

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

CLINTON ROBINSON,  
on behalf of himself and all others similarly  
situated,

Plaintiff,

v.

JUMPSTART CONSULTANTS, INC.,

Defendant.

Civil Action No: 3:18-cv-00487-REP

**TRIAL BY JURY DEMANDED**

**COLLECTIVE ACTION COMPLAINT**

COMES NOW Plaintiff Clinton Robinson (“Robinson” or “Plaintiff”), on behalf of himself and all others similarly situated, (collectively “Plaintiffs”), by counsel, and makes the following allegations on behalf of themselves and all others similarly situated:

**PRELIMINARY STATEMENT**

1. Plaintiffs are current and former employees of Jumpstart Consultants, Inc. (“Jumpstart” or “Defendant”) who work and/or worked at Jumpstart on the production and printing of house and roof wrap products. Plaintiff seeks declaratory relief, injunctive relief, and to recover unpaid overtime compensation, and liquidated damages under the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*, as amended (“FLSA” or “the Act”) for himself and others similarly situated.

**PARTIES**

2. Jumpstart is a North Carolina corporation with its principal place of business in Henrico County, Virginia. Jumpstart is a producer/manufacturer/printer of house and roof wrap as well as flexo print products.

3. Defendant is an “employer” within the meaning of the FLSA pursuant to 29 U.S.C. §§ 203(a), (d) and was the “employer” of Plaintiff at all times relevant hereto.

4. Defendant is an “enterprise” which is “engaged in commerce” within the meaning of 29 U.S.C. 203(s)(1).

5. Robinson is a resident of Virginia formerly employed by Defendant. At all times relevant hereto, Robinson was employed by Defendant within the meaning of the FLSA pursuant to 29 U.S.C. § 203(e)(1)

6. Robinson brings this action on behalf of himself and other similarly situated current and former nonexempt employees of Defendant who were, or are, employed by Defendants to operate their printing machinery and/or involved in the wrap and flexo print production process and who were subject to the same uniform pay practices described below.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1337 (commerce), 28 U.S.C. § 1331 (federal question) and 29 U.S.C. § 216(b) (FLSA).

8. Venue is proper in this judicial district under 28 U.S.C. § 1391(b).

#### **REPRESENTATIVE ACTION ALLEGATIONS FOR FLSA CLAIMS**

9. Plaintiff files this statutorily authorized collective action pursuant to 29 U.S.C. § 216(b) as Representative Plaintiff. Plaintiff consents to become a party plaintiff in this representative FLSA action pursuant to 29 U.S.C. § 216(b), as evidenced by Plaintiff’s “Consent to Become a Party to a Collective Action Under 29 U.S.C. § 216,” filed herewith.

10. Plaintiff, and all others similarly situated are, or were, non-exempt employees employed to operate and work with Defendant’s printing machines and wrap products within the last three (3) years.

11. Defendant employs, and has employed, multiple persons in the same job functions and/or positions that Plaintiff occupies or has occupied.

12. At all times relevant hereto, Plaintiff and others similarly situated have been entitled to the rights, protections, and benefits provided under the FLSA.

13. Plaintiff, and all those similarly situated, perform, and have performed, functions which entitle them to receive overtime compensation, yet Defendant has willfully refused to accurately pay them owed overtime wages.

14. Defendant compensated Plaintiff and all those similarly situated on a uniform basis common to all non-exempt employees performing similar functions.

15. On information and belief, all of Defendant's operations at its Henrico facility are centrally managed, and all or most of Defendant's employees performing functions similar to Plaintiff are subject to common, uniform time-keeping and payroll practices. Defendant has additionally established uniform payroll policies with respect to the payment of overtime compensation which apply to all similarly situated employees in the performance of their duties for Defendant.

16. The FLSA "collective" of similarly situated employees is composed of all present and former employees who operated or worked with Defendant's printing machines at its Henrico facility, who performed the same or similar job functions as Plaintiff and are, or were, subject to the same pay practices, and have been employed within three (3) years of the date of filing this action.

17. Plaintiff asserts that Defendant's willful disregard of the FLSA described herein entitles Plaintiff and similarly situated employees to the application of the three (3) year limitations period.

### FACTUAL ALLEGATIONS

18. From early 2007 to December 17, 2015, Robinson worked at Jumpstart as an Assistant Operator, a Lead Operator, and then Shift supervisor. Each position was hourly non-exempt and each position carried at least some primary duties directly relating to the production and printing of house and flexo wrap products.

19. For the duration of his employment, Robinson was classified as non-exempt and was compensated by the hour, and therefore, was entitled to overtime compensation at a rate one and one-half times his regular hourly rate for all hours worked beyond forty (40) in a single week.

20. Robinson, and others similarly situated was paid overtime for some, but not all, of his overtime hours.

21. Specifically, Robinson and similarly situated employees were required to work twelve hour shifts according to a two week rotating schedule and would end up working sixty (60) hours one week followed by twenty four hours (24) the next week. Occasionally, Robinson and others similarly situated would work other additional hours beyond the normal sixty (60) or twenty-four (24).

22. Jumpstart's workweek included both Saturdays and Sundays.

23. Despite being required to pay overtime for all hours worked beyond forty (40) in a single week, Jumpstart only paid overtime if an employee worked more than 84 hours in a two week period.

24. Jumpstart additionally excluded from overtime compensation, all hours that fell outside of a two week pay period. Meaning that work hours performed on a Monday would be disregarded for overtime purposes if the pay period began on the Tuesday afterward.

25. Further complicating the matter, Jumpstart would also, at times, set illegal and improper trigger points for overtime compensation, i.e., it created its own sliding scale for overtime entitlement depending on the number of weekdays in a pay period, with each day representing 8 hours. For example, if a pay period had 10 work days, 80 hours might be the trigger point. If the period contained 11 days, the trigger would be 88 hours, and so on.

26. Defendant, through its supervisors and management employees, has required, suffered, and/or permitted Plaintiff and other similarly situated non-exempt employees to work hours beyond 40 in a workweek without overtime compensation in violation of the FLSA.

27. Additionally, on information and belief, accurate clock-in/clock-out time entries made by Plaintiff, and those similarly situated, exist within Defendant's timekeeping system but have been systematically ignored to Jumpstart's financial benefit.

28. On information and belief, Defendant, through its supervisors and management employees, has knowingly, willfully, and systemically engaged in the unlawful uniform policies and practices described herein with respect to Plaintiff, and those similarly situated, in violation of the FLSA.

**COUNT ONE**  
**VIOLATION OF THE FAIR LABOR STANDARDS ACT**

29. At all times relevant to the matters alleged herein, Defendant has engaged in a pattern, practice, and policy of not compensating Plaintiff and similarly situated non-exempt employees in accordance with federal mandates for certain overtime work performed for Defendant's benefit.

30. The FLSA requires covered employers such as Defendant to compensate non-exempt employees like the Plaintiff and those similarly situated at a rate of not less than one and one-half time the regular rate of pay for work performed in excess of forty (40) hours a week.

31. At all times relevant hereto, Defendant knew the FLSA applied to Plaintiff and others similarly situated.

32. At all times relevant hereto, Defendant had knowledge of their FLSA requirements to pay overtime compensation for hours worked in excess of forty (40) hours a week.

33. At all times relevant hereto, Defendant had knowledge that Plaintiff, and others similarly situated, worked significant overtime hours that Defendant's compensation policy undervalued or wholesale ignored. Defendant required such hours be worked and freely accepted the benefit of this time, and at a minimum suffered and permitted this practice. Defendant also had knowledge that Plaintiff's time records, and the time records of others similarly situated, were reflective of the issue but took no ameliorative action until after one of Robinson's colleagues filed a counterclaim against Jumpstart in response to a restrictive covenant suit filed against him.

34. Despite knowledge of its obligations under the FLSA, Defendant suffered and permitted Plaintiff and similarly situated employees to routinely work in excess of forty (40) hours in week without paying all overtime compensation due.

35. Defendant has an obligation under the FLSA to maintain and pay according to accurate records of time worked by employees.

36. Defendant has failed to maintain or pay according to accurate time records of all hours worked by Plaintiff, and other similarly situated employees, and in fact intentionally compensated employees in a manner incongruent with their time records and the FLSA.

37. The foregoing conduct constitutes a willful violation of the FLSA within the meaning of 29 U.S.C. § 255(a), as Defendant knew of, or showed reckless disregard for, the fact that their compensation practices were in violation of the FLSA.

38. Plaintiff, and other similarly situated present and former employees, are entitled to statutory damages equal to the mandated overtime premium pay within the three (3) years preceding the filing of this Complaint.

39. Defendant has not acted in good faith with respect to their failure to pay overtime compensation. Defendant has no legitimate reason to believe its actions and omissions were not a violation of the FLSA, thus entitling Plaintiff, and those similarly situated, to recover an award of liquidated damages in an amount equal to the amount of unpaid overtime compensation described above.

WHEREFORE, Plaintiff respectfully request that this Court:

A. Approve notice, as soon as possible, to those employees and former employees similarly situated to Plaintiff, namely all non-exempt employees involved in the production, palloting and/or printing of house and flexo wrap products who were employed by Defendant at its Henrico County facility during any portion of the three (or more) years immediately preceding the filing of this action, of the existence of this FLSA representative (collective) action, the claims set forth herein and further provide notice of their right to opt-in to this action pursuant to 29 U.S.C. § 216(b). Generally, this notice should inform such employees and former employees that this action has been filed, describe the nature of the action and explain their right to opt in to this lawsuit if they were not paid the proper overtime wage compensation for their hours worked in any week during the statutory period;

B. Designate this action as a collective action on behalf of the FLSA collective class pursuant to 29 U.S.C. § 216(b);

C. Enter judgment declaring that the acts and practices complained of herein are violations of the Fair Labor Standards Act, 29 U.S.C. §§ 201 *et seq.*;

D. Enter judgment awarding Plaintiff, and all similarly situated present and former employees, actual compensatory damages in the amount shown to be due for unpaid overtime compensation, with pre-judgment interest, against Defendant;

E. Enter judgment that Defendant's violations of the FLSA were willful;

F. Enter judgment awarding Plaintiff and all similarly situated present and former employees an amount equal to their overtime damages as liquidated damages;

G. Enter judgment for post-judgment interest at the applicable legal rate;

H. Enter judgment awarding Plaintiff, and those similarly situated, reasonable attorney's fees and costs of this suit;

I. Grant leave to amend to add additional plaintiffs by motion, the filing of written consent forms, or any other method approved by the Court; to add claims under applicable federal laws, including claims for minimum wages pursuant to 29 U.S.C. § 206; and/or expand the collective definition to include other offices, as appropriate; and/or to add other defendants who meet the definition of Plaintiff's employer, pursuant to 29 U.S.C. § 203(d);

J. Grant such other relief as the Court deems necessary and proper.

Respectfully submitted,

CLINTON ROBINSON

By: /s/ Zev Antell  
Harris D. Butler, III, (VSB No. 26483)  
Zev H. Antell (VSB No. 74634)  
Paul M. Falabella (VSB No. 81199)

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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

CLINTON ROBINSON, on behalf of himself and all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Zev Antell Butler Royals, 140 Virginia Street, Suite 302 Richmond, VA 23219 (804) 648-4848

DEFENDANTS

JUMPSTART CONSULTANTS, INC.

County of Residence of First Listed Defendant Henrico, VA (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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, 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)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, FEDERAL TAX SUITS, OTHER STATUTES.

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 (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 29 U.S.C. 201 et seq.

Brief description of cause: Seeking unpaid overtime compensation

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ TRD CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 07/13/2018 SIGNATURE OF ATTORNEY OF RECORD /s/Zev Antell

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING 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: [Jumpstart Consultants Facing Unpaid Overtime Lawsuit](#)

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