

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

MEGGON SWARNER, on her own behalf,
and on behalf of all others similarly situated,

Plaintiff,

v.

CASE NO.:

NEAL SIGNATURE HOMES, LLC, A
Florida Limited Liability Company,
and NC EMPLOYMENT GROUP, INC.,
A Florida Profit Corporation,

Defendants.

_____ /

COMPLAINT & DEMAND FOR JURY TRIAL

Plaintiff, MEGGON SWARNER on her own behalf, and on behalf of all others similarly situated, by and through the undersigned attorney, sues the Defendants, NEAL SIGNATURE HOMES, LLC AND NC EMPLOYMENT GROUP, INC. (collectively “Defendants”) for failing to pay complete overtime wages for every hour worked, pursuant to 29 U.S.C. 216(b) (FLSA).

NATURE OF CASE

1. Defendants, NEAL SIGNATURE HOMES AND NC EMPLOYMENT GROUP, INC. (hereinafter “Defendants”) are home builders with offices in Lakewood Ranch, FL selling homes throughout the Tampa/Sarasota Florida region.

2. Plaintiff was employed by Defendant’s as a “Permitting Manager.” However, Plaintiff was not a “Manager” and was never paid for the overtime to which she was lawfully entitled.

3. Plaintiff brings this case to address and correct the illegal pay practices conducted by Defendants.

4. Defendants violated the FLSA by failing to pay Plaintiff overtime wages based on her regular hourly rate for those hours worked in excess of forty (40) within a work week pursuant to 29 U.S.C. §§ 201-209.

PARTIES

5. Defendant NEAL SIGNATURE HOMES, LLC is a Florida Limited Liability Company and NC EMPLOYMENT GROUP, INC. is a Florida Profit Corporation which operates and conducts business in, among others, Manatee County, Florida and is therefore, within the jurisdiction of this Court.

6. Plaintiff brings this FLSA collective action individually and on behalf of others similarly situated, including present and former employees of Defendants, to recover from Defendants overtime compensation, liquidated damages, and reasonable attorneys' fees and costs.

JURISDICTION & VENUE

7. This action is brought under Federal law to recover from Defendants overtime compensation, liquidated damages, and reasonable attorneys' fees and costs.

8. This Court has jurisdiction over Plaintiff's claims as they arise under the FLSA.

9. This Court has jurisdiction and venue over this complaint as each of Defendants' violations of the FLSA complained of took place in Manatee County, Florida.

GENERAL FACTUAL ALLEGATIONS

10. Plaintiff worked for Defendants at 8141 Lakewood Main St., Suite 210, Lakewood Ranch, FL 34202.

11. At all material times during the last three years, Defendants were an enterprise subject to the FLSA's provisions requiring overtime compensation.

12. At all material times, Plaintiff and others working for Defendants were “employees” of Defendant within the meaning of the FLSA.

13. At all material times, Defendants were an “employer” within the meaning of the FLSA and Defendants continue to be an “employer” within the meaning of the FLSA.

14. At all material times, Defendants were, and continue to be, an “enterprise engaged in commerce” within the meaning of the FLSA.

15. Defendants’ employees handled goods such as computers, software, paper, and office equipment which had traveled in interstate commerce.

16. At all material times during the last three years, Defendants have had an annual gross volume of sales made or business done of not less than five hundred thousand dollars (\$500,000.00).

17. Defendants are home builders with several developments in the Tampa/Sarasota region.

18. Plaintiff’s job duties included drafting, ordering building materials, doing energy calculations and securing building permits.

19. By Plaintiff’s estimates, she routinely worked 50 hours or more in a work week.

20. During her employment with Defendants, Plaintiff performed non-exempt job duties. Pursuant to the FLSA, Defendants were required to pay plaintiff overtime pay for those hours worked over 40 in a work week.

21. At all times relevant to this action, Defendants failed to comply with 29 U.S.C. §§ 201-209, because Defendants did not pay Plaintiff overtime wages for those hours worked in excess of forty (40) within a work week.

22. During her employment with Defendants, Plaintiff was not paid time and one-half her regular rate of pay including bonuses, for all hours worked in excess of forty (40) within a work week during one or more weeks of employment.

23. Upon information and belief, the records, to the extent any exist, concerning the number of hours worked and amounts paid to Plaintiff are in the possession and custody of Defendants.

FIRST CAUSE OF ACTION
RECOVERY OF OVERTIME COMPENSATION

24. Plaintiff reincorporates and readopts all allegations contained within Paragraph 1-23 above.

25. Plaintiff was entitled to be paid time and one-half her regular rate of pay for each hour worked in excess of forty (40) per work week.

26. During her employment with Defendants, Plaintiff regularly worked overtime hours but was not paid time and one-half compensation for the same.

27. As a result of Defendants' intentional, willful, and unlawful acts in refusing to pay Plaintiff time and one-half her regular rate of pay for each hour worked in excess of forty (40) per work week in one or more work weeks, Plaintiff has suffered damages and is incurring reasonable attorneys' fees and costs.

28. Defendants were aware Plaintiff performed non-exempt job duties but still refused to pay Plaintiff overtime for hours worked over forty (40).

29. Defendants did not maintain and keep accurate time records as required by the FLSA for Plaintiff.

30. Defendants failed to post required FLSA informational listings as required by the FLSA.

31. Defendants' conduct was willful and in reckless disregard of the overtime requirements of the FLSA.

32. Defendants willfully violated the FLSA.

33. Plaintiff is entitled to liquidated damages.

WHEREFORE, Plaintiff demands judgment against Defendants for the payment of all overtime hours at one and one-half the regular rate of pay for the hours worked by her for which Defendants did not properly compensate her, liquidated damages, reasonable attorneys' fees and costs incurred in this action, and all further relief that this Court deems to be just and appropriate.

SECOND CAUSE OF ACTION
COLLECTIVE ACTION, VIOLATION OF THE FLSA
(RECOVERY OF OVERTIME COMPENSATION)

34. Plaintiff reincorporates and readopts all allegations contained within Paragraphs 1-23 above.

35. At all times material, Defendants employed numerous other non-exempt employees who worked as "Permitting Managers" and who worked a substantial number of hours in excess of forty (40) per week.

36. Throughout their employment, those employees were similarly situated to Plaintiff and were subject to the same unlawful pay practices.

37. Defendants failed to pay those individuals, who are similarly situated to Plaintiff, one and one half times their regular hourly rate, for all hours worked in excess of forty (40) in each week, in violation of the FLSA.

38. Defendants' failure to pay such similarly situated individuals the required overtime rate was willful and in reckless disregard of the FLSA.

39. As a direct and legal consequence of Defendants' unlawful acts, individuals similarly situated to Plaintiff have suffered damages and have incurred, or will incur, costs and attorneys' fees in the prosecution of this matter.

WHEREFORE, Plaintiff on behalf of herself and others similarly situated, demands judgment against Defendants for unpaid overtime compensation, an additional and equal amount of liquidated damages or if liquidated damages are not awarded then pre and post-judgment interest at the highest allowable rate, reasonable attorneys' fees and costs incurred in this action, and any and all further relief that this Court determines to be just and appropriate.

JURY DEMAND

Plaintiff demands trial by jury on all issues so triable as a matter of right by jury.

Dated this 26th day of September, 2017.

MORGAN & MORGAN, P.A.

/s/ Marc R. Edelman

Marc R. Edelman, Esq.

Fla. Bar No. 0096342

Morgan & Morgan, P.A.

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Tampa, FL 33602

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Attorney for Plaintiff

JS 44 (Rev. 11/15)

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.)

<p>I. (a) PLAINTIFFS MEGGON SWARNER, on her own behalf, and on behalf of all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff _____ <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Marc R. Edelman, Esq. 201 N. Franklin Ave. Morgan & Morgan Tampa, FL 33602 (813) 223-5505</p>	<p>DEFENDANTS NEAL SIGNATURE HOMES, LLC, A Florida Limited Liability Company, and NC EMPLOYMENT GROUP, INC.,</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%;"> <tr> <td style="width:33%;">Citizen of This State</td> <td style="width:10%;"><input checked="" type="checkbox"/> 1</td> <td style="width:10%;"><input type="checkbox"/> 1</td> <td style="width:33%;">Incorporated or Principal Place of Business In This State</td> <td style="width:10%;"><input type="checkbox"/> 4</td> <td style="width:10%;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6														

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act (Excludes Veterans) <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <p>PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
<p>REAL PROPERTY</p> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<p>CIVIL RIGHTS</p> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>PRISONER PETITIONS</p> <p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<p>LABOR</p> <input checked="" type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

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

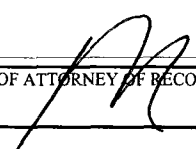
VI. CAUSE OF ACTION

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

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 9-26-17 SIGNATURE OF ATTORNEY OF RECORD 

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: [Manager Builds Wage and Hour Suit Against Neal Signature Homes, NC Employment Group](#)
