IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

MAJID IPAYE, ADEYINKA ADEOGUN, and PRINCILLAR AGYAPONG, individually and on behalf of all others similarly situated, Plaintiffs, v. HCA HEALTHCARE, INC. and CERECORE STAFFING SERVICES, INC. Defendants.	)	Civil Action No. COLLECTIVE ACTION JURY DEMAND

COLLECTIVE ACTION COMPLAINT

Plaintiffs Majid Ipaye ("Ipaye"), Adeyinka Adeogun ("Adeogun") and Princillar Agyapong ("Agyapong") (collectively, "Plaintiffs") through their undersigned counsel, individually and on behalf of all others similarly situated, file this Collective Action Complaint against Defendants HCA Healthcare, Inc. ("HCA") and CereCore Staffing Services, Inc. ("CereCore") (collectively, "Defendants"). The following allegations are based on personal knowledge as to Plaintiffs' own conduct and on information and belief as to the acts of others.

PRELIMINARY STATEMENT

1. This is an action brought pursuant to the Fair Labor Standards Act of 1938, 29 U.S.C. § 201, *et seq.* ("FLSA") seeking payment of unpaid wages. Plaintiffs, on behalf of themselves and others similarly situated, also seek liquidated damages for the failure to pay overtime wages, as well as attorneys' fees and costs.

2. Plaintiffs allege that they and other similarly situated consultants were knowingly and improperly classified by Defendants as exempt employees, and, as a result, did not receive compensation for hours worked in excess of forty (40) in a workweek in violation of the FLSA.

3. Plaintiffs bring this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of themselves and the following class of potential FLSA opt-in litigants:

> All individuals who worked for CereCore providing training and support to HCA's and/or CereCore's clients in using electronic recordkeeping systems in the United States from May 21, 2021, to the present and were classified as exempt employees (the "Collective Action Members").

JURISDICTION AND VENUE

4. Jurisdiction over Plaintiffs' FLSA claims is proper under 29 U.S.C. § 216(b) and 28 U.S.C. § 1331.

5. Venue in this Court is proper pursuant to 28 U.S.C. § 1391, because both Defendants have their headquarters in Nashville, Tennessee, in this judicial district, and a substantial part of the events giving rise to Plaintiffs' claims took place in this district.

PARTIES

6. HCA Healthcare, Inc. ("HCA") is a Tennessee corporation which provides services and solutions for the healthcare industry across the United States. HCA has its headquarters at One Park Plaza, Nashville, TN 37203. HCA Healthcare's website features CereCore on a page dedicated to "our technology." https://hcahealthcare.com/about/our-technology (last visited May 20, 2024).

7. CereCore Staffing Services, Inc. ("CereCore") is a Tennessee corporation, and a subdivision of HCA, which coordinates staffing for information technology educational services

for the healthcare industry across the United States. CereCore has its headquarters at 1100 Dr Martin L King Jr Blvd Ste 1700, Nashville, TN 37203.

8. Defendant CereCore directly employs and pays Plaintiffs and Collective Action Members who work in HCA's various information technology implementation projects throughout the United States. The paychecks received by Plaintiffs state that they are "paid on behalf of" HCA.

9. To provide HCA's services, CereCore employed (and continues to employ) hundreds of workers—including Plaintiffs and Collective Action Members.

10. Together, Defendants form a single employer and enterprise for purposes of liability under the FLSA. Specifically, Defendants share common management, corporate offices and officers; they are jointly responsible for timekeeping and pay policies; and there is significant overlap of financial control and ownership for all Defendants.

11. HCA maintains control over the operational functions of the enterprise as it relates to Plaintiffs and Collective Action Members, from hiring and training, to scoping duties to be performed and ensuring compliance with all laws.

12. Defendants work together to employ Plaintiffs and Collective Action Members "on behalf of" HCA to promote their common business purpose of providing healthcare information technology services.

13. Defendants employ individuals engaged in commerce or in the production of goods for commerce and/or handling, selling, or otherwise working on goods or materials that have been moved in or produced in commerce by any person, as required by 29 U.S.C. §§ 206-207.

14. Defendants' annual gross volume of sales made or business done exceeds $500,000.

15. Plaintiff Majid Ipaye ("Ipaye") is an individual residing in Peachtree Corners,

Georgia.

16. Ipaye worked for Defendants as a consultant providing support and training to Defendants' clients in using a new recordkeeping system between September 2022 and February 2023.

17. Pursuant to 29 U.S.C. § 216(b), Ipaye has consented in writing to participate in this action. *See* Ex. A.

18. Plaintiff Adeyinka Adeogun ("Adeogun") is an individual residing in Atlanta, Georgia.

19. Adeogun worked for Defendants as a consultant providing support and training to Defendants' clients in using a new recordkeeping system between September 2022 and April 2023.

20. Pursuant to 29 U.S.C. § 216(b), Adeogun has consented in writing to participate in this action. *See* Ex. B.

21. Plaintiff Princillar Agyapong ("Agyapong") is an individual residing in Houston, Texas.

22. Agyapong worked for Defendants as a consultant providing support and training to Defendants' clients in using a new recordkeeping system between August 2022 and March 2023.

23. Pursuant to 29 U.S.C. § 216(b), Agyapong has consented in writing to participate in this action. *See* Ex. C.

FACTS

24. Defendants provide training and support to healthcare facilities throughout the United States in connection with the implementation of new electronic recordkeeping systems.

25. Defendants employ consultants, such as Plaintiffs and Collective Action Members, who perform such training and support services.

26. Defendants' financial results are significantly driven by the number of consultants performing training and support services for Defendants' customers, and the fees that Defendants charge the customers for these services.

27. Plaintiffs, along with dozens of Collective Action Members, worked for Defendants on a Meditech expansion project, which took place at several hospitals in New Hampshire, including Parkland Medical Center, Frisbie Memorial Hospital, and Portsmouth Regional Hospital, between approximately April 2022 and March 2023.

28. This was one of a number of similar projects which Defendants have staffed throughout the United States. See https://cerecore.net/how-we-help-clients (last visited May 20, 2024).

29. Plaintiffs and Collective Action Members worked with healthcare staff in a classroom setting and one-on-one on the hospital floor, teaching them how to use the Meditech electronic recordkeeping system and answering any questions they had in the process.

30. Plaintiffs and Collective Action Members were classified by Defendants as exempt employees. Although Plaintiffs routinely worked 12-hour shifts seven days a week, they did not receive overtime compensation for hours worked in excess of 40 a week.

Plaintiffs and Collective Action Members are not Exempt as "Computer Employees" or "Highly Compensated Employees" under the FLSA

31. Plaintiffs and Collective Action Members provide support and training to hospital staff in connection with electronic recordkeeping systems. Plaintiffs and Collective Action Members have no specialized training or certification in computer programming, software documentation and analysis, or testing of computer systems or programs.

32. Plaintiffs and Collective Action Members were not working as, nor were they similarly skilled as, computer systems analysts, computer programmers, or software engineers, as defined in 29 C.F.R. § 541.400(a).

33. Plaintiffs' and Collective Action Members' primary duties consisted of training and aiding healthcare staff, in a classroom and one-on-one, in using the new recordkeeping software. Plaintiffs' and Collective Action Members' primary duties did not include the higher skills of the "application of systems analysis techniques and procedures," pursuant to 29 C.F.R. § 541.400(b)(1). Plaintiffs and Collective Action Members did not analyze, consult or determine hardware, software programs or any system functional specifications for Defendant's clients. *See id.*

34. Plaintiffs and Collective Action Members did not consult with Defendants' customers to determine or recommend hardware specifications. Plaintiffs and Collective Action Members did not design, develop, document, analyze, create, test or modify a computer system or program, as defined in 29 C.F.R. § 541.400(b)(2).

35. While Plaintiffs' and Collective Action Members' work involved the use of computers, they were not "primarily engaged in computer systems analysis and programming." U.S. Dept. of Labor, Wage & Hour Div., Fact Sheet #17E: Exemption for Employees in Computer-Related Occupations under the Fair Labor Standards Act (FLSA). Plaintiffs and Collective Action Members provided support and training in using electronic recordkeeping systems to Defendants' clients.

36. Plaintiffs and Collective Action Members did not perform the duties of an exempt executive, administrative, or professional employee, as defined in 29 U.S.C. § 213(a)(1). Plaintiffs and Collective action Members worked on the hospital floor or in a classroom setting, and provided

basic. at-the-elbow support and instruction in using a new electronic recordkeeping system, walking hospital staff through how to input, save, and retrieve medical records, input patient medications, etc.

37. Plaintiffs and Collective Action Members did not have a role in managing Defendants' operations; did not regularly direct the work of other employees of Defendants; and did not hire or fire other employees.

38. Plaintiffs and Collective Action Members did not perform work related to management and/or general business operations of Defendants. Plaintiffs and Collective Action members did not exercise discretion as to matters of significance – they were assigned to a particular part of the hospital; were required to follow a set schedule; and were given specific parameters within which to help the hospital staff navigate the electronic recordkeeping system.

39. Plaintiffs and Collective Action Members did not perform work requiring advanced knowledge in a field of science or learning – they were not required to have a specific educational background, and their work involved basic, at-the-elbow training and support, in which they assisted hospital staff learning to use a new electronic recordkeeping system.

Defendants Willfully Violated the FLSA

40. Defendants had no reasonable basis to believe that Plaintiffs and Collective Action Members were exempt from the requirements of the FLSA. Rather, Defendants either knew or acted with reckless disregard of clearly applicable FLSA provisions in classifying Plaintiffs and Collective Action Members as exempt employees. Such willfulness is demonstrated by, or may be reasonably inferred from, Defendants' actions and/or failures to act, including the following:

a. At all times relevant hereto, Defendants maintained payroll records which reflected the fact that Plaintiffs and Collective Action Members did, in fact, regularly work

in excess of 40 hours per week, and thus, Defendants had actual knowledge that Plaintiffs and Collective Action Members worked overtime;

b. At all times relevant hereto, Defendants knew that they did not pay Plaintiffs and Collective Action Members 1.5 times their regular pay rate for hours worked in excess of forty (40) hours per week;

c. As evidenced by their own job offer letters and training materials for consultants, at all times relevant hereto, Defendants were aware of the nature of the work performed by consultants, and, in particular, that such individuals worked exclusively with healthcare workers employed by Defendants' clients, providing basic training and support;

d. As evidenced by their own job offer letters and training materials for consultants, Defendants knew and understood that they were subject to the wage requirements of the FLSA as "employers" under 29 U.S.C. § 203(d);

e. At all times relevant hereto, Defendants were aware that their consultants did not engage in: (i) computer systems analysis, computer programming, or software engineering, as defined in 29 C.F.R. § 541.400(a); (ii) the application of systems analysis techniques and procedures, as defined in 29 C.F.R. § 541.400(b)(1); or (iii) the design, development, analysis, creation, testing or modification of a computer system or program, as defined in 29 C.F.R. § 541.400(b)(2);

f. Defendants lacked any reasonable or good faith basis to believe that their consultants fell within any exemption from the overtime requirements of the FLSA. Rather, Defendants deliberately misclassified their consultants as independent contractors in order to avoid paying them overtime compensation to which they

were entitled;

g. At all times relevant hereto, Defendants were aware that they would (and, in fact did) benefit financially by failing to pay Plaintiffs and Collective Action Members 1.5 times their regular pay rate for hours worked in excess of forty (40) hours per week; and

h. Thus, Defendants had (and have) a strong financial motive to violate the requirements of the FLSA by misclassifying their consultants as exempt employees.

41. Based upon the foregoing, Defendants were cognizant that, or recklessly disregarded whether, their conduct violated the FLSA.

COLLECTIVE ACTION ALLEGATIONS UNDER THE FLSA

42. Plaintiffs bring this lawsuit pursuant to 29 U.S.C. § 216(b) as a collective action on behalf of the Collective Action Members defined above.

43. Plaintiffs desire to pursue their FLSA claims on behalf of all individuals who join this action pursuant to 29 U.S.C. § 216(b).

44. Plaintiffs and Collective Action Members are "similarly situated" as that term is used in 29 U.S.C. § 216(b) because, *inter alia*, all such individuals have been subject to Defendants' common business and compensation practices as described herein, and, as a result of such practices, have not been paid wages, including the legally mandated overtime compensation for hours worked over forty (40) during the workweek. Resolution of this action requires inquiry into common facts, including, *inter alia*, Defendants' common misclassification, compensation and payroll practices.

45. The FLSA requires non-exempt hourly employees to be compensated at a rate of 1.5 times the regular hourly rate for all hours worked over 40 in a week.

46. Defendants misclassified Plaintiffs and Collective Action Members as exempt employees, and, as a result, failed to provide them overtime compensation for hours worked in excess of 40 a week.

47. The similarly situated employees are known to Defendants, are readily identifiable, and can easily be located through Defendants' business and human resources records.

48. Defendants employ many Collective Action Members throughout the United States. These similarly situated employees may be readily notified of this action through email, text message, U.S. Mail, and/or other means, and allowed to opt in to this action pursuant to 29 U.S.C. § 216(b), for the purpose of collectively adjudicating their claims for overtime compensation, liquidated damages (or, alternatively, interest) and attorneys' fees and costs under the FLSA.

COUNT I
FLSA – Overtime Compensation
(On Behalf of Plaintiffs and the FLSA Collective)

49. All previous paragraphs are incorporated as though fully set forth herein.

50. The FLSA defines "employer" broadly to include "any person acting directly or indirectly in the interest of an employer in relation to an employee. . . ." 29 U.S.C. § 203(d).

51. Defendants are subject to the wage requirements of the FLSA, because Defendants are "employers" under 29 U.S.C. § 203(d).

52. At all relevant times, Defendants have been "employers" engaged in interstate commerce and/or in the production of goods for commerce, within the meaning of the FLSA, 29 U.S.C. § 203.

53. During all relevant times, Plaintiffs and Collective Action Members have been covered employees entitled to the above-described FLSA protections. *See* 29 U.S.C. § 203(e).

54. Plaintiffs and Collective Action Members are not exempt from the requirements of the FLSA.

55. Plaintiffs and Collective Action Members are entitled to be paid overtime compensation for all hours worked over forty (40) in a workweek pursuant to 29 U.S.C. § 207(a)(1).

56. Defendants, pursuant to their policies and practices, failed and refused to pay overtime compensation to Plaintiffs and the Collective Action Members for their overtime hours worked by misclassifying Plaintiffs and the Collective Action Members as exempt employees.

57. Defendants knowingly failed to compensate Plaintiffs and the Collective Action Members at a rate of 1.5 times their regular hourly wage for hours worked in excess of forty (40) hours per week, in violation of 29 U.S.C. § 207(a)(1).

58. In violating the FLSA, Defendants acted willfully and with reckless disregard of clearly applicable FLSA provisions.

59. In violating the FLSA, on information and belief, Defendants did not have any good faith basis to rely on any legal opinion or advice to the contrary.

JURY TRIAL

60. Plaintiffs demand a trial by jury for all issues of act.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs seek the following relief on behalf of themselves and the FLSA Collective:

a. An order permitting this litigation to proceed as a collective action pursuant to 29

U.S.C. § 216(b);

b. Prompt notice, pursuant to 29 U.S.C. § 216(b), of this litigation to all potential members of the FLSA Collective;

c. Back pay damages (including unpaid overtime compensation and unpaid wages) and prejudgment interest to the fullest extent permitted under the law;

d. Liquidated damages to the fullest extent permitted under the law;

e. Litigation costs, expenses, and attorneys' fees to the fullest extent permitted under the law; and

f. Such other and further relief as this Court deems just and proper.

Dated: May 21, 2024

Respectfully submitted,

MAJID IPAYE, ADEYINKA ADEOGUN, and PRINCILLAR AGYAPONG, individually and on behalf of others similarly situated,

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