemed just and equitable by this Court.

AS AND FOR A SECOND CAUSE OF ACTION OR CAUSE OF ACTION IN THE
ALTERNATIVE
(South Carolina Payment of Wages Act)

18. Plaintiffs repeat and reallege the allegations above as if set forth fully verbatim herein.
19. At all times relevant hereto, Plaintiffs were employees protected by the South Carolina Payment of Wages Act.
20. At all times relevant hereto, Defendants were employers subject to the South Carolina Payment of Wages Act.
21. During the course of their employment, Defendants had a practice of paying employees pursuant to Defendants' whim rather than the agreed-upon terms and conditions of employment.
22. On numerous occasions in the past three years, Defendants failed to compensate Plaintiffs as agreed, resulting in significantly lower compensation, if they received compensation at all.
23. Defendants also failed to provide written notice to Plaintiffs of the changes to the terms and conditions of employment, specifically as related to compensation, as required by the South Carolina Payment of Wages Act.
24. Defendants also failed to compensate Plaintiffs on the agreed-upon pay dates.
25. Accordingly, Plaintiffs seek to recover the difference between the paid wages and agreed-upon wages, liquidated damages, all recoverable costs, expenses, and attorneys' fees incurred in pursuing this action, injunctive relief, and such other and further relief as deemed just and equitable by this Court.

AS AND FOR A THIRD CAUSE OF ACTION OR CAUSE OF ACTION IN THE
ALTERNATIVE
(Breach of Contract)

26. Plaintiffs repeat and reallege the allegations above as if set forth fully verbatim herein.
27. To the extent the court finds that Plaintiffs were not employees, Plaintiffs are entitled to damages sufficient to make them whole for Defendants' breaches of their employment contracts.
28. Plaintiffs all agreed to perform services for Defendants in exchange for the agreed-upon compensation.
29. After Plaintiffs rendered the agreed-upon services, Defendants breached the agreement in that they failed to pay Plaintiffs as agreed, resulting in damages to Plaintiffs.
30. Defendants also breached the covenant of good faith and fair dealing implied in every contract.
31. Accordingly, Plaintiffs seek to recover the unpaid wages, costs, injunctive relief, and such other and further relief as deemed proper by this Court.

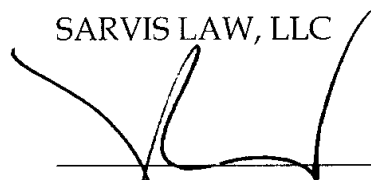
WHEREFORE, Plaintiffs and all similarly-situated consenters who join in this action demand:

1. Designation of this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216(b);
2. Judgment against Defendants for an amount equal to the unpaid wages;

3. Judgment against Defendants for statutory liquidated damages due to the willful nature of the violations, undertaken in bad faith;
4. All recoverable costs, expenses, and attorney's fees incurred in pursuing this action;
5. Leave to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by this Court;
6. Leave to amend to add other defendants who meet the definition of Plaintiffs' employer(s); and
7. All such further relief as the Court deems just and equitable.

Respectfully Submitted,

SARVIS LAW, LLC



Bryn C. Sarvis
 I.D. No. 78137
 3347-B Augusta Highway
 Gilbert, South Carolina 29054
 803-785-5525 - Phone
 803-610-2655 - Fax
bsarvis@sarvislaw.com

BETH A. CARRIGG
 CLERK OF COURT
 ALEXINGTON SC

2016 DEC 12 PM 4: 56

FILED

December 12, 2016
 Gilbert, South Carolina