

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

FILED
US DISTRICT COURT
WESTERN DISTRICT
OF ARKANSAS
Dec 18, 2017
OFFICE OF THE CLERK

**CANDIE ROARK, Individually and on
behalf of All Others Similarly Situated**

PLAINTIFF

vs.

No. 6:17-cv- 17-6131

**NATIONAL PARK MOTORS, INC., ORR
MOTORS OF FORT SMITH 4, INC., ORR
MOTORS OF FORT SMITH 3, INC., ORR
MOTORS OF RUSSELLVILLE, INC.,
and ORR, INC.**

DEFENDANTS

ORIGINAL COMPLAINT—COLLECTIVE ACTION

COMES NOW Plaintiff Candie Roark, individually and on behalf of all others similarly situated, by and through her attorneys Daniel Ford, Chris Burks and Josh Sanford of Sanford Law Firm, PLLC, and for her Original Complaint—Collective Action (“Complaint”) against Defendants National Park Motors, Inc., Orr Motors of Fort Smith 4, Inc., Orr Motors of Fort Smith 3, Inc., Orr Motors of Russellville, Inc., and Orr, Inc. (collectively “Defendants”), and in support thereof does hereby state and allege as follows:

I. PRELIMINARY STATEMENTS

1. This is a collective action brought by Plaintiff Candie Roark (“Plaintiff”) on behalf of herself and on behalf of other Title Clerks employed by Defendants at any time within a three-year period preceding filing of this Complaint.

2. Plaintiff brings this action under the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.* ("FLSA") for declaratory judgment, monetary damages, liquidated damages, prejudgment interest, civil penalties and costs, including reasonable attorneys' fees as a result of Defendants' failure to pay Plaintiff and other Title Clerks overtime compensation for hours worked in excess of forty (40) hours per week.

3. Upon information and belief, for at least three (3) years prior to the filing of this Complaint, Defendants have willfully and intentionally committed violations of the FLSA as described, *infra*.

II. JURISDICTION AND VENUE

4. The United States District Court for the Western District of Arkansas has subject matter jurisdiction over this suit under the provisions of 28 U.S.C. § 1331 because this suit raises federal questions under the FLSA.

5. The acts complained of herein were committed and had their principal effect against the named Plaintiff herein within the Hot Springs Division of the Western District of Arkansas; therefore, venue is proper within this District pursuant to 28 U.S.C. § 1391.

III. THE PARTIES

6. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

7. Plaintiff Candie Roark is a resident and citizen of Hot Spring County, Arkansas. She was employed by Defendants as a Title Clerk within the three (3) years preceding the filing of the Original Complaint.

8. Plaintiff was employed by Defendants from about December of 2015 until about November of 2017.

9. At all times material herein, Plaintiff has been entitled to the rights, protection and benefits provided under the Fair Labor Standards Act 29 U.S.C. § 201, *et seq.*

10. Defendant National Park Motors, Inc., is an Arkansas for-profit corporation having a registered agent for service of process of David Orr, 6909 Tennessee Road, Texarkana, Arkansas 71854.

11. Defendant Orr Motors of Fort Smith 4, Inc., is an Arkansas for-profit corporation having a registered agent for service of process of David Orr, 6909 Tennessee Road, Texarkana, Arkansas 71854.

12. Defendant Orr Motors of Fort Smith 3, Inc., is an Arkansas for-profit corporation having a registered agent for service of process of David Orr, 6909 Tennessee Road, Texarkana, Arkansas 71854.

13. Defendant Orr Motors of Russellville, Inc., is an Arkansas for-profit corporation having a registered agent for service of process of David Orr, 6909 Tennessee Road, Texarkana, Arkansas 71854.

14. Defendant Orr, Inc., is an Arkansas for-profit corporation having a registered agent for service of process of David Orr, 6909 Tennessee Road, Texarkana, Arkansas 71854.

15. Defendants have unified operational control and management, as well control over employees, including shared power to supervise, hire and fire, establish

wages and wage policies, and set schedules for their employees through unified management.

16. As a result of this unified operational control and management, through shared employees and ownership with the authority to establish wages and wage policy, Defendants operated as a single enterprise.

17. National Park Motors, Inc., is an “employer” within the meaning set forth in the FLSA, and was, at all times relevant to the allegations in this Complaint, Plaintiff’s employer.

18. Orr Motors of Fort Smith 4, Inc., is an “employer” within the meaning set forth in the FLSA, and was, at all times relevant to the allegations in this Complaint, Plaintiff’s employer.

19. Orr Motors of Fort Smith 3, Inc., is an “employer” within the meaning set forth in the FLSA, and was, at all times relevant to the allegations in this Complaint, Plaintiff’s employer.

20. Orr Motors of Russellville, Inc., is an “employer” within the meaning set forth in the FLSA, and was, at all times relevant to the allegations in this Complaint, Plaintiff’s employer.

21. Orr, Inc., is an “employer” within the meaning set forth in the FLSA, and was, at all times relevant to the allegations in this Complaint, Plaintiff’s employer.

22. Defendants have employees engaged in commerce and have employees handling or otherwise working on goods or materials that have been moved in or produced for commerce by others.

23. National Park Motors, Inc., has, and has had at all relevant times, annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

24. Orr Motors of Fort Smith 4, Inc., has, and has had at all relevant times, annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

25. Orr Motors of Fort Smith 3, Inc., has, and has had at all relevant times, annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

26. Orr Motors of Russellville, Inc., has, and has had at all relevant times, annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

27. Orr, Inc., has, and has had at all relevant times, annual gross volume of sales made or business done of not less than \$500,000.00 (exclusive of excise taxes at the retail level that are separately stated).

28. Defendants' workers routinely use telephone lines for purposes of making phone calls across state lines as well as the internet for purposes of out-of-state communications. In addition, Defendants' workers routinely use or work with cell phones, computers, and automobiles in performing their job duties. Thus, its employees used, handled, sold, and/or worked on, goods or materials that were produced for or traveled in interstate commerce.

IV. REPRESENTATIVE ACTION ALLEGATIONS

34. Plaintiff brings this claim for relief for violation of the FLSA as a collective action pursuant to Section 16(b) of the FLSA, 29 U.S.C. § 216(b), on behalf of all persons similarly situated as Title Clerks who were or are employed by Defendants and who are entitled to payment for all overtime wages earned which Defendants failed to pay from three years prior to the date of the filing of this lawsuit, through the time of the trial of this case.

35. Plaintiff is unable to state the exact number of the class but believe that the class membership exceeds 30 persons. Defendants can readily identify the members of the classes, who are a certain portion of the current and former employees of Defendants.

36. The names and physical and mailing addresses of the probable FLSA collective action Plaintiffs are available from Defendants, and notice should be provided to the probable FLSA collective action Plaintiffs via first class mail to their last known physical and mailing addresses as soon as possible.

37. The cell phone numbers and email addresses of many of the probable FLSA collective action Plaintiffs are available from Defendants, and notice should be provided to the probable FLSA collective action Plaintiffs via text message and/or email to their last known email address as soon as possible.

38. The proposed FLSA class members are similarly situated in that they have been subject to uniform practices by Defendants which violated the FLSA, including:

A. Defendants' uniform failure to compensate employees pursuant to the requirements of the FLSA; and

B. Defendants' failure to pay members of the class all overtime compensation in violation of the FLSA, 29 U.S.C. § 201 et seq.

V. FACTUAL ALLEGATIONS

40. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully set forth in this section.

41. Defendants are in the business of selling new and used vehicles and operate numerous vehicle sales lots under a variety of fictitious names. All vehicle sales lots and the employees that work at them are under the unified corporate control of Defendants.

42. During part of the three (3) years prior to the filing of this lawsuit, Plaintiff worked for Defendants as a Title Clerk.

43. As a Title Clerk, Plaintiff's primary duties were to process sale paperwork and help keep track of stock for used vehicles. Other Title Clerks performed similar duties.

44. During her employment at a Title Clerk for Defendants, Plaintiff and all other Title Clerks were misclassified by Defendants as exempt from overtime wages and paid a salary.

45. In addition to the salary paid by Defendants, Plaintiff and other Title Clerks were sometimes paid a non-discretionary bonus tied to the sale paperwork that they processed.

46. Plaintiff almost always worked in excess of forty (40) hours per week throughout her tenure with Defendants.

47. More specifically, Plaintiff generally worked around 45 hours per week for Defendants, and more during busy seasons. Other Title Clerks worked similar hours in excess of forty per week.

48. Defendants did not pay Plaintiff or other Title Clerks any overtime compensation for their hours worked in excess of forty per week.

49. Defendants failed to keep records of Plaintiff's hours worked or other Title Clerks' hours worked.

50. Plaintiff never agreed that her salary would be sufficient to cover all hours worked.

51. Upon commencement of work at Defendants, Plaintiff did not sign any contract of employment setting forth her hours or wages. Her annual compensation was not less than \$455.00 per week nor more than \$100,000.00 per year.

52. Plaintiff and other Title Clerks were and are entitled to 1.5 times their regular rate of pay for all hours worked in excess of 40 in a week.

53. In performing services for Defendants, Plaintiff was not required to utilize any professional education relevant to her job duties.

54. During the course of her employment, Plaintiff did not manage the enterprise or a customarily recognized subdivision of the enterprise.

55. Plaintiff did not select any employees for hire nor did she provide any training for any employee. Plaintiff had no ability to hire and fire any employee.

56. Plaintiff did not have any control of or authority over any employee's rate of pay or working hours.

57. Plaintiff did not maintain or prepare production reports or sales records for use in supervision or control of the business. Similarly, Plaintiff did not have any responsibility for planning or controlling budgets.

58. Defendants knew, or showed reckless disregard for whether, the way they paid Plaintiff and other Title Clerks violated the FLSA.

VI. FIRST CLAIM FOR RELIEF
(Individual Claims for Violation of FLSA)

59. Plaintiff repeats and re-alleges all the preceding paragraphs of this Complaint as if fully incorporated herein.

60. 29 U.S.C. § 207 requires employers to pay employees one and one-half times the employee's regular rate for all hours that the employee works in excess of forty (40) per week. 29 U.S.C.S. § 207 (LEXIS 2013).

61. Defendants intentionally misclassified Plaintiff as exempt from overtime compensation.

62. Defendants failed to pay Plaintiff any overtime for her hours worked over forty (40) hour per week.

63. Defendants' conduct and practice, as described above, has been and is willful, intentional, unreasonable, arbitrary and in bad faith.

64. By reason of the unlawful acts alleged herein, Defendants are liable to Plaintiff for, and Plaintiff seeks, unpaid overtime wages, liquidated damages, pre-judgment interest, civil penalties and costs, including reasonable attorney's fees as provided by the FLSA.

65. Alternatively, should the Court find that Defendants acted in good faith in failing to pay Plaintiff as provided by the FLSA, Plaintiff is entitled to an award of prejudgment interest at the applicable legal rate

VII. SECOND CLAIM FOR RELIEF
(Collective Action Claim for Violation of FLSA against Plaintiff
and All Those Similarly Situated Class Members)

66. Plaintiff repeats and re-alleges all previous paragraphs of this Complaint as though fully incorporated herein.

67. Plaintiff bring this collective action on behalf of all Title Clerks employed by Defendants to recover monetary damages owed by Defendants to Plaintiff and members of the putative Class for all the overtime compensation for all the hours they worked in excess of forty (40) each week.

68. Plaintiff brings this action on behalf of herself and all other similarly situated employees, former and present, who were and/or are affected by Defendants' willful and intentional violation of the FLSA.

69. In the past three years, Defendants have employed dozens of Title Clerks.

70. Defendants intentionally misclassified Plaintiff and other Title Clerks as exempt from overtime compensation.

71. Like Plaintiff, these Title Clerks regularly worked more than 40 hours in a week.

72. Defendants failed to pay these workers overtime for any of the hours they worked over forty in a week. Because these employees are similarly situated to Plaintiff, and are owed overtime for the same reasons, the opt-in class is properly defined as follows:

**All Title Clerks employed by
Defendants within the past three years.**

73. Defendants' conduct and practice, as described above, is and has been at all times relevant hereto, willful, intentional, unreasonable, arbitrary and in bad faith.

74. By reason of the unlawful acts alleged herein, Defendants are liable to Plaintiff and all Title Clerks employed by Defendants, and they seek, unpaid overtime wages, liquidated damages, pre-judgment interest, civil penalties and costs, including reasonable attorney's fees as provided by the FLSA.

75. Alternatively, should the Court find that Defendants acted in good faith in failing to pay Plaintiff and all Title Clerks employed by Defendants as provided by the FLSA, Plaintiff and all Title Clerks are entitled to an award of prejudgment interest at the applicable legal rate.

VIII. PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiff Candie Roark respectfully prays that Defendants be summoned to appear and to answer herein as follows:

- (a) That each Defendant be summoned to appear and answer herein;
- (b) That Defendants be required to account to Plaintiff, the class members, and the Court for all of the hours worked by Plaintiff and the class members and all monies paid to them;
- (c) A declaratory judgment that Defendants' practices alleged herein violate the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, and attendant regulations at 29 C.F.R. § 516 *et seq.*;

(d) Certification of, and proper notice to, together with an opportunity to participate in the litigation, all qualifying current and former employees;

(e) Judgment for damages for all unpaid overtime compensation under the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, and attendant regulations at 29 C.F.R. §516 *et seq.*;

(e) Judgment for liquidated damages pursuant to the Fair Labor Standards Act, 29 U.S.C. §201, *et seq.*, and attendant regulations at 29 C.F.R. §516 *et seq.*, in an amount equal to all unpaid overtime compensation owed to Plaintiff and members of the Class during the applicable statutory period;

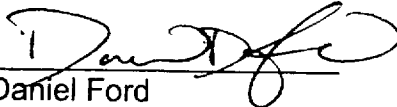
(f) An order directing Defendants to pay Plaintiff and members of the Class prejudgment interest, reasonable attorney's fees and all costs connected with this action; and


(g) Such other and further relief as this Court may deem necessary, just and proper.

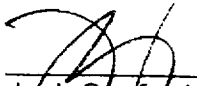
Respectfully submitted,

**PLAINTIFF CANDIE ROARK,
Individually and on behalf of
All Others Similarly Situated**

SANFORD LAW FIRM, PLLC
One Financial Center
650 South Shackleford Road, Suite 411
Little Rock, Arkansas 72211
Telephone: 501) 221-0088
Facsimile: (888) 787-2040

By: 
Daniel Ford
Ark. Bar No. 2014162
daniel@sanfordlawfirm.com

and 
Christopher Burks
Ark. Bar No. 2010207
chris@sanfordlawfirm.com

and 
Josh Sanford
Ark. Bar No. 2001037
josh@sanfordlawfirm.com

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [AK Car Sales Business Facing FLSA Lawsuit](#)
