

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
Claudia Gayle, individually, on behalf
Of all others similarly situated and as class
Representative,
Plaintiff,
• Against –
HARRY'S NURSES REGISTRY, INC., and
HARRY DORVILIER a/k/a HARRY
DORVILIER,
Defendants.

07 Civ. 4672 (NGG) (MDG)
SATISFACTION OF JUDGEMENT

August 3rd, 2017

Re: Jonathan A. Bernstein, Escrow Account Unreported Income to IRS
and NYS TAX Department and double dipping from 38 Nurses.

Case# 07-CV-4672 (NGG)

1. Mr. Bernstein failed to report income to NY State.
2. Mr. Bernstein noted double dipping from thirty-eight(38) nurses
3. Mr. Bernstein failed to satisfy judgment after twenty(20) days
4. Mr. Bernstein violated the Labor Law and Harry's Nurses Registry/Harry Dorvilier.

My Arguments are as follows:

Point 1:

Summary judgment as to liability should not have been granted because the nature and type of the work actually done by nurses in Harry Nurses Registry, Inc. was that of companionship within the Department of Labor exemption in Fair Labor Standards Act (FLSA).

Point 2:

Summary judgment as to liability should not have been granted because the classification of Harry Nurses Registry, Inc. as independent contractors satisfies the control test exemption of the (FLSA).

Point 3:

Summary judgment to liquidate damages should not have been granted because defendants’ system of making placements available to Registered Nurses (RNs') and Licensed Practical Nurses (LPNs') was not a knowingly willful violation of the FLSA).

Point 4:

The class should be de-certified because the specifics of each caregiver’s tasks differ on a case-by-case basis and such differences require individual analysis to determine whether the caregiver was within the exemption to FLSA coverage.

Point 5:

The decision orders appealed from Judge Shifton and Judge Garafis should be reversed because defendants-appellants’ business is governed by New York State Public Health Law Article 36 which mirrors the Home Companionship exemption in coke.

Conclusion:

The decisions and orders appealed from Judge Shifton and Judge Garafis should be reversed.

I reported the case to the United States Court of Appeal (Case No.: 12-4764) and the case was declined. This case went to the Supreme Court of United States on May 4, 2015 (Case No.: 14-1094) and it was also declined. This case went to the Judicial Conduct Complaints (Case No.: 02-16-90045-jm and 02-16-90046-jm) and case was declined. I have used all means and remedies to reverse the judgment and I have not been able to do so.

1. The judgment was granted **9/12/2012** by the judge in the amount of \$619, 071.76 for Claudia Gayle and all other similarly situated as class representatives.
2. On **12/31/2012**, judgment entered to Claudia Gayle for \$14,780.00.
3. On **10/22/2013**, judgment entered \$256,678.46 for adjustment as legal fees and nurses.
4. On **06/15/2015**, judgment entered \$41,429.17 for legal fees. Please see the following break down for the money was placed into plaintiff’s lawyer (Levy Davis & Maher, LLP) escrow account. See all nurses time sheet from 2005-2010 for details.

Date of Withdrawal	Amount	Related Item(s)
09/12/2012	\$ 619,071.76	Individual Nurses
12/31/2012	\$ 14,780.00	Claudia Gayle
10/22/2013	\$ 256,678.46	Legal fees and nurses
06/15/2015	\$ 41,429.17	Legal Fees
Total:	\$ 931,959.39	

FAIL SATISFACTION OF JUDGEMENT

August 3rd, 2017

Re: Jonathan A. Bernstein, Escrow Account Unreported Income to IRS and NYS TAX Department and double dipping from (38) Nurses.
Case# 07-CV-4672 (NGG)

Mr. Bernstein based on the complaint was actually double dipping from the nurses while presenting the nurses in the Fair Labor Standard Act. He was supposed to send copies of the checks that were issued to justify all the transactions from his escrow account, which he reported to the Queens County judgment (Docket control number: 001841987-02).

	Name:		Amount:	Control No.:
1.	Yolanda Robinson	\$	118,512.00	001841987-02
2.	Hylton Jane Burke	\$	6,512.00	001841986-02
3.	Getty Rocourt	\$	1,140.00	001841985-02
4.	Ramdeo Singh	\$	300.00	001841984-02
5.	Claudia Gayle	\$	130,214.46	001841983-02
6.	Sussan Ajiboye	\$	619,071.76	001734596-02
7.	Claudia Gayle	\$	14,780.00	001734587-02
8.	Claudia Gayle	\$	41,429.17	001983803-03
	Total:	\$	931,959.39	

Exhibit A: Copy of Queens County Clerks' Office

I requested for copies of the checks and investigation of the transaction issued in 2012 and 2013 to the Queens County Clerk Office for all nurses listed above.

I believed that some of the nurses never received any funds from Mr. Bernstein's escrow account and some of the nurses were also double dipping.

- Lindon Morrison**

From the letter given by Jonathan Bernstein to Mr. Lindon Morrison on January 30, 2013, Mr. Lindon Morrison is supposed to receive \$45,921.00 from Bernstein's escrow account instead he received \$34,440.75. Mr. Bernstein was double dipping \$11,481.25.

2. Paulette Miller

From the letter given by Jonathan Bernstein to Ms. Paulette Miller on January 29, 2013, Ms. Paulette Miller was supposed to receive \$2,380.00 from Bernstein's escrow account instead she received \$1,785.00. There was a difference of \$595.00.

3. Yolanda Robinson

Mrs. Yolanda Robinson swore and did state that she only received \$69,264.00 on September 12, 2016. Mr. Bernstein reported \$118,512.00 from the Queens County Clerk Office. On January 29, 2013, a letter from Mr. Bernstein to Mrs. Yolanda Robinson indicated that Mrs. Robinson's judgment was for \$92,352.00. He gave her \$69,264.00 from his escrow account with a difference of \$23,088.00. In January 24, 2014, information from Mr. Bernstein's escrow account showed he was awarded judgment for \$210,864.00 representing overtime and liquidated damages and he claimed that he issued a check for \$141,600.00.

4. Ms. Annabel Llewellyn

Ms. Annabel Llewellyn stated, on September 20, 2016, that she never received any money from Mr. Bernstein's escrow account.

5. Ms. Brenda Lewis

Ms. Brenda Lewis stated, on September 20, 2016, that she never received any money from Mr. Bernstein's escrow account.

6. Ms. Martha Ogunjana

Ms. Martha Ogunjana stated, on September 20, 2016, that she never received any money from Mr. Bernstein's escrow account.

Exhibit B: Letters from Mr. Bernstein to nurses and Affidavit from Ms. Brenda Lewis and Ms. Martha Ogunjana

7. Mr. Suliman Ali-El

Mr. Suliman Ali-El died during the transition and the estates of Suliman Ali-El stated that he never received any check from Mr. Bernstein's escrow account, which supposed to be \$14,211.90.

8. Hylton Jane Burke

The judge granted Hylton Jane Burke \$143,832.00 (\$137,320.00 plus \$6,512.00), which Mr. Bernstein only reported \$6512.00 to the Court House in 2013. I requested a copy of the check issued to her which will show the difference of (\$137,320.00).

Mr. Bernstein received \$171,643.63 from Harry Nurses Registry, Inc as legal fees granted by the judge. He was double dipping 30% from what the judge granted and never issued a check to some of the nurses. I request a complete audit from Mr. Bernstein's Escrow's account.

Name:	Amount:
Sussan Ajiboye	\$ 1,380.00
Sulaiman Ali-El	\$ 14,211.90
Genevieve Barbot	\$ 640.00
Margarite Bhola	\$ 585.00
Hylton Jane Burke	\$ 143,832.00
Carol Clunie	\$ 3,280.00
Mary Davis	\$ 7,677.22
Anne Depasquale	\$ 12,946.50
Williw Evans	\$ 33,120.00
Nathalie Francois	\$ 1,148.76
Claudia Gayle	\$ 14,780.00
Michelle Gervil	\$ 1,920.00
Alexander Gumbs	\$ 490.00
Lucille Hamilton	\$ 980.00
Anthony Headlam	\$ 13,668.28
Marlene Hyman	\$ 5,292.00
Henrick Ledain	\$ 33,268.00
Brenda Lewis	\$ 120.00
Annabel Llwellyn	\$ 420.00
Paulette Miller	\$ 2,380.00
Catharine Modeste	\$ 80.00
Lindon Morrison	\$ 45,921.00
Edith Mukandi	\$ 4,062.66
Martha Ogunjana	\$ 653.00
Merika Paris	\$ 54,042.00
Merlyn Patterson	\$ 98.00
Bendy Pierre-Joseph	\$ 11,450.04
Christaline Pierre	\$ 390.00
Soucianne Querette	\$ 37,449.86
Yolanda Robinson	\$ 210,864.00
Patricia Robinson	\$ 16,080.00
Getty Rocourt	\$ 1,140.00
Maud Samedi	\$ 37,082.04
Bernice Sankar	\$ 17,488.00

Ramdeo Singh	\$	300.00
Lena Thompson	\$	28,765.50
Jacqueline Ward	\$	2,187.50
Niseekah Yehudah	\$	122.50
Total:	\$	760,315.76

Exhibit C: Table of nurses granted amount

Item(s)		Amount
Legal Fees	\$	171,643.63
Total Granted Amount	\$	760,315.76
Total:	\$	931,959.39

Exhibit D: Copy of Judgment made on October 22, 2013

According to the letter (Docket No. 2016.0713) dated June 13, 2016, which is addressed from Departmental Disciplinary Committee Supreme Court, Appellate Division, First Judicial Department, 61 Broadway, New York, New York 10006, Mr. Bernstein responded as follows:

“ The eighth allegation, that I have not remitted to the nurses the entirety of the money judgment collected, is admitted. It is, however, respectfully averred that my conduct in that respect is fully compliant with the applicable rules of ethics and substantive law. Of the \$760,496.96 collected (representing the judgment for the plaintiffs exclusive of attorney’s fees, which were awarded separately pursuant to 29 U.S.C. 216(b)), \$13,719.04 remains in my firm’s trust account. That is because we have been unable to locate several of the plaintiffs. In addition, one of the plaintiffs, who says that she fears identity theft, refuses to provide her social security number (so that I can issue her a 1099, as required) notwithstanding my efforts to persuade her that I have no nefarious purpose. If money remains in my firm’s trust account after efforts have been exhausted, I will move the court for permission to make a *cy pres* donation to charity. If the court denies the application, I will dispose of the money in accordance with the Abandoned Property Law. In any event, the money is fully accounted for in my firm’s trust account, documentation of which is, of course, available to the Committee.”

Exhibit E: Reply letter from Mr. Bernstein

This is a dishonest, inappropriate comment by Mr. Bernstein stating he would distribute my funds appropriated for nurses to charity. Ethically, the funds I have provided should be returned to me whenever Mr. Bernstein was unable to contact a nurse. These are my funds and Mr. Bernstein’s doesn’t have the right to decide what how he should utilize my money. Similarly, Mr. Bernstein had no right to have me billed hundreds of thousands of dollars for

his legal work, and then charge the nurses a second time for the very same legal work for payment he had already received. This is clearly a case of double billing and double dipping.

On August 29, 2016, Mr. Bernstein replied to the purported judicial subpoena duces tecum dated August 13, 2016. He stated that if the Departmental Disciplinary Committee wishes to review the records of his firm's trust account, those records are available to the Committee upon its request. Mr. Bernstein is an officer of the Court whose job is to practice and uphold the law. Instead Mr. Bernstein knowingly violated the law and should be held accountable.

Registered 1099 to the following Nurses:

	Name:		Amount:	Control No.:
1.	Yolanda Robinson	\$	118,512.00	001841987-02
2.	Hylton Jane Burke	\$	6,512.00	001841986-02
3.	Getty Rocourt	\$	1,140.00	001841985-02
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7.	Claudia Gayle	\$	14,780.00	001734587-02
8.	Claudia Gayle	\$	41,429.17	001983803-03
	Total:	\$	931,959.39	

Mr. Bernstein never provided the nurses with 1099s and W2 forms as required by law. Mr. Bernstein should have submitted the appropriate information to the IRS and NYS Income Tax. This act can be definitely classified as fraudulent behavior showing that Mr. Bernstein was paid twice for the same legal fees in 2012 and 2013 for the sum of \$171,643.63. Mr. Bernstein registered \$130,214.46 under Claudia Gayle's account and \$41,429.17. This behavior is unethical and shows clearly acts of fraud on the part of Attorney Bernstein.

Mr. Bernstein failed to satisfy the NY CPLR 5020 in that after twenty(20) days of receiving the funds, he was required to give a "Letter of Satisfaction" to the court showing that he received the funds. In failing to do so, he violated the law and should be prosecuted.

Furthermore he registered the funds under Mr. Harry Dorvilier's name, (which he later corrected), and never forwarded all of the checks to the nurses as the court directed.

The Department of Labor (DOL) and the IRS are the only two agencies that have the right to identify employees regarding the misclassification as independent contractors. Under the law, this case was supposed to be litigated by New York State Department of Labor. Mr. Bernstein doesn't have the right to report the misclassification of workers to the District Attorney.

I would like Mr. Bernstein to be brought before a prosecutor to answer each of the fraudulent charges directed against him. As indicated, Mr. Bernstein need to be held accountable for all his wrong doings. Also, I would like to have Mr. Bernstein investigated for all the fraudulent practices that he has committed against Harry Dorvilier/and Harry's Nurses Registry. I would like this matter to be reviewed as soon as possible, so as to release me from the creditors. Any funds that are still in escrow should be returned to me. I would like the judge to reverse this case because the law was never applied.

Finally, I would like to request evidence of all cancelled checks that were issued to the nurses, together with copies of all the 1099's and W2's. I would like the court to bear witness of Mr. Bernstein's dishonesty. In reference for payroll and overtime for the period 2004 -2010, I believe the statue of limitation has expired, therefore the nurses will not be entitled to receive overtime.

Respectfully Submitted,

Mr. Harry Dorvilier
Harry Nurses Registry, Inc.
88-25 163rd Street
Jamaica, N.Y. 11432
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