

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

SUSAN LEO, ROBERT BIEGEL,
THERESA JONES, LUIS MORALES,
BONNIE CHRISTIE, ANDREW GAMMILL,
PAUL NAUGLE, RONALD SEEKFORD,
and SHEILA SEEKFORD, on behalf of
themselves and others similarly situated,

Plaintiffs,

v.

CASE NO.:

SARASOTA COUNTY SCHOOL BOARD,

Defendant.

_____ /

**WAGE THEFT COLLECTIVE/CLASS ACTION
COMPLAINT AND JURY DEMAND**

Plaintiffs, SUSAN LEO, ROBERT BIEGEL, THERESA JONES, LUIS MORALES, BONNIE CHRISTIE, ANDREW GAMMILL, PAUL NAUGLE, RONALD SEEKFORD, and SHEILA SEEKFORD (“Plaintiffs”), on behalf themselves and others similarly situated, hereby sue the Defendant, SARASOTA COUNTY SCHOOL BOARD (“Defendant”) for Wage Theft and allege as follows:

NATURE OF THIS ACTION

1. Plaintiffs allege, on behalf of themselves and other similarly situated current and former employees of the Defendant who elect to opt into this action, pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 216(b), that they are: (i) entitled to unpaid wages from Defendant for overtime work for which they did not receive overtime premium pay, as required by law, (ii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. §§201 *et seq*; and (iii) entitled to declaratory relief

pursuant to 28 U.S.C. §2201.

2. Plaintiffs further allege, on behalf of themselves and a class of other similarly situated current and former employees of the Defendant that they are: (i) entitled to unpaid wages from Defendant for all time worked for which they were not paid as a result of Wage Theft, e.g., Defendant's unlawful policy or practice of not paying employees for time worked beyond the time estimated by Defendant to complete the route (including, but not limited to, when a run takes longer than anticipated by the Defendant, performing pre/post-trip inspections, fueling the bus, sweeping the bus, writing the directions, rewriting directions when the route changes, organizing registrations, doing seating charts, updating seating charts, making copies, filling out incident reports, filling out misconducts, filling out referrals, meetings with supervisors, filling out Medicaid forms, checking mailboxes, filling out name tags, surveying, getting supplies for the buses, writing up the buses for mechanical issues, getting spares, changing the equipment over, changing the equipment back again, mechanical breakdowns, blowouts, signal 4s, going back to school (e.g. for a missing child), taking a child back to school, construction issues, weather issues, traffic issues, school lockdowns, monthly meetings, going to the office window at the end of or before the runs, bringing the bus to another compound, performing end-of-year bus cleanings ("white glove")) (referred to herein as "Wage Theft"); and (ii) attorneys' fees and costs pursuant to Fla. Stat. § 448.08.

JURISDICTION, VENUE AND PARTIES

3. 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.

4. Venue lies within the Middle District of Florida because a substantial part of the events giving rise to this claim arose in this Judicial District.

5. At all times material, Plaintiffs are and were residents of the State of Florida.

6. At all times material, SARASOTA COUNTY SCHOOL BOARD was/is a state and/or local governmental entity engaged in operations in Sarasota, Florida.

CLASS ALLEGATIONS

7. **The Class**: Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23(b)(1)(B) and 23(b)(3) on behalf of themselves and a Class of similarly situated individuals defined as: All employees of the Defendant who were bus drivers and subject to Defendant's unlawful Wage Theft policy or practice within the four years prior to the filing of the instant Complaint.

8. **Numerosity**: The exact number of members of the Class is unknown to Plaintiff at this time, but on information and belief, there are at least 300 employees throughout the region who were adversely affected by the Wage Theft, making joinder of each individual member impracticable.

9. **Typicality**: Plaintiffs' claims are typical of the claims of the other members of the Class. Plaintiffs and the Class sustained damages as a result of the Defendant's uniform wrongful conduct.

10. **Commonality**: Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual members.

GENERAL ALLEGATIONS

11. Defendant employs bus drivers, who are paid by the hour to perform manual labor and who are required to utilize Defendant's time-keeping system in order to record their time worked.

12. Defendant is an employer as defined by FLSA.

13. Plaintiffs have all been employed by Defendant as hourly bus drivers within the past three years.

14. Plaintiffs and others similarly situated are/were employees of Defendant under the FLSA.

15. Defendant failed to comply with the FLSA because Plaintiffs, 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 because of the afore-described policy or practice of Wage Theft.

16. Defendant failed to comply with Florida and federal law because Plaintiffs, and other similarly situated employees, were regularly required to work, but then were not paid for their time worked as a result of Defendant engaging in the aforesated Wage Theft.

16. Defendant's upper management knowingly encourages and facilitates the policy or practice of Wage Theft against Plaintiffs and other similarly situated employees by, *inter alia*, implementing a written policy providing that employees only will be paid for a half hour to perform 37 specifically enumerated job responsibilities, regardless of how long they take, knowing that performance of these duties regularly takes far in excess of the designated half hour.

17. Defendant's violations of the FLSA and Florida law were knowing, willful and in reckless disregard of the rights of Plaintiffs and all other similarly situated.

18. Plaintiffs have been required to retain the undersigned counsel to represent them in this action and are obligated to pay them a reasonable fee for their services.

19. Plaintiffs put Defendant on notice, verbally and in writing of, the unlawful Wage Theft policy or practice, thereby engaging in protected activity under the FLSA.

COUNT I
OVERTIME COLLECTIVE ACTION – FLSA

20. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 to 19 as if fully restated herein.

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

22. Defendant's failure to pay Plaintiffs 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.

23. Defendant's violations of the FLSA were knowing, willful and in reckless disregard of the rights of Plaintiffs and all other similarly situated.

WHEREFORE, Plaintiffs respectfully request, on behalf of themselves 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), and awarding all such other relief as the Court deems just and

appropriate.

COUNT II
WAGE THEFT CLASS ACTION/BREACH OF CONTRACT

24. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 to 19 as if fully restated herein.

25. Plaintiffs and all other similarly situated employees have earned unpaid wages which are owed and payable by Defendant pursuant to Florida Statute Chapter 448 and/or an agreement between the parties.

26. Defendant, despite Plaintiffs' reasonable attempts to obtain payment of these earned monies, has failed and refused to make payment to Plaintiffs and all other similarly situated employees as required by Florida Statute Chapter 448 and/or an agreement between the parties, thereby engaging in unlawful Wage Theft.

27. As a result of Defendant's Wage Theft and failure to pay earned wages, Plaintiffs have suffered damages, including wages, interest and attorneys' fees.

WHEREFORE, Plaintiffs, individually and on behalf of the Class, pray for the following relief: (i) Certify this case as a class action on behalf of the Class as defined above, and appoint Plaintiffs as class representatives and undersigned counsel as lead counsel; (ii) Declaratory judgment finding that Defendant has engaged in unlawful Wage Theft; (iii) Awarding damages in the amount of the unpaid wages owed, plus attorneys' fees and costs pursuant to Fla. Stat. § 448.08; (iv) Injunctive relief prohibiting Defendant from further engaging in Wage Theft; and (v) awarding all such other relief as the Court deems just and appropriate.

JURY TRIAL DEMAND

Plaintiffs demand trial by jury as to all issues.

DATED this 8th day of November, 2016.

Respectfully submitted,
WHITTEL & MELTON, LLC
/s/ Jay P. Lechner
Jay P. Lechner, Esq.
Florida Bar No.: 0504351
Jason M. Melton, Esq.
Florida Bar No.: 605034
One Progress Plaza
200 Central Avenue, #400
St. Petersburg, Florida 33701
Telephone: (727) 822-1111
Facsimile: (727) 898-2001
Pleadings@theFLlawfirm.com
lechnerj@theFLlawfirm.com
shelley@theFLlawfirm.com
Attorneys for Plaintiffs

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

SUSAN LEO, et. al.

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Jay P. Lechner, Esq., c/o Whittel & Melton, LLC 200 Central Ave., Suite 400, St. Petersburg, FL 33701 727-822-1111

DEFENDANTS

SARASOTA COUNTY SCHOOL BOARD

County of Residence of First Listed Defendant Sarasota County (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, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Motor Vehicle, Personal Injury, etc.

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, 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): FLSA

Brief description of cause: Wage Theft & FLSA

VII. REQUESTED IN COMPLAINT:

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

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

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

11/08/2016 /s/ Jay P. Lechner, Esq.

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Bus Drivers Sue Sarasota County School Board Over Unpaid Overtime](#)
