

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

RANDALL RAPIER, *on behalf of
himself and others similarly-situated,*

Plaintiffs,

v.

AIR CONDITIONING EXPERTS,
INC., CHRISTOPHER D. ALLEN, and
HEATHER JANE PRESTON,

Defendants.

Civil Action File No.:

COMPLAINT

The above-named plaintiff, Randall Rapier (“Mr. Rapier”), states his complaint against the above-named Defendants as follows.

1. This is a complaint for unpaid wages and overtime under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* (the “FLSA”).
2. Mr. Rapier files this complaint as a collective action pursuant to 29 U.S.C. § 216(b) on behalf of himself and other similarly-situated individuals. Mr. Rapier’s Consent to Join form is filed contemporaneously with this complaint.
3. This Court has jurisdiction over this case, and venue is proper in this Court.

4. Defendant Air Conditioning Experts, Inc. (“ACE”) is a Georgia corporation that provides residential air conditioning repair and installation services throughout the southeastern United States, including within the State of Georgia.
5. ACE also operates in Florida, North Carolina, and Alabama, among other states.
6. ACE’s principal place of business in Georgia is located at 1939 Forge Street in Tucker, Georgia.
7. Defendants Christopher D. Allen (“Allen”) and Heather Jane Preston (“Preston”) own and operate ACE.
8. As owners of the company, Allen and Preston have complete control over the daily operations of ACE, including the hiring and firing of employees and determining ACE’s method of compensating its employees.
9. During each of the three years preceding the filing of this complaint, ACE’s gross annual sales were greater than \$500,000.
10. During each of the three years preceding the filing of this complaint, ACE employed one or more individuals who engaged in interstate commerce.
11. ACE employed Mr. Rapier as a repair technician at its location in Tucker, Georgia.

12. Other technicians employed by ACE during the three-year period preceding the filing to this complaint are interested in joining this action. For example, filed contemporaneously with this complaint are the Consent to Join forms of Matthew Wallace, Scott Thomas, Timothy Miller, and Steve Domansky (Mr. Rapier and these additional opt-in plaintiffs are referred to collectively herein as “Plaintiffs”).
13. During the three-year period preceding the filing of this complaint, ACE, Allen, and Preston (collectively referred to as “Defendants”) jointly employed Plaintiffs.
14. As technicians, Plaintiffs performed residential air conditioning repair services for ACE’s customers in the metro-Atlanta area. ACE assigned jobs to Plaintiffs via a cellular communication system. Plaintiffs travelled to each job using a company-owned vehicle, completed the repair, and then travelled to their next assigned job.
15. Defendants tracked Plaintiffs’ and other technicians’ working hours through the company’s cellular communication system, which required Plaintiffs and other technicians to log in and log out at the beginning and end of each work day. Defendants also tracked Plaintiffs’ and other technicians’ time at each job and their travel time between jobs using the company’s cellular

communication system.

16. During Plaintiffs' employment with Defendants, Defendants compensated Plaintiffs and other technicians on an hourly basis such that Plaintiffs and other technicians received a set amount per working hour, plus overtime for working hours over 40 per week.
17. Defendants also paid Plaintiffs and other technicians a commission based on their individual sales.
18. Defendants did not include commission pay in the calculation of Plaintiffs' and other technicians' regular hourly rate. As a result, the hourly rate used by Defendants to calculate Plaintiffs' and other technicians' overtime pay was too low.
19. Defendants' cellular communication system also allowed Plaintiffs and other technicians to report lunch breaks by logging into and out of lunch.
20. Plaintiffs and other technicians rarely took a lunch break due to their demanding work load. Instead of taking a lunch break, Plaintiffs and other technicians ate lunch while driving from job to job.
21. Due to Defendants' cellular communication system, which recorded Plaintiffs' and other technicians' lunch breaks, Defendants were aware when Plaintiffs and other technicians did or did not take a lunch break.

22. However, regardless of whether Plaintiffs and other technicians took a lunch break, Defendants automatically deducted thirty minutes per workday from Plaintiffs' and other technicians' pay for a lunch break.
23. COUNT 1 – As described above, due to Defendants' failure to include commission pay in the calculation of Plaintiffs' and other technicians' regular hourly rate, Defendants violated the FLSA by failing to pay Plaintiffs and other technicians 1.5 times their regularly hourly rate for working hours over 40 per week.
24. COUNT 2 – As described above, because Defendants automatically deducted thirty minutes per day from Plaintiffs' and other technicians' pay for lunch breaks that never occurred, Defendants violated the FLSA by failing to pay Plaintiffs and other technicians proper wages and overtime pay for all of their working hours.
25. Defendants' violations of the FLSA described above were willful.

Based on the above facts, Mr. Rapier requests a jury trial on all triable issues and asks the Court for the following relief for himself and other similarly-situated technicians who choose to join this lawsuit: unpaid wages, unpaid overtime wages, liquidated damages as permitted by the FLSA, prejudgment interest, litigation costs, attorneys' fees, and other relief deemed appropriate by the Court.

Respectfully submitted on October 30, 2017.

s/ Regan Keebaugh
Regan Keebaugh
Georgia Bar No. 535500

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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)

I. (a) PLAINTIFF(S)

RANDALL RAPIER, on behalf of himself and others similarly-situated,

DEFENDANT(S)

AIR CONDITIONING EXPERTS, INC. CHRISTOPHER D. ALLEN HEATHER JANE PRESTON

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Henry (EXCEPT IN U.S. PLAINTIFF CASES)

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

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Regan Keebaugh Radford & Keebaugh LLC 315 W Ponce de Leon Ave Ste 1080 Decatur GA 30030 678-271-0301; regan@decaturlegal.com

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) (FOR DIVERSITY CASES ONLY)

- PLF DEF 1 1 CITIZEN OF THIS STATE 4 4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE 2 2 CITIZEN OF ANOTHER STATE 5 5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE 3 3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY 6 6 FOREIGN NATION

IV. 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 District) 6 MULTIDISTRICT LITIGATION - TRANSFER 7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT 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)

violation of the Fair Labor Standards Act, 29 USC Section 201 et seq.

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties. 2. Unusually large number of claims or defenses. 3. Factual issues are exceptionally complex. 4. Greater than normal volume of evidence. 5. Extended discovery period is needed. 6. Problems locating or preserving evidence. 7. Pending parallel investigations or actions by government. 8. Multiple use of experts. 9. Need for discovery outside United States boundaries. 10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP) JUDGE MAG. JUDGE (Referral) 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 EML. 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 (1395f)
- 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 ANTITRUST
- 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 \$ unspecified

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 ATTORNEY OF RECORD

October 30, 2017

DATE

**CONSENT TO BE A PLAINTIFF IN AN ACTION BROUGHT UNDER
THE FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)**

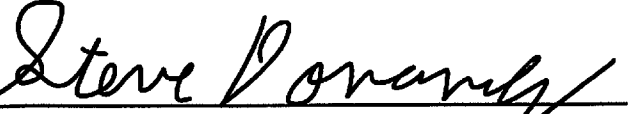
I am a current or former employee of Air Conditioning Experts, Inc. I consent to become a plaintiff in a lawsuit against Air Conditioning Experts Inc. and its owners, Christopher D. Allen and Heather Jane Preston, to recover unpaid wages and/or overtime compensation and any other benefits available to me under the Fair Labor Standards Act and other applicable laws.



Timothy miller (Sep 21, 2017)

**CONSENT TO BE A PLAINTIFF IN AN ACTION BROUGHT UNDER
THE FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)**

I am a current or former employee of Air Conditioning Experts, Inc. I consent to become a plaintiff in a lawsuit against Air Conditioning Experts Inc. and its owners, Christopher D. Allen and Heather Jane Preston, to recover unpaid wages and/or overtime compensation and any other benefits available to me under the Fair Labor Standards Act and other applicable laws.


Steve Domansky (Sep 27, 2017)

**CONSENT TO BE A PLAINTIFF IN AN ACTION BROUGHT UNDER
THE FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)**

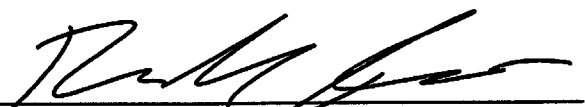
I am a current or former employee of Air Conditioning Experts, Inc. I consent to become a plaintiff in a lawsuit against Air Conditioning Experts Inc. and its owners, Christopher D. Allen and Heather Jane Preston, to recover unpaid wages and/or overtime compensation and any other benefits available to me under the Fair Labor Standards Act and other applicable laws.



Scott thomas (Sep 22, 2017)

**CONSENT TO BE A PLAINTIFF IN AN ACTION BROUGHT UNDER
THE FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)**

I am a current or former employee of Air Conditioning Experts, Inc. I consent to become a plaintiff in a lawsuit against Air Conditioning Experts Inc. and its owners, Christopher D. Allen and Heather Jane Preston, to recover unpaid wages and/or overtime compensation and any other benefits available to me under the Fair Labor Standards Act and other applicable laws.



Randall rapier (Sep 21, 2017)

**CONSENT TO BE A PLAINTIFF IN AN ACTION BROUGHT UNDER
THE FAIR LABOR STANDARDS ACT (29 U.S.C. § 201, ET SEQ.)**

I am a current or former employee of Air Conditioning Experts, Inc. I consent to become a plaintiff in a lawsuit against Air Conditioning Experts Inc. and its owners, Christopher D. Allen and Heather Jane Preston, to recover unpaid wages and/or overtime compensation and any other benefits available to me under the Fair Labor Standards Act and other applicable laws.



Matthew Wallace (Sep 21, 2017)

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Air Conditioning Experts Facing Unpaid Overtime Lawsuit in Georgia](#)
