

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

MICHELLE HELMINEN,

Plaintiff,

Case No:

v.

RELIANT PRO REHAB LLC, d/b/a  
RELIANT REHAB,

Defendant.

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**COLLECTIVE ACTION COMPLAINT PURSUANT TO SECTION 216B OF THE FLSA  
FOR RECOVERY OF OVERTIME WAGES UNDER AND JURY DEMAND**

Plaintiff, MICHELLE HELMINEN (hereinafter “Helminen” or “Plaintiff”), sues Defendant RELIANT PRO REHAB LLC, d/b/a RELIANT REHAB (hereinafter “RELIANT” and/or “Defendant”) for herself and all other present and former Therapists employed by Defendant for violations of the Fair Labor Standards Act 29 U.S.C. Section 207 *et seq.* (“FLSA”), and Massachusetts state wage and hour laws, M.G.L. c. 149 §148, §150 and M.G.L. c. 151 §§1A and 1B for failing to pay all wages and overtime wages due for hours worked within the preceding 3 years through to the day of trial. Defendant RELIANT has maintained an unlawful scheme to avoid its overtime pay obligations in order to increase profits. As part of this scheme, Defendant maintained a *de facto* policy of commanding and pressuring Plaintiff and all other therapists to underreport, and submit inaccurate timesheets, including the reporting of 30-minute meal breaks that were interrupted or not taken at all due to work obligations. Due to Defendant’s productivity requirements placed upon Plaintiff which limited the number of hours she could report on the clock, Defendant pressured Plaintiff to work overtime hours off the clock. Defendant placed therapists in fear of disciplinary action and termination of employment if they recorded all the overtime hours they actually worked which were necessary to complete their job

duties. This scheme is created and enforced solely for one purpose: maximize profits for the Company and its owners.

### **THE PARTIES**

1. Plaintiff MICHELLE HELMINEN is an adult resident of Massachusetts. From approximately March 1, 2021, until the present, Plaintiff worked for Defendant as a Director of Rehab (DoR) and a Physical Therapy Assistant (PTA) at the Leominster Rehabilitation and Nursing Center in Leominster, MA.

2. Plaintiff's job duties as a PTA included treating patients and providing physical therapy treatments, along with documenting and preparing notes of the therapy sessions in a contemporaneous manner. In approximately September or October 2023, Defendant changed Plaintiff's title to Therapy Coordinator. However, this change was in name alone as the terms and conditions of Plaintiff's employment are the same as when her title was Director of Rehab.

3. Plaintiff's job duties as a Director of Rehab include providing physical therapy treatment, attend daily, weekly, and monthly meetings with staff, patients, and supervisors, perform all tasks as delegated or required by the location and/or regional manager. perform staff scheduling, be present for conference calls, partake in training newly hired staff and many other so-called Director of Rehab administrative duties.

4. Throughout Plaintiff's employment, she routinely worked more than 40 hours each week in order to complete her job duties and meet the productivity requirements, and regularly worked "off the clock," including during unpaid meal breaks and on weekends. Defendant failed to pay Plaintiff for the time she worked during her meal breaks and Plaintiff was unable to take a *bona fide* meal break due to work interruptions.

5. Plaintiff was and is paid on an hourly basis and was and is classified as non-exempt/overtime pay eligible. Plaintiff was an employee within the meaning of the FLSA and Massachusetts law.

6. Defendant is a Foreign Limited Liability Corporation, with principal place of business located at 5800 Granite Parkway, Suite 1000, Plano, Texas 75024. Defendant has routinely and consistently conducted business in the State of Massachusetts through its fixed long term health care and nursing home facilities or locations, including in this District. Defendant may be served through its Registered Agent for service of process, CT Corporation System, 155 FEDERAL ST., SUITE 700, Boston, Massachusetts 02110.

7. As stated by Defendant on its website: “Reliant provides physical, occupational and speech therapy services to skilled nursing facilities. Using our proprietary patient-centered clinical programs, we have over 37,000 patient interactions every day in over 870 facilities in 40 states.”

8. Defendant is an employer within the definition of the FLSA and Massachusetts law.

9. Defendant has revenues exceeding \$500,000 annually and employs more than 2 people.

10. Defendant was required to compensate Plaintiff for all hours worked and overtime premiums for all overtime hours worked in each and every workweek.

### **JURISDICTION AND VENUE**

11. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331, because this action involves a federal question under the FLSA, 29 U.S.C. §§ 201 *et seq.* and 29 U.S.C. § 216(b).

12. This Court is empowered to issue a declaratory judgment under 28 U.S.C. §§ 2201 and 2202.

13. This Court has personal jurisdiction over Defendant. Defendant has and continues to conduct substantial business activities in Massachusetts throughout the relevant periods, including employing Plaintiff at facilities in Massachusetts.

14. Venue is proper to this Court pursuant to 28 U.S.C. Sec. 1391(b) because a substantial part of the events giving rise to the claims occurred in this District. Defendant employed Plaintiff in this District and within the jurisdiction and venue of this Court.

15. This Court has supplemental jurisdiction over the state law claims which are closely related to the FLSA claims. 28 U.S.C. § 1367.

16. Plaintiff does not share a state of citizenship with Defendant.

17. Plaintiff is a citizen of Massachusetts.

18. Defendant is not a citizen of Massachusetts. Defendant is a citizen of Texas, with its principal place of business in Plano, Texas, and is a Delaware Corporation.

19. The Court has personal jurisdiction over all non-resident FLSA Opt-In Plaintiffs pursuant to the First Circuit's decision in *Waters v. Day & Zimmermann NPS, Inc.*, 23 F.4th 84 (1st Cir. 2022).

### **FACTS**

20. Defendant employed Plaintiff at its locations within this District.

21. Due to Defendant's common policy, practice, or scheme, Plaintiff worked unpaid time off-the-clock.

22. Defendant required that Plaintiff meet productivity requirements which are tied to hours reported. If Plaintiff reported too many hours worked, it would negatively impact her productivity scores, which could result in discipline or termination.

23. For example, Defendant required that Plaintiff obtain productivity scores ranging up to 86%, meaning she has to treat Defendant's patients for up to 86% of her weekly work hours and have Medicare billable hours for every hour they recorded as time worked. The productivity requirement Defendant assigned to Plaintiff as a DoR was initially 50% and has steadily increased throughout her employment and is currently set at 86%.

24. Defendant's managers and/or directors and others in management also encouraged and even pressured Plaintiff to work as many hours and overtime hours as needed off the clock to meet productivity goals, and to complete all job duties and required reporting forms and medical notes.

25. Defendant also discouraged reporting all overtime hours and any hours actually worked that would cause the productivity rate to fail, and thus expected Plaintiff to self-report inaccurate, understated, and falsified time records, as well as work hours without receiving any pay. Defendant maintained a culture of discouraging and intimidating Plaintiff from submitting or reporting all overtime hours worked by a) warning that she had to find a way to do all the work and keep up or she would be subjected to discipline or termination; and b) through the productivity requirement scheme such that submitting all overtime hours caused Plaintiff to work off-the-clock and submit false time records which understate actual hours worked.

26. Time spent completing paperwork, charting, and patient notes negatively impacted productivity scores because such time was not fully billable and not considered patient treatment. Defendant could not bill Medicare or insurers for all of this work. Thus, Defendant

limited or did not permit Plaintiff to record all such time worked as doing so would impact productivity scores and employment status of the Plaintiff.

27. Defendant's practice stemmed from a corporate policy to increase corporate profits and limit labor expenses. The result was Plaintiff working off-the-clock and not receiving wages and overtime wages for all time worked.

28. Defendant actually knows or should have known that Plaintiff routinely worked regular and overtime hours off the clock without compensation in violation of the FLSA and Massachusetts wage laws.

29. Plaintiff used Defendant's software and computer systems to perform her work and such systems will demonstrate off-the-clock work claimed herein.

30. Upon information and belief, Defendant has not taken steps to prevent Plaintiff from working off-the-clock or analyzed whether such off-the-clock work was happening or whether Defendant paid Plaintiff for all time worked. Defendant willfully and recklessly disregarded the FLSA and Massachusetts laws.

31. Defendant does not track and does not maintain records of the actual hours worked by Plaintiff.

32. Defendant does not have a method to track time worked from home.

33. Defendant classifies and classified Plaintiff as non-exempt and overtime pay eligible.

34. Defendant is liable under the FLSA for, inter alia, failing to properly compensate Plaintiff for all hours and overtime hours worked.

### **COLLECTIVE ACTION ALLEGATIONS**

38. Plaintiff brings this action on behalf of themselves and all Therapists who worked for Defendant throughout the United States during the FLSA Collective Period (the “FLSA Collective Members”). This group is defined as

All persons employed as Therapists as defined in Footnote 1, including or any other job titles used to describe persons performing similar job requirements such as hourly paid Directors of Rehab or Rehab Coordinators, who are currently employed by or were previously employed by Reliant Pro Rehab LLC, d/b/a Reliant Rehab in the U.S. in the past 3 years from the date of the filing of the action through the date of trial. <sup>1</sup>

39. Plaintiff is able to protect and represent the FLSA Collective group of similarly situated and Plaintiff is willing and able, and consent to doing so. Plaintiff is familiar with the Defendant’s pay practices, company policies and procedures.

40. Defendant classifies and classified Plaintiff and all FLSA Collective Members as non-exempt and overtime pay eligible under all applicable state wage laws and the FLSA.

41. Defendant maintains the same timekeeping and compensation practices and policies for Plaintiff and all FLSA Collective Members.

42. Plaintiff and the FLSA Collective Members have similar job and productivity requirements due to Defendant’s common *de facto* scheme which causes them to work off-the-clock without compensation for all hours and overtime hours worked.

43. Defendant discouraged accurate reporting of all work hours by Plaintiff and all other therapists through the enforcement and pressure to hit and meet productivity standards or expectations assigned to them, which was monitored on a daily and weekly basis.

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<sup>1</sup> The term “Therapist” means any person working as: Occupational Therapist (OT), Physical Therapist (PT), Speech Language Pathologist (SLP), Certified and Non-Certified Occupational Therapy Assistant (OTA OR COTA), Physical Therapy Assistant (PTA), or any Rehab Coordinator or Hourly paid Director of Rehab-Therapist.

44. If Therapists, including Plaintiff were to claim and report all actual work hours each day and work week, they would fail the productivity standards or fall below it and be subject to disciplinary action, including termination of employment.

45. The failure to perform at the required and assigned productivity rate results in disciplinary action, including oral and written warnings, and then if not corrected termination of employment.

46. Defendant maintains similar job descriptions for Therapists depending on their specific job title.

47. Defendant has a common training program for Therapists depending on their specific job title.

48. Defendant is liable under the FLSA for, inter alia, failing to properly compensate Plaintiffs and the FLSA Collective Members for all hours and overtime hours worked. There are many similarly situated current and former Therapists who have been underpaid in violation of the FLSA and who would benefit from the issuance of a court-supervised notice of the present lawsuit and the opportunity to join the present lawsuit. Those similarly-situated Therapists are known to Defendant, are readily identifiable, and can be located through Defendant's records. Notice should be sent to the FLSA Collective members pursuant to 29 U.S.C. § 216(b).

**COUNT I**  
**VIOLATIONS OF FLSA § 207 AND DECLARATORY ACTION**  
**PURSUANT TO 28 U.S.C. SECTIONS 2201 and 2202**

35. Plaintiff realleges and incorporates by reference the foregoing paragraphs of this Complaint and fully restates and realleges all facts and claims as if fully stated herein.

36. Defendant willfully engaged in a common company pattern and practice of violating the provisions of the FLSA, by failing to pay Plaintiff the required overtime wages and premiums for all hours worked over 40 in each and every workweek.

37. Plaintiff routinely worked off the clock and as all such time should have been counted as compensable overtime hours during any workweek that Plaintiff worked.

38. Defendant knew or should have known that Plaintiff routinely performed work off-the-clock, including during overtime hours.

39. This unpaid work also included time completing required notes on tablets while off-the-clock, at or away from the facility, which was permitted and performed with the knowledge and acceptance of Defendant.

40. Defendant knew or should have known of the access times to the notes and software and programs by Plaintiff while she was off the clock.

41. Plaintiff also works during the day without taking a 30-minute, uninterrupted, non-working meal break; in other words even when a break was requires to be clocked, she was routinely performing work, such as entering therapy notes while on this break time in order to maintain and meet the productivity requirement or standard set for her.

42. Defendant failed to contemporaneously track and record all work hours of Plaintiff, including work during unpaid meal breaks.

43. Defendant failed to pay for all the time that Plaintiff worked, including overtime hours worked in excess of 40 hours per week.

44. Defendant's conduct as described herein constitutes willful violations of the FLSA. Since Defendant's violations of the FLSA have been willful, a three-year statute of

limitations applies, pursuant to 29 U.S.C. § 255, as it may be further extended or tolled by agreement, equity or operation of law.

45. Defendant is aware of its obligations under the FLSA but did not make a good faith effort to comply with the FLSA with respect to its timekeeping and compensation of Plaintiff.

46. As a result of Defendant's unlawful acts and pay practices described herein, Plaintiff was and is deprived of overtime compensation in amounts to be determined at trial; and is entitled to recovery of such amounts, liquidated damages in amount equal to the overtime wages due, prejudgment interest, attorneys' fees, costs and other compensation pursuant to 29 U.S.C. § 216(b), as well as injunctive relief pursuant to 29 U.S.C. § 217.

**COUNT II**  
**VIOLATION OF THE VIOLATION OF M.G.L. C., CHAPTER 151, SECTIONS 1A  
AND 1B, OVERTIME WAGE LAW FOR PLAINTIFF AND ALL MASSACHUSETTS  
OPT IN PLAINTIFFS**

47. Plaintiff realleges and incorporates by reference paragraphs one (1) through forty five (45) of this Complaint and fully restates and realleges all facts and claims as if fully stated herein.

48. Defendant's conduct in failing to pay Plaintiff time-and-a-half for unpaid hours worked in excess of forty per week, as set forth above, violates M.G.L. c. 151, § 1A. This claim is brought pursuant to M.G.L. c. 151, § 1B.

49. As a result of Defendant's unlawful acts and pay practices described herein, Plaintiff was deprived of overtime compensation in amounts to be determined at trial; and is entitled to recovery of such amounts, treble damages, interest, attorneys' fees, costs and other compensation and damages pursuant to Massachusetts law.

**COUNT III**

**VIOLATION OF THE VIOLATION OF M.G.L. C., CHAPTER 149,  
SECTION 148, MASSACHUSETTS WAGE LAW FOR PLAINTIFF AND ALL  
MASSACHUSETTS OPT IN. PLAINTIFFS**

50. Plaintiff realleges and incorporates by reference paragraphs one (1) through forty five (45) of this Complaint and fully restates and realleges all facts and claims as if fully stated herein.

51. Defendant's conduct in failing to pay Plaintiff for all hours worked violates Mass. Gen. L. c. 149, § 148. This claim is brought pursuant to Mass. Gen. L. c. 149, § 150.

52. As a result of Defendant's unlawful acts and pay practices described herein, Plaintiff was deprived of wages in amounts to be determined at trial; and is entitled to recovery of such amounts, treble damages, interest, attorneys' fees, costs and other compensation and damages pursuant to Massachusetts law.

**WHEREFORE**, Plaintiffs MICHELL HELIMINEN, individually, and on behalf of all others similarly situated, employed during the FLSA Collective Period and applicable Massachusetts statutory period, for all current and formerly employed Therapists, seek the following relief:

- a. Designation of this action as an FLSA Section 216(b) collective action;
- b. That Plaintiff Helminen be allowed to give notice of this collective action, or that this Court issue such notice at the earliest possible time to all past and present Therapists and Rehab Coordinators who worked for Defendant during the FLSA Collective Period, advising them of their right to join the case;
- c. Designate Plaintiff Helminen as Representatives of the FLSA Collective Members for purposes of engaging in mediation, with the authority to execute any

Collective settlement agreement the parties might reach, which is subject to Court's approval before making any such agreement binding;

- d. That the Court find and declare Defendant's violations of the FLSA were and are willful;
- e. That the Court enjoin Defendant, under 29 U.S.C. § 217, from withholding future payment of wages and overtime compensation owed to members of the FLSA Collective Members;
- f. That the Court award to Plaintiff and the FLSA Collective Members overtime compensation for all unpaid overtime hours worked at a rate of one and one half time their regular rates of pay, including the value of all compensation earned, for previous hours worked in excess of forty (40) for any given week during the FLSA Collective Period;
- g. Award Plaintiff and the FLSA Collective Members an equal sum in awarded or recovered wages as liquidated damages, and for Plaintiff Haggerty and all FLSA Collective Members from Massachusetts, treble damages.
- h. That the Court award Plaintiff and the Plaintiffs who opt into this action recovery of their reasonable attorneys' fees and costs and expenses of litigation pursuant to 29 U.S.C. § 216 and Massachusetts law;
- k. That the Court issue in order of judgment under 29 U.S.C. §§ 216-17 and 28 U.S.C. §§ 2201 and 2202 finding that the Defendant unlawfully and willfully violated the FLSA by failing to pay overtime wages and willfully failing to accurately record all hours worked by Plaintiff and opt in Plaintiff Therapists, as

well as issue an Injunction barring the Defendant from further violating the FLSA;

- l. Award prejudgment and post-judgment interest, as provided by state or federal law;
- m. That the Court award any other legal and equitable relief as this Court may deem appropriate, including the value of underpaid matching funds in company pension or 401k plans; and
- n. That the Court award all other relief to which Plaintiff and the Plaintiffs who opt into this action may be entitled.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury on all questions of fact raised by this Complaint.

Respectfully submitted,

*\*s/ Mitchell L. Feldman*

Mitchell L. Feldman, Esq.

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Attorneys for Plaintiff and all others similarly situated who consent to join and opt into this action.

\*Pro Hac Vice application forthcoming and pending