

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

RICHARD MANTILLA,

Plaintiff, and all others similarly
situated under 29 U.S.C. § 216(B),

vs.

CHRISTOPHER KAFER, an individual, and
JENNIFER KAFER, an individual d/b/a
XL HEALTH PARTNERS,

Defendants.

COMPLAINT

Plaintiff, RICHARD MANTILLA, sues Defendants CHRISTOPHER KAFER, an individual, and JENNIFER KAFER, an individual d/b/a XL HEALTH PARTNERS, and alleges:

1. This is an action for unpaid overtime compensation, liquidated damages, attorney's fees and costs, pursuant to Section 16(b) of the Fair Labor Standards Act of 1938, Title 29 United States Code, Section 216(b), hereafter referred to as the "ACT".

2. Jurisdiction is conferred on this Court by Title 28 U.S.C §1337 and by Title 29 U.S.C §216(b).

3. Venue is proper before this Honorable Court because all acts pertinent hereto occurred in Miami-Dade County, Florida.

4. Plaintiff is over eighteen years of age, and maintains residence in Miami-Dade County, Florida within the jurisdiction of this Honorable Court and is otherwise *sui juris*.

5. At all times material hereto, Defendant CHRISTOPHER KAUFER is a resident of Florida who does business as XL HEALTH PARTNERS and was Plaintiff's employer.

6. At all times material hereto, Defendant JENNIFER KAUFER is a resident of Florida who does business as XL HEALTH PARTNERS and was Plaintiff's employer.

7. At all times material hereto, Defendants are engaged in interstate commerce or in the production of goods for commerce within the meaning of the Fair Labor Standards Act of 1938, as Amended, had gross income of more than \$500,000.00, and thereby is subject to the provisions of that Act relating to the payment of overtime compensation to its employees.

8. Plaintiff was employed by Defendants from on or around June 6, 2016 through October 2, 2016.

9. The Defendants violated the ACT by reason of their failure to pay to Plaintiff overtime compensation at a rate of one-and-a-half times his regular rate for all hours worked in excess of 40 hours per workweek as is required by the ACT.

10. From the beginning of his employment until August 1, 2016, Plaintiff was paid \$55.00 per hour for all hours worked including those hours worked in excess of 40 hours.

11. Therefore, Plaintiff is owed half-time of \$27.50 for all of the hours he worked over 40 in a workweek through August 1, 2016.

12. After August 1, 2016, Plaintiff was paid an hourly rate of \$56.00; therefore, he is owed half-time of \$28.00 for all of the hours he worked over 40 in a workweek.

13. In total Plaintiff estimates that he is owed \$4,013.00 in unpaid overtime.

14. Defendants have demonstrated a lack of good faith in complying with the provisions of the the ACT, had no reasonable basis for believing that Plaintiff was an exempt employee, or that the Defendants were not a covered entity under the Act.

15. By reason of Defendants' violation of the ACT, Plaintiff is entitled to recover all amounts provided by Section 16 of the ACT including his unpaid overtime compensation plus an additional equal amount as liquidated damages.

16. Plaintiff has retained the undersigned counsel and has agreed to pay a reasonable fee for his services.

WHEREFORE, Plaintiff demands judgment against Defendants, jointly and severally, for unpaid overtime compensation, liquidated damages, prejudgment interest, trial by jury and reasonable attorney fees and costs as permitted by the Act.

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By s/ David Chonin
David Chonin
Florida Bar No. 066664

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.) **NOTICE: Attorneys MUST Indicate All Re-Filed Cases Below.**

I. (a) PLAINTIFFS Richard Mantilla **DEFENDANTS** Christopher Kafer and Jennifer Kafer d/b/a XL Health Partners

(b) County of Residence of First Listed Plaintiff Miami-Dade **County of Residence of First Listed Defendant** Hillsborough
(EXCEPT IN U.S. PLAINTIFF CASES) (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) **Attorneys (If Known)**
Law Office of David Chonin, P.A., 5775 Blue Lagoon Drive, Miami, FL 33126, (305) 444-3000
IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKECHIBOHEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) **III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 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)
- FOR PLAINTIFF (PTF) / DEFENDANT (DEF)**
- Citizen of This State 1 Incorporated or Principal Place of Business In This State
 - Citizen of Another State 2 Incorporated and Principal Place of Business In Another State
 - Citizen or Subject of a Foreign Country 3 Foreign Nation 6 4 5 6

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

- CONTRACT**
 - 110 Insurance
 - 120 Marine
 - 130 Miller Act
 - 140 Negotiable Instrument
 - 150 Recovery of Overpayment & Enforcement of Judgment
 - 151 Medicare Act
 - 152 Recovery of Defaulted Student Loans (Excl. Veterans)
 - 153 Recovery of Overpayment of Veteran's Benefits
 - 160 Stockholders' Suits
 - 190 Other Contract
 - 195 Contract Product Liability
 - 196 Franchise
- PERSONAL INJURY**
 - 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 - Med. Malpractice
 - 440 Other Civil Rights
 - 441 Voting
 - 442 Employment
 - 443 Housing/Accommodations
 - 445 Amer. w/Disabilities - Employment
 - 446 Amer. w/Disabilities - Other
 - 448 Education
- PERSONAL INJURY**
 - 365 Personal Injury - Product Liability
 - 367 Health Care/Pharmaceutical Personal Injury Product Liability
 - 368 Asbestos Personal Injury Product Liability
 - 370 Other Fraud
 - 371 Truth in Lending
 - 380 Other Personal Property Damage
 - 385 Property Damage Product Liability
 - 463 Alien Detainee
 - 510 Motions to Vacate Sentence
 - 530 General
 - 535 Death Penalty
 - 540 Mandamus & Other
 - 550 Civil Rights
 - 555 Prison Condition
 - 560 Civil Detainee - Conditions of Confinement
- LABOR**
 - 625 Drug Related Seizure of Property 21 USC 881
 - 690 Other
 - 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
 - 462 Naturalization Application
 - 465 Other Immigration Actions
- LABOR**
 - 422 Appeal 28 USC 158
 - 423 Withdrawal 28 USC 157
 - 820 Copyrights
 - 830 Patent
 - 835 Patent - Abbreviated New Drug Application
 - 840 Trademark
 - 861 HIA (1395ff)
 - 862 Black Lung (923)
 - 863 DIWC/DIWW (405(g))
 - 864 SSID Title XVI
 - 865 RSI (405(g))
 - 870 Taxes (U.S. Plaintiff or Defendant)
 - 871 IRS-Third Party 26 USC 7609
- OTHER STATUTES**
 - 375 False Claims Act
 - 376 Qui Tam (31 USC 3729 (a))
 - 400 State Reapportionment
 - 410 Antitrust
 - 430 Banks and Banking
 - 450 Commerce
 - 460 Deportation
 - 470 Racketeer Influenced and Corrupt Organizations
 - 480 Consumer Credit
 - 490 Cable/Sat TV
 - 850 Securities/Commodities/Exchange
 - 890 Other Statutory Actions
 - 891 Agricultural Acts
 - 893 Environmental Matters
 - 895 Freedom of Information Act
 - 896 Arbitration
 - 899 Administrative Procedure Act/Review or Appeal of Agency Decision
 - 950 Constitutionality of State Statutes

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

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Re-filed (See VI below)
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation Transfer
- 7 Appeal to District Judge from Magistrate Judgment
- 8 Multidistrict Litigation - Direct File
- 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S) (See instructions): a) Re-filed Case YES NO b) Related Cases YES NO
JUDGE: **DOCKET NUMBER:**

VII. 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 U.S.C. 201, et. seq., Fair Labor Standards Act claim for unpaid overtime

VIII. REQUESTED IN COMPLAINT: LENGTH OF TRIAL via days estimated (for both sides to try entire case)

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** **CHECK YES only if demanded in complaint:**
JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
DATE February 6, 2018 SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY
RECEIPT # AMOUNT 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: [Former XL Health Partners Employee Seeks Unpaid OT Wages in Class Action Suit](#)
