

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

MICHELLE SEIJAS f/k/a  
MICHELLE CRAM, on behalf of  
herself and others similarly situated,

Plaintiff,

v.

CASE NO.:

MMODAL SERVICES, LTD., INC.,  
a Foreign Profit Corporation, and

Defendant.

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

Plaintiff, MICHELLE SEIJAS f/k/a MICHELLE CRAM (“Plaintiff”), on behalf herself and others similarly situated, hereby sues the Defendant, MMODAL SERVICES, LTD., INC. (“Defendant”) for Wage Theft and alleges as follows:

**NATURE OF THIS ACTION**

1. Plaintiff alleges, on behalf of herself 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 unpaid minimum wages from Defendant, as required by law, (iii) entitled to liquidated damages pursuant to the FLSA, 29 U.S.C. §§201 *et seq*; and (iv) entitled to declaratory relief pursuant to 28 U.S.C. §2201.

2. Plaintiff further alleges, on behalf of herself 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 medical transcriptionists for all hours worked; and (ii) attorneys' fees and costs pursuant to Fla. Stat. § 448.08.

3. Plaintiff further alleges, on behalf of herself and a class of other similarly situated current and former employees of the Defendant, that they are: (i) entitled to unpaid minimum wages from Defendant pursuant to Florida's State Minimum Wage law, Fla. Const. Art. X, Sec 24 and Fla. Stat. § 448.110 ("FMW").

#### **JURISDICTION, VENUE AND PARTIES**

4. 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. This Court has supplemental jurisdiction over Plaintiffs' claims brought under Florida's State Minimum Wage law, Fla. Const. Art. X, Sec 24 and Fla. Stat. § 448.110 ("FMW").

5. Venue is proper within the Middle District of Florida, Tampa Division, because a substantial part of the events giving rise to this claim arose in Citrus County, Florida.

6. At all times material, Plaintiff is and was a resident of the State of Florida.

7. At all times material, Defendant MMODAL SERVICES, LTD., INC. was/is a Foreign Profit Corporation authorized to conduct business in the State of Florida, with its headquarters located at One MMODAL Dr., Woonsocket, RI 02895.

8. At all times material, Plaintiff was employed by Defendant MMODAL SERVICES, LTD., INC. in Citrus County, Florida.

### **CLASS ALLEGATIONS**

9. **The Class**: Plaintiff brings this action pursuant to Federal Rule of Civil Procedure 23(b)(1)(B) and 23(b)(3) on behalf of herself and a Class of similarly situated individuals defined as: All employees of the Defendant in Florida who were subject to Defendant's unlawful Wage Theft policy or practice of not paying medical transcriptionists for all hours worked within the four years prior to the filing of the instant Complaint.

10. **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 500 employees throughout the company who were adversely affected by the Wage Theft, making joinder of each individual member impracticable.

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

12. **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**

13. Defendant is a medical transcription company and is an employer as defined by FLSA.

14. At all material times, Defendant was an enterprise covered by the FLSA, and as defined by 29 U.S.C. §203(r) and 203(s). Additionally, Plaintiff was engaged in interstate commerce during her employment with Defendant.

15 Plaintiff and others similarly situated were employees of Defendant under the FLSA, employed as medical transcriptionists (or possibly other similar job titles).

16. Plaintiff's duties and the duties of those similarly situated include using computer software and voice-recognition technology to transcribe, type, and edit medical records. Plaintiffs are required to ensure that the transcribed and edited lines of the medical records reflect rates of accuracy in excess of approximately 99.6 percent per medical report.

17. Plaintiff and those similarly situated are paid per line edited or transcribed, which is referred to as "hands on keyboard time." Plaintiff and those similarly situated are not paid for any of their time worked other than "hands on keyboard time."

18. To ensure the accurate editing or transcribing of medical reports, Plaintiff and those similarly situated perform various duties for which they are not compensated, but which are essential to the accurate editing and transcription of

lines within medical records. Defendant is aware or should be aware of the performance of these essential duties for which Plaintiff and those similarly situated are not compensated.

19. Plaintiff and those similarly situated are required to log in to their computer and check for work. If there is not work available, they must log off. They are required to continuously do this throughout the day until work becomes available. Plaintiff and those similarly situated are not paid for this working time.

20. Ultimately, Plaintiff and those similarly situated spend days sitting in front of the computer while not getting paid while they log in and out looking for jobs, particularly after Defendant began outsourcing most of their jobs to India. Many times Plaintiff and those similarly situated are forced to work on weekends and wait for work, unpaid, until a job or two comes through. Moreover, the hours worked in front of their computers was not included in determining overtime compensation.

21. During the relevant time period, Plaintiff experienced computer issues for approximately four months on the computer provided by the Defendant. Defendant's I.T. Department was aware of the issues but did not correct the issues. The computer issues reduced Plaintiff's productivity thereby pushing her compensation even lower, further below minimum wage.

22. Defendant closely monitors the productivity of Plaintiff and those similarly situated. Plaintiff and those similarly situated are penalized for sending in blanks to QA, and their pay is deducted for "too many" blanks.

23. Duties essential to the accurate transcription and editing of medical records for which Plaintiff and those similarly situated are not compensated include, but are not limited to: logging in and out of the computer; waiting time; retrieving the patient's medical record number and name to verify the correct individual's record is being consulted; ascertaining the patient's name, birth date, and date of visit to the physician and hospital are correct; ensuring the dictator's name is entered correctly; making sure all preliminary background information is entered correctly and, if the dictator does not provide the date of the report, attaching the document stating this to the Quality Assurance department; ensuring the attending physician's name is entered and marked to receive a copy of the patient report; communicating with Defendant officials while editing or transcribing medical reports; ensuring the accuracy of physician and patient personal information; ensuring the proper medical term is inserted into the medical record; checking and responding to email correspondence for obtaining additional information or corrections for editing or transcribing medical reports; and communicating with technical support regarding any problems or defects with the transcription/editing and voice-recognition software. All such duties were performed for the primary benefit of Defendant.

24. Frequently, audio quality is poor, communication with IT and other representatives from India is difficult, and medical transcriptionists have to wait on hold extended periods of time further increasing the times for which Plaintiff and those similarly situated were not paid.

25. Performance of uncompensated duties which are essential to the

accurate transcription and editing of lines within medical records led Plaintiff and those similarly situated to work hours for which they were paid, resulting in compensation at rates less than the federal and Florida minimum wage and/or compensation at a rate less than time-and-a-half for time worked in excess of forty (40) hours per work week for Plaintiff and those similarly situated.

26. Defendant's company policy of compensating per line edited or transcribed results in the medical transcriptionists having to be on call and log in and out of Defendant's transcription/editing software for extended periods of time, frequently until well after their assigned shift ends, to meet the minimum requirement for lines edited or transcribed during a given shift. During this time, the medical transcriptionists are unable to use this time for their own benefit.

27. Defendant's common policy to compensate Plaintiff and those similarly situated per line edited or transcribed forms a basis for establishing Defendant's willful violation of the FLSA's and the FMW's requirements to compensate employees at least minimum wage and at a rate equal to one-and-one-half times employees' regular rate of pay for hours worked in excess of forty (40) per work week. Likewise, Defendant's failure to maintain accurate records of the time worked by its employees, as required by the FLSA, is further evidence of Defendant's willful violation of the law.

28. Based upon DOL opinions and decisions and Defendant's clear knowledge of the violations at issue, the failure to pay Plaintiffs and those similarly situated minimum wage and overtime pay is a willful violation of the FLSA and FMW.

29. Defendant failed to comply with Florida law because Plaintiff, and other similarly situated employees, were regularly required to work, but then were not paid for their time worked, thereby engaging in Wage Theft.

30. Defendant's upper management knowingly encourages and facilitates the policy or practice of Wage Theft against Plaintiff and other similarly situated employees.

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

32. Plaintiff has been required to retain the undersigned counsel to represent her in this action and is obligated to pay them a reasonable fee for their services.

**COUNT I**  
**OVERTIME COLLECTIVE ACTION – FLSA**

33. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 32 as if fully restated herein.

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

35. Defendant's failure to pay Plaintiff 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.

36. Defendant's violations of the FLSA were knowing, willful and in



reckless disregard of the rights of Plaintiff and all other similarly situated.

**WHEREFORE**, Plaintiff respectfully requests, on behalf of herself 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**  
**FLORIDA MINIMUM WAGE**

37. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 32 as if fully restated herein.

38. Defendant failed to pay Plaintiff and other similarly situated employees the Florida Minimum Wage for all hours worked in violation of the FMW.

39. Defendant's violations of the FMW were knowing, willful and in reckless disregard of the rights of Plaintiff and all other similarly situated.

40. Plaintiff and other similarly situated employees were damaged by Defendant's failure to pay them the Florida Minimum Wage.

41. Count II is brought under the FMW as a class action to recover unpaid minimum wages owed to Plaintiff and all others similarly situated who are or were employed by Defendant as medical transcription employees who were denied minimum wage.

**WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for the following relief: (i) Certify this case as a class action on behalf of the Class as

defined above, and appoint MICHELLE SEIJAS f/k/a MICHELLE CRAM as class representative and undersigned counsel as lead counsel; (ii) enter judgment awarding damages in the amount of wages found to be due and owing; (iii) awarding liquidated damages in an additional amount equal to the unpaid minimum wages found to be due and owing; (iv) awarding reasonable attorneys' fees and costs pursuant to Fla. Stat. § 448.08; and (v) awarding all such other relief as the Court deems just and appropriate.

**COUNT III**  
**WAGE THEFT CLASS ACTION/BREACH OF CONTRACT**

42. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 to 32 as if fully restated herein.

43. Plaintiff 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.

44. Defendant, despite Plaintiff's reasonable attempts to obtain payment of these earned monies, has failed and refused to make payment to Plaintiff 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.

45. As a result of Defendant's Wage Theft and failure to pay earned wages, Plaintiff has suffered damages, including wages, interest and attorneys' fees.

**WHEREFORE**, Plaintiff, individually and on behalf of the Class, prays for the following relief: (i) Certify this case as a class action on behalf of the Class as defined above, and appoint MICHELLE SEIJAS f/k/a MICHELLE CRAM as class

representative and undersigned counsel as lead counsel; (ii) Declaratory judgment finding that Defendant have 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**

Plaintiff demands trial by jury as to all issues.

**DATED** this 1<sup>st</sup> day of May, 2017.

Respectfully submitted,  
**WHITTEL & MELTON, LLC**  
*/s/ Jay P. Lechner*  
Jay P. Lechner, Esq.  
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*Attorneys for Plaintiff*

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

MICHELLE SEIJAS f/k/a MICHELLE CRAM, on behalf of herself and others similarly situated

(b) County of Residence of First Listed Plaintiff Citrus (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

MMODAL SERVICES, LTD., INC.

County of Residence of First Listed Defendant Citrus (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)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, 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, 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): Fair Labor Standards Act. Brief description of cause: Unpaid Overtime and Wages in violation of the 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 05/09/2017 SIGNATURE OF ATTORNEY OF RECORD /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: [Medical Transcriptionists Seek Unpaid Wages in Suit Against MModal](#)

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