

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DANA WRIGHT,

Plaintiff,

vs.

SENIOR LIFESTYLES, INC.

Defendants

CIVIL DIVISION

No.

COMPLAINT

Code:

Filed on behalf of Plaintiff

Counsel of Record for this Party:

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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

DANA WRIGHT,)	
)	
Plaintiff,)	CIVIL DIVISION
)	
vs.)	No.
)	
SENIOR LIFESTYLES, INC.)	
)	
Defendants)	

NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERRAL SERVICE:

Lawyer Referral Service
The Allegheny County Bar Association
Koppers Building, 3rd Floor
436 Seventh Avenue
Pittsburgh, PA 15219

Telephone No. (412) 261-5555

COMPLAINT

1. Plaintiff, Dana Wright, is an adult individual who resides at 408 Toura Drive, Pittsburgh, Pennsylvania 15236.

2. Defendant, Senior Lifestyles, Inc., is a Pennsylvania corporation that operates a licensed Personal Care Facility called the Sheridan at Bethel Park, located at 2000 Cool Springs Drive, Pittsburgh, Allegheny County, Pennsylvania, 15234. Senior Lifestyles Corporation receives funding from the Commonwealth of Pennsylvania and is an employer within the meaning of the Whistleblower Law.

3. Plaintiff was employed by Senior Lifestyles, Inc., as its Executive Director, until she was discharged/constructively discharged on August 25, 2019.

6. On June 16, 2019, Plaintiff learned that a nurse at Defendant's facility had intentionally destroyed medical records and narcotic medication forms. Plaintiff reported to Defendant's Divisional Director of Health and Wellness that the nurse admitted to recreating a deceased resident's narcotic forms, destroyed the original records and asked staff to fraudulently re-sign the newly created records. Plaintiff also reported that the nurse admitted to forging signatures of some of the healthcare providers on the recreated forms.

7. Plaintiff was subsequently asked to obtain a statement from the nurse and the statement was sent to the manager who replaced the Divisional Director of Health and Wellness referenced in paragraph 6 above.

8. The nurse was suspended pending investigation. During the investigation Plaintiff obtained statements from the employees whose signatures were forged. One of the

employees wrote in her statement that the incident Plaintiff reported was not the first time that the nurse had destroyed and fraudulently created resident narcotic forms.

9. During the investigation, the nurse admitted a second time to destroying the original narcotics count sheet and recreating a record.

10. Falsifying medical records and narcotic medication records violates state nursing and personal care facility regulations. Plaintiff reported her understanding that management understood the nurse's actions constituted an incident that needed to be reported to the Pennsylvania Board of Nursing, yet no report was made by the time Plaintiff's employment ended.

11. On July 25, 2019, Plaintiff was informed that the nurse would be brought back to work with a final written warning. Plaintiff made it very clear that she objected to the decision and that the company had an obligation to report that medical records were destroyed and falsified. In response, Plaintiff was informed that the nurse was in a protected class because she was pregnant and, therefore, her employment would not be terminated. Plaintiff again objected to her direct supervisor because bringing the nurse back to work placed patients and the facility at risk. Plaintiff's reports of the nurse's wrongdoing were overlooked and disregarded.

12. Plaintiff, in good faith, reported the nurse's wrongdoing to her superiors.

13. It became clear to Plaintiff that Defendant was not going to address the wrongdoing and that she was going to have no choice but to continue to supervise a nurse who admittedly falsified records, particularly records of controlled substances, violating clear nursing standards and company rules.

14. Plaintiff also reasonably believed that the company was not going to report the wrongdoing to the state or investigate additional potential violations and/or potential controlled

substance diversion, and Plaintiff feared that her professional licenses were at risk and that she was going to have to ignore illegal activity by a subordinate nurse.

15. Fearing that her personal care and nursing licenses were at risk if she simply went along with Defendant's directive, Plaintiff believed she had no choice but to resign rather than perpetuate wrongdoing.

16. On August 15, 2018, the nurse who had falsified records was terminated for an unrelated incident in which she left a Med Tech alone in the building overnight, again risking harm to residents.

17. After the nurse was fired for the incident referenced in paragraph 16, Plaintiff's supervisor asked Plaintiff if she would consider staying at the facility. Plaintiff scheduled a meeting with her supervisor at which time she intended to rescind her resignation. However, before they could even speak, Plaintiff's supervisor advised Plaintiff that she was accepting Plaintiff's resignation and the supervisor no longer wanted Plaintiff to stay employed with the company. Instead, Plaintiff was told, it was "time to press the reset button."

18. Plaintiff's supervisor made it clear to her that Plaintiff was no longer welcome at the facility because she had reported the nurse's wrongdoing and objected to the decision that the nurse would continue to treat residents.

19. Before leaving her employment, Plaintiff reported to Defendant's Human Resources Department that she would have stayed had the company made the correct and lawful decisions following the nurse's termination, but that her supervisor had made it clear that Plaintiff was no longer welcome at the facility.

COUNT I – PENNSYLVANIA WHISTLEBLOWER LAW

20. Plaintiff incorporates by reference the allegations in paragraphs 1 through 19 as if fully restated herein.

21. The Pennsylvania Whistleblower Law, 43 Pa.C.S. §1421, et. seq., provides that employees may not be discriminated against, retaliated against, or discharged because they made, or were about to make, good faith reports of incidents of waste or wrongdoing.

22. The Whistleblower Law also protects employees from discrimination and retaliation because the employee participates in an investigation.

23. Plaintiff is a Whistleblower within the meaning of the Whistleblower Law, 42 Pa. C.S. §1422.

24. Defendant is an employer within the meaning of the Whistleblower Law, 42 Pa. C.S. §1422 because it receives funding from the Commonwealth of Pennsylvania.

25. Plaintiff made good faith reports of wrongdoing within the meaning of the Whistleblower Law, when she reported the nurse's conduct described herein to company management.

26. Defendant discharged/constructively discharged Plaintiff and told her it was accepting her resignation and that she was no longer welcome as an employee of Defendant because Plaintiff reported the nurse's wrongdoing in violation of the Whistleblower Law, 43 Pa. C.S. §1423.

WHEREFORE, Plaintiff seeks a judgment against Defendant in an amount exceeding the compulsory arbitration limits, including the following:

- (a) Payment of back wages and benefits from the date of discharge and front pay;

- (b) Compensatory damages in an amount to be proven at trial;
- (c) Any actual damages incurred by Plaintiff, including but not limited to, non-economic damages sustained by plaintiff; and
- (d) Costs of litigation and reasonable witness and attorney fees.

COUNT II – WRONGFUL DISCHARGE

27. Plaintiff hereby incorporates by reference all preceding paragraphs as if the same were set forth herein more fully at length.

28. Defendant discharged/constructively discharged Plaintiff because she reported the nurse's illegal wrongdoing described herein.

29. The discharge was in violation of public policy of the Commonwealth of Pennsylvania embodied in the Whistleblower Law. See Burget v. Pers. Directed Supports, 2016, Pa. Dist. & Cnty. LEXIS 11070 *6 (Lanc. Cnty. Dec. 2016).

30. As a direct result of Defendant's unlawful and retaliatory actions in discharging/constructively discharging Plaintiff, she has lost wages and other economic benefits of her employment with Defendant in addition to suffering emotional distress, humiliation, embarrassment, inconvenience and mental anguish.

31. Defendant's discharge/constructive discharge of Plaintiff's employment and its violation of Pennsylvania Public Policy were undertaken intentionally, maliciously, wantonly, willfully, oppressively, and/or recklessly.

WHEREFORE, Plaintiff seeks judgment against Defendant in an amount in excess of the compulsory arbitration limits, including the following:

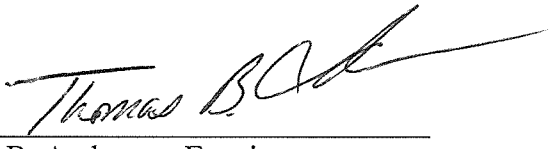
- (a) Payment of back wages and benefits from the date of discharge and front pay;
- (b) Compensatory and punitive damages in an amount to be proven at trial; and

(c) Any other remedy this Court finds to be just.

JURY TRIAL DEMANDED.

Respectfully submitted,

THOMSON, RHODES & COWIE, P.C.

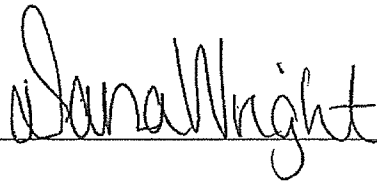
By 

Thomas B. Anderson, Esquire
Counsel for the Plaintiff

VERIFICATION

I, Dana Wright, have read the foregoing COMPLAINT. The statements therein are correct to the best of my personal knowledge or information and belief.

This statement and verification is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn fabrication to authorities, which provides that if I make knowingly false averments I may be subject to criminal penalties.

By 

Date 9.23.19

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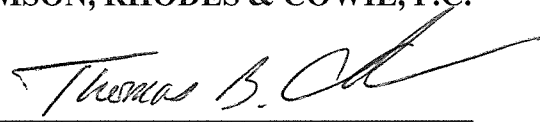
DANA WRIGHT,)	
)	
Plaintiff,)	CIVIL DIVISION
)	
vs.)	
)	
SENIOR LIFESTYLES, INC.)	
)	
Defendants)	
)	

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the United Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

THOMSON, RHODES & COWIE, P.C.

By



Thomas B. Anderson, Esquire
Counsel for the Plaintiff