

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLAUDIA WILLIAMS, f/k/a CLAUDIA GAYLE, :

: 23 Civ. 6661

Plaintiff, :

- against - :

**COMPLAINT AND
DEMAND FOR JURY TRIAL**

HARRY’S NURSES REGISTRY, INC., and
HARRY DORVILIER, :

Defendants. :

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Plaintiff Claudia Williams, f/k/a Claudia Gayle (hereinafter “Williams”), by her attorney, Isaacs Bernstein, P.C., complains of defendants, Harry’s Nurses Registry, Inc. (hereinafter “Harry’s”) and Harry Dorvilier (hereinafter “Mr. Dorvilier”) as follows:

PRELIMINARY STATEMENT

1. Plaintiff, a nurse formerly employed by Defendants, brought suit in this Court for unpaid overtime pay in 2007. She and persons similarly situated were awarded summary judgment. That judgment was affirmed on appeal by the Second Circuit; certiorari was denied by the U.S. Supreme Court. Defendants, unable to accept defeat, have retaliated by publishing Plaintiff’s social security number, date of birth and other personal identifiers to the Internet, leaving Ms. Williams exposed to identity theft. Not only is there no legitimate motive for Defendants to do so, Defendants’ Internet publications (like their litigation conduct) make it clear that retaliatory animus (and pique that this and other Courts have repeatedly rejected their meritless arguments) is their motive. Plaintiff accordingly seeks relief under the anti-retaliation provisions of the Fair Labor Standards Act (FLSA) and New York Labor Law (NYLL).

JURISDICTION AND VENUE

2. This Court has jurisdiction of this action pursuant to the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, and 28 U.S.C. § 1367(a), in that the state and federal claims arise from a common nucleus of operative fact such that they are so related that they form part of the same case or controversy under Article III of the United States Constitution. This Court also has jurisdiction of this action pursuant to 28 U.S.C. § 1332(a)(1), which confers original jurisdiction upon this Court over a civil action brought by a citizen of one State against a citizen of another State to recover damages in excess of \$75,000.

3. The venue of this action is proper because Defendants reside within the Eastern District of New York and because a substantial part of the events complained of occurred in the Eastern District of New York.

PARTIES

4. At all relevant times, Harry's Nurses Registry, Inc. was and is a domestic business corporation organized under the laws of the State of New York. At all relevant times, Harry's had a principal place of business at 88-25 163rd Street in the County of Queens, City and State of New York.

5. At all relevant times, Dorvilier was and is the president of Harry's Nurses Registry, Inc. At all relevant times, he has resided in the County of Queens, City and State of New York.

6. Claudia Williams (née Gayle) is a natural person, currently residing in the City of Covington, County of Newton, State of Georgia.

FACTUAL ALLEGATIONS

Background

7. Harry's is a home care services agency within the meaning of Article 36 of the New York Public Health Law. Harry Dorvilier is the founder and principal of the agency.

8. In 2007, Ms. Williams was a licensed practical nurse employed by Defendants.

9. Ms. Williams filed a lawsuit, *Gayle et al. v. Harry's Nurses Registry, Inc. and Harry Dorvilier*, 07 Civ. 4672, in this Court. In that lawsuit, she alleged that she and similarly situated persons were employees of Defendants, that Defendants had misclassified their "field nurses" as independent contractors rather than employees and had failed to pay them overtime premium pay as required by the FLSA and NYLL. Judges Sifton and Garaufis of this Court awarded summary judgment on FLSA liability and damages to Ms. Williams and 36 similarly situated persons.

10. In 2015, this Court's judgments were affirmed by the Second Circuit Court of Appeals. Later that year, the United States Supreme Court denied certiorari.

11. In 2021, Defendants filed an application in this Court contending that the *Gayle* case was "administratively closed" in error and that it should be reopened. Judge Garaufis of this Court denied the application and noted that the case was not "administratively closed" but closed. Defendants appealed that ruling. The Second Circuit Court of Appeals dismissed that appeal and referred Defendants' then-counsel to the Second Circuit Grievance Panel for filing a frivolous appeal. 07-4672 ECF No. 301 (Mandate).

Retaliation

12. Defendants had, during the intervening years, posted to the Internet false

statements about Ms. Williams, her counsel and this Court. Following the frustration of Defendants' hope for vindication on appeal, however, they published to the Internet a screed accusing Ms. Williams of perpetrating unnamed frauds by presenting purportedly false identification.

13. The purported identity falsification has to do with Plaintiff's (legitimate) use of three names: Claudia Cecile Gayle (her birth name), Claudia Mathias (reflecting Plaintiff's marriage to a Mr. Mathias in the 1990s) and Claudia Williams (reflecting her current marriage).

14. Defendants posted to the Internet copies of Ms. Williams's social security card and driver's licenses (which licenses display Plaintiff's date of birth). A copy of that post, redacted of Ms. Williams's personal information as well as extraneous material and the URL at which the post is located, is annexed hereto as Exhibit 1.

15. The publication of Ms. Williams's date of birth and social security number exposes her to identity theft.

16. Defendants, a home care agency and its principal, are required by New York law to be familiar with privacy law. They are accordingly aware that publication of Ms. Williams's date of birth and social security number is wrongful.

FIRST CAUSE OF ACTION (Fair Labor Standards Act)

17. Plaintiff incorporates by reference the foregoing allegations as if fully set forth herein.

18. The FLSA, 29 U.S.C. § 215(a)(3), forbids any person to, *inter alia*, discriminate against any employee (including a former employee) because such employee has filed any

complaint or instituted or caused to be instituted any proceeding under or related to this Act, or has testified in any such proceeding.

19. Defendants willfully violated the FLSA, 29 U.S.C. § 215(3), by posting personal identifying information pertaining to Plaintiff in retaliation for filing and prosecuting a lawsuit against Defendants alleging violations of the FLSA, 29 U.S.C. §§ 201 *et seq.*

20. Defendants having retaliated in violation of the Fair Labor Standards Act, Plaintiff is entitled to appropriate legal and equitable relief, including a permanent injunction, damages for emotional distress, punitive damages and attorney's fees.

SECOND CAUSE OF ACTION (New York Labor Law)

21. Plaintiff incorporates by reference the foregoing allegations as if set forth fully here.

22. Section 215 of the New York Labor Law prohibits employers from retaliating in any manner against any employee (including a former employee) because such employee has instituted a proceeding under or related to the NYLL.

23. Defendants' acts described herein constitute retaliation against Plaintiff for filing a lawsuit against Defendants alleging violations of Article 19 of the NYLL.

24. Defendant willfully violated the NYLL by posting personal identifying information pertaining to Plaintiff in retaliation for her having filed a lawsuit alleging violation of NYLL Article 19.

25. Pursuant to NYLL § 215(1)(a), Plaintiff has served notice of this Complaint upon the Attorney General of the State of New York.

26. Plaintiff is accordingly entitled to injunctive relief, together with liquidated damages in an amount not greater than \$20,000.00 and reasonable attorney's fees.

JURY TRIAL DEMANDED

The plaintiff requests a jury trial on all questions of fact raised by the Complaint.

WHEREFORE, Plaintiff respectfully requests that this Court enter a judgment:

1. Granting a permanent injunction enjoining Defendants and their owners, officers, management personnel, employees, agents, attorneys, successors and assigns and those acting in concert therewith from any conduct violating the rights of the Plaintiff as secured by the Fair Labor Standards Act and New York Labor Law;
2. Granting an injunction enjoining Defendants to delete all retaliatory Internet and social media posts pertaining to Plaintiff;
3. Awarding Plaintiff punitive damages and damages for emotional distress;
4. Awarding Plaintiff \$20,000 liquidated damages under the New York Labor Law;
5. Awarding Plaintiff the costs of this action together with reasonable attorneys' fees; and
6. Granting such other and further relief as this Court deems necessary and proper.

Dated: Yardley, Pennsylvania
September 7, 2023

ISAACS BERNSTEIN, P.C.

By: _____/s/_____

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AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

CLAUDIA WILLIAMS f/k/a CLAUDIA GAYLE,

Plaintiff(s)

v.

HARRY'S NURSES REGISTRY, INC. and HARRY
DORVILIER,

Defendant(s)

Civil Action No. 23-6661

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Harry's Nurses Registry, Inc.
 Harry Dorvilier
 88-25 163rd Street
 Jamaica, NY 11432

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Jonathan Bernstein
 Isaacs Bernstein, P.C.
 2108 Yardley Road
 Yardley, PA 19067

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY
 CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

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PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: