

JURISDICTION AND VENUE

1.

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. This Court also has jurisdiction pursuant to 29 U.S.C. § 201 *et seq.*, the Fair Labor Standards Act (“FLSA”), and 28 U.S.C. § 1367.

2.

Pursuant to 28 U.S.C. § 1391, venue is proper in this judicial district as the Defendant resides herein, and a substantial part of the events or omissions giving rise to the claims described herein occurred in this judicial district.

PARTIES

3.

Plaintiff Darrow Christian is a forklift operator employed by Defendant. At all material times, Mr. Christian was an “employee” of Defendant as that term is defined at 29 U.S.C. §203(e)(1). During his employment with Defendant, Defendant failed to pay Plaintiff a premium of at least one and one half times his regular rate for each hour he worked above 40 in a given workweek.

4.

Defendant Roadrunner is subject to the jurisdiction of this Court. At all relevant times, Defendant has been an “employer” within the meaning of the FLSA, 29 U.S.C. § 203(d). Defendant may be served with process upon its

Registered Agent, CT Corporation System, 1201 Peachtree Street, NE, Suite 1240, Atlanta, Fulton County, Georgia 30361.

5.

At all material times during his employment, Mr. Christian was “engaged in commerce” as an employee of Defendant as defined at 29 U.S.C. §206(a).

6.

At all material times during his employment, Defendant was an “enterprise engaged in engaged in commerce or in the production of goods for commerce,” as defined at 29 U.S.C. §206(a).

7.

At all material times during since 2014, Defendant had two more “employees engaged in commerce,” as defined by 29 U.S.C. §203(s)(1)(A).

8.

Since 2014, Defendant had two or more “employees handling, selling or otherwise working on goods or materials that have been moved in produced for commerce by any person,” as defined by 29 U.S.C. §203(s)(1)(A).

9.

During each year since 2014, Defendant has been an “enterprise engaged in commerce or in the production of goods for commerce,” as defined in 29 U.S.C. §203(s)(1).

10.

At all times material hereto, Mr. Christian was not exempt from the overtime pay requirements of the FLSA.

FACTS

11.

Plaintiff is employed by Defendant as a forklift operator.

12.

During his employment with Defendant, Mr. Christian regularly worked in excess of 40 hours per workweek.

13.

Defendant did not pay Mr. Christian one and one-half times his regular rate of pay for each hour worked over 40 hours in any given workweek.

14.

Instead, Defendant only paid Mr. Christian “straight time” for each overtime hour worked, and failed to pay him an overtime premium for each overtime hour worked.

15.

Defendant failed to properly compensate Mr. Christian for all overtime hours worked at a rate of one and one-half times his regular rate of pay.

COUNT I

VIOLATION OF SECTION 207 OF THE FLSA

16.

Plaintiff restates the allegations contained in Paragraphs 1-15 of his Complaint as is fully set forth.

17.

At all material times, Mr. Christian (and others similarly situated) was a non-exempt employee of Defendant.

18.

Mr. Christian (and others similarly situated) regularly worked more than 40 hours in a given workweek for Defendant, but Defendant failed to properly compensate him (and others similarly situated) at a rate of at least one and one half times his regular rate of pay for each hour worked in excess of 40 hours in every workweek.

19.

Defendant knew or should have known that the FLSA applied to Mr. Christian (and others similarly situated), and that it had a duty to ensure it paid Mr. Christian at least one and one-half times his regular rate of pay for each hour worked over 40 in a given workweek.

20.

Defendant willfully failed to properly compensate Mr. Christian (and others similarly situated) for the hours he worked in excess of 40 hours during a given workweek.

21.

As a result of Defendant's willful failure, Mr. Christian (and others similarly situated) is entitled to an award of back pay in the amount of one half his regular rate of pay for each uncompensated hour worked over 40 in any given workweek for which Defendant did not compensate him at the statutory rate.

22.

Said violations give rise to a claim for liquidated damages in an amount equal to the unpaid compensation, and reasonable attorneys' fees and expenses of litigation, pursuant to 29 U.S.C. § 216.

WHEREFORE, Plaintiff requests:

- (a) that his Complaint be read and considered;
- (b) that service of process issue as authorized by law;
- (c) that the Court certify this civil action as a collective action pursuant to 29 U.S.C. §216(b);
- (d) that the Court declare that Defendant has violated Plaintiff's rights under the overtime wage provision of the FLSA;

- (e) that the Court award Plaintiff the value of his unpaid overtime wages;
- (f) that the Court award Plaintiff liquidated damages as authorized by the FLSA;
- (g) that the Court award Plaintiff his expenses of litigation, including his reasonably-incurred attorney's fees as authorized by the FLSA; and
- (h) that the Court award such other further relief this Court deems just, equitable and proper.

Respectfully submitted,

/s/ Dean R. Fuchs

DEAN R. FUCHS

Georgia Bar No. 279170

Attorney for Plaintiff

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JS44 (Rev. 6/2017 NDGA)

CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

<p>I. (a) PLAINTIFF(S)</p> <p>DARROW CHRISTIAN, Individually and on behalf of all others similarly situated,</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>CLAYTON COUNTY</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANT(S)</p> <p>ROADRUNNER TRANSPORTATION SERVICES, INC.</p> <p style="text-align: center;"><i>FULTON</i></p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>MILWAUKEE COUNTY, GA</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p><small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small></p>
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<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)</p> <p>DEAN R. FUCHS SCHULTEN WARD TURNER & WEISS, LLP 260 PEACHTREE STREET, NW, SUITE 2700 ATLANTA, GA 30303 404.688.6800 TELEPHONE D.FUCHS@SWTWLAW.COM</p>	<p>ATTORNEYS (IF KNOWN)</p>
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II. BASIS OF JURISDICTION
(PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. GOVERNMENT PLAINTIFF	<input checked="" type="checkbox"/> 3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
<input type="checkbox"/> 2 U.S. GOVERNMENT DEFENDANT	<input type="checkbox"/> 4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(FOR DIVERSITY CASES ONLY)

PLF	DEF	PLF	DEF
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	<input type="checkbox"/> 4	<input type="checkbox"/> 4
	CITIZEN OF THIS STATE		INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
	CITIZEN OF ANOTHER STATE		INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY		FOREIGN NATION

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

<input checked="" type="checkbox"/> 1 ORIGINAL PROCEEDING	<input type="checkbox"/> 2 REMOVED FROM STATE COURT	<input type="checkbox"/> 3 REMANDED FROM APPELLATE COURT	<input type="checkbox"/> 4 REINSTATED OR REOPENED	<input type="checkbox"/> 5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)	<input type="checkbox"/> 6 MULTIDISTRICT LITIGATION - TRANSFER	<input type="checkbox"/> 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT
<input type="checkbox"/> 8 MULTIDISTRICT LITIGATION - DIRECT FILE						

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

29 USC Section 201, et seq.

(IF COMPLEX, CHECK REASON BELOW)

<input type="checkbox"/> 1. Unusually large number of parties.	<input type="checkbox"/> 6. Problems locating or preserving evidence
<input type="checkbox"/> 2. Unusually large number of claims or defenses.	<input type="checkbox"/> 7. Pending parallel investigations or actions by government.
<input type="checkbox"/> 3. Factual issues are exceptionally complex	<input type="checkbox"/> 8. Multiple use of experts.
<input type="checkbox"/> 4. Greater than normal volume of evidence.	<input type="checkbox"/> 9. Need for discovery outside United States boundaries.
<input type="checkbox"/> 5. Extended discovery period is needed.	<input type="checkbox"/> 0. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY			
RECEIPT # _____	AMOUNT \$ _____	APPLYING IFP _____	MAG. JUDGE (IFP) _____
JUDGE _____	MAG. JUDGE _____ <i>(Referral)</i>	NATURE OF SUIT _____	CAUSE OF ACTION _____

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 440 OTHER CIVIL RIGHTS
441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other
448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se
560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
740 RAILWAY LABOR ACT
751 FAMILY and MEDICAL LEAVE ACT
790 OTHER LABOR LITIGATION
791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT
835 PATENT-ABBREVIATED NEW DRUG APPLICATIONS (ANDA) - a/k/a Hatch-Waxman cases

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
376 Qui Tam 31 USC 3729(a)
400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
890 OTHER STATUTORY ACTIONS
891 AGRICULTURAL ACTS
893 ENVIRONMENTAL MATTERS
895 FREEDOM OF INFORMATION ACT
899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI-TRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$
JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY JUDGE

DOCKET NO.

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO., WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

Signature of Dean R. Fricks

11/9/17 DATE

SIGNATURE OF ATTORNEY OF RECORD

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DARROW CHRISTIAN, Individually, :
and on behalf of all others similarly :
situated, :

Plaintiff, :

v. :

ROADRUNNER TRANSPORTATION :
SERVICES, INC., :

Defendant. :

CIVIL ACTION FILE
NO. _____

**CONSENT TO BECOME A PARTY/REPRESENTATIVE
PLAINTIFF PURSUANT TO 29 U.S.C. §216(b)**

1. I consent to become a plaintiff in a lawsuit brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.*, to recover unpaid overtime wages from my employer, Roadrunner Transportation Services, Inc.
2. Within the last three years, I have worked overtime hours as a forklift operator for which I have not been paid one and one half times my regular rate of pay.
3. I agree to be bound by any adjudication of this action by the Court, whether it is favorable or unfavorable. I further agree to be bound by any collective action settlement herein approved by my attorney(s).
4. I hereby designate Dean R. Fuchs, Esq. of Schulten Ward Turner & Weiss, LLP to represent me in this action.
5. If this case does not proceed collectively, then I also consent to join any subsequent action to assert these claims against my current/former employer.

6. I will also be bound by, and will share in, as the Court may direct or the parties may agree, any settlement that may be negotiated on behalf of all Plaintiffs in this civil action.
7. I understand that it is unlawful for the above-referenced employer to retaliate against me simply for participating in this law suit.

Date: 11-6-17

Signature: 

Print Name: Darrou Christian

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Roadrunner Transportation Services Owes Unpaid Overtime, Employee Claims](#)
