

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPARTMENT

MICH KAREN PIERRE LOUIS,  
Individually and on behalf of all others  
similarly situated,

Plaintiff,

v.

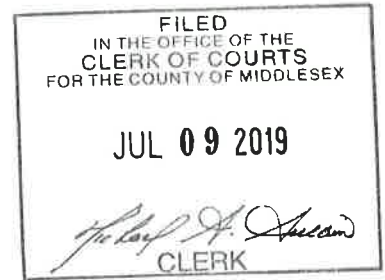
BAYADA HOME HEALTH CARE, INC.,  
DAVID BAIADA, and J. MARK BAIADA,

Defendants.

COPY

Civil Action No.

19-1957



**CLASS ACTION COMPLAINT and JURY DEMAND**

**I. INTRODUCTION**

1. Plaintiff, Mich Karen Pierre Louis (“Plaintiff” or “Pierre Louis”), by and through undersigned counsel, on behalf of herself and all others similarly situated, submits the following class action complaint against Bayada Home Health Care, Inc. (“Bayada”), its President David Baiada (“D. Baiada”), and its Treasurer J. Mark Baiada (“J.M. Baiada”), collectively (“Defendants”), for failing to pay wages earned, by taking unlawful deductions from wages, and by failing to properly list and itemize all earnings deductions and the amount of each deduction on employees’ earnings statements, all in violation of G.L., c. 149, § 148.

2. The allegations in this Complaint are made by Plaintiff on personal knowledge as to facts pertaining to herself and upon information and belief as to all other matters.

## **II. PARTIES**

3. Plaintiff is an individual residing at 75 Calthea Street, Stoneham, Massachusetts.

4. Bayada is a Pennsylvania corporation, with its headquarters and principal place of business at 4300 Haddonfield Road, West Building, Pennsauken, New Jersey. Bayada has 360 offices in 23 states and 6 countries, including 10 offices in Massachusetts, and it has an office at 2000 Commonwealth Avenue, Suite 320, Newton, Massachusetts 02466, at which Plaintiff was employed.

5. D. Baiada is President of Bayada and has a place of business at 1 West Main Street, Moorestown, New Jersey 08057.

6. J.M. Baiada is Treasurer of Bayada and has a place of business at 1 West Main Street, Moorestown, New Jersey 08057.

## **III. JURISDICTION AND VENUE**

7. This Court has personal jurisdiction over Defendants pursuant to G.L. c. 223A § 3(a) because: a) Defendants regularly transact and have transacted business in the Commonwealth of Massachusetts and provide services within Massachusetts; b) Defendants maintain office locations in Massachusetts and Defendant Bayada is registered to do business in Massachusetts; c) Defendants solicit business within Massachusetts; and d) the acts or conduct that are the subject matter of this action arose from Defendants' transaction of business in Massachusetts.

8. The jurisdiction of this Court is lawful and proper because the damages are in excess of \$25,000.00.

9. Venue in Middlesex County is lawful and proper because: a) Defendants maintain places of business in this County; b) Plaintiff resides in this County; and c) Defendants' unlawful acts occurred in this County.

#### IV. FACTUAL ALLEGATIONS

10. Bayada operates an international home health care business from its headquarters in New Jersey and maintains 360 offices in 23 states and 6 countries,<sup>1</sup> with 10 offices in Massachusetts. [www.bayada.com/app/find-an-office/](http://www.bayada.com/app/find-an-office/).

11. Bayada has 28,000 employees, according to its website.<sup>2</sup> The number of Bayada employees in Massachusetts is unknown to Plaintiff, but it is reasonable to estimate that Bayada has at least several hundred employees in Massachusetts.

12. Bayada provides various services, including adult care and Medicare-certified visits (adult home care covered by the Medicare home health benefit), adult private-duty nursing (long-term care and specialized care for adults with catastrophic injuries and conditions), personal care and companionship (help with everyday activities and household tasks), pediatric services (pediatric nurses and home health aides), hospice care, habilitation (services for people with intellectual and developmental disabilities), physician services, medication management, and health system solutions. [www.bayada.com/services.asp](http://www.bayada.com/services.asp).

13. The services provided by Bayada's personal home care employees include non-medical assistance with activities of daily living for adults and seniors who have difficulty managing everyday tasks on their own due to health issues. These services typically involve daily visits to clients' homes and in some cases, Bayada employees provide services on a live-in

---

<sup>1</sup> [www.bayada.com/about.asp](http://www.bayada.com/about.asp).

<sup>2</sup> [www.bayada.com/about.asp](http://www.bayada.com/about.asp).

basis. [www.bayada.com/offices/ma/newton/2000-commonwealth-avenue/assistive-care](http://www.bayada.com/offices/ma/newton/2000-commonwealth-avenue/assistive-care).

14. Bayada's personal home care employees include home health aides, certified nursing assistants, homemakers, and personal companions. *Id.*

15. Bayada's nursing and therapy employees include registered nurses, physical therapists, occupational therapists, speech-language pathologists, and medical social workers. [www.bayada.com/offices/ma/burlington/127-cambridge-street/home-health](http://www.bayada.com/offices/ma/burlington/127-cambridge-street/home-health).

16. Bayada's personal home care employees and nursing and therapy employees are referred to collectively herein as "Home Care Employees."

17. Plaintiff was employed by Bayada from on or about March 1, 2017 through on or about July 1, 2018, as a home health aide.

18. During the time period referenced in Paragraph 17 above, Plaintiff worked out of Bayada's Newton, Massachusetts office, at 2000 Commonwealth Avenue, Newton, Massachusetts 02466.

19. Plaintiff was employed by Bayada as an hourly employee at the rate of \$12.70 per hour. Plaintiff was paid weekly, and each pay period ran from Monday through the following Sunday.

20. During the time that Plaintiff was employed with Bayada, she was not paid her full wages earned, as Defendants took unlawful deductions from her earnings—deductions that were not listed or itemized on her earnings statements. For example, Plaintiff's earnings statement for the pay period from May 21, 2018 to May 27, 2018 (the "May 31 Earnings Statement") shows gross earnings for that period of \$381.00, listed deductions totaling \$66.72, and net earnings of \$301.11.<sup>3</sup> The May 31 Earnings statement shows that an additional \$13.17 (in addition to the stated and itemized deductions) was deducted from Plaintiff's gross earnings.

---

<sup>3</sup> A copy of the May 31 Earnings Statement is annexed hereto as Exhibit A.

This unlawful deduction is not listed or identified on the May 31 Earnings Statement. The deductions listed on the May 31 Earnings Statement (with amounts for the stated pay period) are as follows:

- Federal Income Tax: \$23.94
- Social Security Tax: \$23.62
- Medicare Tax: \$ 5.53
- State Income Tax: \$13.63

21. As shown in Plaintiff's year to date earnings summary on the May 31 Earnings Statement, the same unlawful deduction was taken from Plaintiff's earnings for each week in 2018, through at least the end of that pay period (May 27, 2018). The May 31 Earnings Statement shows gross year to date earnings of \$6,399.05, itemized deductions totaling \$1,134.24, and net year to date earnings of \$5,040.92. The May 31 Earnings Statement shows that an additional \$223.89 (in addition to the stated and itemized deductions) was deducted from Plaintiff's year to date earnings.

22. Defendants' practice of failing to pay to Plaintiff and other Class members the full wages earned by them and taking unlawful deductions from their earnings violates the provisions of G.L., c. 149, § 148 requiring payment of wages earned by each employee.

23. In addition, G.L., c. 149, § 148 requires employers, when paying an employee, to "furnish to such employee a suitable pay slip, check stub or envelope showing the name of the employer, the name of the employee, the day, month, year, number of hours worked, and hourly rate, and **the amounts of deductions** or increases made for the pay period." *Id* (emphasis added). By providing Plaintiff and other Class members with earnings statements that did not list and itemize all deductions taken from Plaintiff's and other Class members' earnings and the

amount of each deduction, Defendants committed an additional violation of c. 149, § 148.

24. These unlawful practices were engaged in by Defendants and caused Plaintiff to receive less than her full wages earned during the time that she was employed by Defendants, *i.e.*, from on or about March 1, 2017 to on or about July 1, 2018.

25. At all relevant times, Plaintiff and other Class members were employees of Bayada, as defined in c. 149, § 148.

26. At all relevant times, Bayada was an employer, as defined in G.L. c. 149, § 148.

27. At all relevant times, D. Baiada was the President and/or agent of Bayada having the management of Bayada as defined in G.L., c. 149, § 148 and is therefore deemed to be the employer of Plaintiff and other Class members for the purposes of liability under G.L., c. 149, § 148 and G.L., c. 149, § 150.

28. At all relevant times, J.M. Baiada was the Treasurer and/or agent of Bayada having the management of Bayada as defined in G.L., c. 149, § 148 and is therefore deemed to be the employer of Plaintiff and other Class members for the purposes of liability under G.L., c. 149, § 148 and G.L., c. 149, § 150.

## **V. CLASS ACTION ALLEGATIONS**

29. Pursuant to the provisions of Rule 23 of the Massachusetts Rules of Civil Procedure and G. L. c. 149, § 150, Plaintiff brings this action on behalf of herself and on behalf of others similarly situated, in the Class defined as: “all Home Care Employees employed by Bayada in Massachusetts who were not paid their full wages earned and who had deductions that were not itemized on the employees’ earnings statements taken from their earnings during the applicable limitations period.”

30. Certification of Plaintiff’s claims as a class is appropriate because Plaintiff can

prove the elements of the claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

31. Numerosity. The Class is so numerous that individual joinder of all Class members is impracticable. The precise number of Class members and their addresses are unknown to Plaintiff, but they may be ascertained from Defendants' books and payroll records. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, internet postings, and/or published notice.

32. Commonality and Predominance. This action involves common questions of law and fact, which predominate over any questions affecting only individual Class members. All Class members are in the same situation in that they did not receive the full wages earned by them, they had unlawful deductions taken from their wages, and they received earnings statements that failed to properly list and itemize all earnings deductions and the amount of each deduction.

33. Furthermore, there is one primary common question of law and fact which easily predominates over any other questions or issues, which is: whether Defendants' conduct as alleged herein violated the provisions of G.L., c. 149, § 148.

34. Typicality. Plaintiff's claims are typical of the claims of the other members of the Class because, among other things, all Class members were similarly injured through the uniform misconduct described herein, and all Class members have the same legal claim.

35. Adequacy of Representation. Plaintiff is an adequate Class representative because her interests do not conflict with the interests of the other members of the Class she seeks to represent; she has retained counsel competent and experienced in class action litigation

and employment litigation; and Plaintiff intends to prosecute this action vigorously. The Class' interests will be fairly and adequately protected by Plaintiff and her counsel.

36. Similarly Situated and Injured Persons. The proposed Class consists of persons who have suffered the same injury as Plaintiff and who, for the reasons stated above, are similarly situated to each other and to Plaintiff, within the meaning of those terms, as used in G.L., c. 149, §150.

37. Superiority. A class action is superior to any other available methods for fairly and efficiently adjudicating this controversy and no unusual difficulties are likely to be encountered in the management of this class action. The damages or other financial detriment suffered by Plaintiff and the other members of the Class are relatively small compared to the burden and expense that would be required to individually litigate their claims against the Defendants, so it would be impracticable for Class members to individually seek redress for Defendants' wrongful conduct. Even if the Class members could afford individual litigation, the court system could not. Individualized litigation creates a potential for inconsistent or contradictory judgments, and it increases the delay and expense to all parties and the court. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by one court.

## **VI. CAUSES OF ACTION**

### **COUNT ONE VIOLATIONS OF THE MASSACHUSETTS WAGE ACT G.L., c. 149, § 148**

38. Plaintiff readopts and realleges the preceding paragraphs and incorporates them into this count.

39. Defendants violated G. L. c. 149, § 148 by failing to pay all wages owed to their



employees for work performed on their behalf, by taking unlawful deductions from earnings and by not properly listing and itemizing all deductions from earnings and the amounts of all such deductions on earnings statements provided to Plaintiff and Class members.

40. D. Baiada and J.M. Baiada are also individually liable to Plaintiff and the Class because they are the President and Treasurer and/or officers having the management of Bayada. *See* G. L. c. 149, § 148.

41. As a direct and proximate result of Defendants' conduct, Plaintiff and members of the Class have incurred significant financial damages.

42. Pursuant to G. L. c. 149, § 150, Defendants are liable to Plaintiff and members of the Class for three times the amount of any unpaid compensation plus costs and reasonable attorneys' fees.

43. Plaintiff has filed a wage complaint with the Massachusetts Attorney General's fair labor division, complaining of the violations alleged herein. Plaintiff obtained permission from the Office of the Attorney General to pursue the within claims on her behalf, and on behalf of others similarly situated. *See* Private Right of Action Letter, attached hereto as **Exhibit B**.

## **COUNT TWO** **QUANTUM MERUIT**

44. Plaintiff readopts and realleges the preceding paragraphs and incorporates them into this count.

45. Plaintiff and other members of the Class conferred a benefit on Defendants by working diligently on their behalf.

46. Defendants received a benefit as a result of Plaintiff's and the other members of the Class' work.

47. Defendants were aware of the benefits received, and it would be unjust to allow

the retention of these services without fully compensating Plaintiff and other members of the Class.

**VII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of the other members of the Class, respectfully requests that the Court order the following relief:

- A. An Order certifying the Class as requested herein;
- B. Actual and statutory damages;
- C. Treble damages as required by law;
- D. Attorneys' fees and costs to Plaintiff and the Class; and
- E. Such other and further relief as may be just and proper.

**VIII. JURY DEMAND**

Plaintiff and the Class demand a trial by jury of all claims so triable.

Dated: July 9, 2019

Respectfully submitted,

  
\_\_\_\_\_  
David Pastor (BBO #391000)  
PASTOR LAW OFFICE, LLP  
63 Atlantic Avenue, 3d Floor  
Boston, Massachusetts 02110  
Phone: (617) 742-9700  
Fax: (617) 742-9701  
[dpastor@pastorlawoffice.com](mailto:dpastor@pastorlawoffice.com)

  
\_\_\_\_\_  
Richard B. Reiling (BBO # 629203)  
BOTTONE/REILING  
63 Atlantic Avenue, 3d Floor  
Boston, Massachusetts 02110  
Phone: (617) 412-4291  
Fax: (617) 742-9700  
[richard@bottoneiling.com](mailto:richard@bottoneiling.com)

*Counsel for Plaintiff and the Class*

# **EXHIBIT A**



# Earnings Statement

BAYADA Home Health Care, Inc.  
 2000 Commonwealth Avenue, Suite 320, Newton, MA 02468  
 617-332-7800

Mich Karen Pierre-Louis  
 75 Calthea Street  
 Stoneham, MA 02180

(0231)

**A Message From BAYADA Home Health Care**  
 Pronounced BAY-AH-DA

The Employee Experience Survey will be emailed to you (if you have a valid BAYADA email address on file) or mailed to your home tomorrow. Follow the instructions to complete the survey, no later than Monday, July 9.

Check No. 10403535      Check Date 05/31/2018      Pay Period Mon 05/21/2018 to Sun 05/27/2018      Employee No. 100413310

Client	Service	Rate	Time	OT	Flat Pay	Gross Pay
ADRIENNE, D 798-91	PC	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	HMKR	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	PC	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	HMKR	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	PC	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	HMKR	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	PC	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	HMKR	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	PC	12.70	3.00	0.00	0.00	38.10
ADRIENNE, D 798-91	HMKR	12.70	3.00	0.00	0.00	38.10
<b>fals</b>			<b>30.00</b>	<b>0.00</b>	<b>\$0.00</b>	<b>\$381.00</b>

	Yr to Date	Current
Gross Earnings	\$6,399.05	\$381.00
Federal Income Tax	-419.54	-23.94
Social Security Tax	-396.74	-23.82
Medicare Tax	-92.79	-5.53
State Income Tax	-225.17	-13.63
Local Income Tax	0.00	0.00
State Unemployment	0.00	0.00
Pre Tax Health Ins.	0.00	0.00
Post Tax Health Ins.	0.00	0.00
401k	0.00	0.00
FSA Medical	0.00	0.00
FSA Dependent Medical	0.00	0.00
Other Deductions	0.00	0.00
Optional Ins.	0.00	0.00
Reimbursements to you	0.00	0.00
<b>Net Earnings</b>	<b>\$5,040.92</b>	<b>\$301.11</b>

Accumulated to 2000: 1715.5 Hours Available: 0.00

# **EXHIBIT B**



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

(617) 727-2200  
(617) 727-4765 TTY  
[www.mass.gov/ago](http://www.mass.gov/ago)

Attorneys David Pastor and Richard B. Reiling  
Pastor Law Office, LLP  
63 Atlantic Avenue, 3d Floor  
Boston, MA 02110

June 27, 2019

RE: Mich Karen and Pierre Louis  
Request for Private Right of Action against Bayada Home Health Care, Inc.

Dear Attorneys Pastor and Reiling:

Thank you for contacting the Office of the Attorney General's Fair Labor Division.

Massachusetts General Laws Chapter 149, § 150, and Chapter 151, §§ 1B and 20 establish a private right of action for employees who believe they are victims of certain violations of the state wage laws.

This letter is to inform you that we are authorizing you to pursue this matter through a private civil lawsuit. If you elect to sue in civil court, you may bring an action on your own or your clients' behalf, and on behalf of other similarly situated workers.

This office will not pursue an investigation or enforcement at this time.

Sincerely,

Fair Labor Division  
Office of Attorney General Maura Healey  
(617) 727-3465