

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

ANTONI M. HAYES, on behalf of
himself and others similarly situated,

Plaintiff,

v.

CASE NO.:

MICHAELSON REAL ESTATE GROUP, LLC,
a Limited Liability Company, and
MICHAEL MOSES,

Defendants.

_____ /

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, ANTONI M. HAYES (“Plaintiff”), on behalf of himself and others similarly situated, hereby sues the Defendants, MICHAELSON REAL ESTATE GROUP, LLC (“Michaelson”) and MICHAEL MOSES (“Moses”) (collectively “Defendants”) and alleges as follows:

JURISDICTION, VENUE AND PARTIES

1. This is an action brought under the Fair Labor Standards Act, as amended, 29 U.S.C. § 216(b) (“FLSA”). Accordingly, this Court has subject-matter jurisdiction.
2. Venue lies within this judicial district because a substantial part of the events giving rise to this claim arose here.
3. At all times material, Plaintiff is and was a resident of Florida.
4. At all times material, Defendant Michaelson was/is a Florida Limited

Liability Company authorized to conduct business in the State of Florida, with a place of business at 1175 Pinellas Point Drive South, Saint Petersburg, FL 33705.

5. At all times material, Defendant Moses is and was a resident of Florida.

GENERAL ALLEGATIONS

6. Defendant Michaelson is a company that manages and operates multi-family housing developments throughout the State of Florida.

7. Defendant Moses is the President and Chief Executive Officer of Michaelson. In that position, Moses exercises significant control over the company's operations, has the power to hire and fire employees, the power to determine salaries, the responsibility to maintain employment records and has operational control over significant aspects of the company's day-to-day functions.

8. Defendants are employers as defined by the FLSA.

9. At all material times, Defendants were an enterprise covered by the FLSA, and as defined by 29 U.S.C. §203(r) and 203(s) and during all relevant times had at least two employees and had an annual dollar volume of sales or business done of at least \$500,000.

10. Plaintiff was engaged in interstate commerce during his employment with Defendants.

11. Plaintiff was employed by Defendants during the relevant time period as a maintenance employee, whose primary duty was production work that did not involve managerial responsibilities.

12. Plaintiff and others similarly situated were employees of Defendants under the FLSA.

13. Plaintiff was employed by Defendants from April 2017 through the present. During this time period, Defendants required Plaintiff and others similarly situated to work more than 40 hours in a workweek, but refused to pay overtime compensation at a rate of time and one half the regular rate.

14. Rather than pay overtime compensation at a rate of time and one half the regular rate, Defendants employed a policy or practice of requiring Plaintiff and others similarly situated to instead use comp time during subsequent weeks, in violation of the FLSA.

15. Defendants also employ a policy or practice of whitening out or redacting entries on the time sheets in order to falsely reflect that employees did not work beyond 40 hours in a workweek, in violation of the FLSA record-keeping requirements.

16. This action is brought under the FLSA to recover unpaid overtime compensation owed to Plaintiff and all others similarly situated who are or were employed by Defendants and subject to the aforestated policy or practice of denying overtime compensation.

17. Plaintiff's primary job duty was manual labor and did not involve managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise.

18. Defendants failed to comply with the FLSA because Plaintiff, and other

similarly situated employees, were regularly required to work in excess of forty (40) hours a workweek but were not paid overtime compensation as required by the FLSA.

19. Defendant Moses is subject to individual liability under the FLSA because he acted directly or indirectly in the interest of the employer in relation to Plaintiff, exercised significant control over the company's operations, has the power to hire and fire employees, the power to determine salaries, the responsibility to maintain employment records and has operational control over significant aspects of the company's day-to-day functions.

20. Defendants' violations of the FLSA were knowing, willful and in reckless disregard of the rights of Plaintiff and all other similarly situated. Defendants did not have reasonable grounds for believing that their acts were not a violation of the FLSA.

21. Plaintiff has been required to retain the undersigned counsel to represent him in this action and is obligated to pay them a reasonable fee for their services.

COUNT I
OVERTIME – FLSA (BOTH DEFENDANTS)

22. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 21 as if fully restated herein.

23. During the three (3) year period prior to filing this action, Defendants failed to pay Plaintiff and all other similarly situated employees overtime compensation for hours worked over forty (40) in a workweek.

24. Defendants' failure to pay Plaintiff and all other similarly situated employees overtime compensation for hours worked over forty (40) in any workweek constitutes a violation of the FLSA, 29 U.S.C. § 207.

25. Defendants' violations of the FLSA were knowing, willful and in reckless disregard of the rights of Plaintiff and all other similarly situated.

WHEREFORE, Plaintiff respectfully requests, on behalf of himself and all others similarly situated, that this Court issue an Order awarding damages in the amount of the unpaid overtime compensation owed, awarding liquidated damages pursuant to 29 U.S.C. § 216(b), awarding reasonable attorneys' fees and costs pursuant to 29 U.S.C. § 216(b), awarding injunctive relief requiring Defendants to comply with the FLSA, and awarding all such other relief as the Court deems just and appropriate.

JURY TRIAL DEMAND

Plaintiff demands trial by jury as to all issues.

DATED this 3rd day of November, 2017.

Respectfully submitted,
WHITTEL & MELTON, LLC
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JS 44 (Rev 09/10)

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CIVIL COVER SHEET

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law.

Plaintiff(s):

First Listed Plaintiff:

ANTONI M. HAYES ;

County of Residence: Pinellas County

Defendant(s):

First Listed Defendant:

MICHAELSON REAL ESTATE GROUP, LLC ;

County of Residence: Outside This District

Additional Defendants(s):

MICHAEL MOSES ;

County Where Claim For Relief Arose: Pinellas County

Plaintiff's Attorney(s):

JAY LECHNER (ANTONI HAYES)

WHITTEL & MELTON, LLC

200 CENTRAL AVE

ST. PETERSBURG, Florida 33701

Phone: 7278221111

Fax: 7278982001

Email: lechnerj@thefllawfirm.com

Defendant's Attorney(s):

Basis of Jurisdiction: 3. Federal Question (U.S. not a party)

Citizenship of Principal Parties (Diversity Cases Only)

Plaintiff: N/A

Defendant: N/A

Origin: 1. Original Proceeding

Nature of Suit: 710 Fair Labor Standards Act

Cause of Action: 29 U.S.C., SECTION 203(r) and 203(s)

Requested in Complaint

Class Action: Class Action Under FRCP23

Monetary Demand (in Thousands):

Jury Demand: Yes

Related Cases: Is NOT a refiling of a previously dismissed action

Signature: Jay P. Lechner

Date: 11/3/2017

If any of this information is incorrect, please close this window and go back to the Civil Cover Sheet Input form to make the correction and generate the updated JS44. Once corrected, print this form, sign and date it, and submit it with your new civil action.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Maintenance Worker Sues Michaelson Real Estate Group Over Unpaid OT Claims](#)
