

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2017 APR 13 PM 3:46

**MATTHEW FRAZEE, on behalf of himself
and those similarly situated,**

US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FLORIDA

Plaintiff,

CASE NO.: 6:17-cv-671-ORL
28-TBS

vs.

**AMERICAN ROAD MANAGEMENT,
INC., a Florida For Profit Corporation,**

Defendant. _____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, MATTHEW FRAZEE, on behalf of himself and those similarly situated, by and through the undersigned attorney, sues the Defendant, AMERICAN ROAD MANAGEMENT, INC., a Florida For Profit Corporation Company, and alleges:

1. Plaintiff, MATTHEW FRAZEE, and those similarly situated, was an employee of Defendant and brings this action for unpaid overtime compensation, declaratory relief, and other relief under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) ("FLSA").

General Allegations

2. Plaintiff was an employee who worked at Defendant's property within the last three years for Defendant in Orange County, Florida.

3. Plaintiff, MATTHEW FRAZEE, began working for Defendant in late December 2016 and resigned on or about March 31st, 2017.

4. During his employment, Plaintiff, MATTHEW FRAZEE, received commissions on sales against a weekly draw of \$800.00.

5. As a sales representative, Plaintiff, MATTHEW FRAZEE, was responsible for making motorcycle sales at the Defendant's dealership.

6. Plaintiff, MATTHEW FRAZEE, did not make enough in commissions to be exempt under Section 207(i) of the FLSA. Specifically, Plaintiff did not earn enough in commissions to overcome the \$800 per week draw.

7. Plaintiff, MATTHEW FRAZEE, was a non-exempt employee and entitled to overtime.

8. Plaintiff, MATTHEW FRAZEE, worked in excess of forty (40) hours or more in one or more workweeks while employed with Defendant, AMERICAN ROAD MANAGEMENT, INC..

9. Defendant, AMERICAN ROAD MANAGEMENT, INC., is a Florida For Profit Corporation that operates and conducts business in Orange County, Florida and is therefore, within the jurisdiction of this Court.

10. According to Defendant's website, AMERICAN ROAD MANAGEMENT INC. provides Harley-Davidson motorcycle sales, rentals, service/parts, and Harley-Davidson apparel. See www.OrlandoHarley.com

11. This action is brought under the FLSA to recover from Defendant overtime compensation, liquidated damages, and reasonable attorneys' fees and costs.

12. This Court has jurisdiction over Plaintiff's claims pursuant to 28 U.S.C. §1331 and the FLSA and the authority to grant declaratory relief under the FLSA

pursuant to 28 U.S.C. §2201 et seq.

13. During Plaintiff's employment with Defendant, Defendant, AMERICAN ROAD MANAGEMENT, INC., earned more than \$500,000.00 per year in gross sales.

14. Defendant, AMERICAN ROAD MANAGEMENT, INC., employed approximately 10 or more employees and paid these employees plus earned a profit from their business.

15. During Plaintiff's employment, Defendant, AMERICAN ROAD MANAGEMENT, INC., employed at least two employees who handled goods, materials and supplies which travelled in interstate commerce such as motorcycles, helmets, motorcycle parts and accessories, and other items used to run the business.

16. During Plaintiff's employment, Defendant, AMERICAN ROAD MANAGEMENT, INC., routinely provided goods and products to customers outside the state of Florida.

17. Therefore, at all material times relevant to this action, Defendant, AMERICAN ROAD MANAGEMENT, INC., was/is an enterprise covered by the FLSA, and as defined by 29 U.S.C. §203(r) and 203(s).

FLSA Violations

18. At all times relevant to this action, Defendant failed to comply with the FLSA because Plaintiff, and those similarly situated, performed services for Defendant for which no provisions were made by Defendant to properly pay Plaintiff, and those similarly situated, for all overtime hours worked.

19. During his employment with Defendant, Plaintiff, and those similarly situated were not paid time and one-half his regular rate of pay for all hours worked in excess of forty (40) per work week during one or more work weeks.

20. Based upon these above policies, Defendant has violated the FLSA by failing to pay complete overtime as described above.

21. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiff, and those similarly situated, are in the possession and custody of Defendant.

COUNT I - RECOVERY OF OVERTIME COMPENSATION

22. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-21 above as though stated fully herein.

23. Plaintiff, and those similarly situated, are/were entitled to be paid time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week.

24. During his employment with Defendant, Plaintiff worked overtime hours but was not paid time and one-half compensation for same.

25. Plaintiff routinely worked in excess of forty (40) hours a week.

26. Defendant did not have a good faith basis for its decision not to pay Plaintiff full overtime compensation.

27. Defendant also failed to keep accurate time records for Plaintiff in violation of the FLSA.

28. Finally, Defendant failed to post the required informational listings for

Plaintiff in violation of the FLSA.

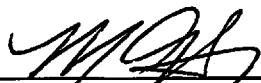
29. As a result of Defendant's intentional, willful and unlawful acts in refusing to pay Plaintiff, and those similarly situated, time and one-half their regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work week, Plaintiff has suffered damages plus incurring reasonable attorneys' fees and costs.

30. As a result of Defendant's willful violation of the FLSA, Plaintiff, and those similarly situated, are entitled to liquidated damages.

31. Plaintiff, and those similarly situated, demand a trial by jury.

WHEREFORE, Plaintiff, MATTHEW FRAZEE, and those similarly situated, demand judgment against Defendant for unpaid overtime compensation, liquidated damages, or if liquidated damages are not awarded then pre and post-judgment interest at the highest allowable rate, reasonable attorneys' fees and costs incurred in this action, declaratory relief, and any and all further relief that this Court determines to be just and appropriate.

Dated this 12 day of April, 2017.



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Email: mgunter@forthepeople.com
Attorney for Plaintiff

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 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, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MATTHEW FRAZEE, on behalf of himself and those similarly situated,

(b) County of Residence of First Listed Plaintiff Orange
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Matthew R. Gunter, Esq., Morgan & Morgan, PA, 20 N. Orange Ave.,
Ste. 1600, P.O. Box 4979, Orlando, FL 32802-4979, (407) 420-1414

DEFENDANTS

AMERICAN ROAD MANAGEMENT, INC., a Florida For Profit Corporation,

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	PROPERTY	LABOR	LABOR/EMPLOYMENT	LABOR/EMPLOYMENT	LABOR/EMPLOYMENT
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PERSONAL FREEDOMS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	PROPRIETARY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

29 U.S.C. 216(b)

Brief description of cause:
Actions for unpaid wages and/or minimum wage violations

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION DEMAND UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

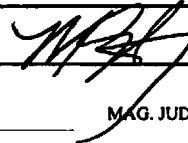
JUDGE

DOCKET NUMBER

DATE

4/13/17

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [American Road Management Hit with Former Employee's Overtime Lawsuit](#)
